

Marine Fisheries Council Meeting  
September 5, 2019

**Council Attendees:**

Joe Rizzo	Eleanor Bochenek
Sergio Radossi	John Maxwell
Bob Rush	Dick Herb
Barney Hollinger	

**Council Absentees:**

**DEP and Division of Fish and Wildlife Attendees:**

Jeff Brust – Chief, Bureau of Marine Fisheries (BMF)  
Joe Cimino – Administrator, Marine Fisheries Administration (MFA)  
Mike Celestino – Research Scientist, MFA  
Heather Corbett – Supervising Biologist, BMF  
Greg Hinks – Principal Biologist, BMF  
Brendan Harrison – Assistant Biologist, BMF  
Matt Heyl – Assistant Biologist, BMF  
Jamie Darrow, Assistant Biologist, BMF  
Stacey VanMorter, Assistant Biologist, BMF  
Jessica Daher, Program Specialist Trainee, MFA  
Mike Davenport, GIS Specialist, MFA  
Jason Snellbaker – Captain, Bureau of Law Enforcement (BLE)  
Laura Versaggi, Fishery Specialist, ACCSP

The meeting was called to order. Notice of the Marine Fisheries Council (Council) meeting was filed with the Secretary of State on August 19, 2019. Acting Chairman Herb began the meeting with the Pledge of Allegiance.

**Approval of Minutes**

Meeting minutes from the July 11<sup>th</sup> meeting of the Council were approved without revision. Motion made by Dr. Bochenek and seconded by Mr. Radossi. Motion carried with one abstention.

**1. Enforcement Report – J. Snellbaker**

CPO Klitz apprehended two commercial fishermen that had gill nets set off the beach in Long Branch, Monmouth County. After lengthy surveillance, CPO Klitz observed two vessels approach and tend nets that were located the previous day during a vessel patrol. Each vessel landed two nets, none of which were marked with the appropriate buoys or identifiers as required by regulation. Additionally, after confirming both vessels were in port, neither vessel stayed

overnight within one-half-nautical-mile of the nets when actively fishing which is a requirement from June 15<sup>th</sup> through October 31<sup>st</sup> as part of the Bottlenose Take Reduction Plan under the Marine Mammal Protection Act of 1972. Upon inspection at the dock both fishermen were interviewed and issued three summonses each for: fishing unattended gill nets overnight, failure to mark gill nets with floats/flags, and failure to mark their gill nets with their respective NJ State Gear ID Number.

In June and July, CPO's in District 8 spent a significant amount of time conducting inspections for compliance with Federal highly migratory species (HMS) regulations. CPO's found multiple violations which included two vessels that landed HMS without a permit, two that failed to report landings of Atlantic bluefin tuna, and possession of an undersized yellowfin tuna. During a popular South Jersey shark tournament, CPO Tomlin received word from other fishermen that an undersized shortfin mako shark was weighed in and measured at the tournament scales and subsequently disqualified. CPO Tomlin was able to track down the fishermen who landed the shark and verified that it was well under the 83" size limit required for females. The fishermen claimed that they landed the shark because they thought it was a male which has a smaller size limit of 71". CPO Tomlin confirmed that the permit holder was in possession of a shark fishing endorsement which requires passing a test on how to properly identify male from female. The case was referred to NMFS for enforcement action. No qualifying mako sharks were landed in the tournament and the heaviest shark fetched a total of \$88,000.

Since shoreside shark fishing has become an increasingly popular nighttime activity in South Jersey, CPO's conducted several night patrols informing and educating anglers on the proper identification and handling of the many prohibited shark species often prevalent along our coast. Each night on patrol, Officers encountered dozens of fishermen, some of which did not know which species were prohibited. Anglers were provided with shark species identification placards, proper release techniques, and information about the potential Federal and state charges associated with mishandling prohibited species.

CPO's in South Jersey conducted several boat patrols on the Bureau's patrol vessel Integrity for the purpose of inspecting commercial fish and lobster traps for compliance with federal regulations. During these patrols, CPO's encountered hundreds of non-compliant traps belonging to New Jersey fishermen. The violations found include unlawfully sized escape vents, obstructed escape vents, absence of a biodegradable panel, unlawfully sized biodegradable panel, no gear identification, and no lobster pot tags. The cases were referred to the National Marine Fisheries Service for enforcement action.

During a late afternoon patrol of the Townsend Inlet area, CPO's Raker and Tomlin apprehended an individual in possession of over 60 undersize black sea bass. The fisherman was issued a court mandatory summons for the undersize violation and since the limit was only 2, he was

issued an additional summons for exceeding his possession limit. The maximum penalty for the violations exceeds \$3,600.

## **2. Legislative/Regulatory Report – J. Brust**

Most legislative branches have been in recess since June. Mr. Brust provided Council with a news article from June covering Congressman Van Drew's co-sponsorship of a bill reauthorizing the Magnuson Stevens Act (HR3697).

## **3. Atlantic States Marine Fisheries Commission (ASMFC) Report – H. Corbett**

Ms. Corbett gave a presentation to summarize all meetings held during ASMFC's Summer Meeting (Aug 6-8, 2019).

The American Eel Management Board reviewed an update on the Draft Coastwide Cap Coverage Policy that should be finalized at the October 2019 meeting. Glass eel aquaculture proposals from NC and ME were reviewed and approved.

The Striped Bass Management Board approved Addendum VI for public comment. The Addendum includes commercial and recreational options to end overfishing and reduce fishing mortality to the target level in 2020. Three public hearings will be held in NJ. Final approval is expected at the October Board meeting. Initiation of an Amendment is delayed until the Spring 2020 Board meeting.

The South Atlantic Management Board approved Amendment 1 for Cobia for implementation by July 1, 2020. The Amendment transitions the Fishery Management Plan (FMP) from complementary management with the South Atlantic and Gulf of Mexico Management Councils to sole ASMFC management. In addition, the 2019 Traffic Light Analysis was reviewed for Atlantic croaker and spot, and no management action was triggered. Draft addenda to adjust abundance metrics in the Traffic Light Analysis will be presented to the Board at the October meeting.

The Horseshoe Crab Management Board discussed responses to the 2019 Benchmark Stock Assessment. Delaware Bay is "neutral", so no management action is needed. The Delaware Bay Ecosystem Technical Committee and the Adaptive Resource Management Subcommittee will meet in September to discuss incorporation of Delaware Bay population estimates from the assessment's Catch Multiple Survey Analysis into the ARM model. The Board discussed response to the "Poor" status of NY population segment, including NY and CT plans to consider management actions. In addition, the Board requested that the Technical Committee (TC) work with the NEFSC Observer Program to improve estimates of horseshoe crab discards and associated mortality.

- Mr. Hollinger requested clarification on the term “neutral” for the Delaware Bay region. Mr. Cimino responded that the average of the surveys from this region show no population increase or decrease.
- Dr. Bochenek asked if ASMFC will take action on the NY region declining status. Mr. Cimino responded that ASMFC will take no formal action, but NY and CT are investigating management options such as mandatory bait bags for the whelk fishery and seasonal HSC closures.

The Menhaden Management Board decided to maintain the total allowable catch (TAC) of 216,000 mt for the 2020 fishing season. New Jersey still receives 10.87% of the coastwide quota, and there is an option to revisit the 2020 TAC following review of 2019 assessments and peer review reports. The 2019 benchmark stock assessments are scheduled for peer review in November and will be available for Board review in February 2020.

The Spiny Dogfish Management Board approved Draft Addendum VI for public comment. The Addendum allows the commercial quota to be transferred between all regions and states. The 2019-2020 coastwide quota was reduced by 46% due to declining biomass.

The Summer Flounder, Scup, and Black Sea Bass Management Board developed options to address state-by-state allocations and to consider initiating management action after MAFMC review in October for black sea bass. For summer flounder, an update was provided for a web application tool which allows managers to evaluate effects of different recreational measures on harvest and discards.

The Tautog Management Board reviewed Draft Implementation Guidelines for the commercial harvest tagging program. Implementation is scheduled for January 2020 and tags will be distributed by the end of the year.

The Executive Committee’s main topics of discussion were the transition to state conduct of the For-Hire Telephone Survey (which is scheduled for January 1, 2020) and future ASMFC Annual Meetings. The 2020 annual meeting will be held in New Jersey.

The Legislators and Governors’ Appointees meeting discussed how to address impacts of shifting species distributions on species management programs and state allocations.

The Policy Board discussed the offshore lobster enforcement vessel, the status of stocks review, and the Atlantic Coast Fish Habitat Partnership (ACFHP). The ACFHP endorsed two projects, one of which is an oyster shell recycling program in Atlantic County, NJ.

The Business Session approved Atlantic Cobia Amendment 1.

The Offshore Wind Energy Workshop focused on wind energy activities in New England and the mid-Atlantic. It included informative presentations and discussions on how to best coordinate state and federal activities.

- Mr. Rush requested clarification if spiny dogfish populations are actually decreasing. Mr. Cimino responded that the assessment indicates population declines, but harvest has been so low relative to recent quotas that the revised quotas are similar to recent harvest levels.
- Mr. Rush also questioned whether Council has the authority to change striped bass regulations, or if the authority is still with the legislature. Mr. Brust responded that he thought it had been moved to Council but would confirm for the next meeting.

#### **4. Mid-Atlantic Fishery Management Council (MAFMC) Report – J. Cimino**

J. Cimino gave a presentation to summarize all meetings held during the MAFMC's August meeting.

The Joint Meeting with the Scientific and Statistical Committee discussed the role of SSC in the Council process, the increased utilization of social and economic science advice from the SSC, communication policies and procedures, future SSC membership needs and expertise, and potential annual meetings.

The Summer Flounder Recreational MSE Project meeting was provided with a presentation on results of summer flounder recreational Management Strategy (MSE) for F-based recreational management. Project results may be revisited in late fall to determine if an alternative management strategy should be pursued for summer flounder through FMP action.

- Mr. Radossi asked if the effort to reduce fluke discard mortality were successful. Mr. Cimino replied that it is an important question, not just for fluke for black sea bass and other important recreational species. Mr. Brust responded that the Office of Science and Research conducted a qualitative study of angler behavior, but not biological studies have been conducted.
- Mr. Radossi clarified his question to ask if the Administration's effort reduced mortality enough to allow an increase in quota. Mr. Brust reiterated that no biological studies were conducted to see if mortality rates changed. MRIP estimates indicate that we were below our allocation for that year, but not sure if that is causation or MRIP uncertainty. It was not possible for the Division to plan and implement the type of biological study to answer that question in the time it took to develop the regulations, so the angler behavior study was implemented to evaluate the question qualitatively. AC Bukowski indicated it is a worthwhile study to conduct, and staff will follow up with the OSR.

The Council Risk Policy Framework Meeting was the first meeting for Omnibus Risk Policy Framework Action. Risk policy specifies the acceptable level of risk (probability of overfishing) the Council is willing to accept for its managed species. Nine different draft alternatives were reviewed and approved for further evaluation and analysis. Final action on the framework will occur at the December 2019 meeting.

A meeting focusing on black sea bass commercial and recreational issues included an update on ASMFC discussions regarding potential changes to the state-by-state commercial quota allocations and an update on a joint Council/ASMFC initiative on recreational management reform. No management action has been initiated. Both topics will be discussed jointly with the ASMFC Board at the October 2019 Council meeting.

- Mr. Rush asked if there was a certain date range MAFMC is using for reallocation. Mr. Cimino responded that the northern states are hoping to shift the allocation strategy from using solely historical harvest data to incorporate distribution information from the NEFSC trawl survey. Dr. Bochenek asked if the same idea was being used for fluke, or just black sea bass. Mr. Cimino indicated that it was considered for summer flounder, but they approved a trigger approach.

The River Herring/Shad Update and Cap Review voted to maintain the 129 MT river herring and shad cap in the Atlantic mackerel fishery for 2020, to remove the 89 MT bycatch trigger before the mackerel fishery lands 10,000 MT of mackerel, and to initiate a framework action to establish a long-term strategy for biologically-relevant river herring and shad catch caps in the mackerel fishery.

A meeting focusing on the allocation review criteria for all FMPs discussed NMFS Policy Directive 01-119, which provides guidance to the Regional Fishery Management Councils on reviewing allocations. The Council will develop a review schedule in connection with its 5-year strategic plan and annual implementation plans

The Research Steering Committee reviewed presentations on Committee requests and recommendations, RSA-related violations, and an overview of the MAFMC and NEFMC RSA programs. The Committee discussed options for RSA programs (suspended since 2014) and recommended that Council convene an RSA Workshop in 2020. There was a general discussion about future roles of the Research Steering Committee and also the option of pursuing formal partnerships with research organizations.

The 2020-2024 Strategic Plan was reviewed, and vision, mission, and goal statements were approved. The complete Draft Strategic Plan will be presented at the October 2019 Council meeting

An offshore wind update was provided, which included information on wind activities in the northeast region and discussions on how to most effectively participate in the process. Decisions were made to continue providing strategic comment letters to BOEM, to maintain a webpage on offshore wind and fisheries, and to participate in various groups such as Responsible Offshore Science Alliance.

A presentation was provided on a project characterizing black sea bass habitat in the Mid-Atlantic Bight.

Other business included an overview of Council policies on public comment deadlines, webinars, and Fishery Management Action Teams, and the swearing in of new and reappointed Council members. One of the reappointed members is Peter Hughes from NJ. Mike Luisi was reelected as Chairman, and Warren Elliott as Vice-Chairman. The next meeting will be held October 7-10 in Durham, NC.

#### **5. Bureau Reports – J. Brust**

J. Brust presented the Marine Fisheries Bureau report.

Most new staff members funded through the supplemental funding have started working. Two remaining new hires have been provided with start dates.

Nine staff members have moved into the new Stockton office. This location is not intended to be permanent. The goal is for staff to return upon improvements/expansion of the Nacote Creek office.

B. Harrison provided an update on ASMFC striped bass public hearings held in New Jersey to gain input on management options for 2020. Two hearings were completed, in Roselle Park and in Ocean City, and a third will be held in Manahawkin on September 12. A brief summary of comments was provided to note a preference for Option 2, which is an equal reduction between the recreational and commercial sectors. In addition, attendees generally prefer the promotion of circle hooks.

- Chairman Herb asked what might happen to the Bonus Program. Mr. Harrison responded that if equal reductions are required for commercial and recreational sectors, the commercial quota, which is used for the Bonus Program, will be required to take a reduction.

No Shellfish Bureau issues were reported.

No Atlantic Coast Shellfish report was provided.

B. Hollinger presented a report regarding the Delaware Bay 2019 Direct Market.

The 2019 Direct Market season has been open since April, and the total harvest as of 9/3/19 is about 83,000 bushels with an average CPUE of just over 110 bushels per boat per day. Approximately 27,500 bushels of the total quota are left for harvest. During August, the High Mortality and Shell Rock seed beds were closed to harvest since their regional quotas were met. The Medium Mortality seed beds remain open for the remainder of the season which ends November 22, or until that region's quota is met, whichever occurs first.

## **6. Committee Reports**

Dr. Bochenek read the report from a meeting of the Regulatory Committee. The report detailed the proceedings of the July 29<sup>th</sup> meeting of the Committee regarding the consideration of changes to New Jersey's fyke net regulations. These potential changes were initiated during the April Council meeting by a commercial harvester who requested to modify current fyke net regulations, regarding the harvest of winter flounder. The Bureau of Law Enforcement (BLE) expressed several concerns including current fyke net regulatory language and the entrapment of otters, terrapins, and other species because no rule currently requires a fisherman to tend his net. The Committee's main recommendation is to investigate possibilities of a regulatory change to the fyke net gear regarding winter flounder. Data requests need to be fulfilled for the number of fyke net licenses, the number of fishermen in the fyke net industry, the approximate locations of fyke net placement, the number of fishermen harvesting winter flounder, the number of winter flounder harvests, and the reports of otter entrapments. Clarification of language on the fyke net regulation is requested to define the prohibited middle third of a waterway as being at mean low water. Language should be developed to implement a 72-hour net tending requirement.

Council chose to add any changes to the next regulatory package. No action is needed by Council. Staff will follow up at the November Council meeting on completion of the above tasks.

Mr. Rizzo stated that he does not recall the 72-hour tend mentioned at the meeting. Captain Snellbaker said it was discussed and the decision was based on crab regulations for consistency. Captain Snellbaker said it is worth further discussion and it would be helpful to have more input from fishermen.

Mr. Herb read the report from the Executive Committee. The report detailed the proceedings of the August 22 conference call regarding the review of advisory committee applications. There were a few suggestions to edit the application including clarification of the affiliated organization and clearly identifying whether the application is new or a renewal. The Committee recommended to approve all appointments to advisory panels.

Motion by Executive Committee (no second needed). The motion passed unanimously.



## **7. Regulatory Actions – J. Brust**

There were no regulatory actions to report.

The multispecies rule includes menhaden and blue crab and allows more flexibility by the Council to make changes through Notice. A meeting will be held tomorrow to move the rule forward in the process for final approval.

## **8. Old Business – J. Brust**

There was an update from Mr. Brust on wind energy issues.

- Governor Murphy signed an Executive Order for the Wind Institute for NJ to coordinate offshore wind. The Panel will make recommendations in four months on how to create the Institute.
- Staff are participating in multi-programmatic DEP meetings with Orsted to identify key issues in the permitting process.
- The Department has received a permit application for a centralized OSW electrical grid from Anbaric, which will go through the regular review process.
- The Vineyard Wind project has been put on hold due to NMFS concerns over potential impacts to fisheries.
- The draft NJ Offshore Wind Strategic Plan has been delayed, but staff will be providing comments when it becomes available.

Dr. Bochenek asked if there has been any discussion regarding compensation to fishermen for loss of fishing grounds. Mr. Brust explained that DEP will focus first on mitigation to minimize impacts, and compensation will be considered as a last resort. AC Bukowski indicated that access is a primary concern and Orsted has acknowledged that access to fishing grounds will not be restricted. Orsted has a process in place for compensation for gear loss. The Office of Science and Research has the lead for DEP on developing a mitigation strategy, and there will be a public process component. DEP indicated to Orsted that financial compensation for lost opportunity may not be sufficient, given the size of the fleet, and Orsted is awaiting suggestions for alternatives. Mr. Rush informed Council that the Coast Guard are conducting safety studies regarding offshore wind farms. AC Bukowski commented that Commissioner McCabe is on the panel for the Offshore Wind Institute and will be bringing comments and concerns from Council to the discussions.

Mr. Rush stated that the Coast Guard is currently conducting safety studies in Block Island.

## **9. New Business**

Mr. Brust provided the draft meeting dates for 2020 as follows:

- January 9 – Galloway
- March 5 - Stafford Township

- May 14 – Galloway
- July 2 – Galloway
- September 3 – Stafford Township
- November 5 – Galloway

All meetings start at 5:00 pm. Mr. Brust requested Council notify him of any conflicts with the meeting dates prior to November meeting when they will be finalized. Meetings may need to be rescheduled if enough are not available for a quorum.

Mr. Rush inquired about the new building with a meeting room. Mr. Brust explained that that building was the Green Bank facility and that Marine Fisheries and Shellfisheries will not be moving to that location. AC Bukowski indicated that the building purchased, with Green Acres funding, will still house DEP staff, but not Marine Fisheries.

Mr. Hollinger announced an upcoming Red Knot Science Symposium at the Jacques Cousteau Coastal Center in Tuckerton.

Mr. Brust recommended holding commercial Summer Flounder and Black Sea Bass Committee meetings before the November Council meeting.

ASMFC and MAMFC meeting summaries were provided in a new format for today's meeting. Mr. Brust asked Council if they found the new format useful. Mr. Rizzo requested to include Committee reports on slides rather than simply reading the summaries.

Mr. Rush inquired about a Striped Bass Advisory Committee meeting. Mr. Brust explained that the meeting will likely be held in November, after the ASMFC Board meeting, for potential approval at Council's January meeting.

## **10. Public Comment**

Gregory and Royce Wingerter, lobstermen from Shark River, requested to revisit the 2015 decision to close inshore reefs. He would like to open these reefs in the winter since there is a dramatic drop in catch on open bottom, due to beach replenishment, and there will be no conflict with recreational fishermen in the winter months. Mr. Wingerter stated that he talked to the Federal government who permitted him to fish on Federal reefs in the winter months. Mr. Brust will follow up with appropriate Federal agencies.

Mr. Herb asked if opening these reefs will affect funding, since recreationally designated sites would be used commercially. There are currently two full access reefs open to recreational and commercial sectors. Mr. Brust will follow up on this issue.

Eddie Yates, United Boatmen, inquired if the Advisory Committee membership presented today was final. Mr. Brust explained that the list has not been finalized and there are applications still pending review. Mr. Yates also discussed a recent wind meeting that he attended. He stated that the meeting was not very informative, and representatives were unable to answer simple questions. He is hoping the Council is able to address issues such as distance between structures, cable depths, etc.

Meeting concluded at 6:48 pm. The next Marine Fisheries Council Meeting will be held on November 7<sup>th</sup> at 5:00 pm at the Galloway Township Public Library.