

Atlantic States Marine Fisheries Commission

Atlantic Striped Bass Management Board

January 26, 2022

1:30 – 5:00 p.m.

Webinar

Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

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|--|-----------|
| 1. Welcome/Call to Order (<i>M. Gary</i>) | 1:30 p.m. |
| 2. Board Consent | 1:30 p.m. |
| • Approval of Agenda | |
| • Approval of Proceedings from October 2021 | |
| 3. Public Comment | 1:35 p.m. |
| 4. Consider Draft Amendment 7 for Public Comment (<i>E. Franke</i>) Action
(includes a 15 minute break at 3:30 p.m.) | 1:45 p.m. |
| 5. Other Business/Adjourn | 5:00 p.m. |

MEETING OVERVIEW

Atlantic Striped Bass Management Board

January 26, 2022

1:30 p.m. – 5:00 p.m.

Arlington, VA

Chair: Marty Gary (PRFC) Assumed Chairmanship: 01/22	Technical Committee Chair: Kevin Sullivan (NH)	Law Enforcement Committee Rep: Kurt Blanchard (RI)
Vice Chair: Vacant	Advisory Panel Chair: Louis Bassano (NJ)	Previous Board Meeting: October 20, 2021
Voting Members: ME, NH, MA, RI, CT, NY, NJ, PA, DE, MD, DC, PRFC, VA, NC, NMFS, USFWS (16 votes)		

2. Board Consent

- Approval of Agenda
- Approval of Proceedings from October 2021

3. Public Comment – At the beginning of the meeting, public comment will be taken on items not on the agenda. Individuals that wish to speak at this time must sign-in at the beginning of the meeting. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Board Chair may determine that additional public comment will not provide additional information. In this circumstance, the Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Board Chair may allow limited opportunity for comment. The Board Chair has the discretion to limit the number of speakers and/or the length of each comment.

4. Draft Amendment 7 (1:45 – 4:55 p.m.) Action (includes a 15-min break at 3:30 p.m.)

Background

- The status and understanding of the striped bass stock and fishery has changed considerably since implementation of Amendment 6 in 2003, which has raised concerns that the existing management program may no longer reflect current fishery needs and priorities.
- Accordingly, the Board initiated development of Draft Amendment 7 to consider addressing a number of important issues facing striped bass management and build upon the Addendum VI action to end overfishing and initiate rebuilding.
- In May 2021, the Board approved the following four issues for development in Draft Amendment 7: recreational release mortality, conservation equivalency, management triggers, and measures to protect the 2015 year class.
- In October 2021, the Board tasked the PDT with the developing additional options for Draft Amendment 7, including options for Chesapeake Bay recreational measures to protect year classes, options considering recruitment assumptions for stock rebuilding, and an additional option for the fishing mortality threshold trigger.
- The Plan Development Team and the Technical Committee met multiple times between May 2021 and January 2022 to develop Draft Amendment 7 (**Briefing Materials**).

- The Advisory Panel met in September 2021 and January 2022 to discuss the scope and clarity of options presented in Draft Amendment 7 (**Supplemental Materials**).

Presentations

- Overview of Draft Amendment 7 for public comment by E. Franke

Board Actions for Consideration

- Approve Draft Amendment 7 for public comment.

5. Other Business/Adjourn (5:00 p.m.)



Atlantic States Marine Fisheries Commission

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MEMORANDUM

TO: Atlantic Striped Bass Management Board

FROM: Atlantic Striped Bass Advisory Panel

DATE: January 18, 2022

SUBJECT: Advisory Panel Comments on the Scope of New Options for Draft Amendment 7

AP Members in Attendance: Louis Bassano (Chair, NJ – recreational), Dave Pecci (ME – for-hire/recreational), Bob Humphrey (ME – comm. rod and reel/for-hire), Peter Whelan (NH – recreational), Patrick Paquette (MA – rec/for-hire/comm), Andy Dangelo (RI – for-hire), Michael Plaia (RI – comm/rec/for-hire), Bob Danielson (NY – recreational), Eleanor Bochenek (NJ – fisheries scientist), Chris Dollar (MD – fishing guide), Charles Green (MD – for-hire), Bill Hall (VA – recreational), Kelly Place (VA – commercial), Jon Worthington (NC – recreational)

ASMFC Staff: Emilie Franke, Katie Drew

The Atlantic Striped Bass Advisory Panel (AP) met via webinar on January 6, 2022 to provide feedback on the new options developed for Draft Amendment 7 following the October 2021 Striped Bass Management Board meeting: fishing mortality management triggers, measures to protect strong year classes (recreational size limits), and stock rebuilding considerations. The following is a summary of the AP's comments and discussion on the scope and clarity of those new options.

The AP previously met on September 29, 2021 to provide feedback on the scope and clarity of the other options presented in Draft Amendment 7, including management triggers, options to address recreational release mortality, and conservation equivalency¹.

After Draft Amendment 7 is approved for public comment, there will be a separate AP meeting to discuss the AP's preferred management options.

Fishing Mortality (F) Threshold Management Trigger Options

- One AP member noted concern about waiting two or three years for more data before taking action to reduce F, and so does not support the alternative F threshold trigger options that would require two or three years of data to evaluate the trigger (i.e.,

¹ The September 2021 Striped Bass AP Meeting Summary is available here:
http://www.asmfc.org/uploads/file/61829cd2AtlStripedBassAP_Summary_Sept2021.pdf

comparing a 2-yr or 3-yr average F to the threshold instead of the status quo comparing one year of F to the threshold).

- Some AP members support considering the 2-yr and 3-yr average options during the public comment period to address concerns about MRIP uncertainty and variability of F from year to year.

Measures to Protect Strong Year Classes (Recreational Size/Bag Limits for Ocean and Chesapeake Bay)

- One AP member supports removing these recreational size limit options from consideration in Draft Amendment 7 for the following reasons:
 - The status quo would provide the same rebuilding benefit for the stock as the alternative measures.
 - The process of adjusting to changes in recreational measures is costly for the fishery, particularly for the for-hire industry.
- Several AP members support keeping these recreational size limit options in Draft Amendment 7 for public comment for the following reasons:
 - The public should have the opportunity to comment on alternative size limits and what they want to see in the fishery.
 - Some alternative size limit options would result in a greater reduction in harvest than the status quo; reducing harvest would benefit the stock.
 - Some alternative size limits may reduce release mortality (e.g., fewer fish would be caught and released to find one in a 32" to <40" slot vs. the status quo).
- Some AP members noted diverse age structure is important to consider.
 - Staff indicated the analysis for these options focused on whether the alternative size limits would expedite stock rebuilding based on total spawning stock biomass levels; this analysis did not consider how the age composition of the stock would change as compared to the status quo.
- Some AP members noted effort and behavior may change with different size limits.
 - Staff indicated there is uncertainty around how effort would change with a different size limit and if fish become more or less available to the fishery; this uncertainty cannot be quantified.
- Some AP members highlighted the weak stock-recruit relationship for striped bass (i.e., higher spawning stock biomass does not necessarily lead to higher recruitment) and the influence of environmental conditions on recruitment; although alternative size limits may not significantly increase total SSB levels, protecting strong year classes may still benefit the stock overall by limiting mortality on healthy year classes considering future recruitment success is highly variable.
- One AP member noted closed seasons would protect year classes.
- Some AP members noted the potential relationship between protecting larger fish and the quality of eggs/recruits.

Options for Stock Rebuilding Calculations

- Two AP members noted support for the more conservative approach of using a low recruitment assumption for stock rebuilding calculations in the 2022 assessment, especially considering the recent low juvenile abundance index (JAI) estimates.
- There was general support for including these options considering rebuilding calculations and recruitment in the Draft Amendment for public comment.

Written Comments from AP Member

AP member Dennis Fleming (PRFC – fishing guide/seafood processor/dealer) was not in attendance and provided the following comments to ASMFC staff regarding the AP meeting summary:

- I support the following: Some AP members support considering the 2-year and 3-year average options during the public comment period to address concerns about MRIP uncertainty and variability of F from year to year.
- I support the following: Several AP members support keeping these recreational size limit options in Draft Amendment 7 for public comment for the following reasons.
- I support the following: Two AP members noted support for the more conservative approach of using a low recruitment estimate for the stock rebuilding calculations in the 2022 assessment, especially considering the recent low juvenile abundance index estimates.

1075 Tooker Avenue
West Babylon, NY 11704
January 17, 2022

Atlantic Striped Bass Management Board
Atlantic States Marine Fisheries Commission
1050 N. Highland St., Suite 200 A-N
Arlington, VA 22201

Dear Management Board Members:

On January 26, you will review the most recent Draft Amendment 7 to the Interstate Fishery Management Plan for Atlantic Striped Bass ("Draft Amendment"). As part of that review process, you may elect to add or remove options from the document presented to you by the Plan Development Team ("PDT"). While this is not the appropriate time to comment on the merits of all the various options that might appear in the Draft Amendment when it is released for public comment, I am providing input on two specific options which, for reasons of policy, should be removed from such document prior to its release.

I MANAGEMENT TRIGGERS

Tier 1 (fishing mortality) Sub-option B-3 should be deleted, as it is poor policy to include a management trigger that, as a practical matter, will be virtually impossible to trip.

Tier 1 Sub-option B-3 would establish a fishing mortality trigger that reads,

If the three-year average F exceeds the F threshold, the striped bass management program must be adjusted to reduce F to a level that is at or below the target within the timeframe selected under Option A. The three-year average F should not include data under different management actions (i.e., **the F threshold trigger should not be evaluated unless there are at least three years of data in the assessment under the most recent management action**). [emphasis added]

While such language seems fine on its face, the timing of stock assessments, as well as the timing of management actions taken pursuant to such assessments, create a situation in which there will seldom, if ever, be a time when "there are at least three years of data in the assessment under the most recent management action."

That becomes clear when one realizes that an assessment update is conducted approximately every **two** years,¹ necessarily limiting the years of data available since the prior assessment or assessment update. In addition, because management actions are taken in response to information contained in assessments or assessment updates, there will be even fewer years of data "under the most recent management action" available in any assessment or assessment update.

Even in the current situation, when the COVID pandemic delayed preparation of the next stock assessment update, the timeline would not permit the proposed trigger to be tripped. While there will be four years between the 2018 benchmark assessment and the 2022 assessment update, an atypically long interval, the management actions taken in response to the 2018 assessment weren't implemented until 2020. Thus, the 2022 stock assessment update will only contain two years of data since the last management action; should it find overfishing, the trigger, sub-option B-3 (if it was in place at that time) would not trip, as the requisite three years of data would not be available.

It is reasonable to expect that, under a more regular assessment schedule, such 3-year requirement would render the trigger incapable of being triggered at all.

The PDT seems to have recognized that flaw, and addressed it by noting, "Although the trigger would only be evaluated when sufficient data years are available for sub-options B2 or B3, the Board is not limited to taking action only when a management trigger is tripped."

¹ The Draft Assessment, on page 53, states that "Stock assessment updates are typically conducted about every 2 years with benchmark assessments conducted about every 5 years." Such statement accords with the history of stock assessments included on the Atlantic States Marine Fisheries Commission's Atlantic Striped Bass species page, which shows that, since the adoption of the current Amendment 6 to the Interstate Fishery Management Plan for Atlantic Striped Bass in 2003, either benchmark assessments or assessment updates were conducted in 2004, 2005, 2008, 2009, 2011, 2013, 2015, 2016, and 2018.

While that statement is true, it doesn't answer the key question: Why adopt a management trigger that will probably never be tripped, and then rely on the Management Board to act before any action is triggered?

The Management Board has always been able to act before a trigger is tripped, if it believes that such action is needed. The purpose of a management trigger is not to define those times when the Management Board **may** intervene, but instead to define the occasions when it **must** do so.

Sub-option B3 does not serve that purpose, and thus should be deleted from the Draft Amendment.

II

MANAGEMENT PROGRAM EQUIVALENCY

Sub-option E-1, which would allow a state to adopt conservation-equivalent management measures that only achieved a harvest reduction equal to the fishery management plan standard at the coastwide level, is in violation of the clear language of the Interstate Fishery Management Program Charter, and thus must be deleted from the Draft Amendment.

The Interstate Fishery Management Program Charter ("Charter") unambiguously defines "conservation equivalency" as

Actions taken by a state which differ from the specific requirements of the FMP, but which **achieve the same quantified level of conservation** for the resource under management. For example, various combinations of size limits, gear restrictions, and season length can be demonstrated to **achieve the same targeted level of fishing mortality**. The appropriate Management Board/Section will determine conservation equivalency. [emphasis added]

Sub-option E-1, which allows a state to adopt management measures that only achieve the coastwide percentage reduction in fishing mortality, rather than the level of fishing mortality that the fishery management plan standard would achieve in that state, clearly fails to meet the Charter's standard for conservation equivalency.

That failure was implicitly recognized by the PDT, which explained, in the Draft Amendment,

Suppose an FMP standard is adopted that is projected to achieve a 20% change in fishery removals when applied coastwide. However, at the state level, the FMP standard is projected to achieve a 25% change in State A and a 10% change in State B...

Notably, **sub-option E-1 may undermine an overall targeted reduction...** [emphasis added]

We saw that occur when the conservation-equivalent measures approved in connection with *Addendum VI to the Atlantic Striped Bass Interstate Management Plan* (Addendum VI) reduced such addendum's already marginal 50% probability of reducing fishing mortality to the target level to an unacceptable 42%, due to the Management Board's willingness to allow some of the most important striped bass states, in terms of recreational harvest, to adopt management measures that only achieved the targeted coastwide reduction in fishing mortality.²

Certainly, if conservation equivalent measures led to such a reduced probability of a management action succeeding in its goal, such measures did not meet the Charter's requirement that they "achieve the same quantified level of conservation" and "achieve the same targeted level of fishing mortality." The fact that Addendum VI did successfully reduce fishing mortality to the target level, due to a fortuitous reduction in recreational fishing effort, does not justify the inadequately restrictive state management measures.

Some may choose to argue that the 2016 publication, *Conservation Equivalency: Policy and Technical Guidance Document* ("Guidance Document") takes a more relaxed view of how conservation equivalency may be defined, and thus condones the approach described in sub-option E-1. However, such publication should be viewed as subordinate to, and not of equal status with, the Charter, which states in its Preface that "This document outlines the standard operating procedures and policies of the Atlantic States Marine Fisheries Commission's Interstate Fisheries Management Program." Nor can the Guidance Document be viewed as amending the language and conservation equivalency policy enunciated in the Charter, as the


² *Proceedings of the Atlantic States Marine Fisheries Commission Atlantic Striped Bass Management Board*, May 5, 2020, p. 2, comments by Dr. Katie Drew, "The predicted reductions, the new predicted total removals in 2020 is a 15 percent reduction from 2017 levels compared to the 18 percent reduction predicted for the consistent coastwide Addendum VI measures. The updated projections indicate a 42 percent chance of being at or below the F target in 2020, compared to a 50 percent chance that was calculated with the original projection."

Guidance Document predates the most recent version of the Charter, which was published in 2019, and retains the fully intact language regarding conservation equivalency, which was cited at the beginning of this section.

Because sub-option E-1 is clearly inconsistent with the conservation equivalency provisions of the Charter, it should be stricken from the Draft Amendment.

Thank you for considering my views on these matters.

Sincerely,

A handwritten signature in black ink, appearing to read "CAW", is written over a horizontal line. The signature is stylized and cursive.

Charles A. Witek, III