

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

380 Fenwick Road, Fort Monroe, VA

Thursday, February 3, 2022

**ATTENDANCE**

Members Present

Jeff Deem, chairman

Meade Amory

John Bello

Ernest Bowden

Dr. Milton Cook

Skip Feller

Mike Lightfoot

Scott MacDonald

Honorable James Minor

Honorable Dr. Ken Neill

Tom Powers

Ed Sarfan

Bob Sinclair

Members Absent

Robert Weagley

VMRC Staff Present

Pat Geer

Shanna Madsen

Adam Kenyon

Lewis Gillingham

Jill Ramsey

Alexa Galván

Somers Smott

Brooke Lowman

Others Present

Dave Agee

Chris Newsome

Mark Sanford

Minutes prepared by Brooke Lowman.

**I. FMAC Announcements**

This meeting was conducted via electronic communication (WebEx). Deputy Chief Shanna Madsen called the meeting to order at 5:05pm.

**II. Approval of minutes from the May 17, 2021 meeting**

Minutes from the May 17, 2021 meeting were approved by consent.

### **III. New Business**

#### **A. ASMFC-MAFMC decision on summer flounder, scup, and black sea bass commercial-recreational allocation**

Deputy Chief Shanna Madsen introduced this meeting as an opportunity to update FMAC on the recent ASMFC-MAFMC decisions regarding summer flounder, scup, and black sea bass.

Deputy Chief Madsen overviewed the management structure of summer flounder, scup, and black sea bass and provided updates to the sector allocation. These species are jointly through MAFMC and ASMFC. How allowable catch for each species is allocated between the commercial and recreational sectors is being re-evaluated based on more recent catch data following a recent update to the MRIP estimates. Revised estimates show that recreational catch was greater than previously thought. The historical allocation no longer reflects the current understanding of commercial and recreational catch proportions. MAFMC and ASMFC approved a preferred alternative in December 2021, which will be implemented in the 2023 fishing year. The Amendment revises allocations and provides a more streamlined process for future changes to allocations and quota transfers across sectors made through addenda. The revised commercial allocations are 55% for summer flounder, 65% for scup, and 45% for black sea bass, and the recreational allocations are 45%, 35%, and 55% for summer flounder, scup, and black sea bass, respectively.

Following the overview, Deputy Chief Madsen invited question from FMAC. Chairman Jeff Deem asked if the commercial sector will keep the same poundage as it had in the past, and Deputy Chief Madsen explained that the total poundage would depend upon both the revised allocations and the allowable biological catch. An increased total catch limit could balance a decrease in the commercial sector quota. Mr. John Bello questioned the use of a thirty-year-old base period for allocations, and Deputy Chief Madsen explained that the Board felt that the selected base years help to continue to represent how both fisheries have traditionally operated while incorporating the revised MRIP data. The historical time series is intended to honor the historical fishery prior to the implementation of restrictive management measures. There were no public comments or questions.

#### **B. Summer flounder, scup, and black sea bass recreational management measures and options for 2022**

Ms. Alexa Galván overviewed joint ASMFC/MAFMC management structure, reminding the committee that the ASMFC and MAFMC must agree on management measures for species that occur in state and federal waters.

### **i. Scup**

Ms. Galván reviewed the recent harvest estimates/projections and recreational harvest limits for scup. Based on the average of estimated/projected harvest for 2018-2021, a 56% reduction is required to meet the 2022 recreational harvest limit (RHL). The Board and Council agreed on a one inch increase in minimum size corresponding to 33% reduction. This will increase Virginia's minimum size for scup from eight to nine inches in 2022.

Mr. Jeff Deem asked if people get close to the 30 fish bag limit. Deputy Chief Madsen responded that most participants in the fishery do not get close. Mr. Ed Sarfan expressed surprise that the recreational fishery is exceeding the RHL. Ms. Galván emphasized that Virginia is a small part of the scup fishery while the management is coastwide. Mr. Tom Powers questioned why Virginia does not have de minimus status given the low proportion of landings from the state. Deputy Chief Madsen explained that our participation on the MAFMC requires compliance with the Magnuson-Stevens Act and that we must respond to the coastwide RHL being exceeded. Virginia must adhere to the coastwide measure (1" increase in minimum size). She further explained that the MAFMC does not have a de minimus status in the same sense that is applied for exclusively ASMFC-managed stocks.

### **ii. Summer Flounder**

Ms. Galván explained that staff is soliciting input on preferences for how to develop conservation equivalency measures which will be enacted uniformly across the southern region. Staff will take the input to discussions with the other fisheries management representatives. Proposals are due to the technical committee by February 21 and will be reviewed in late February - March.

Based on the average of estimated/projected summer flounder harvest for 2018-2021, the Board approved a 16.5% coastwide harvest liberalization. Delaware, Maryland, and Virginia will propose a regional conservation equivalency plan with uniform measures. Decreasing the minimum size by half an inch to 16 inches could be an appropriate liberalization.

Mr. Powers requested an evaluation of maintaining the minimum size and increasing the bag limit to 5 fish. Mr. David Agee, recreational angler, agreed with this recommendation. Chairman Deem asked the committee if anyone was aware of any hardships that the current proposed measures would impose. There were none. Mr. Powers emphasized the interest in seeing multiple options. Chairman Deem asked about the availability of analyses related to additional alternatives and Deputy Chief Madsen responded that follow-up conversations will take place via email given the short turnaround time for proposals.

### **iii. Black Sea Bass**

Based on the average of estimated/projected harvest for 2018-2021, the Board and Council approved a coastwide harvest reduction of 28% and regional conservation equivalency, so Virginia's measure must be uniform with Delaware, Maryland, and North Carolina.

The Board later rescinded the vote for a 28% reduction in light of new data and analysis, and will vote on a new reduction between 21% and 27%. The Council will need to make a similar motion at their February 8 meeting. Analysis indicates that bag limit reduction is an ineffective means to achieve coastwide reduction; a reduction of 5 fish results in a 1% coastwide reduction because many fishers do not currently catch the whole bag limit.

Chairman Deem requested a simplified explanation of why reduction is required even though stock is in good shape. Deputy Chief Madsen reiterated the legal obligation to maintain landings of federally managed species below the RHL. A failure to make the reduction under state management measures could require a closure of federal waters. Mr. Powers voiced concern that the fishery is managed using a survey tool (MRIP) which was designed for evaluating trends. Deputy Chief Madsen acknowledged the concern and noted that an upcoming management action aims to address concerns about MRIP. Mr. Sarfan questioned why the 2022 February recreational season was closed. Ms. Galván responded that the closure was due to uncertainty regarding management measures for the rest of the season. Mr. Feller and Chief Geer reiterated Ms. Galvan's explanation that the February fishery is always "paid back" later in the year by taking cuts to offset the February harvest.

Chairman Deem asked if there would be an update after the Feb 8 meeting. Ms. Galvan and Deputy Chief Madsen responded that the measures would still be unknown immediately following the February 8 meeting but stated that staff will send out a notification of the proposed recommendations when they are available.

Mr. Skip Feller suggested reducing the season by taking some days from the beginning and end of the season, for example June 1 – December 15. He said that while fishers would hope to align the black sea bass season with the tilefish season (beginning May 1), ultimately they could be amenable to reducing the summer season when there are other fish available to target. Mr. Bob Sinclair voiced a preference to have more available days, even if that means cutting days during a typically productive time of year (November-December). He suggested that cutting out days at the end of December makes more sense than taking away more weeks during other parts of the year. Further discussion led to general agreement that shorter cuts from a productive time of year would be preferable to longer cuts at other times of the year and cuts in December would be preferred over cuts early in the season.

## **C. Brief updates**

### **i. Bluefish commercial quota**

Deputy Chief Madsen overviewed Amendment 2 to the Bluefish FMP. The stock is currently overfished and requires a rebuilding plan (Amend 2) approved Aug 2021. The recreational allocation will be increased from 83% to 86%, and the commercial allocation will be reduced from 17% to 14%. The commercial state-by-state allocations are being revised based on more recent historical landings. Virginia's allocation will be gradually reduced from 11.02% to 5.87% over a period of seven years.

### **ii. Spiny Dogfish trip limit increase**

In November 2021, the Advisory Panel requested a 10,000 pound trip limit for spiny dogfish to offset fuel costs and incentivize trips. The Monitoring Committee (MC) and the Science and Statistical Committee were consulted on stock health, and Council staff conducted trip and price analysis to evaluate the impact of changing trip limit on ex-vessel price. There will be no quota increase this year due to the upcoming 2022 stock assessment. The MC agreed that an incremental trip limit increase will not impact stock as long as quota is the same. MAFMC, NEFMC, and ASMFC approved an increase from 6,000 to 7,500 pound limit. The VMRC will request a matching increase for consistency with federal waters. Deputy Chief Madsen noted that there is an upcoming stakeholder session on February 15, 2022 for the assessment.

Mr. Scott MacDonald raised concerns on behalf of Virginia's fishery regarding matching other states' increase in trip limit. Current fishers do not want higher a limit to draw new participants to the fishery, and they want a discussion of to limit the number of permits first. Mr. MacDonald noted he personally agrees with the increase in the limit to take advantage of the resource and develop a sustainable fishery. He suggested a need to look into the permits we have in Virginia. Deputy Chief Madsen pointed out that the short timeline will not allow for decisions/deliberations about permitting and noted the need to consider the implications of surrounding states having a higher limit than Virginia, given that federal waters also have a higher limit. She emphasized that we can look into permitting issue in the future. Mr. MacDonald mentioned that although the fishery opens May 1, most fishing does not occur until November. Mr. Mark Sanford expressed agreement with Mr. MacDonald and noted there is a lot of latent effort. He voiced concern over permit transfers and suggested considering a control date when the permit discussion occurs. Ms. Somers Smott, Fishery Management Scientist, offered some clarity on how transfers currently occur and explained the cap on permits.

Mr. Sanford raised an additional concern about the fact that spiny dogfish currently have to be sold to a federal dealer. He noted that some captains would like to sell their catch to the

local Virginia conch pot harvesters. He would like to suggest making it easier to sell dogfish. Deputy Chief Madsen agreed to look into the matter.

### **iii. For-Hire updates**

Ms. Smott presented an overview of upcoming regulatory updates to clarify the definitions of saltwater/freshwater license boundaries for determining where VMRC charter permits are required. The updates are consistent with how Law Enforcement is already operating and are primarily being set forth into regulations for clarity of licensing requirements.

### **iv. USDA Seafood Processors Pandemic Response and Safety Block Grant**

Chief Geer gave an overview of the COVID-19 fisheries relief funds and payouts. The first round was approved in March 2020; everybody who qualified received \$6,310. The second round was approved in March 2021; payouts were based on losses due to fishing. The average payout was ~\$11,000, ranging from ~\$150 to ~\$186,750. The third round was approved in September 2021. This round is for seafood processors' expenses related to preparing and preventing exposure and responding to COVID 19 pandemic; workplace safety measures, marketing shifts, retrofitting facilities, transportation, worker housing, and medical expenses. Applications will likely be available starting on or around April 1, and a virtual informational meeting will be held soon, date to be determined.

### **v. Agency updates**

Commissioner Bowman retired January 14. Justin Worrell, Deputy Chief of the Habitat Management Division, is now the Acting Commissioner. Andrew Wheeler has been named the Secretary of Natural and Historical Resources. Effective December 2021, the VMRC restructured divisions to develop the Shellfish Management Division. Mr. Ben Stagg was appointed as Chief and Mr. Andrew Button was appointed as Deputy Chief. Dr. Brooke Lowman was hired as the fisheries stock assessment scientist.

### **vi. ASMFC updates**

Virginia has 30 representatives on ASMFC Advisory Panels, but approximately 20 have not participated recently. VMRC will be seeking applicants for the Advisory Panels of several species. Striped Bass Draft Amendment 7 was approved for public comment with a Virginia public hearing between March 7 and April 1. Menhaden Draft Addendum I may be approved for public comment at the May ASMFC meeting. Lobster/Jonah crab Addenda for Electronic Vessel Tracking in Federal Fisheries was approved for public comment through February 15, and Board will meet on February 22.

#### **IV. Other Business**

Mr. Powers expressed concern about last year's changes to speckled trout regulations which established a daily incidental catch limit for speckled trout. The 51,000-pound directed fishery quota was exceeded very early in 2021 (within 6 weeks). His apprehension lies in the potential of substantial harvest in a directed fishery through the rest of the fall that would then calm down through the rest of the year. He asked staff to review the scale of the fishery relative to the historical quota to decide whether it would be necessary to revisit the regulations. Deputy Chief Madsen emphasized that there will be a lag in data availability. Mr. Powers suggested reaching out to individual processors directly to request their buying totals. Mr. MacDonald suggested that the speed with which the quota can be achieved suggests a need to reevaluate the quota. Mr. Powers expressed concern that the method of fishing has changed and described the practice of setting up fixed haul seines to "hold" fish. Deputy Chief Madsen stated that mandatory report data will be used to address the questions and emphasized that reaching out to individual processors is logistically unfeasible. Mr. Powers asked for data to be analyzed considering catch through December.

Mr. Meade Amory requested staff to look into the possibility of increasing the black sea bass bycatch limit for trawlers and opening eligibility of black sea bass bycatch to include boats targeting summer flounder. He also requested that staff look into regulations regarding horsepower and length requirements for the summer flounder trawl fishery. Lastly, Mr. Amory requested that staff look into safe harbor regulations prohibiting any and all sale of harvest when coming in for safe harbor.

Mr. Sanford emphasized that no management action should be taken for speckled trout until the stock assessment is completed later this year.

Deputy Chief Madsen reminded the committee that there were several requests made to the agency staff for data analysis and permitting changes. These were not insignificant requests and would need to be discussed internally and prioritized for staff workloads. Several of the requests may require directed input from other stakeholders and industries.

#### **V. Public Comment**

No public comments were received.

#### **VI. Adjourn**

The meeting was adjourned at 7:17 pm.