



ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

KATHY B. RAWLS
Director

January 18, 2022

MEMORANDUM

TO: Marine Fisheries Commission
Southern Advisory Committee

FROM: Tina Moore, Southern District Manager
Chris Stewart, Biologist Supervisor
Fisheries Management Section

SUBJECT: Meeting of the Marine Fisheries Commission's Southern Regional Advisory Committee, January 12, 2022. Recommendations for the Southern Flounder Fishery Management Plan Amendment 3

The Marine Fisheries Commission's (MFC) Southern Advisory Committee (AC) held a meeting on January 12, 2022 via webinar.

The following Advisory Committee members were in attendance: Fred Scharf, Jerry James, Jason Fowler, Tom Smith, Cane Faircloth, Samuel Boyce, Tim Wilson, Pam Morris, Jeffrey Harrell. (Absent – James Rochelle and Adam Tyler)

Staff: Tina Moore, Chris Stewart, Anne Markwith, Michael Loeffler, Steve Poland, Kathy Rawls, Deborah Manley, Corrin Flora, Ashley Bishop, Hope Wade, Chris Nealon, Carter Witten, Alexander Batchelder, Lara Klibansky, Lee Paramore, Drew Cathey, Garland Yopp, Casey Knight, Brandi Salmon, David Behringer, Hannah Carter, Kevin Brown, Nolen Vinay, Shelby White, Stephen Johnson, Trish Murphey, Alan Bianchi, Ami Staples, Charlton Godwin, Dee Lupton, Daniel Zapf, Trey Baranyai, Jason Rock, Willow Patten, Jason Walsh

Public: Ken Seigler, Glenn Skinner, Stuart Creighton, David Sneed, Michael Waive, Mary Hamann, Missy Clark, Bill Gorham

MFC Commissioner: Tom Roller

Southern Regional AC Chair Fred Scharf called the meeting to order at 6:05 p.m.

A call for attendance was performed and attendance recorded. The Southern AC had 9 members present and quorum was met.

APPROVAL OF THE AGENDA AND APPROVAL OF THE MINUTES

A motion was made to approve the agenda by Jason Fowler. Second by Jerry James. The motion passed without objection.

A motion was made to approve the minutes from the Southern AC meeting held on October 12, 2021. Motion by Jerry James to approve minutes. Second by Cane Faircloth. Motion passes without dissent.

MARINE FISHERIES COMMISSION UPDATE

Lara Klibansky, MFC Liaison, welcomed the new and re-appointed members on the Southern Advisory Committee (AC). She noted the MFC Office staff are here to support advisors; when issues are under review they can reach out to us with any questions.

At the November MFC meeting the Commission approves nominees annually on obligatory seats for Atlantic States Marine Fisheries Commission, Mid-Atlantic Fishery Management Council, and South Atlantic Fishery Management Council. The MFC also approved the goal and objectives of the Fishery Management Plan (FMP) for Interjurisdictional Fisheries. MFC approval to send the Striped Bass FMP Amendment 2 to the ACs in March and the FMP for Interjurisdictional Fisheries in April for review is scheduled to occur at the February 2022 MFC meeting.

The Southern Flounder FMP Amendment 3 was approved for AC review tonight and public comment closes on Jan. 14, 2022. There was a recorded listening session for this plan and any input on the quality and ideas for continuing with this format is welcome. During the November MFC meeting, the Commission selected their preferred options for the Shrimp FMP Amendment 2 and approved to send the plan for DEQ Secretary and Legislative review. The Shrimp FMP Amendment 2 is scheduled for final approval in February. The Coastal Habitat Protection Plan was also approved at the November MFC meeting. This is a departmental plan. The MFC, Coastal Resources Commission, and Environmental Management Commission must give approval to the plan; all three approved in November.

A suggestion was made that it would be helpful to split the listening session into two parts, the presentation and then the question portion. Staff indicated they would look in to splitting up the listening session and troubleshoot any audio quality issues in the next session.

PRESENTATION ON SOUTHERN FLOUNDER FISHERY MANAGEMENT PLAN AMENDMENT 3

Mike Loeffler and Anne Markwith presented the DMF recommendations. After presenting each issue paper, Staff fielded questions and comments from AC members for Amendment 3.

Sustainable Harvest Issue Paper

Commercial Quota – Mobile Gears and Pound Nets

Questions were raised to confirm mobile gears included gigs and gill nets and the intent with the gear separation was to reserve some of the available harvest in the fall for gill nets. Historic landings were used from the NC Trip Ticket Program (NCTTP) to come up with the amounts allocated to each gear and discussed in-depth with the Southern Flounder AC to show the advantages of spreading out the landings across the regions and gear.

Commercial Sub-allocation

No direct questions were raised by the AC members. Scharf noted that the MFC has voted to phase in a 70% / 30% commercial/recreational allocation to a 50% / 50% split by 2024. So, the issue is: does the reduction happen equally across the gears? The DMF recommendation is to maintain the current pound net allocation and the reduction would be for the mobile gears as the allocation shifts. This was based on the viability of the pound net fishery and cost and labor to operate the fishery. If the pound net quota were reduced the fishery may not be viable.

Recreational Season

Questions were raised on paybacks and whether the recreational season currently in place would maintain the quota. Based on previous estimates, recreational harvest should be able to maintain the quota but behavioral shifts have contributed to overages in the recreational sector this season. Staff went into the overages in the 2020 and 2021 recreational seasons. The recreational sector total allowable landings (TAL) are about 152,000 lb and actual landings in 2020 were around 456,000 lb. Preliminary recreational landings in 2021 are estimated at about 630,000 lb.

Discussion moved to the 1-fish proposed bag limit for the recreational sector. It was noted that if gigs go to a 1-fish bag limit no one is going to use that gear. AC members noted that this past season was a derby fishery during the recreational open harvest period and a question was raised whether there are bigger fish. Markwith noted the length frequency has started to shift, there are bigger fish in the population and a lot of smaller fish. Andrew Cathey, Biologist Supervisor for the NC Coastal Angling Program, provided details on the recreational data collections (MRIP and mail surveys) that derive recreational harvest information. Cathey indicated that 2020 catch rates have expanded and angler success increased. Most anglers in the past caught only 1-fish and now we are landing two to four fish per trip.

Discussion moved onto the changes in the recreational allocation and question was asked if allocation shifts to recreational would mean the recreational season can shift as well? Markwith noted that the 2020 and 2021 recreational total allowable landings are exceeding the 40% and 50% allocation. So, bag limit is very important as it would constrain harvest to limit overages. Discussions occurred on the likelihood of having no recreational season due to prior year overages. Cathey noted that they had looked at various scenarios and the DMF's season recommendation to open the recreational season Aug. 16 to Sept. 30 was to allow access to tourists and locals while the fish are moving.

Other committee members agreed this past recreational open period was a derby fishery with a lot of fish killed as discards and indicated a lot of people would not support this to continue. AC members stated they would rather a 1-fish bag limit to allow a longer open harvest season.

The following question was raised: if the recreational overage was because of more or larger fish, so why were the commercial sector's overages not on a similar scale? Loeffler explained the commercial sector did exceed in 2021 (80,000 lb). This is the second year for the fisheries managed by seasons and because of southern flounder's growth rate, it is expected to see larger fish in the fall months. Part of the overage is due to the larger fish harvested, but a significant portion of the catch were 15 inch to 16 inch fish. This was expected after the initial closure and now two years with reduced harvest. When you have over a million anglers, there is a potential for the recreational fishery to harvest significant numbers. You see a high volume of fish harvested in a short period of time. Cathey confirmed the average weight of fish in 2021 was ~2.1 lb; however, the bulk of the harvest was coming from these 15 inch to 16 inch fish. An AC member noted a short season only gives a small amount of fish and less people have the opportunity to enjoy the fishery. Those who get out more are catching the fish and not giving others a chance to catch them. We really need to discuss the bag limits and learn more on the truncated distribution. Cathey explained in 2017 there were only two year-classes of fish that made up most of the catch. Now we are seeing an expansion of age classes showing up in our surveys, which is a sign that the fishery is recovering.

Commercial Trip Limits

This option is to bring forward trip limits to re-open a fishery that is closed as it gets close to its annual quota. It was discussed with the Southern Flounder AC that there should be an 80% threshold, which is very common for various fisheries, to shut down the fishery and allow time for accounting of all the landings. In the discussions, the closure threshold for mobile gears could be higher and big weather events that would push fish and cause large landings were considered. DMF would determine the number of participants and come up with a trip limit by gear to harvest the remaining quota. A trip limit could also be considered in the AC recommendations during the entire open harvest season as well.

Recreational Bag Limit

A question was raised on whether the recreational season could close when the quota is within 80% of the TAL? Markwith responded that we can't monitor recreational harvest in real time, a struggle for all states. MRIP is set up in two-week waves and it takes roughly 45 days to get the data. The effort component for the recreational fishery also comes from a mail survey completed every 2 months. MRIP was not designed to monitor a recreational quota. Loeffler added DMF has an internal workgroup that is trying to identify and develop a way to monitor the recreational fishery for quota fisheries (phone app, etc.).

An AC member commented that we are talking of a derby fishery with a one fish limit and fish are getting bigger; is there a point when we are going to get more dead discards? Will high grading occur more frequently? Loeffler explained there is always the possibility that behavior will change. Some will high grade, some may not participate as heavily. If recruitment increases and spawning stock biomass (SSB) goes up, then angler behavior will also change. Increased success is what is behind the need for a one fish bag limit. Under a two and three fish bag limit we will continue to see significant catches over a short period of time. As time goes on, we may be able to get a longer season through adaptive management as the TAL shifts to the recreational sector. Angler behavior is extremely difficult to predict.

Discussion shifted to the possibility of a tagging system for the recreational sector. Loeffler noted at this stage in rebuilding there is not a lot of fish to go around, so it would be difficult. The internal working group discussed and had more questions than answers like: How do we allocate the tags? Would only some anglers get a tag? How do we constrain harvest at a 72% reduction and allow the fishery to operate as the stock recovers? What we see in the data is most fishermen catching flounder are not targeting flounder so they may not have a tag. The AC member understood there was not enough fish to go around but made the point that we need to limit how many are coming out of the water. At some point somebody is not going to be happy. There is a small group of people taking a large number of fish while others have none. A question was raised whether other states have looked into a harvest tagging program? Loeffler explained it would be a form of limited entry and that would take time to be done properly. Cathey gave examples with high profile species with a harvest tag program, like bluefin tuna and billfish. NOAA sees a lot of noncompliance. Even at a \$1,000 fine, it does not deter people. Another AC member noted a tagging program would be very problematic due to the volume of the fishermen. If you had to report what you caught by the time you got on shore, that would be something to consider but hard to do. Cathey said that the new smart phone app allows anglers to report flounder discards. We are currently building an app where people report their catch with pictures. We are trying to do this as we speak, but it needs time to develop.

Recreational Commercial Gear License

No questions or discussion.

Increased Recreational Access Issue Paper

Loeffler noted the season in the issue paper is very specific to maintain sustainable harvest, as water temperatures increase, catches of southern flounder increase; therefore, adding an extra two weeks to the season with a one fish bag limit runs the risk of exceeding the TAL. With the allowable catch for the 6-week period in the fall, harvest had to be minimized in the spring to stay under the TAL. A question was raised, why would we open additional areas when the goal is to rebuild the stock? Staff noted that there are risks associated with this opening. However, the data would be available before the main recreational season opens in August. One AC member noted there could be issues with enforcement and people getting a ticket for an honest mistake. Another AC member noted similar concerns and was unsure if the risks were worth the rewards. Loeffler noted that this may be more appropriate when the stock recovers or is in better shape. Some members liked the educational aspects within the paper and agreed that the development of the Catch-U-Later App is needed moving forward for southern flounder management. Another member said they would like to see a species-specific flounder fishery to help keep some of the flounder fisheries open.

Inlet Corridors Issue Paper

Scharf noted that ongoing data collection will inform whether this option is viable moving forward.

Adaptive Management Issue Paper

Scharf identified the options in this paper would allow DMF to make management changes to address issues as they arise via proclamations after the plan is adopted.

Slot Limits Issue Paper

Scharf stated slot limits work well for a number of species. It seems eventually it's going to get to a point where it would do some good for our very large fish (say 19"). Staff noted the biggest concern for DMF is turning the catch into discards. Discussion continued that there is the potential for waste, but there is a chance to save bigger fish. Loeffler explained the management measures from Amendment 2 have allowed about a million pounds of fish to escape, and we are likely going to get that in 2021. We are letting some of these large fish escape now, that is good news.

Phase out of Large Mesh Gill Nets

A question was raised as to what would happen if you gave the gill net portion of the allocation to the other fisheries and what would it do to the fishery as a whole? An AC member asked what's going on with the Incidental Take Permit (ITP)? Loeffler stated the current ITP ends in Aug. 2023, and DMF is developing an ITP application for an additional 10 years. If we update the ITP for another 10 years, the large mesh fishery would continue. One AC member noted that there are certain people who do not like gill nets and removing this gear is unfair to those fishermen.

Carry Forwards from Amendment 2

No comments from the AC.

PUBLIC COMMENT

Per the AC Chair and after discussion with the committee, the public comment portion of the agenda occurred in the middle of the presentation and discussion of the plan with the AC for the benefit of members of the public.

Stuart Creighton, CCA NC – DMF is touting adaptive management measures to aid the objective for many FMPs, but they are only effective if done in a timely manner. The division needs to be more proactive in determining fishery specific needs. A recreational only slot limit is unfair. Slot limits can work but they must be applied to both user groups. DMF is correct to not recommend this measure. Removing RCGL gear is appropriate, as there has been no reporting since 2008. It should not be allowed. Removing large mesh gill nets should be done due to bycatch concerns, interactions with protected species, and the cost of maintaining the ITP. Currently, commercial fishermen don't report all interactions. DMF has less than 3% rate contacting fishermen as well to observe on their boats. Phasing out large mesh gill nets would eliminate the need for an ITP. The money saved by doing away with the ITP and observers could be used to observe the shrimp trawl fishery. Pound nets and gigs could catch all the flounder needed. We need to address trawl bycatch in a comprehensive manner. There are clear hot spots for juvenile flounder in western Pamlico Sound and at the mouth of the Neuse and Pamlico rivers. Neither the shrimp FMP nor the latest Coastal Habitat Protection Plan amendment address this problem; therefore, Amendment 3 must address this.

Glenn Skinner, NCFA – On the topic of phasing out large mesh gill nets, there is a lot of misinformation. There is no waste, there is more waste of red drum, spotted speckled trout, and flounder in the recreational hook and line fishery as well as interactions with protected species. The ITP is the only thing that makes interacting with these endangered species legal. We have two legal fisheries (gill net and the shrimp trawl fisheries). The Fisheries Reform Act states it is a goal to ensure the long-term viability of the fishery; these include the hook and line fishery, gill nets, pound nets, and the gig fishery. These gears were all viable when the Amendment 2 was adopted, and they should be when it recovers. Allocation is another big issue, it's absurd that the MFC did this before the fishery recovered. I would like you all recommend that the MFC revisits allocation. We need to wait till the stock recovers and then try for parity. Changing the allocation now violates the FRA.

Scharf asked if there was any opposition from the other members to allow Bill Gorham to speak who had not signed up? One member said it was allowed as long it was one and only one person and noted that Mr. Gorham should have signed up earlier.

Bill Gorham, Thanked the committee for allowing him to speak. He is the owner of Bowed Up Lures and is the proxy on the ASMFC for Senator Bob Steinburg. I have been trying to find a pathway forward, but it does appear the derby fishery has made it unstable. Only after two years of a closure, interest falls out. I have a hard time with a 50% chance of success as it stands now. I would love for the AC to make a plea for the Director and DEQ Secretary to reconsider the seasons as it doesn't provide a viable pathway forward.

DISCUSSION AND VOTE ON RECOMMENDATIONS TO THE MARINE FISHERIES COMMISSION FOR SOUTHERN FLOUNDER FISHERY MANAGEMENT PLAN AMENDMENT 3

Tim Wilson left the meeting before the motions and votes were taken. Eight members were in attendance and quorum was still met.

Sustainable Harvest Issue Paper

Commercial Quota – Mobile Gears and Pound Nets

**Motion by Tom Smith to accept the division recommendation options 1.1.A and 1.2.A.
Second by Sam Boyce.**

Pam Morris asked whether the Northern line could be moved to Beaufort Inlet to be in line with the how pound nets are fished north of Beaufort Inlet? Loeffler explained the line now is set to the B-D line used for the ITP. If moved it could cause issues with enforcement to the ITP, impact fisheries in these areas, and require a recalculation of all the allowable landings for these areas. Other AC members noted concerns with moving the line because of the ITP aspects.

The motion passed without dissent.

Commercial Sub-allocation

Motion by Jerry James to accept the division's recommendation of Option 2.2, maintain the current sub-allocation for pound net fishery. Second by Tom Smith.

AC members discussed that this does not change the allocation set by the MFC and will make the total allowable landings decrease for the mobile gears while pound nets would be maintained. Members discussed the expense of operating pound nets over the mobile gears and DMF's rationale behind their initial recommendation.

The motion passed 7-1.

Recreational Season

Motion by Tom Smith to accept the division's recommendation Option 3 for a recreational season. Second by Jerry James.

A clarification was made that paybacks are part of DMF's initial recommendation if harvest exceeded the TAL.

The motion passed without dissent

Commercial Trip Limits

Motion by Jerry James to accept the division's recommendation to implement a trip limit for pound net and gigs upon reopening after reaching the division's closure threshold. Second by Jason Fowler.

Clarifications were addressed by staff that trip limits would only be for these gears once 80% of their quota was reached. The Southern Flounder AC also supported this recommendation. One member noted this will cause a perception problem, recreational anglers and giggers will be limited to 1-fish and it will appear that some commercial gears have more access to the fish.

The motion passed without dissent.

Recreational Bag Limit

Motion by Cane Faircloth to support one fish/person/day bag limit if it included a considerably longer open season (during summer / fall). Second by Tom Smith.

Questions arose on catch rates in the last few years and overages in the recreational sector. Staff confirmed that catch rate increased in 2020 and 2021. More anglers were reaching their daily limit than in the past. The reduced bag limit, based on projections, will get us to sustainable harvest level and prevent overages. It was noted the lower bag limit will also be a negative for the charter industry. Loeffler noted other southern states have implemented reduced bag limits, shorter season, and commercial trips limits. An AC member said recreational giggers will not put effort into a 1-fish bag limit. Discussion went back and forth over the reduced bag limit and a longer season needed for the recreational sector.

The motion passed 5-0, with 3 abstentions.

Recreational Commercial Gear License

Motion by Sam Boyce to support the division recommendation, prohibit the use of RCGL gear to harvest flounder. Second by Tom Smith.

The number of licenses for these gears are down to about 1/3 of what they once were. They are limited to the recreational limit and with a low limit, with a chance for a lot of discards.

The motion passed without dissent.

Increased Recreational Access Issue Paper

**Motion by Pam Morris to support Option 1: status quo, manage as one group.
The motion failed due to lack of a second.**

Motion by Cane Faircloth to support the division recommendation, Option 2: 1 fish ocellated bag March 1 April 15 in the ocean; 1 fish any species bag during southern flounder season. Second by Tom Smith.

This was the DMF's attempt to try this in a very risk-adverse way by starting in the spring and maybe increase later with the data from the Catch U Later App and some educational training. Discussion ensued on whether the general public can tell the difference between the flounder species. AC members agreed they liked the education component and to bring forward more public awareness on species identification.

The motion passed 7-1.

Inlet Corridors Issue Paper

Motion by Tom Smith to maintain the ability to implement inlet corridors as adaptive management if research indicates it is appropriate. Second by Cane Faircloth.

A question was raised whether DMF can look at this in the near term or in the next amendment with or without this recommendation. Corrin Flora indicated that if a strategy is not in the plan, then it will not be addressed until the next amendment.

The motion passed 7-0 with 1 abstention.

Adaptive Management Issue Paper

Motion by Samuel Boyce to support the division recommendation to adopt an adaptive management framework. Second by Jerry James.

An AC member requested a reassessment of the rebuilding timeline as this plan is running the risk of ruining the fisheries. A question was raised on the difference between proclamation authority and the use of adaptive management as tools used by the Director. Loeffler explained that the MFC allows the director the flexibility to use the adaptive management outlined specific to the plan without having to gain approval from the MFC.

The motion passed without dissent.

Slot Limits Issue Paper

Motion by Jerry James support the division recommendation, Option 1: status quo, no slot limit. Second by Tom Smith.

Discussion occurred whether a slot limit could fall under adaptive management or not in this plan. Since this is a stand-alone strategy, it could not be included in adaptive management. Scharf continued the discussion. Examples were provided where a slot limit has worked for mostly freshwater and long-lived species that have a long reproductive lifespan. Flounder don't get that old and once they move out into the ocean, they are somewhat protected where there is little pressure. The offshore environment provides a spatial refuge, more or less a slot. We just need to continue to get escapement to the ocean and reduce harvest in estuarine waters based on our understanding of their life history. Right now, we just don't have the data we need.

The motion passed 7-0 with 1 abstention.

Phase out of Large Mesh Gill Nets

Motion by Pam Morris to support Option 2: Status quo. Allow large mesh gill nets to harvest southern flounder during the commercial season. Second by Cane Faircloth.

It was noted the season was only 3 weeks for gill nets. Some members asked how can fishermen make a living in this short season, while other members noted it is a lucrative three weeks.

The motion failed 2-5, with 1 abstention.

PLAN AGENDA ITEMS FOR THE NEXT MEETING

Based on the MFC update, the Striped Bass FMP Amendment 2 will be provided to the MFC ACs in March and the FMP for Interjurisdictional Fisheries in April if approved by the MFC in February for AC recommendations and public comment.

The meeting was adjourned at 10:50 p.m.