

**New Jersey Marine Fisheries Council Meeting
July 11, 2024**

Council Attendees

Dr. Eleanor Bochenek *	Joe Rizzo *
Dr. Patrick Donnelly *	Kevin Wark
Warren Hollinger *	Richard Herb *
Jeff Kaelin *	Walter Johnson III *

Council Absentees:

Robert Rush

DEP and Division of Fish and Wildlife Attendees:

Joseph Cimino – Administrator, Marine Resources Administration (MRA)*
Jeffrey Brust – Chief, Bureau of Marine Fisheries (BMF)*
Brian Scott – Captain, Bureau of Law Enforcement (BLE)*
Michael Celestino – Research Scientist, MRA *
Heather Corbett – Supervising Biologist, BMF *
Jeff Normant – Supervising Biologist, Bureau of Marine Habitat and Shellfisheries (BMHS)
Maryellen Gordon – Principal Biologist, BMF
Jenny Tomko – Principal Biologist, BMHS
Jennifer Pyle – Senior Biologist, BMF
Jamie Darrow - Senior Biologist, BMF
Matt Heyl – Senior Biologist, BMF
Brendan Harrison – Senior Biologist, BMF*
Amber Johnson - Senior Biologist, BMF
Samantha MacQuesten – Assistant Biologist, BMF
Pat Barker – Senior Wildlife Worker, BMF*

Public Attendees:

Peter Himchak	Benji Swan *
Wayne Reichle	John DePersenaire *
Virgil Zetterlind	Leana Amezquita *
James Dopkin	Benji Swan*
Ken McDermott *	Fred Akers*
Jim Gilmore *	John DeBona

* Denotes in-person attendance as opposed to virtual attendance (This includes MFC, staff, public)

The meeting was called to order. Notice of the Marine Fisheries Council (Council) meeting was filed with the Secretary of State on June 25, 2024. Acting Chairman Herb began the meeting with the Pledge of Allegiance.

Approval of Minutes

Meeting minutes from the May 16th meeting of the Council were approved without revision. Motion made by Dr. Bochenek and seconded by Dr. Donnelly. Motion carried with one abstention.

1. Enforcement Report – B. Scott

In May, CPO Tomlin charged a commercial fishing vessel operator after ascertaining violations against New Jersey's Possession in Excess of Daily Limit License. New Jersey's Possession in Excess of Daily Limit License allows commercial fishing vessels to enter New Jersey's ports and exceed trip limits with summer flounder and/or black sea bass during open and closed seasons. The license also allows vessels that are not permitted to land summer flounder and black sea bass in New Jersey to enter port with and offload other species like scup and squid while retaining summer flounder and black sea bass on board for sale in other states. The vessel operator must notify and declare the species and quantity of fish along with their intentions prior to entering State waters. The vessel must be properly licensed in the intended landing state, and the fish must be lawfully landed and sold in the intended state.

The vessel in question did not have a New Jersey black sea bass landing permit, and New Jersey's season was closed. The operator landed a trip limit of scup in Cape May and declared his intention for 1,000 pounds of black sea bass onboard the vessel to be landed and sold in Virginia. When the vessel left New Jersey, it immediately went back out scup fishing and returned to Cape May a couple of days later and offloaded additional scup with the original 1000 pounds of black sea bass remaining on board as well as an additional 400 pounds of black sea bass intended for Virginia. The vessel then went back out fishing again and when it returned to Cape May a third time to offload scup, it returned without any of the black sea bass on board.

Upon interview, the operator admitted that it was not financially beneficial for him to transport only 1,400 pounds of black sea bass to Virginia, so he discarded the fish at sea. The operator was charged with unloading fisheries products from the vessel without the prior approval of the department within a seven-day period from the initial offload and failing to provide records documenting the sale of the excess black sea bass to a dealer in Virginia.

In June, Lt. Moscatiello received information that a group of fishermen were keeping tautog during the closed season at the Point Pleasant Canal. When the officer arrived, he located a vehicle with a group of fishermen trying to repair a flat tire. During the initial inspection, the fishermen claimed they had not kept any fish, and none were located. Lt. Moscatiello determined that there was

another vehicle involved and was able to convince the second vehicle to return to the scene. Upon arrival, Lt. Moscatiello located a total of forty-two tautog that were kept during the closed season. All forty-two were under the legal minimum size of 15 inches. CPOs Bahrle and Woerner, who just cleared from boat patrol, arrived on scene to assist Lt. Moscatiello document and process the violations. Summonses for the possession of forty-two closed season tautog and forty-two undersized tautog were issued to the fishermen. The tautog as well as eight summer flounder from CPO Bahrle and Woerner's boat patrol were donated to a local food bank.

- Dr. Donnelly asked if BLE is using drones for surveillance because drones have been seen flying over recreational fishing boats off Deal and Elberon. Captain Scott confirmed that his agency is not currently using drones but they have received complaints regarding commercial drones flying over boats while they are fishing. Mr. Johnson mentioned that there is a Bill in the Assembly that will allow DEP agencies to use and procure drones.

2. Shellfish Council Reports

a. Delaware Bay – B. Hollinger

The Delaware Bay Shellfish Council meeting was held Tuesday night. Mr. Hollinger mentioned that shell planting started today, the high mortality beds are closed, and the quota this year is smaller than in previous years.

b. Atlantic Coast – W. Johnson

No report.

3. Shellfish Bureau Report – J. Normant

No report.

4. Whale Alert Overview – V. Zetterlind

Mr. Zetterlind from Conserve.iO provided an update regarding an app that has been developed called Whale Alert. The app is funded by the International Fund for Animal Welfare through the North Atlantic Right Whale Program. It was originally released in 2012. It is a free mobile app to disseminate sightings and other information about large marine mammals to end users (public, boaters, fishers, etc.). Sightings can be reported by the public, trusted observer networks, aerial surveys, social media, and acoustic systems.

- Dr. Bochenek asked if there are many users in New Jersey reporting sightings. Mr. Zetterlind responded that the numbers are increasing and the offshore industry, beachgoers, and Woods Hole gliders have reported sightings most frequently off New Jersey.

5. Legislative/Regulatory Report – 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 the following state-specific bills:

- S1354 – Concerns removal of abandoned vessels; appropriates \$25 million.
- A4014 - Permits DEP officers to use drones.

Mr. Brust continued to highlight the following federal bills:

- H.R. 8508 – a bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to reauthorize the bycatch reduction engineering program and establish the Bycatch Mitigation Assistance Fund.
- H.R. 8507 – a bill to provide for the designation of areas within which fishing activities carried out using bottom trawls may occur.
- H. Res. 81 - a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the National Marine Fisheries Service relating to "Endangered and Threatened Wildlife and Plants; Regulations for Interagency Cooperation".
- H. Res. 85 – a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the National Marine Fisheries Service relating to "Endangered and Threatened Wildlife and Plants; Listing Endangered and Threatened Species and Designating Critical Habitat".
- H.R. 529 – the “Extending Limits of U.S. Customs Waters Act”, to extend the customs waters of the United States from 12 nautical miles to 24 nautical miles from the baselines of the United States, consistent with Presidential Proclamation 7219.
- H.R. 8862 – a bill to reauthorize and amend the Magnuson-Stevens Fishery Conservation and Management Act, and for other purposes.
- H.R. 8788 – a bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to establish the Fisheries and Ecological Resilience Program and to direct the Comptroller General of the United States to submit to Congress a report on the competitiveness of domestic seafood producers in domestic and global seafood trade.
- H.R. 8750 – a bill to designate the exclusive economic zone of the United States as the "Donald John Trump Exclusive Economic Zone of the United States".
- H.R. 8705 - the “Fisheries Data Modernization and Accuracy Act of 2024”, a bill to require the Administrator of the National Oceanic and Atmospheric Administration to reform the Marine Recreational Information Program of the National Marine Fisheries Service, and for other purposes.
- H.R. 8704 - a bill to require the Secretary of Commerce to establish a grant program to foster enhanced coexistence between ocean users and North Atlantic right whales and other large cetacean species.

Mr. Kaelin asked if the Judiciary Committee adjourned prior to taking action on the new Council appointees (Hueth and Tiedemann). Mr. Brust confirmed that the Senate has adjourned for the summer.

Mr. Kaelin mentioned that Mr. Hueth will be sworn into the Mid-Atlantic Fishery Management Council (MAFMC) to replace Mr. Nowalsky. Mr. Johnson said there is a chance the Senate could return in August.

Mr. Brust mentioned that at the previous meeting the Council had asked if New York had implemented regulations for Atlantic cod that were requested by the New England Council. Mr. Brust confirmed that New York did implement the regulations.

Mr. Brust gave a presentation on a Marine Fisheries Rule Proposal under development. The Rule Proposal includes the following:

- Require commercial fishermen to V-notch a lobster immediately in LMA 5.
- Give spotted seatrout its own regulatory scheme, separate and distinct from weakfish.
- Allow that persons who hold or hide illegally harvested fish on behalf of a recreational angler can be charged for size/season/possession violations.
- Clarify which monetary penalties are applicable to different violations and increase the minimum penalty and range of penalties.
- Require immediate release of prohibited sharks, without removal from the water.
- Include wanton waste of fish as a violation with a penalty up to \$100.
 - o Dr. Bochenek asked for clarification on what constitutes “wanton waste”. Mr. Brust provided an example of an angler killing a spiny dogfish before releasing it so that it doesn’t take the bait again.
- Change “Spearfishing” section title to more accurately reflect the rules under it and maintain consistency with other sections.
- Require the use of buoys/flags for lobster-fish-conch (L-F-C) pots.
- Require use of non-floating lines (consistent with Crab and Lobster Management) for L-F-C pots.
- Require that all buoys, flags, and lines for L-F-C pots shall meet the requirements of NOAA Bottlenose Dolphin Take Reduction Plan.
- Clarify the prohibition of fixed gear on the New Jersey Special Management Zone reefs in federal waters.
- Include the boundaries for the Manasquan Inlet Reef and the Delaware Bay Reef.
- Clarify that neither new reef has full access zone.
- Prohibit at sea transfers of harvested fish.
 - o Mr. Kaelin asked if this affects the menhaden purse seine fishery which regularly practices transfers of fish from catch to carrier boats. Mr. Brust clarified that this is only for the fluke and black sea bass commercial fisheries from one permitted harvester to another.
- Create quota based commercial fishery for Delaware Bay shad (17,251 lbs.).
- Require fish to be containerized in a manner that allows a Conservation Police Officer to weigh and inspect fish.
- Rename the Striped Bass Bonus Program (SBBP) “permit” as a “permit/tag”, describe how the permit/tag should be attached to the fish, and modify reporting requirements.
- Allow the Commissioner to modify SBBP management measures by notice to maintain compliance with a fishery management plan approved by ASMFC.

Multiple members of the Council expressed concerns about the process of the rule proposal including expressing frustration that they have not been given the opportunity to review or add items to the proposal and the lack of Committee meetings held for some of the changes included in the proposal. Mr. Rizzo would like to add a requirement for recreational gear (crab pots, eel pots, conch pots, etc.) to be tagged with identification, and multiple members would like to review the proposal and allow an opportunity for public comment. Mr. Johnson explained that the public needs to be involved more to improve public trust in the process. Dr. Donnelly recommended that the proposal be held for one meeting cycle to allow for Mr. Rizzo's addition and for the Council to review the proposal. Mr. Brust agreed and said that it will be added to the agenda for the next Council meeting.

A motion was made to have the Council review the current rule proposal at the September 2024 meeting to allow more time for public comment. The Council will be provided with additional information about the rule proposal. Motion by Mr. Johnson, seconded by Dr. Bochenek. Motion passes unanimously.

Mr. Brust continued with a presentation about spotted seatrout regulations to separate from weakfish. The Executive Committee last met in March 2024 and recommended the following recreational regulation for spotted seatrout:

- 12" minimum size with no possession limit and no closed season (consistent with Delaware regulations).

At the May 2024 MFC meeting, the Council voted to postpone the vote on the Executive Committee motion for the recreational spotted seatrout measures. For the commercial fishery, Mr. Wark indicated status quo commercial regulations would be sufficient. Council agreed to keep the commercial regulations status quo.

- Mr. Johnson and Mr. Brust confirmed that if the motion is passed, it will not require any payback or approval from ASMFC.

Public Comment:

- Ken McDermott stated that he was involved with seeking a moratorium on weakfish when the 1-fish bag limit was imposed but it was not intended to include spotted seatrout. He mentioned that the fishery is fantastic in the fall. He recommended at least a 4-fish possession limit, 12 inch minimum size.
- John Depersenaire thanked the Council and staff for working on the spotted seatrout regulations. He commented that it is great for anglers to be getting something back. He stated full support for the motion.

The motion to approve the spotted seatrout recreational measures of 12" minimum size, no possession limit, and no closed season was passed unanimously.

Mr. Kaelin asked if the Council agrees by consent to make no changes to the commercial spotted seatrout regulations. Mr. Brust confirmed that if changes are desired by the Council, then a motion must be made. Mr. Wark explained that the weakfish fishery has waned and that the markets generally desire a larger fish. He asked if there's data on how much is landed. Mr. Brust stated that only about 25% of trips are reaching the trip limit of 100 lbs. Mr. Wark doesn't want to dismiss anyone from the fishery but is unaware of any commercial fishermen, at least in the ocean, that would be affected by it. Mr. Johnson and Mr. Cimino pointed out that there is a benefit to keeping the regulations consistent with weakfish due to the frequency of mixed catch. Dr. Donnelly suggested to postpone finalizing the commercial spotted seatrout regulations until the September meeting to allow time for more public comment. Mr. Wark said he will reach out to his contact in the Delaware Bay.

6. Atlantic States Marine Fisheries Commission (ASMFC) Report – H. Corbett

No report.

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

Mr. Brust provided a handout of highlights in the meeting materials.

Mr. Brust mentioned that the MAMFC recognized Mr. Nowalsky as a departing member after serving for 9 years. He will be replaced and sworn in by Mr. Hueth at the August meeting.

- Mr. Johnson asked how the new Overfishing Limit (OFL) Coefficient of Variation (CV) Guidance Document will affect black sea bass. Mr. Celestino responded that it shouldn't affect black sea bass but it is expected to affect summer flounder and could result in lower recreational harvest limits and commercial quotas. Mr. Cimino reiterated that the other species already have high levels of uncertainty so it will not impact them.

8. Marine Fisheries Bureau Report – J. Brust

Mr. Brust mentioned that the Marine Digests have been shipped and distributed to bait & tackle shops.

Mr. Brust stated that the "Attention Angler" regulation sheets have been translated into Spanish and Mandarin. They have been distributed throughout the state and will be posted online.

Mr. Brust announced that Linda Barry will be retiring from the Marine Resource Administration (MRA) on August 1. Mr. Brust expressed thanks and gratitude for all her time, effort, and contributions while working for MRA.

Mr. Harrison gave a presentation on the Striped Bass Bonus Program (SBBP). The presentation included a summary of 2023 participation and harvest. The presentation included a breakdown of Bonus harvest and striped bass catch by location as well.

- Mr. Rizzo asked why the SBBP cannot start earlier in the year. Mr. Harrison responded that from a staff and administrative standpoint the May 15 opening day allows staff to finalize

data from the previous year and issue permits for the upcoming season but if the Council is interested in changing the opening day of the SBBP it is something that can be considered. Mr. Brust mentioned that it should be discussed by the Striped Bass Committee and it would need to be approved by ASMFC if we wanted to lengthen the season. Dr. Donnelly praised the Bureau for continuing the SBBP and expressed how important the program is because it allows for-hire boats and recreational anglers to keep fishing, especially at times when other species' seasons are closed. He said the presentation validated his thoughts and experience with the striped bass fishery last fall in the northern part of the state.

9. Committee Reports

Mr. Celestino gave a presentation about the Summer Flounder (Angler Satisfaction) Survey. The presentation included a draft outline and overarching questions for the sub-committee and Council to take into consideration when drafting the questionnaire. Examples include how they intend to use the results; whether the survey should include specific regulatory options vs general characteristics of the fishery; and what response rate and/or demographic representation might raise concerns about utility of the results.

- Dr. Bochenek expressed frustration about the process and said there is a lack of communication because she was not aware the subject would be discussed tonight. Mr. Brust reiterated that at the May Council meeting it was mentioned that staff would provide an update tonight.
- Mr. Rizzo stated that he would like the presentation available for the Committee meeting. He mentioned that prior to the use of surveys, it seemed like the process for setting summer flounder regulations worked well. In recent years, the use of surveys seems to have been causing a craze on the internet.
- Dr. Donnelly said he looks forward for the sub-committee to meet and to review the presentation because it is a good set of guidelines to help craft the survey.
- Dr. Bochenek reiterated that the Council wants to work with staff on the survey. She suggested that we focus this survey on fluke and black sea bass.

Mr. Brust provided an update about the For-Hire Fillet Permit Survey. A draft survey is ready and will be provided to the Council and Executive Committee for review.

10. Regulatory Actions – J. Brust

There were no regulatory actions to report.

11. Old Business – J. Brust

Mr. Brust reiterated that the Council appointees are held up in the Senate. He noted some Council members are up for re-appointment as well.

Mr. Brust reminded the Council to complete their Ethics Renewal package.

Mr. Brust asked for input from the Council to help prioritize which Committee meetings to hold in the near future. Upcoming Committee meetings include tautog (7/16) and gillnet (7/30). The Council decided to postpone the Offshore Wind Committee and prioritize holding a sub-committee meeting for the Summer Flounder (Angler Satisfaction) Survey. The Executive Committee will review the Fillet Permit Survey by email. Mr. Rizzo and Dr. Donnelly agreed to have the next Summer Flounder Committee meeting in-person when the time comes.

12. New Business – J. Brust

Mr. Brust suggested starting the Committee appointment process now, instead of waiting for the new Council appointees to be approved. Mr. Brust will send out the current Committee membership list to the Council and the Council will have until the next meeting to suggest any changes.

13. Public Comment

Mr. Brust referred the Council to three handouts in the Meeting Materials.

The first handout was an email requesting guidance on how to set up an outreach program for shore-based shark fishing. Mr. Brust mentioned the Bureau will discuss it internally and suggested possibly referring it to the Shark Committee.

The second and third handouts were emails regarding the menhaden reduction fishery happening off of New Jersey's coast. The emails included complaints that the vessels are operating within state waters and calls to ban the reduction fishery from state and federal waters off New Jersey's coast. Mr. Brust mentioned that Captain Scott responded to the emails and calls and according to surveillance, all vessels have been legally fishing.

John Depersenaire, on behalf of Viking Marine Group, stated that on June 18th, New Jersey received a letter from NOAA regarding a Coastal Zone Management Act consistency determination with a proposed rule. The rule involves an amendment to the North Atlantic Right Whale Vessel Strike Reduction Plan to adjust the timing and boundaries of the seasonal management areas and adjust the size of vessels that would be subject to the speed limits in the zones. If no response is received in 60 days, NOAA assumes that the State concurs with the content of the letter. Mr. Depersenaire asked the Bureau and Council to review the letter and respond to NOAA. Mr. Depersenaire stated that the letter contains errors and poor economic analyses. He expressed disagreement specifically with the content of Sections 2a, 2b1, and 2b3 and provided examples of charter boat trip cancellations and boat order cancellations at Viking attributed specifically to the proposed rule. He stressed that the economic impacts need to be addressed.

- Mr. Brust responded that the Bureau will consult with DEP Land Use and stated the Council has already submitted a letter to NOAA expressing concern with the proposed rules. The Council will review the letter and consider resubmitting the letter to NOAA.

Fred Akers, of the Great Egg Harbor River (GEHR) Watershed Association, commented that the GEHR has experienced rapid changes to the marsh landscape. Vegetation is dying and the marsh is caving in at some areas. An application is being developed to take pictures of the marsh and

monitor the conditions over time. The application will be available to the public within the next month. Mr. Akers attributes the problem to an increase in flooding and velocity of the tides. Mr. Hollinger and Mr. Johnson stated that this has been an issue for many years but they are interested to hear results of the project.

Jamie Dopkin, commercial fisherman, asked the Council to consider changes to two commercial fishing regulations. The first is to consider changes to the minimum mesh size requirement for the gillnet fishery. There is no federal minimum and due to climate change, the current mesh size requirements are causing them to miss out on new, emerging fisheries. The second is to consider changes to the limitation in the number of anglers for commercial rod and reel sea bass fishing. In addition to the many limitations already imposed on commercial fishing, Mr. Dopkin stated that it is unrealistic to take only five passengers to catch 3,000 lbs. Mr. Brust stated these issues can be added to the agenda for the next Gillnet Committee meeting and the next Black Sea Bass/Summer Flounder Commercial Committee meeting. The Council agreed.

James Parker, asked if the next Tautog Committee meeting will be held in-person or online. Mr. Brust confirmed that it is scheduled to be held virtually. Mr. Parker requested that future Committee meetings return to in-person meetings. Dr. Donnelly agreed and said that any future meetings he chairs can be held in-person but Tuesday's meeting is virtual. The Council expressed interest in exploring hybrid Committee meetings.

Dr. Bochenek reiterated the need for Council to address Mr. Depersenaire's comment before the August 15th deadline, which is before the next Council meeting. Mr. Brust reaffirmed that he will send the previous letter to Council for review and Council can make edits, additions, and resend the letter.

Meeting concluded at 7:30 PM. The next Marine Fisheries Council Meeting will be held on September 5th at 5:00 pm at the Galloway Township Public Library.