

NEW JERSEY MARINE FISHERIES COUNCIL
Stafford Municipal Building
Stafford, New Jersey
April 9, 2015

Council Attendees:

Richard Herb (Acting Chairman)
James Alexis
Scott Bailey
Erling Berg
Walter L. Johnson III
Frances Puskas
Sergio Radossi
Joseph Rizzo
Robert Rush
Joseph Zaborowski

Council Absentees:

Eleanor Bochenek

Division of Fish and Wildlife Attendees:

Brandon Muffley, Administrator, Marine Fisheries Administration (MFA)
Lieutenant Jason Snellbaker, Bureau of Law Enforcement (BLE)
Russ Allen, Bureau Chief, Bureau of Marine Fisheries (BMF)
Tom Baum, Supervising Biologist, BMF
Heather Corbett, Principal Biologist, BMF
Peter Clark, Senior Biologist, BMF
Jeff Normant, Principal Biologist, Bureau of Shellfisheries (BSF)
Sherry Bennett, Council Secretary

Mr. Muffley updated Council that Mr. Normant recently became Acting Chief of Bureau of Shellfisheries and Marine Habitat. 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 February 12, 2015. The November 6, 2015 and January 8, 2015 Council meeting minutes were approved unanimously. 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.

Law Enforcement Report

Lt. Snellbaker presented the Council with the Law Enforcement Report for January – March (detailed report provided in Handout #1).

- Inspection of a party boat in Sea Isle City was determined that the vessel failed to comply with several provisions of their Special Fillet Permit including filleting under size tautog, discarding tautog carcasses prior to the end of the fishing trip, failing to leave skins on fillets and found a bag of 8 undersized tautog hidden in the garbage can on the vessel. The appropriate summons was issued.
- In December, Atlantic County, CO's seized a total of 553 live terrapins and returned them to their original hibernacula in effort to maximize their chance of survival. Summonses were issued to four harvesters for crab dredge violations, commercialization of unlawfully harvested species and taking terrapins by unlawful contrivance.
- Since the large commercial summer flounder, black sea bass and scup trip limits opened in New Jersey on January 1st, A summonses was issued to a commercial otter trawl vessel for landing approximately 500 pounds in excess of the 5,000 pound biweekly trip limit for summer flounder. Fishermen have been enjoying higher prices than normal for summer flounder this time of year.
- Conservation Officers inspected and monitored approximately 20 vessels that had declared "safe harbor" into NJ ports due to weather related conditions or vessel safety issues. The majority of these safe harbor calls were from vessels that had trip limits on board which were intended for North Carolina.
- While performing numerous seafood market and dealer inspections. A warning was issued for untagged shellfish and two summonses were issued for offering undersized summer flounder and black sea bass for sale.
- In the late afternoon on February 1, 2015 COs Klitz and Woerner were patrolling the seasonally approved waters of the Navesink and Shrewsbury Rivers in northern Monmouth County. Two men with recreational licenses possessed well

in excess of their daily bag limit by several hundred hard clams and were issued summonses for taking more than 150 clams without a commercial license.

- An owner and operator of a Cape May based commercial otter trawl vessel landed 300 pounds of black sea bass in excess of the maximum trip limit of 3,000 pounds, appropriate summons were issued.
- Three oyster harvesters and dealers, an employee and a related business were finally sentenced for the unlawful harvest and sale of oysters from the Delaware Bay. A four year joint investigation conducted by District 8 Conservation Officers and NMFS Special Agents revealed the oystermen conspired to traffic approximately \$750,000 worth of overharvested and unreported oysters by creating false reports and records to conceal their unlawful actions. U.S. District Court in Camden sentenced the leader of the operation to 26 months in prison and 3 years of probation. The other two oystermen received a 16 month and a 6 month prison sentence and three years of probation. Additionally, the owner of a Delaware-based seafood wholesale business was ordered to pay a \$250,000 fine and was sentenced to five years of probation for trafficking illegally possessed oysters, creating false health and safety records, and conspiracy charges. The combined fines totaled approximately \$625,000 in fines and forfeitures and \$194,000 in restitution for the restoration of Delaware Bay oyster beds.
- During a routine market inspection of a supermarket in Pleasantville, Atlantic County, a summons was issued for offering undersize black sea bass for sale.
- On March 2, 2015, inspection of a summer flounder landing by a commercial otter trawl vessel in Cape May was determined that the vessel had exceeded the trip limit by nine percent. The appropriate summonses were issued.
- On March 11, 2015, while patrolling Beach Haven, Ocean County, CO observed an unknown vessel acting suspiciously. The CO set up surveillance and watched the vessel use a dredge to catch bay scallops. Summonses were issued for harvesting shellfish without a license, harvesting shellfish with a dredge, harvesting shellfish under power, and forfeiture of the illegal gear.

Legislative/Regulatory Report

Mr. Muffley presented Council with the Legislative and Regulatory Report. (Handouts #2a-d):

- A4146 – Authorizes DEP and NJ Marine Fisheries Council to regulate taking and management of striped bass; establishes interim taking restrictions. Mr. Muffley commented that the Senate approved this bill on March 16, 2015 (already approved by Assembly), and should become law by early May 2015.
- S2057 – Prohibits certain possession, sale, offering for sale, trade or distribution of shark fins.
- A220 – Urges cancellation of seismic blasting plans in Atlantic Ocean near Barnegat Bay. Mr. Muffley commented that the Senate approved bill on March 16, 2015.
- A2780- Prohibits DEP from reducing fishing quotas established by federal or regional entities, unless authorized by law.

Atlantic States Marine Fisheries Commission (ASMFC) Report

Mr. Allen and Mr. Baum presented Council with ASMFC Management Board (Board) Winter Meeting Summary held February 3 – 5, 2015 in Alexandria, VA. (Handout #3):

Mr. Allen

Atlantic Menhaden

The Board accepted the 2015 benchmark stock assessment and peer review report. The new assessment indicates the resource is not overfished nor experiencing overfishing. The Board tasked the Technical Committee (TC) with conducting a thorough review of the peer review findings and explore different harvest scenarios. The Board will review the projection analyses at the Board's Spring Meeting.

South Atlantic State/Federal Fisheries

The 2015 black drum benchmark stock assessment determined that the population is not overfished nor experiencing overfishing. The Board agreed to retain the existing regulations as defined in the FMP.

Atlantic Striped Bass

The Board approved Addendum IV implementation plans and conservation equivalency proposals for all the states. The plans contain state specific management options that achieve a 25% reduction in harvest from 2013 levels for the coastal commercial and recreational fishery.

Tautog

The Board accepted the 2015 benchmark stock assessment and peer review report. The 2015 assessment evaluated stock status regionally instead of coastwide. The assessment presents a three-unit stock structure: Southern New England (MA, RI, CT), Mid-Atlantic (NY, NJ), and DelMarVa (DE, MD, VA). In addition, an alternative assessment placed CT in Mid-Atlantic region, and two-region definition with a Northern stock (MA-NY) and Southern Stock (NJ-NC). The Mid-Atlantic could see more cuts in 2016, if CT is added and made into a three-region structure. The Board tasked the TC to continue to explore reference points for all possible stock unit definitions. The Board will review the analyses at the Board's Spring Meeting.

Mr. Baum

Winter Flounder

The Board maintained its winter flounder commercial and recreational management measures for the inshore waters of the Gulf of Maine (GOM) and the Southern New England/Mid-Atlantic (SNE/MA) for the 2015 fishing season due to continued concerns regarding the low population level of winter flounder.

American Lobster

Board approves Draft Addendum XXIV for Public Comment. Draft Addendum XXIV responds to recently finalized trap transfer regulations for the federal waters of Lobster

Conservation Management Areas 2, 3 and Outer Cape Cod. To aid in the development of the Jonah Crab Fishery Management Plan (FMP), Board members from Massachusetts and Rhode Island will work with Plan Development Team to address a number of outstanding issues. The Board approved Maryland's request to remove the mandatory season closure for LCMA 5 in April and May. LCMA 5 will remain closed for February and March, and will reopen in April. This modification will also affect NJ fishermen that hold lobster permits and fish in Area 5.

Summer Flounder, Scup and Black Sea Bass

The Board approved to continue summer flounder recreational regional management for 2015 and approved state plans for 2015 recreational black sea bass and scup fisheries. For summer flounder the approved regions are MA and RI; CT, NY and NJ; DE through VA; and NC. For black sea bass, the board approved the methodologies used by the states of MA through NJ to establish their minimum size, possession limits and season lengths to achieve 33% reduction.

Mr. Rush asked if the four additional days in November helped in achieving a lesser percent reduction. Mr. Baum asked the TC member in attendance in audience, and response was no.

Mid-Atlantic Fishery Management Council (MAFMC)

Mr. Baum presented Council with an update on the MAFMC meeting, held in Raleigh, NC from February 10-12, 2015 (Handout #4).

Surfclam and Ocean Quahog Cost recovery Amendment

The Council selected preferred alternatives for the Atlantic Surfclam and Ocean Quahog Cost Recovery Amendment and approved the amendment for submission to the Secretary of Commerce. The amendment addresses several issues in the surfclam and ocean quahog fisheries, including the cost recovery provisions of the Magnuson-Stevens Fishery

Conservation and Management Act (MSA) and biological reference points update mechanism.

Deep Sea Corals Amendment

The Council voted to postpone final action on the amendment until the June 2015 Council meeting. The decision was made in part by concerns that additional input was needed regarding the specific areas being considered for protection in the amendment. A workshop will consider potential revisions to the boundaries of proposed discrete coral zones.

Next MAFMC meeting will be held April 14 – 16, 2015 in Long Branch, NJ.

Shellfish Council Reports

- **Delaware Bay** – Mr. Bailey

Delaware Bay Oyster Direct Market Fishery Stock Assessment

Staff attended the 17th annual Stock Assessment Workshop (SAW) for the Delaware Bay oyster resource. The Stock Assessment Review Committee (SARC) assessed the stock data on current and historic population dynamics of the oyster resource, evaluated the status of the stock and developed quota recommendations for the upcoming fishing year (2015). The Delaware Bay Section of the Shellfisheries Council then reviewed the SARC management recommendations at the March meeting and made an industry recommendation of 74,000 bushels to the Department. Following an intermediate transplant program, the Department anticipates a total industry quota of approximately 84,000 bushels

- **Atlantic Coast** – no report

- **Bureau of Shellfisheries Report** – Jeff Normant

Barnegat Bay Shellfish Inventory

The Bureau of Shellfisheries (Bureau) conducted a hard clam stock assessment of Barnegat Bay (Rt 72 bridge to Mantoloking Bridge) in 2012. The stock was estimated at 136.1 million clams, and this estimate is an approximately 24% reduction from the first stock estimate performed in 1985/86. Analysis showed a significant decrease in natural mortality (boxes compared with live clams) in 2012 compared with 1985/86. Both Barnegat and Little Egg Harbor Bays were partially surveyed in 2013 nearly one year after Superstorm Sandy. Approximately 25% of the total available stations in both water bodies were investigated. There was no significant difference in hard clam densities before and after the storm, nor a significant difference in mortality estimates before and after the storm. A full copy of the report is available from the Bureau.

Committee Reports – Handout 5a-d

Recreational Summer Flounder – Mr. Herb

A meeting of the NJ Marine Fisheries Council's Recreational Summer Flounder Committee was held at the Nacote Creek Field Office on February 25, 2015 to discuss options for New Jersey's 2015 recreational summer flounder fishery regulations.

At their February 2015 meeting, ASMFC approved Addendum XXVI which continues the implementation of adaptive regional management measures for the 2015 recreational summer flounder fishery. These measures place New Jersey in the Mid-Atlantic Region, with Connecticut and New York, and require the region to adopt complimentary management strategies for 2015 as were used in 2014 to achieve an overall regional harvest target.

The options for the Mid-Atlantic Region for 2015 dictate a minimum size limit of 18 inches, a bag limit of 5 fish and an open season of 128 days not to exceed a total of 45 open days during the months of May and June. In addition, all states within the Mid-Atlantic region may continue the Shore Based Enhanced Fishing Opportunity Program providing New Jersey the ability to expand this program if seen fit. The Committee

supported advancing two options for consideration by the full Council that address the ability to adjust the fishing season including:

Option 1) Sunday, May 17 to Monday, September 21

Option 2) Friday, May 22 to Saturday, September 26

Option two is the preferred option of the Committee and is therefore a motion.

The Committee also supported retaining the Shore Based Enhanced Fishing Opportunity Program at Island Beach State Park, especially with the Barnegat Inlet jetty now open. The Committee also tasks the Division to evaluate suitable locations in the northern and southern areas of the state for implementation in 2016.

Public Comment

Out of the 22 people who spoke 14 supported the committee reports preferred option which is option 2; while six supported option one and two provided no preference. Many also agreed with committee recommendation to support retaining the Shore Based Enhanced Fishing Opportunity and agreed to find suitable locations in the northern and southern areas for implementation in 2016. Comments were also made that the focus should be on keeping business's alive in NJ, and to make sure fishing is more consistent though out the year. A comment was made on how the DE Bay side of NJ is difficult to fish and suggests a pilot program in Fortescue. Mr. Daffin commented he wishes options to consider dividing the state be revisited in 2016.

Acting Chairman Herb commented it surely was not for a lack of trying to reach a compromise in regards to the regulations in the southern part and DE Bay side of NJ, as it was more for the lack of support from other states. This will be something the Council will continue to try again for the 2016 season.

- **Motion passes. 8 yes, 1 no; in regards to option #2.**
- **Motion passes. Unanimously for continuation in the Shore Based Enhanced Fishing Opportunity Program at Island Beach State Park and explore other locations in the state.**

Recreational Black Sea Bass – Mr. Herb

The NJ Marine Fisheries Council's Recreational Black Sea Bass Committee met at the Nacote Creek Field Office on February 25 and March 19, 2015 to discuss options for New Jersey's 2015 recreational black sea bass fishery regulations.

The ASMFC approved ad hoc regional management measures for the 2015 recreational black sea bass fishery. These measures require states in the northern region, MA, RI, CT, NY, and NJ, to take a 32.8% reduction based on the preliminary 2014 recreational black sea bass harvest estimates.

The Committee reviewed 10 different options that were approved by the ASMFC and met or exceeded the required 32.8 % reduction in harvest with modifications to the size, season and bag limit and/or a combination of all three. The Committee also discussed a status quo option that meets a 0% reduction in harvest. Of the 11 options, 4 were reviewed at length with three of the options achieving the required 32.8 % reduction and a fourth option, status quo, that was not approved by the ASMFC and could place the State of New Jersey out of compliance.

Ultimately, the Committee decided to move three options forward, all of which achieve a reduction in harvest of at least 32.9%;

- Option 1) 12.5 inch minimum size, 15 fish from May 27 to June 30, 2 fish from July 1 to July 31, 15 fish from October 22 to December 31.
- Option 2) 12.5 inch minimum size, 15 fish from June 10 to June 30, 3 fish from July 1 to August 31, 15 fish from October 23 to December 31.
- Option 3) 13 inch minimum size, 12 fish from May 25 to June 30, 3 fish from July 1 to September 6, 3 fish from October 23 to October 31, and 15 fish from November 1 to December 31.

Option 1 is the preferred option of the Committee and is therefore a motion.

Also, although the Committee did not support the status quo option, the Committee and the advisors had lengthy deliberations about this option and how best to move forward in 2016 in the likelihood of a similar situation. The Committee also recommends sending a letter to other State Councils (or equivalent management bodies) and to the ASMFC indicating this Committee's deliberations to consider status quo and the need for change in black sea bass management for the future because the current system is putting people and businesses out of business.

Public Comment

Out of the 17 people who spoke 13 supported the committee reports motion of option 1, the Committees preferred option; while two supported option 3 and two provide no preference. Many also agreed and supported a letter for change in black sea bass management for the future because the current system is putting people and businesses out of business. Mr. Nowalsky commented how the continuation of these cuts being made on a fishery not being over fished is having negative consequences on businesses. He believes its no longer is this about conservation anymore, but implementing services against fisherman. Mr. Nowalsky encourages the Council to stand up for the fisherman, for continuing to take cuts on a fish not over fished is not supporting economics.

- **Motion passes. Unanimously for preferred option 1 recommended by Committee**
- **Friendly amendment to add NMFS Director Eileen Sobeck to letter being sent to other State Councils and to the ASMFC indicating this Committee's deliberations to consider status quo and the need for change in black sea bass management for the future. Amended motion passes.**
- **Motion to send letter to NMFS Director, other State Councils (or equivalent management bodies) and to the ASMFC indicating this Committee's deliberations to consider status quo and the need for change in black sea bass management for the future because the current system is putting people and businesses out of business. Motion passes unanimously**

Commercial Black Sea Bass – Acting Chairman Mr. Herb deferred action on this report until the May Council meeting.

A meeting of the NJ Marine Fisheries Council's Commercial Black Sea Bass Committee was held at the Nacote Creek Field Office on March 12, 2015 to discuss the Committee's meeting and issues with the recreational sea bass advisors and to also discuss the current and future performance of the 2015 commercial fishery.

The group first discussed the February meeting of the Recreational Sea Bass Committee and their deliberations and consideration of implementing status quo measures for 2015 instead of the required 33% reduction. This potential decision could have implications for the commercial fishery if a finding of non-compliance was implemented. There was a general understanding of the frustration the recreational sector is experiencing with continued reductions and overall low quotas. However, the advisors did not support staying status quo with the inherent negative implications that would result from it and therefore did not feel it was an appropriate course of action. They supported working with the recreational community and other states to work on a solution for 2016 and beyond and also focus on efforts to collect reliable data for upcoming and future stock assessments.

The second topic discussed was to evaluate the rapid closure of recent seasons and the possibilities to elongate each season allowing more consistent supply to the black sea bass market. Ultimately, the Committee decided to change the trip limits in the commercial Season 4, October 1 to December 31 from 1,000 pounds three times a week or 3,000 pounds once a week to 1,500 pounds twice a week or 1,000 pounds three times a week. The advisors also raised concerns about the lack of comprehensive and timely reporting of in-state and out-of-state dealers and fishermen and the increasing number of vessels entering the black sea bass fishery with little, if any, historical participation. To address these concerns, the advisors recommended developing a committee to discuss the

merits of implementing a commercial landing license for all species and fisheries citing New Jersey as the only state on the eastern seaboard without a landing license. They believe, if designed and allocated correctly, a landing license could address many issues facing NJ fishermen and can provide a platform to create a better reporting system, more accurately track NJ landings and quota and eliminate license prospectors from acquiring licenses for the purpose of resale without intentions of using them for landing fish.

The Committee recommends modifying the Season 4 trip limit changes, which will be considered by the full Council at their May meeting, and also supports holding Committee meetings to discuss a landing license and mandatory reporting.

Striped Bass – Mr. Radossi

The purpose of the meeting was to discuss and develop recommendations regarding 2015 measures for the Striped Bass Bonus Program to comply with the 25% reduction mandated by the Atlantic States Marine Fisheries Commission (ASMFC). The Committee reviewed the following options which have already been approved by ASMFC:

- Option 1: 1 fish at $\geq 28''$ with a quota of 241,313 pounds
- Option 2: 1 fish at $24''$ to $< 28''$ with a quota of 215,912 pounds

The Committee also discussed potential seasons, how to limit the number of participants and whether to reinstate the party/charter segment of the bonus program. A decision on the exact implementation of the program was not finalized but there was interest in making the PCBT application criteria more restrictive than the previous requirement of providing a Captain's License to receive permits.

Although there was some interest from advisors for Option 1, especially if an upper size boundary was included (i.e. 36 inches), the **Committee decided to move forward with Option 2 (1 fish at 24'' to < 28'')** as the preferred measure with a season of **September 1 – December 31 and a limit on the amount of total permits issued.** Consensus was reached to reinstate the party/charter boat segment of the program.

Participating party/charter entities would be required to submit annual logbooks to the Division which would provide the Division with valuable data of both harvested and released fish that is currently lacking. The Committee decided to allocate 40% of the total permits issued to party and charter fleet based on historical Bonus Program harvest.

Public Comment

Out of the 20 people who spoke, 15 supported option 2, the Committee preferred option; while five supported option one. Some commenters asked for a spring Bonus Program for 2016. Some were afraid the Program could become an enforcement nightmare and supported zero tolerance for violators.

Mr. Muffley did clarify this committee report is in regards to the striped bass Bonus Program (the general recreational striped bass measures will be addressed through legislation). Once the Commissioner signs the Notice of Administrative Change to implement the motion on the floor, then the current Bonus Program will no longer exist and will close until the season opens up on September 1, 2015 with the changes listed in option 2.

- **Motion passes. Unanimously for preferred option 2 recommended by Committee**

Regulatory Actions

Mr. Allen presented Council with Draft NOAC, Handout #6, Modifies recreational summer flounder, recreational black sea bass seasons and possession limits, recreational and commercial shark season to match the federal seasons, striped bass bonus program quota, size limit and season and additions to the Managed Species and Prohibited Species List.

- **Motion to add commercial and recreational shark season provisions as well as adding menhaden to managed species list, made by Mr. Rush, second by Mr. Zabrowski, passed unanimously.**

Old Business

Mr. Muffley presented Council with Handouts #7-10.

Handout #7 – A letter from Council to Commissioner in regards to closing the commercial diamondback terrapin season through March 31, 2016.

Handout #8 – A letter from Endangered and Nongame Species Advisory Committee to the Commissioner supporting the Marine Fisheries Councils' actions in regards to closing commercial diamondback terrapin season.

Handout #9 – Is the Administrative Order closing the commercial diamondback terrapin season to March 31, 2015; season reopens November 1st, 2015 – March 31, 2016.

Mr. Johnson commented why the order wasn't carried out further to March 31, 2016, as it was intended to be from the letter Council sent to the Commissioner.

- **Motion was made to respectively ask the Commissioner for clarification as to why he did not extend the terrapin closure through March 31, 2016 as per Council's recommendation. Radossi/Johnson seconded. Mr. Rizzo asked to Council to see letter prior to submitting it to the Commissioner, Motion passed.**

Handout #10 – the February 2, 2015 NJ Register publication of the proposed Artificial Reef regulations to address the existing access issues between commercial and recreational fishermen on NJ's two State reefs.

New Business

Mr. Muffley presented Handout #11 to Council. A letter from the Bureau of Marine Water Monitoring (BMWM), giving Council the opportunity to comment on the proposed changes at N.J.A.C. 7:12, the Shellfish Growing Water Classification regulations. Mr. Rizzo commented since comments can be filed by June 1, 2015, to send an invite to have them attend May Council meeting to present an overview of the regulations. Council agreed to send a letter to BMWM.

Mr. Muffley updated Council that the first time since 1994 commercial blue crab pot licenses will be made available through a lottery. Actual lottery to take place in late spring or early summer.

Mr. Muffley informed Council of the potential development of two additional reefs. One would be located in Delaware Bay and the other in State ocean waters north of Manasquan Inlet (between the two current artificial reefs) and the opportunity to provide public comment regarding these locations. Hugh Carberry will give a presentation at Council's May meeting in regards to the two proposed reef sites.

Mr. Bailey commented that Mr. Carberry presented at the Delaware Bay Council and the Council did not support the site location in DE Bay, because it is the prime area for crab dredge. Mr. Bailey requested blue crab and conch meeting.

Council asked for next Committee Meetings to be 1) regulatory meeting on mandatory reporting across all sectors, landing license and latent permits; 2) Eel; 3) Menhaden; 4) blue crab dredge/conch meeting.

Ms. Puskus commented how we can help Beach Haven Inlet, which seems to be closing up. Mr. Allen commented that the DEP will investigate on who the Council can express their concerns in regard to the inlet.

Public Comment

Mr. Lovgren and Mr. Diehl spoke of a "glitch" in the reporting system in commercial fluke. Out of state fisherman report their landings, but their trip is not reported until point of sale is complete.

Mr. Lovgren reported there is one week left for public comment on seismic testing. Supports Ms. Puskus inquire in regards to Beach Haven Inlet to dredge out, have plenty of beaches that could use that sand.

- **Motion made to resubmit the letter in regards to the seismic testing that Council sent last year, but this time include National Science Foundation. Rush/Johnson, passed unanimously.**

Mr. Yates asked the public and members of the Council to send a letter to help dredge Beach Haven Inlet but felt it was a low on the dredging priority list.

Meeting adjourned. Next Meeting May 14, 2015, Galloway Township Library