

NEW JERSEY MARINE FISHERIES COUNCIL
Galloway Library
Galloway Township, NJ
November 3, 2016

Council Attendees:

Richard Herb (Acting Chairman)
James Alexis
Erling Berg
Eleanor Bochenek
Barney Hollinger
John Maxwell
Frances Puskas
Sergio Radossi
Joseph Rizzo
Robert Rush
Joseph Zaborowski

Division of Fish and Wildlife Attendees:

Dave Chanda, Director, Fish & Wildlife
Brandon Muffley, Administrator, Marine Fisheries Administration (MFA)
Russ Allen, Bureau Chief, Bureau of Marine Fisheries (BMF)
Sean Cianciulli, Acting Deputy Chief, Bureau of Law Enforcement (BLE)
Jason Snellbaker, Captain, (BLE)
Russ Babb, Bureau of Shellfisheries, (BSF)
Tom Baum, BMF
Jeff Burst, Research Scientist Extraordinaire 1, MFA
Mike Celestino, Research Scientist Extraordinaire 2, MFA
Brendan Harrison, BMF
Hugh Carberry, BMF
Lindy Barry, Senior Biologist, MFA

Mr. Muffley read the compliance with the Sunshine Law. Notice of the Marine Fisheries Council (Council) meeting was filed with the Secretary of State on October 12, 2016. Council meeting minutes for September 8, 2016 were approved, with one abstention. Mr. Herb began the meeting with the Pledge of Allegiance.

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.

CO Captain Snellbaker presented the Council with an update of the Law Enforcement Report for September to October 2016, Handout #1. Highlights include:

- On September 4, 2016, CO's patrolling Sandy Hook National Park issued summonses to five individuals from two parties for harvesting shellfish without a shellfish license, a warning for harvesting shellfish from special restricted waters of Sandy Hook Bay. Additional summonses for interference with the duties of a conservation officer and littering were issued to two individuals. The CO continued to patrol the area and issued six more summonses for harvesting shellfish without a shellfish license and six more warnings for harvesting shellfish from special restricted waters of Sandy Hook Bay.
- In September, patrolling Perth Amboy in Middlesex County, summonses were issued to two fishermen for two undersized striped bass, fourteen undersize and out of season black sea bass, four undersize porgy and two parts of a mutilated porgy in two collapsible crab traps and a verbal warning was issued for crabbing in the Arthur Kill, which is part of the Newark Bay Complex prohibited to the harvest of crabs.
- In response to several reports of fish kills, CO's spent more than 75 man hours from August 13th through August 27th, positively identifying the affected species, investigation potential causes, and documenting the incidents. In all cases, the fish kills were the result of a lack of dissolved oxygen.
- Early September, a scheduled municipal court hearing was postponed due to a medical reason by the defendant. The CO had showed up at court that morning to ensure the fisherman received the maximum penalty because it was this crab fisherman's second offense. Instead the CO took a short drive to the dock to find the crab fisherman boat not at the dock. Upon return the CO issued a summons for over 200 undersize blue claw crabs. The crab fisherman now has two pending charges for the same violation in the same court. The penalty for undersize blue claw crab is \$30 per crab.
- A case was referred to National Marine Fisheries Service for federal enforcement action regarding federal highly migratory species (HMS). A recreational vessel was apprehended for possession of skipjack tuna without a federal permit.
- CO's assisted with crowd control around a deceased juvenile humpback whale that washed up on a Sea Isle City Beach, which drew much media attention. Determined cause of death to be from interactions with commercial fishing gear and exhibited signs of being struck by a ship post mortem. Every year, NJ Marine CO's conduct 70 hours of Federal Atlantic Large Whale Take Reduction Plan (ALWTRP) patrols to enforce regulations designed to minimize whale entanglements in commercial fishing gear.
- On October 16, 2016 CO's performed a fisheries compliance inspection on a commercial fishing vessel landing summer flounder in Point Pleasant Beach. The vessel was found to possess 182 pounds of summer flounder in excess of the trip limit of 1500 pounds. The excess summer flounder was seized and summonses were issued for the violation.
- During a routine boat patrol of the Great Egg Harbor Bay area, CO's approached the vessel to conduct a regulatory inspection. The men were charged with littering, possession of summer flounder parts without a carcass, interference and failure to facilitate a safe boarding. Two of the three men had been charged with marine resource violations in the past.

- While conducting surveillance on multiple anglers fishing the Townsend Inlet Bridge a fisherman was apprehended for a total of 98 bluefish in his possession. Bluefish limit is 15 fish. The appropriate summonses were issued for exceeding the possession limit.
- CO's spend many hours conducting surveillance, inspections and responding to complaints in the Absecon Inlet Area of Atlantic City, Sandy Hook Reef to Shrewsbury rocks and along Barnegat Inlet's jetties. The illegal taking of tautog has been an on-going problem for many years. The new tautog penalty is \$100 per fish in violation of the bag and size limits. Anglers were issued summonses for:
 - Two individuals for retaining 21 tautog over the daily limit and were undersized. Summonses totaling over \$4000.00 in fines.
 - One vessel was found in possession of 23 large tautog and another in possession of 13 tautog and one closed season black seabass. A total of seven summonses were issues totaling nearly \$3400.00 in penalties.
 - 11 summonses were issued for several types of violations including undersized and over limit tautog and closed season black seabass.
 - 3 summonses were issued for 18 undersized tautog and over the limit violations.

Dr. Bochenek asked if these repeat tautog offenders lose their fishing license. Captain Snellbaker commented that the current salt water registry law does not allow for revocation of fishing privileges.

Mr. Rizzo asked why was a warning only issued instead of a summons for the clam case up in Sandy Hook? Captain Snellbaker commented they were not commercial fisherman and a petty disorderly person's offense would give the fisherman a criminal record and result in conservation officers spending too much time in court. Having officers in field is more desirable than spending time in court. However, if they were repeat offenders, then a summons may be issued instead of a warning.

Legislative/Regulatory Report

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

- A4191 creates advisory committee on New Jersey's Historic Commercial Fishing Grounds

Atlantic States Marine Fisheries Commission (ASMFC) Report

Mr. Muffley, Mr. Allen and Mr. Baum presented Council with the summary for the ASMFC Annual Meeting held October 23-27, 2016 in Bar Harbor, ME. (Handout #3).

Mr. Muffley

Horseshoe Crab Management Board

The ASMFC set a harvest limit of 500,000 Delaware Bay males' horseshoe crabs and zero female horseshoe crabs for the 2017 season. Allocating a quota for NJ of 162,136 male only crabs. NJ has a moratorium on harvest of horseshoe crabs.

To address biomedical mortality in the Adaptive Resource Management (ARM) model along with the upcoming benchmark stock assessment in 2018 and the potential for management changes resulting from the assessment, the Board postponed any further action of Draft Addendum VIII until after the assessment and peer review.

Interstate Fisheries Management Program Policy Board

ASMFC reviewed and approved sending a letter drafted by the Habitat Committee to BOEM regarding its concerns with seismic testing.

American Lobster Management Board

ASMFC American Lobster Management Board approved Draft Addendum II to the Jonah Crab Fishery Management Plan (FMP) for public comment. The Draft Addendum considers establishing a coastwide standard for claw harvest to address concerns regarding the equity of the current claw provision. Specific options include establishing a whole crab fishery or allowing for the harvest of claws coastwide. The Draft Addendum also considers establishing a definition of bycatch, based on a percent composition of catch, in order to minimize the expansion of small-scale fishery under the bycatch allowance.

The Board reviewed Draft Addendum XXV, which seeks to address the poor condition of the Southern New England (SNE) lobster stock. The Draft Addendum outlines a suite of targeted increases in egg production, ranging from 0% to 60%, as well as potential tools to achieve them (i.e., gauge size changes, trap reductions, and season closures). States will submit industry comments to the Commission by November 30th. The Board will consider approving Draft Addendum XXV for public comment in February 2017.

Mr. Allen

Atlantic Striped Bass Management Board

The Atlantic Striped Bass Management Board met to review the Technical Committee (TC) report evaluating the variables affecting the harvest of 2015 under Addendum IV and to review the 2016 stock assessment update.

The 2016 stock assessment update results indicated that although the Atlantic striped bass stock is not overfished and overfishing is not occurring, spawning stock biomass (SSB) continues to decline towards the threshold level.

South Atlantic State/Federal Fisheries Management Board

The ASMFC South Atlantic Board approved the Cobia Public Information Document (PID) for public comment.

Tautog Management Board

The Tautog Management Board reviewed the regional and coastwide assessment update results. The Board provided the PDT with guidance on Draft Amendment 1 management options. Specifically, the Board discussed the following issues: reference points, projections to reduce fishing mortality, rebuilding plan, commercial and recreational harvest reductions, commercial quota, commercial harvest tagging program and management within a region.

The Board elected to create regional working groups that will meet prior to the February 2017 Board meeting to further discuss the issues and the best approach relative to the region.

Feedback from the working groups will be presented at the February 2017 Board meetings and Draft Amendment 1 for public comment will be presented at the May 2017 Board meeting.

Shad and River Herring Management Board

The Board reviewed a timetable for existing sustainable fishery management plans to be updated in 2017. New Jersey has a Delaware River Coop sustainable fishery management plan for American Shad with the intention of having the update ready and approved at the next board meeting in February. A new benchmark and management actions are being proposed for the American shad fishery in the Lower Delaware Bay. Depending on the final chosen benchmarks and management triggers NJ may have to close the American shad fishery in Lower Delaware Bay at any given time, as is the case with the other current benchmarks in the plan. Mr. Allen will keep the Council posted if any management triggers are in danger of being tripped in the future.

Atlantic Menhaden Management Board

The Board set the 2017 total allowable catch (TAC) at 200,000 MT and approved Draft Amendment 3 for PID for Public Comment.

Mr. Baum

Spiny Dogfish Management Board

The Board approved a spiny dogfish commercial quota of 39,099,717 pounds for the 2017 fishing season. The Board maintained a 6,000 pound commercial trip limit in state waters in the northern region (ME through CT). States in the southern region (NY to NC) have the ability to set state-specific trip limits based on the needs of their fisheries.

Coastal Sharks Management Board

The Board received an overview from NOAA HMS Management Division on proposed rules. Amendment 5b to the 2006 Consolidated HMS FMP proposes a range of management measures to prevent overfishing and rebuild overfished shark stocks. These measures are based on recent assessments that determined

dusky sharks are overfished and experiencing overfishing. NOAA Fisheries is accepting public comment through December 22, 2016.

Board reviewed the Draft Environmental Assessment for Amendment 10 to the HMS FMP on essential fish habitat (EFH). As proposed it would update and revise existing HMS EFH, modify existing Habitat Areas of Particular Concern (HAPCs) or designate new HAPCs for bluefin tuna and sandbar, lemon, and sand tiger sharks, and analyze fishing and non-fishing impact on the EFH since 2009. Draft Amendment 10 does not propose implementing regulations.

Proposed specifications for the 2017 Atlantic shark fishing season were presented. NOAA Fisheries is proposing a January 1 opening date for all shark management groups and a variable CRL for sharks in the aggregated large coastal and hammerhead management groups. The Board will set the 2017 coastal shark specifications via an email vote after the final rule is published.

Summer Flounder, Scup and Black Sea Bass Management Board

The Board initiated development of Draft Addendum XXVIII to the Summer Flounder FMP to consider alternative management approaches for the 2017 recreational fishery. The Draft Addendum will have options which are designed to achieve the 2017 recreational harvest limit (RHL).

The Draft Addendum will be presented to the Board for its consideration and approval for public comment at its joint meeting with the Council in December in Baltimore, MD. At that meeting, the Board and Council will also consider extending ad-hoc regional approaches for 2017 black sea bass and scup recreational management in state waters. The Board and Council are scheduled to review the Black Sea Bass Stock Assessment Report and Peer Review Report and consider possible management responses at their joint meeting in February 2017 in Kitty Hawk, NC.

Atlantic Coastal Cooperative Statistics Program (ACCSP)

ACCSP approved the consensus recommendation of the Advisory and Operations Committee to fully fund all maintenance proposals. ACCSP also approved the Governance Transition Workgroup's recommendation to approve the ACCSP Transition Document and MOU Addendum thereby approving the transfer of ACCSP from an independent program to a program of the ASMFC.

New Jersey has a vacant seat on the ACCSP and Mr. Baum stated to contact him, if interested.

Atlantic Herring Section

ASMFC initiated Addendum I to Amendment 3 of the Interstate FMP for Atlantic Herring to improve the performance of Area 1A Atlantic herring fishery.

Mid-Atlantic Fishery Management Council (MAFMC)

Mr. Baum presented Council with the MAFMC Meeting Summary, held in Galloway, New Jersey, October 4-6, 2016. (Handout #4).

- **River Herring and Shad**

The MAFMC met to develop recommendations on whether to develop an amendment to consider adding river herring and shad (RH/S) as Council-managed stocks. Based on review of existing and planned conservation and management efforts, the Council determined that management of RH/S through a Council FMP is not warranted. The Council reaffirmed its commitment to continue to protect RH/S proactively.

- **Blueline Tilefish Framework**

The MAFMC met to consider modifying the recreational measures for blueline tilefish. The measures previously selected by the Council for 2017 season are May-October with possession limits of 7 fish per-person for inspected for-hire vessels, 5 fish for uninspected for-hire vessels, and 3 fish for private vessels. The Council confirmed that it wants to proceed with development of the framework.

- **New Jersey Special Management Zone Consideration**

In November 2015 the NJ Department of Environmental Protection (DEP) petitioned the Council to designate 13 artificial reef sites as Special Management Zones (SMZs) in the Exclusive Economic Zone (EEZ) under provisions of Amendment 9 to the Summer Flounder, Scup and Black Sea Bass FMP. The justification for this is to ameliorate gear conflicts between hook and line fisherman and fixed pot/trap gear at those sites. In November 2016 public hearings will be held in NY and NJ. The Council will review public comment and take action at its December 13-15, 2016 meeting.

Marine Fisheries Bureau Report

Mr. Allen updated the current status of the vacant APAIS Fishery Specialist position. Updates to commercial reports/landings are expected to be presented in January 2017. The Striped Bass Young-of-Year Survey was recently completed and early data demonstrated another successful spawning year, which is currently tied with 2007 and 2011 to rank ninth in the time series. This would be the 20th “above average” recruitment year observed during the 37-year survey.

Delaware Bay – Mr. Hollinger

- **Delaware Bay Oyster Direct Market Fishery Report**

The 2016 direct market fishery opened in early April and has an approximate 101,000+ bushel quota that is valued at over \$5 million to the harvesting vessels and \$30 million to the local economy. As of Tuesday, the fishery has landed approximately 96,000 bushels. While the lower bay seed beds closed on June 7th, and the Shell Rock seed bed closed on August 1st, the Bureau estimates that the upper beds will remain open to

harvest unless the quota is exhausted before then. The Bureau expects all but one of the allotted quotas to be fully harvest resulting in a total catch of 98.7% of the TAC. That one vessel has decided not to fish this year.

Atlantic Coast – Mr. Maxwell

- The Atlantic Coast Shellfish Council’s Leasing Committee’s Regulatory Sub-Committee met on October 3rd. This subcommittee has met on a number of occasions previously to provide input to develop the concept of the Bureau’s draft rule proposal for leasing. The Committee has since been tasked with discussing proposed amendments and updates to all shellfish regulations. The draft rule will update the leasing regulations for the Atlantic Coast and Delaware Bay, shellfish licenses, hard clam harvest limits, surf clam, Atlantic Coast harvest season and clam relay. Many of the changes are much needed and widely supported.
- The Atlantic Coast Shellfish Council’s Leasing Policy Sub-Committee met on October 19th. The Subcommittee discussed possible changes to the Bureau’s Leasing Policy looking into potential new lease blocks for oyster and hard clam aquaculture.
- The full Leasing Committee will meet on December 15th to discuss finding of both subcommittees and decide on recommendations to be presented back to the Shellfisheries Council.

Bureau of Shellfisheries Report – Mr. Babb

- **Oyster Dredge License Consolidation**
The Bureau’s oyster dredge license consolidation rule was formally adopted in the NJ Register on October 3rd. You’ll recall that the oyster consolidation concept was designed – mostly by industry themselves – to allow for multiple licenses to be fished on a single vessel. The adoption formalized through regulation this allowance, which was previously done under an administrative permit system. Staff is beginning to work on a procedure to implement this for the 2017 licensing period.

Committee Reports

- **Executive Committee** - Mr. Herb presented Council with Summer Flounder and Black Sea Bass Committee Meeting Reports (Handout #5).

The purpose of this meeting was to review the 2017 commercial summer flounder and black sea bass quotas and trip limits options.

NJDFW staff provided the 2016 summer flounder landings summary and fishery performance overview. The preliminary 2017 commercial summer flounder quota for NJ is 946,634 pounds, a 30 percent decrease in 2017 relative to the 2016 quota and the lowest quota in 10 years. Advisors discussed new possible trip limits for 2017 and recommended changes to four of the six summer flounder directed seasons. The following changes are the Committee's preferred options; Season 1 (January – February): 750 pounds twice or 1,500 pounds once per two week period. Season 2 (March- April): 400 pounds twice or 800 pounds once per week. Season 3 (May- June): Unchanged. Season 4 (July – August): Unchanged. Season 5 (September – October): 1,500 once of 750 twice or 250 six times per week. Season 6 (November – December): 1,500 once or 750 twice per week.

NJDFW staff then provided the 2016 black sea bass landings summary and fishery performance overview. The preliminary 2017 commercial black sea bass quota for NJ is 542,000 pounds, a 5,000 pound increase from the 2016 quota. Advisors recommended changing the NJ annual fishery from four seasons to six seasons in order to benefit the various commercial black sea bass gear types and better utilize the annual quota. The following changes are the Committee's preferred options: Season 1 (January – February): 1,500 pounds once or 750 pounds twice or 500 pounds three times per two week period. Season 2 (March-April): 1,500 pounds once or 750 pounds twice or 500 pounds three times per two week period. Season 3 (May- June): 1,000 pounds three times or 500 pounds six times per week. Season 4 (July- August): 1,000 pounds three times or 500 pounds six times per week. Season 5 (September- October): 1,000 pounds three times or 500 pounds six times per week. Season 6 (November – December): 1,500 pounds twice or 1,000 pounds three times or 500 pounds six times per week.

The Committee recommends the commercial trip limit changes for summer flounder and black sea bass as provided in the report.

Council Discussion Summer Trip Limits- no further comment

Public Comment- no further comment

Motion for Summer Flounder – passes unanimously.

Committee Motion Black Sea Bass Trip Limits

Mr. Berg made a friendly amendment to motion to add 1,500 pounds two times a week to Season 5. Seconded by Mr. Rush. No further comment from council discussion or public. **Motion passes unanimously.**

Motion on main motion with addition of the friendly amendment – passes unanimously.

Regulatory Actions- Mr. Allen presented Council with Draft Notice of Administrative Change (Handout #6) regarding summer flounder and black sea bass trip limits and catch composition requirements for finning smooth dogfish at-sea.

- **Coastal Sharks**

In August 2016, the ASMFC's Coastal Sharks Management Board approved Addendum IV to the Interstate FMP for Atlantic Coastal Sharks. The Addendum set catch composition restrictions for finning smooth dogfish, prior to landing. Prior to the implementation of Addendum IV, commercial fisherman could land smooth dogfish carcasses with corresponding fins removed from the carcass. All sharks harvested by commercial fisherman shall have tails and fins attaches naturally through dockside landing. Commercial fishermen may completely remove the fins of any of the species of Smoothhound Shark Group from January 1 through December 31 each year **except now** commercial fisherman may completely remove the fins of smooth dogfish from January 1 through December 31 each year provided at least 25% of total retained catch is smooth dogfish. This change complies with what is currently in place at the federal level.

Motion commercial fisherman may completely remove the fins of smooth dogfish from January 1 through December 31 each year provided at least 25% of total retained catch is smooth dogfish. Made by Mr. Rush, seconded by Dr. Bochenek, Motion passes unanimously.

Mr. Rush addressed concerns about Notice delays and how to go about getting these Notices prioritized. Contacting the Commissioner directly was suggested and Mr. Rush requested a meeting with him at some point in the future.

Mr. Muffley commented that the State lawyers are actually taking the time to review all Council and Commission Board and Technical Committee minutes to ensure that the Council spoke of the regulation changes. He added that the Council certainly has the right to make these changes.

Motion to approve Draft Notice of Administrative Change regarding summer flounder and black sea bass trip limits and catch composition requirements for finning smooth dogfish at-sea. Motion passes unanimously.

Old Business –

- Mr. Muffley commented that Council had heard a few presentations in the past regarding the proposed DE Bay Reef Program. At a past meeting, the Council supported a preferred reef site but no formal motion had been made on how to proceed moving forward.
- Mr. Carberry provided information to address Mr. Hollinger's questions and concerns since his recent return to Council due to Mr. Bailey's death. These

questions revolved around the proper constituent input and protocols to ensure the process took into account all user groups.

- **MOTION: MOVE TO ENDORSE THE PROPOSED NJDEP DE BAY REEF SITE.** Made by Mr. Radossi, seconded by Mr. Alexis.
- Mr. Rizzo commented to go through Army Corps permit process, get public comment from that comment period, than come back to see if modifications are required for final support.
- **Public Comment**
 - Mr. Szulczewski in support of the DE Bay Cape May Reef and had received a number of notices regarding these reef site proposals.
 - **Mr. Mackey** commented DE Bay Reef differences as opposed to the past process when the coastal reefs were proposed. Considers reef development as productive but should seek further public input.

MOTION: MOVE TO ENDORSE THE PROPOSED NJDEP DE BAY REEF SITE. Made by Mr. Radossi, seconded by Mr. Alexis. Motion passes, 6 in favor, 5 not in favor.

- Mr. Herb asked how to receive the public comment from the Army Corp of Engineers. Mr. Allen commented for Council to set up a committee meeting in January 2017. Mr. Herb added to set up a Reef Committee however invite recreational and commercial fisherman representatives, DE Bay Council members and Crab committee members to attend.

New Business

- Mr. Muffley presented Council with a letter he received (Handout #7) questioning why boats licensed to carry six person charter boats are not allowed to purchase an “At Sea Fillet” Permit. Captain Snellbaker commented on concerns on the difficulty of the enforceability.
 - Mr. Rush questioned how to start the process if modifications are to be made. Mr. Herb commented that these questions could be entertained and addressed by the Regulatory Committee in 2017.
- Mr. Muffley presented Council with a letter he received (Handout #8) regarding NOAA releasing a final version of its document entitled “*Ocean Noise Strategy Roadmap*.” The final Roadmap and a summary of the comments received and responses to comments can be found at website <http://cetsound.noaa.gov/>. Programs across NOAA will now identify the next steps they will take to achieve the Strategy’s vision.
- Mr. Muffley presented Council with 2017 Council Meeting dates (Handout #9).

- Comment was made by Mr. Zabrowski to discuss a Constitutional amendment regarding the gas tax and saltwater license.
- Chairman Herb raised and discussed with Council an update of his, along with Messrs. Hollinger and Radossi, meeting with Assistance Commissioner Boornazian in October. Issues surrounded staff replacement concerns that the Council shared as well as some discussion of a new facility for Marine Fisheries.
- Council presented a plaque to Brandon Muffley and thanked him for his service and hard work during his 12 years working for the Marine Fisheries Administration.
 - Senator John presented Mr. Muffley with an appreciation plaque for all his service.
 - Mr. Muffley commented that he was humbled by the presentations. He stated that he tried to approach the job the best way he thought was possible and thanked his incredible staff for their hard work and support.

Committee Meetings-

- No committee meetings were scheduled for prior to January. MFA will prioritize meetings for 2017 in January.

Public Comment

Mr. Yates, United Boatman: expressed concerns on Handout #7 on the enforceability on smaller passenger carriers on private and charter party boats in regards to At Sea Fillet Permit. He also took a moment to personally thank Mr. Muffley for his efforts and stated that he will be missed.

Mr. Szulcewski: Appreciates all the work the DEP and Council does.

Meeting adjourned. Next Meeting is January 5, 2017 Galloway Township.