

NEW JERSEY MARINE FISHERIES COUNCIL
Galloway Public Library
Galloway, New Jersey
July 9, 2015

Council Attendees:

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

Division of Fish and Wildlife Attendees:

Brandon Muffley, Administrator, Marine Fisheries Administration (MFA)
Russ Allen, Bureau Chief, Bureau of Marine Fisheries (BMF)
Tom Baum, Supervising Biologist, MFA
Jeff Normant, Principal Biologist, Bureau of Shellfisheries (BSF)
Lieutenant Brian Scott, Bureau of Law Enforcement (BLE)
Jeff Brust, Research Scientist, MFA
Mike Celestino, Research Scientist, MFA
Lindy Barry, Senior Biologist, MFA
Brian Neilan, Assistant Biologist, BMF
Sherry Bennett, Council Secretary

Ms. Bennett read the compliance with the Sunshine Law. Notice of the Marine Fisheries Council (Council) meeting was filed with the Secretary of State on June 15, 2015. Motion was made to accept Council meeting minutes for April 9, 2015 and May 14, 2015 meetings, motion passed. 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. Scott presented the Council with the Law Enforcement Report. (Handout #1):

- May 10, CO's patrolled Belmar Marina area. Two fishermen were issued summonses for possessing summer flounder during the closed season.
- While CO's were out searching for illegal clamming activity along the shores of Shark River, three men were observed using headlamps and nets while wading in shallow water during low tide. Later two additional men approached while the three walked back to a van. Fifteen minutes later the van suddenly pulled up alerting the two men in the water. The CO's converged on the men before they reached the van. An inspection of the individuals resulted in summonses being issued for nineteen undersized blue crabs, sixteen undersized summer flounder and taking summer flounder with a spear in marine waters while not completely submerged.
- June 15, 2015 CO's wrapped up an on-going investigation that involved a commercial fisherman suspected of taking horseshoe crabs from an abandoned gill net that had been stretched out along a small beach in Compton's Creek, Middletown. The commercial fisherman admitted to using the net to take horseshoe crabs on several occasions to supplement his bait supply for his conch pots. Summonses were issued for taking the horseshoe crabs during the closed season.
- CO's responded to a call from a confidential informant about an individual keeping undersized striped bass on the Ingram Thoroughfare Bridge in Middle Township. Officers set up surveillance and inspected the man when he returned to

his vehicle and he was found to be in possession of 8 undersize striped bass and 6 striped bass over the limit; summonses were issued.

- While on boat patrol the Maurice River, CO's audibly and visually signaled their intent to perform an inspection of a commercial crab pot vessel as it entered the river from Delaware Bay. CO's issued summonses for disposing of catch (two baskets of oyster toadfish, harvested from crab pots) after officers provided signals indicating their attempt to perform an inspection and for retention of organisms besides crabs from commercial crab pots.

Mr. Rizzo asked (Lt. Scott) how many times an individual can be apprehended before they lose their license. Lt Scott responded under Title 23, a fisherman who pleads guilty or is found guilty twice within a 5-year period will have their hunting and freshwater fishing privileges suspended for a period of two years. Fines will vary, but can be as much as \$5000.00.

Legislative/Regulatory Report

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

- A4512- Delaware Bay Fishing Empowerment Act; requires DEP to pursue changes to certain fishing laws and regulations; provides tax exemptions for sales of noncommercial ships and boating and fishing-related goods and services in certain counties.
- A4563 – Designates striped bass (*Morone saxatilis*) as New Jersey saltwater fish.
- AR 249 – Expresses support for New England Fishery Management Council's decision to lift ban on cold-weather dredging. Technically, the New England council voted to amend the Essential Fish Habitat (EFH) area for winter flounder,

not dredging. However the removal of the EFH requirement will allow dredging to take place in those areas.

- New Jersey Register publication from Monday, June 15, 2015; contains Notice of Administrative Changes for the modifications of recreational summer flounder season, recreational black sea bass seasons and possession limits, commercial shark seasons, striped bass bonus program quota, size limit and season, and additions to the managed species and prohibited species lists.
- 2008 Multispecies Rule will finally be published in the July 20, 2015 NJ Register for a 60 day public comment period. Council will need to take action on this rule proposal at September meeting.

Mr. Rush asked for an update on the number of people who have signed up for the registry program. Mr. Muffley commented before summer about 150,000; last few years have been about 220,000-250,000 registered for the entire year.

Atlantic States Marine Fisheries Commission (ASMFC) Report

Mr. Allen presented Council with agenda highlights for the ASMFC Management Board (Board) Summer Meeting, to be held in August 2015.

Mr. Allen

- Atlantic Herring – Discuss protective measures on Atlantic Herring on Draft Amendment 3
- American Lobster – Discussion of stock assessment and peer review panel reports.
- Tautog – Discussion of stock assessment and peer review panel reports as well as approval of public information document (PID). More restrictive management for this species may be coming in the near future.
- Striped Bass – Discuss reference points for the Chesapeake Bay and Delaware River/Bay as well as updates on the new regulations and fishing mortality.

- Menhaden – Discuss various items such as quota re-allocation and ecosystem management and reference points.

Mid-Atlantic Fishery Management Council (MAFMC)

Mr. Baum presented Council with MAFMC Management Council (Council) meeting held June 8-11, 2015 in Virginia Beach, Virginia. (Handout #3):

Species Interactions Workshop

- The Council hosted a one-day Species Interactions Workshop, the workshop was held to support the development of an Ecosystem Approach to Fisheries Management (EAFM) guidance document. The focus being on the potential strategies to fully consider species interactions and climate drivers in the stock assessment process, determination of catch limits, and to build capacity within the region to conduct comprehensive management strategy evaluations (MSEs).

Deep Sea Coral Amendment

The Board approved these items in the Amendment

- Approval of designation of fifteen discrete coral zones.
- A broad coral zone defined with a landward boundary drawn between the 400 meter and 500 meter depth contour, targeting the 450 meter depth contour. The broad zone would originate at this landward boundary and extend seaward to the boundaries of the Council's management region.
- Prohibit the use of all bottom-tending gear, including both mobile and stationary/passive gear types.
- Approved exemption from gear restrictions for the red crab fishery.
- Approved to allow the use of framework adjustments to (1) modify coral zone boundaries and management measures, (2) add additional discrete coral zones, or (3) implement a special access program, provided adjustments are kept within the purpose of the amendment.

Mackerel, Squid, Butterfish Specifications

- The Council adopted three-year Atlantic mackerel specifications for 2016-2018. Although the stock status of mackerel is currently classified as unknown, the Council's Scientific and Statistical Committee (SSC) recently concluded that the stock is in a depleted state relative to historical levels of abundance. The SSC recommended and Council approved a 50% reduction of the acceptable biological catch (ABC), over the next three years.

Unmanaged Forage Fish Action

- Staff presented an update on development of an action to prohibit the development of new, or expansion of existing, directed fisheries for unmanaged forage species. Jim Gilmore also provided an update on an effort by ASMFC staff to poll member states regarding whether they have management measures in place for forage fisheries not currently managed, if they have any regulations in place for emerging fisheries and noted that many states do not have the resources to collect baseline data on small bait fisheries and recommend that the Council keep this in mind when considering future action of forage species.

Listening Session:

Proposed Rule to Revise Listing Status of Humpback Whales, Worldwide

The proposed rule to revise the Endangered Species Act (ESA) listing of the humpback whale, under the proposal, the humpback whale would be classified into fourteen distinct population segments, ten of which would be removed from the endangered species list. Of the remaining population segments, two would be listed as endanger red and two would be classified as threatened. However, all populations will remain protective under the Marine Mammal Protection Act.

Mr. Bailey has a question on red crab fishery how lobster pots would be handled in these deep sea coral protective zones? Mr. Baum commented nothing specific so far. It has come up at the Council and the ASMFC would have to be included in any management action.

Newly appointed New Jersey Council member is Adam Nowalski, and will start in August 2015.

The next meeting will be held August 10-13, 2015 in New York City.

Shellfish Council Reports

- **Delaware Bay** – Mr. Bailey

The 2015 Delaware Bay shell planting program, which started on June 15th, is almost complete. Approximately 150,000 bushels of shell will be planted on three state managed natural seed bed, Bennies, Shell Rock and Cohansey, with each bed receiving 50,000 bushels. The clean shell will provide more cultch material to enhance the setting success of each bed, and subsequently increase spat set. Once the oysters reach market size, they will provide increased harvest opportunities for the Delaware Bay direct market oyster fishery.

- **Atlantic Coast** – Mr. Johnson – no report.

Committee Reports

- **Mr. Herb presented the Regulatory Committee Report (Handout #4):**

A meeting of the New Jersey Marine Fisheries Council's Regulatory Committee was held on May 28, 2015 to discuss the feasibility of instituting a comprehensive mandatory reporting requirement for recreational and commercial fisheries as well as potentially developing and implementing a commercial fisheries landing license.

The group discussed the need for mandatory data collection (catch, harvest and effort information) for all fisheries and gear types. In the past, New Jersey has experienced a lack of reliable landings data from fishermen and vessels for all species harvested and landing in the reliable landings data from fisherman and vessels for all species harvested and landed in the state. This has hurt New Jersey's fishermen both in quota allocation and the ASMFC and MAFMC, and during New Jersey fisheries participations history for permit and license qualification. Everyone in attendance agreed

that there was a need to develop a data collection program to include all of New Jersey's fisheries. Many advisors stressed any reporting system ultimately developed should not be a new or additional reporting system on top of the other reports required now and ideally one report to the Division would satisfy all reporting requirements. Several methods of execution for mandatory landings data collection were discussed including implementing a license to buy/license to sell all marine species including hard clam.

Due to the nature of a full regulatory change and the time required to perform such a large change in New Jersey's regulations, an interim solution was developed. The Committee determined that given the immediate need to expedite the data collection process, the quickest avenue to achieving the required results is to develop the reporting program based on current statute N.J.S.A. 23:2B-9 which requires every person taking and/or buying fisheries resources to provide information on those resources to the Department of Environmental Protection.

The Committee agreed that effective January 1, 2016 the Division shall require commercial harvest reporting for all specific licenses issued by the Division. The Committee also recommended continuing its discussion on the merits and options regarding the potential development of a landing/dealers license.

Mr. Herb further commented that NJ is the only state that does not have a commercial landing license.

- **Mr. Rizzo presented Council with American Eel Committee Report. (Handout #5):**

The purpose of the meeting was to initiate a dialogue with advisors in regards to developing compliance criteria for ASMFC Addendum IV to the American Eel Fishery Management Plan. States are required to adopt regulations that would allow for implementation of a state-specific quota management program no later than March 2016.

Staff presented an overview of management options and the coastwide quota triggers that could force New Jersey to implement a state-specific quota of 94,889 pounds.

The two management triggers are:

- The coastwide catch cap is exceeded by more than 10% in a given year (998,438 pounds).
- The coastwide catch cap is exceeded for two consecutive years, regardless of percent over.

The majority of the discussions were focused on potential limited entry license options and other mechanisms to restrain effort and harvest (ex. pot limits and seasons). For example, a time period of three consecutive years of eel landings from 2007 to 2014 was indicated as a starting point. Staff will provide additional information on landings and effort to potentially include pot limits and seasons to enhance reduction measures.

No specific changes to eel management were agreed upon at this meeting; however the Committee agreed to reconvene in late summer/early fall to finalize any potential limited entry criteria and recommendations for future implementation.

Regulatory Actions

No regulatory actions.

Old Business

Mr. Muffley presented Council with Handout #7.

- Handout #7, response from Director Chanda in regards to Council's letter regarding proper protection of the New Jersey diamondback terrapin populations, approved at May Council's meeting.

Mr. Zaborowski asked the Council where we go from here.

Ms. Puskas asked what the importance of the terrapins is. Mr. Muffley commented Marine Fisheries does not have the staff and time to invest in studying this species and therefore there is no data license requirements and harvest information for this species; the demand comes from pet trade and food for overseas (Asia). In addition, NJ is the only

state left to not ban or have a terrapin fishery (NY is in the process of closing their terrapin fishery).

Mr. Bailey commented this is another reason of support for a landing license. Furthermore, fisheries should not be closed down due to lack of data. This is a prime example of the importance for research and need for landing license.

After much discussion between Council members and Division Staff, Mr. Muffley commented that the Commissioner and the DEP are aware of this and the Director stated three options in the letter, which include but are not limited to: new rule making, legislation, and the issuance of other/additional Administrative Orders. A motion was made.

- **Motion: Send a letter to the DEP Commissioner recommending a new Administrative Order to close the diamondback terrapin harvest season for 2015-2016 due to concerns raised at the last Regulatory meeting. Motion by Mr. Rizzo, seconded Mr. Johnson.**

Public Comment

Robyn Scott – Educated Council members on the importance of the diamondback terrapin in our ecosystem. Drexel University has done tons of research on terrapin findings.

Ed Blaine – Supported Mr. Bailey’s comments on not closing a fishery due to a lack of data. He suggested to Council about starting out with a limit/day to control harvest. Also do not forget who it affects when another fishery closes.

David Kielmeier – commented he has seen a lot of diamondback terrapins in Cape May County.

Mr. Muffley clarified that there is a difference between nongame species and endangered species since some people seem to have them confused or believe they mean the same thing. Nongame means one cannot commercial harvest the species and does mean additional restrictions in other fisheries as may occur with an endangered species.

Mr. Johnson commented the purpose to the letter is to maintain Council's authority as more information is gained to make effective regulations, not straight up close the fishery.

Mr. Radosssi clarified the purpose is to close it for a little bit until further research is completed.

Motion passed

Fishery Disaster Grant Program update

- Mr. Muffley updated Council that tiers 1- 4 of the Fishery Disaster grant has been paid out and tier 5 is next and to be distributed in mid-July. The State was awarded 2.3 million dollars, of which 2.1 million went to those in the fishing communities who needed relief/support and \$200,000 went for administrative costs.
- Mr. Muffley reminded Council to turn in their Ethics Training.
- Mr. Herb brought up A4340 bill that was mentioned at May meeting to Council.

A4340 – Directs DEP to establish three-year pilot program for-hire vessels to fish for summer flounder in Delaware waters pursuant to Delaware regulations.

Mr. Muffley commented that a meeting will take place between commissioners and staff of both NJ and DE on July 23 in DE to discuss potential options that will help address the regulatory differences in DE Bay for summer flounder as a result of the ASMFC's implementation of adaptive regional management.

Mr. Rizzo commented if general recreational sector (i.e. shore mode and private boat mode) can be included, thus giving more of an economic impact. Mr. Herb commented this could include for-hire and recreational across the board, would have to be added into the regulation.

Mr. Rush commented to initiate an out of state license to Delaware.

After much discussion a motion was made.

Motion to send a letter to Assemblyman Andrzejczak to request he amend legislation A4340 to incorporate recreational anglers and to attend the July 23 meeting in DE. Motion by Mr. Alexis, seconded Mr. Rizzo. Motion passed.

New Business

Mr. Muffley presented Handout #6 to Council. Mr. Radossi asked this handout be shared with Council which provided information on the NY/NJ Baykeeper Eastern Oyster Reintroduction Feasibility Study. Prepared by Rutgers Center for Urban Environmental Sustainability (CUES)

Mr. Muffley presented Council with a summary of Council Advisory Committee applicants. Mr. Muffley asked Council and or Executive Committee to review and make recommendations, suggesting representation should be diverse in terms of port, gear and geological regions as possible. The Council determined that the Executive Committee should meet prior to the September Council meeting to review the applications and make recommendations to the full Council.

Following committees to meet next: Crab dredge/conch (Aug/Sept), menhaden (after September) and Executive Committee (before September meeting).

Public Comment

David Kielmeier – Expressed concern over the substantial harvest of undersized crabs. He suggested implementing the use of culling rings. Also recreational crab potters have increased and there is no license. Speaking on behalf of Mr. Conti, questions why he is

still unable to not land fish in NJ that's caught in Federal waters with his hand gear permit.

Bill Shillingford – Keeps data on all fish he catches. Not fond of the 18” size limit on flounder. Commented the need to stop regionalization, and to set a minimum size of 14”, with a total catch size of no more than 62-70” total per day, so customers to go home with a decent dinner to feed a family.

James Parker - Expressed his concerns on various fishing issues such as: questioned why it took 5 weeks before reopening the black sea bass fisheries; lost two weeks of fishing, fishing in DE waters; have fee for DE to fish in NJ, and asked for clarification on conch pots. Mr. Rizzo commented that pots are being left out too long; committee will meet to come up with some solutions. Mr. Parker commented his concerned over enforcing the Captain and Mate of charter boats should not be allowed to contribute to catch, that is illegal for them to do anyway.

Ed Blaine –Consider charging a port fee to help NJ DEP raise funds. Also concerned about sewer pipes off the coast of NJ and how they are unsightly and degrading the water quality and the need to find a solution to pollution.

Meeting adjourned. Next Meeting September 3, 2015, Galloway Township Library