

VIRGINIA MARINE RESOURCES COMMISSION

FINFISH MANAGEMENT ADVISORY COMMITTEE MEETING

VMRC CONFERENCE ROOM

19 June 2007

MEMBERS PRESENT

Hon. William Laine
Robert Weagley
Russell Gaskins
Doug Jenkins
Hon. Ernest Bowden, Jr.
Jeff Deem
Tom Powers
David Agee for Dr. Ken Neill
Wynston Holbrook
Sam Swift
Chris Ludford for Pete Nixon

MEMBERS ABSENT

Walter Rogers
Chris Vaughan
Lee Roy Carson

VMRC STAFF

Rob O'Reilly
Joe Grist
Stephanie Iverson
Joe Cimino
Alicia Middleton
1st Sergeant Bruce Ballard

OTHERS PRESENT

Wayne Mallory
Gerald Parks

I. Introductions, Announcements

Chairmen Ernest Bowden called the meeting to order at 6:01 P.M. There were no introductions.

Rob O'Reilly briefed the committee on the new ASMFC tautog addendum. Mr. O'Reilly provided a handout on Addendum V and background information on addendum IV. Addendum IV was an attempt to reduce tautog fishing mortality by taking reductions solely from the recreational fishery. The two methods to reduce recreational fishing mortality are to reduce bag limits (currently set at 7) or to have season closures. In Virginia, the commercial fishery ranges 1% to 6% of the total on average, but other states (such as Massachusetts) have larger commercial fisheries. Addendum V enables states to take reduction from both recreational and commercial fisheries and requires the data to be calculated from a three-year average (versus a single year as calculated for Addendum IV).

Last Friday, the ASMFC vote was unanimous for Addendum V to go to public comment. On August 15th, the ASMFC management board will vote on Addendum V. Mr. O'Reilly directed the committee's attention to table 4.1, commercial fishery, in the handout. The table showed that Virginia could gain a much higher reduction in some months rather than others. Also, the Virginia closed season (May 1 – August 31) did not show up on the ASMFC table. The percentages from those months will be set to zero and the other months recalculated before the addendum is finalized. Mr. Powers asked about the 25% reduction for the month of April and if that was the spawning season for tautog. Mr. O'Reilly stated that it was.

Mr. O'Reilly directed the committee to table 4.2 to view the recreational fishery information. This table describes the possession limits for tautog and the potential reductions if reduced. A recreational ad hoc committee met for Addendum IV and created nine proposals to earn the reductions needed from the recreational fisheries by combining closures and bag limits.

Mr. O'Reilly stated that the commercial fishermen would have to be informed about the potential needs for reduction. Formal meetings on the issue will occur after the board meeting on August 15.

II. Approval of the minutes from the previous meeting

Minutes from the previous meeting were not discussed at this time.

III. Old Business

a. Hampton Roads Management Area

Rob O'Reilly briefed the committee on the Hampton Roads Management Area. In 1990, there was a gear conflict between commercial and recreational fishermen in the Hampton roads area. Staff brought two options to the Commission at that time. Proposal B stands today while proposal A, that was unanimously rejected, suggested distance limits around areas in Hampton Roads.

Last Commission meeting Gerald Parks asked the Commission to open a section of the current management area, so that he could continue to fish (gillnetting) in that area. The Commission decided to send the case to FMAC.

Mr. Bowden asked if it was a time closure or complete closure and Mr. O'Reilly answered that it was a time closure – from 7 a.m. to 5 p.m. Joe Grist offered a large printed map, handouts, and an overhead projection of the management areas.

Gerald Parks related that the original conflict included head boats and that the area in question was too shallow for head boats and was not frequented with recreational traffic. He requested that some of the bottom in that area be opened up for gill netters to fish. He

also mentioned that he may be interested in the proposal A that Mr. O'Reilly described previously. Mr. Parks said that it was difficult for him to work within the time constraints of 5 p.m. to 7 a.m. Mr. Parks described an area which he would like to see opened up to gill netting from Newport News point, across to Fort Monroe Officer's Club on the north side of the channel, and pointed to the area on the map.

Chris Ludford expressed the opinion that the Commission should open area. Mr. Gaskins asked if the original conflict still remained, and Mr. Parks replied that there was little conflict other than his nets being hit by a recreational boat. That conflict was resolved the same day.

Mr. Bowden addressed the other fisherman in attendance.

Wayne Mallory described the original history of the conflict beginning with individuals who did not understand the restrictions and did not speak English. He said that those individuals only fished the deep water channels and the conflict no longer remains. Mr. Mallory described that the time limit was the biggest problem for him. If he hits a lot of fish, he can not get them out by the 7:00 a.m. time limit.

Mr. Holbrook asked about opening the area 5 days per week, and Mr. Mallory said that it would be acceptable to him. Mr. Ludford suggested a 300 or 500 yard restriction from the channels. Mr. Mallory described the channels in the area and said that there was no conflict between channel traffic. He said that if the area previously described were opened up, there would be no conflict between gear types.

Mr. Agee and Mr. Mallory discussed several other areas including the areas around the Middle Ground Light and Craney Island. Mr. Agee also asked if a change in the time restriction rather than property would suffice the need. Mr. Mallory stated that he wasn't sure.

Mr. Bowden said that this was a good topic to discuss, but that no decision would be made on this night.

Mr. Powers stated that the problem was not a gear conflict, but rather a conflict with recreational and sail boat traffic. He stated his opinion that the area should not be open on weekends, and expressed his concern about the area around the Hampton Roads Bridge Tunnel being especially congested with inexperienced recreational fishermen at night. Mr. Ludford and Mr. Jenkins expressed opinions that they should be allowed to fish the area with given restrictions.

Mr. Bowden described the history on the flag regulations because there was a similar problem originally. The individuals fishing the area did not understand the regulations and used 2-liter bottles made of clear plastic to mark their nets. As law enforcement did not speak the same language as the fishermen, there were problems with enforcement.

Tom Powers also brought up multi-use studies done by the Virginia Institute of Marine Science and staff confirmed that these studies were available.

Rob O'Reilly asked if there were any particularly good months to fish between Memorial Day and Labor Day (during the closed season). Mr. Parks said that he could not think of any and Mr. Mallory stated that August was ideal because gillnets were not successful when the fish were not running. Mr. Parks agreed that August was a good month because June and July were not the best months for commercial gillnetting.

Mr. O'Reilly stated that the VIMS study would be worthwhile to consider categorization within the areas that might be useful in new regulations. He also suggested having representatives from VIMS attend the next meeting. Mr. Powers added that it would be useful to have Law Enforcement present as well because they were more familiar with boat traffic in the areas.

Mr. Mallory stated that there was still a problem with the time restrictions. Mr. Bowden answered that if an area were opened up there would be no time restriction. He also stated that the only way to help immediately would be an emergency action which wouldn't be available at this time. Mr. Mallory said that he was not asking for emergency action. Mr. Bowden asked the fishermen in attendance to have other members of the fishing community that were concerned with the issue to attend the next meeting. He then suggested that the committee move on to the next topic.

b. Black Drum Management Area

Mr. O'Reilly began by introducing the history of the creation Black Drum Management area in February, 1992. It was a multi-pronged approach to management of the fishery and included establishment of a management area, as well as a request for a commercial quota and limited entry (before VMRC could authorize limited entry). On February 18, 1992, a meeting was held on the Eastern Shore. Thirty people attended, including gill net fishermen who worked that area (known as the Cabbage Patch) who were in conflict at that time. Both recreational and commercial fishermen agreed on a 2 fish limit.

The Eastern Shore watermen's association did not want a quota imposed without a limited entry. A black drum workshop was held in 1991 and attended by members of FMAC, the hotel-motel association, researchers, fishermen, patrol officers, and members of the community at large. The workshop members perceived an immediate need to reduce conflict between recreational and commercial gears--specifically an area off of Cape Charles used heavily by recreational anglers and some years by anchored gill net and trot line fishermen. The group delineated the area that day, and suggested no gill nets or trot lines in those waters from May 1 to June 7 from 7 am to 7 p.m. The Commission later altered the time from 7 a.m. to 8:30 p.m. and the quota to 120,000 lbs. This year, there were citations issued for gillnetting for croaker in the management area.

Mr. Bowden asked for questions and began the discussion. Mr. Bowden noted that this type of management area is only found in the Black Drum Regulation, and that area was meant for a Black Drum management tool. It was surprising when the area was closed to all types of fishing. He felt that people generally wanted to keep the black drum management in place, but perhaps open the bottom up to gill net fisheries. Tom Powers noted that there were several pound net licenses in that area. Several members of the committee responded that the restrictions applied to gill nets (and trot lines) only.

Rob O'Reilly stated that the individuals with permits either had them in the 1990's or gained the permit in a 1-in 1-out transfer.

Mr. Powers asked about the mesh restrictions that apply, and 1st Sergeant Ballard and Mr. Bowden answered that there were only restrictions on large mesh. Mr. Powers wanted to apply a mesh restriction to any area that would be opened up in the management area in order to preserve other fisheries that could have potential conflict, such as cobia.

In response to a question by Mr. Ludford, Mr. Bowden described current laws on fishing restrictions and gill net restrictions near the area and bridge tunnel.

Mr. Deem asked about historical ticketing (since 1992) for setting gill nets in that area. 1st Sergeant Ballard described that this year was an unusual year because the good fishing success brought other fishermen from out of state.

Mr. Powers also asked about the spawning habits of black drum and red drum in the area that would potentially be opened up. Mr. Bowden and Mr. Smith answered that black drum spawn all the way up the bay. Mr. O'Reilly responded that according to Lewis Gillingham's report, black drum spawn on the mouth of the Chesapeake Bay and seaside inlets of the eastern shore when the water temperature reaches 57-67 degrees Fahrenheit sometime between late April and early June; mature fish contain over 30 million eggs. Joe Grist informed the committee that red drum spawn a little bit later in the spring.

Mr. Deem asked if puppy drum would be impacted by smaller mesh sizes if approved, such as those for croaker. After some discussion it was decided that it would not be a problem. Mr. Deem asked about the mesh size used by the people who received tickets. 1st Sergeant Ballard responded that they were croaker fishing.

Mr. Bowden asked for the opinions of the fishermen in attendance. Mr. Mallory stated that he did not know about the management area and had harvested large catches there fishing mesh sizes of 3 $\frac{3}{4}$ and 4 $\frac{1}{4}$ inches.

Mr. Powers asked about the croaker density in the area and the impact that has on the red drum and croaker population sizes. Mr. Bowden and Mr. Swift expressed opinions that the croaker population would not have an impact.

Mr. Bowden announced that this issue was similar to the other area in that a decision would not be made in this meeting and more information would have to be collected. He also suggested a discussion with Cynthia Jones on the topic of black drum.

IV. New Business

Gerald Parks brought up a problem with rock fish. He described throwing a large quantity of dead rock fish overboard, and he considered this a waste of the resource. He suggested a possible addition of some extra or other type of tags for fishermen like himself to use for rock fish that die in gill nets.

Mr. Bowden responded that there is nothing they can do about it at this point and that mortality is a huge problem and the board could not do anything about it without pulling quota away from other fishermen. He also described that there were some limitations with the quota system and that the only way to acquire rock fish quota is to be eligible for the lottery.

Mr. Parks stated that he has never received a letter concerning the lottery and Mr. Grist suggested that the problem was probably an incorrect address and that staff would get his correct information. Mr. Parks also voiced concern and frustration with the difficulty in obtaining tags and licenses. Mr. Gaskins also talked about similar concerns with obtaining licenses and with agent fishing—individuals fishing with other individual's cards.

Mr. Powers described the concept of working as an agent. The intent of working as an agent was a hardship issue. If someone is unable to work, a family member or friend could go and continue to work using the injured (or otherwise incapacitated) person's license. The intent was never for a temporary license transfer. The only two pieces of regulation regarding license transfer is either a temporary transfer or a one-in one-out.

Mr. Gaskins expressed his opinion that a fishermen working as an agent who was from the same state was acceptable, but fishermen working as agents from other states or other countries should be limited. Mr. Bowden asked the committee if they felt that the matter should be discussed at the crab committee which meets in August, or at both committees. Mr. Powers discussed that the subject needed to be discussed in several committees.

Mr. Ludford asked about how many active (card-carrying) fishermen there are currently in the state of Virginia. Mr. Powers suggesting asking staff to determine the number of active fishermen and the price per pound of harvest. After some discussion, Mr. O'Reilly described some of the data available to the committee. He also stated that the information about agents needed to be discussed first and latent effort of licensees afterward.

Mr. Ludford wanted to discuss latent effort and discussed the 2-year delay in getting a commercial waterman's card. He wanted to look at exceptions to the 2-year delay. There needs to be a limit. Mr. O'Reilly described the criteria for the exceptions (fishing a significant quantity of gear in 2 of 5 previous years), and suggested that they approach

the idea of exceptions as a committee. Currently every exception is passed through Jack Travelstead and the Commissioner. He suggested that the entire commercial registration system would need to be redesigned to implement a change. He also mentioned that many believed that it was time to get rid of the two year delay; however, it would take a big effort to implement a change. Mr. Powers said that it would take a legislative change to implement a change. Mr. O'Reilly said that the biggest effort would be to identify the largest problems.

Mr. Ludford asked that the issue be addressed earlier to avoid problems that are occurring with overcapitalization with the crab fishery. Mr. Gaskins discussed the difficulty and cost involved with entering the fishery and compared it to the problems with agents working with multiple licenses.

Mr. Ludford brought up a new item. He was asked to bring up a proposal to allow trot-lining (called tub trawl) on the sea side of the Eastern Shore. It is currently not allowed, and Mr. Ludford wanted to find the history of the regulation and to request for the string length restrictions to be lengthened (5,000 foot, 75 hook maximum).

Mr. Bowden said the restrictions were basically large net restrictions. Mr. Ludford described the gear and said that there would be not spools used as with typical long line gear. He asked for it to be put on the agenda for the next meeting.

Mr. Bowden asked if this regulation was in the Code of Virginia and 1st Sergeant Ballard replied that it was. Mr. Bowden suggested that they get in touch with their delegates. Mr. O'Reilly said that he and staff would look into the origin of the law.

Mr. Bowden asked for other business.

Mr. Mallory asked for clarification on the rock fish tagging regulation. He said that in the regulation, paragraph G states that the fish must be tagged at the place of capture or as soon as possible, but paragraph H says that fish cannot be brought to shore unless it is tagged. He asked for clarification. 1st Sergeant Ballard said that it depends on the sea conditions and that a waterman can pull off to the side to tag the rock fish if there are rough conditions; however, they should be tagged as soon as possible and before the nets are run back out.

Mr. Bowden said that it was a gray area between when exactly the fish must be tagged and 1st Sergeant Ballard said that most of those conflicts were cleared up in court. Mr. Mallory described an incident in which he received a ticket for not tagging his fish soon enough. Mr. Bowden described the law and the problems with landing. Mr. Powers told Mr. Mallory that the committee had no power over the court decision.

Mr. Gaskins discussed that the laws in the Rappahannock were different, and 1st Sergeant Ballard said that the regulation was put in place to keep people from pulling up to the dock to see if law enforcement was there. Mr. Jenkins discussed that some of the issues arose when ocean fish were tagged with bay tags and other associated problems.

Jeff Deem mentioned that individuals at the Mid-Atlantic Fisheries Management Council meeting discussed inaccurate records with the National Marine Fisheries Service (NMFS) (specifically with tilefish). These individuals were trying to organize their own records and noticed the problems. He suggested anyone having records with NMFS to call and verify the information.

Mr. Bowden asked for any other topics, and it was decided to set up the next meeting date until after the people from VIMS were contacted.

The meeting adjourned at 7:53 p.m.