

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

**April 16, 2012**

**Members Present**

Jeff Deem (Co-chair)  
Hon. Joseph Palmer (Co-chair)  
David Agee for Ken Neill  
Percy Blackburn III  
Ernie Bowden  
Wynston Holbrook  
Scott MacDonald  
Tom Powers  
Walter Rogers  
Robert Weagley

**VMRC Staff**

Jack Travelstead  
Rob O'Reilly  
Joe Grist  
Joe Cimino  
Lewis Gillingham  
Renee Hoover  
Adam Kenyon  
Alicia Nelson  
Allison Watts

**Members Absent**

Wayne France  
Russell Gaskins  
Andy Hall  
Hon. William E. Laine Jr.  
Chris Vaughan

**Others Present**

Harry Doernte  
Joe Delcampo  
David Johnson  
Chris Verde  
Alex Waznak

The minutes were recorded by Alicia Nelson.

I. Introductions/Announcements

The meeting started at 5:57 pm. Rob O'Reilly announced that Mr. Laine could not attend the meeting because he was on travel, and that there would be a discussion item on recreational striped bass issues during the striped bass portion of the agenda.

II. Minutes from the January 23, 2012 meeting

Tom Powers mentioned that he did not attend the January 23, 2012 meeting. The minutes were approved (motion made by Joe Palmer and seconded by Robert Weagley).

III. Old Business

- a. Tautog – Changes to management measures based on the new (39%) ASMFC reduction requirement.

Joe Cimino described the drastic cuts originally needed in the tautog fishery per Addendum 6. The addendum set a rebuilding target of  $F=0.15$ . At that time, we assumed a 53% reduction would be needed and took measures to meet that target. Mr. Cimino discussed a few data errors by the ASMFC that were corrected resulting in a 39% target reduction (lower than originally required).

i. Commercial fishery for 2012 and 2013

Mr. Cimino described the current regulation for 2012, which includes closures from January 18 through March 15, and May 1 through November 12, and a 15-inch size limit. He discussed liberalizing options for both 2012 and 2013. For 2012, he suggested the closed season end August 31, instead of November 12.

Mr. Deem asked if 2013 would be worse than 2012, and Mr. Cimino answered that unless a new assessment comes along, we are still assuming that it would be a 39% reduction. Mr. Cimino also mentioned that for 2012, we have already taken some reductions.

Mr. Blackburn asked if we could increase the size limit, and Mr. Cimino answered that we have not developed the savings of what an in-season change to a size limit would do. If we attempted to change the size limit, we would have to go back to the Atlantic States Marine Fisheries Commission (ASMFC) for approval.

Mr. Palmer said that he would like to see an extra 15 days in May and 15 days in September, and Mr. Cimino replied that that the May closure is so long-standing that it is hard to show the reduction, since landings data from before 1998 would have to be used.

Mr. Palmer said that the inshore fishery is a lot more viable in May than in September, and Mr. Cimino replied that one of the reasons that closure started at that time was because it was suggested by the commercial fishery to protect the spawning stock.

Mr. Ludford was happy with the dates and said we need to begin collecting Virginia and Maryland independent data. He said that we need a population estimate in Virginia because these fish are not north-to-south migrants, and we are suffering by a regime that is dictated by population estimates taken two or three states north of us.

Mr. Deem asked for comments from the public, and Mr. Cimino said that he had spoken with three individuals (1 attending the meeting), and that those harvesters were happy with the 2012 opening discussed.

Mr. Palmer motioned to accept staff recommendation for the 2012 changes, and the motion was seconded by Ernie Bowden. The motion passed unanimously.

ii. Recreational fishery for 2012 and 2013 (see page 2)

Mr. Cimino said that for 2012, we don't see an option to move forward with changing the size limit, at this point. However, there is an option to increase the bag limit to 4 fish. We

can calculate this (for example, there is one option with four fish and closed season which would still give us a 42% reduction). The current regulation is a minimum size limit of 16 inches, with a closed season from April 15 through September 23, and a 3-fish bag limit. Mr. Cimino recommended increasing the bag limit from 3 fish to 4 fish and ending the closed season on July 31 instead of September 30.

Mr. Powers asked if the committee needed to decide on 2013 options at this time, and Mr. O'Reilly answered that the committee didn't have to, but it would be nice to have something in place as early as May for the following year. The group discussed that any decisions made at this meeting would not be passed at the Commission until the May Commission meeting. There was a general consensus to wait on offering a motion on 2013 regulation changes until the public had a chance to give some input.

Mr. Powers motioned to accept staff recommendation for the 2012 changes. The motion was seconded by Mr. Palmer. The motion passed unanimously.

b. Tautog- Commercial management control date

Mr. Cimino described the small tautog directed fishery. He said that around 40 individuals participate each year, and many of them only catch a few fish per year. The majority of the landings are done by just a few individuals. There have been some ideas about limited entry and even an ITQ (individual transferable quota). We looked at this option in 2008, but met some opposition, and we did not move forward. There was a public hearing at the March Commission meeting to establish a control date, there were no public comments, and one Commission member asked to table the item. The Commission asked staff to bring it back to FMAC for their input. Mr. Cimino said he has talked to a few individuals in the commercial fishery, and there is no opposition to tabling it at this time.

The group discussed the number of people involved in the tautog fishery, and how it is one of the few viable fisheries young watermen can join. The fishery is already somewhat limited by the cap on the number of commercial hook-and-line licenses. It was noted that the control date would only be used if we decided to move toward limited entry in the future. There were also comments that the current fishery members were worried about a sudden influx of people in a fishery that is already over capacitated. There was little support from the committee for a control date.

Mr. O'Reilly said that one of the purposes here is for information. We are facing reductions again; the control date sends a message to anyone getting into the fishery that things are not going that well. It also gives the Commission a date if things get worse. He also noted that if things improve, it may not be needed.

Mr. Palmer motioned to not set a control date. The motion was seconded by Mr. MacDonald, and the motion passed unanimously.

### c. Tilefish Commercial Regulations

Mr. Joe Grist described the current tilefish regulations that include a possession limit of 500 pounds of tilefish (combined), with a possession limit of 200 pounds of blueline tilefish. Since those regulations were enacted, staff has received two public comments. He said that Chris Ludford came forward during the February Commission meeting and requested that the blueline tilefish possession limit should be 300 pounds instead of 200 pounds. Mr. Ludford said that the extra blueline tilefish offsets fuel costs during black sea bass trips to make it more profitable. Mr. Grist said that Mr. Harry Doernte made the same request at the March Commission meeting for bringing in 300 pounds of blueline tilefish to help cover fuel costs on black sea bass trips. The Commission asked staff for a public hearing this month (April 24<sup>th</sup>) on the tilefish possession limit. Mr. Grist said that staff is prepared to ask for an increase in the possession limit from 200 pounds to 300 pounds of blueline tilefish at the public hearing.

Mr. Harry Doernte (commercial harvester from Poquoson) said that 300 pounds of blueline tilefish is the bare minimum; however, he was not in favor of a larger possession limit because he did not want to make it a directed fishery. Mr. Doernte urged the committee to support a 300 pound limit.

Mr. Joe Delcampo (commercial harvester) asked the committee to maintain the same possession limit as Maryland (300 pounds). He argued that golden tilefish and blueline tilefish were not the same animal and don't live in the same place. He said that 300 pounds is what would be caught as bycatch during sea bass trips.

Mr. Grist showed the committee blueline and golden tilefish landings data for the past 6 years. Very few trips were above 200 pounds of either species.

Mr. Deem clarified that the Commission originally put a limit on blueline tilefish because we were afraid it was going to be overfished. Mr. Grist said that when it started in 2006, it was less of a commercial issue but more of a recreational issue. Anglers were deckloading hundreds of tilefish per trip. It brought a lot of attention to the fishery because of the problems already experienced in the South Atlantic. For these long-lived species, once the population starts to decline, and the decline is recognized, it is already too late. He believed some of the actions probably staved off having Virginia incorporated into the South Atlantic Management Council's management plan, which could virtually eliminate our current fishery.

Mr. Deem said that the downside of being restrictive is that the fish caught as bycatch would already be dead.

Mr. Powers motioned to increase the blueline tilefish possession limit to 300 pounds. The motion was seconded by Mr. MacDonald. The motion passed unanimously.

## IV. New Business

a. Discussion: Opening the commercial striped bass season in January

Mr. Grist described the potential early opening of the striped bass commercial season. He said that this issue had been brought up in the past, and staff believes they have found a way to make it work for both staff and industry. He also mentioned that federal protected species plans' restrictions on the large mesh gillnets limited large portions of the coastal fishery, and warned that restrictions related to Atlantic sturgeon could also be on the way.

The current commercial striped bass season runs from February 1 through December 31. By mid-February, the coastal fishery virtually is shut down by other take reduction plans (harbor porpoise). Depending on weather, the fishery may not be able to catch their quota in that short time-frame. Staff would like to add on the last 16 days in January. During that time period, only the large whale plan is in effect (requiring gear modifications, but no large mesh gillnet closure).

Mr. Grist said that this early opening would require some additional changes. Proposed changes for the January season include requirements to pick up striped bass permits and tags early (2013 commercial registration license must be purchased, harvest reports must be turned in for 2012 by January 4, all unused 2012 striped bass tags accounted for, and no compliance issues whatsoever). By the 15<sup>th</sup> of January, harvesters could come to Newport News (not the regional offices) to pick up tags and begin fishing on January 16. The current regular season pick up includes similar requirements, but with more time to accomplish them, and tags are distributed for regional pickup in late January for a February 1 season opening.

Mr. Grist said that in order to accommodate the early season, additional changes would be required for striped bass quota transfers. Transfers would be allowed February 1 through September 30, with a minimum transfer of 500 pounds unless it's a 100% permanent transfer of both allocated and available quota. Temporary transfers would be allowed from December 1 through December 15 (this is intended to allow overages to be covered, and there would be a 200 pound minimum). All transfers would be by appointment only.

The group clarified that this change was expected to be permanent (not just for the 2013 season), and that the minimum transfer amount would be the total available or assigned (for example, if you have 1,000 pounds and harvest 700, you cannot transfer the remaining 300). The intent of the December transfers would be to cover overages; however, other situations could be considered.

Mr. MacDonald specifically asked if individuals who realized in December that they would not be able to harvest their quota could transfer it to someone else. Mr. Grist responded that it would likely be allowed. Mr. MacDonald thanked staff for taking the time to do this, and mentioned that in 2012, they have not packed a single pound of ocean fish from Virginia Beach.

The committee felt that the January season was a good idea that would benefit the striped bass fishermen, particularly those that were fishing in areas impacted by the whale and harbor porpoise plans.

Mr. Weagley asked if the early season would apply to the bay too, and asked if the gillnet regulations could be changed so that fishermen could fish 5 to 6 inch nets in January too. Mr. Grist responded that the January season opening would apply to the Bay fishery as well. Staff would need to look into the gillnet restrictions, but one of the reasons for the discussion is to address side issues.

Mr. MacDonald said that we also need to look into the amount of fish leaving Virginia. Mr. Grist asked for any industry suggestions and mentioned that any plans must not impact interstate commerce.

Mr. DelCampo (audience) thanked staff for considering this option and said that it is something that really has been needed and would really help at a time of year when they really need the help.

Mr. Powers voiced concern over the large number of recreational boats. He said that the Bay is closed to recreational fishing as of January 1<sup>st</sup>, and asked if that would change in the future.

Mr. MacDonald brought up a separate issue; he was concerned about pound nets on the Eastern Shore having to throw back large fish back that have already spawned, and Mr. Grist replied that it is an ASMFC issue. From an enforcement perspective, we are still open when other Bay entities are closed, and that some entities would like to see us completely closed during the spawning season as opposed to just having a maximum size limit.

b. Recreational Striped Bass

i. Virginia Charter Boat Association Request

Mr. O'Reilly discussed the new federal survey (MRIP) that is still a work in progress. Recently, a calibration workshop was held to make some connection with past MRFSS data and current MRIP data to figure out what to do. MRFSS will be used to scale MRIP, but soon that relationship will be the other way around. MRIP in general is greater or equal for many species.

He said that 2010 and 2011 were very poor years for the recreational striped bass fishery. Out of the quota of 1.5 million pounds, 400,000 pounds were taken. More were taken in 2011, but the fishery was still under the quota.

He said that in June 2010, there was a proposal from the Virginia Charter Boat Association to go back to the management measures from 2004 to satisfy anglers (2 fish, 18-inch minimum, with 1 over 28 inches). A few weeks ago, he met with members of the

Charter Boat Association, and they still are in support of this measure. Mr. O'Reilly said that the Virginia Charter Boat Association has also made a request to make changes to the recreational rules during the fall. He said that a two fish possession limit with no slot limit was suggested by the charter boat association. The next time FMAC meets, we can show more of the data, and hopefully, we will have more information on MRIP and how it may affect things in 2012. He said that they proposed to configure the regulation around the Maryland rules for 2013, and that this would require ASMFC approval. He said that we would potentially have a public hearing on this in August. The ASMFC worries about our quota, size limit, possession limit, and number of closed days, but we have the flexibility to get us closer to our quota.

Mr. Powers talked about bay versus coastal fish (in relation to the bay fishery in January). He said that the bay fishery was based on a quota and the ocean fishery was based on fishing mortality. He said in the bay, we have to count each fish because it goes against a number. He supported dropping the slot limit back to one fish over 28 inches, but said that he could not support two fish over 28 inches.

#### ii. Proposal for recreational fishing in January

Mr. O'Reilly said that there was a proposal for a wrap-around season that would start in October and go until February 1<sup>st</sup> of the following year. This is different, and much more radical, than simply changing the slot limit to catch the quota. There are no estimates on what that change would amount to in terms of harvest. We do not even have any data in January. The Virginia Charter Boat Association does not favor this. Staff would tell the Commission the same.

Mr. Holbrook said about five years ago, he asked about taking a few days in October and pushing those into January. Mr. O'Reilly said that in January, the ASMFC decided not to send an addendum to the public that asked for cuts up to 40% in the fishing mortality of striped bass. Mr. O'Reilly said that the way the harvest is set up, we may be able to swap days, but we wouldn't have any idea of what that would mean in terms of harvest in January. Really, we have a situation where we need to be mindful of ASMFC. He said that 2011 was a good recruitment year in Virginia, and also strong in Maryland; this may have staved off the ASMFC's actions since the Chesapeake Bay is the most important contributor to the striped bass stock.

#### iii. Other Proposed Changes

Mr. Powers made comments about the reliability of the MRIP data, and Mr. O'Reilly said that we are in the process of trying to get funding to improve the registry (the site listing that we have is estimated around 240 sites) When we looked at the locations of these sites and what NMFS has in the registry, in a lot of cases, it is way off. The NMFS has asked the states to get the right information on these registries, get a description of all the sites,

and to take away sites that are no longer viable. We've asked for funding for this task and asked for workshops to get the public together and start this process. The NMFS also wants a pressure rating for the sites (pressure is the effort rate). They want to know how many folks are coming to a site in a certain time period (a pressure rating for every 6 hours in a 24-hour day). If we are lucky and get the funding we asked for, we will be able to do that. We are also asking for two temporary personnel to help out on this, which is a hard thing to do. Mr. O'Reilly mentioned that there is a new contractor for NMFS (the previous company had been working on the survey for 12 years). Virginia typically adds on to get additional intercepts (we start as early as March and April), but that isn't going to happen this year. The whole reason to add intercepts is to have better precision for your landing intercepts so that you have more confidence in your data. MRIP found that the precision from MRFSS estimates were off.

c. Mr. Alex Wazlak: Request to allow spearfishing for striped bass

Mr. Alex Wazlak, president of the divers club in Virginia Beach, requested to alter the wording for spearfishing in VMRC regulations. Mr. Wazlak gave a history of spear fishing, and said it is illegal to spear or gaff striped bass in Virginia waters. He said that prohibiting gaffing is reasonable, but including the word "spear" inhibits spearfishing in the state, and the area is losing revenue in restaurants, tourism, and bait shops. He believed that the inclusion of spearfishing in the prohibition was an oversight, or done accidentally. Mr. Wazlak said that spearfishing is ecological and sustainable. There is no bycatch, it is highly selective, and does no habitat damage or pollution. He addressed comments that he had heard from anglers clubs about how to know that you are shooting a legal-sized fish. He said that err on the side of caution, and that they also use markings on the spear to estimate fish size. There have also been questions about where spearfishing would occur, and Mr. Wazlak said that the Chesapeake Bay Bridge Tunnel (CBBT) would be the main area. He believes that spear fishermen could co-exist with anglers. He said that they would not be in the water when the current is moving (which is when anglers are fishing). They would not be fishing in the ocean because the fish are moving too fast, and there is too much boat traffic and problems with visibility in that area. Ultimately, he said that he is looking for the same privileges for spear fishing as the hook and line fishery.

The Committee noted that that the only legal way is to hook and line, so the regulation was not unintentionally excluding spearfishing, and expressed several concerns. Many of the members were concerned about diver safety, particularly during striped bass season when there are many, sometimes inexperienced, recreational boaters. There were some comments about a diver being able to determine the size of a fish when spearing (it was noted that a hooked fish over 90% survivability in cold water if returned to the water), and there were questions about law enforcement determining an illegally gaffed fish versus a legally speared fish.

Mr. MacDonald asked about regulations in other states, and Mr. Gillingham gave a presentation on spearfishing in Virginia and other east coast states. For Virginia, saltwater fishing licenses are required, and size and bag limits are the same as hook and



line. The only exceptions are for striped bass and sharks. Additionally, hook and liners are not allowed to gaff striped bass. Many divers are also avid rod and reel anglers, and mixed trips occur. He also said that there can be no sale of any fish taken by spear (no commercial fishery). He showed a map of states that allow spearfishing, do not allow spearfishing, and those that limit spearfishing for striped bass. He said that the Chesapeake Bay probably has the most complex set of regulations for striped bass (min size, max size and closed slot).

Mr. Gillingham said that staff believes catch would be very slight, but the main issue would be gear conflict. Most activity would be expected to occur in the vicinity of the CBBT due to visibility and fish availability. Boats are supposed to stay at least 25 yards away from diver down flags, and safety and visibility of those flags would be an issue. However, spearfishing already coexists at the CBBT where tautog, spadefish, sheepshead, triggerfish, and flounder are taken during warmer months. Gear conflicts already exist in the fall among anglers that choose to troll and those that anchor. Mr. Gillingham said that our fall fishery is somewhat unique.

Mr. MacDonald said that we already allow spearfishing to exist, they are already down there and a striped bass goes by and they can't spear it. He said we could tweak the existing fishery down if we had concerns, but we could use more revenue in Virginia.

Mr. Deem said that spear fishermen are Virginians and are entitled to it, just like the rest of us.

Mr. Powers said he was worried about trolling gear which is dragged behind boats (even if the boat avoids the flag by 25 yards, they could be trailing wire line that extends much farther than that).

Mr. Blackburn said that they could argue the same safety and size limits issues with flounder and other species, but that the striped bass slot-limit could be more difficult.

Chris Verde (Audience) said that the biggest thing from his perspective (as a spear fisherman) is the ability to harvest a fish that swims by when they are already down there fishing. For all the size and legal limit questions, they would do the same things they do now. He used red drum as an example of a fish with a slot limit. He said that spear fishermen currently travel to states like Delaware in the summer to spearfish striped bass, and they have a slot limit. Mr. Verde noted that there is a significant chance to have a spearfishing tournament in the area. He said it will bring in additional revenue and prevent other revenue from leaving the state.

There was discussion about when this item would go to the Commission, and Mr. O'Reilly said that the Commission would send it back to FMAC for a recommendation. He asked for some kind of consensus since the request was made in January.

Mr. Palmer motioned to deny the request (He said that if they are planning tournaments, that could be three or four hundred guys, instead of three or four, and was concerned with

the risk). The motion was seconded by Tom Powers. The motion failed with 4 supporting and 5 opposed.

Mr. Holbrook motioned for FMAC to revisit this issue. It would give the committee an opportunity to sleep on it, and he asked staff to ask about the rules in North Carolina. There was also a request that staff look into safety issues that have been brought up in other states; Mr. O'Reilly said staff would ask local law enforcement where spearfishing for striped bass was allowed. The motion was seconded by Mr. Weagley. Mr. MacDonald mentioned that he would be in support of the changes because he felt like they had a right to it. He also asked if a tournament would be realistic (Mr. Verde said that the largest tournament on the east coast only draws about 30 competitors). The motion passed with 4 in favor, 1 in opposition, and 4 abstentions.

Mr. O'Reilly said that we can try to find out about the accidents, tournaments, and regulations that other states have. Mr. Powers asked staff to formulate a clear approach to the enforcement of gaffing versus spear fishing.

#### d. Comments from Mr. Harry Doernte

Mr. Doernte asked the committee to consider reducing the number of hook and line licenses from 200 to 100. He feels like we could eliminate a lot of abuse if we limited it down to 100. He said that he didn't want to kick anyone out; instead, for a new entrant to the fishery, that person would have to purchase two licenses (turn one in and keep one). He also wanted to limit transfers strictly to immediate family members.

Mr. Powers asked about the abuse, and Mr. Doernte said there was a problem with anglers using commercial hook and line licenses as a means to avoid recreational size and bag limits.

Mr. O'Reilly said that we can look at that fishery by species harvested. There are already restrictions on any kind of transfer. He said we can revisit this at the next meeting.

#### V. Next meeting

The next meeting date was not set.

#### VI. Adjournment

The meeting adjourned at 8:13 p.m.