

**New Jersey Marine Fisheries Council**  
**July 13, 2023**  
**Meeting summary**

**Council attendees:**

Joe Rizzo*	Dick Herb
Kevin Wark	Jeff Kaelin*
Dr. Pat Donnelly*	Dr. Eleanor Bochenek
Walter Johnson III*	Barney Hollinger*

**Council absentees:**

Bob Rush

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

Dave Golden - Assistant Commissioner  
Joe Cimino - Administrator, Marine Resources Administration (MRA)  
Jeff Brust - Chief, Bureau of Marine Fisheries (BMF)\*  
Jason Snellbaker - Deputy Chief, Bureau of Law Enforcement (BLE)\*  
Mike Celestino - Research Scientist, MRA  
Heather Corbett - Supervising Biologist, BMF\*  
Jeff Normant - Supervising Biologist, Bureau of Marine Habitat and Shellfisheries (BSF)  
Maryellen Gordon - Principal Biologist, BMF  
Brian Neilan - Principal Biologist, BMF\*  
Jenny Tomko - Principal Biologist, BSF  
Lindy Barry - Research Scientist, MRA  
Brendan Harrison - Senior Biologist, BMF  
Matthew Heyl - Senior Biologist, BMF  
Jessica Daher - Program Specialist, MRA  
Amber Johnson - Assistant Biologist, BMF  
Sam MacQuesten - Assistant Biologist, BMF  
Stacy VanMorter - Assistant Biologist, BMF  
Alissa Wilson - Assistant Biologist, BMF  
Jonathan Klotz - Technician, BMF  
Pat Barker – Wildlife Worker\*, BMF

**Public Attendees:**

Benji Swan*	Peter Belasco
Kara Gross	Paul Collier
Michelle Duval	Michelle Bateman
Fred Akers	

\* Denotes in-person attendance as opposed to virtual attendance

The meeting was called to order. Notice of the Marine Fisheries Council (Council) meeting was filed with the Secretary of State on June 23, 2023. Acting Chairman Herb began the meeting with the Pledge of Allegiance.

### **Approval of Minutes**

Minutes from the May 11<sup>th</sup> meeting of the Council were approved without revision. Motion by Dr. Donnelly, second by Mr. Hollinger. Motion carried unanimously.

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

In early May, CPO Capri and Lt. Harp conducted an overnight boat patrol and observed a vessel traveling across Barnegat Bay in the dark without using navigational lights. CPO Capri and Lt. Harp were able to follow the trail of bubbles left by the vessel and establish the general direction of travel. CPO Capri and Lt. Harp began searching the area and found three gillnets, each 300-feet in length, which were set and actively fishing in the bay. Before dawn, the suspect returned to the nets and began hauling them onto his vessel. CPO Capri and Lt. Harp, who had been waiting in the dark for several hours at this point, apprehended the individual. The three nets, containing white perch, striped bass, bluefish, horseshoe crabs, menhaden, gizzard shad, and blue crabs, were seized. The individual responsible is facing multiple counts of unauthorized use of a gillnet, failure to properly mark gillnet, failure to mark nets with identification, failure to mark gillnet stake, taking of striped bass with net, possession of horseshoe crab with gillnet, and failure to utilize navigational lights at night.

On the early evening of May 22nd, CPO Bahrle conducted an inspection of a recreational fishing vessel returning to a local boat ramp. The four fishermen on board the vessel told the CPO that they had kept 30 to 40 black sea bass. CPO Bahrle boarded the vessel and quickly realized the fishermen had over their limit of black sea bass as well as numerous undersized fish. CPO Bahrle counted the fish and found that the vessel had 65 black sea bass which made them 25 black sea bass over the limit. Of the 65 black sea bass 51 were under the legal-size limit of 12.5 inches. One tautog was also located on the vessel which was possessed during the closed season. A total of nine summonses was issued to the fisherman for the possession of undersized and over limit black sea bass and the possession of a closed season tautog.

On June 12th, CPO Bahrle located a group of four clammers off Maclearie Park in Belmar. CPO Bahrle issued summonses to the clammers for not possessing shellfish licenses and educated them with a written warning on the dangers of eating shellfish from the restricted waters of Shark River. After clearing the area CPO Bahrle received a complaint from dispatch that a Belmar police officer located another group of clammers in the same location. CPO Bahrle set up and made observations on the group of clammers to confirm their harvest activities. During his observations, he noticed one of the individuals was a clammer that he just issued a summons to. CPO Bahrle apprehended this group up and issued a summons for not obtaining shellfish licenses and written warnings for harvesting shellfish from the restricted waters of the Shark River. The individual that was caught for the second time, received another summons for not having a shellfish license and a summons for harvesting from the

restricted waters of the Shark River which is a petty disorderly persons offense with a maximum fine of \$500 fine and up to 30 days in jail.

On June 17th CPOs Woerner and Bahrle along with Lt. Moscatiello conducted an inspection of a party boat. During the inspection it was determined the vessel was fishing in federal waters. The vessel did not have the required federal permits that would allow them to be compliant in federal waters. It was also determined the vessel was filleting black sea bass at sea and discarding the racks from the filleted fish. Summonses were issued to the vessel's owner and operator for violating the conditions of the fillet permit. The fishing in federal waters without the required permits was referred to the National Marine Fisheries Service, Office of Law Enforcement for enforcement action.

Multiple marine CPOs participated in conducting fixed gear and fishing inspections on the Bureau's patrol vessel Integrity. Several recreational and commercial lobster pot violations were found on the Axel Carlson Reef site including several single lobster pots and lobster pot trawls that were found deployed in the closed area. Other gear violations found were failure to properly mark gear with identification and failure to notify the Division prior to the deployment of pots in the 'all access zone'. During these patrols, one vessel was inspected offshore and found to be fishing for tuna while engaged in a tuna tournament without a valid Federal highly migratory species permit. Appropriate enforcement action was taken for all cases.

On June 4th, CPO Klitz was conducting a patrol in Barnegat Light, monitoring fishing activity on the inlet jetty. CPO Klitz made observations of two individuals leaving the area with heavy re-usable shopping bags and fishing equipment. Upon inspection, the two bags were found to contain 67 tautog for which the season is currently closed. All the tautog were under the 15-inch size limit and ranged from 6 inches to 14 inches. Summonses were issued to the two individuals, and they face penalties in excess of \$13,000.00.

## **2. Shellfisheries Council Reports**

- **Delaware Bay - B. Hollinger**

2023 Direct Market Program update: Staff reported to the Delaware Bay Section of the NJ Shellfisheries Council on July 11<sup>th</sup> that 55,254 bushels of oysters had been harvested over a total of 415 boat days at a CPUE of 133 bushels per day.

2023 Delaware Bay shell plant project update: The project started on July 11<sup>th</sup> and will continue until a minimum of 100,000 bushels are planted. Staff has expectations of surpassing the minimum with an additional 20,000 to 40,000 bushels.

At the July 11<sup>th</sup> Delaware Bay Section of the NJ Shellfisheries Council meeting, the Commercial Shellfish Leasing Agreement was discussed at length. Much of this discussion was guided by notes and comments from the July 10th Atlantic Coast Section of the Council meeting.

### 3. Legislative/Regulatory Reports – J. Brust

A spreadsheet of legislative items was provided in the meeting handouts. Bolded items are new items since the last update. Mr. Brust highlighted a few bills relating to marine fisheries:

- **A.5566** - Directs the DEP to establish a sonar testing program. The bill was introduced on June 5 and referred to committee in response to offshore wind and whale mortalities.
- **S.1833** - A hearing was held on June 6 to examine the impacts of NOAA's proposed changes to the North Atlantic Right Whale Strike Reduction Rule. A bill was introduced to prohibit changes to the speed restriction rule until mitigation measures are developed.
- **H.R.3980** – A bill was introduced to establish NOAA as an independent agency on June 9 and referred to committee.
- **H.R.4013** – A bill to establish a regulatory system for aquaculture in the EEZ was introduced on June 12 and referred to committee.

### 4. Atlantic States Marine Fisheries Commission (ASMFC) Report – J. Brust

A thank you was issued to Tom Fote for his time serving as New Jersey's governor's appointee to the Atlantic States Marine Fisheries Commission. Jeffrey Kaelin will be replacing Mr. Fote as governor's appointee for New Jersey and has received Senate approval. A letter is being drafted to complete the process.

- A motion was made for Council to draft an official letter of thanks and recognition to Tom Fote for his service at ASMFC. Motion by Mr. Rizzo, second by Dr. Donnelly. Motion carried unanimously.

### 5. Mid Atlantic Fisheries Management Council (MAFMC) Report- J. Brust

The MAFMC June meeting summary was provided in the meeting handouts. Mr. Brust provided a summary of specific meetings as follows:

- Reviewed and recommended no changes to the 2024 specifications for blueline and golden tilefish, but recommended modifying the recreational blueline tilefish season to align with the recreational black sea bass season.
- Reviewed and recommended no changes to the 2024 Atlantic surfclam and ocean quahog specifications.
- Reviewed and recommended no changes to the 2024 butterfish specifications.
- Reviewed and recommended no changes to the 2024 chub mackerel specifications.
- Discussed the range of alternatives for the Monkfish and Dogfish Joint Framework to Reduce Atlantic sturgeon bycatch and recommended that (1) dogfish should remain in the framework action, and (2) the Spiny Dogfish and Monkfish Committees should discuss alternatives based on new information provided by law enforcement.
- Received an update on commercial landings of unmanaged species.
- Recommended that black sea bass state allocations be included in the federal FMP, which has received some pushback from GARFO.

### 6. Committee Reports

Dr. Bochenek read the following report from the Offshore Wind Committee.

The Offshore Wind Committee met with advisors to hear updates from developers on several projects off the New Jersey coast on June 27. Representatives were present from Orsted's Ocean Wind 1 project and several developers from the New York Bight lease area.

Orsted provided an overview of the Ocean Wind 1 project off Ocean City. They are expecting the final approval (the record of decision) by early July. Several changes were made to their proposal based on results of the Environmental Impact Statement. Changes include the cable route through Barnegat Bay to avoid SAV impacts and a set back between the Atlantic Shores project to improve vessel transit. Mitigation measures include compensation to commercial, for-hire vessels, and shoreside businesses; a navigation and safety training program; cable routes that avoid prime fishing areas, and relocation of boulders encountered during trenching.

There were several concerns raised about in-water construction occurring over the summer and fall during the height of fishing and tourist season. Orsted staff responded that timing was constrained to times of year that would have the least impact to federally managed species (ex. right whale). One committee member commented about the concern of noise impacting the spawning of black sea bass in early summer since NMFS Sandy Hook Lab study showed that noise may impact black sea bass. Orsted responded that noise mitigation measures will be implemented.

One committee member commented that it would be difficult to identify impacts with only one year of data. Orsted responded that although the trawl survey will be limited to one year due to permitting delays, most of their survey programs will have multiple years of data.

One committee member requested more information on the navigation and safety program. This program will allow eligible vessel owners to have access to upgrades to radar and AIS systems and will begin about one month prior to construction.

There was a request for more information on the Barnegat Bay shellfish survey. This survey will target hard clams using a Before-After-Control design with two years of data before and after construction. The survey will use the same vessel and gear as the DEP hard clam survey for consistency. It was recommended that the survey also evaluate oyster populations that may be impacted.

Following the discussion with Orsted, the Committee received an overview of several projects from the New York Bight region. Developers included Empire Wind, Bluepoint Wind, Attentive Energy, Community Offshore Wind, Atlantic Shores, Leading Light, and Vineyard Mid Atlantic. These developers have been working collaboratively to streamline survey work and communication, including engaging with industry at multiple levels. Each developer provided a brief overview of their project. This was followed by an overview of their collaborative efforts. The goal of the collaboration is to streamline coordination among developers, communication with stakeholders, and transparency of offshore wind development in the NY Bight region. Examples of some of their initiatives to achieve these include a joint newsletter with updates, regular attendance at state and regional Council meetings, and evaluating

new methods for improving stakeholder input, such as a panel of recreational advisors instead of individual advisors for each project. The group is also developing an app for stakeholders to be able to view information from all projects in a central location. They expressed a desire to work collaboratively on fisheries monitoring plans and are hoping to streamline health and safety protocols to facilitate using industry vessels during development and operation.

One advisor asked how the mitigation fund is calculated and what amount of damage is expected to fisheries. One developer responded that the mitigation process is being developed by the states following guidelines developed by BOEM. The next step will be to acquire a single fund administrator to administer a claims-based process regionally. Another developer noted that currently the process can be different among states and even among projects, but that all parties are learning a lot and the process is evolving.

One advisor commented that it was good to see shoreside businesses being included for compensation consideration. He supported the idea of using a panel of recreational fishermen and recommended that the shoreside sector be included there, as well. He noted that there was a lot happening very quickly and they BOEM and the developers need expert advice from across the fisheries sector.

One advisor asked if any of the developers had considered horizontal wind turbines, but this was an engineering question that none of the fisheries representatives could respond to. He also asked whether any of the developers had experience with projects as large as those being proposed. His concern is that if a project goes under, any compensation and mitigation requirements would be lost. Several developers commented that their companies had relevant experience.

There was some debate between developers and the committee and advisors on how large the impacts to tourism would be. One of the developers commented that European countries with wind farms had not seen any impact to tourism. One of the advisors commented that a recent study in Cape May County determined there would be non-negligible impact and agreed to forward the reference following the meeting.

The meeting ended with a final question from an advisor asking what decision points developers still need information on that stakeholders can provide input that could result in change and improvements. Staff offered to forward the request to the developers to allow them time to consider the request and respond as appropriate.

- Dr. Bochenek commented that the committee would like to see a follow-up meeting with fewer companies to allow more time to ask questions and to receive more in-depth responses. Mr. Brust agreed.
- Mr. Rizzo asked who would be running the Barnegat Bay shellfish survey. Mr. Brust responded that it will likely be done by DEP staff with a DEP vessel so that it remains consistent with the DEP survey. He believes the survey is being funded by Orsted.

Mr. Wark read the following report from the Spiny Dogfish Committee.

The purpose of this meeting was to discuss a 59.4% reduction in the coastwide commercial quota for spiny dogfish during the 2023/24 fishing season (May 1-April 30).

NJFW staff provided advisors with historical effort trends over the past several years of the fishery. Additionally, staff presented Advisors with a tool that assisted in estimating when the 2023/24 commercial quota could be harvested based on daily trip limit modifications.

Based upon the 2023/24 spiny dogfish commercial quota reduction and current harvest of the commercial fishing year, Advisors recommended reducing the daily trip limit from 7,500 pounds per day to 4,000 pounds per day.

The Committee recommends the commercial daily trip limit for the 2023/24 commercial spiny dogfish fishery as provided in this report.

- Council voted unanimously to approve the daily trip limit change for the 2023/24 season.
- Motion to approve the Notice of Administrative Change for the spiny dogfish trip limits. Motion by Mr. Johnson, second by Dr. Donnelly. Approved by consent.

## **7. Old Business – J. Brust**

Last year, a paper with recommendations on methods to reduce diamondback terrapin bycatch mortality in the blue crab fishery was introduced to the Blue Crab Committee and advisors and distributed throughout the blue crab community. Walt Chew responded with written commentary that was included in the meeting handouts. Another Blue Crab Committee meeting will be scheduled in the future, pending further research to fill in data gaps/questions.

- Dr. Bochenek asked when there might be another Blue Crab Committee meeting to discuss this issue. Mr. Brust responded that before the next meeting can occur, both Marine Fisheries and the Endangered and NonGame Species Program are working to fill data gaps identified by the committee during the last meeting. Staff will then use those data to develop a new set of recommendations that protects terrapins but minimizes impact to the blue crab fishery.
- Mr. Hollinger asked how valid Mr. Chew's report is and is concerned about moving too quickly without having the information needed to make a rational, scientific decision. Mr. Brust replied that some points being made are valid and some are perspective. All things are being considered and there is a lot of work to carefully be done.
- Mr. Hollinger indicated that 2023 has not been a good year for crabbing and suggested that perhaps more than one year of sampling needs to be done to get a representative sample.
- Dr. Bochenek agrees that the ENSP whitepaper contained a lot of anecdotal information without supporting references. The science must come out before moving forward.
- Mr. Rizzo asked that Mr. Chew's comments be sent to the committee and advisors.

There is no update on the Marine Fisheries Council vacancies. DEP staff is working with the Commissioner's office to move as quickly as possible. Staff continues to request action on filling the two Council vacancies, but no decisions have been made.

- Dr. Donnelly commented that legislature and the Governor worked together for the appointment to ASMFC, so what is the hold up with appointments to Council. The ASMFC appointment shows that the system works, giving the impression that failure to appoint representatives to Council is intentional. Mr. Hollinger commented that, for the State Board of Agriculture, the hold up in appointments was with the Senate Judiciary Committee.
- A motion was made to send a letter to the Governor and/or the Senate Judiciary Committee to expedite the re-appointments to Council. Motion by Dr. Bochenek, second by Dr. Donnelly. Motion carried unanimously.
- Mr. Brust will coordinate with Shellfish staff to draft the same letter for their council to send.

An Offshore Wind Committee meeting will be held before the next MFC meeting. BOEM will present on a specified topic to the committee.

- Dr. Bochenek suggested reviewing the advisors list for the Offshore Wind Committee to evaluate participation and whether the inactive advisors can be replaced. Dr. Donnelly suggested a meeting of Executive Committee to discuss this topic for all committees.

Dr. Donnelly asked whether all states came into compliance with Georges Bank cod regulations. Mr. Brust responded that NJ has not changed regulations yet. Council previously voted to adopt whatever regulations NMFS adopts, but they have not published the final rule, so we don't know what the final regulations are yet. He indicated he thought NY was also going to adopt the new regulations but would double check.

Dr. Donnelly also asked whether all states came into compliance for striped bass. Mr. Brust responded that all states were in compliance. Mr. Kaelin mentioned that he spoke with the ASMFC Executive Director about how disappointing and unacceptable the process has been for implementing the emergency regulations.

Dr. Bochenek asked why charter boats can't obtain a permit to fillet their catch at sea like party boats can. Mr. Snellbaker responded that the permit is only available for vessels that hold 15 or more passengers. When the regulation was developed, there was concern that it would be easier for passengers on smaller vessels to conspire together and take advantage of the regulation. Dr. Bochenek requested a committee meeting to discuss the fillet permit regulations.

## **8. Public Comment**

Fred Akers brought to Council's attention that many tilefish anglers are unaware that they need a permit from NMFS to fish for tilefish. One of the conditions of the permit is reporting catch within 24 hours. Mr. Akers is concerned that outreach has been insufficient and the public is unaware of the tilefish regulations.

The meeting concluded at 6:22 pm. The next Marine Fisheries Council Meeting will be held on September 7<sup>th</sup> at 5:00 pm at the Atlantic County Library in Galloway.