

**Marine Fisheries Council Meeting
January 5, 2023**

Council Attendees (In-Person):

Dr. Eleanor Bochenek
Dr. Patrick Donnelly
Warren Hollinger
Jeff Kaelin

Walter Johnson III
Joe Rizzo
Robert Rush, Jr.

Council Absentees:

Richard Herb
Kevin Wark

DEP and Division of Fish and Wildlife Attendees:

Dave Golden – Assistant Commissioner *
Joseph Cimino – Administrator, Marine Resources Administration (MRA)
Jeffrey Brust – Chief, Bureau of Marine Fisheries (BMF) *
Russ Babb – Chief, Bureau of Shellfisheries (BSF)
Jason Snellbaker – Deputy Chief, Bureau of Law Enforcement (BLE) *
Michael Celestino – Research Scientist, MRA
Heather Corbett – Supervising Biologist, BMF *
Greg Hinks – Principal Biologist, BMF
Brian Neilan – Principal Biologist, BMF
Jenny Tomko – Principal Biologist, BSF
Maryellen Gordon – Principal Biologist, BMF
Peter Clarke – Principal Biologist, BMF
Linda Barry – Research Scientist, MRA
Brendan Harrison – Senior Biologist, BMF
Matthew Heyl – Assistant Biologist, BMF
Alissa Wilson – Assistant Biologist, BMF
Danielle Dyson – Biologist Trainee, BMF
Tyler Harris – Biologist Trainee, BMF
Jessica Daher – Program Specialist, BMF
Pat Barker – Senior Wildlife Worker, BMF
Paul Bechtel – Wildlife Worker, BMF

* Denotes in-person attendance as opposed to virtual attendance

Public Attendees:

Rick Bellavance
Greg Cudnik
James Dopkin
Paul Collier
James Parker III
John DePersenaire
Bert Gibbs

Kyle Doran
Adam Nowalsky *
Dr. Jamie Cournane
Dave Daly
Kelly Whitmore
Phillip Welsh
Timothy Anfuso

Doug Brown
Chris Lido
Scott Wilson
Jim Hutchinson *
Benji Swan *

Call to Order:

The meeting was called to order. Notice of the Marine Fisheries Council (Council) meeting was filed with the Secretary of State on December 19, 2022. Acting Chairman Donnelly began the meeting with the Pledge of Allegiance.

Approval of Minutes:

No additions, omissions, or corrections of the November 2022 meeting minutes were suggested. A motion to approve the minutes was approved unanimously.

Enforcement report: J. Snellbaker

During an October night patrol, Conservation Police Officers Timothy Raker and Brian Tomlin noticed a vehicle near the base of a bridge where several previous striped bass poaching incidents have occurred. The officers set up surveillance on several fishermen and were able to hear what appeared to be fish moving around in plastic bags. Upon inspection of the fishermen, the officers apprehended the individuals in possession of 13 undersized and 10 over the limit striped bass. Summonses were issued for the violations.

During a patrol in early November, Conservation Police Officer Brian Tomlin witnessed an individual catch and keep two undersized tautog on a jetty in North Wildwood. The individual then met up with four other individuals as it was approaching sunset. CPO Tomlin observed multiple bags of fish placed into buckets then three of the individuals left, leaving the buckets of fish with two individuals on the jetty. About 20 minutes later, the two individuals hurried off the jetty with the buckets and into a waiting vehicle. When CPO Tomlin inspected the fishermen, they were found to be in possession of 83 tautog under legal size and 78 over their legal limit. Summonses were issued for the violations and all the fishing gear used in the incident was seized.

During the month of December, anglers had a difficult time finding migrating striped bass inside state waters off Atlantic and Cape May Counties. Some anglers, desperate to pursue these fish, ventured into Federal EEZ waters where striped bass fishing, catching and possession is Federally prohibited. CPO's Klitz, Meyer, Tomlin, Raker and Petruccelli participated in making multiple Federal striped bass EEZ cases as far as 12 nautical miles offshore. The violations included possession/fishing for/catching striped bass in the EEZ, interference, wanton waste, destruction of evidence and false statements. Additionally, several of the individuals apprehended were in violation of NJ striped bass size and bag limit regulations. All cases were referred to National Marine Fisheries Service for Federal enforcement action.

Mr. Kaelin asked at which bridge the striped bass poaching incidents were taking place. Deputy Chief Snellbaker replied that it was one of the main bridges in Cape May County.

Dr. Donnelly asked if there were any violations of the new striped bass regulations, including snag and drop. Deputy Chief Snellbaker replied that there were no violations that he was aware of, however, he has heard of issues with the party / charter industry. However, the regulation is very hard to enforce.

Mr. Rush asked if there had been excessive striped bass violations in the Sandy Hook area like in previous years. Deputy Chief Snellbaker indicated that the majority of incidents occur in the spring, but that CPO's issued a number of violations in the fall of 2022.

In addition to the report in the meeting materials, Deputy Chief Snellbaker informed the Council that there are five vacancies for the Conservation Police. The application is open until January 30, 2023, with specific information posted on the Civil Service Commission and Fish and Wildlife websites as well as social media.

Finally, Deputy Chief Snellbaker shared that multiple officers were vindicated after many years of court proceedings resulting from several federal and state lawsuits that had been filed concerning a 2013 illegal oyster operation.

Shellfish Council reports

- Delaware Bay (Hollinger)

Mr. Hollinger indicated that the Oyster Stock Assessment Workshop is scheduled for Feb 2-3, 2023. Following the workshop, it usually takes 2-3 weeks to finalize the results, and then the Delaware Bay Council will establish the 2023 quota.

Mr. Rush asked if there was any information on the upcoming Aquaculture Advisory Committee meeting. Mr. Hollinger responded with a few changes and agenda topics, such as a 5-year strategic plan. Mr. Rush indicated that the meetings were often set for times when he has difficulty attending.

- Atlantic Coast

Mr. Johnson acknowledged that Mr. Maxwell had stepped down from the Atlantic Coast Shellfish Council after 22 years, serving as Chairman for many years. As vice-chair of the AC Council, Mr. Johnson will attend MFC meetings until a new chair can be appointed.

Shellfish Bureau report

There was no report for this month.

Legislative / regulatory report

A spreadsheet of legislative items was provided in the meeting handouts. Bolded items are new items since the last update. Mr. Brust provided a list of the key action items as follows: A state bill to investigate ocean energy potential (in addition to wind energy) passed in the Assembly and currently sits in the Senate. Another state bill was introduced to the Assembly to allow the use of fish pumps to remove menhaden from purse seines in certain circumstances. Federally, a bill to improve a disaster relief program was amended. Finally, a federal bill was introduced in the House to allow pilot programs related to aquaculture in the EEZ of the U.S.

Mr. Rush questioned how the aquaculture bill will affect offshore windfarms. Mr. Brust replied that the bill only authorizes studies and pilot programs, not full development, so the studies will likely address interactions windfarms and other ocean uses.

Georges Bank cod regulations (Dr. Jamie Cournane, NEFMC)

NEFMC has modified regulations for Georges Bank cod and are asking all states, including NY and NJ which are outside NEFMC jurisdiction, to adopt consistent regulations in state waters to further protect the stock.

Dr. Jamie Cournane presented information about the justification for these new decisions. Her information is as follows. According to a 2021 Georges Bank Cod Stock Assessment, the stock is currently overfished with overfishing occurring. The stock has been in a rebuilding plan, with a rebuilding date of 2026, but the assessment indicates biomass declines in recent years. As a result, the NEFMC recommended a 70% reduction in commercial catch limits and regulations to reduce recreational removals by 65%. These new recreational regulations include a catch target of 75mt for the 2022-2023 fishing year (May 1 – Apr 30), a catch limit of 5 fish per private angler, a slot limit of 22” – 28”, and a closed season from May 1 – July 31st. Dr. Cournane indicated that the catch limit was already exceeded by January 2023, partly because implementation of the summer closure was delayed until July 1. The next NEFMC meeting will be in January 2023, and the NEFMC may recommend more changes for recreational measures of Georges Bank cod. Dr. Cournane responded to a question from a previous meeting regarding stock structure. The population is currently managed as two stocks (Gulf of Maine and George’s Bank); however, the latest science points to a third stock in the southern New England / Mid-Atlantic. The NEFMC are hoping to transition to the revised stock structure by 2025.

Dr. Bochenek asked if New Jersey is considered *de minimis* for this species and to what extent New Jersey is involved in this fishery. Dr. Cournane responded that the top three states that land this stock recreationally are Rhode Island, New York, and New Jersey. She also explained that the NEFMC does not work under *de minimis* rules, that is only ASMFC and their shared management sources.

Dr. Bochenek and Dr. Donnelly asked why NJ should enact this if New Jersey has such a low impact on the fishery and it would be hurting our fishing in NJ. Mr. Brust responded that every bit can help and that information in the table may not accurately show cod landings. Reports may not have intercepted any cod, but that does not mean that people were not catching any.

Mr. Rizzo asked what the impact would be on discards with such a narrow slot limit. Dr. Cournane responded that there is an assumed mortality of released fish, but most are expected to survive, and releasing large fish could contribute to the spawning potential.

Dr. Bochenek asked for the rationale for the months of closure for the fishery. Dr. Cournane responded that the months were selected as a way for the recreational fishery to receive the same 70% reduction that the commercial fishery was facing.

Dr. Donnelly asked with the stock structure uncertainty, is it feasible for southern states to take these reductions. Dr. Cournane responded that the work in identifying the stock structures is ongoing and lead by the Northeast Fisheries Science Center and will be presented later this year. However, this potential new stock is data limited and may have issues with a full stock assessment.

Mr. Johnson questioned how the recreational industry is managed and why it was different from the commercial industry. Dr. Cournane answered that if the recreational industry was to surpass their catch targets, then the commercial industry will have to pay that back to the fishery in another year. It is important to keep both in check to balance each other out.

Dr. Donnelly stated that New Jersey's cod fishery is entirely incidental, especially in state waters. No for-hire vessels target cod but will keep them if they are caught. He has trouble attributing the decline in the Georges Bank cod population to the NJ fishery hundreds of miles away.

Dr. Cournane acknowledged that it is the Council's prerogative on whether they implement regulations in state waters, but requests Council consider at least partial regulations, such as reducing the possession limit.

Dr. Donnelly asked if there were any enforcement concerns with the proposed regulations. Deputy Chief Snellbaker responded that inconsistent regulations in state and federal waters is problematic, because it is difficult to determine where a fish was landed. Mr. Rush raised a question of how the regulations might affect holders of federal groundfish permits. Dr. Cournane responded that the most restrictive permit applies in state waters.

Dr. Bochenek recommended postponing a decision until the March meeting in order to speak with more anglers and compare NJ harvest with other states. Mr. Johnson agreed with the suggestion to see if NEFMC took further action during their January meeting.

Motion to postpone until March, made by Dr. Bochenek, second by Mr. Rush. Passes unanimously.

Atlantic States Marine Fisheries Commission (ASMFC) report

Meeting summary (J. Brust)

The Atlantic Herring Board met and were provided preliminary quotas that will be discussed in their January meeting following final approval by NMFS. The seasonal quota percentages for Area 1A remain status quo.

The Lobster Board met, and the main issue is still right whales and ensuing legal cases. Environmental groups had wanted to stop all lobster fishing in federal waters; however, a judge ruled that fishing can continue in federal waters but NMFS must completely rewrite their biological opinion. Overall stock status based on survey indices shows the Gulf of Maine stock has leveled off with some decline, the Georges Bank stock is declining, and the Southern New England stock remains at low levels.

The Striped Bass Board met and released that the striped bass stock is still overfished, however, overfishing is no longer occurring. The species is on target to rebuild by the goal of 2029, with an 80% chance of success.

The Atlantic Menhaden Board met and approved a 20% increase to the coastwide quota. In addition, Addendum I reallocated quota among the states, and NJ's allocation increased slightly, from 10.8 to 11 percent. Mr. Kaelin thanked the ASMFC contingent for keeping NJ's quota and market safe despite a large shift of allocation to Maine.

The Horseshoe Crab Board met and approved an addendum to the multi-species management framework, which allows ASMFC to allow the harvest of female crabs. However, they are no plans to currently allow female harvest for 2023 and New Jersey will keep its moratorium.

A full summary of the ASMFC meeting is provided in the meeting materials.

Mid Atlantic Fishery Management Council (MAFMC) report

Meeting summary (J. Brust)

There was some work on surf clam and monkfish decisions, which are summarized in the meeting handout. However, the main focus was the joint meeting with ASMFC regarding recreational summer flounder, black sea bass, and scup. This was the first year under the new Harvest Control Rule method of establishing recreational specifications for these species. The

HCR method considers both recent harvest and stock status when evaluating regulatory changes and is intended to minimize the wide swings in regulations we have seen under the old method. The model indicates a 10% reduction for both scup and black sea bass and status quo for summer flounder. Using the old model would see larger reductions, for example a 40% reduction for scup.

Another change to the process under the HCR methodology is that staff has lost flexibility in evaluating regulatory options. All options must be run through the model by one person at NMFS. States will have the opportunity send a new set of options once per week to evaluate which meet the reduction criteria. This is a much less flexible process than in the past. In addition, staff is trying to get clarification on whether status quo for summer flounder refers to regulations or just the recreational harvest limit. If allowed, staff will also develop options for summer flounder. Once we have a set of options, staff will schedule committee meetings in order to get a proposal to ASMFC by early February. The ASMFC Board will meet in late February to approve state proposals.

Mr. Kaelin noted that there were two different models, but NMFS declared that they would only accept results from one of them. Mr. Brust confirmed this and noted that GARFO has indicated that they are less confident in the performance of the second model and therefore would not accept recommendations based on that model. This position may change with additional work and simulation, but not for this year.

Adam Nowalsky, reiterated Mr. Brust's comments about reduced flexibility, but noted that coastwide recreational harvest limits increased for all three species, and the harvest reductions required under the HCR are less than they would have been under the old process. He noted that the goal of recreational reform was to control the large swings in regulations and the new method was successful. He outlined some concerns with the timeline of the remainder of the process this year but commented that these can be overcome and the long term gains outweigh the hurdles.

Dr. Donnelly asked when the final decisions would be made by ASMFC. Mr. Brust responded that the dates were uncertain, but ASMFC's proposed timeline was for approval in early March. Dr. Donnelly noted that it doesn't leave much time for public comment and advisor meetings as we have had in the past, which could affect transparency. Mr. Brust responded that there will still be an opportunity for public comment at the March MFC meeting. Dr. Bochenek agreed the process should include more public involvement.

Mr. Rush commented that the increase in harvest limit was not equal to the recreational fishery needs, and that having to take harvest cuts for a species that is above the biomass target is frustrating. Discards are already high, and tighter regulations will only make it worse.

Marine Fisheries Bureau report: J. Brust

Striped Bass Bonus Program (SBBP)

The SBBP closed 12/31/2022 with about 11,000 permits issued to individuals and 155 for hire vessels. This would account for a preliminary total of 33,600 pounds harvested from 5,200 fish or 15.6% of the quota. 2022 marks the 8th highest year by weight and the 5th highest year by fish out of the 33 years the program has been running.

Striped bass recruitment index

The Bureau has been sampling the Delaware River in three regions (32 stations) using a 100-ft bagged seine net for over 40 years. 2022 saw 610 striped bass caught with 82% of catch being young of year. This yields a CPUE of 0.735, thus ranking 2022 as 28th out of 42 years of surveying.

Commercial harvest updates

Mr. Brust highlighted four key commercial species, summer flounder, black sea bass, bluefish, and Atlantic menhaden. Summer flounder and black sea bass were below their quotas, bluefish was well below its quota, and Atlantic menhaden hit its quota.

Mr. Rush commented that being able to roll over summer flounder and black sea bass between seasons has provided flexibility needed for the harvesters to optimize their time and more fully utilize the quota. Mr. Brust agreed and commented that the Commissioner's authority to change trip limits within a season has also been beneficial.

Blue crab lottery

The commercial license lottery opened January 1, 2023 and will remain open until February 28, 2023. The application is online at the Fish and Wildlife website. It will allow for 5 inactive license transfers for pots as well as up to 20 license transfers for active pots.

Commercial text notifications

The Bureau is hoping to use text message notifications to reach a larger number of commercial anglers. They would not be used for official notices, but rather for reminders and other unofficial information. However, these methods could potentially reach a larger audience than and less labor intensive than USPS.

Mr. Rizzo asked if latent permits not being used for commercial fishing anymore are factored into limits for the commercial sector. Mr. Brust responded that latent permits were one of the reasons that the cap was lowered on blue crab permits but have not discussed any other species at this time.

Committee reports

There were no reports.

Regulatory actions

Georges Bank Cod NOAC

A motion to table this issue until the next meeting was proposed. The motion was seconded and passed unanimously. The Council will gather more data on the issue, including results from the NEFMC meeting at the end of the month as well as input from public stakeholders.

Shark circle hooks

The ASMFC required the use of circle hooks while recreationally shark fishing into effect two years ago. New Jersey has been out of compliance since that time as the required regulatory changes were in line behind other proposals. Recreational gear changes, such as requiring circle hooks, can now be approved via Notice of Administrative Change, which will make maintaining compliance with ASMFC easier.

Striped bass gaffing

The Striped Bass Board voted to prohibit gaffing in the striped bass recreational fishing industry. This is also considered a recreational gear requirement, so this can be implemented via NOAC as well.

American shad possession limit

ASMFC is requiring a reduction of the American shad recreational possession limit from 3 fish to 2 fish. In New Jersey, American shad and hickory shad have a combined possession limit of six, which isn't changing. The new regulations will stay at 6 shad aggregate total, with no more than 2 American shad.

Mr. Rush asked what happens if we go out of compliance. Mr. Brust responded that ASMFC'S standard non-compliance review process would proceed, with the possible outcome of NMFS implementing a moratorium of the affected fishery in NJ.

A motion was made to approve all three NOACs. Motion by Dr. Bochenek, seconded by Mr. Johnson. The motion passed unanimously.

Old Business

MFC vacancies

Applications for the two vacant positions have been received and are under review to develop a recommendation to the Governor's office. Not as many applicants were received as hoped, so the notice of vacancy may be reposted to increase the applicant pool. It is hoped that the vacancies will be filled by the March meeting.

Right whale speed restrictions letter

The letter regarding right whale speed restrictions concerns has been sent to NOAA. It is provided for reference as part of the meeting materials.

RMI recreational study

The Offshore Wind Committee met with the Principal Investigator for a study of impacts from offshore wind development on recreational fisheries and tourism. Council would like to be involved with this study and asked if it would be possible to for the PI to change their proposal since it has already been approved by the funding company. Mr. Brust has asked the RMI Steering Committee, but has not received a response and will continue to follow up with them.

Several Council members reiterated their concern with the survey design. Dr. Bochenek asked if any progress had been made with getting the subcommittee formed at the last meeting together. Mr. Brust responded that he interpreted that an independent effort. If staff support is needed, it can be provided.

Upcoming meetings: January - February

It is tentatively planned that within the aforementioned time frame, there will be a meeting for blue crab regarding terrapin excluders, several meetings for recreational black sea bass, and perhaps recreational summer flounder, depending on ASMFC's response regarding status quo.

Upcoming meetings: March - April

It is tentatively planned that within the aforementioned time frame, there will be a meeting for weakfish after it is split from sea trout and for a nontraditional species committee. Mr. Brust suggested a possible Offshore Wind Committee meeting. Dr. Bochenek responde that it should wait until the RMI committee responds. Mr. Kaelin expressed concern scheduling those meetings with all the public comment deadlines.

Mr. Kaelin expressed interest in hearing about results of Cornell's study of bycatch reduction in the squid fishery.

New Business**Recreational fishing policy comments**

A letter was sent to NOAA from members of the NJ recreational fishing community with comments about their Saltwater Recreational Fisheries Policy (seen in meeting materials). Dr. Donnelly included this letter in the meeting as a show of support for our recreational industry. The letter provided comments on the themes of inclusion, diversity, and environmental justice. It called upon NOAA to help in making public marine resources more accessible to all, especially

those who are at a socioeconomic disadvantage. Moreover, it calls for the fishing industry to be seen as an essential business, as other industries were in the face of the pandemic.

Mr. Jim Hutchinson commented that he seconded Dr. Donnelly's previous comments about showing support for the recreational industry. Mr. Rush noted that a large portion of the New Jersey recreational industry could be economically disadvantaged and unable to access the marine resources in the same way as those who are not. Mr. Hutchinson noted that those people also may not be able to take time to attend public meetings, and it is a duty to remember them when conducting actions that may affect them. Mr. Kaelin concurred with the concern that many aren't able to take time to attend meetings in person and expressed appreciation for continued hybrid meeting options.

A motion was made to forward the letter to the DEP Commissioner. Motion by Dr. Bochenek, second by Mr. Johnson.

Dr. Bochenek provided copies of a recent Rutgers commercial fishery resilience checklist which can help industry members evaluate their own resilience level and identify ways to improve. Mr. Brust indicated that he had seen an earlier version and believes it will be a useful tool for industry members.

Public comment

James Dopkin brought up two suggestions to change commercial regulations. First, he asked the Council to consider increasing the crew limit on the federal black sea bass permit in line with increases in quota in recent years. Secondly, he asked that the Council consider altering the staked and anchored gill net season. Currently, it is closed June 15 – October 31. He proposed that the season be opened but with soak limits and mandatory reporting of gill net sets. Mr. Brust recommended planning meetings of the Black Sea Bass Committee and the Gill Net Committee to discuss these recommendations. In the meantime, Mr. Dopkin will email proposals to the Council and the committee chairs will send out the proposals to panelists before coming to committee.

Next meeting

The next meeting will be held on March 2, 2023, at 5 pm at the Stafford Twp. Administrative Building (260 E. Bay Avenue Manahawkin, NJ 08050). The meeting will continue to provide a virtual option for attendance.