

NEW JERSEY MARINE FISHERIES COUNCIL
Galloway Township Library
Galloway, New Jersey
January 9, 2014

Council Attendees: Erling Berg
Eleanor Bochenek
Barney Hollinger
Frances Puskas
Sergio Radossi
Robert Rush
Joseph Zaborowski

Council Absentees: Acting Chairman Richard Herb
Walter L. Johnson III
Joseph Rizzo

Division of Fish and Wildlife Attendees:

Brandon Muffley, Administrator, Marine Fisheries Administration (MFA)
Russ Babb, Acting Chief, Bureau of Shellfisheries (BSF)
Captain Dominick Fresco, Bureau of Law Enforcement
Russ Allen, Supervising Biologist, Bureau of Marine Fisheries (BMF)
Tom Baum, Supervising Biologist, BMF
Sherry Bennett, Council Secretary
Jeffrey Brust, Research Scientist, MFA
Brian Neilan, Assistant Biologist, BMF
Jennifer Pyle, Senior Biologist, BMF
Jennifer Tomko, Assistant Biologist, BSF

Ms. Bennett read the compliance with the Sunshine Law. Notice of the meeting was filed with the Secretary of State on December 11, 2013. The draft November meeting minutes were not available yet. Councilman Berg will serve as temporary Acting Chairman in Mr. Herb's absence. Mr. Berg began the meeting with the Pledge of Allegiance.

Audience Conduct

Mr. Berg 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

Captain Fresco presented the Marine Fisheries Council (Council) with the Law Enforcement Report for October to December, 2013 (detailed report provided in Handout #1).

- A night clamming case was recently adjudicated in Belmar Municipal Court, Monmouth County. The case was investigated this past summer and involved three individuals harvesting 1,500 clams from prohibited waters. The subjects were previously charged with not possessing a shellfish license, clamming at

night and condemned water summonses. The three subjects plead guilty to the charges and paid a penalty and court costs totaling \$833.00 each.

October

- Two summonses were issued to a supermarket located in East Brunswick, Middlesex County for the attempted sale of 20 undersized black sea bass.
- While conducting surveillance of the Two Mile Jetty in Lower Twp., Cape May County, two groups of fishermen were observed keeping undersize tautog and exceeding the bag limit on tautog. The group of three located on the jetty, possessed 17 tautog over the daily limit, 11 undersize tautog, and 3 mutilated tautog that were partially consumed prior to Conservation Officer's (CO) inspection. The group of two individuals in a boat possessed 21 tautog over the daily limit and 12 undersize tautog. Summonses were issued to each fisherman for possessing tautog over the daily limit and undersized tautog.
- COs charged two men for illegally growing and harvesting oysters for human consumption in a Cape May County creek classified as "prohibited" to the harvest of shellfish. The two men were charged criminally with harvesting oysters from a raft constructed for the purpose of raising and housing oysters in the "prohibited" waters of Dias Creek in Middle Township. In an effort to prevent potentially contaminated oysters from being consumed, COs seized approximately 220,000 oysters from the raft in Dias Creek, the majority of which were market size. An additional 150,000 oysters were seized from a nearby location in waters classified as "approved" where the men allegedly transplanted oysters grown on the raft. Penalties for the offense carry a maximum of 30 days imprisonment, \$500 fine and a mandatory 3 year suspension of license to harvest shellfish. The owner of the oyster dealership was also charged by the NJ Department of Health after the investigation revealed shellfish sanitation and handling violations at his oyster dealership.
- Two groups of fisherman were observed taking undersize and over the limit tautog on the Barnegat Light jetty. CO issued 16 summonses for over the limit tautog, undersize tautog, wanton waste of marine finfish, interference with the duties of a CO, and littering. On November 11, a CO apprehended one of the same individuals summonsed on October 31st for illegal possession of tautog. All of these cases were heard in Barnegat Light Municipal Court. The six individuals plead guilty to the charges and paid penalties and court costs totaling \$4,760.00. The individual issued by two different CO's plead not guilty and a trial occurred. The defendant was found guilty on all charges and paid penalties and court costs totaling \$1,419.00.

November

- While patrolling the "canal" in Point Pleasant Boro, Ocean County, CO's noted several of the men keeping sub-legal and over the limit tautog. In total, the five men had 56 tautog, only three were in excess of the legal size of 15". Each was issued a mandatory court summonses for possession of 53 short tautog and possession of 51 tautog over the daily possession limit. These individuals later pled guilty in municipal court and were assessed penalties and court costs totaling \$3,330.00

- CO's boarded a commercial fishing vessel at the dock of Cold Spring Fish and Supply Company in Lower Twp. Just prior to the boarding, the vessel offloaded 3,000 pounds of summer flounder and a small amount of scup. Summonses were issued to the vessel's owner and vessel's captain for possession of a net less than the minimum size for summer flounder and possession of otter trawl doors without documentation or registration number.

December

- While on patrol in Sandy Hook Bay, a CO observed two commercial clambers' participating in the hard clam depuration program in Monmouth County utilizing a smaller secondary boat to assist in the harvest of hard clams from the bay. The CO issued the appropriate summonses for the taking of shellfish with the aid of mechanical power. The penalty ranges from \$300.00 to \$3,000.00 plus court costs.
- CO's recently investigated a complaint from a concerned citizen about a ShopRite supermarket located in Wall Twp., Monmouth County, selling oversized lobsters. Five American lobsters were found to be over the legal market size of 6.75 inches for the carapace length. A written warning was issued and store management agreed to send the lobsters back to their dealer.

Legislative Report

Mr. Muffley presented Council with the legislative report (Handouts #2 a – c). Sponsored legislation included:

- S3053, sponsored by Senator Van Drew, establishes a striped bass license plate, with revenue being dedicated to the State registry program for saltwater recreational anglers.
- A4392, sponsored by Assemblywoman Caride, allows for sale of striped bass caught outside NJ.
- A4391, sponsored by Assemblywoman Caride, allows for processing of wild striped bass caught outside NJ for sale out-of-state.

Mr. Muffley mentioned that currently there is a no sale or transport of striped bass in NJ.

Mr. Zabrowski commented he is not sure of the reason or the need for A4391, considering facilities probably already exist out of state to process the striped bass.

Ms. Puskus commented that NJ does not have a striped bass fishery. Mr. Muffley commented this legislation will not open up a commercial industry of striped bass for NJ fisherman.

Atlantic States Marine Fisheries Commission (ASMFC) Report

Mr. Baum and Mr. Allen presented Council with an update on ASMFC Management Boards (Board) proceedings.

Mr. Baum:

Summer Flounder, Scup, and Black Sea Bass (Handouts #4 a-b)

The Board met jointly with the Mid-Atlantic Fishery Management Council (MAFMC) in December. The Board approved Draft Addendum XXV for public comment and the

Division will hold a public hearing for Monday January 13, 7:30pm in Toms River. Three options were presented for summer flounder:

- Option 1 - Status quo of conservation equivalency allowing individual states or regions to develop recreational measures.
- Option 2 - Allows the utilization of unused recreational harvest limits by states that could liberalize but not to the fullest, allowing the unused harvest being used by states needing to reduce.
- Option 3 - Adoptive regional management, where the Technical Committee would develop management options for two regions: RI to NJ or CT to NJ and DE to VA. The states of MA and NC will each stand alone.

Also, two options were presented for black sea bass which included status quo (coast-wide measures) or an ad-hoc regional management approach as was done in 2013 for MA to NJ.

Mr. Zabrowski asked about individual state by state regulations. Mr. Baum commented that summer flounder under conservation equivalency is state by state, but the black sea bass fishery management plan does not allow state by state. Any change (i.e. state by state approach) will have to be addressed as an amendment to the fishery management plan, and not in the addendum process.

Mr. Radossi asked if there has ever been talk on how the recreational data is used and/or collected. Mr. Baum responded this issue was not specifically discussed at this meeting.

Mr. Nowalsky (NJ's Legislative proxy for ASMFC) commented that Monday's public meeting should bring a lot of interest. Cautioning and questioning the desire to bring regions together for purpose of regulations could result in a larger divide of regional measures with NJ-RI or DE-NJ.

Mr. Radossi stressed the importance of correct and accurate data when setting regulations and amendments. Mr. Nowalsky commented that individual managers express their concerns at every single meeting. Some states have been able to establish independent data collection for their states.

Mr. Allen

Draft Five-Year Strategic Plan 2014-2018 (Handout #3)

Mr. Allen presented Council and public attendees with the ASMFC Draft Five-Year Strategic Plan 2014-2018. Mr. Allen gave some background on the ASMFC which consists of 15 Atlantic coastal states from Maine to Florida and was formed in 1942 to develop cooperative mechanisms to define and achieve mutual interests in coastal fisheries. To maintain the ASMFC's mutual commitment to success, the five-year strategic plan was developed outlining the mission, vision, values, goals, and strategies needed to accomplish the ASMFC mission over the next five years. Public comment was open until January 10, 2014, with approval of the final Strategic Plan at the ASMFC board meetings in February 2014.

Mr. Nowalsky commented that he will like to point out how the Vision highlights the importance of fisheries and not just fish.

Mr. Radossi commented the need for a strong foundation that starts with good data collection and processing.

Ms. Puskus worried about environmental changes with regards to why fish are no longer seen in large numbers, why fish are not where they used to be and where the fish are now. She felt a greater emphasis needs to be placed on understanding these issues in the document. Mr. Allen agreed that as a species range expands or a population adapts, management must also adapt.

Public Comment:

Mr. Reichle (Lunds Fisheries) commented that the ASMFC process is the worse public process he has ever seen. There is no opportunity for public comment, debate or time to speak. Our state representation does a great job yet it never is heard at the ASMFC level.

Mr. Rush commented that he agrees with Mr. Reichle, and the ASMFC process is short-sighted because of the lack of the chance to actually be heard. ASMFC doesn't care about the public or fisheries.

Mr. Muffley stated that awhile ago the Council may recall that BMF developed and implemented their own planning document, outlying issues it faces and how best to prioritize the responsibilities of the Bureau. The MFA will now be developing their own strategic plan document with Council and public input. The focus of this document will be to set various goals – personnel/staffing, research, outreach, technology and develop steps to achieve the goals.

Mid-Atlantic Fishery Management Council (MAFMC)

Mr. Baum presented Council with an update on MAFMC, including additional information regarding the joint meeting with ASMFC (Handout #4 a-b).

- **Summer Flounder, Scup and Black Sea Bass Management**

The MAFMC recommended the use of conservation equivalency to achieve the 2014 summer flounder fishery. They preferred the non-preferred coastwide alternative if states did not develop their own measurements, which included a four fish possession limit, an 18-inch total length (TL) minimum size, and an open season from May 1 through September 30, 2014.

The MAFMC and ASMFC voted to continue the regional approach to scup management in state waters in 2014. In federal waters, the MAFMC recommended a 9-inch TL minimum fish size, a 30 fish possession limit and an open season from January 1 to December 31, 2014.

For black sea bass, both MAFMC and ASMFC recommended recreational measures that would achieve the 7% reduction in landings on a coast wide basis,

in both state and federal waters. In federal waters the measures to be implemented will be a 12.5-inch fish, 15 fish possession limit within the May 19 to Sept 18 and Oct 18 to Dec 31 seasons.

- Spiny Dogfish
After some discussion to increase the trip limit, the MAFMC chose to maintain the existing trip limits (4000 pounds) after considering current market constraints and consistency issues with state fisheries.
- Mackerel, Squid, Butterfish
The MAFMC took steps to improve river herring and shad conservation. Regarding Framework 9 to the Atlantic Mackerel, Squid and Butterfish Fishery Management Plan, the MAFMC approved a range of options to ensure that observers sample as much of the catch as possible on observed trips.
- Executive Committee
The Executive Committee reviewed a revised draft of the 2014 Implementation Plan and approved several final revisions. Also approved was a motion to make a recommendation for an amendment to the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan.

Shellfish Council Reports

There were no reports for the Delaware Bay or Atlantic Coast Shellfish Councils.

Mr. Babb updated the Council on two items the Bureau of Shellfisheries is working on:

- Shellfish Aquaculture Development
BSF staff has been working with our counterparts in the Department of Environmental Protection's (Department) Coastal Regulation Office and have developed a monthly program where staff from both groups will meet with prospective aquaculturists or industry members to answer questions they may have on permitting and lease acquisition. Permitting improvements have been put in place this year, so now it seems helpful to try to explain what the new permits mean. As part of our aquaculture development program, the Department is working with Rutgers University in developing a workshop for aquaculturists to come listen to panel presentations from all of the federal and state agencies involved in the various aspects of shellfish aquaculture programs. Right now, the groups are anticipating this workshop occurring in late February. BSF staff have also taken on the task, with the help of coastal regulation, of creating a series of guidelines and sample applications to assist shellfish aquaculturists in applying for "General Permits" for activities such as shell planting and placement of structure on existing shellfish leases. Draft versions of the guidelines and application form have been sent to the Coastal Regulation for their review.
- Hurricane Sandy Proposals
The BSF has also spent a great deal of time working on the development of two large shellfish enhancement proposals through the Hurricane Sandy Coastal Resiliency Competitive Grant Program (Program). The Program, funded by the

Hurricane Sandy disaster relief appropriation through the Department of Interior, is administered by the National Fish and Wildlife Foundation. This is for grants throughout the region affected by Hurricane Sandy, so essentially any state could apply that was officially declared a natural disaster as a result of the storm event. The two projects that BSF is submitting focus on enhancement of shellfish resources in the Mullica River - Great Bay Estuary (oysters) and in Barnegat Bay and Little Egg Harbor bays (hard clams and oysters).

Regulatory Actions

Mr. Muffley updated Council on the final approval of two Notice of Administrative Changes approved at the November Council meeting. Mr. Muffley also informed council that the 2008 Multispecies Regulatory Proposal will hopefully be filed in March and published in April Register. Once in the Register, there will be a 60 day comment period until June, and will likely be finalized by July. A new rule proposal is also making headway in regards to New Jersey's two state water reefs. This regulatory proposal begins to implement the Christie administrations' compromise to resolve conflicts on the reefs and will limit the types of gear and locations on the two State reefs. Mr. Muffley requested the Council may want to consider convening the reef committee.

Mr. Radossi asked about any new reef building or permits on reefs. Mr. Muffley commented that as the regulations develop, and potential funding increases, a new reef is highly feasible and is part of the compromise plan.

Old Business

Mr. Muffley presented Council with a 2013 commercial quota recap.

- Summer Flounder - overharvested by 4% of quota, so approximately 70,000 lbs will need to be deducted in 2014.
- Black Sea Bass - 97% of the quota was harvested. While not all of the quota was harvested this is much better than in recent years where only 80% was harvested.
- Bluefish - third year in a row only 25% of quota harvested. Fish didn't appear in any great numbers in NJ, and were further north.
- Atlantic menhaden - preliminary estimates indicate 96% of quota harvested.
- American Lobster - no quota in NJ; however NJ harvested 665,000 pounds, down from 2012 year, yet consistent with other years.

Mr. Muffley brought Council's attention to Handout #5 in regards to the letter Council approved at November's meeting regarding Atlantic menhaden landing license in NJ (A4036/S2726). Senator Van Drew has reviewed the suggestions and agreed with Council's recommendations and will make these changes in new menhaden legislation. Mr. Muffley suggested Council address Senator Van Drew's support of the Council's recommendation on menhaden.

A motion was made by Council to send a letter to Senator Van Drew thanking him for his efforts and support his new menhaden legislation that incorporates Councils' recommendations in regards to Atlantic menhaden landing license in NJ. Motion passed, following public comment in regards to how this legislation was originally mishandled.

The Council agreed and is working hard to repair the situation for the benefit of all fishermen as quickly as possible.

New Business

Mr. Muffley updated Council with two new staff positions within the Marine Fisheries Administration. Assistant Biologist Brian Neilan, will be working under Russ Allen on regulations and fisheries independent research while Assistant Biologist Jenny Tomko will be working under Jeff Normant on shellfisheries regulations, Atlantic coast shellfish enhancement and aquaculture.

Mr. Baum informed Council of discussions regarding states taking over control of the current Access Point Angler Intercept Survey (APAIS) under MRIP. Currently NMFS hires contractors to perform the intercept survey. NJ does not currently have such a survey in place and is working on a budget and staffing needs if it were to conduct and run such a program. If approved, NMFS will administer funding to the states that run the survey. The benefit to NJ running such a survey is that the stakeholders would have a say in how the survey is run, there will be greater oversight, increased training and with additional funding more sampling can be added on. The downside of NJ running such a program is that it will likely cost more than the current survey.

Dr. Bochenek commented that even though it may cost more, it will benefit the states because more data can be collected and more accurately.

Mr. Allen updated Council with three committee meetings that Council should prioritize before the March meeting. They are: recreational summer flounder/black sea bass, reefs, and a regulatory committee to discuss mandatory reporting. Council requested to hold the regulatory committee meeting first followed by reefs and summer flounder/black sea bass in February.

Mr. Hollinger asked about finishing up the blue crab/conch committee meetings. Mr. Muffley commented they will be next. Mr. Hollinger also asked about crab dredge transferability. Mr. Muffley commented that this will need to be looked into further and that this will also require a regulatory process to make a change to crab dredge.

Public Comment

Mr. Haertel supported option 1 to amendment XXV for summer flounder, and strongly opposed option 3 establishing mandatory regions. Supports option 1 in black sea bass.

Mr. Robinson stated that NJ has no regulations on the oyster toadfish. Many fishermen are taking too small of a size and hurting future populations. Mr. Muffley commented this is worth looking into but currently there are no oyster toadfish regulations in NJ, however there is a fish pot committee that may want to look into this issue.

Mr. Zaborowski took a moment to remind the public that the Council does not make the laws, Council's authority is only with regulation, not legislative. For legislative change, it is important the public calls their Assemblyman and Senators.

Mr. Wayne opposes blue crab size increase that was recommended by the Blue Crab Committee and presented to Council in November.

Meeting adjourned.

Next Meeting March 6, 2014, Galloway Township Library

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