

New Jersey Marine Fisheries Council

ADMINISTRATIVE GUIDELINES

November 2018

Background

This document was first adopted in 2014, and revised in 2018, to help with public understanding of the New Jersey Marine Fisheries Council process, responsibilities, and activities. It is meant to be a “living document” that is reviewed and updated as needed by the Council’s Executive Committee. This document and any supporting documentation/information will be posted on the New Jersey Division of Fish and Wildlife website under the Marine Fisheries Council page (www.njfishandwildlife.com/councils.htm#marine) for the public to review and be informed about the Council process.

History

The Council was created by the Marine Fisheries Management and Commercial Fisheries Act (Act) of 1979 (N.J.S.A.23:2B). The Act was adopted with three main goals: to enhance marine fisheries management, develop the commercial fishing industry, and support recreational fishing. It provided the Council with certain powers, duties, and responsibilities in order to effectively achieve these goals. Through this Act, the legislature understood the importance of New Jersey’s fishery resources to the overall economy and well-being of New Jersey’s citizens.

Composition

The Council membership is set by statute and consists of eleven members, nine of whom shall be appointed by the Governor of New Jersey (Governor), with the advice and consent of the New Jersey Senate. The nine Governor-appointed members include four members representing interests of sports fishermen, two active commercial fin-fishermen, one active fish processor, and two members representing the general public. The remaining two seats on the Council are held by the chairmen of the two sections of the Shellfisheries Council.

Powers and Duties

The Act provided the Council with certain powers and responsibilities, including:

- Contribute to the preparation and revision of fisheries management plans;
- Be empowered to disapprove, within 60 days of the proposal, any rule or regulation or any amendment thereto proposed by the commissioner;
- Advise the Commissioner of the Department of Environmental Protection (Commissioner) on policies of the department and in the planning, development, and implementation of all departmental programs related to marine and shellfish;
- Examine, consider and make recommendations in any matters pertaining to the conservation and management of fisheries resources throughout the State;
- Submit to the Commissioner any recommendations for new rules and regulations or revision to existing rules and regulations which it deems necessary for the proper operation of an effective marine fisheries program;
- Hold periodic public hearings in regard to current issues affecting the operation of the marine fisheries program;
- Recommend the convening of species related citizen panels;
- Study and analyze economic, social and ecological data relating to the operation of the marine fisheries program.

Council nomination and appointment procedures

All Council members are appointed by the Governor, with the consent of the Senate. The Governor also shall appoint a Chair person from the citizen members of the Council, who shall serve at the pleasure of the Governor. The Council Chair cannot be a Shellfisheries Council representative. In the case of a vacancy of the Chair position, the Council shall appoint an Acting Chair until such time that the Governor can appoint the new Chair.

Anyone interested in serving on the Council may express their interest by contacting the Governor's Appointments Office at 609-777-0251 or visit www.nj.gov/governor/admin/bca/ to fill out an application. All applications will be kept on file for any future openings on the Council.

Term of Appointment

Council members are appointed for a term of three years and may be reappointed at the end of each term. The Governor may designate a term of appointment shorter than three years, if necessary, to provide for balanced expiration of terms of office. All appointed members shall serve after the expiration of their terms until a successor is appointed. The Governor's Appointment's Office shall annually review Council membership regarding any changes or reappointments.

Code of Conduct

Council members are responsible for upholding the integrity of the Council and the State of New Jersey. No member shall engage in criminal or disgraceful conduct prejudicial to the Council, any other Council member, or the State of New Jersey. No member shall have a direct or indirect financial interest that conflicts with the fair and impartial conduct of official duties. Any infractions to this code that are brought to the attention of Council shall be forwarded in a letter from Council Chair to the Director of the Division of Fish and Wildlife. The Governor shall have the sole authority to consider allegations of breaches of this code, including appeals from members alleged to be in violation herewith. The Governor may remove any member of Council for cause upon notice and opportunity to be heard.

Meetings

The Council meets a minimum of six times per year to conduct business related to New Jersey's fisheries management. Every attempt is made to schedule all meetings on the 1st Thursday of every other month beginning in January. The majority of these meetings are held at the Galloway Township Branch of the Atlantic County Library, while others may be held at locations to be determined depending on the expected attendance or primary topic being discussed. The Council can meet at other times at the call of the Council Chair, or conduct meetings of committees, advisory panels, or other groups that are established to assist in carrying out the Council's responsibilities. Regularly scheduled Council meetings, and any meetings where a quorum of Council members is expected to attend, shall be open public meetings.

As defined by statute, the presence of at least six members of the Council members shall constitute a quorum at a meeting of the Council. (N.J.S.A. 23:2B-4). All meetings where a quorum of Council members is expected to attend must be open to the public with adequate notice, as defined by the NJ Open Public Meetings Act, provided prior to the meeting. Should sufficient information be available that a quorum will not be achieved for a given meeting, the Marine Fisheries Administration (Administration) will notify Council members if that meeting is to be canceled for lack of a quorum. The conduct of meetings of the Council established under its authority shall be governed by the current Edition of Robert's Rules of Order, Newly Revised. Questions of procedure will be determined by the Council Chair of the meeting. Council decisions shall be made by consensus whenever possible. The Council Chair retains the right to call for a voice vote if it becomes apparent that a consensus cannot be reached on a decision that is considered vital.

The Administration shall designate a staff person(s) to support the Council in order to prepare and distribute meeting agendas, meeting summaries and support information; arrange for meeting space; and secure materials and/or resources to facilitate meetings; and provide information and consultation regarding technical issues.

An annual meeting schedule will be announced by the Division of Fish and Wildlife (Division) by November of each year for the following calendar year. Additional unscheduled meetings will be announced two weeks in advance. The agenda and meeting support information shall be distributed electronically and/or mail one week in advance of a Council meeting. The Council agenda will also be provided to the Secretary of State approximately one month prior to a scheduled meeting and will be advertised in the Department of Environmental Protection (Department) sponsored newspapers and on the Division website.

All Council members shall adhere to the following:

Read distributed meeting information in advance of meeting; discuss pertinent issues with the constituents you represent; prepare to communicate and discuss constituent's viewpoints at meetings; maintain regular communication with constituents, informing them on the status of the

Council business; attend meetings to ensure the duties of the Council are fulfilled; follow agenda; suggest solutions or compromises; and search for closure.

Attendance

Council members are expected to attend all regularly scheduled meetings of the Council. Failure to attend two consecutive meetings, except in the event of illness or other unforeseen event, will result in a letter of warning by the Council Chair. Continued absence by a Council member, if unexplained, will result in a request by the Council to the Governor for the appointment of a new Council member. Also, if a member is unable to attend four of the six regularly scheduled Council meetings during a calendar year, the Commissioner will review the situation and may recommend to the Governor's office that the member be removed and an alternate be designated. These guidelines do not apply to the chairmen of the Shellfisheries Councils that sit on the Council.

Meeting Minutes, Summaries and Motions

All Council meetings are recorded and a summary capturing the major concepts, issues and decisions of the meeting (*i.e.* meeting minutes) shall be prepared as an official record of any Council meeting. Draft meeting minutes shall be distributed to Council members approximately 7 working days prior to the next (upcoming) Council meeting. Draft meeting minutes, with or without amendments, shall be approved by a quorum of the Council members. Only approved meeting minutes of Council meetings may be distributed to non-members and posted to the Division's website. Minutes of all publicly open Council meetings are compiled from recorded transcripts and posted on file at www.njfishandwildlife.com/cnclminutes.htm#marine.

Administration staff shall maintain a master file of Council meeting agendas, meeting minutes, and meeting support information. Motions/Action items from each meeting shall be disseminated electronically and/or by mail upon request by the next business day to Council members following a meeting.

Council members may make a motion which shall be written down as part of the meeting motions/action items summary. If a motion is seconded, it shall be followed by an equitable

amount of time for discussion amongst members and an equitable amount of time for public comment. A motion made on behalf of a Council Committee does not need a second. Discussion shall be limited to the merits of the immediately pending question or issue. Any made, and seconded, motion shall be transcribed by Division staff and will be shown on a screen for the Council and public to see and review prior to any vote. The Chair is responsible for allocating discussion and comment time. A motion shall be approved by the majority of the Council members in order to be adopted.

Official correspondence generated by the Council shall be reviewed and approved by the Council Chair, and copies of any correspondence transmitted by the Council shall be provided to all Council members.

Agendas

Agendas for all Council meetings are drawn up by Administration staff in consultation with the Division Director and Council Chair. The preliminary meeting schedule is submitted to the Secretary of State one month prior to the scheduled meeting week in the form of the First Meeting Notice, with copies posted to the Newark Star Ledger and the Press of Atlantic City. The agenda is also available on the Division's website. Any modifications to the agenda, particularly action items, will follow the same protocol.

Public Comment

Public comments may be received during the meeting at the discretion of the Council Chair. The public may speak on any issue at a regularly scheduled Council meeting, except that proper administrative procedures shall be followed.

For topics that are not on the agenda, the Council Chair will use a public sign-up list in deciding how to allocate the available time on the agenda to the number of people who want to speak. For topics that are on the agenda, and prior to any Council vote, the Council Chair will provide limited opportunity for comment, taking into account the time allotted on the agenda for the topic.

Officers

The Council Chair shall have general charge and supervision over, and responsibility for the business and affairs of the Council. The Council Chair shall have the general powers and duties of management usually vested in the office of the Chair of the Board of a corporation. The Council Chair shall also have the full authority to call meetings as necessary for the conduct of the Council's business. The Council Chair should strive to create an atmosphere in which all members can feel free to provide any point of view. The Council Chair should be impartial but has the same rights as the other Council members especially in debate and voting; however, engaging in debate either in support or against a particular issue, the Council Chair should turn the meeting over to another Council member who will remain impartial. The Council Chair can always vote but should only vote if that vote would affect the result (*e.g.* break a tie vote). During roll call votes, the Council Chair shall be called last and only if necessary.

Council Committees

The Council shall convene Council Committees when necessary to discuss issues for a particular species, group of species, gear type or other fishery management topic. These Committees shall consist of three to five Council members. All Council members must serve on a minimum of **four** Committees. The Committees will advise the Council on the assessments and specifications contained in each fishery within the state; current trends and developments in fishery matters; the effect of such fishery management plans on local economies and social structures; potential conflicts between user groups of a given fishery resource; enforcement problems peculiar to each fishery with emphasis on the expected need for enforcement resources; and other information as requested.

In addition to the Council members, each Committee will have an appropriate number of citizen advisors depending on the Committee to ensure meetings are manageable and productive. The number of advisors on a given Committee will vary depending upon the species and the issue but shall be comprised of no more than **20**. Prospective advisors shall apply for appointment by completing the Advisory Committee Application (https://dep.nj.gov/wp-content/uploads/njfw/mfc_advisor_app.pdf) that will provide the applicant's background, experience and reason for interest to be an advisor. Applications will be reviewed

by the Executive Committee with input from the chair of the appropriate Committee and before being reviewed by the full Council. Council Committee advisors shall be appointed by the full Council for a period of three years. Following a three-year term, advisors will need to reapply to remain an advisor. There will be no automatic renewal. Vacancy appointments shall be filled, when practicable, for the remainder of the unexpired term of the vacancy. Advisors shall be limited to participate on **seven** Council Committees to assure fair and equitable opportunity for all interested parties to be involved in fishery management discussions.

Council Committees shall be composed of advisors who are either actively engaged in the harvesting, or processing of, or are knowledgeable or interested in, the conservation and management of the fisheries to be managed. Council Committees shall also reflect expertise and interest from the standpoint of geographical distribution, industry and other user groups, and the economic and social groups encompassed in the Council's geographical area of concern. Advisors are encouraged to speak with constituents in their area/port, organization, or fishery (*e.g.* for-hire, commercial trawler) and provide input from the community they represent at the meeting and not just provide input from their own perspective. Advisors can only represent one organization per Committee, established during the application process, and cannot speak on behalf of another organization during Committee meetings. Council Committee members and advisor names, affiliation and hometown will be posted on the Division website under the Marine Fisheries Council webpage for public information.

Committee advisors are expected to uphold the mission and responsibilities of the Council. Any advisor who is issued a marine fisheries violation will be given a warning. A second violation will result in the advisor being removed from their advisory position for all committees, and they will be ineligible to serve as an advisor for any committee for three years from the date of the violation. New applicants who have received a violation in the last three years will be ineligible to serve as an advisor for any committee until three years from the date of the violation.

Council Committee advisors shall be notified of a meeting (date and location) at least 7 days in advance of each meeting. Any available and pertinent information shall also be made available prior to any scheduled meeting to help ensure a productive meeting. Committee advisors shall

inform the Administration on their attendance to the meeting at least 24 hours prior to a meeting. If unable to attend, the advisor may send a designated proxy to represent them and shall provide the name and affiliation of the proxy to the Administration at least 24 hours prior to a meeting.

Committee members are expected to attend all regularly scheduled meetings of each Committee of which they are a member. Failure to attend two consecutive meetings, except in the event of illness or other unforeseen event, will result in a letter of warning by the Committee Chair. Continued absence by a Committee member, if unexplained, will result in a request by the Committee to the Administrator for the appointment of a new Committee member. Also, if a Committee member is unable to attend three regularly scheduled Committee meetings for any reason, the Administrator will review the situation and may recommend to the Council Chair that the member be removed and an alternate be designated.

Committee meetings are by invite only and are not open to the public. Anyone not listed on the invite letter or designated proxy (outlined above) will be asked to leave the meeting. A summary of the meeting will be drafted by the Marine Fisheries Administration and will be reviewed and approved by the Committee Chair. The meeting summary will be read at the following full Council meeting, and public comment on the report can be provided at the discretion of the Chair. The meeting summary is not a transcript, nor are they considered minutes. The summary will provide an overview on the topics and issues discussed, general ideas and concepts provided by the advisors, any consensus opinion(s) reached by the advisors (if applicable or determined) and the Council Committee recommendation (if applicable or determined). A recommendation by the Committee does not guarantee approval by the full Council. A message will be distributed through the Division's Marine Listserve e-mail system that will provide information regarding specific options and recommendations for Council action at their next meeting.

Although Committee meetings are not open to the public, any information presented at these meetings may be distributed to the public unless specifically labeled "Not for Distribution". This will allow constituents to see information and develop public comment on upcoming meetings while also ensuring that the general public is not misinformed of preliminary discussions that could be construed as final decisions by the Council. Any item(s) labeled "Not for Distribution"

that is distributed by a Committee member or advisor may result in removal from that Committee and/or any other Committee of which they are a member. Any infractions to this policy that are brought to the attention of Council shall be forwarded in a letter from the Council Chair to the Director of the Division of Fish and Wildlife.

Conflict of interest.

A member of the Council shall not vote on any issue before the Council that would have a "significant and predictable effect" on the member's financial interest. For purposes of this subdivision, "significant and predictable effect" means there is or may be a close causal link between the decision of the Council and an expected disproportionate financial benefit to the member that is shared only by a minority of persons within the same industry sector or gear group. A member of the Council shall also abstain from voting on any petition submitted by an advocacy group of which the member is an officer or sits as a member of the advocacy group's board of directors. A member of the Council shall not use their official position as a member of the Council to secure any special privilege or exemption of substantial value for any person. No member of the Council shall, by the member's conduct, create an appearance that any person could improperly influence the member in the performance of the member's official duties.

Expenses

Members of the Council shall serve without compensation but are eligible to receive reimbursement for expenses actually incurred while attending meetings of the Council and performance of their duties as members thereof, including mileage on personal vehicles and tolls. Receipts are required for tolls. Reimbursement rates are based on State established rates for mileage. Meals are not reimbursable. All reimbursement paperwork, including a completed Travel Expense Voucher, must be submitted to the Administration at least two weeks prior to the end of the fiscal year (June 30) to ensure there are sufficient funds and enough time to process the paperwork.

Orientation

The Administration shall provide an orientation document covering a variety of topics relevant to matters before the Council and shall make the orientation document available to all Council

members. New Council members, appointed after September 1, 2014, shall, within one year of appointment, complete the orientation developed by the Administrator.

Additionally, Council Committee Chairs will be supplied with information regarding their roles and responsibilities. This would include information on conducting meetings, setting agendas, facilitating discussions, developing a Committee consensus, review and comment on draft reports and providing final reports to the full Council.