

Marine Fisheries Council Meeting  
November 4, 2021

**Council Attendees:**

Pat Donnelly	John Maxwell
Dick Herb	Joe Rizzo
Barney Hollinger	Bob Rush
Jeff Kaelin	Kevin Wark

**Council Absentees:**

Eleanor Bochenek

**DEP and Division of Fish and Wildlife Attendees:**

Jeff Brust – Chief, Bureau of Marine Fisheries (BMF)  
Michael Auriemma - Assistant Biologist, BMF  
Russ Babb - Chief, Bureau of Shell Fisheries (BSF)  
Linda Barry - Research Scientist, MFA  
Mike Celestino – Research Scientist, MFA  
Peter Clarke - Principal Biologist, MFA  
Heather Corbett – Supervising Biologist, BMF  
Jessica Daher- Program Specialist Trainee, MFA  
Tim Daniels - Assistant Biologist, BMF  
Jamie Darrow - Assistant Biologist, BMF  
Matt Heyl – Assistant Biologist, BMF  
Jeff Normant - Supervising Biologist, BSF  
Chad Power- Assistant Biologist, BMF  
Jason Snellbaker – Deputy Chief, Bureau of Law Enforcement (BLE)  
Laura Versaggi - Fishery Specialist, ACCSP  
Alissa Wilson - Biologist Trainee, BMF

**Public Attendees:**

John Depersenaire	James Parker III
Jack Fulmer	Alex Schmidt
David Kielmeier	Benjie Swan
Adam Nowalsky	Ray Bukowski

The meeting was called to order. Notice of the Marine Fisheries Council (Council) meeting was filed with the Secretary of State on October 7, 2021 and published in the Press of Atlantic City and Newark Star-Ledger.

## **Approval of Minutes**

Meeting minutes from the September 5<sup>th</sup> meeting of the Council were approved with minor revisions to include the Wind Advisory Subcommittee meeting minutes. Motion made by Mr. Kaelin and seconded by Mr. Wark. Motion carried.

Ray Bukowski, former Assistant Commissioner for DEP, spoke briefly to announce his recent retirement from public service. He thanked Council for their enduring partnership and support to carry out the State's priorities during his tenure.

## **Enforcement Report – J. Snellbaker**

Conservation Police Officers assigned to the Marine Region have been extremely busy responding to numerous complaints reporting the illegal taking of tautog. In total, officers have issued more than 125 summonses for various tautog-related violations including possession of undersized fish, harvesting over the daily limit, interference, mutilation, trespassing for purposes of taking wildlife, and littering while fishing. The cases ranged from a single fish to as many as several dozen fish in some instances.

CPOs Raker and Tomlin found a Wildwood-based commercial scallop vessel in possession of Atlantic sea scallops over the daily limit. Upon the vessel's return from a limited-access-general-category scallop fishing trip in the Mid-Atlantic Sea Scallop Access Area, the CPOs conducted a thorough inspection and found 30 pounds of shucked scallops over the legal limit of 600 pounds. The excess scallops were concealed in various places on board the vessel and had an estimated market value of approximately \$600. The case was referred to National Marine Fisheries Service for enforcement action.

While on patrol in Fortescue, CPO Raker noticed a vehicle parked next to the Fortescue Creek on a property posted "No Trespassing." CPO Raker inspected three individuals at the vehicle who were found to be in possession of 10 undersized stiped bass. He quickly made his way to another group fishing in the creek and found a second bucket containing additional undersize striped bass, which was hidden in the phragmites along the creek. A total of 14 undersize striped bass were recovered ranging in size from 12 - 16" in length. The fishermen were issued summonses for over limit and undersize striped bass and for trespassing for purposes of taking wildlife.

CPO Tomlin was patrolling in Avalon, Cape May County when he took up surveillance on multiple fishermen on a jetty. CPO Tomlin witnessed several undersized tautog retained by the fishermen. The tautog were placed into a woman's purse and they hurried off the jetty. CPO Tomlin located the fishermen short distance away, and upon inspection were found to be in possession of 16 undersized tautog and 14 tautog over limit as well as an undersized and out of season summer flounder. The fishermen were issued summonses for the violations.

## **Delaware Bay Shellfish Report (B. Hollinger)**

### *Delaware Bay Oyster Dredge Fishery*

As of November 3, 2021, the total harvest was approximately 112,800 bushels with approximately 44,600 bu. from the High Mortality beds, 41,400 bushels from the Shell Rock bed, and 26,800 bu. from the Medium Mortality beds. The catch per unit effort is about 138 bushels per boat per day and is currently 118 for the High Mortality beds. The Medium Mortality Region closed, and the High Mortality Region reopened on 10/1/21, and Shell Rock remains closed. The season closes 11/26/21 or if the individual quotas are harvested before then. The reported harvest summary is outlined in a table below.

### *Nantuxent Creek Channel Update*

The Nantuxent Creek Channel was dredged throughout October. NJDOT is awaiting the post dredging survey currently being conducted, which they will forward to the DEP Aids to Navigation who will mark the channel.

## **Atlantic Coast Shellfish Report (J. Maxwell)**

### *Lease Policy Committee*

The Atlantic Coast Section of the New Jersey Shellfisheries Council will be holding a meeting of its Lease policy Committee on November 8th lease utilization. This has been an ongoing point of discuss for a number of years in that expansion of leasing for shellfish aquaculture is limited in the Atlantic coast bays due to inherent conflicts with other stakeholders and resources. The discuss will focus on if utilization is necessary for the growth of the industry and how does the Department and the Council re-allocate leases that are not being used.

### *Lease Compliance Letter*

The Council has sent a letter to all Atlantic coast shellfish leaseholders to remind the lessees that they should make sure they are in compliance with all applicable rules and regulation related to shellfish aquaculture, such as make sure that you have all of the required and up-to-date NJDEP Land Use Permits, Tidelands Instruments and any required US Army Corps of Engineer federal permits, wherever applicable. Make sure that the current operation on your leases is in full compliance with all of the above permits. Ensure that your leases are properly marked by May 1st of each year, as per the leasing regulations. Make sure you have your Commercial Shellfish Aquaculture Permit. Make sure you follow the Vibrio Management Plan. Compliance safeguards to viability of the industry.

## **Legislative/Regulatory Report (J. Daher)**

No state legislation took place in October during the lame duck session. Several bills have been introduced at the federal level, including emergency action to continue funding to prevent a government shut down and an act to facilitate use of decommissioned naval vessel as artificial reef material, and a bill relating to designation of critical habitat under the Endangered Species Act. Updates were also given on a number of other bills reported at previous meetings that have progressed through the review and approval process.

Mr. Brust informed Council that staff is developing a rule proposal that will allow recreational gear changes through Notice rather than a full regulatory package. Currently only size, season, and possession limit can be changed by Notice in the recreational fishery, but ASMFC has implemented recreational gear changes in two fisheries recently. This rule will allow New Jersey to execute those changes more quickly, thereby staying in compliance with ASMFC mandates.

### **Atlantic States Marine Fisheries Commission (ASMFC) Report (P. Clarke)**

Mr. Clarke gave a presentation to summarize all meetings held during ASMFC's Fall Meeting (October 18-21, 2021).

The Lobster Management Board considered Draft Addendums XXVII and XXIX for public comment. These two addendums will be revisited at the January meeting and late 2021 respectfully. Also discussed was the Management Strategy Evaluation which was postponed until the 2023 winter meeting.

The Atlantic Herring Board set quota periods for the 2022 area 1A fishery. Updates were provided on the previously postponed Draft Addendum III. The Board discussed potential future funding loss for Maine's portside sampling program.

The Tautog Board discussed the recent stock assessment results which showed improvement in most regions with no overfishing occurring. There were no further management changes made.

The Shad and River Herring Board approved shad habitat plans from VA, DC, and NY. The Board approved Technical Committee (TC) recommendations to evaluate the shad mixed stock fishery for incorporation into the Delaware River Basin Cooperative's Fishery Management Plan (FMP). A progress update was provided on the TC task to prioritize systems with barriers to passage for shad recovery with a final report due to the Board at its next meeting.

The Atlantic Menhaden Board discussed single-species and ecological reference point benchmark assessments to begin following completion of 2022 single-species assessment update. In addition, the Board discussed the use of spatial modeling to be pursued after 2025 benchmark assessments are completed. Guidance was provided to the Plan Development Team (PDT) to

develop Draft Addendum I for Board consideration at January meeting. Finally, the Board postponed discussion of mortality events until January meeting.

The Coastal Sharks Board met to set specifications for the 2022 fishing year.

The Striped Bass Management Board met to review Draft Addendum 7 and tasked the Plan Development Team to develop new options and design a formal rebuilding plan for review at January meeting. Approval of Draft Addendum VII for public comment was deferred until May 2022.

The Horseshoe Crab Board approved harvest specifications for Delaware Bay-origin horseshoe crabs under adaptive resource management (ARM) framework. The Delaware Bay Ecosystem Technical Committee will need to review the ARM Revision draft report late October for peer review around November 16 and prepare for Board consideration in January. All FMPs were approved. Biomedical mortality exceeded FMP threshold in recent years. The Board tasked the PDT to review.

The Spiny Dogfish Board postponed consideration of trip limit adjustments in state waters for the northern region until the January meeting. The research track assessment timeline was discussed. The assessment is scheduled for peer review in July 2022.

The American Eel Board approved the extension of Maines's current glass eel quota for 2022-2024 and received an update on the benchmark stock assessment scheduled for peer review in late 2022.

The ACCSP Coordinating Council Approved funding of the top 7 maintenance proposals and 3 new proposals.

The Atlantic Large Whale Take Reduction Team Update has 2 rulemakings in progress:

- Phase 1 will focus on Northeast lobster/Jonah crab fisheries and is in the final stages.
- Phase 2 will focus on additional fisheries that may impact large whales.

The Take Reduction Team is scheduled to meet early 2022 for scoping and in Spring 2022 to develop recommendations. Additional rounds of public comment will follow the release of the proposed rule.

The Executive Committee met to discuss wind energy coordination among all Atlantic States and will continue that discussion at the January meeting. The ASMFC requested a meeting with the Department of Agriculture in response to the Seafood Processors Pandemic response and Safe Block Grant Program. Applications from states are due to USDA in November 2022. The

committee will review the revised draft of the ASMFC appeals process in January 2022. Annual meetings were announced for 2022 in NJ, 2023 in NC, and 2024 in Maryland.

During the Business section, Spud Woodward from Georgia was selected as the new chair and Joe Cimino was selected as vice chair.

The Policy Board provided updates on Draft Addendum/Framework for bluefish, summer flounder, scup, and black sea bass. The Board will revisit the draft in late 2021 or early 2022. Recreational specifications will be discussed during the December Council meeting during the species specific ASMFC management boards. NOAA Fisheries provided an update on ways to reduce sea turtle bycatch in several trawl fisheries. More details will be presented at the January meeting. The East Coast Scenario Planning Initiative conducted 3 webinars with over 250 participants. The next steps are “driving forces” webinars and in-person workshops.

Mr. Rush asked for clarification on the tautog stock assessments. Mr. Brust responded that all four stocks (MA-RI, LIS, NY-NJ, DelMarVa) have seen increases in biomass since the last assessment. Overfishing is not occurring in any of the four stocks. All stocks except the NY-NJ stock were found to be above the biomass threshold (not overfished), while the NY-NJ stock was reported at approximately 95% of the threshold.

### **Mid-Atlantic Fishery Management Council Report (H. Corbett)**

Ms. Corbett gave a presentation to summarize all meetings held during the MAFMC’s Fall Meeting (October 5-6, 2021).

Chub Mackerel specifications received a no change recommendation to the previously approved specifications for 2022.

The Council reviewed the SSC’s September 2021 meeting results regarding the Atlantic mackerel stock rebuilding approaches and provided additional guidance regarding rebuilding plan modifications.

For spiny dogfish, a recommendation of no change to the previously approved specifications for 2022 and a 25% increase to federal trip limits moving them from 6,000 to 7,500 pounds.

The Greater Atlantic Regional Fisheries Office (GARFO) provided an update on reporting and permitting for tilefish.

GARFO provided a briefing on the development of risk reduction measures to reduce mortality and injury of right whales in the trap and pot and gillnet fisheries.

In other business, a presentation on a diet study of tuna, marlin, and spearfish in the Mid-Atlantic was provided for the Highly Migratory Species. A draft list of actions for the 2022 Implementation Plan was reviewed, as well as a new biological opinion on the scallop fishery.

The next meeting was announced to occur on December 13-16 and will be a hybrid meeting, allowing both virtual and in-person attendance.

### **Marine Fisheries Bureau Report (J. Brust)**

- The Striped Bass Bonus Program application period closed on October 31, 2021. Permits were issued and 4,290 fish were reported harvested so far this year.
  
- The 2021 striped bass young-of-year index trends were discussed. This year's index is below average, ranking 29<sup>th</sup> out of 41 years.
  - Mr. Rush asked about current studies that are being conducted and provided ideas of future studies.
  - Mr. Hollinger commented on water temperature correlation on abundance and explained how that may have something to do with variability of the index.
  
- An update was provided on commercial blue crab compliance. Staff made 23 courtesy calls. In addition, six first offenses and 1 second offense were issued.
  
- Commercial Seasons and Quotas were presented.
  - The Bureau received a transfer of 275,000 pounds of menhaden from South Carolina.
    - Mr. Kaelin thanked the MFA staff for acquiring the South Carolina transfer and commented that the purse seine ITQ program is working well to keep the fishery open late into the year.
    - Mr. Kaelin described the current SCMFIS Grant that will study the winter population of Atlantic menhaden off NJ and mentioned that there will be a need to transfer quota from the coastwide quota directed to the study.
      - Mr. Brust relayed that he and MFA Administrator, Mr. Cimino, have been discussing the process for acquiring the quota needed for that study and will update the group when more information becomes available.
  - The black sea bass season 5 quota under-harvested by 120,000 pounds rolling that poundage into the final season 6 fishery. A new trip limit will not be adjusted at this time as advisors felt the extra quota for season 6 will be harvested under the current trip limit.
  - The summer flounder season 5 fishery under-harvested by 470,000 pounds bringing the season 6 quota up from 207,000 pounds to 637,000 pounds. The

season 6 trip limit was adjusted from 2,000 pounds a week to 4,000 pounds a week to account for this.

## **Committee Reports**

### *Commercial Black Sea Bass*

Mr. Rush read the report from a meeting of the Commercial Black Sea Bass Committee.

The purpose of this meeting was to review the 2021 commercial black sea bass fishery and discuss trip limit modifications to the 2022 fishery.

NJDFW staff provided advisors with current 2021 black sea bass commercial fishery landings. Based upon the unharvested quota remaining in the 2021 commercial fishery, the Committee recommends not adjusting the Season 6 directed trip limits at this time. Additionally, Advisors were presented with the preliminary 2022 commercial black sea bass quota for New Jersey. The preliminary quota for New Jersey is 1,294,000 pounds, which includes a 6% increase relative to the 2021 fishing year.

Based upon this preliminary quota for the black sea bass commercial fishery, the Committee's preferred trip limits for the 2022 commercial fishing year are as follows:

- Season 1 (January-February): option A- 1,500-pound trip two times per week **or** option B- 3,000-pound trip one time per week.
- Season 2 (March-April): option A- 750-pound trip four times per week **or** option B- 1,500-pound trip two times per week **or** option C- 3,000-pound trip one time per week.
- Season 3 (May-June): option A- 1,000-pound trip five times per week **or** option B- 2,500-pound trip two times per week.
- Season 4 (July-August): option A- 800-pound trip five times per week **or** option B- 1,000-pound trip four times per week **or** option C- 2,000-pound trip two times per week.
- Season 5 (September-October): option A- 1,000-pound trip six times per week **or** option B- 2,000-pound trip three times per week **or** options C- 3,000-pound trip two times per week.
- Season 6 (November-December): option A- 750-pound trip four times per week **or** option B- 1,500-pound trip two times per week **or** option C- 3,000-pound trip one time per week.

Options cannot be combined under any circumstance for a given season. Once a trip has been landed under one option, the vessel is restricted to only that option for the remainder of the fishing week (Sunday-Saturday). Once the following fishing week begins (12:00 a.m. Sunday), the vessel can choose another option under the corresponding season. The Committee recommends the commercial trip limits for the 2022 commercial black sea bass fishing year as provided in this report.

- A motion to approve the draft 2022 commercial black sea bass trip limits was made by the Commercial Black Sea Bass Committee. Motion passed unanimously.

### *Commercial Summer Flounder*

Mr. Kaelin read the report from a meeting of the Commercial Summer Flounder Committee.

The purpose of this meeting was to review the 2021 commercial summer flounder fishery and discuss trip limit modifications to the 2022 fishery.

NJDFW staff provided advisors with current 2021 summer flounder commercial fishery landings. Currently there are approximately 627,000 pounds of summer flounder projected to be available for the final season of the 2021 commercial fishery. Trip limit modifications that reflect the remaining quota have been recommended by advisors and were implemented on November 1, 2021.

Additionally, advisors were presented with the preliminary 2022 commercial summer flounder quota for New Jersey. The preliminary quota for New Jersey is 2,597,391 pounds, which includes a 24% increase relative to the 2021 fishing year.

Based upon this preliminary quota for the summer flounder commercial fishery, the Committee's preferred trip limits for the 2022 commercial fishing year are as follows:

- Season 1 (January-February): option A- 2,000-pound trip two times per week **or** option B- 4,000-pound trip one time per week.
- Season 2 (March-April): option A- 400-pound trip six times a week **or** option B- 1,250-pound trip two times per week **or** option C- 2,500-pound trip one time per week.
- Season 3 (May-June): option A- 350-pound trip seven times a week **or** option B- 625-pound trip four times per week **or** option C-1,250-pound trip two times per week.
- Season 4 (July-August): option A- 350-pound trip seven times a week **or** option B- 625-pound trip four times per week **or** option C-1,250-pound trip two times per week.
- Season 5 (September-October): option A- 500-pound trip seven times a week **or** option B- 875-pound trip four times per week **or** option C-1,750-pound trip two times per week **or** option D- 3,500-pound trip one time per week.
- Season 6 (November-December): option A- 400-pound trip five times per week **or** option B- 1,000-pound trip two times per week **or** option C- 2,000-pound trip one time per week.

Options cannot be combined under any circumstance for a given season. Once a trip has been landed under one option, the vessel is restricted to only that option for the remainder

of the fishing week (Sunday-Saturday). Once the following fishing week begins (12:00 a.m. Sunday), the vessel can choose another option under the corresponding season.

The Committee recommends the commercial trip limits for the 2022 commercial summer flounder fishing year as provided in this report.

- A motion to approve the proposed 2022 commercial summer flounder trip limits was made by the Commercial Summer Flounder Committee. Motion passed unanimously.

#### *Recreational Black Sea Bass*

Mr. Rush read the report from a meeting of the Recreational Black Sea Bass Committee.

A meeting of the NJ Marine Fisheries Council's Recreational Black Sea Bass Advisory Committee was held via webinar on October 26, 2021 to discuss future management approaches for the New Jersey recreational black sea bass fishery.

At the September 9, 2021 New Jersey Marine Fisheries Council meeting, Council requested the Marine Fisheries Administration staff investigate several alternative recreational black sea bass fisheries management options for 2022 and forward.

Currently, the recreational black sea bass fishery in New Jersey has four seasons with varying size and possession limits in each season as follows; May 15-June 22, 10 fish, 12.5 inches, July 1-August 31, 2 fish, 12.5 inches, October 8-October 31, 10 fish, 12.5 inches, and November 1-December 31, 15 fish, 13 inches. Staff presented several options which would eliminate or minimize the two current gaps in the open black sea bass seasons occurring between June 22 to July 1 (8 days) and August 31 to October 8 (37 days) by using a combination of increased size limits and decreased bag limits to remove these gaps in fishing. At the conclusion of the meeting, advisors preferred a possible adjustment to the July 1-August 31 season where the size would go from 12.5 inches to 13 inches while retaining the two fish possession limit allowing for an additional 10 days to be placed into the September/October season and still retaining the September/October size limit of 12.5 inches and 10 fish possession limit. These possible adjustments are conceptual only and intended to guide future advisory committee discussions when final recreational harvest limits for 2022 become available in December. This is for guidance only and does not represent any adjustments for the 2022 black sea bass recreational fishing season.

- Mr. Rush commented that he thought the meeting was a great success and liked to see the calculation process in action finding it very useful in making informed decisions.

#### **Regulatory Actions (J. Brust)**

A motion to approve the commercial summer flounder and black sea bass 2022 trip limit NOAC was made by Mr. Rush, seconded by Dr. Donnelly. Motion passed unanimously.

## **Old Business – J. Brust**

### *2022 Council Dates*

- 1/6-Galloway
  - 3/3-Stafford
  - 5/12-Galloway
  - 7/14-Galloway
  - 9/8-Stafford
  - 11/13-Galloway
- Mr. Brust mentioned that staff has been calling both Galloway and Stafford to confirm the all meeting locations, Galloway has confirmed all dates, Stafford will need to wait to put the meeting dates on the calendar until January 1, 2022.

### *USDA Reimbursement-J. Brust*

Mr. Brust provided an update on the USDA Seafood Processors Pandemic Response and Safety block grant program. USDA is making \$50 million in aid available to seafood processors to help cover expenses incurred responding to the COVID-19 pandemic. Of this, New Jersey will receive \$826,807. Six categories of expenses are covered, including workplace safety, market pivots, retrofitting facilities, transportation, worker housing, and medical expenses. States can determine how to allocate funds among the categories. Similar to CARES, the state will apply to USDA for the funds, then processors will apply to the state and the state will determine eligibility and distribute funds.

- Mr. Rush asked for a definition of a processor and dealer.
  - Mr. Brust provided the definition available in the RFP announcement.
- Mr. Kaelin commented that the Garden State Seafood Association (GSSA) has notified its members to provide the number of applicant dealers and processors to the state Department of Agriculture offices.
- Mr. Hollinger received an email from the Department of Health and Agriculture stating that the NJDEP is asking for funds. Mr. Hollinger thinks there will be 4 categories eligible for funds. Categories such as worker housing and transportation will not be considered as eligible by NJ.
  - Mr. Brust responded that MFA is working jointly with Agriculture to administer the program in NJ. He is not aware that the categories had been prioritized already and will look into Mr. Hollinger's concern.

### *Committee Meeting Schedule - J. Brust*

The Executive Committee will need to meet in early December to discuss applications for advisory committees, striped bass fines, and prioritizing species for state FMPs.

- Mr. Herb asked if the advisor applications are closed now. Mr. Brust responded that there is no closed period. Applications are received on a rolling basis and reviewed when there a sufficient number to review.
  - Mr. Rush stated that a method to get more coverage from advisors is needed to represent all areas and facets of fishing. Suggested to advertise the positions.
    - Mr. Brust mentioned that the program is promoted regularly by staff and at Council meetings. He recommended Council and current advisors also ask people and spread the word that more advisors are needed. Staff could send a list serve message if Council requests it, but noted it primarily targets recreational anglers.
  - Mr. Wark commented that the bluefish fishery would benefit from having a harvest trigger that implements trip limits, as a fail-safe to prevent over harvest. He requested the bluefish advisory committee meet when it is convenient for Council and staff to establish an over-harvest prevention trigger.
  - Mr. Brust inquired as to whether the offshore wind committee needed to meet. Dr. Bochenek previously suggested having a speaker from ROSA attend. Mr. Kaelin suggested waiting until after January 2022. Mr. Wark commented that the committee would need to discuss consistency in the approach of scientific surveys that will be conducted on the offshore wind areas.
  - Mr. Rush asked for a CARES Act update.
    - Mr. Brust responded that there are funds leftover after the most recent round of funding and allocation to applicants. The MFA is looking at ways that are approved to spend the leftover grant money. Mr. Clarke verified that the application deadline was extended to November 12 for the next round of funding applications.

### **New Business (J. Brust)**

No new business

### **Public Comment**

John Depersenaire (RFA) expressed concerns about the effort to develop FMPs for state managed. It can be viewed as the beginning of regulations for currently unregulated species, and the it is vitally important to get it right. Many of the unmanaged species have limited data and are often targeted by those who don't have access to other species, so adding regulations could further restrict them. Suggested targeted studies to collect information on data poor species to support decision making before implementing regulations.

David Kielmeier-What is the current progress on the crab dredge and crab pot transferability regulations?

- Mr. Brust responded that the new regulations are in the final stages of review and should be published by the end of 2021.

David Kielmeier-inquired about water classification process and how that was progressing.

- Mr. Hollinger responded that the Council is still working on that process and it should be done before the next season starts.
  - J. Normant added that it will become effective after the regulations are passed at which time an updated map will be distributed.

Meeting concluded 6:56 PM. The next Marine Fisheries Council Meeting will be held on January 6, 2022 at the Galloway Township Public Library.