

**Marine Fisheries Council Meeting
November 2, 2023**

Council Attendees:

Dr. Eleanor Bochenek
Dr. Patrick Donnelly
Barney Hollinger
Kevin Wark

Richard Herb
Walter Johnson III
Joe Rizzo
Robert Rush

Council Absentees:

Jeff Kaelin

DEP and Division of Fish and Wildlife Attendees:

Joseph Cimino – Administrator, Marine Resources Administration (MRA)
Jeffrey Brust – Chief, Bureau of Marine Fisheries (BMF) *
Jason Snellbaker – Deputy Chief, Bureau of Law Enforcement (BLE) *
Michael Celestino – Research Scientist, MRA
Heather Corbett – Supervising Biologist, BMF *
Brian Neilan – Principal Biologist, BMF
Jenny Tomko – Principal Biologist, BSF
Maryellen Gordon – Principal Biologist, BMF
Linda Barry – Research Scientist, MRA
Tyler Harris – Biologist Trainee, BMF
Jessica Daher – Program Specialist, MRA
Amber Johnson – Senior Biologist, BMF
Jonathan Klotz – Technician, BMF

Guest Speakers:

Dr. Richard Cody, National Marine Fisheries Service

Public Attendees:

Greg Cudnik
John (Jack) Fullmer
Steve George
Nick LaTour
Capt. Jason Moore
Dman Extreme

Benjie Swan
Nick Verducci
James M Parker III
Brian Williams
Sarah Hudak

This meeting was held 100% virtually. Notice of the Marine Fisheries Council (Council) meeting was filed with the Secretary of State and delivered to the designated newspapers of the agency, the Newark Star-Ledger, and the Press of Atlantic City on October 19, 2023. Chairman Herb called the meeting to order.

Approval of Minutes

Minutes from the September 7th meeting of the Council were presented. Dr. Bochenek asked if her socioeconomic comments from the prior meeting were properly reflected in the minutes. Mr. Brust confirmed they were correctly reflected. Minutes were approved without revision. Motion made by Dr. Bochenek and seconded by Mr. Rush. Motion carried unanimously.

Enforcement Report – J. Snellbaker

CPO Capri and Lt. Harp responded to a complaint of a gillnet being unlawfully set across a lagoon in Little Egg Harbor Twp., Ocean County. The officers arrived and observed the net's floats stretched completely across the lagoon. After a lengthy surveillance the suspected individual began retrieving the net from the water at which time CPO Capri and Lt. Harp made the apprehension. The suspect was issued 11 summonses, which included charges related to not only the gillnet violations but also additional charges involving illegal use of miniature fykes. More than 70 fish and other marine organisms were released from the net upon apprehension.

CPOs Raker, Tomlin, and Lt. Petruccelli inspected a party boat in Fortescue and found patrons with multiple weakfish violations. Six of the eight patrons on board exceeded the one weakfish per day limit by up to 14 fish. The vessel violated provisions of the special fillet permit by filleting many of the weakfish where the remaining parts were smaller than the required minimum size limit. The vessel also did not have a valid NJ saltwater registry for this year. Numerous summonses were issued to the patrons and the captain of the party boat.

CPOs Raker and Tomlin conducted two at-sea boardings of Cape May County-based charter boats that were on a for-hire trip in Federal waters, and in possession of black sea bass and summer flounder without a federal permit. The cases were referred to the National Marine Fisheries Service for enforcement action.

CPOs Szalc, Raker, and Lt. Petruccelli made an early morning apprehension of two men in Atlantic City with 15 undersized Atlantic striped bass. All 15 striped bass in the men's possession were between 20 and 26 inches. The current striped bass size and possession limits are one fish per person per day at 28 to 31 inches. Upon contact by the CPOs, one of the men threw several striped bass in the water attempting to avoid apprehension. The men were charged with the undersize and over the limit violations, as well as wanton waste of multiple striped bass, interference, operating a power vessel without valid registration, and other boating safety violations. One of the two men apprehended in this case was also apprehended in an incident occurring in March of 2020 where he was found to be in possession of 66 undersize striped bass.

Shellfisheries Council Reports

- Delaware Bay - No report
- Atlantic Coast - No report

Bureau of Habitat and Shellfisheries Report

No report

Legislative/Regulatory Report – J. Brust

Mr. Brust informed Council that a spreadsheet of legislative items were provided in the meeting handouts. Bolded items are new items since the last update. Mr. Brust stated there was no new state legislation, but highlighted the following federal bill pertaining to marine fisheries and aquaculture:

- H.R. 5944 - To require the Administrator of the National Oceanic and Atmospheric Administration (NOAA) to establish an assessment program for offshore aquaculture, to establish Aquaculture Centers of Excellence, to require a study and report, and for other purposes.

Mr. Rush asked if there was any proposed movement of aquaculture to offshore and whose jurisdiction ocean/offshore-aquaculture would fall under. Mr. Hollinger responded that the jurisdiction would be dependent on the species being grown and the distance from shore. Mr. Hollinger continued that the majority of the permits (about ninety) are currently bottom culture. Mr. Brust stated this process would be a heavy permitting burden and the state will look to the federal government for further guidance.

Mr. Brust provided a regulatory update to the Council on a rule proposal that would give the agency more flexibility in using notices of administrative change (NOAC). This action allows the state use NOAC to remain in compliance when a regulatory body (ASFC, ACCSP, or NMFS) requires regulatory change, which typically has a shorter implementation deadline than the state's current process. Mr. Brust continued that this proposal is still a draft and currently undergoing legal review. The regulatory update was not made available to Council for this meeting, but Mr. Brust offered to provide the draft to Council by request, otherwise it would be provided after the legal review process.

Dr. Donnelly asked if the proposed change to notices of administrative changes could only be used to remain in compliance with a regulatory body or if it would allow Council the flexibility to choose to go out of compliance, if they chose to do so. Mr. Brust clarified that most criteria we discuss going out of compliance for can already be accomplished by notice (size, season, and bag limits). Also, it is possible to just not adopt the rules being required by the management bodies. He will check with the legal team about the process for when we are in compliance and want to go out of compliance. Mr. Hollinger requested a copy be sent to Council for review when it is available.

Marine Recreational Information Program (MRIP) Fishing Effort Survey (FES) Preliminary Results – Dr. Richard Cody

Dr. Richard Cody, Fisheries Statistics Division Chief for NOAA, presented the preliminary findings related to the MRIP Fishing Effort Survey to Council. The FES consisted of two pilot studies. The first study explored the impact of changing the FES from a two-month wave questionnaire to a one-month wave. Preliminary results suggested potential benefits in terms of timeliness and data resolution. The second study focused on how to order the questions on the survey, with early indications that altering the order could lead to lower estimates overall.

Dr. Cody reiterated that these pilot studies have small sample sizes and are not intended for management purposes yet, but follow up studies are planned in 2024 to further investigate the presented findings and discusses the challenges in interpreting, the short-term economic impact versus the long-term health of the fishery and implementing changes to the survey design. The earliest implementation would be in 2026.

Dr. Bochenek asked what states the upcoming 2023 studies would cover and if they would be limited in scope like the pilot studies. Dr. Cody confirmed the next studies cover anywhere the FES is currently conducted, for comparison purposes.

Mr. Rush asked how Council should explain to constituents that cuts resulting from the MRIP FES could be based on information that might now be considered biased and flawed. Dr. Cody addressed potential errors in the survey data and acknowledged that all surveys are subject to sampling and non-sampling errors. He noted that this bias will generally result in a change in scale of harvest, but not a change in trend, so is not expected to have a large impact on stock assessment results, although the results will vary by species. However, scale can affect allocation among sectors, but it is too early to determine that those affects will be. It is difficult to answer the question of how to explain the use of these data until the full survey results are finalized, but he expects NMFS will have additional guidance in the future.

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

Mr. Brust provided the following updates from the ASMFC Meeting.

- Herring Management Board – The Board approved quota seasons for Area 1A.
- Lobster Board – The Board reviewed the stock assessment for Jonah crab which looks stable currently but is indicating potential future concerns. Changes were made to the Gulf of Maine (GOM) lobster fishery.
- Tautog Management Board – The Board discussed concerns about the commercial tagging program for tautog. New York requested a pause on the program for evaluation of the current tags, citing damage to the product. Based on input the Board will continue with the tagging program in its current form, but the use of new tags will be explored.
- Horseshoe Crab Board – The Board approved the quota for the Delaware Bay region of 500,000 males only. Although they were presented with the potential of a female harvest option the Board opted for an exclusively male harvest. The Board has also initiated a process to convene a workshop with a wide range of stakeholder groups to discuss and develop management goals and objectives for the Delaware Bay population.
- Menhaden Board – The Board provided updates on collaborative work on a multi-species model to develop ecosystem reference points. This update is considering improvements to the current model, such as adding more environmental factors including new predators. The Board also received an update from Virginia regarding proposed menhaden research in Chesapeake that could be funded by the Virginia legislature.
- Coastal Pelagics (Cobia) – The Board chose status quo management measures cobia. This decision came after potentially changing state allocations, due to some state exceeding allocations and

some being below. Status quo was chosen based on the upcoming stock assessments and potential impacts from MRIP changes.

- Coastal Sharks - NOAA proposed 2024 specifications for large coastal shark and blacknose shark as well as proposing some default regulations for future years to streamline the annual process, in hopes that the fishery opens on January 1st without having to take further action.
- Striped Bass Board – The Board approved Addendum II for public comment. Management options are presented for recreational size limits (including some with mode splits, commercial quota limits, and how management measures can be implemented during the rebuilding period. New Jersey has requested one public hearing via webinar, with the possibility for adding in-person meetings. The Board also received an update on the Albemarle Sound Roanoke River Striped Bass stock in North Carolina. NC has implemented a full moratorium due to a significant decline and several years of poor recruitment.
- Policy Board – Conservation equivalency guidelines were updated to add more formal language. Joe Cimino was elected chair of ASMFC and will be serving for the next two years.

Mr. Rush recommended hosting at least one in-person hearing in addition to the virtual meeting for striped bass to get the most accurate representation from interested parties. Mr. Brust agreed that an in-person meeting would be beneficial and asked Council to think about potential dates and locations.

7. Mid-Atlantic Fishery Management Council (MAFMC) Report – J. Brust

Mr. Brust provided the following updates from the MAFMC Meeting.

- Squid, Mackerel, Butterfish Committee – The Committee implemented a volumetric hold baseline requirement, with the intention of restricting capacity increases in the fishery. Each participant vessel hold is set at their current baseline and future improvements to hold capacity can only be up to 10% above that baseline.
- A joint framework action between the Mid-Atlantic Council and the New England Council addressed reducing sturgeon bycatch in the monkfish and spiny dogfish fisheries. The scoping document was approved for public comment with final action expected in April 2024.
- Updates on the list of risk factors for an ecosystem approach to fisheries management risk assessment. The new risk assessment is planned for spring, considering environmental risks to regional fisheries. The last assessment was in 2017 and the criteria have been updated.
- NOAA provided an update on recreational tilefish permitting. A request was made for more effective outreach because many believe the number of participants is higher than the number permitted individuals.
- Stock Assessment Updates - Spiny dogfish is above the biomass target and overfishing is not occurring. The Atlantic mackerel stock is still overfished but overfishing is not occurring. The Atlantic mackerel stock remains in a rebuilding period.
- BOEM – An update was provided on a few projects including impacts to the surf clam, ocean quahog, and sea scallop fisheries and investigating use of nature inclusive design materials around the turbine foundations to promote natural growth.

- New York State is updating their offshore wind master plan to include evaluating the feasibility of additional offshore (40-50 miles offshore) lease areas for offshore wind, since the current lease areas off New York are not enough to meet their energy production goals.
- Northeast Fisheries Science Center (NEFSC) – Because of recent concerns over availability of the NEFSC vessel used for the offshore trawl survey, NMFS started developing contingency plans on how to complete surveys if the vessel is not available. A presentation was also provided on the effect fish size has on spawning potential with evidence suggesting that larger fish could be more successful spawners. The implication is that a given spawning stock biomass made up of small fish is not as productive as the same biomass of larger fish which may impact management decisions.

Dr. Bochenek asked if he had any information regarding the summer flounder spawning study presented at the MAFMC meeting. The presentation in question showed larger summer flounder spawned twice a year, once in spring and once in the fall. This was different than the previously thought one spawning event per year in the fall. Mr. Brust did not see the presentation, but there is the potential to have the author present these findings directly to the Council in a future meeting.

Mr. Wark expanded on the monkfish/spiny dogfish update noting that gear (nets to reduce sturgeon bycatch) and the data sheets are being distributed to New Jersey collaborators. He added it is going to be a difficult situation for the commercial sector, with gill netters feeling the restrictions first, followed by the trawl fisheries. Mr. Wark also stressed the importance on the continuing work on these issues and will keep Council updated.

Marine Fisheries Bureau Report

No Report

Committee Reports

Mike Celestino presented a summary of the Striped Bass Advisor Committee meeting, which was held Nov 1, 2023. Advisors were asked whether NJ should vote to go out of compliance with the emergency coastwide regulation. To provide background, staff presented a summary of the results and complexities of NOAA's pilot fishing effort study, reviewed specific socioeconomic considerations, and presented a potential moratorium timeline. At the end of the discussion, there was broad agreement from advisors to stay in compliance with the emergency action.

Staff then presented a range of possible size limit options for the Striped Bass Bonus Program for 2024. Advisors provided guidance on other options, such as a trophy fish option. It was noted that a trophy fish option might increase program participation, and some ways to limit expansion were discussed.

Discussion also focused on reduced enforceability of certain options and the ability of options to protect certain year classes. Ultimately, no clear consensus was reached on a preferred option, but there was strong support to continue the SBBP and also to maintain the same regulations for all fishing modes. Based on these comments and input from tonight's meeting, staff will make a final decision on options to include in the proposal to ASMFC.

As previously requested by Council, staff provided an overview of socioeconomic data that should be considered when selecting striped bass regulations. Addendum II to the striped bass FMP details how

different size limits may affect angler satisfaction and behavior, which in turn can affect stock health and sustainability. In addition, striped bass socioeconomic data from a coastwide study (Southwick 2019) found striped bass angling in NJ generates \$1.6 billion annually, accounting for approximately 20% of the coastwide total. This suggests a moratorium could be economically damaging.

Dr. Donnelly read the Summer Flounder Advisory Committee meeting report to discuss trip limit modifications to the 2024 fishery to Council. There is approximately 600,000 pounds of summer flounder available for the final season of the 2023 commercial fishery. Advisors recommended trip limit changes to allow full utilization of NJ's remaining quota during the remainder of the year. Additionally, advisors were presented with the preliminary 2024 commercial summer flounder quota for New Jersey of 1,470,127 pounds, which reflects a 42% reduction relative to the 2023 fishing year. The Committee's preferred seasonal trip limits for the 2024 commercial fishing year were presented to the Council.

Advisors also raised concerns over a regulation prohibiting commercial trawl vessels from operating within two miles from the coastline. Advisors recommended that the state regulation be rescinded to allow for fishing within two miles of the coast.

The committee recommended seasonal trip limits were recognized as a motion with an automatic second. Motion passes with no objections and one abstention.

Mr. Rush read the report from the Black Sea Bass Advisory Committee meeting and discussed trip limit modifications to the 2024 fishery to Council. There is approximately 200,000 pounds of black sea bass available for the final season of the 2023 commercial fishery. Advisors recommended not modifying current trip limits at this time. Advisors were presented with the preliminary 2024 commercial black sea bass quota for New Jersey of 1,188,600 million pounds, which reflects a 25% increase relative to the 2023 fishing year. The Committee's preferred trip limits for the 2024 commercial fishing year were presented to the Council as a motion with an automatic second. Motion passes with no objections and one abstention.

10. Regulatory Actions – J. Brust

Mr. Brust discussed the conditional approval of opening the scup recreational winter fishery from January to April. The decision to open federal waters will not be made by MAFMC until mid December. A poll was distributed to NJ recreational scup advisors asking whether NJ should open Jan-April, if allowed. The majority of respondents would prefer to have the season stay closed if it would negatively impact the summer season. Dr. Bochenek asked if states would be getting more fish to account for the winter opening. Mr. Brust responded that the mechanics of accounting for winter harvested fish were uncertain, but that it was unlikely NMFS would allocate additional quota to account for the winter fishery. Mr. Cimino clarified that there is no state-specific accounting required and there has been no discussion on having to "pay back" fish harvested during the winter fishery, so there doesn't seem to be a downside to opening. Council agreed that if there are no pay back provisions then it could only benefit NJ anglers and for hire operators; however, there was concern about approving the winter fishery prior

to the MAFMC discussion in December. Staff indicated that they could follow up with Council following the MAFMC meeting to confirm whether the NOAC should be sent to Trenton for approval.

A motion was made to move forward with a Notice of Administrative Change pending future decisions by MAFMC. Motion by Dr. Donnelly, second by Dr. Bochenek. Mr. Rush asked what the specific provisions of the NOAC are. Mr. Brust responded that the size limit and possession limit in the NOAC are the same as the 2023 regulations, but these are just placeholders until the MAFMC decision and can be updated before being submitted. The Council acknowledged the need to wait for the MAFMC meeting in December and expressed openness to revisiting the decision in January. The motion passed unanimously.

11. Old Business – J. Brust

Mr. Brust presented the 2024 Marine Fisheries Council meeting dates for finalization. Chairman Herb clarified that staff was not able to confirm meeting locations because the venues don't finalize their own calendars until the new year, but the listed locations are consistent with previous years. Motion to approve the schedule by Dr. Bochenek, second by Dr. Donnelly. Motion passes unanimously.

Council vacancies are moving forward and names are currently undergoing background checks by the Governor's office. Candidates will then need Senate approval before final appointment by the Governor.

Dr. Bochenek indicated that she received a request from the Governor's office to complete the appointment paperwork. Mr. Brust confirmed a request was made to the Governor's office to authorize reappointments of Council members currently serving on expired terms at the same time the request was made to fill the two Council vacancies.

Mr. Brust presented the upcoming advisory committee meetings and how to prioritize them. Summer flounder and black seas bass recreational meetings are priority and will be scheduled soon.

Regarding the Executive Committee meeting, Dr. Donnelly addressed Council on the lack of advisor participation for some important committee meetings. He suggested Council consider replacing advisors who don't participate if repeated absenteeism continues to be an issue. Council agreed and a potential Executive Committee meeting will be scheduled for January to discuss this matter further.

Dr. Bochenek confirmed the Offshore Wind Committee meeting is a lower priority than setting recreational regulations and can be pushed until January.

Dr. Bochenek asked about a previous request from Council to work with researchers at Montclair University on a study investigating the impacts of offshore wind on recreational fishing and tourism. The survey was just released, and Council never provided input on the survey. Mr. Brust indicated that he had passed Council's request to the NJ Offshore Wind Research and Monitoring Initiative Steering Committee who funded the project never received a response. Dr. Bochenek indicate that she had concerns with the

final survey. Dr. Donnelly agreed that the survey questions seemed to be written by people who had no knowledge of recreational fishing.

12. New Business

Mr. Rush reported to Council that their constituent charter captains are experiencing significant trip cancellations due to the current striped bass regulations. Dr. Bochenek added that she had heard similar concerns from for hire operators in the northern part of NJ.

13. Public Comment

Brian Williams (Bad Fish Charters, Ocean City) commented that he loses business due to a lack of striped bass abundance, not because of regulations limits. He is primarily a catch and release charter operator and is not impacted by size and possession limit regulations. He stressed the importance of saving dwindling year classes right now and to stop the mindset of managing for yield and focus instead on managing for abundance. He also encouraged improved outreach on proper fish handling and release techniques to minimize discard mortality. NOAA recently released a sea turtle handling and resuscitation handout that he referenced as an example.

Mr. Williams commented that small fish are lacking due to small year classes and suggested stopping the Bonus Program until striped bass is no longer overfished. He also recommended against any type of sector separation and suggested the captain and mate bag limit should be eliminated. He suggested more enforcement is necessary to address the amount of effort that participates in the striped bass fishery. Mr. Williams closed with a call to implement a fishing license in New Jersey as an attempt for better regulation, enforcement, and funding.

Meeting concluded. Next meeting is January 4, 2024 at 5:00 pm at the Atlantic Country Library, Galloway, NJ.