

NEW JERSEY MARINE FISHERIES COUNCIL
Galloway Township Library
Galloway, New Jersey
May 1, 2014

Council Attendees: Acting Chairman Richard Herb
Erling Berg
Barney Hollinger
Frances Puskas
Sergio Radossi
Joseph Rizzo
Robert Rush
Joseph Zaborowski

Council Absentees: Eleanor Bochenek
Walter L. Johnson III

Division of Fish and Wildlife Attendees:

Brandon Muffley, Administrator, Marine Fisheries Administration (MFA)
Captain Dominick Fresco, Bureau of Law Enforcement (BLE)
Russ Allen, Supervising Biologist, Bureau of Marine Fisheries (BMF)
Tom Baum, Supervising Biologist, BMF
Sherry Bennett, Council Secretary, MFA
Jeff Normant, Principal Biologist, Bureau of Shellfisheries (BSF)

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 April 2, 2014. A Draft of the March 6, 2014 meeting minutes was approved. The Draft April 3, 2014 meeting minutes (Handout #1) were provided to the Council in their packets for review with no approval taken at this time. Acting Chairman Herb began the meeting with the Pledge of Allegiance.

Audience Conduct

Acting Chairman Herb reminded the audience to take conversations outside or wait until the end of the meeting and also to turn off all cell phones. Individuals wishing to make a public comment will need to sign up.

Law Enforcement Report

Captain Fresco presented the Council with the Law Enforcement Report for March-April (detailed report provided in Handout #2).

March

- CO's conducted a vessel patrol of the Maurice River Cove in the Delaware Bay. A father and son were apprehended tonging oysters in condemned waters. The father is facing a petty disorderly person offense which carries up to \$500 fine and/or up to 30 days imprisonment, loss of his commercial shellfish license for three years, forfeiture of the vessel, outboard engine, and gear used to harvest the

oysters. The son is facing a second disorderly person offense which carries up to \$1000 fine and/or 6 months imprisonment, loss of his commercial shellfish license for five years, forfeiture of the vessel, outboard engine, and gear used to harvest the oysters.

- CO's conducted a routine commercial fisheries inspection in Point Pleasant Beach, Ocean County of a commercial otter trawl vessel. Upon inspection of the vessel, the captain immediately advised the CO that he had failed to notify the Marine Office of his intention to offload summer flounder in the state of New Jersey, the extreme wind conditions that they were experiencing offshore and original intention was to fish approximately 80 miles off of the New Jersey coast, and offload the summer flounder in Virginia. The vessel was permitted to offload the 1,960 lbs. of already boxed summer flounder and the remaining summer flounder was left on the vessel and would be offloaded once the vessel reached Virginia. The CO issued summonses for failure to call in two hours prior to offloading summer flounder and for the landing of more than the daily trip limit of 2,000 lbs. of summer flounder. Each summons carries a penalty range of \$300.00 to \$3,000.00. A conviction will also suspend the vessels summer flounder landing permit for a period of 60 days.

April

- Four otter trawl vessels were granted safe harbor entry into Cape May with trip limits of black sea bass on board during the black sea bass closed season. New Jersey's commercial black sea bass season 2 reopened on Wednesday April 16, 2014 with a maximum landing limit of 3,000 pounds once a week. One of the vessels was 865 pounds over the landing limit of 3,000 pounds. Summonses were issued to the operator of the vessel and the vessel's owner. The overage was seized and sold to the highest bidding NJ black sea bass dealer.

Updates

- A CO recently investigated the landing of 408,843 lbs. of menhaden landed by a fishing vessel hailing from Cape May. This vessel possesses a NJ menhaden landing license for the purse seine gear type. The CO determined that the vessel caught the menhaden by way of a pair trawl. The menhaden were sold to a NJ menhaden dealer who happened to be the owner of the vessel. Since the NJ menhaden landing license is gear specific, summonses were issued to the vessel and the vessel's operator for landing more than 100 pounds of menhaden without a valid license, and using a gear type other than listed on the license. Additionally, a summons was issued to the NJ menhaden dealer for accepting menhaden from a vessel without a valid license. Each summons carries a penalty of \$300 to \$3,000. The estimated ex-vessel value for these fish is approximately \$65,000 and retail value of approximately \$180,000.
- All seven Delaware Bay commercial oyster tongers apprehended harvesting oysters from the condemned waters of the Maurice River Cove back in February recently pleaded guilty in court. Each of the harvesters was fined the maximum amount allowable based on the number of previous offenses. Two of the fishermen were fined \$2,000 and will have their commercial shellfish license privileges suspended for 5 years. Two others were fined \$1,500 and will be suspended for 3 years. Another two were fined \$500 and will also be suspended

for 3 years. One individual pleaded to have his commercial shellfish license suspended for 8 years in exchange for a reduced monetary penalty of \$750.

Legislative Report

Mr. Muffley presented Council with the legislative report including adoptions in the New Jersey Register of changes to regulations approved at Council's November meeting (Handouts #3a – b):

- January 21, 2014 – Modification of American Lobster Tail Segment Length, American Eel Commercial and Recreational Regulations, and Commercial Black Sea Bass and Summer Flounder Trip Limits.
- February 3, 2014 – Modifications of Recreational Black Sea Bass season, Recreational Shark Size Limit, and Shark Commercial Possession Limits.

Updates

- S691 (sponsored by Senator Raymond J. Lesniak) - would prohibit certain possession, sale, offering for sale, trade or distribution of shark fins and also allowed, in NJ, the processing or sale of wild striped bass caught outside of NJ. This bill was withdrawn by Senator; however it was noted that Senator Lesniak may post something similar but strictly on striped bass.
- A1884 (sponsored by Assemblyman Bob Andrzejczak) - establishes Menhaden Personal Use and Limited Sale License and permits use of certain gear for taking of menhaden, has been passed in the Assembly and was referred to Senate Environment Committee.
- The MFA has launched three regulatory proposals:
 - Multispecies Rule that was launched in December is moving forward with a third review from lawyers,
 - Reefs are awaiting review from lawyers,
 - Oyster Consolidation in Delaware Bay, so multiple licenses can be carried under one vessel.

Atlantic States Marine Fisheries Commission (ASMFC) Report

Mr. Allen presented Council with an update on upcoming ASMFC Spring Management Board meetings:

- The ASMFC Management Boards will be meeting in a couple of weeks; a few topics that will be discussed at this meeting are Atlantic herring, spiny dogfish, American eel, a Magnuson-Stevens Act Workshop, menhaden and possible new regulations for striped bass. Mr. Allen will keep Council posted.
- Mr. Allen also recently participated in workshops regarding striped bass, and fisherman agreed that some cuts may be necessary in the striped bass fishery. If Council has any other thoughts or suggestions to please let Mr. Allen know so he can take them to the ASMFC meeting.

- Mr. Rush complemented Mr. Allen on the workshop in Manahawkin he attended regarding striped bass, very informative.
- Mr. Zabrowski asked if Maryland recently increased their commercial quota allotment for striped bass. Mr. Allen responded not that he is aware of any increase and that commercial quotas haven't changed since 2003. Mr. Zabrowski commented it's something to keep an eye on if everyone else is looking for decrease in quota and Maryland is asking for an increase.
- Mr. Rush indicated that the comment period for the Magnuson-Stevens Act has been extended to June 2. Ms. Puskus commented that if anyone has comments to please let Council know their comments/concerns.

Mid-Atlantic Fishery Management Council (MAFMC)

Mr. Baum presented Council with an update on MAFMC (Handout #4):

- The Northeast Fisheries Science Center (NEFSC) presented a summary of the 58th SAW/SARC (the process that develops and reviews stock assessments) for butterfish and golden tilefish which both passed the peer review process. It was determined that overfishing is not occurring in either species.
- After receiving an update on the recent golden tilefish stock assessment and reviewing recommendations from its Scientific and Statistical Committee (SSC), Tilefish Monitoring Committee, and Tilefish Advisory Panel, the MAFMC adopted golden tilefish management measures for the 2015-2017 fishing years. The MAFMC considered adjustments to the current recreational possession limit of 8-fish per person per trip, however no action was taken.
- The MAFMC received an update on the scup gear-restricted area (GRA) framework (Framework 8) and reviewed advisors' comments on proposed alternatives. The framework is being developed to assess whether modifications to the current GRA's are needed to improve reducing scup discards. The MAFMC voted to consider, as part of Framework 8, an increase in the incidental possession limit for scup in order to turn regulatory discards into landings.
- The MAFMC received an informational update on the progress of the deep sea coral Amendment 16 to the Mackerel, Squid, and Butterfish Fishery Management Plan (FMP), no action was taken at this time.
- A presentation was given on the final draft of the Standardized Bycatch Reporting Methodology (SBRM) and summarized the public comments that were submitted on the Amendment. The SBRM Amendment is being developed to address the requirements of the Magnuson-Stevens Act to include a standardized bycatch reporting methodology in all FMP's. The SBRM Amendment was approved.
- In December 2013, MAFMC approved Amendment 21 for the Scup, Black Sea Bass and Summer Flounder FMP, in April the MAFMC voted and approved forming a Fishery Management Action Team (FMAT) to develop a compressive review and update to the guidelines of summer flounder.

Shellfish Council Reports

Delaware Bay – Mr. Hollinger

- Delaware Bay Oyster Fishery commenced on April 7th, 2014 with 84 vessels participating. The total allowable catch (TAC) was set at 47,000 bushels. Intermediate transplant program was scheduled to start on April 28 for three weeks and move approximately 30,000 bushels of material (shell cultch, submarket and market oysters) from underutilized seed beds in the upper estuary to the lower bay seed beds that undergo the bulk of the industry harvest.
- Mr. Normant commented that Mr. Muffley had updated the Council on the launch of the Oyster License Consolutions Regulations in Delaware Bay. The Bureau of Shellfisheries also continues to hold regulatory guidance meetings with various state and federal agencies to consolidate and streamline the process of shellfish aquaculture permitting and management. A public aquaculture guidance meeting was anticipated to be scheduled for June.

Atlantic Coast

No report.

Committee Reports

Mr. Herb presented Council with Executive Committee Meeting (Handout #5).

- The Council's Executive Committee met on Tuesday, April 22, 2014 to discuss a draft Administrative Guidelines document and Advisory Committee application form, developed by Marine Fisheries Administration staff, for the Council and its Committees.
- The Council was formed in 1979 under N.J.S.A. 23:2B-4 and has never had a formal set of guidelines for carrying out their powers and duties except what was written in the statute. The new Administrative Guidelines were developed to provide the Council, and the public, with more well-defined directions on various Council functions such as Council member's roles and appointments, conduct, participation, meetings, and public comment. The Advisory Application was developed to provide more opportunity for the public to become involved with fisheries management and the Council process. Previously, advisors were appointed in an ad-hoc manner that was not always understood by the public.
- These guidelines as well as the new application process will help the Council and the public become more informed on why and how the Council functions as well as the role as the Division of Fish and Wildlife.
- The Committee reviewed the documents and approved them to be moved to the full Council for discussion, with suggested revisions, at their May 1, 2014 meeting.

Mr. Zabrowski commented that he would like to see some type of distinction between past and present participation. Currently the Council has two at-large (public) seats and one of those seats would have been filled if his application wasn't changed from a

general (public) to a party boat (recreational) application, when he has been 15 years removed from party boat industry.

Mr. Muffley commented as to why his application was changed is out of the Council's and Division's scope, once it goes to the Governor. However, the makeup of his role on the Council is that of sport fisherman (recreational).

Mr. Rush asked if the two at-large seats are listed as a specific kind. Mr. Muffley commented they are listed as general public seats.

Ms. Puskas asked about a time limit one serves as an advisor and can they be reappointed. Mr. Muffley commented the goal was to create a formal process to reevaluate members on the advisory committee and their status every three years, with them being allowed to reapply and/or be reappointed.

Mr. Herb commented this will help inform the public on how they can participate as a committee member and its process.

Mr. Hollinger asked if this document could be modified at a later time and, if possible, can Shellfisheries' Council's be added. Mr. Muffley commented that it will be a good idea for the Executive Committee to revisit annually and adding Shellfisheries will help have everything in one place for public and the Council.

Mr. Berg made a motion to approve the Administrative Guidelines as written with addition that advisors can only represent one organization per meeting. No second.

Mr. Rizzo commented on the motion that he hasn't read the Guidelines and is not willing to vote on motion, until he has feedback.

Ms. Puskus asked if there is a hurry to finish this.

Mr. Herb commented that it will be nice to get new advisors on board and clean up committee meeting members, unless we can do this in emails.

Acting Chairman Herb commented Council members are to submit comments to Mr. Muffley prior to Monday, May 12, 2014, and, if need be, will follow up with a conference call and final review of document.

Regulatory Actions

Mr. Muffley presented Council with potential action regarding the recreational summer flounder shore based fishery.

- In April, Mr. Muffley presented Council with an in-depth look at the recreational summer flounder shore-based fishery. This proposal will allow recreational summer flounder fisherman to take 2 fish at 16" or greater only at Island Beach State Park (IBSP), from the shore. The main benefit of this proposal is to collect

biological data since anglers harvesting summer flounder less than 18” (the legal size everywhere else) will be required to visit a check station and fill out harvest reports for all fish caught. This will help in making comparisons with MRIP estimates at this location, and will help when the Division takes over the MRIP intercept survey in 2016.

Mr. Rizzo asked about time frame and staff commitment. Mr. Muffley commented that as soon as the proposal is passed, it will run the remainder of the summer flounder season until September 27. The Administration is willing to invest resources to get this program done due to the numerous benefits of the program.

Mr. Zabrowski asked what happens in the future if this pilot program is a success. Mr. Muffley commented that the addendum that was passed only allowed for a one year program. However, NJ could make a proposal next year with the potential for expansion as long as ASMFC continues to approve such programs.

Mr. Radossi made a motion to accept the IBSP Recreational Summer Flounder Shore Base Fishery program for 2014 only. Mr. Zaborowski seconded.

Public Comment

Mr. Haertel – supports this program and would like to see it expand to other areas. CT does have 5 fish at 16 inches at 40 based locations.

Mr. Burden – supports this program and would like to see it expand to four areas including Liberty State Park, Sandy Hook, and another location in southern NJ.

Motion to accept the IBSP Recreational Summer Flounder Shore Base Fishery Program for 2014 only – passed unanimously.

Old Business

Mr. Muffley presented Council with;

- a copy of a letter sent to Governor Christie, with copies to NJ’s Federal Legislators, regarding the issue of NMFS and USFWS voting rights at ASMFC that should be reviewed by the ASMFC Policy Board. (Handout #6)
- new Council Committees and assignments (Handout #8)
- Eight potential committee meetings that need prioritization:
 1. Menhaden – updates on legislation, 2014 fishery, etc. (July)
 2. Recreational Summer Flounder - 2015 plan with potential split zones (July)
 3. Commercial Summer Flounder - latent permits (Sept/Oct)
 4. Regulatory Committee mandatory reporting in recreational, commercial and for hire sectors (Sept/Oct)
 5. Winter Flounder request by Mr. Rizzo
 6. Blue crab/ Conch – Delaware issues?
 7. Eel (July)
 8. Striped Bass

- Ms. Puskus asked about the Tagging committee with no one on it, should it be put someplace else. Acting Chairman Herb asked if they ever met. Mr. Allen commented that they have not met.
- Ms. Puskus asked if there is an Environmental Committee. Mr. Muffley responded that there is not an Environmental Committee and it would be up to Council to initiate one if they would like to get involved with environmental issues.

New Business

Seismic Blasting

Mr. Rush attended a meeting regarding the proposed seismic testing off Long Beach Island during June to August 2014. There is an application to test off Beach Haven for 30 days straight with 5 blasts per second at 280+ decibels underwater starting in June. When conducted in 1970 a lot of fish and mammals died. Mr. Rush added additional comment that the researchers will be using an air gun, blasting into seabed looking for coal and oil, with the researchers requesting authorization from NMFS.

Mr. Yates commented that the commercial and recreational groups are under the impression that NMFS approved this study despite the location and presence of endangered animals and fishermen should be totally against this just for the sake of scientific study. This will have an economic impact as well, given the timeframe of the study in summer months and a significant environmental impact since so many mammals have not yet fully recovered from Hurricane Sandy. The study will be allowed 690 takes of marine mammals.

Mr. Zaborowski commented that since Rutgers is a part of this study, at the very least pressure should be put on Rutgers to temporarily put off to a time of year when less debilitating to resources and industry, say January/February.

Ms. Puskus said if this is approved then we will also be looking at oil platforms setting up and looking to drill for oil.

Mr. Rush made a motion to send a letter to the NMFS, who is issuing the permit, and the Governor of NJ, all politicians involved, President of Rutgers, and Secretary of Commerce opposing the approval of seismic testing off Beach Haven in June; seconded by Mr. Radossi. Motion Passed.

Mr. Radossi commented about the various beach replenishment projects. He understands that the sand for these projects will come by mining the sand from offshore lumps which are important fisheries habitat. **Mr. Radossi made a motion to send a letter to the Army Corps of Engineers encouraging them to find non-historical fishing areas for the sand mining and conduct a proper environmental study before tearing up lumps. Seconded by Mr. Zaborowski. Motion passed after discussion.**

Mr. Zaborowski commented that this will create more environmental impacts if lumps are decimated just for more sand on the beaches.

Mr. Yates and Mr. Hartel commented that many people are also opposed to notching of groins (jetties) in an area that is extremely popular for recreational fishermen.

Mr. Rush asked about southern states extending state lines into oceans (i.e. beyond 3 miles). Mr. Muffley commented that different states have different definitions as to where their 3 mile - state lines ends in the ocean.

Public Comment

Mr. Schillingford – is opposed to the current summer flounder regionalization as NJ has two separate fisheries and should be discussed at the next Summer Flounder Committee meeting.

Mr. Daffin – provided Council with a petition from bait and tackle shops in favor for a North-South Line for summer flounder regionalization.

Mr. Yates – supports splitting the state for summer flounder and made a suggestion to make a division in the state at the ~140 mile mark, dividing state in half. Acting Chairman Herb commented a committee meeting will be set up.

Mr. Haertel – commented to divide NJ at the RT 72 Bridge, at LBI which would divide Barnegat Bay. Additionally, add an option to donate (a donation button) on the Registry, to help with funding.

Mr. Burden – supports a boundary line of inlet vs. bridge.

Meeting adjourned. Next Meeting July 10, 2014, Galloway Township Library