

NEW JERSEY MARINE FISHERIES COUNCIL
Galloway Township Library
Galloway, New Jersey
May 5, 2011

In Attendance were: Chairman Gilbert H. Ewing, Jr.
Councilman Patrick Donnelly
Councilman Richard Herb
Councilwoman Frances Puskas
Councilman Erling Berg
Councilwoman Eleanor Bochenek
Councilman Edward Goldman
Councilman Scott Bailey
Councilman Joseph Rizzo

Absent: Councilman Walter L. Johnson III

Also in attendance representing the Division of Fish and Wildlife:

David Chanda, Director
Thomas W. McCloy, Administrator, Marine Fisheries Adm. (MFA)
Brandon Muffley, Chief, Bureau of Marine Fisheries
Jeffrey Brust, Research Scientist, MFA
Peter Himchak, Supervising Biologist, MFA
Russ Allen, Principal Biologist, Bureau of Marine Fisheries
Lt. Mark Canale, Bureau of Law Enforcement
Lt. Dominick Fresco, Bureau of Law Enforcement
Russ Babb, Supervising Biologist, Bureau of Shellfisheries
Mike Celestino, Principal Biologist, Bureau of Shellfisheries
Sherry Bennett, Recording Secretary

Ms. Bennett read the compliance with the Sunshine Law. Notice of meeting was filed with the Secretary of State on April 7, 2011.

Chairman Ewing began the meeting with the Pledge of Allegiance.

Audience Conduct

Chairman Ewing reminded the audience about audience conduct and expectations for the meeting and informed individuals wishing to make a public comment need to sign up.

Law Enforcement Report

Lt. Canale presented Council with the Law Enforcement Report, which detailed recent activities described in Handout #1.

A CO completed the Marine Law Enforcement Training Program at the Federal Law Enforcement Training Center, in Georgia. This CO also passed the USCG Boat Captain's Exam.

Some of the more notable summonses issued during the reporting period included:

- landing 860 pounds of spiny dogfish in excess of the commercial landing limit.
- 15 striped bass related summons were issued, for possession of over the limit and undersized striped bass.
- possession of winter flounder in excess of recreational daily bag limit.
- a total of 6 summonses and 7 warnings for various violations including the harvest of oysters without the purchase of oyster harvest tags, failure to submit reports/submit false or inaccurate reports and failure to renew oyster dealer license.
- landing in excess of the black sea bass commercial trip limit resulted in a warning issued to the vessel and a summons to the dealer for the purchase of black sea bass in excess of the daily trip limit.

Legislative Report

Chairman Ewing commented there is no Legislative Report.

Atlantic States Marine Fisheries Commission (ASMFC) Report

Mr. Himchak presented Council with the ASMFC Report from the 2011 Winter-Spring Meeting. A summary of the entire meeting week can be found in, Handout #2a.

American Lobster Management Board

Addendum XVII is still being developed. The draft proposal has gone from a 5 year moratorium to a reduction in exploitation of the SNE stock by 50 to 75% as a means to begin stock rebuilding. This addendum is not ready for public comment. Additional proposals to be considered for inclusion in the Draft Addendum must be presented to the Plan Development Team (PDT) no later than June 15, 2011. The State of New Jersey also expressed the desire to gather input from Areas 3, 4 and 5 Lobster Conservation Management Teams, and will submit their proposal by June 15th.

Atlantic Herring Management Board

Draft Addendum III that would allocate additional landing days to the small mesh bottom trawl/small purse seine vessels failed due to lack of a majority.

Atlantic Menhaden Management Board

ASMFC Atlantic Menhaden Board initiated a draft addendum proposing an interim biological reference point of 15% maximum spawning potential with the goal of increasing abundance, spawning stock biomass, and menhaden availability as a forage species. The ASMFC Board placed a high priority on continuing work on developing ecosystem reference points using a multispecies modeling approach.

Spiny Dogfish and Coastal Sharks Management Board

ASMFC Board approved Addendum III, State-Specific Spiny Dogfish Shares Established for the Southern region. New Jersey receives a 7.6 percent of the annual coastwide quota, which is 1.5 million pounds allocated for 2011/2012 fishing season. However, New Jersey fisherman are still tied to the Federal seasonal closures by New Jersey regulations.

Horseshoe Crab Management Board

The Board received an update regarding the funding of the Virginia Tech Trawl Survey. The current funding total is at \$118,000 with contributions from the biomedical and fishing industries. That level is still short of the \$200,000 needed to continue the survey. More letters requesting funding contributions will be sent out to environmental groups who have been involved in horseshoe crab management as well as shorebird groups.

Tautog Management Board

ASMFC Tautog Board approved Addendum VI to the Tautog FMP. The new fishing mortality (F) target is lowered to 0.15 from 0.20. This would require states to implement measures to achieve a 56% reduction in exploitation by January 2012. The current estimate of coastwide fishing mortality rate is at 0.38, well above the management plan target of 0.20. The impact on New Jersey's fishery has yet to be determined.

Summer Flounder, Scup and Black Sea Bass Management Board

ASMFC Black Sea Bass Board approved Addendum XXI which implemented state by state shares for the 2011 recreational fisheries. Mr. Himchak brought Councils attention to Handout #2b, a letter asking the ASMFC Black Sea Bass Board for clarification on the development of the state shares/required reductions adopted by the Addendum. The addendum adopted had NJ taking a 2% higher reduction than any of the options in the draft addendum. Mr. Himchak brought Councils attention to Handout #2c which is a copy of the Appeal Process approved by the ISFMP Policy Board, which Council requested during April's meeting.

Chairman Ewing asked for clarification on spiny dogfish, stating that it is under federal regulation and there is no current State plan. Mr. Himchak responded there is an ASMFC Plan and a Federal plan. NJ regulations are tied to having a Federal permit. NJ fisherman can fish in Federal or State waters but they are bound to the fishery closures in Federal waters. Chairman Ewing asked what happened to NJ having their own regulations. Therefore, if federal waters closed and there was NJ quota remaining, NJ would close its fishery and NJ fisherman could loose out on their quota. The industry did not follow up with the required legislative action to authorize DEP to issue and charge a fee for a commercial license for taking spiny dogfish within state waters. However, there is still a misalignment between the Federal and State regulations in regards to spiny dogfish.

Dr. Donnelly asked about the data NJ has on our tautog program. Mr. Himchak responded Mr. Brust handles all the NJ data on tautog and would have to document current levels of fishing mortality in NJ to determine the required reduction to meet the

target fishing mortality rate. Dr. Donnelly commented that the original intent of this document was to address the illegal and undocumented fishery. He expressed his displeasure with the process that the original intent of the addendum was changed at the last minute.

Mr. Rizzo asked why they are having trouble finding the money to support the horseshoe crab survey. Mr. Himchak indicated that the funding from NMFS has been lost and the survey is seeking donations to continue the survey. He further stated that without the VA Tech survey, which is the critical part in the ARM model, the model cannot be used.

Dr. Bochenek asked if there was a way that part of the survey can still be conducted with just the money they have raised. Mr. Brust commented that the survey is divided into three areas and what money they have is almost enough to support the critical area of the DE Bay portion. Ideally, all three areas should be sampled so the maximum amount of data will be available for the model.

Mr. Allen presented Council with four ASMFC meetings he attended as Director Chanda's proxy.

South Atlantic State/Federal Fisheries Management Board

The South Atlantic Board approved the Spot, Spotted Seatrout and Spanish Mackerel Omnibus Amendment for public hearing. At the meeting, options were developed for each species and public comment is opened now thru July 20th, with no plans to hold a public hearing in NJ.

ASMFC South Atlantic Board approved Addendum I to the Atlantic Croaker FMP. The ASMFC Board updated the current biological reference points (BRPs) based on recommendations from the 2010 stock assessment.

Shad and River Herring Management Board

The New Hampshire River Herring Sustainable FMP was approved bringing the total number of approved river herring sustainable FMPs to four (SC, NC, ME and NH). Any other state must have approved plans by the Fall of 2011 or close their river herring fisheries by January 1, 2012.

The Federal Councils are looking at the river herring by-catch issues associated with amendments to other species plans (Atlantic Herring/Atlantic mackerel).

Weakfish Management Board

The ASMFC Weakfish Board asked the Technical Committee to prepare and update annually the five stock status indicators to review at the August ASMFC meeting. The Board also approved the requests of Massachusetts, Connecticut, Georgia, and Florida for continued *de minimis* status.

Atlantic Striped Bass Management Board

The Board approved Connecticut's proposal to implement the transfer of the some of the annual commercial quota to a "bonus" recreational fishery. This proposal allows for a recreational harvest in the Connecticut River and provides marginal predator control to help rebuild blueback herring stocks.

The Board also initiated the development of Draft Addendum III to the Plan aimed at reducing striped bass fishing mortality up to 40% and further protecting the spawning stock when it is concentrated and vulnerable. Draft Addendum III proposed a range of fishing management measures including: adjustments to commercial and recreational minimum size, reductions in annual coastal commercial allocation, reductions in recreational bag limits. If adopted, measures could be implemented by 2012.

Mr. Rizzo asked if there was a quota for Atlantic croaker. Mr. Allen responded there is not a quota and would not anticipate one because the stock is not over fished and the next assessment will be available for another 5 years. There are triggers in plan that would allow the Board to act quickly, but no quota currently.

Chairman Ewing asked Mr. McCloy to set up a Committee Meeting for Spiny Dogfish.

Chairman Ewing asked Mr. Nowalsky, if he had any comments on the ASMFC meeting he attended as proxy for Assemblyman Albano.

Mr. Nowalsky commented on issues he believes are present within the tautog assessment. If a peer reviewed assessment, which was originally scheduled, instead of a "turn of the crank" assessment would have been conducted, some of these issues could have been reviewed.

Chairman Ewing asked Ms. Bennett to make note that Mr. Bailey is present at this evenings Council meeting.

Mid-Atlantic Fishery Management Council (MAFMC)

Mr. Berg presented Council with the MAFMC Report, Handout #3.

MAFMC continued development of Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan.

MAFMC received an update on Amendment 6 to the Monkfish FMP in which the Mid-Atlantic and the New England Councils are considering catch shares management for the monkfish fishery. A June 1st meeting is being held.

Regarding North Atlantic swordfish, the MAFMC agreed to the alternative to establish a new permit for *Illex* squid moratorium permit holders to retain up to 15 swordfish as the preferred option and agreed to the alternative to establish a new permit, or an exemption for the *Loligo* squid moratorium permit holders to retain swordfish.

Shellfish Council Reports

Delaware Bay

Mr. Bailey presented Council with the Delaware Bay Report.

2011 Delaware Bay Direct Market Oyster Season

The Delaware Bay direct market oyster season opened on April 4, 2011. Approximately 8,500 bushels have been harvested to date. The catch per unit effort is approximately 77 bushels per vessel per day, up slightly when compared to the 2010 average. There have been 109 boat days fished by 23 boats. The Shell Rock seedbed has taken the majority of the harvest pressure.

2011 Delaware Bay Intermediate Transplant

The 2011 Intermediate Transplant Program (ITP) commenced on April 12, 2011 and ran for approximately three weeks. During the transplant, five oyster vessels were used to move a total of 36,350 bushels of oyster from underutilized portions of the seed beds to areas that are worked more frequently. These vessels moved 28,400 bushels of oysters to the high mortality beds and 7,950 bushels to the Cohansey seed bed. The data from the program remains tentative, but this transplant is expected to increase the industry's quota by roughly 10-15,000 bushels.

Atlantic Coast

Mr. Babb presented Council the Atlantic Coast Report in Mr. Johnson's absence.

2011 Spring Mullica River Oyster Season

The one-week limited spring Mullica River oyster harvest season concluded on April 16, 2011. The season was opened by the Department with the recommendation of the Council at the March 21, 2011 meeting. The season began on April 11th and was opened to all commercial and recreational shellfish license holders. Daily commercial harvest ranged from six to nine bushels (recreational license limited to 150 oysters per day) and average participation was approximately four harvesters per day. Harvest was limited to hand tongs only.

Committee Reports

Dr. Donnelly presented the Council's Black Sea Bass Committee Report, Handout #4.

The Black Sea Bass Committee agreed to move forward with 4 possible options for consideration with a preferred option of 12.5 inch size limit, 25 fish possession limit and a season from May 28 – September 11; November 1 – December 31 (Option 2).

Dr. Donnelly asked for any questions from Council. Seeing none, since a committee report normally stands as a motion Dr. Donnelly asked Chairman Ewing, to table the Committee Report as a motion at this time until later in meeting. Chairman Ewing agreed.

Regulatory Updates

Mr. Muffley presented Council with 2011 Recreational Black Sea Bass Options

Option #	Size Limit (inches)	Bag Limit	Open Season	# Days Open
1	12.5	25	June 4 –Sept 14; Nov 1 – Dec 31	164
2	12.5	25	May 28 – Sept 11; Nov 1 – Dec 31	168
3	12.5	15	May 28 – Sept 16; Nov 1 – Dec 31	173
4	12.5	15	June 4 – Sept 19; Nov 1 – Dec 31	169

All these options were approved by the technical committee and the ASMFC Board.

Chairman Ewing asked for any question from the Council. There were no questions. Dr. Donnelly asked that the Committee Report on Black Sea Bass, in favor of Option 2, stand as a motion at this time. Chairman Ewing commented that since this is a Committee Report no second on the motion is needed.

Public Comment

Eleven members of the public supported the Committee Report on Black Sea Bass, in favor of Option 2.

A few other comments were made:

- the importance of keeping the bag limit as a higher number (ie. 25 fish);
- the public was encouraged to submit comments now at the Federal level for the 2012 season;
- would like to see a January and February season ;
- would like to see a spring and fall season for our children and seniors to fish.

Chairman Ewing asked for Council comments.

Mr. Herb expressed concern that there was enough time to get the regulations changed for a May 28th opening.

Mr. Muffley commented that it took three weeks for the summer flounder measures to be implemented, so he anticipated at least a 3 week time frame. Director Chanda concluded that there should be sufficient time to implement the black sea bass measures prior to the desired May 28th opening.

Motion on Committee Report for Option 2 on Black Sea Bass passed.

Mr. Muffley asked Council for motion to approve the Notice of Administrative Change (NAC:H.O. # 5) to modify the black sea bass recreational season as approved by Council. Dr. Donnelly made the motion that passed unanimously.

Mr. Muffley stressed the importance of the data from the volunteer angler survey to continue to be used by the public for all species. Some species (summer flounder) are represented more than others (black sea bass lacks data).

Old Business

Mr. Muffley presented Council with an update on the NJ Recreational Saltwater Registry, Handout #6. The free web-based saltwater fishing registry replaces a fee-based Federal registry that NJ was required to participate in and which has been in effect since January. All saltwater anglers and for-hire vessel operators will now be able to register through the no-fee State system rather than the fee-based Federal system. Anglers still must register with the State system even if they have already registered with the Federal system. Those who fish solely from a for-hire party or charter fishing vessel that is registered with the NJ Saltwater Recreational Registry Program are not required to register under the individual registration.

Mr. Herb asked about exemptions. Mr. Muffley commented there are only two exemptions, under the age of 16 and patrons who solely fish on for-hire boats, as long as that for-hire boat is registered with the program.

Chairman Ewing asked Mr. Muffley about the 2008 Rule Proposal. Mr. Muffley commented that he needed to remove sections of the proposal – Sharks and reef related regulations since this proposal was initially approved during the previous Administration. Dr. Donnelly commented that in the past the Council has been asked by previous Administration's to bundle up these proposals into one. Does this new Administration prefer to have proposals as a separate item? Mr. McCloy commented that it is not a good idea to file proposals separately. The process for approval is a minimum of 14 months.

Mr. McCloy clarified that all out of state anglers and for-hire vessels must also register with NJ prior to fishing in NJ even if they have a license or registry from another state.

Mr. McCloy brought Council's attention to Handout #7 in regards to letters submitted to Council from Mr. Chew, who is present in the audience.

Mr. Goldman asked if the registry requirement will be enforced. Lt. Canale commented that conservation officers will be enforcing the registry but considering each case on its own merit since this is just the beginning of the new program.

Mr. Rizzo asked if the registry fines is comparable to other marine offenses. Lt. Canale commented that all marine violations fall under NJSA 23:2B-14.

New Business

Mr. Muffley brought Council's attention to Handout #8 on reef funding. Due to conflicts that violate provisions of the Sportfish Restoration (SFR) Act, all further SFR funding through the U.S. Fish and Wildlife Service for the artificial reef program in New Jersey is

terminated. Funding can be restored when appropriate action is taken to eliminate the conflicts that currently restrict recreational fishing access on NJ permitted reefs.

Dr. Bochenek commented that Rutgers is performing a tagging study on black sea bass, and asked all recreational fishermen to contact Rutgers when they come across a tagged fish.

Director Chanda commented that Handout #10 pertains to Joint Council Meeting to be held Wednesday July 20, 2011. The lunch is free to all Council members, but not to council guests or past and present NJ State Employees.

Public Comment

Mr. Nowalsky thanked the Bureau for all their work they did on the registry. However, he encouraged Council to express concern in regards to the high fees on the penalty schedule and asked for clarification in the Digest on pages 12 and 19 on striped bass fillet permit for party boats to fillet at sea.

Lt. Canale indicated that the Bureaus of Enforcement and Marine Fisheries will look at the striped bass fillet law and will clarify what the situation is with the issue.

Chairman Ewing informed everyone that he has not been reappointed to the Council by Governor Christie and wanted to make a few parting comments. He has been on the Council for 22 years, 13 as Chairman. He thanked all Council members and advisors for their help in making difficult decisions. The Chairman also thanked the DEP staff and commented on how the DEP staff is the finest, most dedicated and caring group of people he has ever seen or been associated with. Unfortunately his sponsor chose not to sponsor him again. A couple other Council members' will also be leaving the Marine Fisheries Council. Chairman Ewing expressed the best of luck to the next Council for they will be on a long, tough road as NJ will undoubtedly continue to lose more fisheries.

Director Chanda thanked Chairman Ewing on behalf of staff and all Council members for all his time and dedication he has committed over these last 22 years.

Mr. Goldman commented that he hasn't served as long as Chairman Ewing, but wishes to express his goodbye as he will be leaving the Council after 13 years. Mr. Goldman thanked everyone for their support, time and dedication and wished them the best of luck in the future of the Council.

Director Chanda pointed out that Chairman Ewing will serve as Chairman until his replacement is confirmed by the NJ Senate as will the other members.

Meeting adjourned.

The next Meeting is the Joint Council Meeting Wednesday, July 20, 2011, Rutgers EcoComplex and then Thursday September 8, 2011, at the Galloway Township Library.