

NEW JERSEY MARINE FISHERIES COUNCIL
Galloway Library
Galloway Township, NJ
September 6, 2018

Council Attendees: James Alexis
Erling Berg
Eleanor Bochenek
John Maxwell
Sergio Radossi
Barney Hollinger
Joseph Rizzo
Robert Rush
Richard Herb (Acting Chairman)

Council Absentees: Frances Puskas

Division of Fish and Wildlife Attendees:

Joe Cimino, Administrator, Marine Fisheries Administration, (MFA)
Jason Snellbaker, Captain, Bureau of Law Enforcement (BLE)
John Cianciulli, Acting Chief, BLE
Jeff Brust, Research Scientist, MFA
Russ Babb, Chief, Bureau of Shellfisheries (BSF)
Jeff Normant, Principal Biologist, BSF
Brian Neilan, Assistant Biologist, Bureau of Marine Fisheries (BMF)
Heather Corbett, Principal Biologist, BMF
Shanna Madsen, Research Scientist, MFA
Mike Celestino, Research Scientist, MFA
Lindy Barry, Senior Biologist, MFA
Jaimie Darrow, Assistant Biologist, BMF
Sherry Bennett, Marine Council Secretary

Mr. Brust read the compliance with the Sunshine Law. Notice of the Marine Fisheries Council (Council) meeting was filed with the Secretary of State on August 13, 2018. Acting Chairman Herb began the meeting with the Pledge of Allegiance.

Minutes from July 12, 2018 meeting were approved.

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. Tonight's Marine Fisheries Council Meeting will have to end no later than 7:00 pm, for an Atlantic States Marine Fisheries Commission public meeting regarding Atlantic cobia.

Law Enforcement –

Conservation Police Officer (CPO) Captain Snellbaker presented the Council with an update of the Law Enforcement Report for June, July and August 2018 (Handout #3). Highlights include:

- On June 19, 2018 CPO's, National Marine Fisheries Service (NMFS) Law Enforcement Officers (LEOs), and NMFS special agents conducted an offshore patrol 30 nautical miles (nm) to inspect and count the number of lobster pots being fished by the Sea Isle City based lobster fishermen. The case was referred over to the NMFS for Federal enforcement action and the fisherman is facing charges for the following violations: 309 untagged lobster pots, fishing 68 lobster pots over the pot allocation, no ghost panels, and fishing unmarked lobster pots.
- On June 9, 2018, CPO's conducted a boat patrol on the Axel J. Carlson Jr. Reef. A total of 37 recreational lobster pots were in violation and seized as evidence. Twenty five pots were illegally deployed on the reef outside of the full access zones. Other violations included: failure to call in to Marine Enforcement Unit (MFU) prior to deploying pots, failure to properly mark gear, and failure to use degradable materials to attach escape vents. A follow up investigation resulted in five individuals issued 17 summonses.
- An entangled humpback whale was first sighted in the fall of 2017 in Massachusetts, where multiple efforts to disentangle the animal were unsuccessful. On July 11, 2018, CPOs coordinated with several other federal and local agencies to successfully remove the portion of fishing gear that was entangled around the whale's head. Patrol vessel INTEGRITY played a vital role in the operation, serving as the on-water command post and a launching platform for the disentanglement teams 18' inflatable boat. All members of the team returned safe and with no injuries. The whale continues to be observed by various whale-watching groups to monitor its health and well-being.
- In mid-July, a CPO received a complaint of a recreational fishing vessel retaining undersize tautog in Cape May Inlet. The CPO was able to observe the vessel using video surveillance from the security facilities at the USCG station in Cape May. CPO and USCG intercepted the suspect vessel in Cape May Harbor and conducted a thorough inspection. Of the 23 tautog in possession during closed season, 22 were also under the NJ legal size limit. The violations carry a maximum penalty of \$4,500.
- CPO's responded to a complaint about two individuals using nets to catch diamondback terrapins along the Intercoastal Waterway in Dennis Township, Cape May County. A total of 21 diamondback terrapins were recovered from inside the suspect's vehicle. Both

individuals were charged with multiple violations for taking and possession of non-game indigenous species.

- The Fourth of July weekend weather encouraged many recreational fishermen to head offshore in search of big game. As a result, CPO's from District 8 conducted patrols for compliance with Federal highly migratory species (HMS) regulations. Three individual cases were referred to the National Marine Fisheries Service for Enforcement action for:
 - Unlawful possession of two filleted bluefin tuna. The individual admitted to filleting the tuna because they were under 27" size limit
 - Two individuals, in possession of HMS, without a valid permit
- In the evening hours of July 28th, CPO's were on patrol in Point Pleasant Beach, Ocean County. The officers located multiple individuals fishing in the area and upon inspection three men were found with almost a dozen undersized striped bass. Summonses were issued for undersized and over limit striped bass.
- On August 8, 2018, a CPO Detective on a dedicated *V.p.* patrol inspected an oyster aquaculture company returning to a dock in Barnegat Light, Ocean County. The company failed to properly tag 38 containers of oysters and failed to have a bound journal which is required to be filled out with specific information when performing husbandry and maintenance activities off the company's lease. Additionally, the company was found issued a violation for failure to have a Type III marine sanitation device (MSD) onboard a vessel used to harvest shellfish.
- On August 10th, 2018, CPO's apprehended a commercial shellfisherman with over 1800 hard clams that were harvested from the restricted waters of Sandy Hook Bay. Violations included: Harvest of shellfish from condemned waters, untagged shellfish, failure to land all shellfish at a depuration plant, and failure to go directly to depuration plant after harvest. The case is scheduled to go to court in late September and the charges carry significant monetary penalties as well as a 3-year suspension of harvester's commercial shellfish license and possible forfeiture of the shellfisherman's vessel and the accomplice's vehicle.
- Early August, a CPO observed an individual harvesting hard clams from a condemned area along Ocean Drive in Lower Twp. The individual was charged with no shellfish license, possession of undersize clams, over the limit of hard clams, possessing undersized crabs, and interference with the duties of a CPO after dumping out the container of undersized crabs inside his minivan to avoid apprehension. A written warning was issued for the criminal act of harvesting shellfish from condemned waters.
- During a pre-dawn patrol of the Cape May Point area, CPO's observed a group of individuals fishing together on one of the rock jetties. One individual was charged with 13 undersized summer flounder and over the limit violations as well as interference with the duties of a CPO.
- Since the recreational tautog season opened on August 1st, CPO's have observed mostly undersized fish caught at most shoreside locations. On one afternoon, CPO's apprehended an individual who had taken five undersized tautog on a jetty in Absecon Inlet. The man

was charged for the over the limit and undersize tautog violations, as well as interference and obstruction for attempting to elude the officers on a bicycle. Since the man is a repeat offender, his fishing rod and gear were also seized as evidence. Captain Snellbaker commented that this is another case of a repeat offender that is out fishing again because there is no NJ license to take away from him.

Mr. Rizzo asked what the intentions of the two individuals found in possession of diamondback terrapins was, or if there is an investigation. Captain Snellbaker replied that the intentions were unknown, but possibly to sell

Mr. Rizzo questioned why the individual who took undersized clams out of condemned waters was issued a written warning? Captain Snellbaker commented that it is CPO's discretion and that he was not a commercial harvester.

Mr. Rush asked if the HMS issue was due to a lack of public education or individuals playing dumb? Captain Snellbaker commented we can only make an educated guess as to why individuals break the law. The HMS permit costs \$22, so fisherman will take a chance not getting the permit because the likelihood of getting caught is low. Overall 90% of fishermen comply with the law.

Legislative/Regulatory Report

Mr. Brust brought Council's attention to Handouts #4a and #4b for their review.

- Handout #4a is an excerpt from the Congressional Activities Report for the Council Coordination Committee, submitted to the North Pacific Fishery Management Council.
- Handout #4b is an article titled "Magnuson-Stevens Fishery Conservation and Management Act (MSA): Reauthorization Issues for the 115th Congress. Information for Council to help understand MSA.

Atlantic States Marine Fisheries Commission (ASMFC) Report

- Mr. Cimino and Ms. Corbett presented Council with the ASMFC Meeting Summary held August 7-9, 2018 in Arlington, VA (Handout #7).

MS. CORBETT

- **American Eel Management Board**

The ASMFC American Eel Board approved Addendum V to the Interstate Fishery Management Plan. The Addendum includes three major changes to the plan: 1. Increase the yellow eel coastwide cap (1%) starting in 2019; 2. Adjusts the management trigger to reduce total landings to the coastwide cap when the cap has been exceeded and removed the implementation of state-by-state allocations if the management trigger is met; 3.

Maintains Maine's glass eel quota. The implementation date for Addendum V is January 1, 2019.

- **Atlantic Sturgeon Management Board**

The Board received an update from NOAA Fisheries regarding the development of the Endangered Species Act (ESA) listing 5-year Review and Recovery Plan for Atlantic sturgeon. The review is to determine whether the species listing status should be changed (*e.g.* reclassified from endangered to threatened, or delisted).

The Board reviewed a report from the Technical Committee (TC) regarding highest priority data needs identified in the 2017 benchmark stock assessment.

The Board passed a motion to disband the Atlantic Sturgeon Advisory Panel (AP) due to low likelihood to meet in the future.

The Board approved the 2018 Fishery Management Plan Review of the 2016 fishing year.

- **Coastal Sharks Management Board**

The Board met to consider Draft Addendum V for public comment. Draft Addendum V proposes options to allow the Board to streamline the process of state implementation of shark regulations passed by NOAA Fisheries to ensure consistency of regulations in a timely manner.

Draft Amendment 11 on shortfin mako regulatory changes was presented. Draft Amendment 11 proposes a range of alternative for commercial and recreational management, rebuilding and monitoring. HMS will host public hearings on the document in August and September with the public comment period ending October 1, 2018. Implementation of the approved regulations is targeted for spring 2019.

The Board received a presentation on outreach materials for shore-based shark fishing, based off Amendment 5b. The Amendment proposes improving outreach and education materials for the public.

- **Atlantic Striped Bass Management Board**

The Board met to consider approving the 2018 Fishery Management Plan (FMP) Review and State Compliance Reports for 2017 fishing year. The Board approved the Review Report and discussed two inconsistencies in state regulations for the 2018 fishing year. Among them was a discrepancy in Maryland involving implementation of a circle hook requirement.

The Board received an update on progress with the 2018 Benchmark Stock Assessment. The assessment will include catch and index data through 2017, as well as newly calibrated MRIP catch estimates. The assessment is scheduled for external peer review at the end of November 2018.

MR. CIMINO

- **Atlantic Herring Section**

The Atlantic Herring Section met to review the results of the 2018 Benchmark Stock Assessment. The results show a decline in recruitment and spawning stock biomass over the last five years. In light of the results, the section discussed in-season adjustments to the 2018 sub-ACLs, 2019-2021 herring specifications and discussed transitioning to a Board in order to improve collaboration with the NEFMC and NOAA Fisheries.

- **Atlantic Menhaden Management Board**

The Atlantic Menhaden Management Board met to consider a postponed motion from its May 2018 meeting to find the Commonwealth of Virginia out of compliance for not fully implementing and enforcing Amendment 3 to the Interstate FMP. The Board further postponed the motion to its February 2019 meeting to allow the Commonwealth's legislature more time to implement the cap when it reconvenes in January.

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

The ASMFC South Atlantic Board approved for public comment the Public Information Document (PID) for Draft Amendment 1 to the Interstate FMP for Atlantic Migratory Group Cobia (Atlantic Cobia). There is a public hearing on this specific PID following tonight's meeting.

The Board reviewed the 2018 update of the Traffic Light Analyses (TLA) for Atlantic croaker and spot. Both species have shown strong declines in recent harvest, but neither species has triggered management action because fishery independent surveys do not show similar declines. The Board tasked the Atlantic Croaker Technical Committee and Spot Plan Review Team with developing recommended updates.

Mid-Atlantic Fishery Management Council (MAFMC)

Mr. Cimino presented Council with the MAFMC Meeting report, held on August 13-16, 2018 in Virginia Beach, VA (Handout #6). Briefing materials are available on the Council website at www.mafmc.org/briefing/august-2018.

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

The ASMFC and MAFMC reviewed previously approved specifications for scup and established specifications for black sea bass, bluefish, and summer flounder fisheries.

Catch and landings limits for the summer flounder, scup, black sea bass, and bluefish fisheries were established for 2019 only. The MAFMC will forward recommendations for federal waters to the NOAA for final approval. Expect black sea bass and summer flounder specifications to change in 2019, due to the transition and management implications of the new estimates from the Marine Recreational Information Program (MRIP) Fishing Effort Survey (FES).

- The ASMFC and MAFMC discussed a joint framework action and addendum (Draft Addendum XXXI), which includes alternatives for conservation equivalency for black sea bass and summer flounder, Block Island Sound transit provisions, and slot limits for all three species. Both groups approved a range of alternatives and MAFMC approved Draft Addendum XXXI for public comment.
- Bluefish specifications for 2019 were approved by ASMFC and MAFMC, including a 7.71 million pound commercial quota and an 11.62 million pound recreational harvest limit (RHL). The final 2019 harvest limits include a transfer of up to 4 million pounds from the recreational to the commercial sector. The 2019 commercial quota and RHL are preliminary and will likely change following release of 2018 final MRIP harvest estimates. These estimates may impact how much is transferred from RHL to commercial sector.

Mr. Rush requested that the Council hold a committee meeting to begin discussion on the Wave I fishery opening in February for black sea bass, as well as discussing options for summer flounder slot limits and splitting the state. He recommends starting the process now to investigate options ahead of time instead of making a last minute decision.

Marine Fisheries Bureau Report

- Mr. Brust brought Council's attention to Handout #7, regarding Council's letter sent to Governor Murphy urging signing of bills A-4255 and S-2793 which requested \$1.2M in supplemental funding for the MFA in fiscal year 2019. The two Shellfisheries Councils also submitted a joint letter to the Governor urging support of the bills. Mr. Brust indicated that the Governor did sign these bills approving the \$1.2 million supplemental funding. Discussions have started on where the money will be allocated.
- Mr. Brust provided Council with an update of the American Fishery Society Conference that was held recently. One day was focused towards stakeholder involvement, and there was good attendance from both recreational and commercial stakeholders that day.
- Mr. Brust reminded Council that staff began providing Bureau reports in the last few years to keep Council apprised of Bureau activities and highlights. However, due to staff transitions, the Bureau reports have not developed as fully as intended. Mr. Brust asked if the Council was interested in receiving updates on any specific projects or topics. The plan

is to invite more staff to Council meetings to meet and interact with Council members and provide updates on their projects.

Shellfish Council Report

- **Shellfisheries Bureau Update**- No report
 - **Atlantic Coast**- Mr. Maxwell – No report

- **Delaware Bay**- Mr. Hollinger
 - **Delaware Bay Direct Market Harvest**
 - Update on the 2018 Direct Market Harvest Program: As of September 5, 2018, a total of 47,577 bushels of oysters were harvested from the high mortality beds. It was anticipated the 50,000 bushel quota for this area would be met next week and then closed for the remainder of the year.

 - Shell Rock has been closed for the year as its quota was reached earlier in the season. To date, a total of 12,115 bushels of oysters have been harvested from the medium mortality beds and this area should remain open until the end of the season.

 - The Direct Market Harvest Season started on April 2nd and ends on November 16th. The total quota was set at 120,749 bushels.

Committee Reports

- **NJ Marine Fisheries Council Crab Committee Report (Handout #8)**

The Marine Fisheries Council Crab Committee and industry advisors met at the Nacote Creek Law Enforcement Office to review the status of changes to transferability rules for commercial crab pot licenses and to discuss similar regulations pertaining to commercial Atlantic Coast and Delaware Bay crab dredge licenses.

In 2013 the Crab Committee recommended, and the Council approved, a number of actions regarding the crab pot fishery, including:

- Open transferability of commercial crab pot licenses to individuals who are not in the licensee's immediate family
- Limit the total number of such open transfers to 20 active and 5 inactive (based on previous year's harvest activity) per year
- Reduce the cap commercial crab pot licenses from 312 to 180
- Allow for open transferability on all commercial crab pot licenses when the number of licenses falls below the new cap

Since the Marine Fisheries Administration was already involved in advancing a multi-species rule package through the regulatory process at the time, the decision was made to place these recommended rule changes into the next regulatory package. However, in April 2017, the new regulatory language for commercial crab licenses was removed from this package. **The committee recommended that these crab management rule changes should be prioritized and re-inserted into the regulatory package currently being processed.** The Committee requested that Marine Fisheries Administration staff provide the Council with an update at the next Council meeting on September 6, 2018.

The Committee and industry advisors discussed rule changes for commercial crab dredge licenses, and the Committee recommends the following actions for consideration by the full Council:

- For commercial Atlantic Coast crab dredge licenses:
 - Lower the license number cap from 250 to 100
 - Implement open transferability upon reaching the new cap
- For commercial Delaware Bay crab dredge licenses:
 - Limit the number of open transfers to 5 per year
 - Reduce the cap on these licenses from 93 to 50
 - Institute unlimited open transferability upon reaching the new cap

MOTION: The Committee reports stands as a Motion and a second.

With no further comments from Council or the public, the motion was passed unanimously. (5:56 pm)

Regulatory Actions

Mr. Brust presented Council with a Draft Notice of Administrative Change regarding modifications to commercial regulations for cobia (Handout #9).

The purpose of this action is to update the recently approved cobia regulations (published June 18, 2018), because they lack a mechanism for the Commissioner to close NJ's waters to the commercial harvest of cobia when it has been determined that the coastwide commercial annual catch limit is projected to be reached. A notice was received from ASMFC stating the 2018 quota has been reached, and all states must close their commercial fisheries. Mr. Brust indicated the Draft NOAC has been sent to Division lawyers for review and is requesting Council approval so that the notice can be posted as soon as the language is approved, rather than waiting until the November meeting.

MOTION: To approve the Draft NOAC, pending legal review and approval to add the mechanism for the Commissioner to close NJ's waters to the commercial harvest and landing of cobia as required by the ASFMC, when it has been determined that the coastwide commercial annual catch limit is projected to be reached. Motion made by Mr. Radossi, seconded by Dr. Bochenek. Motion passes unanimously. (6:01pm)

Mr. Brust presented to Council that the DEP is trying to get two items added to the current Regulatory Package. First, the Council had previously approved increased transferability regulations for blue crabs, but that language was not added to the prior regulatory package and will be added in this one. Second, staff recently found out that our regulations for summer flounder are inconsistent with an Amendment to the ASMFC management plan approved in 1997. The Amendment requires state regulations explicitly prohibit transfer at sea, which ours currently do not. If something is not done, ASMFC could find us out of compliance.

Old Business –

Mr. Brust asked Council what time they would like to start Council's meeting for the coming year, 4 or 5 pm start time? After Council's input and discussion, Council agreed to set 2019 meeting times to be 5 pm.

A few of the points mentioned include longer staff days, wished meetings were spread out more geographical, rush hour traffic may be an issue for public trying to get to the meeting with a 5:00 start time, the agenda items are really what determine the public attendance, and fisherman may prefer the later time due to being out at sea.

Mr. Brust mentioned scheduling a recreational summer flounder committee meeting for September/October. Note that the stock assessment numbers will not be available until February 2019.

Mr. Radossi commented that he received a phone call regarding application for advisors. His advice was for the interested parties to call the NJ DEP or to reapply if in doubt.

Mr. Herb requested to set an Executive Committee meeting before November to review next set of advisor applicants.

New Business-

Mr. Hollinger commented of how proud he was with the attendance, the organization of the event and NJ DEP involvement with the American Fishery Society Conference held in Atlantic City.

Mr. Brust Committee Meetings:

- Commercial black sea bass and summer flounder meeting in October, to meet prior to November Council Meeting.
- Recreational black sea bass and summer flounder to meet regarding February BSB fishery and recreational fluke management options (eg slot limit), in October.
- Executive Committee Meeting to review applicants – in October

Public Comment –

Mr. Chicitano - Part of the State's and Council's mandates include enforcement of fishery management plans. We cannot meet our management goals without successful enforcement. There are currently only 10 CPO's to cover all of NJ. There is a need to seek stable funding source and not depend on government for a hand out. What happens when government cannot fund anymore. And the recreational fisherman need to reach into their pockets for a stable funding source, such as a Saltwater License. Establish accurate research data and consequences.

Mr. Herb commented NJ fishery is the least funded of all states on the east coast. The need to establish and safeguard all funding received is needed. Council appreciates comments, made many good points.

Mr. Chew- Presented Council with a hand out. Mr. Chew comments regard NJ 23:2B-5 Powers and duties of Council. Mr. Chew presented three points that the DFW need to pay attention to, and provided the following examples

- The issuing of permits
- CPO's not enforcing the law on "partners" of the DEP, but enforcing on commercial fisherman.
- A policy of a higher-up in DFW using his power to restrain law enforcement in an effort to protect his friends from prosecution.

Mr. Killmier – Expedite blue crab and cobia regulator updates. Asked how much longer for the regulatory package to be approved, since it's been 14 years since the original package was submitted.

Mr. Parker – Commented on moving the meeting time to 5 pm. This is the fourth time the Council has had to wrap up Council meeting for another meeting to be held since moving the meeting time to be 5 pm. Cutting short the Council's meeting as well as public comment period. Commented against having an open season in February for sea bass.

Meeting adjourned (6:53pm). The next meeting is scheduled for November 8, 2018, Stafford Township Municipal Building, 260 East Bay Ave, Manahawkin, NJ 08050 at 5:00 pm.