

NEW JERSEY MARINE FISHERIES COUNCIL
Stafford Township Municipal Building
Stafford Township, NJ
January 7, 2016

Council Attendees:

James Alexis
Scott Bailey
Erling Berg
Eleanor Bochenek
Walter L. Johnson III
Frances Puskas
Joseph Rizzo
Joseph Zaborowski

Council Absentees:

Richard Herb (Acting Chairman)
Sergio Radossi
Robert Rush

Division of Fish and Wildlife Attendees:

Brandon Muffley, Administrator, Marine Fisheries Administration (MFA)
Russ Allen, Bureau Chief, Bureau of Marine Fisheries (BMF)
Jeff Normant, Principal Biologist, Bureau of Shellfisheries (BSF)
Captain Jason Snellbaker, Bureau of Law Enforcement (BLE)
Tom Baum, Supervising Biologist, BMF
Jeff Brust, Research Scientist, MFA
Peter Clarke, Senior Biologist, BMF
Brian Neilan, Assistant Biologist, BMF
Sherry Bennett, 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 December 8, 2015. Mr. Berg, serving as Acting Chairman for the meeting, began the meeting with the Pledge of Allegiance.

The Council then discussed the draft minutes from the Council's November 12, 2015 meeting. Mr. Johnson commented that he would like names of abstention votes identified in the minutes. Council members may choose to abstain in order to abide by ethics rules and the identification of an abstention in a vote is important to avoid future conflict as to who and why.

Mr. Muffley commented that he has never seen such delineation in other meeting minutes (particularly minutes that are a general summary of meeting proceedings) unless in a role call situation, but it was up to the Council to decide.

Motion to approve minutes with the inclusion of identity of abstention votes. Motion by Mr. Johnson, seconded by Ms. Bochenek. Motion carries unanimously.

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.

Mr. Berg noted the meeting would need to conclude around 6:00 pm due to an ASMFC public hearing on summer flounder and black sea bass scheduled for 6:30 pm.

Law Enforcement Report

CO Captain Snellbaker presented the Council with an update of the Law Enforcement Report for End October - December 2015, Handout #1. Highlights include:

- October 21, 2015, CO's processed a federally permitted vessel for landing Atlantic sea scallops while declared out of the sea scallop fishery and for inaccurate completion of the associated fishing vessel trip report. Eighty pounds of sea scallops were found on board the vessel. Vessels must lawfully be declared into the sea scallop fishery when landing, retaining or in possession of sea scallops because the fishery is managed through a 'days at sea' program designed to equitably distribute sea scallops quota to eligible vessels.
- CO's inspected a commercial vessel to have landed 15% overages of both the commercial black sea bass and summer flounder trip limits on the same day. Another vessel inspected landed in excess of over 10% of black sea bass daily trip limit. Both vessels were otter trawls in Cape May area.
- October 25, 2015, CO's apprehended a husband and wife team of repeat undersized tautog poachers in North Wildwood. In addition the couple had warrants for failing to appear in court of the same jurisdiction for prior tautog violations. The couple was taken into custody and later posted \$900 in bail. On November 17, 2015 the couple plead guilty to all prior Fish and Wildlife offenses. They were assessed a total of \$600 in penalties and court fees.
- CO's issued more than 100 summonses for various tautog-related violations in late October to mid- November 2015.
- November 17, 2015, four Atlantic County commercial fishermen plead guilty to violations stemming from a two day investigation in December 2014. The men were assessed a total of \$8,000 in penalties and forfeited crab dredges used to unlawfully harvest Diamond Back Terrapins.
- November 21, 2015, CO's conducted a joint boat patrol with the New York State Department of Environmental Conservation (NYDEC). Upon inspection 13 striped bass were found in two coolers measuring between 28" and 43". Three summonses were issued to three anglers onboard for possession of undersize/over limit striped bass.
- An at-sea boarding of a party boat out of Atlantic Highlands Marina resulted in three anglers receiving summonses for undersize striped bass and warnings for failure to tag bonus striped bass immediately upon capture.

- November 22, 2015 CO's working in Highlands, Monmouth County, approached a returning charter boat. The vessel did not have a fillet permit, and the captain admitted to filleting the catch before returning to the dock. In total, there were 47 carcasses of illegally filleted fish. A summons was issued and case will be heard in Highland Municipal Court.
- On December 5, 2015 a farm market in Metuchen Borough was inspected by CO's. Summonses were issued for 11 undersized black sea bass and a written warning for failure to maintain records for the tautog.
- Complaints of commercial clambers power raking while participating in the depuration program in Monmouth County continue to be received. CO's observed and recorded an individual putting his kicker motor in and out of gear while actively raking clams. If this commercial clammer is found guilty his fines will be enhanced for a second offense of the same act.
- Point Pleasant Canal, three men were issued summonses for 11 undersized tautog.
- CO's apprehended the men of a vessel with 12 large striped bass over their possession limit. CO's also obtained a confession for exceeding the striped bass trip limit on the day before. All illegally retained striped bass from both days were donated to the AC Rescue Mission. Appropriate summons for over limit violations were issued.
- CO's apprehended one vessel fishing for striped bass in the EEC. The case was referred to the National Marine Fisheries Service Office of Law Enforcement for processing.
- With late season accessibility to tautog, poaching continued, and CO's in southern NJ continued making apprehensions and issuing summonses for undersized tautog. One individual with multiple prior tautog offenses was issued summonses for interference, forfeiture of gear and failing to register with NJ's saltwater recreational registry program.
- CO's issued a summonses to a Port Norris based commercial crab pot fisherman tending commercial crab pots during the closed season in the Maurice River Cove, DE Bay. Later an inspection at the fisherman's dock found the fisherman to be in possession of three bushels of blue claw crabs, 51 of which were under legal size. Also, the fisherman unlawfully retained oyster toadfish from his crab pots and failed to display his appropriate commercial crab pot numbers on side of his vessel.
- CO's issued a fisherman a summons for 87 undersize conchs and warned the fisherman not to place pots in the channel.
- Two new CO's Henderson and Genovese will be attending a Council meeting soon.
- Dr. Bochenek asked if the husband and wife team lost their license for reoccurring offenses. Captain Snellbaker commented that there are no provisions in the saltwater registry law that would revoke someone's privileges however, that would be a big deterrent if there was one.

Legislative/Regulatory Report

Mr. Muffley presented Council with the Legislative and Regulatory Report:

- Presented Council with the approved Notice of Administrative Change (Notice) from Council's September meeting which appeared in the November 16, 2015 New Jersey Register (Handout #2). The Notice pertained to mandatory v-notching of American lobster and modification of American lobster season for Lobster Management Area 5.

Atlantic States Marine Fisheries Commission (ASMFC) Report

No report

Mid-Atlantic Fishery Management Council (MAFMC)

Mr. Baum presented Council with MAFMC (Council) Meeting Summary, held in Annapolis, MD December 7-10, 2015 (Handout #3). The next MAFMC meeting is February 9-11, 2016 New Bern, NC:

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

The Council and the ASMFC met jointly to set recreational management measures for summer flounder, scup and black sea bass in 2016. The Council and Board recommended the use of conservation equivalency to achieve the summer flounder recreational harvest limit (RHL) in 2016. The Commission's Draft Addendum XXVII, which was approved for public comment, includes several options for summer flounder recreational management under conservation equivalency in 2016. A public hearing will follow this meeting tonight.

The Council and Board voted to maintain the status quo federal recreational scup measures in 2016. The Board voted to continue their regional approach to recreational scup management in state waters and will review and approve proposals for individual state measures at the February 2016 meeting.

The Council and Board recommended recreational management measures to achieve the 2.82 million pound RHL for black sea bass in 2016. Approximately 16% reduction, which may change based on additional landing data for 2015. The Board voted to approve Addendum XXVII for public comment, which includes options for ad-hoc regional management of black sea bass in state waters. If the combination of measures in state waters addresses the required reduction, then federal measures would remain status quo.

The Council and Board are developing a comprehensive amendment to revisit important elements of the summer flounder fishery management plan (FMP). The Fisheries Forum presented a summary as well as feedback and facilitated further discussion of revised goals and objectives for the summer flounder fishery. Based on the discussion, the Summer Flounder Amendment Fishery Management Action Team (FMAT) will refine the draft revision to the goals and objectives for future review by the Council and Board. FMAT did recommend splitting recreational issues into separate actions due to ongoing changes to the recreational catch estimate methodology, the Council and Board did not take action to separate these issues at this time.

- **Spiny Dogfish**
After reviewing new advice from its Scientific, and Statistical Committee (SSC) and considering input from the public, the Council adopted spiny dogfish specifications for 2016-2018. The 2016 quota represents a 20% reduction relative to 2015; however, landings have been below 50% of the commercial quotas for the last two full fishing years, and the reduced quota is unlikely to be constraining. The New England Fishery Management Council also approved similar specifications at its December meeting for this jointly-managed species. If approved by the NMFS, the new measures will go into effect May 1, 2016.
- **Golden Tilefish Framework 2**
The first of two meetings was held to consider Framework 2 (FW2) to the Golden Tilefish Fishery Management Plan (FMP).
- **Blueline Tilefish**
The Council reviewed a draft range of alternatives for the Blueline Tilefish Amendment to the Golden Tilefish FMP. The amendment is still under development, the Council moved to identify the North Carolina/Virginia border as the preferred management unit for this action. The Council added a 750 pound trip limit as an option under the commercial trip limits alternatives.
- **Unmanaged Forage Omnibus Amendment**
The Council received a presentation on the Pacific Fishery Management Council's (PFMC) approach to protecting unfished and unmanaged forage fish species through their Ecosystem-Based Management Amendment 1.
- **Non-Fishing Activities that Impact Fish Habitat**
The Council approved a series of policies that articulate the Council's positions on anthropogenic activities that affect fish habitat.
- **2016 Implementation Plan**
The Council reviewed and approved the 2016 Implementation Plan, which details the upcoming year's planned actions and activities. One item on the agenda in late 2016 is NJ's request for special management zone designation for NJ's 13 artificial reefs. In addition, the Council discussed naming the a Deep Sea Coral Protection Area after the late Senator Frank Lautenberg.

Marine Fisheries Bureau Report

Mr. Allen presented Council with a Marine Fisheries Bureau update:

- A total of about 12,000 Striped Bass Bonus Program (SBBP) Permits were issued to individuals and an additional 6,600 permits have been issued to 154 party/charter boats. The current 2015 harvest as of December 1, 2015 is little less than 12,000 pounds. About 76% of the overall harvest was from party/charter boats. Staff received a number of emails from party/charter boats thankful for the 2016 SBBP as it is helping them stay in business and on the water to harvest fish

that they would not have without the Program. The SBBP did cost about \$40,000 with funds taken from other areas to cover these costs, as this Program did not have money set aside for this.

Mr. Rizzo inquired about adding a fee to help support the program. Mr. Allen commented that the most that could be charged is \$2.00. To increase the permit fee, changes would have to occur through statute and it is unlikely that would gain any momentum without political backing.

Shellfish Council Reports

- **Delaware Bay** – Mr. Bailey

The Council held its January meeting on Tuesday, January 5, 2016. The Council handled a number of annual housekeeping issues including elections of chairman and vice chairman and annual renewal of lease extensions. Two issues took center stage at this meeting; 1) oyster tongers expressed their concerns about declining stocks on the accessible areas of the Maurice River Cove tongers area and 2) the recently proposed Marine Water Monitoring regulatory package that will change a significant number of sections within the Shellfish Growing Water Classification rules.

The main change is aimed at bringing those rules into conformance with the current National Shellfish Sanitation Program (NSSP) standards. It adds a number of new permits for various growing and harvesting activities, amends and updates existing permits, with a large focus on aquaculture activities. The Council will be sending in comments that state that the Council does not support any rules amendments that go beyond the required national standards.

- **Atlantic Coast** – Mr. Johnson – No report
- **Bureau Report** – Mr. Normant

Aquaculture and Red Knots – Biological Assessment Update

- Bureau staff continues to work with USFWS, ACOE, and ENSP on a Biological Assessment for the Programmatic Consultation with the ACOE. Throughout this process, there has been significant engagement with many stake holder groups. For example, staff has held or been invited to meetings with the Aquaculture Advisory Committee, Conservation groups, oyster growers and the Endangered and Nongame Species Advisory Committee and recently with Senator Van Drew's office as well as with Assemblyman Bob Andrzejczak and Assemblyman-elect Bruce Land. These meetings have provided input on the proposed conservation measures and explained the process of the Programmatic Consultation.

Delaware Bay Oyster Industry

- The 2015 Delaware Bay oyster fishery ended on November 20th and the State's seed beds were closed to all harvest. Approximately 83 vessels

participated in this year's program harvesting a total of 86,815 bushels. The daily catch per unit effort was consistently above average this year. The oyster tongers fishery in the Maurice River Cove has been underway since November 1 with a number of individuals participating. This season lasts until April.

Changes to Marine Water Monitoring Rules

- On November 16, 2015, a new regulatory package for the Shellfish Growing Water Classification rules by the Bureau of Marine Water Monitoring was published in the NJ Register, initiating the 60 day comment period. The rules implement a number of new permits and amends and updates existing permits in regard to the handling of shellfish in order to ensure that NJ is in compliance with FDA guidelines and standards published in the National Shellfish Sanitation Program "Model Ordinance". These changes will include harvester training and a new aquaculture permit, as well as addressing seed, transport and transplant of shellfish, shellfish gardening and shellfish enhancement and restoration activities. Comments can be submitted by January 15th. While the rules have not been formally adopted, the Commissioner signed an Administrative Order 2015-14 on November 16th to implement some changes in order to ensure that NJ was in compliance with the "Model Ordinance".

Committee Reports

- Regulatory Committee Report - Mr. Rizzo

A meeting of the New Jersey Marine Fisheries Council's Regulatory Committee was held on December 10, 2015 to discuss the merits, benefits, and potential conflicts associated with the possible implementation of a bow and arrow fishing season for cownose rays.

The group discussed the growing popularity of bowfishing for cownose rays in the Chesapeake Bay region and the calls for possibly implementing measures for these rays in NJ marine waters. New Jersey's current regulations do not allow for bowfishing in marine waters for any species of fish; while a popular bowfishing fishery exists in freshwater with a handful of professional guide services for hire to bowfish for selected species. Topics discussed also included the impact of cownose ray feeding behavior on commercial hard clam and oyster aquaculture in NJ which has been touted as a primary reason for instituting a fishery for these rays. Concerns were expressed about the species susceptibility to overfishing due to its low reproductive rate as well as concerns about wanton waste as the rays are not a popular food fish and the flesh is relatively labor intensive to prepare. Several options were discussed as possible measures to prevent overfishing and conflicts between user groups including restrictive creel and season limits, permitting systems, harvest reporting and prohibiting bowfishing at night and over commercial aquaculture grounds. Public opposition to this type of fishery has been experienced in other states and is likely expected from user groups

concerned with the overharvest, waste, and humane dispatch of the rays harvested in this type of fishery.

All in attendance agreed that further research and preparation is necessary before the formal regulatory process can be initiated, if warranted. The Committee encouraged the representatives from the various user groups in attendance to come together and create a formal proposal outlining their wants, needs, and concerns regarding a cownose ray fishery to present to the Regulatory Committee and the Marine Fisheries Council at a future meeting.

Public Comment

- **Mr. Louis Horse** – Expressed an interest to get involved with helping the Council with the development of a cownose fishery. He commented that it is a popular fishery on the Atlantic coast, and that wanton waste is minimal once people learn how to cook it.
- **Mr. Muffley** did update Council that he has heard back from representatives that attended the meeting and they have a draft proposal ready for the next meeting.

Regulatory Actions

- **Mr. Allen** presented Council with Handout #5 (Draft Notice of Administrative Change) which modifies recreational and commercial Jonah crab fisheries and modifies the commercial seasons for the shark species in the Aggregate Large Coastal and Hammerhead Groups.

Move to approve a Notice of Administrative Change for modifications to Crab and Lobster Management (Jonah crab measures) and commercial seasons for Coastal Sharks. Motion by Mr. Johnson, second by Ms. Bochenek. Motion carries unanimously.

Old Business

- Council commented they would like to have another Regulatory Committee meeting sometime between March and May to discuss marine waters bow fishing for cow-nosed rays. They also would like to receive the draft proposals prior to the meeting. Mr. Muffley noted that the following Committee meetings are scheduled prior to the March meeting: Blue Crab and Conch Pot Committee (January 20, 2016), Striped Bass Committee (February 17, 2016), and Recreational Summer Flounder/Sea Bass Committee (February 24, 2016). Also to be scheduled is a Regulatory Committee meeting in regards to landing and dealers license in March 2016, followed by a Commercial Seabass/Pot Fishery Committee in spring.
- **Mr. Muffley** presented Council with Handout #7, a draft letter for Council's review and he is seeking clarification as to whom the Council wishes to send a

letter to in regards to the sand mining for beach replenishment projects along NJ's coast. Council indicated they would like to send the letter to NJDEP Land Use Regulations, and a copy of the letter be sent to the NJ Governor and Commissioner, NJDEP, EPA, Army Corp of Engineers in PA and NY as well as the NMFS.

- **Ms. Bochenek** asked if there was anything the Council can do for a stricter penalty for repeat offenses on registry permits. **Mr. Muffley** commented that the Council can discuss if at a future Regulatory Committee meeting; however, the penalties in the registry program are defined in statute so any changes would need legislative approval.
- **Mr. Johnson** asked about the current status on the Diamondback Terrapin for 2016, since the Administrative Order expired and will the DEP implement a new one for the current season. **Mr. Muffley** informed the Council that a meeting scheduled in the near future in Trenton regarding this issue to discuss a Draft Rule proposal and another Administration Order. Mr. Muffley will update the Council at their March meeting.

New Business

- **Mr. Muffley** brought Council's attention to two letters sent to the Council, Handout's 6a & 6b. Strathmere Fishing and Environmental Club sent these letters in regards to supporting recreational reef construction and loss of fishing habitat near Corson's Inlet due to sandmining.
- **Mr. Muffley** informed Council that at March's meeting a detail budget update will be presented to Council and the significant implications it will have on anything marine related for the upcoming fiscal year starting on July 1st.
- **Mr. Bailey** asked about the status of a DE Bay Shellfish staff person. **Mr. Muffley** said that there is potential to hire a technician at the Atlantic Coast Office, which has been without a technician for 6 years, but a new staff member for the DE Bay Office is currently not scheduled to occur.

Public Comment

- **Mr. Tom Fote** – Noted that some clubs have written in their tournaments rules that for a winner to receive a prize they must be registered in the saltwater registry. Thought this is a good idea for Council to consider sending this idea out to all clubs along the coast to increase the membership within the registry. He also supported the summer flounder amendment for separate regionalization in Delaware Bay. Everyone knows the fish in the ocean vs Delaware Bay are different in size, and that Delaware Bay fisherman can use a change to help them more. Lastly, more of the public should be voicing their concerns at Council meetings as well as public meetings.

Mr. Rizzo questioned Law Enforcement in regards to when they issue a summons, is the person checked to see if registered in saltwater registry and if not are they given a penalty. **Captain Snellbaker** commented that many are not in compliance with the registry and that the registry law is written that a person is subject to a fine if they fail to register. A fine is issued when a violation is criminal in nature. The way the law should read is a penalty is issued if found out of compliance. Conservation Officers have been reluctant to issue summonses since the law is incorrect. To correct this, a change must be made through statute. **Mr. Rizzo** commented that we need a registry that gives good data, and Council may benefit in opening a discussion and changing the statute.

- **Mr. Mike Clark** supported everything **Mr. Fote** spoke of tonight. Every patron must show a saltwater registry card to step foot onto his boat to fish. In regards to regionalization, when fisherman talk about where fish are they are referring to north and south, not the zones and now the micro zones within the zones that even the CO are not even sure what zone they are in because there are so many. Last year he caught over 800 flounder, but only 45 of those 800 summer flounder were keepers. To revive fishing, so we can take home a decent dinner for the family, is to drop the summer flounder size limit by one inch. Does not support sandmining since it destroys our habitat.

Mr. Zaborowski commented that this Council is given options and that's what the council has to use and decide on the best possible option for all our fisheries.

Meeting adjourned. Next Meeting March 3, 2016, Galloway Township.