

NEW JERSEY MARINE FISHERIES COUNCIL
Stafford Township Municipal Building
Manahawkin, NJ
March 7, 2019

Council Attendees: James Alexis
Eleanor Bochenek
Barney Hollinger
John Maxwell
Joseph Rizzo
Robert Rush
Richard Herb (Acting Chairman)

Council Absentees: Sergio Radossi

Division of Fish and Wildlife Attendees:

Larry Herrighty, Director, Division of Fish and Wildlife
Jason Snellbaker, Captain, Bureau of Law Enforcement (BLE)
Jeff Brust, Research Scientist, Marine Fisheries Administration (MFA)
Heather Corbett, Principal Biologist, Bureau of Marine Fisheries, (BMF)
Jeff Normant, Supervising Biologist, Bureau of Shellfisheries (BFS)
Lindy Barry, Senior Biologist, MFA
Greg Hinks, Principal Biologist, BMF
Brendan Harrison, Assistant Biologist, BMF
Laura Versaggi, ACCSP Fishery Specialist
Sherry Bennett, Marine Fisheries Council Secretary

Ms. Bennett read the compliance with the Sunshine Law. Notice of the Marine Fisheries Council (Council) meeting was filed with the Secretary of State on February 4, 2019. Acting Chairman Herb began the meeting with the Pledge of Allegiance.

Minutes from November 8, 2018, and January 3, 2019 meeting were approved.

Audience Conduct

- Mr. Herb reminded the audience to take conversations outside or wait until the end of the meeting and to turn off all cell phones. Individuals wishing to make a public comment will need to sign up.
- Director Herrighty introduced Division Fish and Wildlife (DFW), Natural and Historic Resources Acting Commissioner Ray Bukowski

- Chairman Herb, announced Director Larry Herrighty will be retiring April 1, 2019 and wished him a happy retirement.
- Director Herrighty thanked his staff and Council for all the hard work they do and for bringing him up to speed when he moved into Marine Fisheries.
- Mr. Maxwell made mention of the passing of Atlantic Coastal Shellfisheries Councilman Walter Hughes, recently. Mr. Hughes served on the Atlantic Coastal Shellfisheries for 33 years and will be missed.

Law Enforcement –

Conservation Police Officer (CPO) Captain Snellbaker presented the Council with an law enforcement highlights from December 2018, January and February 2019 (Handout #3).

Highlights include:

- CPO's made multiple monkfish overage cases among the Barnegat Light gillnet fleet in December 2018 and early January 2019. The overages encountered by the officers were as high as 20%. The cases were referred to the National Marine Fisheries Service (NMFS) for enforcement action.
- CPO's found a Cape May otter trawl vessel to have exceeded the biweekly commercial black sea bass possession limit by approximately 7%. The excess fish were seized and sold for fair market value, and the vessel owner and operator were both issued summonses for the violation. The same vessel operator was charged by District 8 CPO's for overage of black sea bass in January 2016. A 60-day permit suspension during the open season is required for exceeding the trip limit in the commercial black sea bass fishery, in addition to significant monetary penalties.
- CPO's apprehended a Barnegat Light commercial vessel in possession of an additional 30 pounds of scallops concealed in gear bags on board the vessel during their inspection. In addition, the gear bags contained small amount of CDS and drug paraphernalia. The responsible party for the possession of the CDS were issued the appropriate charges. The scallop overage was referred to NMFS for enforcement action.
- CPO's conducted a boat patrol off Ocean County, which focused on inspecting anchored gill nets targeting monkfish. Six vessels were found in violation ranging from non-compliance with the Atlantic Large Whale Take Reduction Plan (ALWTRP) to tending unmarked gear and tending gear belonging to other vessels. The cases were referred to the NMFS for prosecution.
- On Sunday, February 3rd, 2019, CPO's observed a commercial fishing vessel enter Point Pleasant. The vessel had been participating in the directed black sea bass fishery, and upon inspection was found to be in possession of 125 pounds over their limit of 1500 pounds. Summons were issued to the Captain and the owner of the vessel for possessing more than the daily trip limit of black sea bass. The case is scheduled to go to court in mid-March and if found guilty, the vessel will have its NJ Black Sea Bass Permit suspended for 60 days in addition to a monetary penalty ranging from \$300.00 to \$3000.00 plus court costs.

- CPO conducted a routine inspection of a North Carolina based vessel tied to a dock in Cape May and discovered they were in possession of 10,000 lbs. of summer flounder and over 2,000 pounds of black sea bass without a NJ landing license for either species. The operator claimed his intentions were to unload the fish in North Carolina and only entered Cape May to pick up a part for his fishing gear. Although the operator had done so successfully in the past, no attempt was made to request the unlawful entry into NJ port. The vessel owner and operator were charged with landing in excess of the bycatch without a directed landing license for both species, and the operator was charged with failing to complete a Federal fishing vessel trip report.
- While on patrol, CPO's came across a string of lobster pots identified as belonging to a vessel with a home port in Maryland. The pots had expired lobster pot tags from a MD vessel. CPO's seized several pots as evidence. A brief investigation through the federal Vessel Monitoring System indicated that the MD vessel never ventured as far north as where the pots were found. The MD owner told CPO's he recently sold 1,000 of his pots to a NJ vessel owner. The NJ vessel owner who purchased the pots confessed during a February inspection that he set the gear unlawfully with the old Maryland owner's identification. In addition, 25 under size tautog, multiple under size Johan crab claws, and an incomplete fishing vessel trip report were found onboard the vessel. State summonses were issued for the undersized violations, and the improperly marked gear violation was submitted to the NMFS for enforcement action.

Legislative/Regulatory Report

Mr. Brust – Presented Council with updates on upcoming Congressional actions.

- HR614/737 – Federal prohibition on sale of shark parts. NJ regulations allow sale of shark parts under certain circumstances.
- HR788 – Amend the High Seas Drift Net Moratorium Act, which would include more shark protection.
- Mr. Rush commented a bill at the federal level on seismic testing is upcoming.

Atlantic States Marine Fisheries Commission (ASMFC) Report –

Ms. Corbett and Mr. Brust presented Council with the ASMFC Meeting Summary held on February 5-7, 2019 in Arlington, VA (Handout #4).

Ms. Corbett

Shad and River Herring Management Board

- The Shad and River Herring Management Board met to receive an update on the progress of the American shad benchmark stock assessment. In November the stock assessment subcommittee (SAS) convened and reviewed the data. The SAS encountered various issues related to data submission. Therefore, the SAS recommended a revised assessment timeline with the completion date moved from the 2019 Annual Meeting to the 2020 Summer Meeting.

- Reviewed an update and approved the shad sustainable fishery management plan (SFMP) for Massachusetts.
- Board received an update from a task directing the Technical Committee (TC) to develop recommendations to address the issue of management inconsistencies in Amendments 2 and 3, which requires SFMP's with quantifiable metrics of sustainability for all river systems for river herring and shad.

Atlantic Striped Bass Management Board

- Due to partial lapse in federal appropriations, the final assessment and peer-review panel reports for the 2018 benchmark stock assessment were not available. Board review of the reports will occur in May 2019 at the Commission's Spring Meeting.
- It is anticipated that the Stock Assessment Review Committee will not endorse the use of the two-stock model to serve as the basis for fishery management advice, and instead will recommend the single-SCA model. The single-SCA model indicated that the stock was overfished and experiencing overfishing in 2017. The Board discussed need for adaptive management to end overfishing. The Board decided to wait before taking action in the form of a plan amendment or addendum and tasked the Technical Committee for additional information.
- The Board decided to draft a letter to NOAA Fisheries opposing opening recreational fishing in the federal Block Island Sound Transit Zone and will review the letter at its next meeting following review of the final assessment reports.
- The Board reviewed Maryland's Conservation Equivalency (CE) Effectiveness Report on 2018 recreational measures for the Chesapeake Bay summer and fall fishery. Maryland concluded that implementation of the new regulations was successful; overall compliance with the regulations was high and overall removals were within the range of the original CE proposal.
- Board approved proposed changes to VA's striped bass spawning stock survey and tagging program.

Mr. Brust

Atlantic Herring Management Board

- The ASMFC approved Draft Addendum II to Amendment 3 for the Interstate Fishery Management Plan for Atlantic Herring for public comment. The Draft Addendum considers measures to protect spawning herring in Area 1A.
- The Board reviewed a report from the Advisory Panel (AP) on the annual specification of Area 1A quota periods. This report was prompted by a motion made in October 2018 which considered initiating an addendum to provide greater flexibility to the Board when setting quota periods. The motion was postponed to give AP the opportunity for input since industry members were split in their support.

- ASMFC staff provided an update on Draft Addendum III, which establishes spawning protections in Area 3.
- The Board tabled action to set 2019 fishery specifications given values were not available from NOAA Fisheries at the time of meeting.

Winter Flounder Management Board

- The Board reviewed fishery specifications for the 2019 fishing year, approved the 2019 FMP Review and state compliance reports, and discussed a recent scientific paper on environmental factors contributing to the recovery of the winter flounder stock.

American Lobster Management Board

- ASMFC initiated Draft Addendum XXVIII to Amendment 3 to the Interstate FMP for American Lobster. The draft Addendum considers reducing the number of vertical lines in the water in response to concerns about the North Atlantic right whale population and the potential impacts of whale conservation measures on the conduct of the lobster fishery.
- The Board recommended to the Policy Board to send a letter to NOAA Fisheries for consideration by the Atlantic Large Whale Take Reduction Team to develop and support a suite of options for electronic vessel monitoring for federally permitted vessels.
- The Board also received updates on the implementation of Jonah crab regulations in NY and DE.
- ASMFC staff provided an update on progress of the 2020 Lobster Benchmark Stock Assessment. The assessment workshop is scheduled for fall 2019.

South Atlantic State/Federal Fisheries Management Board

- The Board met to provide additional guidance to the Cobia Plan Development Team on accountability options that should be included in Draft Amendment 1 to the Atlantic Cobia Interstate FMP. The Board was in favor of maintaining status quo and expected to review public comment in May 2019.
- The Board reviewed and approved annual FMP Review for spot, including *de minimis* requests for NJ and GA.

Atlantic Menhaden Management Board

- The Board indefinitely postponed action on VA compliance with Atlantic Menhaden Amendment 3 Chesapeake Bay Reduction Fishery Cap. If the cap is exceeded in the future, the Board can reconsider the issue of compliance.

Interstate Fisheries Management Policy Board (ISFMP)

- Since the final rule was not available when the Atlantic Herring Board met, the ISFMP Policy Board approved the new 2019 Atlantic herring specifications as listed in Handout #4 on page 16 in Table 1, which are a decrease in quota in response to the assessment.

- On behalf of the American Lobster Board, the Policy Board approved sending a letter to NOAA Fisheries for consideration by the Atlantic Large Whale Take Reduction Team to develop and support a suite of options for electronic vessel monitoring for federally permitted vessels.

Summer Flounder, Scup and Black Sea Bass Management Board

- The Management Board met to consider approval of scup proposals for 2019 recreational measures, finalize 2019 black sea bass recreational measures, consider Virginia and North Carolina proposals for Wave 1 recreational fishery, and receive a progress report from the Black Sea Bass Commercial Working Group.
- The Board approved technical committee recommendations on scup, and states will finalize their 2019 recreational scup regulations in next few weeks.
- The Board approved status quo black sea bass recreational measures for 2019.
- The Board approved VA and NC February recreational black sea bass fisheries.
- The Board approved status quo recreational summer flounder measures for 2019 with caveat that states can submit conservation equivalency proposals to change states regulations to meet the 2019 quota. These proposals are due March 20th and will be reviewed by the Board via conference call in early April.

Mid-Atlantic Fishery Management Council (MAFMC)

Mr. Cimino was absent at the time the Council met because he was currently attending the MAFMC meeting that had been rescheduled. Mr. Brust updated the Council on the status of summer flounder, scup and black sea bass. Due to the timing of all these meetings and the potential to be able to change summer flounder regulations for 2019 in NJ, the question was asked of Council how they would like to proceed if MAFMC approves the states submitted conservation equivalency proposal. After some further discussion. Council made a motion.

MOTION: Cancel May's regular scheduled Council meeting and hold a regular full Marine Fisheries Council meeting toward the mid-April. Made my Mr. Rush, seconded my Mr. Maxwell. Passed unanimously.

- Mr. Brust communicated information he found out from Mr. Cimino regarding Commercial summer flounder earlier in day. The Board approved status quo commercial summer flounder measures for 2019. However, an amendment to reallocate among states for 2020 season has been approved. The 2020 fishery will have a cap of 9.5 million pounds of summer flounder. If states exceed 9.5 million pounds the overage will be reallocated differently among the states.

Marine Fisheries Bureau Report

Mr. Brust presented Council with the Marine Fisheries Bureau Report.

- Position vacancies updates. There have been 12 position announcement postings. Two titles are in process of interviews for March and April.
- Status update on the 1.2 million allocated to Division, is in the Governor's budget, not sure if in the legislative budget.
- Council members should have been invited to the Board Public Utilities (BPU) stakeholder meetings regarding offshore wind energy. BPU held two meetings - one for environmental groups and one for commercial and recreational fishery groups. Both of these meetings were very well attended and many questions that state had submitted were echoed by those in attendance.
 - Mr. Rush commented he recently attended a stakeholder meeting put on by some of the developers. The science questions proposed at this meeting, such as how windmills will affect the ocean as well as the fishing industry, could not be answered by the developers. Raises the question of whether there is data or research to support these windmills. The group kept referencing Block Island, however Block Island has 5 windmills compared to the 500 they want to put in the ocean off our coast. The rate and scale of this project is concerning to fishermen.
 - This led into much discussion by the Council, for there are way too many unanswered questions on the impact on the environment and fisheries, lack of research and data and the fast forward progress of this project is concerning.

MOTION: Send a letter to NJ Governor, BPU, Coastline Politician's and Federal Politician's asking for them not to support moving forward on the windfarm projects until more information is gathered and all questions have been answered. Consider a small pilot farm first to gather data analysis and research on environmental impact, conservation and considerable impact on fisheries and economy of our Coastline. The speed of this project is concerning. Motion made by Mr. Rush, seconded by Mr. Hollinger. Motion approved unanimously.

Mr. Normant proposed a question to Council that they may want to consider their suggestion of building a small pilot farm. Understanding the reasons why Council would want to suggest a pilot farm for the purpose of data collecting, research and impact the windfarm will have on fisheries. However, recently Fishermen's Energy off Atlantic City was denied moving forward because the subsidy to rate payer was not worth what it was economically.

John Depersenaire from Recreational Fishing Alliance presented a letter to Council regarding a statement from RFA on Offshore Wind Development. This letter addresses the Alliances concerns and speed of development of these offshore wind farms. Concerns:

1. Don't know how this will impact the fishery
2. Do know from Europe studies that flounder do not like emissions these farms create, creating a barrier that will impact our NJ fisheries.

3. Council support and sending the letter of request for more research is a positive step since the evidence that does exist is not favorable, and there is no evidence yet that is favorable for such development.

Shellfish Council Report

- **Shellfisheries Bureau Update-** No report

- **Atlantic Coast-** Mr. Maxwell

- **Atlantic Coast Section Leasing Committee**

The Atlantic Coast Section of the NJ Shellfisheries Council's Leasing Committee met in January to discuss updates to the Leasing Policy and future regulatory changes. The Committee's recommendations will be presented to the Council at the March meeting for approval. The Council had also added a task for the Leasing Committee to discuss wild oyster harvest and implications with *Vibrio*.

- **Delaware Bay-** Mr. Hollinger

- **Direct Market Oyster Harvest**

The Delaware Bay Section of the New Jersey Shellfisheries Council passed the quota for the 2019 season. The council followed the recommendations of the Stock Assessment Review Committee's recommendations and have a starting quota of 83,293 bushels. The quota could potentially increase to 107,443 bushels after transplants are conducted. The season will begin April 1st and run through November 22nd.

Committee Reports

Mr. Brust read the **Tautog Committee Meeting and Public Hearing**, dated January 29, 2019, (Handout #5).

- A public hearing targeting with commercial tautog permit holders was held to review program requirements for the commercial tagging program mandated in Amendment 1 to the ASMFC Tautog Fishery Management Plan, and to discuss options for implementation in NJ. The commercial harvest tagging program is required to address an illegal, unreported and undocumented fishery that has persisted for more than a decade. Attendees provided several comments and suggestions regarding aspects of program implementation, including: tag distribution, tag application, tag accounting, penalties for non-compliance, and outreach to publicize the program. Staff will take these suggestions into consideration to further develop the implementation plan. Another meeting and public hearing will be held later this year to further discuss the tagging program and to review preliminary draft regulations for program implementation based on input received at this meeting from fisherman, committee members and advisors.

Mr. Rizzo read the **NJ Marine Fisheries Council Commercial Atlantic Menhaden Advisory Report**, dated February 21, 2019, (Handout #6).

- The purpose of this public hearing was to discuss the potential of an individual quota (IQ) program for New Jersey's commercial Atlantic menhaden purse seine fishery. The public hearing was in response to a request from industry to the Marine Fisheries Council. No attendees were opposed to the concept of an IQ program. Staff provided draft options for implementation of an IQ program, and attendees provided staff with suggestion and concerns. The most discussion occurred regarding allocation of NJ's quota to the individual harvesters. Staff will continue development of the IQ program, taking into consideration the comments provided during the meeting. A second public hearing will be scheduled to review the revised program.

Regulatory Actions

- Mr. Brust brought Council's attention to Handout #7, the Draft Notice of Administrative Change regarding modification of Recreational Blueline Tilefish Seasons and Possession Limits and Commercial Blueline Tilefish Regulations.

After some discussion regarding the purpose of the DNOAC, Council made a Motion.

MOTION: Motion to approve DNOAC regarding the modifications of Recreational Blueline Tilefish Seasons and Possession Limits and Commercial Blueline Tilefish Regulations. Mr. Hollinger made the motion, Dr. Bochenek seconded the motion, and the motions passes unanimously.

Mr. Rush requested staff generate a list of names of fisherman who fish blueline tilefish and set up a committee for blueline tilefish, if by some chance we need to take action in the future.

Old Business –

- Mr. Herb expressed concern over the delay and lack of new appointments to Council by the Governor's Office.

MOTION: Send letter to Governor requesting the need to fill council appointments for Marine Fisheries and Shellfisheries Council's. Include in the letter the economic resources and the impact on industry. Motion made by Mr. Hollinger, seconded by Mr. Rush. Motion approved unanimously.

- Handout #8 is the letter Council requested to be sent to Project Terrapin letting them know their petitions were received and provided information of NJ regulations that were developed in 1998.

- Council members revisited and reviewed the letters sent by Mr. Walt Chew regarding what Mr. Chew believes is the unlawful processing of a scientific permit for the Wetlands Institute. Mr. Herb updated Council members that the 2018 permit has now expired, so nothing can be changed at this point. The Wetlands 2019 Permit Application was reviewed and those areas of concern from the 2018 permit have been updated and clarified prior to issuing the 2019 permit.
 - Mr. Chew presented to Council specific wording on what the law states and questions how a scientific permit was approved in the first place. Commented that law enforcement should review 2018 Wetlands permit and take action as there is documented evidence of violations.

After some discussion Council members considered Mr. Chews concerns are with the way the regulations was written by legislators, and neither Council nor the DFW can do anything to change the law. However, Council agreed to write a letter to Commissioner McCabe, as requested by Mr. Chew, to make her aware of his concerns regarding DFW staff conduct in the matter.

MOTION: Council to write a letter to Commissioner informing them a constituent came to Marine Fisheries Council public meeting and brought his concerns to Council’s attention in how the regulations and statues were written up for those completing and obtaining a Scientific permit. Motion made by Mr. Rizzo, Seconded by Dr. Bochenek. Motion 4 yes, 2 opposed, motion passes.

New Business-

- Mr. Brust updated Council that DFW have received a half dozen advisory applications. Mr. Brust will schedule an Executive Committee meeting by phone to review advisory applications.
- Mr. Brust will set up a summer flounder committee meeting in April.
- Staff will be holding 3 outreach meetings for commercial crabbers regarding reporting forms. Meetings are scheduled to be held at 5pm on March 12 at Ocean City Library, March 14 at Toms River Library, and March 18 at Cumberland County Library.
- Mr. Maxwell asked for an update on committee assignments. Mr. Brust will add topic to April Marine Fisheries Agenda.
- Director Herrighty commented the next Director for the Division of Marine Fisheries will be Dave Golden.

Public Comment –

James Parker – In reference to the individual fishing quota for menhaden seining. Gathers there are permits that are outstanding, where permittees have paid for their permits every year, but have not used them. Permits that were issued to them because they met the requirements to obtain them.

However, now changes are to be made to benefit someone else. Mr. Parker does not hold a menhaden purse seine permit, he has a gillnet permit, but he expressed his concern for fear his permit will be jeopardized next.

Eddie Yates – question to Mr. Brust for clarification on status quo on black sea bass and summer flounder. Mr. Brust commented that there is no flexibility to shift dates on the black sea bass, however summer flounder was approved with a caveat for states to apply for conservation equivalency proposal. If states proposal is approved the intent is to move the start date to Friday before Memorial Day and not Saturday.

Meeting adjourned (7:18pm).

Next Meeting was scheduled for April 16, 2019

Stafford Township Bay Community Center,
775 East Bay Ave. Manahawkin, NJ 08050.

Meeting Time: 5:00 pm

**** NOTE THIS IS NOT OUR REGULAR SCHEDULED MEETING DATE ****

May's meeting has been canceled in lieu of this April meeting.

Next regular Council meeting will be July 11, 2019.