

NEW JERSEY MARINE FISHERIES COUNCIL
Galloway Library
Galloway Township, NJ
November 2, 2017

Council Attendees: James Alexis
Erling Berg
Eleanor Bochenek
Barney Hollinger
Sergio Radossi
Robert Rush
Joseph Zaborowski
Richard Herb (Acting Chairman)

Council Absentees: John Maxwell
Frances Puskas
Joseph Rizzo

Division of Fish and Wildlife Attendees:

Larry Herrighty, Director of Division of Fish and Wildlife
Jason Snellbaker, Captain, Bureau of Law Enforcement (BLE)
Sean Cianciulli, Deputy Chief, BLE
Russ Allen, Bureau Chief, Bureau of Marine Fisheries (BMF)
Jeff Brust, Research Scientist, Marine Fisheries Administration (MFA)
Tom Baum, Supervising Biologist, BMF
Russ Babb, Supervising Biologist, Bureau of Shellfisheries (BSF)
Heather Corbett, Principal Biologist, BMF
Mike Celestino, Research Scientist, MFA
Jeff Normant, Bureau of Shellfisheries, BSF
Peter Clark, Senior Biologist, BMF
Scott Stueber, BMF
Jamie Darrow, BMF,
Sherry Bennett, Marine 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 September 28, 2017. Mr. Berg began the meeting with the Pledge of Allegiance.

MOTION: The July and September Council Meeting Minutes are approved, pending any revisions from Council. Made by Mr. Radossi, seconded by Mr. Alexis. Motion passes, unanimously.

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.

Law Enforcement

Captain Snellbaker presented the Council with an update of the Law Enforcement Report for August, September and October 2017, Handout #3. Highlights include:

- On 8/25/2017, ten CO's executed a search warrant for the seizure of oysters over 1.5 inches at a commercial aquaculture facility along the Restricted Waters of Shrewsbury River. The owner of the facility had previously been issued summonses for the same violations in May. While conducting a follow up inspection at the facility more than 150,000 oysters were sorted, measured, and counted with just over 27,000 being seized.
- On 8/27/2017, while responding to a complaint of people keeping illegal fish, CO apprehended more than five people that were actively clamming in the Restricted Waters of Shark River. They were issued various summonses and written warnings for violations including: Failure to obtain a shellfish license, clamming in restricted waters, possess undersized summer flounder and black sea bass, and interference with the duties of a conservation officer.
- On 9/4/2017, CO were patrolling the Axel Carlson reef in response to complaints that people were keeping black sea bass during closed season. CO's checked over 20 recreational fisherman during their patrol and issued eight summonses. Violations included keeping undersized summer flounder, interference with the duties of a conservation officer, and several summonses for keeping black sea bass in closed season.
- CO's charged two men for possession of undersized tautog that they purchased, in addition to multiple undersize tautog that they caught themselves. Another two men were apprehended and charged with taking tautog for the purpose of sale without a commercial license, selling tautog during the commercial closed season and taking undersize tautog. Maximum penalties exceed \$13,000 for these violations.
- CO's conducted inspections by vessel of individuals returning from trips at the artificial reef sites the Monday after Labor Day weekend. The CO's experienced a high violation rate for individuals in possession of undersize summer flounder and black sea bass during the closed season. The two fish possession limit of black sea bass closed on August 31st. Many anglers claimed they thought the black sea bass season coincided with the fluke season which closed on September 5th. During the vessel patrol, CO's issued 6 summonses and several warnings.
- Over the course of two days in September, CO's made 3 over the limit bluefish cases with individual's exceeded the recreational bag limit of fifteen. One individual was found in possession of 42 over the daily limit. Average size of the fish was about six inches.

- Captain Shellbaker graduated from the National Association of Conservation Law Enforcement Chiefs', National Conservation Law Enforcement Leadership Academy (NCLELA).
- On 9/22/2017, CO's was patrolling the Point Pleasant Canal when he observed a group of fisherman keeping undersized tautog. Summons were issued for over the limit and undersized tautog as well as interference with the duties of a conservation officer.
- On 10/18/2017, CO's, accompanied by NMFS Enforcement Officer, were on boat patrol in the Atlantic Ocean just off Monmouth Beach, when they spotted a familiar NY vessel which possesses a permit to sell fish in NY. As the officers approached the vessel a large tote was immediately dumped overboard. Upon inspection the fisherman claimed they dumped clams and that they were just fishing recreationally. The fisherman were issued summonses for failure to obtain their NEW JERSEY Saltwater Registries and for disposing fish after the officers indicated their intentions to perform an inspection.
- CO's inspected a Cape May based commercial otter trawl vessel in possession of a large cobia during the commercial Atlantic Federal waters closed season. After a brief investigation, the CO's determined the vessel was targeting summer flounder in federal waters when they caught the cobia. CO's referred the case to the NMFS for Federal enforcement action.
- CO's charged a Barnegat Light vessel owner and operator for landing and selling over 350 pounds of bluefish caught by hook and line during the commercial hook and line closed season. CO's determined the vessel landed the bluefish on two separate occasions during the closure in September and sold them to a dealer in New York City. The dealer was also charged for accepting the bluefish caught by hook and line during the closed season.
- CO's in District 8 conducted many hours of surveillance and inspections of recreational anglers targeting tautog along shoreside locations of south Jersey. Many summonses were issued as people took unlawful advantage of the increased shoreside abundance of tautog typical for the month of October. One individual was apprehended in Barnegat Light in possession of 23 tautog over his daily limit. Another was apprehended with 16 tautog over his daily limit. The majority of the fish were also under the legal size limit which is a separate and distinct offence. Both individuals were issued the appropriate summonses.

Legislative/Regulatory Report – No report at this time.

Atlantic States Marine Fisheries Commission (ASMFC) Report

Mr. Baum, Ms. Corbett and Mr. Allen, updated Council with the ASMFC Summer meeting held in Norfolk, VA on October 16-19, 2017 (Handout# 4a).

Ms. Corbett

- **South Atlantic State/Federal Fisheries Management Board**

South Atlantic board has chosen to change New Jersey regulations for New Jersey (NJ) cobia fishery. NJ will have a choice of one fish per vessel at a minimum of 29" fork length (FL) or

total length equivalent or they may select to adopt Virginia (VA) regulations when they are proposed. Matching VA regulations may mean restrictions on season limits, larger size limits and intent to make trades of size and seasons for bag limits. The Interstate Fishery Management Plan (FMP) provides the opportunity for states to declare *de minimis* status for their recreational fishery if landings constitute less than 1% of the recreational Atlantic Migratory Group (AMG) cobia harvest. States must submit implementation plans to the Commission by January 1, 2018 for Technical Committee review and Board approval at the February 2018 meeting. Approved plans must be implemented by April 1, 2018.

Mr. Baum

- **American Lobster Management Board**

ASMFC American Lobster Board approves Draft Addenda XXVI & III to the American Lobster and Jonah Crab FMP's for public comment. Public comment will be accepted until 5:00 pm (EST) on January 22, 2017. NJ will host a public hearing in Wall Township, on January 8, 2018, the Commission will release a press release soon.

The Board agreed to review the goals and objectives by which the Southern New England (SNE) stock is managed, engage with the Commission's Climate Change Working Group, and develop terms of reference for the 2020 Stock Assessment. The Board tasked each Lobster Conservation Management Team with developing proposals to reduce latent effort in the respective management areas.

The Board also addressed inconsistencies between the state and federal regulations for the Lobster Conservation Area (LCMA) 4 season closure. The Board agreed that dual-permit holders in LCMA 4 do not need to remove their gear from other management areas during the LCMA 4 season closure, which occurs from April 30 – May 31.

- **Spiny Dogfish Management Board**

The Commission's Spiny Dogfish Management Board approved a spiny dogfish commercial quota of 38,195,822 pounds for the 2018 fishing season (May 1st, 2018 – April 30, 2019). The Board maintained a 6,000 pound commercial trip limit in states waters in the northern region (ME through CT).

- **Atlantic Herring Section**

Approved the seasonal allocation of the Area 1A total allowable catch (TAC) at 30,300 metric tons.

- **Coastal Sharks Management Board**

The Coastal Sharks Management Board met to consider adopting complementary measures to Amendment 5b to the Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP). After presentations and discussion considering the different complementary measurements, Amendment 5b did not move forward. The Board will set final 2018 specifications for Atlantic coastal sharks via an email vote, when final rule is published by NMFA.

- **Atlantic Coastal Cooperative Statistics Program Coordinating Council (ACCSP)**

The ACCSP approved to fund all maintenance proposals, deviating from the 75%/25% split, do not fund the new proposal from the MAFMC and use the remaining funds on new proposals as recommended by the Operations and Advisory Committees. If there is a funding shortage the deciding body would be the ACCSP Management and Policy Committee.

- **Summer Flounder, Scup and Black Sea Bass Management Board**

- The Board met to consider Draft Addendum XXX; receive an update on preliminary recreational harvest estimates through wave 4 (July-August 2017); consider a wave 1 recreational black sea bass fishery for 2018.
- The Board received preliminary recreational harvest estimates through wave 4. Coastwide harvest estimates for summer flounder, scup, and black sea bass were below the 2017 recreational harvest limits for all three species based on the preliminary information.
- The Board approved the recommendation for NMFS to open the black sea bass recreational fishery in federal waters from 2/1/2018-2/28/2018 with a minimum size limit of 12.5" and a per person daily possession limit of 15 fish. Based on staff analysis, the 2018 recreational harvest limit that applies to the remainder of the fishing year will be reduced by the preliminary estimate of 100,000 lb. to account for expected catch during the February season. Adjustments to the 2018 recreational measures to account for this estimated February catch will be required only of states that participate in the February fishery.

Mr. Allen

- **Tautog Management Board**

The Board selected final management measures to be included in Amendment 1 to the FMP and recommended final approval of the Amendment. NJ's recreational and commercial measures require a state specific 2% reduction. States must submit proposals by December 1, 2017, implement all measures other than the commercial tagging program by April 1, 2018, and implement commercial tagging program by January 1, 2019.

- **Horseshoe Crab Management Board**

The Board approved the 2018 specification for horseshoe crabs of Delaware Bay origin. Under the Adaptive Resource Management (ARM) Framework, the Board set a harvest limit of 500,000 Delaware Bay male horseshoe crabs. Based on the allocation established NJ's quotas stands at 162,136 males, however, NJ has a moratorium of horseshoe crab harvest.

- **American Eel Management Board**

The Board reviewed the results of the 2017 American Eel Stock Assessment Update, which indicates the resource remains depleted. The eel population may not be healthy, but the population appears stable and not changing. Therefore, the Board will initiate an addendum to consider alternative allocations, management triggers, and coastwide caps relative to the current management program for both the yellow and glass eel commercial fisheries starting in 2019 fishing season.

Mid-Atlantic Fishery Management Council (MAFMC)

Mr. Baum presented Council with the MAFMC Meeting Summary, met October 10-12, 2017 in Riverhead, NY (Handout #5A and #5B).

- **Surfclam and Ocean Quahog Goals and Objectives**

The Council is considering potential revisions to the Surfclam and Ocean Quahog (SCOQ) Fishery Management Plan (FMP) goals and objectives. Council was presented with a revised set of goals and objectives developed by the Fishery Management Action Team (FMAT). The Council approved the revised goals and objectives for inclusion in a public hearing document for the SCOQ Excessive Share Amendment. The Council and public will have additional opportunities to provide input.

- **Golden Tilefish Individual Fishing Quahog Program Review**

Council staff presented the results of a 5-year review of the golden tilefish Individual Fishing Quota (IFQ) program, which is required under the Magnuson-Stevens Act (MSA). Reviewed by the FMAT the report provides the progress of the Golden Tilefish IFP Program towards achieving the stated goals of reducing overcapacity and eliminating the problems associated with derby fishing. It was found that overcapacity has been reduced since the program was implemented, and it appears that derby-style fishing has subsided and that ex-vessel prices have improved under the IFQ system. The Council agreed to postpone final approval of the report until December 2017 to allow an opportunity for public comment. Comments are due by November 17.

- **Ecosystem Approach to Fisheries Management Risk Assessment**

The Council reviewed and approved a list of risk elements to include in an Ecosystem Approach to Fisheries Management (EAFM) Risk Assessment. When fully implemented, EAFM will integrate multiple ecosystem considerations into decisions for Council managed species. These considerations include predator/prey interactions, changing habitats, shifting species distributions, social and economic dynamics, and others. The first step in implementation of EAFM is completion of a risk assessment which will be used to analyze the highest risk interactions for each species and identify strategies for addressing these risks. The risk elements approved by the Council are defined as “aspects that may threaten achieving the biological, economic, or social objectives that the Council desires from a fishery.”

- **2018 Recreational Black Sea Bass Wave 1 Fishery**

The Council approved a new Wave 1 fishery measure for federal waters. These measures are a season from February 1-28, 2018, a 15-fish possession limit, and a 12.5-inch minimum size. Council also stipulated that the 2018 recreational harvest limit that applies to the remainder of the fishing year will be reduced by 100,000 pounds to account for expected harvest during the February season and that any adjustments to the 2018 recreational management measures to account for this harvest will only be required of those states that participate in the February fishery.

- The next MAFMC meeting will be held December 11-14, 2017 in Annapolis, MD.

Marine Fisheries Bureau Report – Mr. Brust

- Mr. Brust brought Council's attention to Handout #4b. A letter from the ASMFC regarding Commerce Secretary's commitment to state-led management of interstate fisheries under the Atlantic Coastal Act. The Commission delegation stressed that interstate fisheries management is best accomplished by the states, which is why Congress enacted the Atlantic Coastal Act in 1993. To mitigate future noncompliance findings, the Commission delegation asked the Commerce Secretary to provide a public affirmation of his support for the Atlantic Coastal Act process. In the case of New Jersey ruling on summer flounder, these actions were one-time decisions, and moving forward, states found out of compliance should certainly not assume the Commerce Secretary will automatically side with them. Moving forward the ASMFC and NOAA are committed to better communications and discussion of possible noncompliance issues early in the process.
- Mr. Allen updated Council with the difficulty it has been to fill empty staff positions. Potential prospects have either declined or are thinking. Biggest worry is the election next week that could freeze all this progress below.
 - Positions such as Bureau Chief Marine Fisheries have been a challenge.
 - Waiting on final approval for three new biologists' trainee positions.
 - Selected 2 candidates for Research scientist 3 positions. One has already declined the position.
 - Few promotions for Senior and Principal Biologist have been interviewed.
 - In regards to the 1.2 million budget for salaries, a plan was established to hire 19 new positions, support operations such gear, equipment, projects and hire hourlies. Still waiting for a response.
 - Help will be greatly appreciated from council and public to help facilitate this hiring process. As the process takes a long time to go through the chain and the Department is way over due for filing empty vacancies.

Mr. Herb and Mr. Alexis plan to meet with Senator Van Drew within the next week.

Shellfish Council Reports - No reports at this time.

Committee Reports – No report at this time.

Regulatory Actions – Mr. Baum & Mr. Allen

Presented Council with Draft Notice of Administrative Change, (DNOAC), regarding modifications of recreational and commercial tautog seasons, recreational black sea bass seasons and possession limits, and scup commercial seasons (Handout #6).

After some discussion among the Council members, NJ DEP Staff, and public comment the recreational & commercial tautog season and recreational black seas bass seasons & possession limits were removed from the DNOAC and postponed for further action at the Council's January meeting. In regards to the tautog a committee meeting will be held to review the proposed options, and the recreational black sea bass seasons and possession limits have too many questions and input from an advisory board would be beneficial prior to Council making a decision.

MOTION to accept the DNOAC to modify the commercial scup summer season from May 1 through October 31 to May 1 through September 30. Motion Made by Mr. Zabrowski, seconded by Mr. Alexis. Motion passes unanimously.

Old Business

- Mr. Herb reminded public that positions are available for the Advisory Board and suggest filling out an application prior the Executive Committee Meeting to be held in three weeks. Application deadline is November 15, 2017.
- Mr. Nowalsky commented that there are three different Advisory Bodies who are actively looking to fill positions on their Advisory panels: 1. Mid Atlantic Council and 2. Atlantic States Commission both located out of state and 3. A panel specific to the state of NJ.

New Business

• **Committee Meetings to be held:**

Executive Committee Meeting – prior to Thanksgiving

Commercial summer flounder and black sea bass – first week in December

Recreational black sea bass – after the Commissions joint meeting, week of December 18th

Commercial and Recreational tautog –tentative mid-January

Crab – proposed a date sometime in January

- Mr. Brust presented Council with 2018 Marine Fisheries Council Meetings (Handout #7). Three of the six meetings have been confirmed.
- Mr. Rush requested to change time of the Council meetings to allow fisherman time to attend. Requested time change to be added to the Executive Committee agenda for input.

- Council agreed to try 5:00 pm start time for the January Council Meeting. Requested Executive Committee to add this to their agenda for officially changing the time for future Council Meetings.

Comments in New Business

- Mr. Nowalsky, Thank Tom Baum and Russ Allen for all their years of dedication at the NJDEP, Marine Fisheries. Their presence will be missed and wish them both well on their retirement. Mr. Rush as well as the rest of the Council and public Thanked Mr. Baum and Mr. Allen.

Commented that management process is the broken process. When you talk about a biomass on paper is plentiful, but still reducing fisheries here or there.

Council may want to consider two committee meetings for recreational black sea bass. Hold one in January to consider action on the possible adding February 1-28, 2018 season. The second one in May to review the Addendum XXX, which determines the 2018 fishery.

- Mr. Radossi agreed that management process is broken, however what is happening is loss of the bigger picture. The federal level doesn't care what the states do, and the states are left in this self-preservation mode. When really actions should be determined on the betterment for all, and not for self-gain.
- Mr. Rush reinstated that the public needs to show up at these meetings and make their voices heard to fight not just the issues but also the management of all these issues.

Public Comment

Mr. Bogan – Federal government may not care about states, however the MAMFC is made up of states and rare for them to diverge. Black sea bass used to have a 171 day winter season, we are now down to 51 days, that's a huge a deficient. Need better data and information.

Mr. Yates – Disappointed in the continue loss of fishing days. Our fishery is not overfished, when will data be presented to the ASMFC, MAMFC, and NOAA to show there are fish. Against opening the February season for black sea bass if it is going to cost us fish come spring and fall. Mr. Nowalsky- Commented the current VTR data is not complied until the end of the year. However, what's to go in effect March 2018 will be a new online VTR and fisherman will be required to report. Come 2019, the idea is to have an application for a letter of authorization from NMFS to fish in the winter season.

Doug Zemeckis – spoke about the 8 tagging trips preformed over winter on black sea bass, to measure length, discard morality, and measure movement. Results will be finalized mid-December. Will be happy to give a presentation at the Advisory Committee meeting mid-December.

Mr. Gutman- In favor of opening Wave 1, February season for black sea bass. Note this was a motion made and supported by NY and NJ. Opening this season was because of a large biomass. Not about how many boats that are out there, it is about opening access to all people. Less days, hurts the people. Not opening this Wave 1, in fear that the other waves may lose few to one or possibly no days at all during the later waves. Made a comment to inform Council that while it is great to advocate for public to go to the ASMFC and MAFMC meetings, Council should note that they are not allowing all people to speak. Mr. Rush followed up and said the impact of people present will eventually be noticed by these administrations.

Mr. Joe Sigorsky - the Council needs to get all options and how many people will access the fishery, and should not support changes until you have all the data. Will support the February season for black sea bass as long as NO loss of dates, closures or size of fish. Must be no impact on the rest of the season if February is open.

Mr. Willie Yaeger- if “we” open February, means something “we” risk losing during the heart of the season.

Mr. Chris Hueth – Supports opening February season, as long as no other waves/seasons are impacted.

Mr. Hartel – Opposes opening February if it impacts the rest of the season.

Meeting adjourned. Next Meeting is January 4, 2018, Galloway, NJ, **NEW TIME 5:00 pm**