

FINFISH ADVISORY COMMITTEE REPORT
OCTOBER 11, 2017
PRFC Office, Colonial Beach, VA

Members Present

James A. Bowling – (MD)
Robert T. Brown, Sr. – (MD)
George G. Willett – (MD)
Russell Sullivan – (MD)
Thomas L. Lewis – (VA)
Arthur L. Loving – (VA)
Chris Owens - (VA)
Dusty Remington – (VA)
Martin H. Duby – (MD)
Thomas Crowder, Sr. – (MD)
Dandridge Crabbe – (VA)
Jeff Pharis – (MD)
Ryan Rogers – (VA)
Harry Boyden – (MD)
Paul Downey – (VA)
Monica Schenemann – (for Jeff Schenemann)

Commissioners Present

None

Support Staff Present

Martin Gary – PRFC Staff
Ellen Cosby – PRFC Staff
Cathy Friend – PRFC Staff

Press

None

Members Absent

Others Present:

Max Appleton (ASMFC), Elgin Nininger, Chip Crowder, John Dean, Susan Miller and Paul Springer

Chairman Brown called the meeting to order at 6:02 p.m.

Review and Discussion of ASMFC Draft Amendment 3 to the Interstate Fishery Management Plan for Atlantic Menhaden

Mr. Gary stated that the purpose of the meeting is for the committee to provide feedback on each of the 8 options to the PRFC, which will then in turn provide voting guidance to Mr. Gary when the ASMFC's Atlantic Menhaden Board meets November 13th and 14th, 2017. Mr. Gary further stated that this Board, which is made up of States from Maine to Florida, including the PRFC, US Fish & Wildlife Service and the National Marine Fisheries Service, has a very strong conservation perspective on these issues in the most recent deliberations. The States in the mid-Atlantic (VA, MD, DE, PRFC and NJ) may have to be responsive to the more conservative will of the southern and northern states, since they may form a plurality of the vote.

Issue 1: Reference Points

Range from extremely conservative fishing rates where fishing would have to be cut due to mortality to some liberalization where fishing could be increased. ERP = Ecological Reference Points. TAC = Total Allowable Catch.

Option A: Single-Species Reference Points. Ecological reference points will no longer be considered. Mr. Gary thinks this is an impossibility. Coastal reference points would remain status quo under Option A.

Option B: Continue to develop Menhaden-specific ERPs with interim use of single-species reference points. Maintains current reference point until scientists develop menhaden specific ERPs, which are anticipated in 2020. Chairman Brown asked if these were the reference points for the Chesapeake Bay and Mr. Gary does not think it is specific Chesapeake Bay. There are not any current reference points in the Bay at this time. Mr. Gary stated that he thinks Option B is much better than Option A. He feels that states from Florida to North Carolina and north of NJ are strong opponents to Option B. If adopted, this will leave the TAC unchanged but allow for ERPs.

Option C: Continue to develop Menhaden-specific ERPs with interim use of Pikitch et al. reference points. The fishing levels would be between the target and the threshold. Looking at 2016 levels, we would be between the target and the threshold. Based on what Mr. Gary has observed, since we would be above the target, but below the target, the board would probably advocate to reduce fishing mortality.

Option D: Continue to develop Menhaden-specific ERPs with interim use of 75% rule of thumb. Under this option, there would only be a threshold. Mr. Gary stated that, based on 2016 levels, the board would be required to impose mandatory reductions and probably would be very substantial.

Option E: Continue to develop Menhaden-specific ERPs with interim use of 75% target, 40% threshold. Under this option, fishing level would be between the target and the threshold. If this were adopted, based on 2016 levels, Mr. Gary feels that the board would advocate to reduce fishing mortality to the target. This would result in quota reduction/cuts.

Mr. Gary continued that for the last couple years, we have been well below both the target and the threshold under single-species management. But when we try to increase the TAC, the board reacts negatively. Mr. Gary made the initial motion to increase the TAC this year with a 20% increase, thinking we could go to 40% with almost zero chance of crossing the threshold, but received a negative response. The board settled on a modest increase from 187,500 MT to 200 MT.

Mrs. Cosby reminded the committee that a majority of the FFAC voted for Option B during the public hearing. Jeff Pharis questioned if Option B is adopted and the 2020 ERPs show we are above the target, would the TAC be automatically cut. The threshold and the target are going to be lowered, no matter what they do with the ERPs. Mr. Gary responded that there is a chance for a cut back, based on the outcome of the 2020 reference points for the Chesapeake Bay. John

Dean said he would be in favor of Option B, but his concern is where they would find quota for the northern states since they have no quota now. His further concern is the northern states are tapping into a new fishery that depleted the Herring fishery and the quota would be blown away if we lose our bi-catch or episodic event. Mr. Gary responded that there is a potential to increase the TAC in 2018 using the most recent update. Chairman Brown expressed concerned that they want us to set up a management plan and don't even know what the TAC is going to be. Jeff Pharis stated that he feels Option A – status quo might be the better option because if we have to come up with arbitrary reference points when they said there was quota to be increased. Feels we are fighting the same battle every time with no success. Mrs. Cosby clarified that she is on the Technical Committee and they aren't arbitrary numbers. She further stated that the Bay States have been fighting for years to get the Chesapeake Bay reference points back and asked the Committee support Option B.

Motion made by Tommy Lewis to support Option B - Continue to develop Menhaden-specific ERPs with interim use of single-species reference points. Seconded by Dusty Remington. Vote: 13 in favor, 1 oppose and 1 abstain (Pharis). Motion passes.

Issue 2: Quota Allocation and Time Frames

Mr. Gary stated that there are 2 components to this. The TAC coast-wide is currently divided between the states based on the landing reference period of 2009 – 2011. The PRFC currently has 0.62% of the quota. Maryland currently has 1.37% of the quota and Virginia currently has 85.32% of the quota.

Allocation methods

Option A: Time frame: 2009-2011/Status Quo. There is one coastwide TAC for the entire commercial fishery.

Option B: Time frame: 2012 – 2016/most recent. Jurisdictional Allocation. The TAC is divided among the jurisdictions. Under this option, The PRFC would increase.

Option C: Time frame: 1985 – 2016/longest. Jurisdiction Allocation with Minimum Base Allocation. The TAC is divided among the jurisdictions and each jurisdiction is allocated a minimum percentage of quota. Under this option, The PRFC would have a more substantial increase.

Sub-option 1: Each jurisdiction receives, at least, 0.5% of the coastwide TAC.

Sub-option 2: Each jurisdiction receives, at least, 1% of the coastwide TAC.

Sub-option 3: Each jurisdiction receives, at least, 2% of the coastwide TAC.

Option D: Time frame: 1985 – 1995 Regional Fleet-Capacity Quota. The TAC is regionally divided between two fleets, a large-capacity fleet and a small-capacity fleet. The PRFC falls into small fleet range. The three regions used to further allocate the fleet quotas are Maine - Connecticut, New York – Delaware, and Maryland – Florida. Included in this allocation method is the option for a soft cap, which sets target quota for a fleet but does not subject that fleet to a fishery closure. Under this option, The PRFC would increase to 1.39%.

Sub-option 1: All quotas are hard caps meaning a fishery closes when the quota is met.

Sub-option 2: The small-capacity fleet operates under a soft cap, a 25,000 pound trip limit throughout the fishing year. Chairman Brown pointed out that under Issue 5: Incidental Catch and Small Scale Fisheries Option C Catch Cap and Trigger, it states that if the cap is exceeded by more than 10% in a single year or two years in a row, management action is triggered to reduce incidental landing in the fishery. Mr. Gary states that the soft cap gives more flexibility, has minimal impact, and does not require a by-catch permit. If the other states take the soft cap away from us, they could default back to the incidental catch provision which maintains the status quo. Chairman Brown doesn't want to see anything that jeopardizes our by-catch and no one has given him an answer that makes him comfortable. Mrs. Cosby reminded the committee that the by-catch doesn't go against the quota, but the soft cap does.

Option E: Disposition Quota where TAC is divided between the reduction and bait/other fisheries.

Sub-option 1: 75% of the TAC is allocated to the reduction fishery and 25% is allocated to the bait/other fishery.

Sub-option 2: 70% of the TAC is allocated to the reduction fishery and 30% is allocated to the bait/other fishery.

Option F: Allocation Based on TAC Level which uses the 212,500 metric ton unit to allocate to jurisdictions based on average landings.

Sub-option 1: If TAC > 212,500 MT, the difference between the TAC and 212,500 mt is distributed such that the reduction fishery gets 50% and the other jurisdictions get 50% based on historic bait landings.

Sub-option 2: If TAC > 212,500 MT, the difference between the TAC and 212,500 mt is distributed such that the reduction fishery gets 30% and the other jurisdictions get 70% based on historic bait landings.

Paul Downey asked Mr. Gary where the discussions were headed on these options with the coastal members of the group. Mr. Gary responded by saying, from his view point, he sees 3 sectors. One is a conservation sector who is lobbying for as many menhaden to be left in the water as possible and for more restrictive reference points. Until the reference points are developed, they prefer to keep TAC levels and exploitation levels very low; they have a lot of support from NC south and NY north. They support Option E. Another sector is the reduction

fisheries sector (Virginia and Omega Protein) looking to make themselves whole again and get back to their level of allowable catch in 2012. They support Option F. The final sector is the bait sector – small fisheries.

Mrs. Cosby stated that during the public hearing, the audience verbalized support for Option C, Sub-option 3. FFAC members did not make a decision. She further reminded the Committee that ASMFC's Max Appleton said 1% of TAC = 4.4 million lbs. Mr. Gary asked the Committee if they wanted him to enhance the existing quota and preserve their ability to fish all the way through the season with no closure or reduction in allowable catch. Chairman Brown stated they wanted no trigger under any circumstances.

Allocation Timeframes

Option A: 2009 – 2011 (status quo)

Option B: 2012 - 2016

Option C: 1985 - 2016

Option D: 1985 - 1995

Option E: Weighted Allocation. The landings between Option B and Option D are equally weighted.

Motion on Issue 2 by Tommy Lewis to use allocation method Option B and time frame Option D. Dusty Remington seconded the motion. Motion passes unanimously.

Issue 3: Quota Transfers

Option A: Quota Transfers Permitted allows for two or more states/regions to transfer or combine their menhaden quota. Status Quo.

Option B: Quota Transfers Permitted with Accountability Measures for Overages. If a state/region exceeds its quota allocation by more than 5% two years in a row, it may not receive a quota transfer in the third year.

Option C: Quota Reconciliation. If TAC is not exceeded but some states/regions exceed their allocation, quota overages are automatically forgiven. If TAC is exceeded and the states/regions have a quota overage, unused allocation is automatically transferred to a common pool. This is then distributed to states/regions with overages. Any remaining quota overage is deducted from the subsequent year's quota and quota rollovers are not permitted under this option.

Chairman Brown has concerns with Option C because if some states go over their quota, it could affect the PRFC quota and receive a reduction. Mrs. Cosby stated that the PRFC has never transferred any quota and doesn't think that this issue, except for Option C, would affect us. Mr.

Gary stated that this issue is more applicable to states that are at a higher level and have more highly variable catches.

Motion made by Ryan Rogers for Option A: Status quo. Russell Sullivan seconded motion. Motion passes unanimous.

Issue 4: Quota Rollovers

Quota rollovers approved in Amendment 2, if stock is not overfished and overfishing is not occurring. In 2012, stock did not meet these criteria so details of program were not specified. The Board agreed to address quota rollovers in Amendment 3.

Option A: There are no quota rollovers.

Option B: Up to 10% of quota allocation may be carried over into the next fishing year. (capping)

Option C: Up to 5% of quota allocation may be carried over into the next fishing year. (capping)

Option D: Up to 50% of quota allocation may be carried over into the next fishing year.

Martin Duby stated before that he is against this because if Virginia goes under it's quota and doesn't roll over, the fish stay here. He feels that Virginia is the key. When asked, Mrs. Cosby stated that the PRFC has never had rollovers because there has never been a rollover program.

Motion made by Martin Duby for Option A: no quota rollover. Seconded by Jeff Pharis. Call for vote: 11 in favor, 1 opposed and 3 abstentions. Motion passes.

Issue 5: Incidental Catch and Small Scale Fisheries

Mrs. Cosby reminded the Committee that they supported Option B during the public hearing.

Amendment 2 established a by-catch allowance of 6000 lbs per vessel/trip and 12,000 lbs for 2 individuals fishing from 1 vessel. Challenges with the current with provision include the landings do not count towards the TAC, there is no definition of by-catch for non directed fisheries, and concern the by-catch allowance supports small-scale fisheries rather than incidental catch.

Option A: Catch Limit for Non-Directed Gear Types

After a quota is met, non-directed gear may land up to 6,000 lbs of menhaden per trip per day. Two permitted individuals working from the same vessel are authorized to land up to 12,000 lbs from a single vessel. Incidental catch does not count towards TAC.

Option B: Catch Limit for Small Scale Fisheries and Non-Directed Gear Types

After a quota is met, small-scale gear and non-directed gear may land up to 6,000 lbs of menhaden per trip per day. Two authorized individuals working from the same vessel fishing stationary multi-species gear, are permitted to land up to 12,000 lbs from a single vessel. Incidental catch does not count towards TAC.

Option C: Catch Cap and Trigger

A cap for incidental catch fishery is set at 2% of the TAC. If landings by small-scale gears and non-directed gear types, after a quota is met, exceed the cap by more than 10% in a single year or two years in a row, management action is triggered to reduce incidental landings in the fishery. Incidental catch does not count towards TAC.

Option D: Incidental Catch Fishery Set Aside

2% of overall TAC is set aside for an incidental catch fishery. After a quota allocation is met, small-scale gears and non-directed gear types may land up to 6,000 lbs of menhaden per trip per day from the set aside. Two authorized individuals working from the same vessel fishing stationary multi-species gear, are permitted to land up to 12,000 lbs from a single vessel. Incidental catch does count towards TAC.

Option E: Small-Scale Fishery Set Aside

1% of the overall TAC is set aside for year round harvest by small-scale gears. All catch by small-scale gears does count towards the TAC.

Option F: All Catch Included in TAC

Once a quota allocation is reached, the menhaden fishery is closed.

Motion made by Jeff Pharis to go with Option B. Seconded by Tommy Lewis. Motion passes unanimously.

Issue 6: Episodic Events

Currently set aside 1% of TAC for episodic events. Participation is reserved for geographic sector from New York to Maine. Program adds flexibility so states can harvest menhaden during episodic events and reduce discards and prevent fish kills. Since 2013, there's been an increasing amount of menhaden landed under this program prompting questions about its size. Mr. Gary says there seems to be some sympathy for allowing states like New York, which have massive fish kills in its near shore waters in the summer time. More and more states are lobbying to increase the EE Program, which cuts against agreeing what most of the states were trying to achieve in this Amendment which was simplification of management of this fishery.

Option A: 1% of TAC is Set Aside – Status Quo

Option B: 3% of TAC is Set Aside – New England states will lobby for this option.

Option C: 0% of TAC is Set Aside – Under this option, there is no episodic events program. Southern states may lobby for this.

Mrs. Cosby reminded the Committee that most voted for Option C at the public hearing. Chairman Brown stated that if Northern States get a 1% increase, you don't need an episodic event. Mr. Gary said that has been brought up and best way to deal with it is to adjust the quota. He further stated that Jim Gilmore (NY) said that they can almost anticipate when they are going to happen and let the fishermen start catching the set aside before it actually happens.

Motion made by Paul Downey for Option A – status quo. Seconded by Jeff Pharis. 14 in favor. 1 opposed. Motion passes.

Issue 7: Chesapeake Bay Reduction Fishery Cap

Cap limits allowable reduction harvest from the Chesapeake Bay and reduction in harvest has consistently under performed the current cap. The performance has been likened to the level of the cap in Option B.

Option A: Limited Rollover of Unused Cap Permitted – Status Quo

The Chesapeake Bay Reduction Fishery Cap is maintained as 87,216 metric tons [MT].

Sub-option A: max rollover of 10,976 MT of unused cap

Sub-option B: no rollover

Option B: Cap Set at 51,000 MT

Sub-option A: max rollover of 6,418 MT of unused cap

Sub-option B: no rollover

Option C: Remove the Cap

Motion made by Ryan Rogers to support Option A, sub-option B – status quo with no rollover and seconded by Tommy Lewis. 13 in favor, 1 opposed, 1 abstain. Motion passes.

Discussion of concept to allow PRFC commercial Striped Bass Hook & Line Licenses to transition to Gill Net Licenses

Chairman Brown asked what this would do with the quota and tags if this passed. Mr. Gary stated that he would need clarification, but his understanding is that the quota would follow. Mrs. Cosby indicated that is not the case. She further stated that this is something the Commission would have to change. Currently the quota is divided between commercial (55%), recreation (40%) and charter (5%). The commercial quota is divided as follows: Pound Net (22.3%), Miscellaneous gear (2.4%) and Gill Net & Hook and Line together (75.3%). The combined quota is divided between Gill Net (81%) and Hook and Line (19%). Quota will not be moving as licenses are transitioned, the amount of gill nets and amount of hook and line licenses will change and that gets divided into the quota to decide how many tags will be given out. Jamie Bowling reminded Mr. Gary that at their last BCAC meeting if Mr. Gary would provide the

committee with the performance of hook and line and how it's changed with the changes we have made with this gear type. He further stated that at the meeting, the committee recommended, based on staff's proposal, to hold off the issue until they had time enough to get the performance. Mr. Gary does not have 2017 data, but has previous 3 years data. He further reminded the committee that the tag exchange program was set up, and approved by the committee, to help with this tag issue. Chairman Brown expressed a concern is the possibility of renegotiating the quota between the states and if we are leaving 40,000 lbs, the States of Virginia and/or Maryland may want some of that. Mr. Gary says his recollection is that in 1993, when the Bay-wide quota was established, that the Bay quota was split between the PRFC, Maryland and Virginia. Maryland got 52% of quota, Virginia got 32% and the PRFC got 16%. This had stayed in effect until the ASMFC meeting in October 2014 and then voted to take away the Chesapeake Bay quota. Mr. Gary further stated that because we are now on a coastal quota, the worry about losing it is 0%. However, if we get a quota back through the next striped bass stock assessment, then would look at going back to our own quota. On Chairman Brown's point that we leave approximately 40,000 lbs each year, Mr. Gary stated that if other gear goes over, then we have a buffer in place. Currently, total quota is 583,000 lbs. and so far we are about 519,000 lbs toward that cap.

Jeff Pharis made a motion for commercial hook and line striped bass licensees to be able to use the same process commercial striped bass gill net licensees use to allow commercial hook and line fishermen to transition into the gill net fishery. Dusty Remington seconded the motion. After much discussion regarding the quota and whether or not it transfers with the transitioned license, Friendly amendment by Jamie Bowling to allow the transfer of the hook and licensees quota to follow the transition to gill net. Russell Sullivan pointed out that by putting the amendment on the motion, they would not be following the same process as stated in the motion. Either they need to follow the existing process as stated, or a whole new process will need to be created and laid out. Jeff Pharis rescinded his motion.

At the next meeting, Chairman Brown would like to discuss the under performance of the rockfish by 40,000 lbs and look into tightening it up some. Mr. Gary summarized that Chairman Brown wants a comprehensive list of every fishery, going back several years, and see how each one is tracking individually towards TAC.

The meeting adjourned at 8:40 p.m.

Respectfully submitted,

Robert T. Brown, Chairman