

NEW JERSEY MARINE FISHERIES COUNCIL
Galloway Library
Galloway Township, NJ
January 3, 2019

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

Council Absentees: James Alexis

Division of Fish and Wildlife Attendees:

Larry Herrighty, Director of Division of Fish and Wildlife
Jason Snellbaker, Captain, Bureau of Law Enforcement (BLE)
Joe Cimino, Administrator, Marine Fisheries Administration, (MFA)
Jeff Brust, Research Scientist, MFA
Russ Babb, Chief, Bureau of Shellfisheries (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, BMF
Tim Daniels, Assistant Biologist, BMF
Colleen Brust, Research Scientist, MFA
Scott Stueber, Assistant Biologist, BSF
Matt Heyl, Assistant Biologist BMF
Sean Cianciulli, Chief, BLE
Sherry Bennett, Marine Council Secretary

Ms. Bennett read the compliance with the Sunshine Law. Notice of the Marine Fisheries Council (Council) meeting was filed with the Secretary of State on December 5, 2018. Acting Chairman 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.

Minutes from November 8, 2018 meeting were not available.

Law Enforcement

Conservation Police Officer (CPO) Captain Snellbaker presented the Council with an update of the Law Enforcement Report for October, November and December; Handout #2

Highlights include:

- On November 4, CPO's conducted an offshore boat patrol utilizing P/V Integrity. As the officers were heading back to port, they encountered a vessel hailed from New York. The three fishermen onboard had been issued summonses for various NJ marine fish violations in the past. The officers issued the fishermen summonses for over the limit and undersized tautog, failure to obtain a NJ saltwater angler registration, failure to number a vessel, and failure to have a vessel's registration in possession.
- District 7 CPO's issued over three dozen summonses at the Point Pleasant Canal during October and November for various marine fish violations. One noteworthy case involved three men who were found with more than 15 freshly caught tautog hidden near the fishermen's location. After a brief interview, summonses were issued for taking over the limit and undersized tautog.
- On October 21st, CPO's apprehended a group of 3 individuals with a total of 27 tautog over the limit at a shoreside location in Cape May. Twenty-six of the tautog were also undersized. Two of the individuals in this incident were repeat tautog offenders. As a result, the individuals' fishing gear was seized, and they were issued court mandatory summonses for a total of \$5,300 in fines. In a separate incident at the same location, CPO apprehended and issued summonses to 2 individuals with 20 tautog over the limit of which 18 were undersize.

Captain Snellbaker commented that on the Bureau Facebook page, many comments received are questioning why these repeat offenders are still being allowed to acquire licenses.

- During the extended ocean boat patrol in mid-November, CPO's Harp and Meyer apprehended 3 separate recreational fishing vessels in possession of Atlantic striped bass in Federal waters. Each vessel possessed one striped bass inside the Exclusive Economic Zone where fishing for, possession, and the taking of striped bass is prohibited. The fines are \$500 per fish. The cases were referred to National Marine Fisheries Service.
- On December 10, 2018, District 8 CPO's apprehended two commercial fisherman harvesting oysters from the condemned waters of Maurice River Cove in Cumberland County. A father and son team were determined to be harvesting oysters 150 yards inside condemned water area with the use of special equipment and proven techniques. At the time of this apprehension, the fishermen had a scheduled court hearing the same week for the same offense in the same condemned area for an apprehension that was made by CPO's in January 2018, in 2017 and twice in 2008. As a result of the fishermen's

repeated blatant disregard for the regulations and public health, CPO's seized the fishermen's vessel, commercial fishing equipment, and oysters. Summonses were issued for condemned water offenses and additional criminal charges for tampering with evidence. The fishermen plead guilty to both the current and January 2018 offenses during the scheduled court hearing in mid-December. Their commercial shellfish licenses were suspended until the year 2038, their vessel and equipment were forfeited to the department, and appropriate monetary fines were issued.

- CPO's investigated an Ocean City area-based charter vessel for various violations including the retention of a great white shark. The vessel owner/operator was routinely running for hire operations without the required Federal fishing permits, was regularly unlawfully fishing for striped bass in the Exclusive Economic Zone (EEZ), repeatedly failed to report landings of highly regulated Bluefin tuna, and landed a great white shark (a prohibited and vulnerable species) during a June 2018 charter fishing trip. The fisherman knowingly disregarded permitting regulations because he held appropriate permits in the past. He was also previously charged by District 8 CPO's for fishing for striped bass in the EEZ. The case was referred to National Marine Fisheries Service for further enforcement action.
- During a late November boat patrol, CPO's inspected a recreational fishing vessel in possession of 3 large swordfish after a fishing trip in the offshore canyons. The fishermen were unable to produce a valid highly migratory species permit as federally required while fishing for and taking billfish. In addition, after the CPO's let the men retain the swordfish, they were reminded to report the landing of the fish to National Marine Fisheries Service as required for use in quota management. A follow up investigation indicated that the men had not reported the swordfish landings. The case was referred to National Marine Fisheries Service for Enforcement Action.
- CPO's were notified by a local commercial fisherman of a tangled gillnet in the Atlantic Ocean off the coast of Brigantine. CPO's were able to recover approximately 150 feet of the tangled commercial gillnet which was filled with thousands of dead and dying marine fish and organisms. CPO successfully tracked down the fisherman which the net belonged to. The fisherman was properly permitted and was authorized to be using the gillnet; however the violations involving improper marking and failure to utilize weak-links have been forwarded to the National Marine Fisheries Service, Office of Law Enforcement for enforcement action.
- CPO's in District 8, during inspection, found a Cape May based commercial otter trawl vessel to have landed 375 pounds in excess of the 2,000-pound commercial black sea bass trip limit. The additional fish were seized and sold for fair market value. Summonses were issued for exceeding the trip limit

which carries a significant monetary fine and a mandatory 60-day permit suspension during the open commercial black sea bass season.

- Concentrations of migrating striped bass made their way past southern NJ in mid-November. Once again, the majority of the population took a more easterly route and traveled the EEZ waters where fishing for, taking and possession of striped bass is federally prohibited. District 8 apprehended a total of 8 recreational fishing vessels in possession of striped bass in the EEZ, and many more who were inspected while targeting the fish. The cases were turned over to the NMFS for enforcement action.
- CPO completed an investigation of a Cumberland County marina owner who advertised blue claw crabs for sale for the duration of the summer season but could not provide accurate records as to the legal source of the crabs. The marina owner falsely provided CPO with names of commercially licensed crabbers who denied having ever sold crabs to the marina owner. The marina owner was charged with failing to keep accurate records for the marketing of marine resources.
- Effective at 1801 hours on Sunday, December 2, 2018, which started a new fishing week, the NJ commercial summer flounder trip limits increased. On the evening of Saturday, December 1st, 2018, shortly after 1800 hours, a commercial fishing vessel was observed offloading at the Fisherman's Dock Cooperative in Point Pleasant Beach. Upon inspection, the vessel's FVTR listed 1,000 pounds of summer flounder that were going to be sold to a New York-based dealer. The operator failed to give at least two hours' notice to the Marine Region Office prior to offloading summer flounder. The operator claimed his plan was to offload the 1,000-pound trip limit and then head back out to make a few tows, so he could get the rest of the new weeks trip limit. CPO advised operator this was a violation in addition to offloading after 1800 hours and directed the operator to offload all fish he had onboard. When the offload was completed, more than 3,000 pounds of summer flounder was in possession along with other managed species of fish, which were not listed on the FVTR. Just under 100-pounds of black sea bass was onboard which was over the legal bycatch amount of 50 pounds. Summonses were issued for failure to accurately complete FVTR, failure to provide two hours' notice prior to offloading summer flounder, offloading summer flounder after legal hours, possessing more than the daily trip limit of summer flounder, and possessing black sea bass over the bycatch limit.

Legislative/Regulatory Report

Mr. Brust brought Council's attention to Handouts #3 and #3b for their review.

- Handout #3 "Supporting Healthy Interstate Fisheries in Transition Act" or the "SHIFT ACT" - Introduced last year to change the Atlantic Coastal Fisheries Cooperative Management Act to require consideration of shifting species distribution when

establishing or revising quota allocations between any State or other management unit. The Act was not approved before end of the year, so will have to be reintroduced.

- Handout #3b – S1520 - “Modernizing Recreational Fisheries Management Act of 2018.” Amends portions of the Magnuson-Stevens Act to expand recreational fishing opportunities through enhanced marine fishery conservation and management. Provisions include considerations for allocation between commercial and recreational sectors, a study on Limited Access Privilege Programs, and requiring consideration of recreational data sources and data collection platforms other than MRIP. The Act specifically applies to South Atlantic and Gulf of Mexico Fishery Management Councils, but may extend elsewhere.

Atlantic States Marine Fisheries Commission (ASMFC) Report – No report
Mid-Atlantic Fishery Management Council (MAFMC)

- Mr. Cimino presented Council with the MAFMC Meeting Summary held December 10-13, 2018 in Annapolis, MD (Handout #4). ASMFC and MAFMC met jointly on a few of these committees.

- **Summer Flounder, Scup and Black Sea Bass 2019 Recreational Specifications**

Black Sea Bass: ASMFC and MAFMC reviewed recreational fishery recommendations from the Monitoring Committee, Advisory Panel and staff for 2019 recreational black sea bass management measures. To achieve the 2019 recreational harvest limit of 3.66 million pounds, the joint bodies agreed to maintain status quo recreational management measures in federal waters. These include a 12.5 inch total length minimum fish size, a 15 fish possession limit, and a May 15 – December 31 open season. If states do not take appropriate action to ensure harvest does not exceed the 2019 recreational harvest limit, a set of backstop measures including a 14 inch minimum fish size, a 5 fish possession limit, and a May 15 – September 15 open season would be implemented in federal waters and in all state waters from Maine through North Carolina, north of Cape Hatteras. The ASMFC Board will approve proposals for state measures during their February 2019 meeting. States have the option of opening their recreational black sea bass fisheries in state and federal waters in February 2019.

Scup: To achieve the 2019 recreational harvest limit of 7.37 million pounds, it was agreed to maintain status quo recreational management measures in federal waters. Measures include a 9-inch total length minimum fish size, a 50 fish possession limit, and a year-round open season. A regional approach to recreational scup management in state waters will remain in effect. The ASMFC Board will review proposals for state measures in February 2019.

Summer Flounder: A benchmark stock assessment was peer reviewed in November 2018, and the assessment report will be finalized in early 2019. Due to this timing, the ASMFC and MAFMC will delay adopting 2019 recreational management measures until their joint meeting in February 2019. Revisions to the

2019 summer flounder recreational harvest limit will also be considered in February.

- **2019 Stock Assessment and Catch Limit Specification Timing**

ASMFC and MAFMC discussed potential timelines for the scheduled stock assessments and the catch limit specification setting process in 2019 for summer flounder, scup, black sea bass, and bluefish. These operational assessment updates will incorporate recent survey information, commercial catch data and the revised time series of recreational catch data from Marine Recreational Information Program (MRIP). They agreed to delay the completion of these operational assessment updates until the summer to ensure the most recent information available (through 2018) is available to help inform stock status and set specifications. The operational assessment updates and peer review will take place in July 2019, and the ASMFC and MAFMC will set new 2020-2021 commercial and recreational catch limits for all three species in October 2019.

- **Summer Flounder, Scup and Black Sea Bass Framework on Conservation Equivalency, Block Island Sound Transit and Slot Limits**

Both ASMFC and MAFMC agreed to allow use of conservation equivalency in the recreational black seas bass fishery in future years, starting in 2020. They recommended that non-federally permitted recreational and commercial vessels be allowed to transit federal waters in Block Island Sound while in possession of legally harvested summer flounder, scup and black sea bass fish from state waters. The Summer Flounder, Scup and Black Sea Bass Fishery Management Plan will be modified to allow for a maximum size limit to be used in recreational fisheries to allow use of regular slot limits, split slot limits and trophy fish. It's important to emphasize that conservation equivalency and slot limits are additional "tools in the toolbox," and approval of these provisions does not implement these measure for any particular fishing year.

- **Revised Stock Assessment Process**

The Northeast Fisheries Science Center (NEFSC) updated the ASMFC and MAFMC on recently approved changes to the stock assessment process and long-term scheduling for Mid-Atlantic and New England stocks. This new process will improve the quality of stock assessments, allow greater flexibility, improvements to stock assessments within a defined process, and provide more strategic and longer-term planning process for research and staffing demands.

- **Law Enforcement Workshop Report**

MAFMC received a report on the Law and Enforcement/For-Hire Workshop held November 13-14, 2018. Addresses several topics:

- Operator versus angler responsibility for fishery violations that occur on for-hire vessels.
- Sale of fish by private recreational anglers (golden tilefish and tunas)

- Complexity of fishing regulations impacting enforceability. MAFMC tasked the Law Enforcement Committee with developing formal recommendations for the February 2019 meeting.

- **Atlantic Large Whale Take Reduction Team (ALWTRT) Presentation**

Dr. Michael Asaro, from NOAA Fisheries Greater Atlantic Regional Office updated the MAFMC on efforts to reduce incidental entanglement of Northern Atlantic right whales. The ALWTRT will meet in March 2019 to develop recommendations for NOAA fisheries to modify ALWTRT Plan.

Mr. Rush asked how the other states have responded to the February Wave 1 opening on black sea bass. Are there any suggestions for moving forward and making a change if this February wave is not preferred?

Mr. Cimino responded that the process last year was based on an analysis of MRIP data to determine each state's allocation. Now that conservation equivalency is allowed, states can develop their own estimate of expected February harvest. If a new method is more favorable than the previous method, this might encourage more states to participate in the fishery.

Marine Fisheries Bureau Report

- Mr. Brust presented Council with the Marine Fisheries Bureau Report
 - **Striped Bass Bonus Program:** Concluded December 31, 2018, with approximately 6,300 pounds from 1,626 fish. This is approximately 50% less than the 2017 SBBP harvest.
 - **Delaware River Striped Bass Young of Year Survey:** The survey wrapped up its 39th year in November with 285 hauls completed. A total of 661 striped bass were caught. The young of year index was 1.2 fish per tow, which is the same as 2017 and is average compared to other years.
 - **Great Bay Yellow Eel Survey:** The fall portion of the yellow eel survey concluded in November with a total catch of 223 eels. This is higher than any previous year (2015-2017). In 2018, MFA began taking otoliths for aging.
 - **Fishing Tournaments:** Staff collected samples of weight and lengths at 33 fishing tournaments in 2018. Sample species include summer flounder (340), bluefish (229), and striped bass (157) among others. These data will be incorporated into stock assessments.
 - **Fish aging coordination:** Staff visited the NMFS Northeast Fishery Science Center's fish aging lab to learn new techniques and equipment for aging to be used back in NJ. Ideas were discussed for sample sharing and coordination of work loads.

- **Personnel:** Three new positions were approved and started in November 2018. Thirteen full time vacancy announcements have been posted under the supplemental funding initiative.

PRESENTATION

Ms. Colleen Brust provided Council with a presentation on Offshore Wind Energy and New Jersey Marine Fisheries. Governor Murphy's has pledged to transform NJ energy use into 100% renewable by 2050. The Bureau of Ocean Energy Management (BOEM) is the federal agency responsible for offshore wind, and the NJ Board of Public Utilities (BPU) is the lead state agency. Ms. Brust laid out the potential costs and benefits of offshore energy and informed Council that Division of Fish and Wildlife staff has assembled a Wind Energy Team (W.E.T.). The team has been learning, researching and providing comments as companies have been submitting proposals for evaluating and monitoring impacts, construction proposals, and other permitting requirements. The W.E.T staff have been attending meetings and placing themselves on various committees that are all related to offshore wind energy to stay on top of the process and provide feedback.

Council expressed many concerns regarding wind turbines being placed off shore of NJ and in and around NJ historic fishing grounds. Everything from how these turbines will affect the fish populations, the recreational and commercial fisheries, cost to customers on land, access entering and leaving NJ ports, electromagnetic current, lifespan of the turbines and many more.

Shellfish Council Report

- **Shellfisheries Bureau Update**- No report
 - **Atlantic Coast**-Mr. Maxwell - none
 - **Delaware Bay**- Mr. Hollinger
 - **2018 Final Delaware Bay Direct Market Oyster Season Summary**

The direct market fishery ended in mid-November and call-in reports totaling over 118,000 bushels with an average catch per unit effort (CPUE) of 128 bushels per day. One of the highest average CPUEs were from the seed bed known as Shell Rock – with daily catch rates of over 145 bushels per day. The industry harvested 97 percent of the total allowable catch. The Stock Assessment Review Committee will convene in February to review the status and condition of the stock and review potential harvest and management scenarios for the 2019 season, which is slated to open in April.

Committee Reports - none

Regulatory Actions

- Mr. Brust brought Council's attention to Handout #5, the Notice of Administrative Change for 2019 commercial black sea bass regulations.
- Menhaden Rule: A meeting is scheduled with the Assistant Commissioner to discuss converting menhaden legislation to regulations. Legislation was passed in 2013 in order to maintain compliance with the ASMFC fishery management plan. Moving the same language into regulation will return direct control of the fishery back to the Department.

- Mr. Wayne Reichle requested Council's support to discuss the implementation of an IFQ fishery for menhaden purse seiners. Since creating state allocations menhaden went from a May to October fishing season to 35 days only, causing economical strain on fisherman, weather, safety issues and pressure of overloading on vessel. An IFQ system would allow harvesters more flexibility and control over when they fish.
- After some discussion between Council and Marine Fisheries Staff; Mr. Brust will set up a Menhaden Committee meeting in February with Dr. Bochenik, Mr. Rizzo, Mr. Hollinger, Mr. Alexis and Mr. Herb as the ad hoc Council Menhaden Committee. Mr. Brust will look up advisors as well. New interested advisors can apply. The meeting will be made public with advisors, Council Members and permit holders who would like to come give input.

Old Business

- Funding letter - Council requested in November 2018 to send to Governor regarding the status of the supplement funding was not sent because announcements for state employment have been posted.
- Terrapin letter - Council requested in November 2018 will be sent to the appropriate group letting them that the Council has received their petitions and regulations are in place for this fishery.
- Handout #6, is the letter Council sent to Assemblyman Andrzejczak addressing Council's concerns regarding bills A-4596 and S-3132 which would create a hunting and fishing guide license in NJ.
- Tautog Committee Meeting and public hearing to come in January 2019
- Handouts #7 and 7a, is a letter from Mr. Chew in follow up from his Sept. 2018 comments regarding the Wetlands Institute Scientific Collecting Permit. Wetlands Institute also sent a final report for activities conducted under their collection permit.
 - Council requested additional information on the Wetlands Institute permit (legal requirements, how they met those requirements) and will revisit the issue during their March meeting.

New Business

- Handouts # 8a, b, c pertain to Mid-Atlantic Coastal Acidification Network (MACAN), stakeholder outreach survey. The goal is to raise awareness about changing ocean conditions as well as a better understanding from industry perspectives.
- Handout #9 pertains to HAVFRUE Cable System Project – Notice of NJDEP Waterfront Development Permit Submission.

Public Comment

- Wayne Reichle - Provided comment that although wind companies allow people to fish in turbine fields, information from Europe suggest there are not many fish present.
- Newt Sterling – Request pound nets be allowed in Great Bay/Mullica River system. Would like to see a sports fishing license, to sell fish for recreational as well. Request license for Mullica River tidal waters for snapping turtle, which is now limited entry.
- Eddie Yates – Striped bass have increasingly moved into the EEZ. Council should talk about opening EEZ for striped bass fishing. More and more species of fish are moving further off shore and north due to climate and environmental changes.
- Robyn Scott – Supports a slot fish for summer flounder. Need the spirit of a rebel against these offshore wind farms. Data is out there in Europe.
- Victor Ganno – State of our coastline is dying. More fish have been moving further off shore and coastlines are degrading due to dredging for beach nourishment. It's a federal issue, but its harming state coastlines.
- Robert Malinoski – Submitted a petition to Council to seek Council's support to help change the reporting system, which went from an easy one page form to multiple forms.

MOTION: Council to send letter to Mr. Chew (Handout #7), acknowledging Mr. Chew's letter to Council has been received and Council will discuss at the March Councils Meeting. Mr. Rush made motion, Dr. Bochenek seconded. Motion Passes unanimously.

Meeting adjourned. Next Meeting is scheduled for March 7, 2019 at Stafford Township Municipal Building, 260 East Bay Avenue, Manahawkin, NJ 08050. Meeting Time: 5:00 pm