

NEW JERSEY MARINE FISHERIES COUNCIL
Galloway Township Library
Galloway, New Jersey
January 8, 2015

Council Attendees:

Erling Berg (Acting Acting Chairman)
Eleanor Bochenek
Walter L. Johnson III
Frances Puskas
Sergio Radossi
Joseph Rizzo
Robert Rush
Joseph Zaborowski
James Alexis

Council Absentees:

Acting Chairman Richard Herb
Councilman Scott Bailey

Division of Fish and Wildlife Attendees:

David Glass, Deputy Commissioner
David Chanda, Director of Fish and Wildlife
Brandon Muffley, Administrator, Marine Fisheries Administration (MFA)
Russ Allen, Bureau Chief, Bureau of Marine Fisheries (BMF)
Russ Babb, Acting Chief, Bureau of Shellfisheries (BSF)
Tom Baum, Supervising Biologist, BMF
Jeff Brust, Research Scientist, MFA
Mike Celestino, Research Scientist, MFA
Lieutenant Jason Snellbaker, Bureau of Law Enforcement (BLE)
Hugh Carberry, Principal Biologist, BMF

Mr. Muffley updated Council that Mr. Bailey was recently elected as Chair of the Delaware Bay Shellfish Council. Mr. Muffley read the compliance with the Sunshine Law. Notice of the Marine Fisheries Council (Council) meeting was filed with the Secretary of State on December 8, 2014. The November 6, 2014 Council meeting minutes were approved unanimously. Mr. Berg began the meeting with the Pledge of Allegiance.

Audience Conduct

Mr. Berg 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 Report

Lt. Snellbaker presented the Council with the Law Enforcement Report for October-December (detailed report provided in Handout #1).

- On 09/24/14 while patrolling the area around Manasquan Inlet a commercial fishing vessel's Captain and owner were issued one summons each for landing over the commercial limit of summer flounder and for landing over the by-catch allowance of black seabass.
- On 09/30/14 while patrolling Morgan Inlet three fisherman had 183 snapper bluefish in their possession. They were over their recreational limit by 138 bluefish. Three summonses were issued for possession of the over the limit bluefish.
- On 10/04/14 while patrolling Barnegat Light, two men were in possession of 40 sublegal blackfish (tautog). The men were issued one summons each for 40 undersized blackfish and 38 blackfish over limit.
- In the afternoon of 10/06/14 while patrolling the Barnegat Light jetty based on complaints of fishermen taking copious amounts of blackfish, both over limit and undersized. Upon inspection, three men were found to be 46 blackfish over their daily limit, 38 of which were undersized. Summonses for these violations were issued to all three individuals.
- On 10/09/14 while working the Point Pleasant Beach area CO issued one summons to each Captain and owner for failing to call in their summer flounder landing and for the black seabass by-catch overage.
- On 10/09/14 CO's issued summonses to the Captain and owner for leaving three anchored gillnets unattended during the hours of darkness. The nets were seized and summonses issued for failing to stay within 0.5 mile of staked gill nets during the hours of darkness. The nets are also subject to forfeiture.
- In the morning on 10/14/14 CO's issued summonses to the Captain and owner for the following violations: Landing summer flounder during closed commercial season, landing over the limit of by-catch of summer flounder, and failure to call in the landing of a commercial black seabass trip.
- Southern marine officers have been busy conducting patrols and surveillance for recreational tautog fishing compliance. Southern marine officers wrote approximately 75 summonses from Sept. 21 to Oct 20 involving tautog fishing which include littering and interference charges. People are becoming more creative in an attempt to elude apprehension when it comes to tautog violations as CO's increase enforcement pressure.
- On November 8th, while on boat patrol off of Sea Bright, Monmouth County, conducting fishery compliance inspections on fishermen bottom fishing Sandy Hook Reef and the Shrewsbury Rocks. Their first inspection resulted in a total of six summonses, including four for possession of undersized tautog and two to the captain for possession over the daily limit. An hour later, a boat from New York fishing in New Jersey State waters was found to be in violation and was issued a summons for five tautog over the daily possession limit. Shortly after, summonses were issued to another New York vessel fishing in the same area after an inspection revealed 18 tautog over the daily limit. Officers suspected the

vessel was keeping these fish alive for sale in New York where they are in high demand.

- On November 16th, at Leonardo State Marina, in Middletown, Monmouth County. Summonses were issued to both the father and son for possession of 8 undersized black sea bass.
- In response to numerous tautog violations occurring in Barnegat Lighthouse State Park, Conservation Officers from Districts 4, 7 and 8 participated in operations conducted on October 26, November 9, and November 15. This joint effort resulted in the apprehension of numerous violators resulting in 28 summonses issued for over the limit and undersized tautog.
- District 8 continued to be busy with recreational tautog violations this month, responding to several complaints and conducting surveillance. Conservation Officers continue to apprehend individuals with prior tautog violations. In one particular incident this month, CO apprehended and issued summonses to two individuals at Cape May Inlet with 45 tautog over the limit, 39 of which were under legal size. CO apprehended and charged one of those fishermen last year at the same location with 30 tautog over his limit.
- Three individuals from Marlton were apprehended for poaching tautog in North Wildwood. On the last day of their vacation, the COs observed the fishermen catch tautog throughout the day. Once the fishermen reached a daily trip limit of one tautog per person, they were observed taking the fish into their rented condo and returning to fishing. COs observed this behavior occur on three separate occasions throughout the day before making apprehensions. The COs managed to recover 15 tautog from the condominium and charge the three individuals with the undersize and over limit tautog. Two of the three fishermen apprehended in this incident had prior tautog violations from this fall.
- CO apprehended a commercial conch pot fisherman in Sea Isle City with 300 undersize conchs. The fisherman is also the captain of the vessel being investigated for shooting a whale during pelagic longline operations. The penalty for undersize conchs is \$30.00 per conch.
- CO apprehended three commercially licensed shellfishermen for harvesting hard clams from the condemned waters of Jarvis Sound in Cape May County. Jarvis Sound is a seasonal area approved for the harvest of shellfish only between January 1st and April 30th. The individuals admitted to CO that they harvested and subsequently sold hard clams from the area on a prior occasion this month, prompting an investigation conducted by NJ Department of Health. All three shellfishermen were issued summonses for harvesting shellfish from condemned waters.
- CO's assisted the US Coast Guard and National Marine Fisheries Service during an investigation of a commercial scallop vessel. The vessel was found to have exceeded the 600 pound trip limit for vessels fishing under a Limited Access General Category permit. In addition, the scallop dredge on the vessel was not in compliance with the sea turtle deflection requirements which were implemented into law in the mid-Atlantic in 2012. Federal charges were filed by the National Marine Fisheries Service.

- The fall striped bass run in south Jersey turned off as quick as it turned on. With a lot of desperate anglers trying to fill their freezer for the winter, COs in district 8 responded to complaints of striped bass fishing occurring in the Exclusive Economic Zone (EEZ). The EEZ has been closed to fishing for and the possession of striped bass since 1988. In late November CO's apprehended a recreational fishing vessel in possession of striped bass in the EEZ. The anglers claimed they caught the striped bass in state waters earlier in the day and ventured out into EEZ waters to catch bluefish. The anglers were processed federally for the unlawful possession of striped bass in the EEZ and the case has been forwarded to the National Marine Fisheries Service for prosecution.

Legislative/Regulatory Report

Mr. Muffley presented Council with the Legislative and Regulatory Report. (Handouts #2 and #9):

- Regulatory changes made at last Council's November meeting appeared in the NJ Register on January 5, 2015 for the removal of mandatory V-notching of American lobster and modification of American lobster season and commercial trip limits for black sea bass and summer flounder.
- A3932/S2615 provides diamondback terrapins protection as nongame indigenous species.
- Mr. Glass and Mr. Carberry presented and updated Council with a summary of the proposed rule that will strike a balance between recreational and commercial fishing interests over access to artificial reefs off the coast of New Jersey, and calls for the construction of a new reef in state waters.
- Eight individuals, one individual in particular William Figley, made public comment thanking the Governor and this Administration as well as the Division Fish and Wildlife and Council, for finally proposing a decent compromise on fishing interests to artificial reefs.
- Mr. Zaborowski thanked Mr. William Figley for all his years in making the reef program and sport fishing what it is today though all his hard work and dedication on the artificial reef programs.
- **Move to approve the proposed reef regulations at N.J.A.C. 7:25-18.5A as presented and to be published in the February 2, 2015 New Jersey Register. Motion by Mr. Radossi, second by Mr. Rizzo. Motion passed unanimously.**

Atlantic States Marine Fisheries Commission (ASMFC) Report

Mr. Allen presented Council with ASMFC Management Board (Board) preliminary Winter Meeting agenda to be held in February 2015. (Handout #3): Items of interest for the next Council meeting in March will likely address summer flounder, striped bass, black sea bass and lobster. There will also be a review of stock assessments on menhaden, tautog and black drum.

Mid-Atlantic Fishery Management Council (MAFMC)

Mr. Baum presented Council with an update on the MAFMC meeting, held in Baltimore, MD from December 8-11 2014 (Handout #4).

- The Mid-Atlantic Fishery Management Council met jointly with ASMFC's Summer Flounder, Scup & Black Sea Bass Management Board from to discuss the Comprehensive Summer Flounder Amendment and to set the 2015 recreational management measures for those species. Staff presented a summary of public input provided during the scoping process from the 14 public hearings. The Council and Board identified four categories of issues to be addressed in the amendment: (1) Fishery Management Plan (FMP) goals and objectives, (2) quota allocation between the commercial and recreational sectors, (3) commercial management measures and strategies, and (4) recreational management measures and strategies. In addition, the Council and Board agreed to address issues related to discards, ecosystems, and catch monitoring. Next steps for the amendment will include a Fishery Management Action Team (FMAT) meeting and establishment of issue-specific working groups. The Board and Council approved draft Addendum XXVI for public hearings and comment. This Addendum will provide regional management options for the 2015 summer flounder recreational fishery. Options include Conservation Equivalency; 2014 adaptive regional management; Delaware Bay included with the Southern Region; Delaware Bay as a separate region; NJ divided between the Northern and Southern Regions. The ASMFC will hold a public hearing on Draft Addendum XXVI to the Summer Flounder FMP on January 12, 2015, in Toms River.
- New England Council staff conducted a public hearing on its draft Omnibus Essential Fish Habitat (EFH) Amendment 2. The Council developed comments focused on the EFH and Habitat Area of Particular Concern (HAPC) Alternatives, and Spatial Management Alternatives proposed within the Amendment. The Council agreed to send a letter with these comments to the NEFMC. The NE Council also held a public hearing on December 5, 2014 in Cape May, NJ. Among the issues that are pertinent to NJ include a request by industry to exclude Cape May Harbor (and possibly the waters of southern NJ) as Winter Flounder Essential Fish Habitat (EFH).
- The Council discussed a number of issues presented in the Tilefish White Paper developed by staff. The Council passed a motion to include the following items in the Framework 2 to the Tilefish FMP: 1) change the specification process to account for separate discards in the IFQ and incidental portions of the fishery; 2) deal with possible elimination of the IVR system; 3) require tilefish be landed with head attached (i.e., head-on gutted or whole); 4) prohibit vessels from fishing for more than one IFQ allocation at a time; and, 5) prohibit the use of mini-long lines in the recreational fishery.
- The Council voted to send a letter to Mid-Atlantic and Southern New England states requesting the states adopt consistent incidental commercial trip limits and recreational bag limits for blue-line tilefish to prevent the unmanaged expansion of

this data-poor fishery. This is in response to a concern from the South Atlantic Fishery Management Council over the recent significant increase in blueline tilefish landings in New Jersey due to a lack of regulations. Maryland and Virginia implemented measures a few years ago that include a 300-pound commercial trip limit and a 7-fish recreational possession limit. The South Atlantic recreational measure is 1-fish per boat.

Upcoming public hearings include

- January 13, 2015, Cape May – Mid-Atlantic Fishery Management Council public hearing on the Deep Sea Corals Amendment to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP). The amendment considers measures to address the potential impacts of fishing gear on deep sea corals in the Mid-Atlantic.
- January 14, 2015, Cape May – Mid-Atlantic Fishery Management Council public hearing on the Cost Recovery Amendment to the Atlantic Surfclam and Ocean Quahog FMP. The Amendment proposes measures to collect fees and recover costs associated with the management of these fisheries.

Jeff Kaelin, New Jersey MAFMC member from Lund’s Fishery, updated the Council’s on the ongoing development of an Ecosystem Approaches to Fisheries Management (EAFM) guidance document. The Council voted to initiate a regulatory action to prohibit the development of new, or expansion of existing, directed fisheries on unmanaged forage species until adequate scientific information is available to promote ecosystem sustainability.

Council staff provided an update on the Habitat Pilot Project and other Committee Priority Activities. The Habitat Pilot Project is intended to support the development of overarching fish habitat objectives for the EAFM Document. The project involves several elements, including production of a report on current practices and objectives used in the identification of critical habitat areas in the US and abroad, the development of policy statements on anthropogenic impacts on fish habitat, and the development of multi-species Habitat Areas of Particular Concern (HAPCs). Since the last update, an Oversight Team has been formed and a contractor has been selected. The Habitat Practices Report and background/policy documents are currently under development. This phase of the project is expected to wrap up in spring 2015.

Shellfish Council Reports

Delaware Bay – No report.

Atlantic Coast –No report

Council/Bureau Activities

Mr. Babb gave the Council an update on both sections of the Shellfisheries Councils and on the Bureau's activities. Of primary note, Mr. Babb reported that the Bureau and the Council has undertaken an ambitious schedule to attempt to address some of the issues facing shellfish aquaculture leasing and leasing procedures. Mr. Babb explained that the two sections of the Councils each reconvened their leasing committees in January. Since that time, six separate committee meetings have been held discussing revised lease fees, new lease policies, potential changes to the leasing regulations, new lease allocation procedures and lease expansion opportunities. Mr. Babb added that these issues have been vetted by numerous committees and groups over the past 15 years with little action. Mr. Babb opined that the progress made to date during the meetings has been impressive. He added that the Bureau is also working with industry representatives on a conceptual shellfish aquaculture leasing policy document that would be aimed at addressing the current needs of the aquaculture industry along the Atlantic Coast with respect to allocation of new leases and also addressing the management of existing leases. This policy guidance has been largely missing or held as "unwritten policy." Mr. Babb stated that if all went well they would be hoping for a leasing policy in place by the summer and draft rule amendments by the end of 2015.

Committee Reports

- **Striped Bass Committee** – Mr. Radossi presented Council with the Striped Bass Committee Report

The purpose of the meeting was to develop recommendations regarding the 2015 recreational striped bass management measures that need to be implemented as a result of the recent action taken by the Atlantic States Marine Fisheries Commission (ASMFC).

In September the Council supported management options that would include two fish with slot options that did not have a gap within the size ranges. Division staff then developed four Conservation Equivalency options that attempted to fit these criteria and achieve the required 25 percent reduction in harvest.

After discussion with advisors, the Committee prefers management options that include a 28 minimum size in order to maintain consistency with current regulations for ease in angler understanding and enforcement. The Committee supported two of the four Conservation Equivalency options with their preferred option being: one fish at 28" to < 42" and one fish \geq 42" and their backup option being: one fish at 29" to < 36" and one fish at \geq 36". Both options will be submitted to the ASMFC Striped Bass Technical Committee and Board for review and a final decision should be available in early February.

Striped Bass Bonus Program (SBBP) discussions resulted in a preference to keep the minimum size limit consistent with the 2015 regulations (one fish at \geq 28"). The Committee would also like to submit a second option (one fish at 24 to either < 28" or < 29") for ASMFC approval for future consideration. The upper size

limit would depend on which recreational option is moved forward after ASMFC review. In addition, the Committee expressed interest in adding an open season of September 1 to December 31 for the SBBP.

The Committee does not support removing the current January/February seasonal restrictions.

The Committee continues to support modifying legislation to allow for changes to striped bass sizes, seasons, bag limits to be modified by the Commissioner, with the approval of the Council, through the Notice of Administrative Change process rather than by legislation.

Therefore, the Committee's recommendation is in support of the preferred option with one fish at 28" to < 42" and one fish \geq 42" and their backup option being: one fish at 29" to < 36" and one fish at \geq 36" is a motion.

It was noted that the ASMFC Technical Committee did not approve the one fish at 28" to < 42" and one fish \geq 42" option but had approved a modified version of recreational option of one fish at 28" to < 43" and one fish \geq 43".

Public comment included some in support of one fish bag limit while others preferred two fish bag limit for the use as a marketing tool to draw public to their for-hire business. There were some comments in favor of continuing the striped bass Bonus Program with a few comments in support of on increasing the Program fee and dedicate it to research within the striped bass fishery. Other recommendations were the use of circle hooks, cap charter boat catch limits, and increase enforcement of the Bonus Program.

Move to amend the Striped Bass Committee's preferred recommendation of one fish at 28" to < 42" and one fish \geq 42" with one fish at 28" to < 43" and one fish \geq 43" with the current closed seasons. Motion by Dr. Bochenek, second Mr Alexis. Amended motion passed unanimously and becomes the main motion.

Move to adopt the amended Striped Bass Committee's preferred recommendation of one fish at 28" to < 43" and one fish \geq 43" with the current closed seasons. Motion passed unanimously.

- **Regulatory Committee** – Mr. Rizzo presented Council with the Regulatory Committee Report

The purpose of the meeting was to discuss potential modifications to the diamondback terrapin regulations in response to recent information provided by the US Fish and Wildlife Service (USFWS) regarding a significant harvest of terrapins in New Jersey and sold to an aquaculture facility in Maryland. The terrapin is listed as an Appendix II species under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and any export of a species on this list requires a permit and review of the animals being exported to ensure their export/harvest is not detrimental to the species survival. The USFWS

allowed for the export of terrapins in 2014, but have indicated that if a significant harvest occurs again in New Jersey in 2015, they will likely deny the export overseas due to the significant impact to regional terrapin populations. Terrapins are primarily exported to Southeast Asia for the pet trade and for human consumption and demand has been on the rise over the last few years due to significant declines in their native turtle populations.

The Committee and advisors were given a presentation by Division staff and biologists from the Conserve Wildlife Foundation of NJ regarding the state of knowledge terrapin life history, biology, population status and threats to the species. There are currently only three states on the entire Atlantic coast that allow for the commercial harvest of diamondback terrapins – DE, NJ and NY – with NJ and NY as the only states that do not limit the harvest (note: NY is currently evaluating their terrapin regulations). There are no permits or licenses needed in NJ to harvest terrapins and there are no reporting requirements. These liberal regulations in NJ have created the potential for significant exploitation of terrapins and hence, the cause of concern by the USFWS. There are also a number of mortality threats, including commercial harvest, that can have significant impacts to their population due to their unique life history of a long-lived, slow maturing species with a low reproductive success that tend to congregate during hibernation. Unfortunately, there is little information collected terrapins in New Jersey and therefore there is a great deal of uncertainty regarding the current population status.

Based on all of the information provided and discussed that night, the Regulatory Committee recommends a suspension to the open season (November 1 – March 31) effective today (January 8th) through March 31st, 2016. The Committee asks that the Commissioner of the DEP implement this closure through the most effective means that is enforceable and as expeditiously as possible. Lastly, the Committee supports beginning the process to develop new terrapin regulations and obtain additional information to support a harvest in the future.

Mr. Johnson commented no commercial representation were present although they were invited

Discussion from public unanimously supported any help in favor of protecting the diamondback terrapin. The Council then approved sending a letter to the Commissioner with the recommendations developed by the Regulatory Committee.

Regulatory Actions – No report

Old Business – No report

New Business

- Presentation was given by James Salierno from Fairleigh Dickerson University on a recent study he completed on summer flounder hook and release mortality.

- Mr. Muffley brought Council's attention to:
 - Handout #6 - a letter to Council on modification to a Land Use Permit for windmill development off Atlantic City.
 - Handout #7 - a letter to Council from Mr. William Robinson addressing his concerns on crab regulations in DE Bay.
 - Committee meetings to set up: Recreational fluke and sea bass prior to March meeting and followed by striped bass, eel and regulatory meeting.
- Mr. Rush requested an enforcement committee meeting.
- In response to an incident provided during the Law Enforcement report, Mr. Zaborowski brought up the need for tougher penalties, if money is no object for some violators.

Public Comment

Mr. Fred Akers – asked what the process is for the public to see the Bureau receive more funding in the coming year. Director Chanda recommended the public reach out to their legislators now since budget discussions are just beginning.

Mr. James Parker – questioned the implementation of the past and present menhaden law, as long as all qualifications for permits are met, someone should be able to obtain another license and why some licenses are assignment to a vessel and others are not.

Meeting adjourned. Next Meeting March 8, 2015, Galloway Township Library