

NEW JERSEY MARINE FISHERIES COUNCIL
Galloway Township Library
Galloway, New Jersey
July 12, 2012

In Attendance were: Acting Chairman Richard Herb
Councilman Scott Bailey
Councilman Erling Berg
Councilwoman Eleanor Bochenek
Councilwoman Frances Puskas
Councilman Sergio Radossi
Councilman Joseph Rizzo
Councilman Robert Rush
Councilman Joseph Zaborowski

Absent: Councilman Walter L. Johnson III

Also in attendance representing the Division of Fish and Wildlife:

Thomas W. McCloy, Administrator, Marine Fisheries Adm. (MFA)
Brandon Muffley, Chief, Bureau of Marine Fisheries (BMF)
Russ Babb, Acting Chief, Bureau of Shellfisheries
Jeffrey Brust, Research Scientist, MFA
Peter Himchak, Supervising Biologist, MFA
Captain Fresco, Bureau of Law Enforcement
Russ Allen, Principal Biologist, BMF
Mike Celestino, Principal Biologist, MFA
Sherry Bennett, Council Secretary

Ms. Bennett read the compliance with the Sunshine Law. Notice of the meeting was filed with the Secretary of State on June 5, 2012. Meeting Minutes from the March 1, 2012 Council meeting were approved. Meeting Minutes from the May 10, 2012 Council Meeting were not available at the time of this month's meeting.

Acting Chairman Herb began the meeting with the Pledge of Allegiance.

Acting Chairman Herb welcomed two new Council members to the Marine Fisheries Council: Councilman Robert Rush and Councilman Joseph Zaborowski. Acting Chairman Herb thanked the outgoing Councilmen, Gil Ewing and Patrick Donnelly for their time and dedication to the Council.

Acting Chairman Herb announced there will be an ASMFC Black Drum hearing immediately following Council's meeting tonight.

Audience Conduct

Acting Chairman 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 Report

Captain Fresco presented Council with the Law Enforcement Report. A detailed report was provided in Handout #1.

April

Three summonses were issued to three recreational fishermen for possession of 18 black sea bass during the closed season in Neptune Township.

In Point Pleasant Beach, during a commercial fishing inspection of an otter trawl vessel, a summons was issued for 115 pounds of river herring. Currently there is a closure for river herring. On 5/18/12 this case was heard at the Point Pleasant Beach Municipal Court the fishermen plead guilty and paid \$300 plus court costs.

May

During a routine inspection of a seafood market in Ortley Beach, 27 pounds of summer flounder were discovered without proper documentation. A summons was issued to the market for failure to keep accurate records. An investigation concerning the mate of the commercial vessel who sold the summer flounder to Fishermen's Dock Cooperative, is ongoing.

During some routine market inspections throughout Monmouth and Middlesex counties, summonses were issued to one market for selling undersized tautog and conch, and to another market selling undersized lobsters.

June

A total of six unlicensed individuals were issued summonses for harvesting hard clams in special restricted waters of the Shark River in Belmar.

A vessel which was entered into a Mako/Thresher Shark Tournament in Brielle possessed a 350 pound mako and a 175 pound thresher shark. The thresher shark was seized and a summons was issued for possessing one shark over the possession limit. The fisherman was disqualified from the tournament.

During an inspection of a party vessel in Point Pleasant, summonses were issued to the subjects who possessed a dozen undersized black sea bass and one winter flounder, during the closed season.

During an inspection of a party vessel in Atlantic City, six out of twelve patrons were issued summonses for a total of 33 undersized black sea bass.

Using the newly acquired Ribcraft patrol vessel, ten fishing vessels were inspected while offshore. Six summonses were issued for possessing: undersize black sea bass, undersize summer flounder, tautog and scup during the closed season.

CO Petruccelli completed the Marine Law Enforcement Training Program at the Federal Law Enforcement Training Center (FLETC) located in Glynn County (GLYNCO) Georgia.

Ms. Puskus asked why enforcement was boarding vessels out at sea as opposed to waiting for vessels to return to dock for fear this is more dangerous for everyone involved. Captain Fresco reassured Council that safety is first priority. Boardings are not conducted in bad sea/weather conditions. The Ribcraft patrol vessel gives enforcement a way to inspect vessels on the spot as opposed to waiting for the vessels to return to dock.

Legislative Report

Mr. McCloy presented Council with the Legislative Report. Mr. McCloy presented Council with Handout #3a, S1922 which prohibits the sale and possession of shark fins, similar to S1764 presented at May's Council Meeting. Handout #3b is Council's letter voicing opposition to the proposed legislation and stating that current Federal and State laws/regulations regarding sharks are adequate and allows for a marketable natural product with a positive economic impact for fisherman. Mr. McCloy noted that all sponsors of the various bills regarding the shark fin legislation were mailed their own individual letter addressing Council's opposition to the proposed legislation. In addition, the appropriate Legislative Committees' were copied.

Handout #4, A2956 is proposed legislation to make changes to the law regulating size limits of lobsters taken from State waters. Mr. McCloy commented the bill still requires technical refinement so that states do not fall out of compliance with the Federal laws. Mr. McCloy will keep Council updated on this proposed legislation.

Mr. Berg asked if there has been any action on the proposed shark bills. Mr. McCloy commented he is not aware of any at this time in New Jersey.

Atlantic States Marine Fisheries Commission (ASMFC) Report

Shark

Mr. Himchak presented Council with information specifically related to legislation introduced to prohibit the possession and sale of shark fins, even those legally caught. Maryland and New York are two states that have moved the furthest in this legislative process. There is a ban in all the West Coast states and four major Canadian cities have passed laws in regards to prohibit the possession and sale of shark fins. The ASMFC Shark Board has invited the Humane Society International to attend the August Board meeting to hear their point of view and understand their need to prohibit the sale and possession of a legally caught product. Mr. Himchak will keep Council informed as more information becomes available.

Black Drum

Mr. Allen announced there will be a Black Drum hearing, which will include a ASMFC presentation and public comment following tonight's Council meeting.

Atlantic Sturgeon

Mr. Allen also updated Council on Atlantic Sturgeon. As of April 6, 2012 Atlantic Sturgeon was listed on the Endangered Species Act (ESA). Since then, the Department has been working hard on submitting applications for Section 7 and Section 10 incidental permits to allow surveys/fisheries to continue. NMFS has provided New Jersey's Section 7 Biological Opinion allowing incidental takes (109) in federally funded surveys over the next three years.

The Division has received a preliminary review from NMFS on the Section 10 permit application for State water fisheries, indicating the application was in draft form with the need for additional data, monitoring and funding proposals in future versions of the application. The Division is currently working on collecting data with help from the commercial industry. Mr. Allen suggested Council should plan on holding a committee meeting in September or October.

Mr. Zaborowski asked how the number of incidental takes for sturgeon was determined. Mr. Allen commented the number is based on two of NJ's federally funded programs: Delaware Striped Bass Tagging and the Ocean Trawl Survey. Based on the number of interactions with sturgeon within a three year period from these two surveys, NMFS determined the incidental takes (109) of sturgeon between now and May 31, 2014 (when the current grant segment ends), would not jeopardize the species. After May 31, 2014, the application process restarts, unless New Jersey incidental takes exceed 109 prior to that date. If that were to happen, New Jersey and NMFS would need to restart the consultation process.

Mid-Atlantic Fishery Management Council (MAFMC)

Mr. Berg presented Council with the MAFMC report; Handouts #2a and #2b.

A more detailed summary of the Council meeting can be found by visiting the Council website at <http://www.mafmc.org>.

Atlantic Mackerel

Based on the Scientific and Statistical Committee's (SCC) reaffirmation of an 80,000 metric ton (mt) acceptable biological catch (ABC) for mackerel, the Council adopted status-quo specifications for 2013-2015, subject to annual review. After accounting for discards and management uncertainties, the Council recommended a commercial domestic annual harvest (DAH) of 33,821 mt and a recreational annual catch target (ACT) of 2,443 mt. Any catches over the Annual Catch Limit (ACL) in 2013 will be deducted in 2014.

Illex Squid

The Council reaffirmed the status quo quota of 22,915 mt for *Illex* squid for 2013.

Longfin Squid

The SCC reaffirmed the 2012 ABC, and the Council reaffirmed a status quo quota for 2013 of 22,445 mt of longfin squid. The Council also recommended reducing the pre-trip notification time to 48 hours in response to reports that the requirement for 72 hour notice is burdensome for some fisherman. The Council recommended that several trimester closure buffers be lowered during the last two weeks of Trimesters I and II in order to avoid unnecessary end of trimester closures. To ensure that some butterfly cap quota remains for Trimester III in 2013, a Trimester II closure was recommended if 75% of the annual butterfly cap is reached.

Handout #2b is an update from NMFS implementing an adjustment to the longfin squid fishery effective June 21, 2012. The Trimester II and III longfin squid quotas have been adjusted due to an under harvest quota in Trimester I. Any quota remaining at the end of Trimester II will be rolled over into Trimester III.

Butterfish

The Council recommended a butterfly ABC of 8,400 mt of butterfly for 2013, that's a 132% increase from 2012. Council recommended that a limited directed fishery be re-established in 2013.

Amendment 14, (Squid, Mackerel Butterfish)

Given the limited data available about river herring and shad catch in the mackerel or squid fisheries, the Council voted to recommend more rigorous requirements for catch monitoring. The Council also recommended that NMFS increase vessel and dealer reporting requirements and increase observer coverage to 100% on mid-water trawlers in the Atlantic mackerel fishery. The Council voted to implement a catch-cap for river herring and shad in the mackerel fishery beginning in 2014. The Council discussed the feasibility of adding river herring and or shads as directly managed fisheries in Amendment 14 and determined that a follow-up Amendment (15) would allow for a more complete consideration of the issue.

Monkfish

The Council recommended that the New England Fishery Management Council not remove Individual Transferable Quotas (ITQs) from Amendment 6 and that additional dialogue between the monkfish committee and the monkfish advisory panel (AP) be pursued before any changes are made. A meeting is scheduled for August 8, 2012 in Boston, MA.

Mr. Himchak brought Council's attention to a flyer that MAFMC developed as part of an Outreach Program for public information. The document shows how 13 fisheries, 7 states and 1 Council all work together and includes data on landings and effort in each State that is a member of the MAFMC. The MAFMC intends to update this flyer yearly and the next flyer should be available soon with information through 2010 included.

Shellfish Council Reports

Delaware Bay

Mr. Bailey presented Council with the Delaware Bay Report.

2012 Delaware Bay Direct Market Oyster Season

The Delaware Bay direct market oyster season opened on April 9, 2012. Approximately 39,000 bushels have been harvested to date. The catch per unit effort is approximately 75 bushels per vessel per day, down slightly when compared to the 2011 average. There have been 519 boat days fished by the industry. The Shell Rock and Ship John seed beds have taken the majority of the harvest pressure, providing nearly 70% of the total harvest.

Atlantic Coast

No report at this time.

Committee Reports

Ms. Puskas presented Council with the Atlantic Menhaden Committee report, Handout #5.

The Marine Fisheries Council Atlantic Menhaden Committee met at the Nacote Creek Law Enforcement Office to discuss licensing and reporting issues in the New Jersey menhaden fishery and how they might be affected by Amendment 2 of the Fishery Management Plan in development by ASMFC. This meeting was a follow-up to a commercial and recreational industry advisors, and Marine Fisheries and Law Enforcement staff.

Staff provided an overview of recent coastwide management history and impending actions. Amendment 2 is being developed to identify the management strategy used to achieve newly defined reference points for the menhaden stock. As requested during the October 2011 meeting, staff also provided an overview of New Jersey's bait harvest history and a synopsis of commercial purse seine operations in New Jersey.

The purpose of the Committee meeting was to address certain issues within the current New Jersey menhaden management framework to prepare for expected harvest restrictions under Amendment 2. Topics discussed included licensing requirements, license transferability, and harvest reporting. No firm decisions were made, but discussions with the committee and industry advisors provided direction to staff on some of the changes that should be considered. For example, licensing requirements should be changed to require all vessels and gear types that harvest menhaden to purchase a menhaden harvest license (e.g. landing license or license to sell). Licenses should be specific to gear and/or vessel type; and purse seine licenses should include information such as vessel length and hold capacity to ensure that fishing capacity of the fleet is maintained when licenses are transferred. Reporting at the vessel and/or dealer level should be required for all gear types, not just purse seines. Other topics were discussed

generally as issues of concern, such as establishing criteria for determining active participants, and how to deal with “recreational” harvesters who sell their harvest to bait shops.

It was agreed that a subsequent meeting of the Committee and advisors should be held prior to September 2012 Council meeting to review and further develop the draft proposals.

Regulatory Actions

Mr. Muffley presented Council with regulatory updates.

Tautog

Mr. Muffley informed the Council that the Notice of Administrative Change (NAC) they approved at their May meeting regarding modifications to Black Sea Bass, Lobster, Tautog and Spanish Mackerel will be published in the July 16, 2012 New Jersey Register. However, the review of this NAC took longer than usual so the Commercial Tautog Season opening day which Council approved to move the opening of the season to June 11, 2012 instead of June 22, 2012 ended up opening on June 13, 2012 when the NAC was finally signed by the Commissioner. Therefore the commercial tautog fisherman lost 3 days of fishing. After some discussion between Council members, it was determined the Department will present options at the Council’s September meeting to see if and where those three days lost can be beneficial to the fall 2012 commercial tautog season.

Black Sea Bass, Season 3

Mr. Muffley presented Council with Handout #6, a draft NAC on commercial black sea bass trip limits. In the past, Council has discussed the potential of modifying trip limits on commercial black sea bass mid-season for optimal utilization of available quotas. Mr. Muffley presented Council with the three options for modifying Season 3 on black sea bass:

1. Remain status quo on trip limits as:
 - 1 trip at 1000 lb/week OR
 - 2 trips at 500 lb/week
2. Increase the trip limits:
 - 1 trip at 2000 lb/week OR
 - 2 trips at 1000 lb/week
3. Increase the trip days:
 - 2 trips at 1000 lb/week OR
 - 4 trips at 500 lb/week

Since the Committee chose not to meet formally to discuss trip limit options, the Department contacted all ten Committee advisors for their input via email on possibly modifying the black sea bass trip limits mid-season. The Department heard back from six of the ten advisors on the committee: one preferred Option 1, one preferred Option 2, three preferred Option 3, and one was undecided between Option 2 and 3, but wanted to see a change.

Mr. Muffley informed the Council that if they were to make a motion to modify the commercial black sea bass trip limits for Season 3, the draft NAC (Handout #6) reflects the change to increase the number of trip days (Option 3, above).

Mr. Muffley informed Council that the black sea bass quotas have been rolling over each season thus far. Season 1 rolled over 29,000 lbs to Season 2; Season 2 rolled over 34,000 lbs to Season 3 for a total adjusted Season 3 quota of 75,000 lbs. Mr. Radossi made a motion with a second by Mr. Rizzo to approve modification of Season 3 black sea bass trips as specified in Option 3.

Public Comment

Acting Chairman Herb opened up the meeting for public comment on Council's black sea bass motion.

Mr. Parker commented that he supported more trip days as opposed to increased trip limits.

Mr. Kaelin supported increasing of trip days and asked if this would only be related to Season 3 in 2012. Mr. Muffley responded that the increase will only be for Season 3 in 2012, unless there is an overage and then a change will have to be made to Season 4.

Mr. Chew supported more trips in Season 3.

Following the conclusion of the public comment Council approved the motion for Option 3.

Mr. McCloy commented that even though this motion has been passed by Council, the NAC still has to go through its legal process before it is signed by the Commissioner. Please be mindful and watch when the NAC for commercial black sea bass actually becomes effective to avoid any unwanted issues with law enforcement.

Regulatory Proposal Update

Mr. Muffley updated Council with another revision the Department recommends incorporating into the 2008 Multispecies Rule Proposal. The recommendation is in regards to the annual renewals and license forfeiture for non-renewal of limited entry licenses for both Shellfisheries and Marine Fisheries. Currently the bureaus have different renewal, forfeiture and appeal processes. The Department is recommending both bureaus have a consistent process for all marine limited entry licenses. Mr. Muffley will keep Council updated as to any further developments with the Rule Proposal.

Old Business

Mr. Muffley presented Council with Bureau of Marine Fisheries Planning Document, Handout #7. The document provides an overview on the changes and increased requirements in marine fisheries management, trends in funding and staffing resources

for marine fisheries management in New Jersey. The document then highlights all projects and responsibilities currently conducted by marine fisheries staff, establishes a full evaluation matrix that considers mission critical responsibilities, and finally identifies programs that will be eliminated until such time as adequate funding and staffing are obtained. There are also ancillary documents available that provide for more detail on current programs.

Council had no old business at this time.

New Business

Mr. McCloy brought Council's attention to Handout #8a, in regards to NOAA Fisheries releasing the 15th Annual Report to Congress on the Status of the Nation's Fisheries. Handout #8b, lists the 2012 Federal recreational regulations for summer flounder, scup, and black sea bass. Please keep in mind that if the Federal minimum size, possession limit, and/or season differ from the regulations for the state in which you will be landing, you must follow the more restrictive regulations.

Mr. McCloy brought Council's attention to Handout #9, which is a letter from a NJ fisherman to ASMFC urging for more liberal possession limits in the recreational weakfish fishery.

Council had no new business at this time.

Public Comment

Acting Chairman Herb opened up the meeting for general public comment on Council's meeting.

Mr. Wark urges Council and Division to form a committee in regards to Atlantic sturgeon being on ESA and how this will affect all fisheries and surveys in State waters.

Mr. Kaelin reviewed a letter he sent to Council regarding a proposal to amend NJ summer flounder and black sea bass landing regulations to promote NJ landings of these and other commercial fishery resources. He asked Council to please consider the proposal presented tonight.

Mr. Berg asked for a Summer Flounder Committee to be set up. Mr. McCloy asked Council to prioritize all committee meetings.

After input and recommendations from Division staff and discussion between Division and Council the Council decided the next committee meetings to be scheduled are as follows:

1. Crab Committee Meeting to meet on Monday July 16, 2012.
2. Summer Flounder landing issues.
3. Menhaden

4. A Sturgeon committee meeting to be held sometime in October. Mr. Allen will make a presentation at the September Council meeting explaining the potential impacts to state water fisheries of the ESA listing.

Mr. Kaelin was sorry to hear that the menhaden assessment project is no longer continuing due to lack of funding and staff at this time. Mr. Kaelin also thanked Council for sending letters to all those involved opposing the proposed legislation introduced to prohibit the possession and sale of shark fins.

Mr. Kaelin asked the Division if the National Ocean Council (NOC) has contacted NJ for nominations to join the NOC. Mr. Himchak updated Council with background on a National Ocean Policy (NOP) formed by President Obama in 2009. After three years, all those involved with the NOP are currently seeking nominations to fill the regional planning groups of this NOC. Currently the Division is trying to find out who has been contacted and who is being nominated to sit on this committee that is beneficial to the state of NJ. Mr. Himchak will keep Council updated.

Mr. Parker and Mr. Chew would like to see Council seek 5 days compensation for lost versus 3 days lost due to mailing of when the NAC on Commercial Tautog Season officially opened.

Mr. Herb asked if days lost are based on when fisherman found out through mailing or by the date the NAC was signed by Commissioner. Mr. Muffley commented that the total number of days lost is based on the date the Commissioner signed the NAC. Therefore, fisherman lost June 11, 12, and 13, a total of 3 days lost. Mr. Muffley also commented that one day in June is equal to two days in November. After some discussion between Council and Division Staff, the Council chose not to make an action in regards to extending Tautog season at this time.

Mr. Harris expresses his support for Council to review the proposal to amend NJ summer flounder and black sea bass landing regulations that Mr. Kaelin presented to Council tonight. He stressed the need to be allowed to retain fish on the boat.

Mr. Muermann commented on the Crab Committee Meeting to be held on Monday July 16, he recommended that the meeting focused on limited entry, licenses to sell and license transferability.

Meeting adjourned.

Next Meeting September 6, 2012, Galloway Township Library.