

Atlantic States Marine Fisheries Commission

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Working towards healthy, self-sustaining populations for all Atlantic coast fish species, or successful restoration well in progress, by the year 2015

Meeting Summary October 10, 2008

Advisory Panel Members

Jake Kritzer (Chair), Environmental Defense Fund
Eric Buehl, Center for Inland Bays
William Legg, MD
Mitchell Feigenbaum, PA
James Trossbach, PRFC
Robert Piasanski, DE

Staff

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Subsequent email comments provided by:

Tim Brush, Normandeau
David Allen, ME

The American Eel Advisory Panel (AP) held a conference call on October 10, 2008. The Advisory Panel members that participated in the call and those participating in subsequent email discussions agreed to the following recommendations to the Management Board regarding Addendum II.

1. The AP expressed dissatisfaction with having to respond to public comment and incorporate public comment into its report before all public hearings were complete, before the public comment period had closed and without having a chance to review summaries of the public comments until the conference call began.
2. On the specific management options, the majority of the AP endorses:
 - a. Gear Restrictions
Status quo. The AP maintains its previous position that a gear restriction would require too much work, the pots would be too hard to bait and that it would be too easy for other organisms to get stuck in the throat, which would prevent the pot from fishing.
 - b. Size Limits
 - i. **Status quo** - The AP maintains its previous position and believes that the status quo should be maintained given that the increase needed to achieve meaningful gains in EPR would impose drastic impacts on the industry with no clear demonstration of the need for any specific level of increase EPR.
 - ii. Grader – The use of a grader was the most preferable method for enforcing a size limit if the Board enacted any management measures. However, the AP recommends that exceptions or alternatives be allowed for fishermen whose boats cannot take on a grader. The AP also noted that enforcement personnel see a grader as being preferable to other options.

- iii. **Maximum Weight** – The AP maintains its previous position and does not think the maximum weight option is sensible.
 - iv. **Maximum Length** - The AP maintains its previous position and does not think the maximum length option is sensible.
 - v. **Slot Limits** - The AP does not endorse any size limit changes, and does not agree that minimal increase in eggs per recruit (EPR) justifies the implementation of a slot limit. If the board were to insist upon new size limits, each jurisdiction should have the flexibility to establish its own slots based on the concept of conservation equivalency. In other words, each jurisdiction should be allowed to determine size limits that meet a defined management goal while accommodating the local characteristics of the fishery (e.g., size distribution of the catch; size-specific prices).
- c. **Seasonal Closures**
Status quo. The AP maintains its previous position that a 30, 60 or 90 day seasonal closure will end the American eel fishery.
- d. **Combination Size Limits and Seasonal Closure**
Status quo. The AP no longer felt that a maximum size limit of 22” or 23” with a 14-day fall closure would be an acceptable management approach. After further discussion and individual analysis of the impacts, the AP believes this would have a significant impact on the fishery. The AP is still concerned about uncertainty associated with the impacts of seasonal closures.

A minority view believes that the ecological benefits and economic costs of some of these options, particularly the seasonal closures and the combined seasonal closures with size limits, have not been fully evaluated. The minority view therefore finds it difficult to make a recommendation one way or the other on these options. With more information on these trade-offs, the status quo might not be the preferable management direction.

- e. **FERC Relicensing**
The AP endorses option two. However, the AP feels that this option is largely symbolic if ASMFC does not support the goal of this option with meaningful action. While the AP recognizes that ASMFC has no regulatory authority here, it can speak out on these issues and use its influence to effect regulatory changes that benefit coastal fisheries. ASMFC can also provide technical advice and serve other non-regulatory roles. The Commission therefore needs to develop clear targets and to work toward implementation of those targets by FERC and other regulatory entities.

There was, however, a minority view that the Commission should continue to focus only on its granted authority to control commercial and recreational fishing activity because there has been very active participation by many or all member states, and federal agencies active in ASMFC where American eel passage is an issue in FERC relicensing. ‘Status quo’ should therefore be maintained, in this case reflecting that no formal Commission action is recommended.

The minority view also noted that fish passage, particularly as related to FERC licensing, is being given excessive focus in the Addendum, with no attention to other non-fishing impacts such as habitat degradation and water quality. The minority view is that these impacts should be addressed alongside fish passage in the Addendum. The majority

agreed that these are also important issues and should be taken up by the Commission in the same way as fish passage (i.e., through setting of clear targets and by providing influence and technical resources to help meet those targets). However, the majority did not see a problem with making a statement about fish passage in this Addendum, as long as the other habitat impacts are addressed subsequently.

f. Non-federally licensed dams

Similarly, the AP felt that ASMFC can exert much greater influence on the removal and modification of non-federally licensed dams, beyond simply urging generic action within the FMP. The AP urges ASMFC to outline clear, albeit non-binding, targets and strategies for increasing fish passage within the FMP. The comments in 2.f. about the need to address other non-fishing impacts apply here as well.

3. A majority expressed the view that the States' Young-of-Year surveys were implemented in order to monitor recruitment trends, and that further fishing restrictions should only be imposed upon a showing of recruitment declines. A minority felt that we should not wait for recruitment declines to take action, because then it could be too late.
4. The AP felt that the Addendum should to the extent possible allow the states flexibility in meeting the management objectives in response to geographic differences in ecology, population size and structure, prevalence of other impacts, characteristics of the fishery, and other traits. When this flexibility is exercised, conservation equivalency should be demonstrated. However, one AP member felt strongly that regulations should be consistent among states for reasons of equity.
5. The AP agreed that the Management Board should consider and analyze other measures to restrict overall effort in the fishery, such as:
 - a. Implementation of seasonal closures outside of the fall migration (see expanded comment #6 below).
 - b. Restriction on new entrants into the commercial fishery or the number of gear pieces allowed.
6. The AP reiterated that the current commercial fishery does not catch significant numbers of silver eels and that seasonal closures will likely have a limited impact on silver eel escapement. Therefore, the AP suggest expanding the range of closure options, including:
 - a. Implementation of closures at other times during the year that would lead to meaningful increases in egg production and spawning biomass, with the least possible impact on the industry. The timing of such closures would vary from state to state.
 - b. Consideration of a 14-day closure during the migration season or other times, as opposed to the current 30, 60 or 90 day options.

The AP believes that options such as these will allow for increased yellow eel abundance, which will eventually allow more silver eels to out-migrate and spawn. However, one AP member stressed that he could not endorse new options unless they were specifically proposed and submitted to the public for further comment since these ideas have not yet been reviewed by constituents.

7. The AP expressed concern that there was not an adequate enough baseline to measure the success of the Addendum. The AP requests a clear enumeration and description of the indices and targets that will be used to evaluate the success of management and which indices are not being used. The AP felt that maintaining any measures implemented in Addendum II over the

long term should be contingent upon meeting defined performance measures, or should “sunset” on a specific date if those targets are not met.