

Marine Fisheries Council Meeting
May 12, 2022

Council Attendees:

Eleanor Bochenek	John Maxwell
Bob Rush	Dick Herb
Pat Donnelly	Jeff Kaelin
Kevin Wark	Barney Hollinger
Joe Rizzo	

Council Absentees:

None

DEP and Division of Fish and Wildlife Attendees:

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 Shell Fisheries (BSF)
Linda Barry – Research Scientist, MRA
Peter Clarke – Principal Biologist, BMF
Brian Neilan – Principal Biologist, BMF
Maryellen Gordon – Principal Biologist, BMF
Brendan Harrison – Senior Biologist, BMF
Jenny Tomko – Senior Biologist, BSF
Matthew Heyl – Assistant Biologist, BMF
Timothy Daniels - Assistant Biologist, BMF
Amber Johnson – Assistant Biologist, BMF
Megan Kelly – Environmental Specialist, BSF
Brielle Colledge – Wildlife Worker, BMF

Public Attendees:

Douglas Zemeckis
Dylan Mallory
James Parker III
Phillip Welsh
Erling Berg
Dorian Elmore
AJ Elmore
James Elmore

The meeting was called to order. Notice of the Marine Fisheries Council (Council) meeting was filed with the Secretary of State on April 29, 2022.

Approval of Minutes

Meeting minutes from the April 7, 2022 meeting of the Council were approved without revision.

1. Enforcement Report – J. Snellbaker

Deputy Chief Snellbaker brought Council's attention to the enforcement summary provided in meeting materials. The summary is also available on the Fish and Wildlife Bureau of Law Enforcement website.

- Dr. Donnelly asked if there were repeat offenders of violations in the Raritan Bay. Deputy Chief Snellbaker responded that repeat offenses are relatively common.
- Mr. Wark asked where the operation to enforce vessel speed occurred. Deputy Chief Snellbaker indicated it was a joint effort between NMFS and several states that took place in the mouth of the Delaware Bay.

2. Delaware Bay Shellfish Report – No Report

The 2022 Direct Market fishery opened Monday, April 4th, and as of May 9th, 24,110 bushels of harvest were reported. The starting total allowable catch is 76,000 bushels which was split into 950 bushels per individual quota. All 80 licenses signed up to participate in 2022. Almost all the harvest is from the High Mortality region. Approximately 14,000 bushels were harvested from Bennies and 9,000 bushels harvested from Nantuxent.

The 2022 Transplant started April 25th and ended May 11th. The timeline was extended from May 6th due to weather. The Transplant lasted 11 days and moved 29,500 bushels, with just under 9 million oysters moved. There were 3 days of Transplant from the Low Mortality to Shell Rock region, 1 day from the Very Low Mortality to the Low Mortality region, and 7 days from the Medium Mortality Transplant region to the High Mortality region. The data collected during the Transplant will be used to calculate a quota increase for the industry.

3. Atlantic Coast Shellfish Report – J. Maxwell

On May 4th, there was a suspension of shellfish harvest in 18 marine water locations due to a downgrade of shellfish growing classifications in those areas. This impacted a few shellfish leases, and those lease holders were notified. However, this caused unintended concerns from retailers and wholesalers. A full discussion is planned for the Atlantic Coast Shellfisheries Council on Monday, May 16th at 6:00 p.m.

A shellfish aquaculture leasing tool platform is being developed through Rutgers and the NJDEP. It is a GIS based spatial planning tool which will help inform decision makers on aquaculture planning opportunities.

4. Shellfish Bureau Report – No Report

5. Legislative/Regulatory Report – J. Brust

Three bills were highlighted for Council's attention, two for the state and one federally.

Bill A3847 which exempts shellfish aquaculturists with commercial shellfish aquaculture license from law prohibiting taking of shellfish on Sunday; requires submission of annual shellfish harvest report.

Senate passed a resolution (SR67) urging the Atlantic States Marine Fisheries Commission (ASMFC) to continue prohibiting the harvest of female horseshoe crabs.

Bill S2372 – the Recovering America’s Wildlife Act of 2022 which would amend the Pittman-Robertson Wildlife Restoration Act to make supplemental funds available for management of fish and wildlife species of greatest conservation need as determined by State fish and wildlife agencies. Has passed committees of both houses and is expected to be heard on Senate and House floors in May.

- Mr. Rush asked what these funds be allocated to at the state level? Mr. Brust explained that it hasn’t been decided where the funds would go. Every state identifies Species of Greatest Conservation Need (RSGCN), and only species on a state’s list are eligible to use this funding. For marine, this includes species such as sturgeon, shad/river herring. But no specific uses of the money have been decided in NJ, and a large portion of the funding would likely go towards the Endangered Species Program.
- Mr. Rizzo asked that names of bill sponsors be added to the legislative summary. Mr. Brust responded that this information will be provided in the future.

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

New Jersey centric species were highlighted.

The Horseshoe Crab Management Board met to consider two items: a progress update on Draft Addendum VIII which will modify how annual harvest levels are calculated, and an update on a Board task to review biomedical mortality and Best Management Practices for biomedical collections.

The Atlantic Menhaden Management Board met to receive an overview of Atlantic menhaden landings in the 2021 fishing year, to consider approval of Draft Addendum I to Amendment 3 for public comment, and to review the inclusion of 2020 landings in allocation distributions.

- Mr. Kaelin noted that a really important element would be for NJ to receive credit for 2012 landings, even though the qualifying years were 2009-2011. He said we need to protect NJ quota by protecting 2012 landings in calculations for new allocations.

The Coastal Sharks Management Board approved a zero-retention limit in state waters for Atlantic shortfin mako sharks for both recreational and commercial fisheries. These measures are consistent with those proposed by NOAA Fisheries for federal highly migratory species (HMS) permit holders, and are in response to the 2019 stock assessment which indicated the resource is overfished and experiencing overfishing. The states will implement the non-retention policy when NOAA Fisheries posts the final rule, which is expected to occur in June 2022. The Board also recommended ASMFC submit a letter opposing the proposal to list 54 shark species under the Convention on the International Trade in Endangered Species (CITES) Appendix II.

- Mr. Wark noted that this includes spiny dogfish, whose population is very strong.

- Dr. Donnelly asked if there is a way to send out a notification to the recreational sector regarding changes to the shortfin mako regulations.

Mr. Brust replied that we will send a notification. The current rules are still in effect and states will begin implementation once NOAA measures take effect, but that we can start working on messaging.

The Atlantic Striped Bass Management Board met to select the final management measures to be included in Amendment 7 and approved the Amendment. The main components of this Amendment include fishery management targets, conservation equivalency proposals, recreational discard mortality, and population projection methodology during rebuilding.

- Mr. Rush asked if the Research Set Aside (RSA) program is being reinstated. Mr. Cimino indicated that MAFMC is the oversight body for the program and are considering reinstating the program. ASMFC Policy Board only received an update on MAFMC discussions, but several Policy Board members expressed concerns based on issues that resulted in its previous discontinuation.

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

The Atlantic Mackerel Rebuilding Amendment was approved for public comment.

2022 Illex Squid Specifications were set, increasing the ABC from 33,000 MT to 40,000 MT. The closure threshold increased from 94% to 96%

No changes were recommended to the golden and blueline tilefish recommended 2023 specifications.

8. Marine Fisheries Bureau Reports – J. Brust

Several programmatic changes have occurred recently that affect agency structure and names, but not functions or duties. The Division of Fish and Wildlife, which was previously one of several programs under Assistant Commissioner Ray Bukowski, has become its own unit and will be referred to as NJ DEP Fish and Wildlife (no longer a division). Following Mr. Bukowski's retirement, Dave Golden, formerly the Division Director, has taken the role of Assistant Commissioner, which gives us a direct line to the Commissioner. In addition, the Marine Fisheries Administration, which encompasses both the Bureau of Marine Fisheries and Bureau of Shellfisheries, has been renamed the Marine Resources Administration.

- Jeff Kaelin asked for an organization chart and was told everything can be found online.

Commercial harvest reporting for 2021 included staff entering 189,711 negative trip reports from 422 license holders. Staff also entered and proofed 11,207 positive trip reports from 207 harvesters making edits to 2,074 reports.

- Mr. Wark asked how switching over to the new online reporting app (Harbor Lights) is working for the Bureau and if it streamlined the process. Mr. Brust noted that there has been no feedback from staff at this point in time.

- Mr. Wark and Mr. Kaelin said that “Did Not Fish” reports are no longer required federally and asked why it is still necessary for the state, citing it is a burden on reporters. Mr. Brust replied that the reports are primarily a compliance check to determine if not reporting means they did not fish or if they did not report. Staff will look into trying to make reporting consistent.
- Mr. Rizzo asked about an issue regarding having to report when the crab pot season is not open. This became an issue when license sales were switched from in-person to mail-in only. Mr. Brust responded that there are no plans to eliminate the mail-in purchases of licenses.

The 2022 Marine Digests are available. Staff attempted to have a portion printed in Spanish but was unable to do so for 2022. We are trying to get a Spanish version online for 2022 and also in print for 2023.

The Bureau of Marine Fisheries is conducting a new multi-year, multi-gear survey in Raritan Bay between March and October. Sixteen stations per month are completed for beach seine and trawl which occurs between 0-25 feet of water. Twelve stations per month are completed for gillnet in 0-10 feet of water.

9. Committee Reports – Offshore Wind – E. Bochenek

The Marine Fisheries Council’s Offshore Wind Committee met by webinar on Wednesday, May 4, 2022. In attendance were 4 committee members, 8 advisors, and staff. Dr. Bochenek indicated that the present meeting will provide updates on recent state, BOEM, and developer activities, and requested a future meeting to review recent scientific publications and findings from other areas. Dr. Bochenek will work with staff in the coming weeks to identify topics of interest.

Staff provided updates on the two approved offshore wind development projects off southern New Jersey. Ocean Wind has had trouble getting necessary protected species permits for some of their survey work, so it is expected that the start of their trawl survey will be delayed. The company has announced the availability of Navigational Safety Fund which will provide funding for commercial and recreational for-hire vessel owners and operators for training and to upgrade their navigation systems. Draft Environmental Impact Statements for both Ocean Wind and Atlantic Shores are scheduled to be released later this year, with Ocean Wind expected in June and Atlantic Shores in late fall. There will be a 45-60-day comment period for each one. Committee members and advisors expressed concern about cable routes, especially with respect to the potential number of cables and their placement relative to sand borrow areas. Staff noted that BPU has contracted a firm to accept and review proposals on alternatives to “onshore” all the cables. Further, DEP staff in Coastal Engineering are responsible for providing information to developers to avoid or minimize impacts to sand borrow areas. The committee discussed the need to consider alternatives to trawl surveys if they can’t get permitted. It was also discussed that many of the health and safety standards typically required by developers for their contracted survey vessels might be loosened, which would provide opportunity for more commercial vessels to get involved.

Staff continued with updates on recent BOEM activities. The Call for Information and Nominations for the new Central Atlantic Area (Delaware Bay to Cape Hatteras) is open. The purpose of the Call is to

assess commercial interest in, and obtain public comment on, potential wind leases in this area. Comments are due June 28 and will be used to better identify and prioritize areas appropriate for wind development. BOEM is expected to release a draft Fisheries Mitigation Plan, which includes avoidance and minimization of impacts, as well as compensation for impacts. BOEM will hold one east coast stakeholder meeting on May 18, 9:00-11:30, and states will lead their own stakeholder meetings to obtain comments on the plan. Because of the overlap in interest groups, DEP is considering holding joint meetings with New York. Meeting dates will be distributed once they are set. Finally, staff reported back on BOEM's decision regarding requests for a buffer between turbines and artificial reefs. It was reported that BOEM's navigation expert saw no navigation or safety concerns that could not be addressed by following "rules of the road" and practicing situational awareness, and therefore would not require a buffer. There were questions on whether DEP could require it of the developers or BOEM, but the state does not have that authority. It was noted, however, that it might be possible for the state to negotiate the proposed locations for a small number of turbines with the developer, even if BOEM does not have a requirement. Dr. Bochenek suggested a letter from Marine Fisheries Council might be appropriate.

Staff provided updates on the DEP Offshore Wind website, highlighting how to sign up for updates or submit comments at any time. One advisor noted the Mid Atlantic Fishery Management Council includes correspondence on their offshore wind webpage and asked if we DEP did as well. Staff responded that certain correspondence was included, but not all. One new item on the website is an overview of the state's Research and Monitoring Initiative which funds research projects and other priorities regarding offshore wind. Staff provided an overview of how priority research topics were identified, as well as a list of projects that have been funded or are in consideration, such as EMF, benthic habitats, marine mammals, and socio-economic impacts on the recreational sector. Staff suggested it might be possible to get the project leaders to present their work to this committee, and there was general agreement that this would be useful.

Staff concluded by providing an overview of some opportunities open to the public for learning more about offshore wind, including NYSEDA's Learning from the Experts webinar series, and the upcoming State of the Science conference.

Following staff updates, committee members and advisors also provided updates to the group. One advisor gave an update on an Offshore Wind Developers conference held recently in Atlantic City. Mr. Kaelin notified the group that Equinor had released a Notice to Mariners about losing a piece of survey equipment which has created a new "hang" for mobile gears. Finally, one advisor who works closely with Atlantic Shores mentioned how the developer is interested in contributing to the state's artificial reef program.

- Council began discussion regarding the writing of a letter to the Governor, Commissioner, Assemblymen, and Senators about a buffer zone around the reefs for navigation traffic since BOEM stated a navigation buffer zone is not necessary.
- Mr. Rush asked if there is any research available from overseas on key topics such as EMF, boat traffic, etc. and their effect on fisheries that might be useful to apply to the east coast. Mr. Brust replied that there is plenty of research however, it is important to

remember that they have different species and different habitats that aren't necessarily equivalent to ours. Staff will work with Dr. Bochenek as chair of the committee to develop and prioritize a list of topics to review and will schedule future committee meetings as appropriate. Mr. Kaelin suggested that ROSA might have some of that information compiled, but that there are many factors that may affect results.

- Mr. Rizzo asked about the transmission lines going through Island Beach State Park and if a presentation can be provided on how that is planned? Mr. Cimino replied that we are getting to a point of a more formal federal process review. Following the review, we will know how serious they are about these routes and installation methods. We will get more information and try to get the developer to come to a meeting.
- Mr. Kaelin stated that Ocean Wind has windmills against the reef which is a key issue. He reiterated the committee suggestion to work with them directly to modify the location of those turbines, even if BOEM does not require a buffer. Mr. Wark corrected him that it is Atlantic Shores that has proposed siting a turbine very close to a reef. As a Fisheries Liaison, he has started discussions with them about relocating that turbine, citing a need to maintain navigational safety in the vicinity of turbines.
- Mr. Rush commented that it will be important to ensure that access to the reefs is not restricted during construction and operation.
- Mr. Herb asked if there would be any restrictions or special exemptions on the artificial reefs. Mr. Brust replied that there will be none even if a turbine is nearby. Mr. Hollinger asked if a turbine nearby would affect future deployments around that reef. Mr. Brust responded that each reef has a defined footprint. We can deploy anywhere within that footprint and cannot deploy out of it without a new permit. Turbines close to reef are close to the edge of the footprint.
- Motion by Mr. Rush to write a letter about buffer zones around the reef and that reefs need to remain accessible during construction. Motion seconded by Mr. Kaelin. Dr. Donnelly suggested waiting until more information is provided at the July meeting to avoid having to write multiple letters. Mr. Brust indicated that the current letter is to state entities regarding a buffer around artificial reefs, while the information expected in July is from the developer regarding cable routes. Mr. Kaelin commented that the two issues could be folded into one letter to the developers regarding their proposal, regardless of BOEM requirements. Dr. Bochenek countered that it isn't confirmed the developer can present in July. She prefers raising the concern over the buffer sooner rather than later. Mr. Maxwell suggests the letter be copied to legislators in coastal districts. Mr. Wark indicates that his biggest concern is having a navigation lane to avoid having commercial vessel transit the reef site where there are recreational anglers and divers. Mr. Cimino indicated that New Jersey is the first state to raise this issue, so BOEM's decision may be setting a precedent for the rest of the nation. Motion passed unanimously.

10. Regulatory Actions – J. Brust

As mentioned previously, NJ will need to implement the new shortfin mako possession limit after finalized by NMFS. Mr. Brust believes our regulations will change automatically, but is making Council aware that it may require a Notice of Administrative Change approved by Council.

11. Old Business – J. Brust

Law Enforcement Committee – Staff will schedule a meeting before the July MFC meeting to discuss poaching in general.

Bluefish Committee – Staff will discuss with Mr. Wark to schedule a meeting.

Executive Committee – Staff will schedule a meeting before the July MFC meeting to review advisory applications.

Dr. Bochenek asked about the current vacancies on the Council. Mr. Brust replied that the Commissioner's office is working with all of DEP councils to compile current status of appointments and are currently developing a process. Resumes are requested from everyone. If recently submitted resumes are not sufficient, updates may be required.

12. New Business

Mr. Rush requested if staff have heard anything about Oyster Creek being reactivated with two small, self-contained nuclear reactors? Neither Mr. Brust nor Mr. Cimino had heard of this.

Mr. Wark asked if staff had heard anything about Oyster Creek being permitted to discharge radioactive wastewater into Barnegat Bay. Mr. Brust stated that he is not aware, but staff will look into it.

Mr. Rush requested a meeting of the Summer Flounder/BSB Committee to discuss 2023 regulations. Mr. Brust asked about timing and Mr. Rush said it doesn't have to be before the July MFC meeting, but by September at the latest.

Mr. Brust stated that the Endangered Non-Game Species Advisory Council has raised concerns about diamondback terrapin bycatch in the blue crab fishery and they are expected to make recommendations to minimize bycatch. A white paper is out and ENSAC is reviewing it at its next meeting. These changes would affect both the commercial and the recreational fisheries.

The November 3 meeting was scheduled for the Galloway Library but the room is no longer available for use. Council was asked if the date should be changed, location changed, go virtual, etc. Dr. Bochenek suggested holding it virtually, but no decision was made.

Mr. Wark gave an update on the NOAA Large Whale Take Reduction Team meeting to discuss changes to rules to cut down on whale entanglements. First round focused on pot gear. This current effort is to reduce take in the gill net fishery.

Mr. Rush asked if there has been any discussion about seasons being extended or a possible recouping of days lost for the recreational fisheries due to the recent bad weather. Both Mr. Cimino and Mr. Brust explained that in-season management is not done.

Mr. Brust notified Council that NMFS is holding a public stakeholder meeting to gather input from commercial and recreational harvesters on black sea bass to go into the stock assessment.

Chairman Herb reminded Council that the end of the fiscal year is approaching, so travel reimbursements need to be submitted. Mr. Brust requested they be sent to him by the first week of June.

13. Public Comment

Mr. Brust indicated a handout in the meeting packet that summarized public comment received through the MFC email address.

Philip Welsh: Informed Council that there was a petition with over 1,600 signatures to change the summer flounder regulations to Option 1. He wanted to make sure Council was aware of this petition. Council stated that they were aware of the petition.

Meeting adjourned at 7:20 p.m.