



Comprehensive Summer Flounder Amendment June 2016 Advisory Panel Comments on Draft List of Issues

The Mid-Atlantic Fishery Management Council's (Council) Summer Flounder, Scup, and Black Sea Bass Advisory Panel (AP) met jointly with the Atlantic States Marine Fisheries Commission's (Commission) Summer Flounder, Scup, and Black Sea Bass AP on June 22, 2016. In addition to developing Fishery Performance Reports,¹ advisors reviewed a draft list of potential issues for the Comprehensive Summer Flounder Amendment, and commented on these items as summarized below.

Council Advisory Panel members present: James Fletcher (NC), Lisa Poyer (NY), Jeffrey Gutman (NJ), Meade Amory* (VA), Robert Ruhle (NC), Carl Benson (NJ), Joan Berko (NJ), Denny Dobbins (VA), Harry Doernte (VA), Jan McDowell (VA), Michael Plaia* (RI)

Commission Advisory Panel members present: Meade Amory* (VA), Robert Busby (NY), Greg DiDomencio (NJ), James Tietje (MA), Michael Hall (RI), Michael Ireland (NC), Michael Plaia* (RI), Brent Fulcher (NC, proxy for Robbie Mercer)

*Serves on both Council and Commission Advisory Panels.

Others present: Julia Beaty (MAFMC Staff), Kirby Rootes-Murdy (ASMFC Staff), Kiley Dancy (MAFMC Staff), Mark Holliday (MAFMC SSC), Doug Lipton (MAFMC SSC), Mike Luisi (MAFMC/ASMFC), Barbara Hutniczak (NOAA), David Bush (North Carolina Fisheries Association)

Please note: Advisor comments described below are generally paraphrased, and **except where noted, represent the views of one individual Advisory Panel member.**

Goals and Objectives

- Reducing fishing mortality on immature flounder should remain an objective.

Commercial/Recreational Allocation

- Staff and the FMAT should review the administrative record for the approximately 6-year period when the petition for allocation changes was being discussed, denied, accepted, transferred to the agency and back to Council, etc. Managers should especially pay close attention to what the technical committee reported, which was there appeared to be no justification for changing the 60/40 split. It's important to look at the historical perspective.
- Until we can accurately monitor the recreational landings, we shouldn't even consider changing this allocation. We don't truly know what one side is contributing and this would just add more uncertainty. We shouldn't even look at it until MRIP is fixed.

¹ June 2016 Fishery Performance Reports available at: <http://www.mafmc.org/ssc-meetings/2016/july-20-21>.

- Will the allocation model [in development as contracted by the Council] include a ton of multipliers for the recreational side but only ex-vessel value on commercial side, like the standard NMFS economic models? Can it model that recreational anglers have the flexibility to target many species but commercial fishermen have less flexibility?
- Managers should take into account the impacts that shifting allocations may have on other species – specifically the increased pressure that other, less restricted species may face under management induced effort shifts.
- Managers should leave allocations status quo. It's been that way since 1993. If you get a lot of people saying they prefer status quo, how many times do you have to keep asking what people want? This is taking a long time. Hopefully we can move past this issue quickly. Most people want status quo.
- [At least two advisors] Agree with above comment that current allocations are generally working well.
- Additional concern expressed for using MRIP as the basis for new allocations.
- What are the number of recreational anglers fishing each year in the management unit? Directed trips? Working groups should look into this information to get a handle on recreational participation and effort.
- [Two advisors] For evaluating commercial data, it might be worthwhile to look at the vessels in study fleet that are tow by tow reporting. Look at their CPUE instead of proxy CPUE that is associated with the fishery itself. Might be a better metric for performance.

Recreational Issues and Strategies

Recreational Process, Conservation Equivalency, and Recreational Allocations

- On recreational strategies, we only have one data set to go off of. The best available science isn't good enough. We should address that first. We're getting ready to make serious changes – they should be based on better data.
- Support going back to state by state recreational measures. I don't remember tremendous overages or underages. 50% of the time it's over, 50% of the time it's under. This allows states to address their own individual needs.
- [Discussion of why regional conservation equivalency was adopted in recent years and the tradeoffs between state by state vs. regional approaches]
- States generally want different things. Small size limits vs. long seasons, etc.
- Recommend status quo recreational allocations and state by state management. If states are wildly different, constituents should complain to their fisheries managers.

Sector Separation for the For-Hire Sector

- Oppose sector separation; however, support differential bag limits. There are different kinds of for hire vessels. We take the recreational fishing public out, and are better at reporting. Differential bag limits should be in place but not different quotas.
- Sector separation was discussed for cobia, and tied directly in with reporting. Reporting was a qualifier. There was a big split in opinions for and against, so would recommend treading lightly on this issue.
- Oppose sector separation.

Shore Mode Strategies

- Should be no differentiation between shore mode. It's all recreational fishermen.

Alternative Recreational Strategies

- Suggest a multiple slot limit, for example: 2 fish that are 16" to 18", and 2 that are 18" and over. This would still have discard mortality on the bigger ones if it included 18" and over.
- Try to do away with discards. Lower the recreational size limit to 11". Use 10% discard mortality. Quit targeting the breeding stock.
- Do away with size limits entirely and base restrictions on bag limits and seasons only.
- Slot limits have come up again and again over the past several years. Why hasn't management come back to advisors with a response about what the tradeoffs of slot limits would be? These should be analyzed and presented.
- New York tried a slot limit with striped bass. It's complicated. It increases the need to handle bigger fish more to measure them. What if you don't measure it right? It's easier to do one limit.
- A slot limit is counter-intuitive. Now you're increasing discards on other end of range.
- Support cumulative length limit of 60" of fish total, or 40" total. The only way you get a ticket is if you throw it back. No discards.
- A total length limit is a good concept in theory, but not practical in reality, particularly for head boats - it would be difficult to enforce. People would trade fish to make sure they added up.

Recreational Gear Requirements or Recommendations

- For years there was a restriction on recreational fishermen in the Gulf of Maine, that they could have no more than 2 hooks. Recently that was eliminated.
- Opposes hook size restrictions in the fluke fishery. The tackle industry would suffer. A lot of interest in the fishery stems from all the different methods you can use to catch them, and gear restrictions would take the fun out of the recreational side.
- There are so many different hooks, restrictions on this could be confusing. Not to mention trying to prevent people that don't know any better from throwing over the wrong hook size. This would be a large burden – it's hard enough to keep up with changing bag, size, and season restrictions.
- Not all manufacturers are consistent across hook sizes.
- Size limit on hooks should be up to fishermen. Should be able to use a bigger hook if they want a bigger fish.
- New York changed to circle hooks for shark fishing, but then there were no circle hooks available. There are other factors that are out of our control. The manufacturer in China doesn't make them fast enough. Regulations right now are complicated enough. Should not make it more complicated.

Recreational Reporting

- Head boats are required to report. There should be reporting for other sectors. It's got to be improved.

- Recommend that in 3 years a monitoring/reporting system be developed that would capture 80% of the recreational fishing effort, with a penalty associated with the recreational fishing quota if this does not occur, such as a 10% reduction in quota. We need the pressure on us to change the system. Maybe make it so we all suffer if it doesn't get done, for example a 10% reduction if the amendment doesn't get done.

Commercial Issues and Strategies

Commercial Quota Allocation Strategies and General Commercial Regulation Comments

- A lot of things can be made better. The Technical Committees should recognize how much the Marine Mammal Protection Act and Endangered Species Act have changed the way fishermen have to operate, especially south of Oregon Inlet or Cape Charles, VA depending on time of year. There are fish there but we can't fish there, because we need Turtle Excluder Devices that excludes 50% of catch. Plus, there are mandatory coast guard checks. Vessels are going north instead. Management does a good job of rebuilding fisheries but not a good job of managing once they are rebuilt. These fish are a food source. Why are we targeting a spawning fish when we could keep a smaller fish that are better to eat? This is not helping your coastal economy, not helping your stock, and biomass is suffering as a result.
- On the Turtle Excluder Device issue: the fish are there in North Carolina waters. I can take a new \$10,000 fluke net, put a TED in it, in 4 days the tail section of the net is destroyed. I choose to not use the TED and instead steam north. This is a big issue which imposes additional costs on industry.
- The regulations say that the TEDs have to be aluminum. We should be allowed to use pre-stressed cable. This is a simple regulation change that needs to be made.
- For summer flounder, we try to land exactly the quota each year without overages or underages, but we can never get it exactly. Some years we go over and have to pay back, and some years we go under and can't carry it over. I asked the scientists at the Marine Resource Education Program if there's a scientific reason why we have to pay back for overages but can't carry over for underages. No one could give a scientific reason why. We already have enough distrust between fishermen and managers. Allowing carryover of unused commercial quota would go a long way to fixing that. Put in a buffer if we have to so that we don't exceed the ABC, but still allow some carryover, just from one year to the next, not cumulatively.
- Agree with allowing quota rollover, only for one year. Would not expect a biological impact or exceeding the TAC. The reason states fish right up to the line or sometimes over is because of the use it or lose it mentality. That's what causes the 5% overages each year. There is no biological disadvantage to one year roll over. The ABC is set with idea that 100% will be caught – this could be recalculated.
- The scallop fishery allows up to 15% annual carryover in the event that a quota is not reached. Summer flounder should do that. You're not taking away from the biomass, you already allocated that, you just didn't achieve it.
- [Staff summarized the outcome of a recent lawsuit on this issue in New England indicating that quota carryover cannot cause the single year ABC to be exceeded. Summer flounder catch and landings limits are currently structured in such a way that we typically use all of

that ABC. Unless we build in a buffer, such as setting an ACT below the commercial ACL, or change the structure of catch and landings limits, we likely do not have room for rollover.]

- Recommend doing away with state by state commercial allocation. It's only costing the industry money to steam from one port to another to unload catch in states that still have quota left. Let fishermen go to the closest port where they'll get the most money.
- Completely disagree with any change in commercial landings allocation. Infrastructure was put in place for distribution purposes, based on historical numbers. Fishermen knew the allocations when they were getting into the fishery.
- It is not clear why we are considering an adjustment to commercial quotas.
- Speaking with folks that were fishing in the '50s, '60s, they relied on a few species. These were southern fishermen fishing in northern fisheries. The summer flounder fishery was then rebuilt. The MAFMC and ASFMC have kept the fishery going and it's working. Not many fisheries can claim that. I'm concerned about changing it around. The argument of climate change should be considered in light of the Bell et al. paper², which indicated that it was not climate change for summer flounder causing the change in distribution but changes in age structure and population growth. We've created natural restricted areas in the south by avoiding protected species, inlets filling in, etc. States have established their fisheries based on what's been allocated, so they've established the infrastructure to go along with that. A change to allocation could have a big impact on economies and infrastructure.
- A lot of us are having trouble with these complaints about low allocations and low trip limits. These are situations that have not just arisen in the last couple of years. I don't think it is justifiable. Even if all the fluke moved off of Connecticut and Massachusetts, I don't think that would be a compelling reason to re-evaluate the quotas. There's got to be a way to quantify whether there's been a barrier to entering into these fisheries. Have the people who have made the complaints bought permits in other states? Have they done something to help themselves? Many fishermen went other places, re-invested to make it work. For those people who have not done that – I don't think it's fair for them to ask for more quota. Staff should put up a matrix to evaluate what any reallocation would do. What would really change things for New England states? There's not enough fish to go around. Allocation changes would have to be very severe to make a difference. The reduction to North Carolina and New Jersey fishermen would be massive.
- No change in state allocation. Infrastructure and coastal economies were built on that allocation. North Carolina fishermen created the lion's share of quota up and down the east coast. Most northern fishermen fished on groundfish, and did not care about fluke. Now licenses have shifted around the coast. When they purchased the license, they accepted that landings would have to be in a certain state. I disagree with the supposed shift in populations. There has been a shift in effort because ESA regulations have forced it.
- Absolutely leave the state allocations alone. We used 1980-1989, setting regulations in 1993. That's 20+ years built around that. Boats that come down from Rhode Island and New Jersey, they bought a license to land in Virginia. It was worth it for them to do that.

² Bell, R. J., Richardson, D. E., Hare, J. A., Lynch, P. D., and Fratantoni, P. S. Disentangling the effects of climate, abundance, and size on the distribution of marine fish: an example based on four stocks from the Northeast US shelf. – ICES Journal of Marine Science, doi: 10.1093/icesjms/fsu217.

They can sell it to someone else. It's an economic decision, not a management decision. The value of landings has steadily increased because of the way it's been managed. We're maximizing the value. People are seeing that there's money in this fishery and now they want to get into it. But the people that are in it have worked hard to get it where it is. And it's one of the only major fisheries we have in Virginia and North Carolina. We don't need to change it.

Permit Capacity and Latent Effort

- Should leave the federal permits status quo. States control who can and cannot land through landing licenses. Latent permits need state permits to even utilize it.
- Latent effort is a state issue. A federal permit is useless without a state allocation. I live in NC, our boat hails in NC, but we can't land fluke in NC. The state took care of that. Our boat hasn't been in the state since 1983 so we shouldn't have an allocation in that state. Boats still need a federal permit. If you tried to do it at the federal level would need to create a new permitting process, having a bycatch permit. Let states do it how they want to do it.
- Imagine being a fisherman from Belford, NJ or Wanchese who saw groundfish days at sea whittled down to practically nothing. They were able to overcome that by investing in fluke, leaving their home ports, spending money to make money, they are still in the fishery. They have no access to groundfish, but now they are going to be squeezed by New England from a quota grab. Need a consideration for fairness for those guys.
- I'm for status quo. My boat has been tied to the dock since March 1. I am waiting for fluke season. In 1980s and 1990s we went where we had to in order to survive - New England, Alaska, wherever. My groundfish permit has been basically taken away from me. My fluke is going to be redistributed to a group that won't go farther than Hudson or Georges Banks.

Commercial Landings Flexibility

- Landings flexibility is just another word for reallocation. If you take fish and land them in other states, it just changes the allocation. Regarding enforcement, when a boat comes in in Virginia, we have to call in. Once it's in, we have to call in before we start unloading. We need to call in when we're done unloading. We have good enforcement. People get tickets for not having licenses all year long. Landings flexibility would be terrible in terms of enforcement issues. We should not give anyone the opportunity to do what they did with Research Set-Aside. Landings flex is a terrible idea that should be taken off the table as soon as possible.

Commercial Discard/Bycatch Reduction or Avoidance Strategies

- Only thing that needs to be changed is to go from 5.5" to 5" tail bag and no minimum fish size. Convert discards to landings in northern states. Mainly leave status quo, just change net size.
- If you're pulling regulated gear you shouldn't have a minimum fish size.