

NEW JERSEY MARINE FISHERIES COUNCIL
Stafford Municipal Building
Manahawkin, NJ
September 7, 2017

Council Attendees: James Alexis
Erling Berg
John Maxwell
Frances Puskas
Sergio Radossi
Joseph Rizzo
Robert Rush
Richard Herb (Acting Chairman)

Council Absentees: Eleanor Bochenek
Barney Hollinger
Joseph Zaborowski

Division of Fish and Wildlife Attendees:

Jason Snellbaker, Captain, Bureau of Law Enforcement (BLE)
Sean Cianciulli, Deputy Chief, Bureau of Law Enforcement (BLE)
Ryan Harp, Conservation Officer, Bureau of Law Enforcement (BLE)
Jeff Brust, Research Scientist, Marine Fisheries Administration (MFA)
Tom Baum, Supervising Biologist, Bureau of Marine Fisheries (BMF)
Russ Babb, Supervising Biologist, Bureau of Shellfisheries (BSF)
Heather Corbett, Principal Biologist, BMF
Mike Celestino, Research Scientist, MFA
Brian Neilan, Assistant Biologist, BMF
Jeff Normant, Bureau of Shellfisheries (BSF)
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 August 31, 2017. Mr. Berg began the meeting with the Pledge of Allegiance.

MOTION: The April 13, 2017 Council Meeting Minutes are approved, pending any revisions from Council. Made by Mr. Radossi, seconded by Mr. Maxwell. 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

CO Captain Snellbaker presented the Council with an update of the Law Enforcement Report for June through August-2017, Handout #3. Highlights include:

- On July 29th and 30th, Conservation Officers (CO's), patrolled Long Branch area. This was in response to complaints of people taking undersized blue crabs in the area. When the weekend was through, nearly a dozen summonses and written warnings were issued to multiple people for violations including undersized blue crabs, over limit bluefish, harvesting shellfish without a valid shellfish license, and for harvesting shellfish from the prohibited waters of Raritan Bay.
- After finding a string of multiple illegally set commercial crab pots without identification in the Peck Bay area of Cape May County, CO's conducted random surveillance of the pots in an attempt to identify the owner. Eventually the CO's seized the unidentified pots because of concern for the fact that they also did not contain appropriate biodegradable panels or sinking line. The owner of the pots contacted local police, who in turn contacted the marine regional office. The owner, who had been charged for similar crab pot violations in the past was issued the appropriate summonses.
- CO's inspected a Cape May based commercial sea scallop vessel that had already offloaded a trip to a local dealer in the area. Approximately 25 pounds of shucked Atlantic sea scallops were found on the vessel after the operator repeatedly told the officers that no product remained on board. In addition to obstruction, the operator failed to declare the

additional product on required federal documentation. The case was referred to National Marine Fisheries Service for enforcement action.

- Responding to a complaint in the North Wildwood area, CO apprehended a group of recreational fishermen with 22 undersize tautog and 5 undersize black sea bass. One individual took responsibility for the entire group and claimed the others were his employees he brought fishing as a reward for good job performance. CO issued the appropriate summonses for the over the limit and undersize violations.
- Illegal tautog fishing has begun early in Atlantic City this year. While mostly a problem in the fall, CO's caught wind of illegal fishing occurring in the early morning hours and ending by 7 AM this August. In one incident, CO's apprehended on individual with 15 undersized and 14 over the limit just after dawn one early morning. In another, CO's apprehended a group with multiple over the limit and undersize tautog.
- CO's conducted two tuna operations around Texas Tower and Atlantic Princess. The operations resulted in violations for possessing a second Atlantic Bluefin tuna (BFT) between 47 and 73-inches, failure to retain BFT in specified form, and failure to make highly migratory species (HMS) permit available for inspection while targeting HMS. CO's will be following up to make sure successful anglers reported BFT landings.
- CO's wrapped up a case involving a woman and her boyfriend who were illegally catching and selling minnows to several bait and tackle shops. Neither of them had a valid NJ bait net license. In addition the license violations the harvester and the bait and tackle shops were both found in violation for failing to maintain accurate records while engaged in the buying and selling of fisheries resources.

- CO's were patrolling special restricted waters in Highlands, Monmouth County. During the inspection of an oyster aquaculture facility, CO observed floating cages containing bags housing oysters larger than seed size. The aquaculturalist received several summonses for possessing oysters larger than seed, illegally wet storing market sized oysters, and violating conditions of his aquaculture permit and operational plan.
- A Cape May County commercial fisherman was charged with exceeding commercial black sea bass trip limits during the January and February season. The vessel operator falsely and unlawfully documented that he caught the fish while on a fishing trip. When confronted with the facts of the investigation, the fisherman confessed to the illegal harvest and claimed they were motivated by a series of financial hardships. In addition to state violations for exceeding commercial trip limits and interference, multiple federal violations were processed and referred to NMFS for falsifying records, invalid operator permit and delinquent and/or missing federally required reports.
- Commercial crab pot fisherman who drives his boat past his pots every day, was issued a summons for failing to tend to commercial crab pots every 72 hours.
- A local market was used a summons for unlawful sale of turtles, and for 21 undersized blue claw crabs.
- Capt. Snellbaker informed Council that there is no longer a communication officer present in the Marine Enforcement Office to answer any phone calls, as she has been reassigned in other areas in the Department.

Legislative/Regulatory Report – No report at this time.

Atlantic States Marine Fisheries Commission (ASMFC) Report

Mr. Baum updated Council with the ASMFC Summer meeting held in Alexandria, VA on August 1-3, 2017 (Handout#3).

- **Executive Committee**

Extensive deliberations were held on the potential short- and long-term impacts of the Secretary of Commerce's decision to not agree with the Commission's finding of New Jersey's non-compliance with summer flounder recreational measures. The Committee expressed its concern over the uncertainty of how the Secretary may address future non-compliance findings.

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

Approved the Draft FMP for AMG Cobia for public comment. The intent of the Draft FMP is to complement federal AMG cobia management actions and distribute catches among member states through a proposed allocation strategy.

- **American Lobster Management Board**

Initiated Draft Addendum XXVII to Amendment 3 to the Interstate Fishery Management Plan for American Lobster. The Draft Addendum seeks to increase the resiliency of the Gulf of Maine/Georges Bank (GOM/GBK) stock by considering the standardization of management measures across Lobster Conservation Management Areas (LCMAs). The Board decided to not move forward with Addendum XXV for management use at the current time. The Board was divided in its support of the Draft Addendum. Some felt the proposed measures did not go far enough to protect the stock, while others were concerned the majority of LCMT proposals would not achieve the required 5% increase in egg production. Others believed significant reductions have already occurred in the fishery and no further action was needed. The Board decided to establish a Workgroup to discuss ways to manage SNE lobster.

- **Shad and River Herring Management Board**

Approved the sustainable fishery management plans (SFMPs) for South Carolina and Florida. The Board approved the 2016 FMP Review for Shad and River Herring and approved de minimis status to Maine, New Hampshire, and Massachusetts and Florida for American shad; and to New Hampshire and Florida for River Herring.

- **American Eel Management Board**

Met to consider North Carolina's revised Glass Eel Aquaculture Plan for 2017 and consider implications of the 2016 yellow eel landings overage of the coastwide cap. They approved the revise aquaculture plan for 2018-2019. They decided to form a Working Group that would further explore approaches to address this, as well as provide guidance on setting Maine's glass eel quota for 2018. The Board approved the 2016 Fishery Management Plan Review of the 2015 fishing season and approved de minimis status to New Hampshire, Massachusetts, Pennsylvania, the District of Columbia, South Carolina, and Georgia.

- **Atlantic Menhaden Management Board**

Reviewed the results of the 2017 Atlantic Menhaden Stock Assessment Update, which indicates the resource remains healthy; it is not overfished nor experiencing overfishing relative to the current biological reference points. The Board approved Draft Amendment 3 to the Interstate Fishery Management Plan (FMP) for Atlantic Menhaden for public comment and a public hearing scheduled for September 13, 2017 in Manahawkin at 6pm. The Draft Amendment seeks to manage the menhaden resource in a way that balances menhaden's ecological role as a prey species with the needs of all user groups.

- **Interstate Fisheries Management Policy Board**

Discussed New Jersey Non-compliance justification for Criteria #2 (that a state's failure to implement and enforce measures are necessary for conservation of the fishery in question). The Secretary of Commerce found, despite considerable uncertainty about the effectiveness of New Jersey's measures, they are likely to be equivalent in total conservation. NOAA Fisheries indicated future non-compliance findings will be evaluated on their own merits. Board members expressed **grave** concern about the impact to the Commission process. Commission leadership has requested a face-to-face meeting with the Secretary with a goal of protecting the process.

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

Received updates and recommendations from Recreational Working Groups on 2018 management of summer flounder and black sea bass. The Board reviewed and reconsidered 2017 recreational black sea bass Wave 6 measures. In May 2017, the Board set the possession limit for Wave 6 at 5 fish in state waters from Rhode Island through New Jersey, and maintained all other state measures from 2016. The Board rescinded its previous action that established a 5-fish possession limit. As a result, states will maintain their 2016 wave 6 measures for 2017. The Board was presented options for consideration in developing Draft Addendum XXX. Regional options were developed based on recent regional groupings for summer flounder recreational measures as well as based on the results of the 2016 benchmark stock assessment.

- **Tautog Management Board**

Met to consider final action on Amendment 1 to the FMP. The Board did not take final action at this meeting. Instead, it identified the majority of issues to be included in the Amendment, deferring action on the measures within the regions until its next meeting in October.

- Mr. Adam Nowalsky added commented on the tautog Amendment 1 to FMP. While the final action was deferred, the Amendment take actions, but did not take action on what pertained to specific recreational and commercial changes. States wanted time to look at the changes they would need to implement the plan. Do expect final action to occur at the October meeting.

Mid-Atlantic Fishery Management Council (MAFMC)

Mr. Baum presented Council with the MAFMC Meeting Summary, met August 8-10, 2017 in Philadelphia (Handout #5).

- **Summer Flounder, Scup & Black Sea Bass and Bluefish Boards**

The Council met jointly with the ASMFC's Summer Flounder, Scup, & Black Sea Bass and Bluefish Boards to set the 2018 specifications for these species.

- They approved a **summer flounder** Recreational Harvest Limit (RHL) of 4.42 million pounds, an increase from the 2017 RHL, but an **18% decrease from the 2016 RHL**. They approved a black sea bass RHL of 3.66 million pounds for 2018, a **15% decrease from the 2017 RHL**. NJ For-Hire Stakeholders attended and provided passionate public input in support of opening up the black sea bass recreational fishery in January & February 2018. The motions to implement this did not pass. The Council is continuing development of a framework that would open the Wave 1 fishery in federal waters in 2019 under a Letter of Authorization program.
- **Scup** spawning stock biomass is estimated to be 206% of the biomass target. The Council and Board adopted the revised 2018 Acceptable Biological Catch (ABC)

for scup that was recommended by the Scientific and Statistical Committee (SSC), which represents a 45% increase over the previously implemented 2018 ABC. The Council and Board adopted a recreational harvest limit for 2018 and 2019 of 7.37 million pounds (34% increase from 2017).

- The 2018 specifications for **bluefish** represent a 20% increase in the RHL and a 12% increase in the coastwide commercial quota.

- **Summer Flounder Amendment**

The Council and Board considered the July 2017 recommendations from the Council's Demersal Committee on draft commercial issues alternatives within the Commercial Summer Flounder Amendment.

Federal moratorium permits: They accepted the Committee recommendation to move forward with analysis of requalifying criteria options for existing federal summer flounder moratorium permits.

Commercial Allocation: Commercial allocation options will be considered by the Demersal Committee at their next meeting on November 8-9.

Landings Flexibility: The Council and Board approved the Committee recommendation to encourage states to develop cooperative agreements toward more flexible landings policies for commercial summer flounder. They voted to remove landings flexibility as an immediate management option within the amendment but to include an option to add landings flexibility as a frameworkable issue within the Council's FMP.

- **Atlantic Surf Clams and Ocean Quahogs; Excessive Shares Amendment**

Council staff presented a summary of scoping comments on the Excessive Shares Amendment. The amendment will consider options to ensure that no individual, corporation, or other entity acquires an excessive share of the Surfclam and Ocean Quahog Individual Transferable Quota (ITQ) privileges. In addition, the amendment will include a review and potential revision of the goals and objectives for the SCOQ FMP. The Council held 4 public hearings and received 24 written comments during the scoping process. All of the comments were provided by individuals or groups associated with the commercial surfclam and ocean quahog industry, all of whom expressed opposition to development of an excessive shares definition. Commenters felt that the amendment is not necessary because the FMP goals and objectives are continuing to work well and the excessive shares issue has already been adequately addressed through Amendment 8 to the SCOQ FMP. Guidance from NOAA's Office of General Counsel has indicated that additional action is needed to ensure that the SCOQ FMP is in compliance with the requirements of National Standard 4 guidelines under the Magnuson-Stevens Fishery Conservation and Management Act. The Council considered these comments and agreed to proceed with development of a range of alternatives for discussion at a future meeting. Mr. Adam Nowalsky addressed industry concerning their opposition. There are other pressing issues that the Council needs to address (Surf Clam and Ocean Quahogs being caught during the same tows/trip). NOAA Fisheries has made it clear that it will not deal with other SCOQ matters until after the excessive shares issue has been resolved.

- **Other Business**

Martha's Vineyard/Nantucket Squid Buffer Framework

The Council has received numerous public comments regarding the longfin squid fishery activity south of Nantucket. The Council included consideration of buffer zone options in this area on its

list of “Possible Additions” in the 2017 Implementation Plan. The Council expects to hold a first framework meeting in December 2017.

- **The next MAFMC meeting will be October 10-12, 2017 in Riverhead, NY**

Marine Fisheries Bureau Report – Mr. Baum

- The full time **clerical position** that has been vacant since Kathy Smallwood retired last year has been filled.
- Interviews for 2 Biologist Trainees positions are being scheduled for later this month.
- Staff are reviewing over 50 applications for the two **Research Scientist 3** positions. Interviews are being planned for the end of October.
- Staff attended the 147th Annual Meeting of the **American Fisheries Society** in Tampa. The 2018 **AFS** Annual Meeting will be in Atlantic City, NJ. Staff “shadowed” the Tampa planning committee to better understand the planning and implementation of a successful meeting. More than 1,600 fisheries professionals attended the Tampa meeting, with projections for Atlantic City in the 1500-2000 participant range.
- Over 2,000 **Striped Bass Bonus Program** permits have been issued to individuals and over 4,100 permits have been issued to 87 party/charter boats.
- The Delaware River Striped Bass Recruitment Survey preliminary numbers were completed for August. The current preliminary striped bass recruitment index is 1.6 which **ranks 9th** in the thirty-year time series.

- The August Ocean Trawl Survey concluded on September 1st after 6 days of sampling and delays due to rough conditions. Catches were relatively light, and very diverse. Several infrequently encountered species included cutlassfish, a Dotterel Filefish and Thread Herring of various age-classes. Young weakfish inshore & sea robins all over.
- Marine Fisheries participated in the annual **American shad Y-O-Y seine survey** on the Delaware River on August 21st. The survey samples 6 locations from Trenton in the south up to the East Branch of the Delaware River in the north as part of a cooperative effort between NJ, PA, DE, & NY; the Phil. Water Dept, DRBC, NOAA/NMFS, NPS & USFWS. This survey provides an important benchmark used in the management of the American shad fishery in the Delaware Basin. The August catches of Y-O-Y American shad have been exceptionally high, representing some of the highest catches in the time series dating back to 1979.

Shellfish Council Reports

Mr. Maxwell presented Council with the Shellfish Council Report.

- **Shellfish Council Policy and Lease Fees**

The Commissioner signed the shellfish lease fee increase today and the new fee structure is now in effect for Delaware Bay and will be in effect for the Atlantic Coast following the next Council meeting on September 18, 2017. Until that time, a lease moratorium remains in place on the coast. To remind the Council, both sections of the NJ Shellfisheries Council recommended in June and July to implement a \$250 lease application fee and a \$100 lease renewal fee under the authority of

N.J.S.A. 50:1-5 and 50:1-27, pending the Commissioner's approval. The Council sent this issue to their leasing committees who recommended these fees. They shared the belief that the proposed lease application fee would help deter the monopolization of lease areas by a single group of individuals(s) and allow more opportunity for other interested shellfish industry members to obtain leases in the new area. The renewal fee would be in addition to the annual lease fee (\$2 per acre or \$2 per 100 linear feet for the Mullica River on the Atlantic Coast and \$0.50 per acre on Delaware Bay) currently in the regulations and would likely free up inactive leases that are being held by leaseholders who are not utilizing them.

- **Coastal Zone Management Rule Proposal – Aquaculture**

On August 30th, both sections of the NJ Shellfisheries Council sent joint letters to AC Kopkash and the Office of Legal Affairs in regard to the proposed amendments to the Coastal Zone Management Rules that would require shellfish aquaculturists to comply with the endangered and threatened wildlife or plant species rule at NJAC 7:7-9.36. The proposed changes would impact shellfish aquaculture rules for traditional shellfish activities (Permit by Rules (PBR) NJAC 7:7-4.16, 4.17 and 4.18) and structural activities (General Permit NJAC 7:7-6.30). It is in the Council's opinion that these proposed requirements could have an overwhelming impact on NJ's shellfish aquaculture industry and would essentially undo much of the good work that the Department had accomplished over the last few years to encourage shellfish aquaculture in NJ.

- **Bureau of Shellfisheries Report** – Mr. Normant

NJ Surf Clam Inventory and Season Quota

The 2017 surf clam stock survey was completed and preliminary results indicated that the estimated standing stock was at 145,656 US standard bushel (96,133 industry bushels), a historic low. However, small surf clams were found in the deeper waters from Surf City to Seaside Park. Surf Clam stocks have been at historic lows for more than the past ten years, with speculation being that the decline was due to environmental factors. The surf clam advisory committee recommended a minimal quota for the 2017-2018 season to be set at 9,120 industry bushels, which is less than 10% of the estimated standing stock (as per N.J.A.C. 7:25-12). It is anticipated that there will be no harvest of the quota during the season and the minimal quota was set to ensure the continuation of their stake hold in the fishery in anticipation that the stocks may re-establish in the future. The public notice was forwarded to the Office of Leal Affairs for publication in the NJ Register.

Committee Reports – No report at this time.

Regulatory Actions – No actions at this time.

Old Business

- Council requested to wait to check with advisors and possible wait until after the November Council meeting to take action at the January meeting in regards to the Commercial summer flounder and black sea bass.
- Mr. Rizzo requested to hold an Eel Committee in November sometime.

New Business

- Scott Maki of Primetime Seafood Inc, introduced Rex Ito of Pacifico Aquaculture. Mr. Maki asked council to consider something like this for NJ. Mr. Ito presented council with a presentation of Pacifico Aquaculture, leaders in producing the first and only ocean-raised striped bass in the world. The company was founded in 2010, with a vision of developing a business with responsibility toward aquaculture and sustainability in healthy and safe food. Visit www.pacificoaquaculture.com a company based outside of Baja, CA.
- Mr. Rush asked Council a question as to why Marine Fishery Council Meetings take place at 4pm, and received a request to move the meeting to 6pm, for more fisherman to attend. Mr. Herb said he would investigate, traditionally it has always been held at 4pm.
- Mr. Rush asked the Council to consider splitting the state in half moving forward. Mr. Herb commented that studies were held a couple years ago, but not enough to determine a good reason to split the state into two separate fishing seasons. Certainly, something that can be revisited and reviewed again.
- Mr. Radossi request possibility to set up Council meetings online or via a webinar.
- Mr. Baum commented that on September 1 the DEP announced the Administration Position has been upgraded to the Assistant Director position.

Public Comment

- Eddie Yates, request Council to open up the states black sea bass fishery on an emergency basis, at a minimum to remain open until when Federal closes on September 21. ASMFC and MAFM needs to know how these regulations have affected our fishery as well as our

economy, and mental health. Mr. Yates, did thank Mr. Baum and Mr. Norwalsky for representation of fighting to convince the ASMFC to open up the season.

- Mr. Herb commented the Council could make a statement of recommendation but given the timeframe and bureaucracy in such a short time frame of 13 days would not be feasible. If ignored, could be found out of compliance and both recreational and commercial fisheries lose rest of year.
- Lots of public representation filled the room. Many conversations went back and forth between Council and public. The public is in need of change to save the fishery now as well as future generations. Mr. Hartley, Mr. Santos, Mr. Birdie, Mr. Hartley, Ms. Scott, and Mr. Nelson among a few others spoke passionately and at length of their frustration and concerns of the fisheries seasons getting shorter and shorter and less fish to keep.
- Educated on how some of these changes such as regionalization's, and Magnuson Act has affected the fisheries. How the job economic impact act may not always work for all fisheries.
- The Council made up of industry and fishermen themselves understands, but to make a change ASMFC and MAFM need to see public presence and hear their frustration.
- Mr. Herb commented that he was pleased to see such a great turnout. The Council has committees, and anyone can join these committees to be on the forefront of the ground work. Good news, is that for the first time historically, NJ recently stood up to the ASMFC and had ASMFC recommendation overruled. Which shows change can be done.
- The public needs to get involved on Committees, contact their congressman, show up at ASMFC and MAFC meetings and keep their voices' heard all year long now and moving forward.

- Mr. Norwalsky commented that although he is disappointed that nothing can be solved tonight, the good news is that the public turned out and hopes the public will continue to fight and not just for one moment in time, but for all moments in time. And not stop, until we are heard and changed is made.

Meeting adjourned. Next Meeting is November 2, 2017, Galloway, NJ.