

**Marine Fisheries Council Meeting
November 3, 2022**

Council Attendees:

Dr. Eleanor Bochenek

Dr. Patrick Donnelly

Mr. Barney Hollinger

Mr. Jeff Kaelin (webinar)

Mr. John Maxwell

Mr. Joe Rizzo

Mr. Bob Rush

Mr. Kevin Wark

Mr. Dick Herb (Chair)

Council Absentees:

None

DEP and Division of Fish and Wildlife Attendees:

Jeff Brust – Chief, Bureau of Marine Fisheries (BMF)

Russ Babb – Chief, Bureau of Shellfisheries (BSF)

Jason Snellbaker – Deputy Chief, Bureau of Law Enforcement (BLE)

Heather Corbett – Supervising Biologist, BMF

Jeff Normant – Supervising Biologist, BSF

Mike Celestino – Research Scientist, MRA

Linda Barry – Research Scientist, MRA

Maryellen Gordon – Principal Biologist, BMF

Brian Neilan – Principal Biologist, BMF

Jenny Tomko – Senior Biologist, BSF

Matthew Heyl – Assistant Biologist, BMF

Alissa Wilson – Assistant Biologist, BMF

Paul Bechtel – Wildlife Worker, BMF

Public Attendees:

Jim Hutchinson

Timothy Anfoso

Paul Collier

James Parker III

The meeting was called to order. Notice of the Marine Fisheries Council (Council) meeting was filed with the Office of the Secretary of State and delivered to the designated newspapers of the agency (Newark Star Ledger and Press of Atlantic City) on October 18, 2022. Acting Chairman Herb began the meeting with the Pledge of Allegiance.

Approval of Minutes

Meeting minutes from the September 8th meeting of the Council were approved without revision. Motion made by Dr. Bochenek, seconded by Mr. Wark. Motion carried unanimously.

1. Enforcement Report – J. Snellbaker

CPOs Moscatiello and Woerner conducted an overnight patrol in the Manasquan Railroad Bridge area, which has been a hotspot for fish poaching activities in recent years. Surveillance of the area was difficult due to the environmental conditions, so the officers conducted a foot patrol where they encountered three men fishing directly under the railroad bridge itself. Upon inspection, the men were found to be in possession of seven undersized striped bass and one undersized summer flounder. Summonses were issued for undersized striped bass, over the daily possession limit of striped bass, possession of an undersized summer flounder, and trespassing for the purpose of taking wildlife/fish. A total of nine summonses were issued to the three fishermen.

CPO Woerner had a busy month inspecting recreational fishermen in the Shark River area. One notable case involved his response to a complaint that came through the DEP Hotline reporting a group of fishermen keeping undersized tautog by the Ocean Ave Bridge in Avon, Monmouth County. CPO Woerner responded to the complaint and conducted a foot patrol in the area where he was able to locate two individuals keeping undersized tautog. Upon inspecting the fishermen, and locating their cooler, he discovered they were in possession of 23 tautog of which 22 were undersized. Another notable case resulted in the inspection of two fishermen that were found to be in possession of 17 black sea bass, seven tautog, one summer flounder, and one scup. All 26 of their fish were illegal. Multiple summonses were issued for the violations involved.

CPOs Capri and Meyer conducted a land-based patrol focused on recreational fishing activity on the Atlantic City jetties. The officers observed two groups of individuals, each on separate jetties, keeping what appeared to be multiple species of undersized fish. Unbeknownst to the officers, the two groups were together and had likely split up to avoid being caught with all the illegal fish at once. As the officers prepared to move into position and simultaneously apprehend both groups of anglers, they observed one of the groups begin packing up their equipment and head off the jetty. They met up with the other group and combined all their fish, so the officers moved in and made the apprehension with all the fish and all the anglers in one location. Upon inspection, a total of 30 undersized tautog, six undersized black sea bass, and three undersized summer flounder were found. Officers Capri and Meyer issued 19 summonses to the group of 10 anglers with penalties of more than \$5000.00. Early September is typically a time when large numbers of juvenile fish are found in the bays and coastal waterways in New Jersey. On September 10th CPO Szalc focused his attention on anglers fishing in the back bays of Atlantic County – specifically focusing on those fishing the bridges along the White and Black Horse Pikes. CPO Szalc discovered multiple violations among several groups of anglers and recovered a total of 29 black sea bass, most measuring less than eight inches; six summer flounder, most measuring less than 12 inches; and large quantities of undersized blue claw crabs. For the multitude of violations encountered, CPO Szalc ended up issuing a total of nine summonses.

Throughout late September and early October, CPOs Moscatiello and Woerner conducted multiple patrols in response to complaints received concerning fishermen keeping illegal tautog. The officers conducted several targeted patrols resulting in the apprehension and charging of 25 fishermen that

were in violation. In total, more than 60 over the limit and 23 undersized tautog were seized and/or returned alive.

In early October, CPOs Meyer and Capri took advantage of a nice weather day to conduct a boat patrol in the Barnegat Light area. The officers had heard chatter of large striped bass in the area and conducted inspections of charter and private fishing vessels. Two vessels were found in possession of oversized striped bass exceeding 38 inches. Additional inspections yielded 20 undersized black sea bass, 20 over the limit black sea bass, a closed season summer flounder, 25 filleted black sea bass, and six filleted scup. A total of nine summonses were issued throughout the course of the patrol. Lieutenant Petruccelli found three men returning to a Cape May marina in possession of 27 dolphin fish over their Federal possession limit. The case was referred to National Marine Fisheries Service for enforcement action.

Lieutenant Petruccelli apprehended a Pennsylvania man fishing on the beach in Fortescue possessing seven small sandbar (brown) sharks, which are a prohibited species. The man was issued a summons for taking 7 prohibited species.

Council did not have any questions regarding the law enforcement report.

2. Shellfish Council Report – B. Hollinger/ J. Maxwell

Delaware Bay Shellfish Council does not have anything to report.

Atlantic Coast Shellfish Council does not have anything to report.

Mr. Normant does not have anything to report for the Bureau of Shellfisheries

3. Legislative/Regulatory Report – J. Brust

There has been quite a bit of regulatory action at both the state and federal level. There were some bills of general interest, such as climate change and clean energy, but nothing directly fisheries related.

Mr. Brust informed Council about two ongoing regulatory packages. One regulatory package is in the final stages of adoption and should be finalized and published by the end of this year. This will allow DEP to make changes to fishing gear regulations through notice of administrative change. This will allow the state to adopt regulations that require circle hooks for recreational shark fishing and prohibit the use of gaffs to land striped bass, both of which have been mandated by ASMFC. Mr. Wark commented that this new authority will be very helpful with all the expected gear changes coming soon to protect whales and other protected species. Dr. Donnelly asked how long it took to publish this regulatory package. Mr. Brust responded that it was pushed through in about 18 months. Mr. Brust discussed another regulatory package that he expects to take longer because it includes many more issues and topics.

Mr. Brust informed Council of a formal request from the New England Fishery Management Council for NY and NJ to adopt similar recreational regulations for Georges Bank cod as were recently passed in New England to help protect the stock. Council does not have to approve the change, but it would help with the rebuilding of the stock and enforcement. Council discussed the issue. Dr. Bochenek asked if NJ

could apply for *de minimus* status. Mr. Brust responded that the regional Councils do not use *de minimus*, only ASMFC. Mr. Wark commented that sector separation regulations seem to have made the problems with cod worse. Dr. Bochenek asked about the stock structure. Mr. Brust responded that the Georges Bank stock extends from southern New England down into the Mid Atlantic. Drs. Bochenek and Donnelly requested time to get more information on the subject and talk to stakeholders about the potential impact of these regulations. Mr. Brust indicated he would request NEFMC staff attend the Jan 2023 MFC meeting to provide background and answer questions.

4. Atlantic States Marine Fisheries Commission (ASMFC) Report – J. Brust

There is no ASFMC report. There has not been a meeting since last time council has met. Mr. Brust provided Council with the agenda for the next ASMFC meeting that is meeting in Long Branch, NJ on Nov 7-10, 2022.

5. Mid-Atlantic Fishery Management Council (MAFMC) Report – J. Brust

Mr. Brust presented Council with an update regarding the last MAFMC meeting. The meeting was mostly administrative actions. The Scientific and Statistical Committee identified goals and objective for the year. Action items include an omnibus amendment for essential fish habitat and 2023 spiny dogfish specification.

6. Bureau Reports – J. Brust

J. Brust presented the Marine Fisheries Bureau report. The Bureau has lost four full time staff in the last twelve months and started the interview process for three of the four positions. Mr. Rush asked why staff have left. Mr. Brust indicated two retired, one shifted careers to nursing, and one took a position with a private consulting firm. In addition, one full time contract position was grant funded and the grant ended.

6. Committee Reports

Dr. Bochenek read the report from a meeting of the Offshore Wind Committee. The Marine Fisheries Council Offshore Wind Committee met virtually on September 12, 2022, with the purpose of learning more about the NJ Research and Monitoring Initiative (RMI) and two research studies that have been funded.

Staff presented an overview of the NJ Research and Monitoring Initiative, including the source of funds, administration and staffing, the process of identifying resources of concern, research priorities, and developing research projects, regional coordination, and approved concepts and proposals.

Drs. Grace Saba and Josh Kohut from Rutgers University presented information about their RMI project, Baseline Environmental Monitoring via Autonomous Underwater Vehicles (Slocum Gilders). The full proposal for this project was provided. One advisor asked whether turbine foundations would affect currents within the wind farms. Staff responded that this topic is one of the RMI research priorities and provided recent publications on the topic in a subsequent email. There was a question about wind wake effect on weather. Information about an upcoming webinar on the topic was provided by email.

Drs. Keith Dunton and Jason Adolf from Monmouth University presented information about the studies they've proposed to the NJ RMI that use acoustic telemetry and environmental DNA (eDNA) to monitor protected, prohibited, and commercially/recreationally important species. The acoustic telemetry project has been approved for funding, but the eDNA project is still under development. Full proposals were provided to this group in advance of this meeting. The researchers were asked if they would consider tagging menhaden, but Dr. Dunton responded that they can't tag that species with the techniques they're using.

The Committee requested a similar presentation from Dr. Pankaj Lal, who will be conducting a study on the Socioeconomics of Recreational Fishing in NJ for the RMI. The full, approved proposal for that work was provided to the Committee and Advisors. Staff agreed to schedule a meeting with Dr. Lal.

The Marine Fisheries Council Offshore Wind Committee met virtually on October 25, 2022, to receive an overview of a recreational fisheries socioeconomic study and a surf clam study, both of which have been approved for funding through the NJ offshore wind RMI.

Staff presented a brief update on offshore wind activities, including the state's higher offshore wind goal (11 GW by 2040), planned update to the Strategic Plan for next year, and an upcoming opportunity to review a draft of the next OREC Solicitation Guidance.

Staff continued with a brief reminder of how RMI priorities and projects are selected. Stakeholders were engaged throughout the priority setting process. Project proposals are reviewed by subject matter experts both within and outside DEP, with final approval determined by the RMI Steering Committee.

Dr. Daphne Munroe, from Rutgers University, provided an overview of her RMI funded project, Calibration Experiments for a Novel Clam Survey Dredge and Monitoring Carbonate Chemistry of Surfclam Habitat. Data for this project will be made publicly available once it has been entered and proofed. One committee member commended Dr. Munroe for making the data available. Staff commented that data sharing is a stipulation for RMI funded projects. Advisors expressed interest in how the study results might inform impacts on crabs and how potential changes in hydrodynamics might affect carbonate chemistry.

Dr. Pankaj Lal from Montclair University presented an overview of his study, Monitoring the Socioeconomic Impacts of New Jersey's Offshore Wind Development on Recreational Fisheries Economy. The committee and advisors had many questions regarding the sampling methodology, including sample size and whether the sampling frame is representative of the overall recreational fishing sector. Several participants recommended that the researchers engage with the for-hire industry and bait/tackle shops as well as key private recreational anglers so they can provide input into the project and get buy-in from the recreational fishing industry.

Following the presentations, the committee continued with an open discussion during which several topics were discussed. Several participants recommended the use of incentives to increase participation in survey-based projects, such as Dr. Lal's. There was a recommendation for additional meetings to receive updates on other RMI projects. Staff responded that no other projects are currently approved, and we would need approval from the Steering Committee regarding projects that are still under review. The committee proposed a recommendation to the Steering Committee to promote the use of recreational and commercial vessels as survey platforms for RMI projects.

Mr. Rush suggested that the Council get more involved with the socioeconomic impact study. Data is coming from MRIP and a phone survey. Additional data from the recreational sector may be valuable. Dr. Bochenek added that this study is critical for marine fisheries and reported that Dr. Lal was open to the suggestion of collaborating with industry during the survey. Council allowed public comment. Mr. Hutchinson asked if there was a major socioeconomic survey after Superstorm Sandy. Mr. Rush agreed, and Mr. Brust said he would look into it. Mr. Hollinger asked about the status of the proposal. Mr. Brust indicated the project had already approved for funding. There was discussion on if or how Dr. Lal would be able to change the study design to incorporate additional data from industry. Mr. Brust will ask the RMI steering committee. Motion to convene a small subcommittee of Council members to coordinate with Dr. Lal. Motion by Mr. Rush, second by Dr. Bochenek. Motion carries unanimously. Mr. Rush, Dr. Bochenek, and Dr. Donnelly volunteered to serve on the sub-committee.

Chairman Herb read the report from a meeting of the Executive Committee, and Mr. Brust presented a list of advisor applications. The Executive Committee met virtually to review several recent applications to Council advisory panels. Staff noted that all applications had been sent to the full Council for review, with a few comments received from Council members. Applications had also been forwarded to Law Enforcement to check for recent violations that might affect a decision. None of the applicants had received any violations in recent years. The individual applications were reviewed and discussed. During deliberations, the Committee requested an attendance list be included in each summary report. Keeping track of participation may help with advisor appointment and renewal decisions in the future.

Final discussion was regarding the Administrative Guidelines. The Committee has been reviewing the Guidelines and discussed several items including the development of protocols for efficiently running future meetings, the consideration of electing a vice chair, revisions to the policy on proxies, and a requirement for all applicants to be residents of NJ. This document is a work in progress and the Committee will continue to review and revise as necessary.

Chairman Herb discussed some issues with advisors applying for too many committees and suggested staff reach out to them before the ExComm meeting to clarify their selection. There was discussion of other possible methods, such as having the Executive Committee decide where to put them, or having applicants rank their committee selections by priority. Ms. Corbett indicated that advisors do not renew all that once, so how to incorporate old and new priorities. Staff will continue to work on a viable solution.

Chairman Herb indicated the committee recommendation was a motion with an automatic second. Motion carried unanimously. Mr. Rush asked if the application is online and if there is an online form. Mr. Brust stated it is available online but needs to be printed out. An online form can be created but timing is out of our control as it would need to be done by DEP's IT program. Mr. Rush asked about how often the advisor list is reviewed and expressed concern about attendance and participation. Mr. Brust replied that an executive meeting is held when a handful of applications are received and left it up to council on how often they would like to meet to discuss advisor applications. Dr. Donnelly suggested that committee chairs running advisor meetings can have more control over meetings and advisor attendance. If an advisor consistently does not participate, we could make so that the chair could remove them to make room for more active participants. Chairman Herb reminded Council that they have requested attendance be taken at the advisor meetings to track participation. Mr. Brust stated that the Executive Committee has made changes to the administrative guidelines, but they have not been finalized. Dr. Donnelly stated for the black seas bass and summer flounder advisor meeting he requested an attendance list, and it was a great help. Mr. Rush asked about having all advisor terms end at the same time, rather than 3 years from approval. Mr. Brust said that if all advisors had to renew at one time, there would be 75 applications to review at once.

Dr. Donnelly read the report from the Summer Flounder Advisory Meeting. Mr. Brust presented the summer flounder trip limits.

The purpose of this meeting was to review the 2022 commercial summer flounder fishery and discuss trip limit modifications to the 2023 fishery.

NJFW staff provided advisors with current 2022 summer flounder commercial fishery landings. Currently, there is approximately 825,000 pounds of summer flounder projected to be available for the final season of the 2022 commercial fishery. Trip limit modifications that reflect the remaining quota have been recommended by advisors and were implemented on November 1, 2022.

Additionally, advisors were presented with the preliminary 2023 commercial summer flounder quota for New Jersey. The Preliminary quota for New Jersey is 2,597,391 pounds, status quo relative to the 2022 fishing year.

Based upon this preliminary quota for the summer flounder commercial fishery, the Committee's preferred trip limits for the 2023 commercial fishing year are as follows:

Season 1 (January-February): option A- 3,000-pound trip two times per week or
option B- 6,000-pound trip one time per week.

Season 2 (March-April): option A- 430-pound trip seven times per week or
option B- 750-pound trip four times per week or
option C- 1,500-pound trip two times per week or
option D- 3,000-pound trip one time per week.

Season 3 (May-June): option A- 430-pound trip seven times per week or
option B- 750-pound trip four times per week or

option C- 1,500-pound trip two times per week or
option D- 3,000-pound trip one time per week.

Season 4 (July-August): option A- 430-pound trip seven times per week or
option B- 750-pound trip four times per week or
option C-1,500-pound trip two times per week.

Season 5 (September-October): option A- 850-pound trip seven times per week or
option B- 1,500-pound trip four times per week or
option C- 3,000-pound trip two times per week or
option D- 6,000-pound trip one time per week.

Season 6 (November-December): option A- 750-pound trip four times per week or
option B- 1,500-pound trip two times per week or
option C- 3,000-pound trip one time per week.

Options cannot be combined under any circumstance for a given season. Once a trip has been landed under one option, the vessel is restricted to only that option for the remainder of the fishing week (Sunday-Saturday). Once the following fishing week begins (12:00 a.m. Sunday), the vessel can choose another option under the corresponding season.

The Committee recommends the commercial trip limits for the 2023 commercial summer flounder fishing year as provided in this report.

The committee recommendation is a motion with an automatic second. Motion carries unanimously.

Mr. Rush read the report from the Black Sea Bass Advisory meeting. Mr. Brust presented the black sea bass trip limits.

The purpose of this meeting was to review the 2022 commercial black sea bass fishery and discuss trip limit modifications to the 2023 fishery.

NJFW staff provided advisors with current 2022 black sea bass commercial fishery landings. Currently there is approximately 425,000 pounds of black sea bass projected to be available for the final season of the 2022 commercial fishery. Trip limit modifications that reflect the remaining quota have been recommended by advisors and were implemented on November 1, 2022.

Additionally, Advisors were presented with the preliminary 2023 commercial black sea bass quota for New Jersey. The preliminary quota for New Jersey is 1,131,151 pounds, which reflects a 12% decrease relative to the 2022 fishing year.

Based upon this preliminary quota for the black sea bass commercial fishery, the Committee's preferred trip limits for the 2023 commercial fishing year are as follows:

Season 1 (January-February): option A- 1,000-pound trip four times per week **or**
option B- 2,000-pound trip two times per week **or**
option C- 4,000-pound trip one time per week.

Season 2 (March-April): option A- 1,000-pound trip four times per week **or**
option B- 2,000-pound trip two times per week **or**
option C- 4,000-pound trip one time per week.

Season 3 (May-June): option A- 1,000-pound trip six times per week **or**
option B- 2,000-pound trip three times per week **or**
option C- 3,000-pound trip two time per week.

Season 4 (July-August): option A- 1,000-pound trip six times per week **or**
option B- 2,000-pound trip three times per week **or**
option C- 3,000-pound trip two times per week.

Season 5 (September-October): option A- 1,000-pound trip six times per week **or**
option B- 2,000-pound trip three times per week **or**
option C- 3,000-pound trip two times per week.

Season 6 (November-December): option A- 500-pound trip six times per week **or**
option B- 750-pound trip four times per week **or**
option C- 1,500-pound trip two times per week **or**
option D- 3,000-pound trip one time per week.

Options cannot be combined under any circumstance for a given season. Once a trip has been landed under one option, the vessel is restricted to only that option for the remainder of the fishing week (Sunday-Saturday). Once the following fishing week begins (12:00 a.m. Sunday), the vessel can choose another option under the corresponding season.

The Committee recommends the commercial trip limits for the 2023 commercial black sea bass fishing year as provided in this report.

The committee recommendation is a motion with an automatic second. Motion carries unanimously.

7. Regulatory Actions – J. Brust

Mr. Brust presented to Council the notice of administrative change needed to implement the commercial summer flounder and black sea bass trip limits that Council just approved. Motion by Dr. Donnelly; second by Dr. Bochenek. Motion passes unanimously.

Mr. Brust discussed the Georges Bank Cod notice, but based on previous discussion from Council that decision has been tabled to Council's next meeting.

8. Old Business – J. Brust

Mr. Brust presented Council with an updated 2023 meeting schedule. Dr. Donnelly requested to have a meeting further north. Council approved the dates and time and will select location when confirmed. Motion by Mr. Wark; seconded by Dr. Donnelly. Motion passes unanimously.

Mr. Brust presented the Council with the letter Council requested that encourages the Commissioner to implement replacement values for illegally harvested fish. The letter was sent on October 25th. This is more than just a marine fisheries issue, and the Commissioner has met with stakeholders to discuss replacement values for all fish and wildlife species. Fish and Wildlife staff have also met to discuss further net steps.

Mr. Brust reminded Council of their request to send a letter to the governor and leadership of both chambers of NJ legislature to appoint a legislative commissioner to ASMFC. Staff discussed the issue with the Commissioner's office following the meeting, and before the letter was finalized and mailed, Senator Gopal was appointed as NJ's legislative commissioner to ASMFC. Dr. Donnelly inquired about the two vacant seats on Council. Mr. Brust stated that there are five applicants for the two seats.

Mr. Brust reminded Council of a standing request to have a bluefish advisory meeting to implement trip limits. Through discussions with staff and the committee chair, it was determined that a meeting is not necessary. DEP/Council already have the authority to implement trip limits through notice of administrative change. This process could several weeks, but is a fall back if needed. Moving forward, staff will draft a rule proposal that allows the Commissioner to change trip limits by letter, as is done for fluke and BSB.

Mr. Brust had a request from the last Council meeting to have a Law Enforcement Advisory meeting to further investigate statue to give the saltwater registry more teeth. The meeting will likely take place in the new year. Mr. Brust informed Council that since the last Law Enforcement Advisory meeting, it was determined that the database that houses New Jersey's saltwater registry can be combined with the license database so enforcement can complete a compliance check. This was a recommendation from the last Law Enforcement Committee meeting. Mr. Wark asked how this would affect NJ's participation in the interstate compact. Deputy Chief Snellbaker indicated that the registry is currently separate from the interstate compact, but this could be addressed through changes in the registry program.

Mr. Brust discussed with Council the regulations for non-traditional species that have few or no regulations. Staff sent the list of species to Council to send to for guidance on which species should be prioritized. Mr. Brust indicated that the list did not include forage species such as sand lance and mole crabs, but they should be considered as well. The goal is to create a committee to meet in the spring to help draft regulation for these non-traditional species.

9. New Business

Dr. Bochenek inquired about a letter from a recreational angler discussing summer flounder regulations. Council decided the letter should be forwarded to the Summer Flounder Committee for their consideration.

Mr. Wark discussed NOAA's proposed changes to speed restrictions and gear modifications to protect right whales and other protected species. There is concern from the recreational and commercial sectors on how the proposed changes could affect industry. Mr. Rush agreed with Mr. Wark and recommended a motion to send a letter to Governor Murphy to decline the proposal. Mr. Wark would like to more transparency regarding the data and models used to develop the proposed changes. And would like a letter asking the NOAA team to discuss with Council and staff. Mr. Rush offered a motion for Council to send a letter to the governor to oppose the restrictions, seconded by Dr. Donnelly. There was discussion that the Governor's opposition would be irrelevant to NOAA's enforcement of the regulations. Mr. Kaelin suggested a letter to the Commissioner outlining Council's concerns and noted that a letter being drafted by MAMFC protected resources committee to NOAA raising concerns on the proposal might be a good resource to help develop the Council's letter. Mr. Brust also suggested sending the letter to the Commissioner to organize a meeting with NMFS. Mr. Wark would like to see better communication between NMFS. A friendly amendment was made to send the letter to the Commissioner instead of the Governor with a request to open dialog with NOAA to receive additional information on size and speed limits, justification for gear modification, and description on how the model is working. Motion carries unanimously.

Mr. Rush asked about the status of separating spotted seatrout from the weakfish regulations. Mr. Brust stated that those regulations are in the next rule proposal. Once separated spotted seatrout would need regulation and a committee meeting.

10. Public Comment

There were not any members of the public who wished to make comment.