



# Atlantic States Marine Fisheries Commission

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## Atlantic States Marine Fisheries Commission and Mid-Atlantic Fishery Management Council Joint Summer Flounder, Scup, and Black Sea Bass Advisory Panel Meeting Summary

April 2, 2020

### ASMFC Advisory Panel Members in Attendance:

- Frank Blount – RI (recreational)
- Paul Caruso – MA (recreational)
- Greg DiDomenico – NJ (commercial)
- Brent Fulcher – NC (commercial)
- Marc Hoffman – NY (rec/comm)
- Mark Hodges – VA (commercial)
- Joseph Huckemeyer – MA (recreational)
- James Little – DE (recreational)
- Jim Lovgren – NJ (commercial)
- \*Michael Plaia – CT (recreational/commercial)
- Buddy Seigel – MD (recreational)
- Bill Shilingford – NJ (recreational)
- Art Smith – NC (commercial)
- Wes Townsend – DE (commercial)

### MAFMC Advisory Panel members in attendance:

- Katie Almeida – MA (commercial)
- Rick Bellavance - RI (recreational)
- Carl Benson – NJ (commercial)
- Bonnie Brady - NY (commercial)
- Steven Cannizzo – NY (recreational)
- Joan Berko – NJ (commercial)
- Jeff Deem – VA (recreational)
- Skip Feller – VA (recreational)
- Howard King – MD (recreational)
- Michael Pirri - CT (recreational)
- \*Michael Plaia – CT (recreational/commercial)
- Steven Witthuhn – NY (recreational/commercial)
- Harvey Yenkinson – PA (recreational)
- Douglas Zemeckis - NJ (Rutgers University)

### Additional attendees:

- Russ Babb (NJ DEP)
- Chris Batsavage (MAFMC & ASMFC member, NC)
- Joe Cimino (MAFMC & ASMFC member, NJ)
- Justin Davis (ASMFC member, CT)
- Tony DiLernia (MAFMC member, NY)
- Tom Fote (ASMFC member, NJ)
- Emerson Hasbrouck (ASMFC member, NY)
- Emily Keiley (NOAA)
- Nichola Meserve (ASMFC member, MA)
- Adam Nowalsky (MAFMC & ASMFC member, NJ)
- Corinne Truesdale (TC member, RI)
- Greg Wojcik (TC Chair, CT)

**Staff:** Julia Beaty (MAFMC Staff), Karson Coutre (MAFMC Staff), Kiley Dancy (MAFMC Staff), Dustin Colson Leaning (ASMFC Staff), Caitlin Starks (ASMFC Staff)

\* Indicates member of both Council and Commission APs

### Meeting Summary

The Advisory Panels of the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council) met jointly via conference call and webinar on April 2,

2020 to review the Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment Scoping Comment Summary and provide recommendations on the types of alternatives which should be further developed.

In January 2020, the Commission and Council released the Summer Flounder, Scup and Black Sea Bass Commercial/Recreational Allocation Amendment Scoping and Public Information Document to consider potential modifications to the allocations of catch or landings between the commercial and recreational sectors for the three species. Commission and Council staff hosted 11 public hearings in February and March to gather public comment on the document. The Board and Council received written and in-person comments from 205 individuals and organizations during the public comment period.

ASMFC Staff presented on the amendment background and purpose followed by an overview of the scope of comments received by the Board and Council. Advisors considered the scope of issues received during the comment period and provided guidance on which types of management alternatives should be further considered and analyzed for the amendment. **Please note: Advisor comments described below are not necessarily consensus or majority statements.** Additional comments submitted by email are appended at the end of this summary.

### **Opening General Comments**

Several advisors opened the meeting with concerns about how the Covid-19 virus is affecting both the recreational and commercial fisheries. One advisor pointed out that landings are likely to be severely affected during the prime months of fishing for all three species. He stated that due to the virus, MRIP sampling has stopped and the commercial fishery is affected due to the closing of restaurants which has caused a large decrease in seafood demand. This advisor also called for action through a framework or an addendum to address how the stakeholders in these fisheries can be supported through this crisis and how fishing can be promoted after the virus runs its course.

A few advisors stated that it would not be in the best interest of any fishery to move forward with the commercial/recreational allocation amendment while the future economic stability of these fisheries is in question. One advisor added that these fisheries involve over 5 million people and thus comments from 205 respondents should not influence management decisions at such a critical time.

In contrast, a few advisors noted that even though the virus situation is affecting everyone's lives and many fishing businesses, the amendment issues will eventually still need to be addressed. One advisor added that National Marine Fisheries Service (NMFS) and Council leadership will need to address the Covid-19 issue separately, but it does not preclude the Advisory Panel from discussing scoping comments on the amendment today.

### **Improved Recreational Accounting and Accountability & Considerations for Reallocation Approaches**

All advisors who spoke on this issue agreed that they have no confidence in the Marine Recreational Information Program (MRIP) estimation methodology and the estimates that it has produced. One advisor emphasized that the Council needs to recommend that NMFS re-examine MRIP and its methodologies. He said the public's lack of faith in MRIP requires that MRIP staff improve the methodology in some way. Once NMFS has devised a new and improved methodology, allocation could be based on those new estimates. He stated that NMFS can act more quickly than the Council, and should be encouraged to take the lead on updating MRIP's methodology.

Several advisors expressed frustration with MRIP for its use of implausible input data. For example, some said the effort estimates produced by the fishing effort survey were impossible. A few advisors interpreted the term “hidden fishing effort” used by MRIP staff at a recent SSC meeting<sup>1</sup> to mean that MRIP estimates are scaled up to account for effort that is not detected by the fishing effort survey. A staff member responded that the explanation of “hidden fishing effort” has been widely misinterpreted. This concept was intended to explain why many stakeholders may believe the effort estimates are too high, because there is a lot of effort at private fishing sites in some states that is not necessarily seen by those fishing from public intercept sites. This effort is already captured in the effort survey, and there is no additional estimation or scaling specific to private or “hidden” fishing sites.

One advisor added that MRIP does not provide an accurate picture of what the stock size is. Another advisor reminded the group that not everyone was in favor of using MRIP data in the operational stock assessments. This advisor pointed out that MRIP is not a new problem; stakeholders have been waiting for improvements to MRIP for 10 years since it was mandated by congress. In addition, he expressed concern in the way weight conversion rates are applied to MRIP estimates in numbers of fish. He thought that more analysis is warranted, especially for bluefish, because it is hard to believe the accuracy of a conversion rate when there is such a large variability in fish size.

Another advisor added that for-hire effort has been underreported for many years, especially for party boats. He stated that logbooks should be used to rectify the faulty numbers used by MRIP.

One advisor stated that even if everyone disagrees with MRIP data, it is already being utilized by management. He elaborated that because MRIP summer flounder data was already used to establish stock status and to increase the commercial quota, it should also be used for allocation purposes. He proposed that management should use the updated MRIP data with the same base years to produce an allocation of 55% percent to the commercial fishery and 45% to the recreational fishery.

One advisor said that he would like to see staff consider catch accounting that doesn't rely upon percentage allocations. Instead, catch should be evaluated against the Acceptable Biological Catch (ABC) at the end of the year. If recreational catch estimates indicate that the recreational harvest limit has been exceeded in a given year, yet commercial catch only amounts to 50% of the quota, there is no reason for the recreational sector to be penalized if the ABC was not exceeded. This advisor stated that management has already been taking this ad-hoc approach for Black Sea Bass and Scup, which could continue to be used to manage these fisheries.

The aforementioned advisor also pointed out that additional quota that the commercial sector received after the most recent stock assessments for summer flounder and black sea bass could be short-lived. While he has no desire to disadvantage the recreational sector in any way going forward, he asks that the commercial sector not be put at a disadvantage either and therefor does not support reallocation. Another advisor representing the commercial sector later spoke in support of no changes to the current allocation as well.

### **For-Hire & Private Angler Sector Separation**

Feedback regarding sector separation was mixed. One advisor said that he supports sector separation as a concept, but in practice it would not likely work well. He stated that VTR data is inherently biased because while some vessels report accurately, others do not. Another advisor from the commercial

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<sup>1</sup> The report of this SSC meeting is available at: <https://www.mafmc.org/s/Final-March-2020-SSC-Meeting-Report.pdf>.

sector agreed that VTR data is flawed because it is in the for-hire captain's best interest to underreport catch. One advisor said that based on the perceived accuracy of MRIP, he doesn't think that sector separation makes any sense.

Two advisors spoke in favor of sector separation in some form. One advisor reflected that current recreational management measures are not working for the for-hire fleet, and thus they should have different regulations. He also reminded the AP that VTRs are only one component of catch accounting, and they also have intercept surveys. He thought that validating VTR data with intercept data would be a good accountability check. The second advisor supports separate management measures for the for-hire fleet, but does not support a sub-ACL for the for-hire fleet, and doesn't believe that approach would work. However, he thought it important that the for-hire sector be assigned its own measures to help party and charter vessels sell trips.

One advisor suggested that days-at-sea could be an effective way to manage the party and charter boat sector.

### **Dynamic Allocation Approaches**

Several advisors recommended the Board and Council review and further develop the recreational management reform harvest control rule submitted in written comments by representatives of the American Sportfishing Association, the Congressional Sportsmen's Foundation, the Center for Sportfishing Policy, and the National Marine Manufacturers Association, the Coastal Conservation Association, and the Recreational Fishing Alliance (see pages 144-149 of the scoping comment summary). Several advisors applauded this effort as a promising alternative to traditional allocation approaches.

One advisor thought that allocation changes should not be done through a framework or addendum. He stated that allocation is too important and political to be handled through these processes, which involve fewer public comment opportunities than amendments.

### **Allocation Transfers & Set Asides**

One advisor said there is already a process in place that functions like an allocation transfer. The Omnibus Recreational Accountability Measure Amendment provides that when the recreational sector exceeds its allocation, a pound-for-pound payback does not occur, as long as biomass is above the target level. In effect, this serves as a one-year allocation transfer. The advisor added that this process could also be made part of Council policy for the commercial sector without the need for a lengthy amendment process. Commission staff clarified that even though a pound-for-pound payback doesn't always occur, the Board and Council are required to consider adjustments to measures the following year to prevent an overage from occurring again. An allocation transfer could avoid this issue in some years. Council staff also clarified that any changes to the accountability policy would actually need to go through a framework or amendment process.

One advisor thought that allocation transfers could be a good idea if they were designed in a way that allowed either the commercial or recreational sector to exceed its allowance so long as the combined catch between the two sectors does not exceed the ABC.

One advisor voiced opposition to allocation transfers, citing the bluefish fishery as an example of where this policy tool led to unintended consequences. For many years a portion of the recreational allocation, that was projected to be underachieved, was transferred to the commercial fishery in the form of

increased quota. Years later when the stock was reassessed, it was revealed that the stock was overfished and had been experiencing overfishing for many years. The advisor elaborated that if a sector underachieves its allocation, this allows for more spawners to remain alive and support the health of the stock. Summer flounder, scup and black sea bass are easier to manage if the stocks are in good shape, and allocation transfers jeopardize their ability to remain healthy.

One advisor said that any allocation that is not caught in one year should roll over into the next year.

### **Recreational Management Measures and General Recreational Fishery Concerns**

One AP member noted that recreational anglers are still fishing primarily on mature female fluke and not on males, which is not good for the health of the fishery. A second advisor agreed that the minimum size limits for fluke are not right. He added that they need to be remedied to help reduce discards and a possible solution could be a cumulative total length regulation with mandatory retention. A third advisor said the idea of catching fewer fish needs to be embraced – it has been obvious that there is no fix to lower mortality in these fisheries except catching and killing fewer fish.

One advisor reminded the advisory panel that North Carolina has had to make drastic changes to summer flounder recreational measures because of overlap with the depleted southern flounder stock. These changes have had a large impact on how the fishery operates in North Carolina.

Three advisors expressed support for mandatory reporting at all recreational fishing tournaments.

Several advisors stated that social distancing and people's fear surrounding the virus will negatively impact the for-hire industry for years to come. He suggested that management relax regulations to help make up for lost effort during the beginning of this year's fishing season. A few other AP members agreed that many people will rely heavily upon seafood to feed their families during these challenging times. High minimum sizes pose a barrier to catching legal fish. Noncompliance is likely to go up unless managers take this into consideration and relax regulations. One advisor elaborated that the virus situation could impact the global supply of seafood, and during this crisis management needs to make seafood accessible to every stakeholder in every state.

### **General Commercial Fishery Concerns**

One advisor said that New York landings of summer flounder were incorrectly counted during the timeframe used to derive the current commercial and recreational allocations. As such, any discussion regarding changes to the current allocations would first require revisiting what New York's true landings were during that time period.

One advisor noted that commercial sector sales for fluke are still struggling while the market rebuilds.

### **Other Issues**

One advisor said that the Council tends to manage fisheries on a coastwide basis, and recommended that managers pay greater attention to regional depletion. He thought that some areas are doing fine, but others have become quite depleted. In his opinion, global warming is not a sufficient explanation for why summer flounder are getting depleted. He shared that allocation between states and sectors has an influence on regional depletion by increasing fishing effort in certain areas.

One advisor suggested that instead of different staff hosting every public hearing, in the future it would be better to have 1 or 2 staff members host all the hearings. He explained that presenting information as well as receiving information can get lost in translation with so many different staff hosting hearings.

### **Comments Received by Email**

**From:** ARTHUR D SMITH [<mailto:artsmith@rsnet.org>]

**Sent:** Wednesday, April 1, 2020 6:11 PM

**To:** Dustin C. Leaning <[DLeaning@asmfc.org](mailto:DLeaning@asmfc.org)>

**Cc:** DEWEY HEMILRIGHT <[fvartarbaby@embargmail.com](mailto:fvartarbaby@embargmail.com)>; BRENT FULCHER <[bjseafood@earthlink.net](mailto:bjseafood@earthlink.net)>

**Subject:** [External] Re: April 2 Advisory Panel Webinar Reminder

Good Afternoon Dustin,

As an ASMFC summer flounder adviser I would like to offer the following:

1. These re-allocation ideas are a result of various interest groups being dis-satisfied with the amount of fish they are allowed to catch. Well guess what. No matter how many fish you give any group they will never be satisfied and it will be that way from now until eternity. Therefore my advice is to maintain the status quo. The current allocations (I think) have been in place for twenty plus years and while no user group has thrived at least all have survived.
2. You have to remember that the commercial sector does not just consist of the 100+ plus vessels involved in the fishery but also the tens of thousands of individuals who only have access to the resource by purchasing fresh seafood from these vessels. Don't let anyone tell you that recreational participants outnumber commercial participants. When you count the consumers that the commercial industry supplies then the commercial industry has far more participants.
3. I am already on record regarding my position on discards and recreational reporting. My position has not changed.
4. I will be able to listen to Thursday's meeting but will not be able to participate. A few meetings back an individual who was not even an adviser went on and on with his comments. Please limit the meeting to advisers and staff. Also, advisers do not need to go on and on about how useless statistical models are. This meeting is to discuss potential reallocation and should be limited to such.

Thank you,

Art Smith  
Belhaven, NC

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From: Jim Lovgren [<mailto:jlovgren3@gmail.com>]

Sent: Tuesday, March 31, 2020 4:34 PM

To: Dustin C. Leaning <[DLeaning@asmfc.org](mailto:DLeaning@asmfc.org)>

Cc: SUMMER FLOUNDER, SCUP, & BLACK SEA BASS ADVISORY PANEL <[sfsbsb\\_ap@asmfc.org](mailto:sfsbsb_ap@asmfc.org)>; Caitlin Starks <[cstarks@asmfc.org](mailto:cstarks@asmfc.org)>

Subject: [External] Re: April 2 Advisory Panel Webinar Reminder

Dustin I think its clear that no one agrees with the new MRIP data, and of those that do they only agree when it helps them argue that they should get more quota, while they still dispute that they have not caught anywhere near what the recent data says they did. A clear conflict of intellectual thought. I think this reallocation amendment should be dumped in the trash can of history, and council/commission resources funneled somewhere where they might be better used to help both commercial and recreational industry's survive. thanks, Jim

\*Newspaper clipping submitted as an AP comment by Steve Witthuhn on 4/2/20

A16

## LONG ISLAND

# Striped bass season opens April 15

But it's unclear whether partyboats and charterboats will be operating

BY MARK HARRINGTON  
[mark.harrington@newsday.com](mailto:mark.harrington@newsday.com)

New York State on Tuesday finalized rules for recreational striped bass fishing during the 2020 season, but much uncertainty remains about whether hundreds of partyboats and charterboats considered nonessential businesses will be released by the start of the season.

The striped bass season will begin on its normal day of April 15 and continue through Dec. 15. Recreational anglers this year can take one fish a day from 28 inches to 35 inches, compared to last year's rule of one fish at 28 inches and above. The commercial season starts May 15, and fish must be between 26 and 38 inches. The state has also reduced the maximum number of fish commer-

cial fishermen can take to 185 from a prior 219.

The state's rules on nonessential businesses restrict all such entities from operating through April 15, when the rules will be re-examined based on the status of the coronavirus pandemic. A spokeswoman for the state Department of Environmental Conservation said it's still unknown whether the restriction will be lifted or extended. The agency noted that the current mid-April restriction on nonessential business "may be extended by future executive orders."

But if Gov. Andrew M. Cuomo's comments Tuesday are any indication, fishing boat captains may be looking at a

People aren't going to have fishing as a priority. It's coming down to food money versus fishing money."

— Charterboat captain Steve Witthuhn

lockdown well beyond the April 15 opening of the striped bass season.

"This is not one week, two weeks, three weeks, four weeks, five weeks, six weeks," Cuomo said. "This is not going to be an Easter surprise."

The uncertainty has made life difficult for the Island's dozens of partyboats, which

can carry scores of passengers, and the hundreds of smaller charterboats.

Rob Andresen, who operates Captree Pride and Captree Princess boats out of Captree Boat Basin, said he would normally be on the water around now, fishing for cod and preparing for the flounder season. His two boats are out of the water for maintenance, but are expected to be back in over the next two weeks.

"For me, I sail year-round and I'm really feeling it," he said. "It's really going to kill me."

He'd normally start booking for trips starting with the May 4 fluke season, but calls have fallen off dramatically, not just over the uncertainty over the nonessential business order, but customers' own financial uncertainty. "The phone isn't ringing as it usually does," he said.

His only hope is that regulators will extend fishing seasons through the end of the year to make up for the loss of the front

part of the year. That would mean leaving the fluke season open longer into the fall, he said.

For Steve Witthuhn, a charterboat captain out of Montauk who sits on the DEC's marine advisory committee, this year's spring season is a big question mark.

"We're hoping for the best but we don't know how to prepare for the worst because we don't know how we're going to get hit," he said. He plans to apply for small business loans to make up for the losses.

"Everybody's in the same boat, so to speak," he said. "People aren't going to have fishing as a priority. It's coming down to food money versus fishing money."

In the interim, he plans to continue fixing up his boat, the Top Hook, painting the bottom and "getting things ready." For what, he's not completely sure.

"We just don't know" whether boats will be able to fish, he said.