

NEW JERSEY MARINE FISHERIES COUNCIL

Galloway Township Public Library
Jimmies Leeds Road
Absecon, New Jersey
November 1, 2007

In Attendance were: Chairman Gilbert H. Ewing, Jr.
Councilman Erling Berg
Councilman Patrick Donnelly
Councilman Edward Goldman
Councilman Richard Herb
Councilman John Maxwell
Councilwoman Frances Puskas
Councilman Joseph Rizzo

Absent: Councilman Barney Hollinger

Also in attendance representing the Division of Fish and Wildlife:

David Chanda, Director
Thomas W. McCloy, Administrator, Marine Fisheries Adm.
Karl Yunghans, Lieutenant, Bureau of Law Enforcement
Jeffrey Brust, Research Scientist
Brandon Muffley, Research Scientist
Kathleen Smallwood, Principal Clerk Typist

Ms. Smallwood read the compliance with the Sunshine Law. Notice of meeting was filed with the Secretary of State on October 3, 2007.

Chairman Ewing reminded the audience of how they should conduct themselves at Council Meetings.

He then informed the audience of the passing of Dr. Abel, who resigned from the Council last spring.

On a motion by Mr. Herb seconded by Mr. Berg the September Council minutes were unanimously approved.

Law Enforcement Report

Lieutenant Yunghans presented the Law Enforcement Report.

On September 16th, 2007, two Conservation Officers boarded the F/V Family Pride at Cold Spring Fish Company in Cape May, NJ. The F/V Family Pride is a general category sea scallop permit holder which allows a 400 lb. trip limit per day. Onboard the

vessel were eight 50 lb. bags of sea scallops and the fishing vessel trip report (FVTR) accurately reflected 400 lbs. of sea scallops. Upon further canvassing the vessel one CO found an additional 190 pounds (4 bags) hidden underneath a bed in the bunkroom. All 590 lbs. of sea scallops were seized and sold at fair market value. A Federal Enforcement Action Report (EAR) was issued to the F/V Family Pride for landing in excess of 400 pounds of shucked sea scallops and also failing to accurately fill out the FVTR.

On September 17th, 2007 two Conservation Officers made a regulatory inspection of Little Italy Restaurant in Wildwood, NJ. The officers explained to the owner the regulations concerning purchasing marine fishery products from properly permitted dealers and harvesters and how accurate records should be kept for these purchases. The owner allowed entrance into the walk-in freezer located at the rear of the restaurant. Inside the walk-in freezer the officers found several frozen sea scallops packaged in 5, 10 and 20 pound plastic bags. The officers weighed all the scallops and there was a total of 750 pounds of sea scallops. The owner advised the officers that he had to obtain records from his accountant and that they would be made available the following day. On September 18th a CO met with the owner and the owner provided accurate records for 600 pounds of sea scallops. Further interviewing the owner, the owner admitted to purchasing a few bags directly from fishermen that showed up at his restaurant. Summonses were issued for inaccurate record keeping.

Around mid-September, a Conservation Officer (CO) developed information regarding a sport fisherman who moored his vessel in the Glimmer Glass section of the Manasquan River. Allegedly, this fisherman would land large quantities of striped bass in excess of the daily bag limit. During the early morning hours of Wednesday, September 26, 2007, two Conservation Officers waited for this fisherman to enter port. At 0330 hrs., as the fisherman docked his vessel, the officers commenced the inspection. There were three fishermen aboard the vessel together with 10 striped bass, each fish weighing a minimum of 25 pounds. The captain of the vessel was issued summonses for possessing 4 striped bass in excess of the daily bag limit together with a summons for littering by discarding beer cans over the side of the vessel.

On Monday October 3, 2007 a Conservation Officer was checking fishermen on the Anglesea Jetty in North Wildwood. One fisherman was acting suspicious and the CO instructed him to move up to the top of the jetty while he inspected his catch. The officer found a bag with 15 undersize live tautog. When the CO turned around the fisherman had disappeared. The CO saw the fisherman running through the bush on the dunes and pursued by foot. The CO called North Wildwood Police for back up and help from local citizens located the fisherman a few blocks away. The fisherman was apprehended after a several minute chase and both fish and wildlife and criminal charges were filed.

On Monday, October 8, 2007, a CO received a phone call from an individual complaining about a small tin boat fishing off of Lake Takannassee in the Atlantic Ocean in the boro of Long Branch. Allegedly, this vessel had three scuba divers aboard and had taken over the limit on tog. A CO was dispatched to investigate. The CO set up surveillance at the Shark River inlet and waited for the vessel to come in. After entering

the inlet, the vessel stopped at several bridges where the men again began scuba diving. The CO continued his surveillance as the vessel finally began heading into the main part of Shark River. Upon passing the last inbound bridge, the vessel veered toward shore at which time the CO observed the men unload a cooler from the vessel prior to heading toward the Belmar Municipal Ramp. At this time, the CO retrieved the secreted cooler, finding it filled with 9 tog, 2 of which were less than 14" in length along with 1 striped bass less than 28" in length. The CO now went to the Belmar Municipal Ramp to "inspect" the vessel. The captain and owner of the vessel stated that they had been unable to spear any fish due to the poor clarity of the water. This story of course changed when the CO showed the captain his very own cooler in the back of the COs vehicle. A total of 6 summonses were issued by the CO for the violations, specifically, a summons for Interference to the captain of the vessel, two summonses to another scuba diver for sublegal tog and over the limit tog, and three summonses issued to the last scuba diver for sublegal striped bass, sublegal tog, and 5 tog over the possession limit. An interesting postscript is that the owner of the vessel was apprehended by another CO two weeks prior with possessing sublegal fluke.

On the morning of Tuesday, October 9, 2007, a CO received a complaint relayed through Trenton Dispatch regarding an individual fishing along the Point Pleasant Canal who was retaining sublegal tog and over the limit tog. A CO responded and apprehended an individual as he was leaving with 5 sublegal tog and 4 over the limit tog. A summons for each violation was issued.

On October 13, 2007 two Conservation Officers (CO) were inspecting fishermen as they came off the jetties in Absecon Inlet area of Atlantic City. As two fishermen exited the Grammercy Ave. jetty, one CO pulled his patrol vehicle up to them to make a fisheries inspection. As he went to check one fisherman's bucket the other fisherman ran towards the inlet bulkhead. The CO pursued the fisherman shouting verbal commands to stop. The CO caught up to the fisherman at the bulkhead as he was trying to throw a bag of fish into the inlet. The CO struggled with the fisherman to gain control of the bag of fish but was unsuccessful as the fisherman heaved the bag over the wall. The CO tried to use chemical pepper spray with no avail due to the wind conditions at the time. The fisherman kept resisting and physically struggling with the CO. The CO tried to handcuff the fisherman and again was unsuccessful. The CO continued to struggle with the fisherman and decided to disengage. As the CO separated from the fisherman they both lost their balance and fell. The fisherman landed on a piece of concrete and lost consciousness. Another CO responded to assist the CO and to provide first aid if necessary. The fisherman was taken to the hospital and treated for his injuries. The fisherman was charged with both criminal offenses and Fish and Wildlife offenses. This same fisherman was apprehended two weeks earlier at the same location for a sublegal striped bass.

Legislative Report

Mr. McCloy updated Council on legislative action regarding S2635 that would prohibit the use of fish pots on artificial reefs. The Senate Environment Committee unanimously released this bill.

Atlantic States Marine Fisheries Commission (ASMFC) Report

The ASMFC Report was presented by Mr. Berg and Mr. Herb. Mr. Herb reported on developments on recreational issues while Mr. Berg reported on Management Board activities concerning commercial fisheries.

Coastal Shark Board

The Spiny Dogfish and Coastal Shark Management Board met to review the Technical Committee (TC), Advisory Panel (AP), and Plan Development Team (PDT) recommendations for the Draft Fishery Management Plan for Atlantic Coastal Sharks for Public Comment. The Board instructed the PDT to include all changes as suggested by the AP, TC, and PDT and approved the Draft FMP for Coastal Sharks for Public Comment. One aspect of the Plan would require states to adopt size and possession limits consistent with federal waters.

Tautog Management Board

The Tautog Board met to review an additional proposal and reconsider state-specific assessments from Massachusetts/Rhode Island and New Jersey to meet the reductions contained in Addenda IV and V. The Board approved the Massachusetts/Rhode Island proposal. The New Jersey assessment did not receive the necessary votes to allow the state an exemption from Addenda IV and V reductions. New Jersey is therefore required to implement management measures that will equal a 25.6% reduction.

Atlantic Striped Bass Management Board

The Atlantic Striped Bass Board approved Addendum I to Amendment 6 to the Plan. The Addendum establishes a bycatch monitoring and research program to increase the accuracy of data on striped bass discards, as required by Amendment 6.

Mr. Herb also commented on President Bush's Executive Order to prohibit the sale of red drum or striped bass from federal waters. The Executive Order does not open federal waters to the harvest of striped bass.

ISFMP Policy Board

The Policy Board received updates on the federal efforts to improve recreational fishery data collection. The presentations focused on the development of a registry of

recreational fishermen and efforts to improve the recreational data collection program. NMFS anticipates publishing a Federal Register notice containing the details of the federal recreational registry by the end of the year.

Although the Summer Flounder Board did not meet Mr. Herb referenced a letter from Dr. Hogarth (NOAA) advising a precautionary approach to setting recreational measures for 2008. The letter suggested that not doing so could result in a closure of federal waters to recreational fishing for summer flounder.

Mr. Berg continued with his part of the report.

American Lobster Management Board

The Board approved the initiation of Draft Addendum XII to Amendment 3 to the Plan for American Lobster. The Draft Addendum will propose the establishment of protocols for the consistent application of trap transferability programs for the plan's lobster conservation management areas (LCMAs). The Addendum will be prepared for Board consideration and approval for public comment during the Commission's Winter Meeting Week in February 2008.

Atlantic Herring Section

The Atlantic Herring Section voted to reduce the amount of herring available to the 2008-2009 fishery in Area 1A. The total allowable catch (TAC) for Area 1A is now set at 45,000 metric tons. An additional 5,000 metric tons was added to the Area 3 quota, bringing the total allowable catch for that area to 60,000 metric tons.

Spiny Dogfish Board

The Spiny Dogfish and Coastal Shark Management Board approved an eight million pound quota for the 2008/2009 fishing year (May 1, 2008 – April 30, 2009), with 58% of the quota allocated to states from Maine through Connecticut and 42% allocated to New York through North Carolina. A trip limit of up to 3,000 pounds was also established.

Horseshoe Crab Management Board

The Horseshoe Crab Management Board met to hear updates on research, harvest, and state regulations. Several representatives of the biomedical industry presented details on their companies' horseshoe crab harvest and release processes. The Board also heard a report from the Technical Committee on its progress with the USFWS Shorebird Technical Committee in developing an adaptive resource management model that links horseshoe crabs and red knots.

Mid-Atlantic Fishery Management Council (MAFMC) Report

Mr. Goldman presented the MAFMC Report.

Butterfish

The Council approved Amendment 10 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP) for the purpose of taking it to public hearing. Amendment 10 is designed to develop a rebuilding program that will allow the butterfish stock to rebuild in the shortest amount of time possible.

Spiny Dogfish

The Council approved and recommended to the National Marine Fisheries Service (NMFS) an incidental take allowance of 8 million pounds of spiny dogfish to be sub-allocated into two six-month periods, i.e., 4,632,000 pounds for the period of May 1 through October 31, and 3,368,000 pounds for the November 1 through April 30 period. A trip limit of 600 pounds for both periods was approved and will likewise be recommended to NMFS.

Other Business

The Council received an oral report from Preston Pate, Chairman of the Marine Recreational Information Program (MRIP) Operations Team, regarding NMFS' activities in support of developing a MRIP to improve recreational data collection and analyses. Elements of the current Marine Recreational Fisheries Statistics Survey (MRFSS) program will likely be replaced by the MRIP. The MRIP requires a saltwater angler registry (mandated by the reauthorization of Magnuson-Stevens Act). Mr. Goldman indicated that registration of anglers will require a fee by 2011 and that fee will be deposited in the National Treasury and not be distributed to fisheries programs.

Mr. Goldman also referenced the letter from Mr. Hogarth discussed by Mr. Herb. He opined the purpose of the letter was to put pressure on Congress to change the Magnuson-Stevens Act.

Shellfish Council Reports

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

Committee Reports

Summer Flounder Committee

Mr. Goldman presented the report.

The Summer Flounder Committee met to review the current 2007 commercial landings and potential 2008 commercial quotas, and to discuss trip limits for the 2008 commercial seasons. Council members, commercial fishery advisors and Division staff were present.

The 2007 NJ summer flounder commercial quota is 1,665,103 pounds. The 2008 quota may be anywhere from 1,133,031 pounds to 1,535,043 pounds, depending on what the National Marine Fisheries Service implements.

New Jersey allocates its quota into six, two-month seasons. Based on input during the meeting, the Committee recommends the following trip limits by season:

- Jan. – Feb: 3,000 pound trip limit and a maximum of 2 trips per week.
- March – April: 1,500 pound trip limit and a maximum of 3 trips per week.
- May – June and July – Aug: 500 pound trip limit and a maximum of 4 trips per week.
- Sept. – Oct.: 750 pound trip limit and a maximum of 4 trips per week **OR**
3,000 pound trip limit and a maximum of 1 trip per week.
- Nov. – Dec.: 1,000 pound trip limit and a maximum of 4 trips per week **OR**
3,000 pound trip limit and a maximum of 1 trip per week.

Black Sea Bass Committee

Dr. Donnelly presented the report.

The Black Sea Bass Committee met to review the current 2007 commercial landings and the 2008 commercial quota, and to discuss trip limits for the 2008 commercial seasons. Council members, commercial fishery advisors, and Division staff were present.

The 2007 NJ black sea bass commercial quota is 617,890 pounds. The 2008 quota is anticipated to be 401,153 pounds (a 35% reduction in quota).

New Jersey allocates its quota into four seasons. Based on input during the meeting, the Committee recommends the following trip limits by season for 2008:

- Jan. 1 – April 15: 3,500 pound trip limit
- April 16 – June 30: 1,000 pound trip limit with a maximum of 3 trips per week.
- July 1 – Sept. 30: 1,000 pound trip limit with a maximum of 3 trips per week.
- Oct. – Dec. 31: 1,000 pound trip limit with a maximum of 3 trips per week.

Tautog Committee

Dr. Donnelly presented the report.

The Tautog Committee met on October 23, 2007 to discuss management options for the 2008 fishing season. In attendance were members of the committee, commercial and recreational advisors, and Marine Fisheries staff.

Staff presented an overview of ASMFC management actions relative to the 2008 season. A recent stock assessment shows that fishing mortality has fallen below the fishery management plan target, but that stocks remain at low levels of abundance. In response,

the Management Board established a new fishing mortality target to decrease harvest pressure and promote stock rebuilding. To meet the new target, states must decrease harvest by 25.6%. New Jersey has submitted a proposal to ASMFC providing evidence that fishing mortality in New Jersey already meets the new requirements, and that no harvest reduction is needed. The Board will vote on New Jersey's proposal on October 30, 2007. The purpose of the committee meeting was to develop management options to achieve the required 25.6% reduction in harvest in the event the Board does not approve New Jersey's status quo proposal.

Staff then presented a range of management options for both the commercial and recreational fisheries. Based on prior comments from Council members, advisors, and public hearings, harvest reductions were focused around spawning periods to minimize harvest of spawning fish.

The Committee then discussed the implications of maintaining status quo regardless of the Management Board's decision on the New Jersey proposal. It was recognized that ASMFC could find us out of compliance with the fishery management plan, which could lead to a federally imposed closure of both commercial and recreational fisheries in the state. However, it was noted that the burden of proof would fall on ASMFC to determine that lack of stricter regulations in New Jersey is negatively impacting the stock. The proposal indicates that no harvest reductions are necessary, and the committee supports this finding.

The committee recommends maintaining status quo and not implementing management measures to reduce harvest by 25.6%.

Regulatory Proposals

2008 Proposal

Mr. McCloy directed Council's attention to Handout No. 5 for the provisions of the 2008 proposal. These provisions include all the recommendations that the Council has recommended over the last year from the numerous Committee meetings. The one exception is the provisions concerning the restriction of fish pots on reefs. The proposal will reflect the Division's position on the issue, not the Council's position that they advocated at the September meeting. If the legislation on reefs is adopted then the provisions regarding reefs will be removed from the proposal. There are also provisions that would establish a spiny dogfish fishery but they will not be adopted in time for an early spring 2008 fishery. The only way to have a spiny dogfish fishery for 2008 would be by legislation and it is up to the commercial industry to move that initiative forward.

Chairman Ewing commented that the commercial fishermen that support a spiny dogfish fishery need to seek legislation if they want a fishery in 2008.

Mr. Berg expressed his concern that the horseshoe crab proposal was moving rapidly through the process but spiny dogfish couldn't get any attention.

Mr. McCloy also referred Council's attention to Handout No. 6 which was a letter from a fisherman requesting that Atlantic silversides be an authorized harvest species by miniature fykes (currently harvest by this gear is limited to catfish, suckers, eels and killifish). Mr. McCloy recommended not including this change in the current proposal until there was time to research the basis for the current limitations.

Mr. Rizzo asked for clarification on which "reef" plan was being proposed.

Chairman Ewing indicated it was the plan the Reef Committee had recommended, not the plan substituted by the Council at the last meeting.

Director Chanda added that the Division could not support the revised position recommended by Council because of serious concerns about enforcement. If the Council disapproves the proposal during their official review period then the process will begin all over.

Mr. Rizzo questioned how the Division can move forward with a proposal that isn't endorsed by Council.

Mr. McCloy indicated that the Council's legal authority is to disapprove regulatory proposals by the Commissioner within a 60 day period. There is not a "proposal" by the Commissioner until it is published as such in the N.J. Register.

Mr. McCloy added that the Division likes to have the Council on board with proposals but as the "reef plan" was modified the Division has serious concerns about enforcement and it would be inappropriate to move forward with a proposal that can't be enforced.

Chairman Ewing stressed that the Council will have an opportunity to disapprove the reef section when it reaches that point in the process.

Mr. Goldman advised Council of an article in the Fisherman Magazine in September criticizing the Council for not implementing the provision to use "fluke belly" for bait. Mr. Goldman indicated he had contacted the editor and explained that the Council supported this provision but the Division/Department had not adopted it yet.

Notice of Administrative Change

Mr. McCloy referred Council's attention to Handout No. 7 which is a draft Notice of Administrative Change to modify trip limits for summer flounder and black sea bass. The specific trip limits for the various seasons are as they were recommended by the Summer Flounder and Black Sea Bass Committee. Mr. McCloy reminded Council members that their authority to make these changes are included in the 2006/07 regulatory proposal that has yet to be adopted.

Mr. Donnelly made a motion to approve the Notice of Administrative Change as presented to Council in Handout No. 7. Mr. Goldman seconded.

Chairman Ewing invited public comment on the matter.

Ms. Wagner requested the Notice for black sea bass be modified from 3 trips/week @1,000 pounds to 3 trip/week @1000 pounds or 2 trips/week at 1500 pounds (during April 15-Dec. 31) to provide flexibility for vessels of different sizes.

Mr. Scott echoed Ms. Wagner's comments.

Mr. Benson requested the summer flounder trip limit be modified during the period of May-August to allow for 5 trips/week at 400 pounds and in Sept./Oct. to be 5 trips/week at 600 pounds in addition to the recommendation of the Committee.

Mr. Chew questioned the process by which Council had the authority to make changes.

Mr. McCloy explained the Council's authority. There are two processes by which Council can effect the outcome of regulations. In the development of regulations (as discussed earlier in the meeting regarding the reef issue) the Council can recommend management actions (i.e. regulations) but their statutory authority is to disapprove regulatory proposals by the Commissioner. In the case of the Notice of Administrative Change (NAC) the Council must approve actions in first, subject to the Commissioner's approval. The NAC was set up for a limited number of provisions (size limits, possession limits, trip limits etc.) that change frequently due to ASMFC or MAFMC requirements.

Mr. Keilmeier supported Ms. Wagner's suggestion on black sea bass trip limits.

Mr. Berg inquired how the Council would enact the suggestions of Ms. Wagner.

Mr. McCloy indicated a motion to amend the current motion on the table would be necessary. Mr. McCloy suggested Committee members enlighten the rest of Council as to the reason for the Committee recommendation.

Mr. Donnelly indicated there were concerns about enforcement by providing too many options. Mr. Goldman concurred.

Mr. Wagner explained his rationale for the need for flexibility in the black sea bass trip limits. He asserted it is enforceable.

Mr. McCloy asked Council to consider the additional strain being put on the enforcement unit by increasing the flexibility requested by the fishermen.

Mr. Rizzo made a motion to amend the motion offered by Mr. Donnelly for black sea bass during the seasons of April 15 – Dec. 31 to permit 3 trips/week@1000 pounds OR 2 trips/week@1500pounds. Mr. Berg seconded.

Motion passed 5 in favor and 2 opposed.

Mr. Rizzo made a motion to approve the NAC with the amended provision. Mr. Berg seconded.

Motion passed 6 in favor and 1 opposed.

Tautog

Chairman Ewing asked if Council wished to take any action on tautog to comply with the ASMFC plan.

Mr. Berg made a motion that New Jersey take the 25.6% reduction in both the recreational and commercial fisheries that is required by the ASMFC Tautog Plan so as to stay in compliance. Mr. Maxwell seconded the motion.

Mr. Herb briefed Council on the Tautog Board discussion and action regarding New Jersey's proposed alternative plan. He indicated that the New Jersey motion to approve the alternate methodology was only narrowly defeated. He suggested going back to the Tautog Board with a modified plan.

Mr. McCloy indicated that the plan rejected by the Board was New Jersey's modified plan.

Mr. Goldman commented that the motion did not specify the particulars of the reduction and he could not vote without knowing the specifics. He suggested the specific measures be discussed.

Dr. Donnelly indicated the Committee felt that New Jersey's information on the alternate analysis was valid and that the Tautog Board should have approved it. He asserted that the Board made a political decision, not one based on the merits of the New Jersey proposal. He advocated taking a stand against the Board's action.

Mr. Rizzo asked Mr. Herb if he thought New Jersey could turn a couple votes in favor of the New Jersey proposal at the Tautog Board and Mr. Herb responded in the affirmative.

Mr. McCloy expressed concern that the Council was confusing issues and tried to clarify the situation. If the same proposal was to be submitted for Board consideration, it would require approval by 2/3 of the Board, a fairly difficult proposition. New Jersey has already had the standard methodology approved by the Board to take the 25.6% reduction and does not need to seek additional Board approval and the specific provisions as long as that methodology is followed. At the next Board meeting the issue will be whether or not New Jersey implemented the 25.6% reduction. It is then up to the Board to determine if New Jersey is in compliance with the Plan.

Mr. Herb inquired about a different plan being submitted.

Mr. McCloy reiterated that the only options available to New Jersey were to resubmit the alternate plan (already rejected) or one that met the 25.6% reduction.

Mr. Bogan addressed the Council regarding this issue. He asserted the ASMFC was purely a political system and the Board's decision was not based on the "science". He also commented that if the ASMFC deemed New Jersey out of compliance that the National Marine Fisheries Service (NMFS) would have to agree. He further suggested that NMFS has many more important priorities to deal with. He encouraged Council not to select an alternate management measure but to maintain the status quo.

Mr. Rizzo asked Mr. Herb for his impression of how the ASMFC might respond.

Mr. Herb concurred with Mr. Bogan's assessment regarding the science of the New Jersey proposal. Mr. Herb did not believe the ASMFC fully considered the scientific merit of the New Jersey proposal.

Chairman Ewing took additional public comment.

Mr. Mackey (GSSA) agreed with the political nature of ASMFC but expressed concern that the climate may change and he would prefer to see New Jersey take a conservative approach and keep everyone fishing and then pursue it again next year.

Mr. Berg reminded everyone that the Board members that voted against the New Jersey proposal are the same people that will be voting about New Jersey compliance.

Mr. Goldman asked if a special Council meeting could be scheduled if New Jersey does not prevail at ASMFC.

Dr. Donnelly responded that there should be ample time during the process (if New Jersey is deemed out of compliance) to implement measures.

Ms. Wagner questioned the time table in a non-compliance finding and how that would effect the commercial industry.

Mr. McCloy reviewed the non-compliance process and timeline and indicated that the imposition of a moratorium could be effective in May/June.

Ms. Wagner asked if the options discussed by the Committee would effect the ASMFC timeline and Mr. McCloy responded in the negative.

Mr. McCloy indicated that if Mr. Berg's motion passes then the Council would need to discuss the particulars of what measures should be implemented.

Mr. Nowski felt the risk of a moratorium was worth taking a stand.

Chairman Ewing called for a vote on the motion to take a 25.6% reduction in the tautog fisheries and the motion failed 2 in favor and 5 against.

Horseshoe Crab

Mr. McCloy informed Council that a proposal to extend the horseshoe crab moratorium has been developed and is expected to be published in the December 3, 2007 edition of the NJ Register. There will be a 60 day comment period.

Old Business

Mr. McCloy referred Council's attention to Handout No.9 which was updated information on the Federal Saltwater Angler Registry Program. NMFS is anticipating having a proposal out late this fall on the particulars of the Registry. The Registry needs to be implemented by January 1, 2009. Anglers from states that have a licensing or registration system meeting the federal criteria are exempt from the federal registration (NJ does not have any such system).

Mr. Berg asked if there was a fee associated with the federal program and Mr. McCloy responded there would be no fee until 2011 at the earliest.

Mr. Herb indicated there may be a federal fee if a state doesn't have a system in place.

Mr. Berg clarified if the state did not have a program then any money from a federal fee would go to the federal government.

Chairman Ewing suggested the Council Committee convene to discuss this issue.

Presidential Executive Order

Mr. McCloy briefed Council on President Bush's Executive Order that prohibits the sale of red drum and striped bass from the EEZ. The EEZ is currently closed to the harvest and possession of striped bass.

Blue Crabs

Mr. Muffley provided the Council with an update on recent activities regarding enforcement of the reporting requirements for the commercial blue crab fishery. All commercial blue crab harvest licenses are limited entry with required submission of monthly harvest reports. Reporting compliance has been a chronic problem with the compliance rate decreasing annually since 2003 (current compliance is 68%). In July, all licensed commercial crab pot licensees were sent a courtesy reminder letter informing them of their mandatory reporting requirements. This was then followed in September with first offense violation letters (the first offense is a warning only with no associated penalty) sent to 61 crabbers that were delinquent with harvest reports from June, July and/or August. The next round of offense letters was sent in October to those crabbers

that were delinquent with the September harvest reports. There were 13 second offense letters (i.e. 13 of the 61 first offenders in September also failed to submit their September harvest reports in October). The second offense carries a 120 in-season suspension. An additional 13 new first offense letters were sent to delinquent crabbers.

Mr. Muffley also made a recommendation for the Council to support regarding the possibility of 'forgiveness' of reporting offenses. Mr. Muffley proposed creating language for the 2008 Multispecies Rule Proposal that would allow for forgiveness of any reporting offenses if a person submits their reports on time, consecutively, for a particular time period. Right now there is no forgiveness policy and if someone incurs a first offense and then eight years later, for example, is late with another report, they would face the second offense: 120 day suspension, which seems to be somewhat extreme, particularly for those active in the fishery. The Council supported moving forward with this recommendation.

Chairman Ewing suggested having a Crab Committee meeting to discuss this.

Mr. McCloy indicated a Committee meeting would preclude this provision from getting into the current proposal which would result in at least a two year delay before it could be implemented. Mr. McCloy suggested staff draft the language to include it in the 2008 proposal and if Council had problems with it, they could always veto that provision.

There was no opposition from Council to move forward in this regard.

Mr. Rizzo asked how many people violating the reporting requirements actually crab and how many just hold licenses.

Mr. Muffley indicated it was a mixture. He indicated there was no real trend.

Estuary Enhancement Program

Mr. Herb gave Council an overview of a field trip he took with PSE&G to look at the success of the Estuary Enhancement Program in Delaware Bay.

Director Chanda added that it was good to see members from the various Councils in the agency attend. It was impressive to see the restoration of those areas.

Mr. Rizzo requested a meeting of the Eel Committee to look into development of an eel management plan.

Mr. McCloy indicated he would set up a meeting.

Public Comment

Mr. Wagner thanked Council for their work and encouraged them to get things for tautog in place so they could avoid a moratorium, if necessary.

Mr. Layton notified Council that he will be providing the Council paperwork on horseshoe crabs for their review.

Mr. Givens challenged Mr. Herb's assessment that the Estuary Enhancement Program was successful. He elaborated on the millions of pounds of weakfish that have been killed since the plant went into operation. He indicated he did not believe the Enhancement Program was responsible for producing more fish (weakfish) than the plant has killed.

Mr. Herb and Director Chanda indicated the purpose of the field trip was to see the results of the Estuary Enhancement Program, not to make a judgment about the plant's impact on the environment. Director Chanda further indicated that the scientists will evaluate the plants' overall impact on the environment.

Mr. Layton expressed his opinion that this is just a propaganda campaign by PSE&G.

Mr. Chew questioned Council on procedures and what their authority was regarding regulatory actions.

Mr. McCloy explained the Council has two primary ways of being involved in the regulatory process. The statute governing marine fisheries gives the Council the authority to "disapprove" any (regulatory) proposal made by the Commissioner. This process involves following the Administrative Procedures Act and can be a rather lengthy process whereby a rule is proposed, public comment is received and the rule is then adopted. The Councils' other authority is to approve modifications to regulations through a Notice of Administrative Change (NAC). This process was established so Council and the Department could deal with ASMFC compliance issues in a more expeditious manner so as to avoid a moratorium on a particular fishery. Regulations that are routinely modified by a NAC include possession and size limits, seasons, quotas, trip limits. In order to give the public an opportunity to comment on these actions (as was done earlier on tautog) the Council was given the authority to approve these types of measures prior to approval by the Commissioner.

Mr. Chew questioned the tautog commercial quota and how that would factor into the 25% reduction being required by ASMFC.

Dr. Donnelly indicated that the ASMFC does not recognize New Jersey's commercial tautog quota for ASMFC management purposes. For ASMFC, the only commercial management measure New Jersey can modify are the fishing seasons.

Meeting adjourned.