

Marine Fisheries Council Meeting  
March 4, 2021

**Council Attendees:**

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

**Council Absentees:**

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

Ray Bukowski – Assistant Commissioner, Natural and Historic Resources (NHR)  
Dave Golden – Director, Division of Fish and Wildlife (DFW)  
Jeff Brust – Chief, Bureau of Marine Fisheries (BMF)  
Joe Cimino – Administrator, Marine Fisheries Administration (MFA)  
Russ Babb – Chief, Bureau of Shellfisheries, (BSF)  
Jeff Normant – Supervising Biologist, BSF  
Mike Celestino – Research Scientist, MFA  
Heather Corbett – Supervising Biologist, BMF  
Linda Barry – Senior Biologist, BMF  
Mike Auriemma – Assistant Biologist, BMF  
Matt Heyl – Assistant Biologist, BMF  
Brian Neilan – Senior Biologist, BMF  
Chad Power – Assistant Biologist, BMF  
Jenny Tomko – Senior Biologist, BSF  
Stacy VanMorter, Assistant Biologist, BMF  
Jessica Daher, Program Specialist, MFA  
Jason Snellbaker – Deputy Chief, Bureau of Law Enforcement (BLE)  
Laura Versaggi, Fishery Specialist, ACCSP

The meeting was called to order. Notice of the Marine Fisheries Council (Council) meeting was filed with the Secretary of State on February 23, 2021.

**Approval of Minutes**

Meeting minutes from January 7, 2021 were not available. Meeting minutes from the November 5, 2020 meeting of the Council were approved without revision. All in favor of meeting minutes, with no objections.

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

CPO Sloan conducted a commercial fishing inspection on a commercial vessel that entered Cape May Harbor and headed directly to a secluded dock area. The inspection revealed that the Federally required Vessel Trip Report had not been completed, and that other Vessel Trip Reports were incorrect. The operator made a comment that he was glad he had checked the hold before the officer had arrived, as he had found about a dozen undersized summer flounder and disposed of them. CPO Sloan still found

30 undersized summer flounder on board the vessel. The operator was issued a state summons for possession of commercially undersized summer flounder and the trip report violations were referred to National Marine Fisheries Service for Federal enforcement action.

Field Training Officers Tomlin, Moscatiello, Klitz, and Henderson have spent the last three to four months working with Recruits Capri and Szelc who graduated the Gloucester County Police Academy at the end of August. With two new officers added to the roster, the Marine Unit is in the process of adding a third patrol district supervised by an additional lieutenant. The Marine Unit has been preparing to vacate the current office in Nacote Creek and move operations to the former Green Bank school in February.

- Mr. Hollinger asked where these two new officers will be assigned and where the new Marine Unit is located. Mr. Snellbaker explained that Officer Capri will be assigned to Ocean County and Officer Szelc will be assigned to Atlantic County. He also explained that the new Marine Unit will be in central NJ so there will now be Northern District 7, Central District 8, and Southern District 9.

## **2. Legislative/Regulatory Report – J. Brust & J. Daher**

Ms. Daher stated that there is nothing to report in the assembly, but there is a Senate Bill of interest that was signed into law on February 4, 2021. This Bill was an appropriation of over \$30 million to NJDEP for the acquisition of state lands for conservation and recreational purposes. At the Federal level, the Consolidated Appropriation Act of 2021 was signed into law on December 27, 2020. Addition M of this Act is a supplement of the CARES Act funding, pertaining to the fisheries disaster assistance, which includes an additional \$300 million to be available through the end of September 2021. The Young Fishermen's Development Act was signed into law on January 5, 2021 which directs the NOAA's National Sea Grant Office to establish a grant program to provide training, education, outreach, and technical assistance initiatives for young fishermen. The Magnuson Stevens Bill was reintroduced on January 4, 2021 and is sitting in the House of Natural Resources Committee. A discussion draft of a Bill to reauthorize and amend the Magnuson Stevens Fisheries Conservation and Management Act is circulating and that draft can be reviewed online at <https://huffman.house.gov/msa>.

Mr. Brust reported other legislative updates. The Department of Agriculture has a Resolutions Committee that meets annually and proposes work for the department. A couple of weeks ago, the Resolutions Committee made a single resolution that has some direct relevance to the Council. The Committee expresses concern with wildlife damage and destruction to crops and crop land and wants the NJ Division of Fish and Wildlife (Division) to be moved under the Department of Agriculture. Mr. Brust wanted to bring this concern of the Division potentially moving under the Department of Agriculture to the Council's attention because the Resolutions Committee is proposing the Governor and Legislature to write legislation for this move to have better control over the wildlife issue. Mr. Hollinger provided additional details, as he sits on the State Board of Agriculture. This proposed legislation comes up every year the Department of Agriculture has wildlife issues. Mr. Hollinger will most likely be assigned to help resolve the wildlife issues.

Mr. Rush stated that the NJ Marine Fisheries Council and Fish and Game Council do not have a vote, only a voice, on the Department of Agriculture Advisory Council and suggested the Marine Fisheries Council look into making that change. Mr. Hollinger stated that it's in the law, therefore the statute would have to be changed in order to change the voting rights. Mr. Rush made a Motion to draft a letter to request the NJ Marine Fisheries Council and Fish and Game Council have a vote on the Department of Agriculture Advisory Council. Motion seconded by John Maxwell. All in favor with no objections or abstentions. Mr. Brust will work on drafting this letter.

Mr. Brust reported that the Menhaden Multispecies Regulations Package has been published for a 60-day public comment period. This Multispecies Package was created in 2012/2013 and includes moving the menhaden legislation into regulation so that the Council and the Division have more control over making changes, transferability for commercial blue crab licenses, and also providing the Council more flexibility when performing notices of regulatory change rather than full packages. The hope is to finalize these regulations in summer 2021.

### **3. Atlantic States Marine Fisheries Commission (ASMFC) Report – H. Corbett**

Ms. Corbett provided a presentation to summarize all meetings held during ASMFC's Winter Webinar Meeting (February 1 – 4, 2021).

The Summer Flounder, Scup, and Black Sea Bass Board made commercial changes to black sea bass state quota allocation regions, making NJ its own region. The changes are effective January 1, 2022. The Board also approved the following proposals: 1. New Jersey's Conservational Equivalency to modify the summer flounder season to open May 28 and increase the season by 9 days, 2. Massachusetts's Conservational Equivalency to modify black sea bass seasons for Saturday openings, and 3. Virginia's request to participate in February 2021 black sea bass recreational fishery.

The American Lobster Board reviewed the Proposed Rule and Draft Environmental Impact Statement for proposed modifications to Atlantic Large Whale Take Reduction Plan for 2020 Draft Biological Opinion. They determined that the proposal would not likely jeopardize any listed species or critical habitat, but discussed concerns related to timing of federal rulemaking and conservation equivalency. The Policy Board will draft a letter to NOAA with these comments. The Board tasked the Plan Development Team to develop a trigger to automatically implement management measures if triggers are reached. The Board also tasked the Technical Committee to identify details, i.e. cost and logistics, for developing a management strategy evaluation for the lobster fishery to be presented at the Spring meeting. Based on the Executive Order on Northeast Canyons and Seamounts Marine National Monument, the Board requested the Policy Board to draft a letter to the Secretary of the Interior to restate the Board's position that management authority over commercial fisheries in the area should remain with the New England Fisheries Management Council.

The Winter Flounder Board set specifications for 2021-2023 as status quo. They also worked collaboratively to improve the understanding of the biology of winter flounder and to determine the best management approach for the depleted stock.

The Atlantic Menhaden Board reviewed landings as required by Amendment III and started initial discussions on reviewing commercial allocations. These discussions will continue at the Spring meeting. The Board tasked the TC and ERP Working Group to prioritize data to develop regional models for the stock assessments, particularly in the Chesapeake Bay, which will be considered at the Spring meeting.

The Atlantic Herring Board set its fisheries specifications for 2021-2023. The Board also provided updates on Amendment 8, which was approved in 2018 to establish a control rule and a restricted area off the New England coast prohibiting fishing with mid-water trawl gear. Maine and New Hampshire don't allow mid-water trawling in state waters. Massachusetts and Rhode Island are reviewing potential loopholes allowing state-only permitted mid-water trawl vessels to fish in the restricted area. In January 2021, NOAA released the final rule of this Amendment which will go into effect February 10, 2021.

The Coastal Sharks Board received an update on the NMFS Cooperative Shark Tagging Program. The Board also reported some upcoming potential management actions including actively managing commercial and recreational sectors, eliminating commercial quota linkages between management groups, and determining overfishing using three-year averages of fishing mortality rather than only concurrent with stock assessments.

The Atlantic Coastal Cooperative Statistics Program Coordinating Council approved funding to all proposals for 2021.

The Striped Bass Board approved the Public Information Document for public comment. Public hearings will be held in March and April, and New Jersey's public hearing is scheduled for March 25<sup>th</sup>. Public comment will be reviewed by the Board during their Spring meeting. The TC provided a report on the effect of recreational release mortality estimate on the stock assessment results. The analysis indicated that different estimates of mortality resulted in significant changes to scale of the population, but not to the stock status determination. The Board approved Maine's and Massachusetts' proposal to study the tube rig fishery and to delay circle hook requirements for tube rig gear coastwide through 2022. The Board discussed the definition of bait and established a committee to define and discuss issues related to circle hook implementation. This committee will present their report at a Board meeting held on March 16<sup>th</sup>. The Board recommended to the Policy Board that the stock assessment be delayed until 2022.

The Shad and River Herring Board reviewed the TC/AP comments from the Shad Stock Assessment. Assessment results indicated that habitat-related issues and bycatch in the mixed stock fisheries are likely limiting recovery of the species. The Board provided recommendations to focus on restoration efforts and data improvements and tasked the TC to evaluate bycatch in the directed mixed-stock fisheries. The Policy Board will draft a letter to NOAA requesting prioritization of stock composition sampling. Amendment 2 and 3 require states to have approved plans to allow any harvest of shad or river herring in their states. The TC was tasked to develop a technical guidance document for sustainability fishery management plan (SFMP) development and evaluation. The Board approved the

habitat plan updates for Maine, New Hampshire, Maryland, North Carolina, South Carolina, and Georgia and will review the remaining plans at the next meeting. The Board also approved the 2019 FMP review for all states.

The Bluefish Board revised the age sampling requirements, changing the threshold for required participation and setting a new target of 100 samples annually. The Board encouraged increased recreational length sampling to characterize discards, which NJ collects through its Voluntary Angler Survey.

The Executive Committee reported that each state is expected to receive at least \$3 million in the second round of CARES funding.

- Mr. Wark asked if the Coastal Sharks Board was referring to large coastal sharks. Ms. Corbett and Mr. Cimino both stated it was not clear in the ASMFC report if it was large coastal sharks or not. Mr. Brust said that we will reach out to ASMFC staff to clarify and will update the Council.

#### **4. Mid-Atlantic Fishery Management Council (MAFMC) Report – J. Cimino**

J. Cimino provided a presentation to summarize all meetings held during the MAFMC's February meeting.

The Council approved the bluefish Public Hearing Document and the Draft Amendment for Allocation and Rebuilding Amendment for public comment on February 22<sup>nd</sup>, in response to the latest stock assessment indicating that the stock was overfished, and overfishing occurred in most years. Since this is a massive document including summer flounder, scup, black sea bass, and bluefish recreational and commercial reallocation, the Council and Commission members requested a simplified document to help the public make decisions. Public hearings are starting in late March and continue until early April. New Jersey's public hearing is scheduled for April 8<sup>th</sup>.

- Mr. Rush asked if there were any discussions about migratory pattern changes, how these species are not coming inshore, and staying in deeper offshore areas. Mr. Cimino explained that this is part of the exploration of the assessment of the rebuilding plan.
- Mr. Wark indicated that he listened to the bluefish presentation at the Council and stated that he feels there are way more environmental issues related to these populations. Mr. Wark doesn't feel that this plan addresses the environmental problems appropriately and would like to start the conversation of what's really wrong with this population. Mr. Cimino completely agreed with Mr. Wark's comments.

The Council reviewed several white papers on river herring and shad bycatch and approved follow up requests to the NEFSC. The Council assisted with approaches to synthesize survey information for abundance trends and to produce revenue maps to assist with initiating actions to explore potential restrictions to reduce interactions.

The Council updated the proposed rule to amend the Atlantic Large Whale Take Reduction Plan to reduce impacts of entanglement in fishing gear and modifications in the Jonah crab and lobster trap/pot fisheries. The Atlantic Large Whale Take Reduction Team discussed recommendations for risk reduction measures for other trap/pot and gillnet fisheries later in 2021. The Council also reviewed the Draft Biological Opinion and provided comments.

- Mr. Rush asked if seismic testing, in relation to Atlantic Right Whales and the effects on whales during the build out phase was mentioned during offshore wind discussions. Mr. Cimino explained that it's been a concern through every step of permitting process for all Wind Energy Companies.
- Mr. Wark explained he's been a long time Atlantic Large Whale TRT member and they anticipate a lot of activity with this soon because of the recent increases of entanglements and boat strikes.

President Trump signed an Executive Order in 2019/2020, making aquaculture more competitive in the United States. This Executive Order created Aquaculture Opportunity Areas and NOAA is exploring areas deeming appropriate. Two possible areas have been selected for evaluation and development but are not relevant to NJ. There is an aquaculture project off Long Island that is in the permitting phase.

- Mr. Rush asked if anything was discussed regarding aquaculture areas in the Wind Energy lease areas. Mr. Cimino explained that he's not aware of any wind leases in State waters that would affect aquaculture and the aquaculture areas discussed were in Federal waters.

The Council discussed the two-turbine offshore wind pilot project off Chesapeake Bay and Virginia, plans for a larger commercial project, and observations of fisheries in the lease areas. The Council also discussed the Kitty Hawk Wind Project's efforts to characterize fishing effort within lease areas and export cable corridor using VTR data, observer data, sampling by North Carolina, and documented oral histories.

- Mr. Nowalsky stated that during the last day of the meeting when Virginia OSW developments were presented, he addressed the issues and conflicts of the wind farms with the artificial reefs. There is a lot of support from the recreational community for wind farm developers to place materials around the turbines. Wind farms would likely change fish migratory patterns and act as an attracting device. At the Federal level, there was already a mechanism in place in the Black Sea Bass Plan to deal with the user conflict (primarily with pots from commercial, but also recreational) with the artificial reefs. Mr. Nowalsky stated at the Council meeting that he's not aware of anything comparable to deal with the lease areas and the issues should be addressed. He wanted to mention this again to make the Council aware and to help address this conflict beforehand. Mr. Kaelin stated there may be very little commercial fishing within the lease areas because of the spacing of the turbines, which may result in very little gear conflict.

The Council discussed the Shifting Stocks Proposals in response to the commercial black sea bass allocation. There was a Motion to task the Ecosystem Committee to initiate review of methods to

address species management due to shifting stocks. The Motion failed and instead, a climate change scenario is planned for the April meeting on April 6 – 8, 2021.

## **5. Bureau Reports – J. Brust**

J. Brust presented the Marine Fisheries Bureau report.

For the commercial summer flounder fishery, Season 1 underharvested by 171,548 pounds which will automatically be rolled over into Season 2 (March – April). This makes Season 2 quota 379,333 pounds. A few years ago, NJ's regulations were changed so that the Commissioner has the ability to change in-season trips limits, therefore NJ can change one season at a time as needed. The commercial summer flounder advisors were polled for input on how to deal with the roll over, and they recommended new trip limits for Season 2. A letter will be sent March 5<sup>th</sup> to the dealers and permitted summer flounder harvesters indicating the new trip limits are and will take effect March 7<sup>th</sup>. Mr. Brust stated that the new trips limits will be several different options of 4,000 pounds per week and clarified that the Council does not need to make a Motion on this decision since the Council votes at the beginning of the year to set for the year. The new regulations allowed for the Commissioner to make these decisions for a faster approval process.

The Striped Bass Bonus Program 2021 season is planned to start May 15<sup>th</sup> and the tags for the 2021 season have been purchased. One change for 2021 will be that the application must be filled out online and submitted electronically only. The application period will start between March 15<sup>th</sup> and April 1<sup>st</sup>. Permits will be mailed to the individual applicants and the for-hire applicants will be required to pick up at the Nacote Creek office.

The Bureau is slowly returning to field work in 2021 after stopping completely in March 2020, due to COVID-19. All surveys are required to develop COVID-19 safety protocols prior to resuming sampling. The Striped Bass Tagging Survey in Delaware Bay is scheduled to begin the week of March 8<sup>th</sup> and the Artificial Reef Pot Survey is scheduled to begin at the end of March. COVID safety protocols for other surveys are still under review.

Updates on the commercial blue crab compliance and reporting include mandatory monthly reporting with a three-strikes offense; First offense is a warning, Second offense is a 120 day in season suspension, and Third offense is a license revoked. With 120 days of on-time reporting, these offenses will be downgraded for First and Second Offenses. In January 2020, there were seven first offense letters and two second offense letters sent, however after that, offense letters were put on hold due to COVID-19. In November 2020, a letter was sent out stating that compliance and offense letters would resume and in early December, there were eight First offense letters sent for harvest through November. The Bureau is looking into doing quarterly compliance checks instead of monthly compliance checks until staff is fully back to the office.

The Bureau created a Public Comment Email account to target public comment during specific public comment periods. The account will only be monitored during specific comment periods, and staff will

not respond to emails sent to this account. The comments submitted to this email account are not considered votes, just public comment only. The first time this email was implemented was two weeks ago for summer flounder, which allowed the public to submit comments for one week on the recreational summer flounder season options. The email address is [njmarinefishpubliccomment@dep.nj.gov](mailto:njmarinefishpubliccomment@dep.nj.gov).

- Mr. Kaelin asked if this email was how data were collected to develop the handout on summer flounder public comment in the meeting packet. Mr. Brust confirmed that was how the data were collected.
- Dr. Donnelly stated that he would like to handle this email public comment period differently. He would like this public comment period to be conducted before the Advisory Committee meets to make decisions on the regulatory options. This would allow the Committee to have all information and public comment before making any decisions. Mr. Brust agreed and plans to do a few things differently next time. Dr. Bochenek suggested sending the survey out to the Council first before sending it out for public comment. Mr. Rizzo agreed with Dr. Donnelly's suggestion. He also asked about requiring reports in months when people aren't fishing. Mr. Brust clarified that reports are required every month, but "did not fish" reports can be submitted for several months at a time.
- Mr. Rush agreed with Dr. Bochenek that the MFC species committee should be looped in before a poll is distributed for public comment. Mr. Cimino agrees that changes need to be made in the future, but the reason behind the quick implementation this time was that many staff were receiving comments on fluke from stakeholders, and development of a central email account would ensure all comments could be more easily compiled and accounted for.
- Mr. Kaelin questioned how the Bureau selected the mailing list for public comment. Mr. Brust responded that the Division has several different listservs that the public can sign up for and the Marine Fisheries listserv was the group selected group for this mailing, but recipients were allowed to freely distribute the email.

B. Hollinger presented the Shellfish Council Report for Delaware Bay.

The Delaware Bay Shellfish Council met on March 2<sup>nd</sup> and set the 2021 Delaware Bay direct market harvest quota, which is 81,816 bushels that will be split into 1,123 bushels per license (total of 80 licenses). A decision was made to do an intermediate transplant and if successful, the quota has potential to increase to 114,669 bushels to be split into 1,434 bushels per license.

The Nantuxent Channel Dredging Project is moving along, and all required documents and permits were submitted to Division of Land Use on January 21<sup>st</sup> and to US Army Corp of Engineers on January 25<sup>th</sup>. The Bureau obtained approval to be a co-applicant with the Shellfish Council, avoiding a \$30,000 application cost. The project is under environmental review by Division staff and the Bureau submitted comments by February 15<sup>th</sup>. An All-Access Agreement is being developed to have access the property of the Nature Conservancy. While the applications are being reviewed, Stockton University is conducting an underwater survey of the wreck within the creek, because the proposed dredging within the creek falls within the buffer zone of the wreck. A Public Notice for the US Army Corp of Engineers is out for



comment. The plan is to dredge the channel removing 26,240 cubic yards of sediment. The dredge spoils are potentially planned to be used as beach nourishment on the Nantuxent beaches in coordination with NJDOT and Blue Acres Program. If all goes as planned, dredging should begin Fall 2021.

J. Maxwell presented the Atlantic Coastal Shellfish Report.

J. Maxwell reported that the Atlantic Coastal Shellfish Council resumed its Leasing Committee this past month, which was put on hold due to the pandemic. The Council's recommendation for the Leasing Committee separated the committee into two new committees: The Leasing Policy Committee and the Leasing Regulatory Committee. The Leasing Policy Committee met on February 22<sup>nd</sup> and discussed lease utilization, leasing allocation-ns, transferability, permission to work, annual leasing structures, and lease agreement language. Recommendations on these topics will be forwarded to the Council once these issues are addressed.

A Hard Clam Management Committee was created to help address the shellfish issue. Mr. Maxwell also stated that the ADP for the Agriculture Plan has gone back to the Committee and suspect the Committee will spend the rest of the year revising this plan.

J. Normant stated that there is no Bureau of Shellfish Report, but the Bureau has been working closely with the Council and Committees on these management plans.

## **6. Committee Reports**

### *Cobia*

J. Brust reminded the Council about the motion from the January meeting to adopt regulations for the recreational cobia fishery to match Virginia's regulations. This motion was postponed so Division staff and Council members could solicit public comment on the options.

M. Auriemma presented the results from the public comment on the regulation changes of cobia. He reported that since NJ is a *de minimis* state in the recreational cobia fishery, NJ has two options for regulatory changes: 1. To match the nearest non-*de minimis* state (Virginia) or 2. use ASMFC's Fishery Management Plan (FMP) default *de minimis* option. Virginia changed their regulations for 2021 to reduce harvest levels. NJ's current regulations are a 1 fish bag limit and a 3 fish vessel limit with a minimum size of 40" TL and season is June 1<sup>st</sup> to September 30<sup>th</sup>. Option 1 (matching Virginia's Regulations) is a 1 fish bag and a 2 fish vessel limit with a minimum size of 40", but only 1 of the 2 fish can be greater than 50" TL and the season will be June 15<sup>th</sup> to September 15<sup>th</sup>. Option 2 is the FMP *de minimis* Option of a 1 fish bag and vessel limit with a size minimum of 37" TL and no seasonal restrictions. The Bureau posted these options on the Division website on January 27<sup>th</sup> for public comment and email comments were accepted until February 25<sup>th</sup>. The Bureau received five email public comments, and all were in favor of the FMP *de minimis* Option 2. Option 2 was favored because no season closures offer the opportunity to harvest later (especially between the summer flounder and black sea bass seasons), the smaller size makes anglers more likely to take a fish home, and the 1 fish limit keeps mortality rates down. The support for Option 1 to match Virginia's regulations would simplify

the commercial and recreational sectors for marine law enforcement as these two would have the same legal size limit.

- Mr. Rush commented that he favors Option 1 because it gives the fishermen a better opportunity to bring a fish home with the two fish vessel limit, especially since cobia are present only during certain months.
- Mr. Auriemma clarified that in Option 1, the size limit was 2 fish greater than 40", but only one could be greater than 50".
- Mr. Wark asked if the commercial regulations would mirror whichever option was approved. Mr. Auriemma confirmed that these recreational changes would not change the commercial regulations.
- Dr. Donnelly commented that he made the original motion at the last meeting solely to allow discussion and would not be concerned if Council voted for the other option.
- Capt. Snellbaker commented that he's aware of a lot of spearfishermen who target cobia and feels that the 40" to 50" size range may pose a problem to these fishermen, so this should be considered when discussing these regulation options.
- Dr. Bochenek questioned the size limit, as the way it was written on the slide was confusing. She also commented that the five fishermen who submitted public comment are most likely cobia fishermen and we should favor their option of Option 2 (FMP *de minimis* option).

The motion made by P. Donnelly (seconded by B. Hollinger) from the January meeting was to match Virginia's regulations (Option 1). E. Bochenek made a substitute motion to adopt the FMP's default *de minimis* option (Option 2) instead. Seconded by K. Wark.

- Paul Haertel commented to agree with the FMP's *de minimis* option (Option 2) to have no season closure.
- Greg Cudnik commented to agree with the FMP's *de minimis* option (Option 2) to have no season closure.

The substitute motion to adopt the FMP's *de minimis option* (Option 2) was approved unanimously and became the main motion. The new motion for Option 2 was approved unanimously. The Bureau will work to implement Option 2 for NJ.

### *Summer flounder*

D. Herb clarified that the draft Notice of Administrative Change included in the packet for this meeting was included only in the event that Council approves Option 2. If Option 2 is selected, the regulations will need to be changed through Notice, so the draft Notice was drafted just in case. If the Council approves Option 1, regulations remain the same and no Notice is required.

P. Donnelly presented the New Jersey Marine Fisheries Council Recreational Summer Flounder Advisory Committee Report.

A meeting of the NJ Marine Fisheries Council's Recreational Summer Flounder Advisory Committee was held via webinar on February 9, 2021 to discuss two options available for the 2021 recreational season and possible management scenarios for future New Jersey recreational summer flounder seasons beyond 2021.

At their February 2021 meeting, the ASMFC approved the State of New Jersey's conservation equivalency proposal for the 2021 summer flounder season. Under this proposal, New Jersey is required to maintain the current 2020 size and possession limits of 18 inches and 3 fish. Allowed under this approval is the shift of season start and end dates for the 2021 fishing year to accommodate the historical start date of the Friday before Memorial Day. In 2021, Memorial Day occurs on May 31<sup>st</sup> and Labor Day occurs on September 6<sup>th</sup>.

The New Jersey Marine Fisheries Council and Advisors reviewed two options to maintain the New Jersey recreational harvest at the approved 2020 level. Both options continue the 18-inch minimum size limit and the 3 fish possession limit. Option 1 maintains the status quo season of May 22<sup>nd</sup> to September 19<sup>th</sup>, totaling a 121-day season. Option 2 shifts the season back to May 28<sup>th</sup> to September 28<sup>th</sup>, resulting in a 124-day season. Both options encompass the Memorial Day and Labor Day weekends. Ultimately, the Committee's preferred option was the status quo option of May 22<sup>nd</sup> to September 19<sup>th</sup> with an 18-inch minimum size limit and a 3 fish possession limit for all waters along the coast except for Delaware Bay and tributaries and Island Beach State Park. For Delaware Bay and tributaries, west of COLREGS line delineating Delaware Bay from the Atlantic Ocean but not including waters of Cape May Canal east of Cape May Ferry Terminal, the size limit will be equal to or greater than 17 inches with a three fish possession limit and a season open from May 22 to September 19. For Island Beach State Park, shore-based anglers may retain 2 fish greater than or equal to 16 inches total length only at Island Beach State Park during the current open season for summer flounder.

At the November 5, 2020 New Jersey Marine Fisheries Council meeting, Council requested Marine Fisheries Administration staff investigate several alternative recreational summer flounder fisheries management options for 2022 and forward. The suite of options requested for consideration include a continuous minimum size, slot sizes, split size and split bag for all waters, split size for inland versus ocean waters, split season, and split state north and south. The goal of this portion of the meeting was not to determine the 2022 regulations but rather to explore what alternative measures could look like for the anglers of New Jersey. Staff presented these seven option types, followed by an in-depth discussion by Council, Advisors, and Staff. In the end, the three examples that garnered the majority of support include 1. A continuous minimum size, season, and bag; 2. A slot size limit of two fish with one trophy fish and a continuous season; and 3. An early season small size slot limit for inland waters with a larger minimum size limit for ocean fisheries later in the year, both with a 3 fish bag limit. Staff will continue to refine these options with a second planned advisory committee meeting occurring in late May/early June followed by a third meeting in mid to late September.

J. Brust presented the public comment summary for summer flounder options that were submitted through the Bureau's email survey that occurred February 19<sup>th</sup> to February 26<sup>th</sup>.

The summer flounder public comment survey consisted of three questions: 1. Your preferred option (1 or 2), 2. The State and County you fish in or from, and 3. Describe the type of angler or general category that best describes you (shore angler, private boat, party boat owner/captain, fishing industry, other). From this survey, the Bureau received a total of 826 email public comments, 726 emails with option

response, 450 emails answering all three questions, and a total of 17 counties reported. The 17 counties reported within this survey include Bergen, Hudson, Union, Middlesex, Monmouth, Ocean, Atlantic, Cape May, Cumberland, and Salem. The top four counties within this survey were Monmouth (n=110), Ocean (n=173), Atlantic (n=48), and Cape May (n=92). Out of the 725 comments, 27% chose Option 1 (status quo season) and 73% chose Option 2 (longer season). In Atlantic, 67% chose Option 1 and 33% chose Option 2. In Cape May County, 30% chose Option 1 and 70% chose Option 2. In Monmouth County, 25% chose Option 1 and 75% chose Option 2. In Ocean County, 14% chose Option 1 and 86% chose Option 2. For all user-types, all sectors preferred Option 2. In terms of area fished (i.e. bay, bay/ocean, ocean), all preferred Option 2. Public comment reasons for choosing Option 1 included maximizing return on investment of owning a boat, climate change, longer season could result in overfishing, warmer waters, and fall storms that could force summer flounder to move into deeper offshore waters. Public comment reasons for choosing Option 2 include that it bridges the gap better between summer flounder and black sea bass seasons, larger fish are more present later in the fall, water waters later in the fall leads to more fish available, longer season will take pressure off other species, provides greater opportunities for fishermen and businesses, and there are more species to target in the Spring than in the Fall.

Mr. Herb mentioned that the Council is discussing potentially splitting the state on summer flounder regulations because there is a clear difference in preference between the north and south part of NJ in regulation options. Some states like Florida have multiple regions with different regulations for the same species, like we are looking at for fluke.

- Dr. Donnelly commented that he appreciates all the work that this Administration and the Division has done in listening to the Councils concerns and putting together this email survey to provide additional public comment options for regulatory changes such as this one.
- Mr. Rush commented that its really important to begin work on black sea bass regulations to cut down on the number of season closures for all species. Dr. Bochenek agrees with Mr. Rush, that we need to fix the season closure between summer flounder and black sea bass and the discussion should occur sooner rather than later. Mr. Rush commented that the difference between the two summer flounder season options is only three days.

Public comment for summer flounder regulation options include the following:

- Paul Haertel, representing JCAA, is in favor for Option 2 to close the gap between when summer flounder closes, and the black sea bass season begins. He stated there are not as many species to fish for in the Fall and Option 2 allows fishermen to fish for more days.
- Bill Brown, representing Fish Hawk Fishing Club of Lacey Township and Silverton Fishing Club, is favor for Option 2 for the same reasons as Paul Haertel.
- Greg Cudnik, representing Fishermen's Headquarters, is in favor of Option 2 for the same reasons as Paul Haertel. He also stated that he feels the special regulations for Island Beach State Park is unfair and would like it to be changed.

- John Toth, representing the JCAA, is in favor of Option 2 for the same reasons as Paul Haertel. He agrees with Mr. Herb about splitting the north and south NJ.
- Joe Albanese, representing NJBBA, is in favor of Option 2 for the longer and later season. He's also the Vice-President of the Hudson River Fishermen's Association and spoke about these options during their last meeting. They also agree and are in favor of Option 2. He commented that the high percentage of survey responses from the south part of the state favoring the later season was surprising given the perception of strong differences between the north and south.
- Ryan Loughlin, representing himself, is in favor of Option 2 because he is a shore fisherman without access to a boat, the later season would be better.
- Harvey Yenkinson, representing himself, believes the decision should be based on what benefits the whole industry the most. He is in favor of Option 2 for the same reason as Paul Haertel, particularly closing the gap between fishing seasons of summer flounder and black sea bass.
- George Burns, representing himself, is in favor of Option 2 for the same reasons as Paul Haertel and everyone else. He agrees with Mr. Herb regarding splitting the state.
- John Fullmer, representing NJ Council of Diving Clubs, is in favor of Option 2 and expressed concern with a narrow slot limit.
- Linda Haertel, representing the Forked River Tuna Club Ladies Club, is in favor of Option 2 to fish later in the season.
- Phillip Welsh, representing himself, is in favor of Option 2 for the same reasons as Paul Haertel. He agrees with Mr. Rush about the need to change the black sea bass season.
- Mr. Rush stated that a few people are texting him who have called into the Council meeting on the phone only who would like to speak and add their public comment. However, Mr. Brust stated that if they have not registered for the meeting, he cannot unmute them to allow them to speak. Mr. Rush stated that the few people (4 people total) reaching out to him are all in favor of Option 1.

There was a lengthy discussion about the platform used by the Bureau for these Council meetings and the limitations it has for the public. The Bureau uses GoToWebinar, which gives the Bureau the option to control the mute function for all attendees and allows for a higher participate count. However, the negative feature about this platform is that if a person does not register and is calling into the meeting

via phone only (not through the website), they will not be able to provide their public comment. Council members did not feel that this was fair, as it limits the opportunity for public comment. Mr. Golden commented that we could use GoToMeeting, but that does not allow control of the mute function for those attending the meeting, which can get very noisy if there's a high attendance, it is limited to 150 participants, and it does not have the hand raising feature. Mr. Golden and Mr. Bukowski both commented that the Division is very limited as to which platforms are allowed to be used, and GoToMeeting and GoToWebinar are our only options. Zoom is not permitted for use. If the Division tries to investigate another approved platform, it will take some time in order to get approval, if at all. A Motion was made by B. Rush to delay this summer flounder regulation decision and hold a second meeting at a later date to allow people who cannot provide public comment due to platform limitations. This Motion was seconded by E. Bochenek.

- Dr. Donnelly spoke in opposition of the motion, citing the time commitment for an extra meeting, the amount of time people have already had to comment, and the expectation that no new information would come in between now and the proposed April meeting. Mr. Herb and Mr. Rush both commented that it was not so much about new information, but allowing everyone an opportunity to provide input.
- Mr. Albanese stated that he called in on the phone and had no problem being unmuted to add his public comment and thinks the decision should be made tonight and not delayed.
- Greg Cudnik stated that he feels people had ample opportunities to submit their public comment and that the Council should not delay this decision. He also feels that the Council should try to figure out a way to expedite these decisions now and for future regulation changes to help businesses like his.
- Mr. Wark agrees with the Motion and would like to hear more public comment because he's heard from others outside this meeting who are in favor for Option 1. He feels that there's no option that's in higher favor for the public and thinks that we should hear more public comment. Delaying this decision would allow for more public comment in helping to make this decision.

A roll call vote was taken, and the motion failed 5 (Donnelly, Hollinger, Kaelin, Maxwell, Rizzo), to 3 (Bochenek, Rush, Wark).

J. Kaelin reiterated the committee recommendation to choose Option 1 (status quo) which was the original main Motion. The vote on this motion passed unanimously.

#### **7. Regulatory Actions – J. Brust**

A motion was made by Dr. Bochenek to approve the Draft Notice of Administrative Change for the recreational cobia fishery, pending staff adjusting the language to fit the Council vote to implement Option 2. The motion was seconded by J. Kaelin and passed unanimously.

Due to Council's vote for Option 1 (status quo), the Notice of Administrative Change for summer flounder is irrelevant and no vote is needed.

## **8. Old Business – J. Brust**

The new Offshore Wind Energy Committee was created in the January meeting and Mr. Brust sent the Council the updated committee member list of all committees, as a reference. Staff sent a call for advisors for this committee and received 32 applications. The Executive Committee will review these applications and make recommendations to the Council for the final vote to select advisors. An Executive Committee meeting will be scheduled to review these applications before the May Council meeting. Staff will work to schedule the meeting and provide applications to the committee for review prior to the meeting.

- Mr. Kaelin stated that the Ocean Wind COP may be released this spring and thinks this is a great opportunity to use this Offshore Wind Energy Committee and advisors, especially since the COP might be a 30 day turn-around. He also stated that other permit applications should start coming pretty quickly and wanted to get this on the Council's radar so that this Committee is aware.
- Mr. Herb asked Mr. Kaelin when we'll find out firm dates on when these applications and COPs are coming out so that we can plan the Committee meetings. Mr. Kaelin thinks that NJDEP would have more information on this.
- Mr. Herb suggested getting the Committee membership finalized quickly and then follow up on the COP, other permit applications, and/or meetings.
- Dr. Bochenek agreed with Mr. Kaelin and thinks the Committee needs to come together quickly so that the Committee can be involved in these upcoming discussions involving offshore wind activities.
- Mr. Brust consulted with Colleen Brust, MFA's Offshore Wind Coordinator, about any upcoming public comment opportunities. On the Administrative level, there's nothing concrete on the schedule for public comment. Ms. Brust did mention that BOEM accepts public comment at any time, not associated to a specific public comment period.
- Mr. Kaelin stated that there is a permit out by Boardwalk Power to run cables in Keyport. This was sent out by mail February 10<sup>th</sup>, but by the time it was received by individuals, the opportunity to ask for hearing had passed. The public comment period expires March 16<sup>th</sup>. Mr. Kaelin found this out from Mr. Mackey from Garden State Seafood Association but thinks most people don't know when these documents come out, which can be a problem.
- Mr. Rush stated that the Ocean City Council voted to oppose any cables running through Ocean City.
- Mr. Bukowski stated that he's aware of all these permits and offshore wind issues and is making sure that the comment periods are adequate to allow for public comments. Mr. Bukowski suggested to the Council that the Offshore Wind Energy Committee is being formed to keep things very resource-impacted based rather than more general. He also stated that if the Council and Committee want the opportunity to provide comment to the Boardwalk Power permit, he can work to facilitate with the Commissioner's office to make that happen.

## **9. New Business**

- Mr. Rush mentioned that there was a bill dropped by Senator Testa (S3501), related to unemployment for crew on commercial fishing vessels, that can be carried over to for-hire vessels as well.
- Mr. Kaelin stated that this bill retains status quo and commercial fishermen can remain independent contractors, which will not require them to be a part of the unemployment system.
- Mr. Wark is glad to see this bill dropped, as most of these commercial vessel owners would not be able to handle the unemployment fees. He thinks most commercial fishing crews would be displaced if this bill didn't get dropped.
- Mr. Rush asked if we can possibly have an in-person meeting for our next meeting in May, especially as New Jersey is starting to open up more. He believes we have a better interaction in person than on these virtual meetings. Mr. Herb states that we'll just see what happens these upcoming months as more people receive the COVID-19 vaccine.
- Mr. Brust stated that NOAA released a report that provided the economic assessment and impacts of COVID-19 on the U.S. fishing and seafood industry and provided regional summaries on these impacts. Mr. Brust provided this material for this meeting as reference only.
- Mr. Brust received a letter from John Fullmer, from the New Jersey Dive Clubs, stating concerns on offshore wind energy farms on SCUBA diving attractions like ship wrecks and reefs. The letter from the New Jersey Dive Clubs to Atlantic Shores requesting consideration for dive locations when siting their farms.
- Mr. Brust stated that during the January Council meeting, there was discussion to hold a Bluefish Committee meeting. Staff spoke with Mr. Wark about this and decided to schedule a Bluefish Committee meeting in the next couple of months to discuss possible commercial trip limits. Mr. Wark agreed with Mr. Brust's statements and stated he would like to see triggers when certain percentages are caught, especially with the reduced quota, so that in the Fall, bluefish will become more valuable.
- Dr. Bochenek suggested having a Black Sea Bass Committee meeting, in the Spring to discuss season changes in the recreational fishery.
- Mr. Brust provided a list of potential meetings and would like the Council to prioritize the following for scheduling: Offshore Wind Energy Committee Meeting, Executive Committee Meeting, Bluefish Committee Meeting, Black Sea Bass Committee Meeting
- Dr. Bochenek stated she does not think the Black Sea Bass Committee meeting needs to be held before the May Council meeting but would like to get this meeting scheduled to start to discuss potential season changes. Mr. Brust stated staff will work on scheduling the Black Sea Bass Committee meeting late May/early June and will schedule the other three meetings prior to the May Council.

## **10. Public Comment**

- Paul Haertel stated that although he praises the Bureau and the Council, he is disappointed with tonight's decision on the summer flounder regulations. He feels that the Council lost some creditability from the public as they chose against what he felt was the more popular



vote for Option 2, but the Council chose Option 1. With regards to the Summer flounder, Scup and Black Sea Bass Allocation Amendment, he feels that it was unfair to the recreational fishermen when the new MRIP numbers were released. He feels this Amendment has options to correct the situation and that it is important for everyone to get involved, as it can affect recreational quotas and regulations for years to come. Mr. Haertel also stated the Division's proposal to define bait in the NJ Register would prevent fishermen from using certain jigs due to the mandatory use of circle hooks when fishing for striped bass. ASMFC's Ad Hoc Committee created a much better definition of bait which will be voted on by the Striped Bass Board on March 16<sup>th</sup>. He hopes that NJ will follow this new definition of bait and the Council will hold a Striped Bass Advisory meeting after March 16<sup>th</sup> to discuss.

- Scot Mackey, from Garden State Seafood Association, stated that he wanted to thank the Department for their efforts on the offshore wind energy activities. He had recent discussions with DEP staff today and they are developing a single website for the public to access all offshore wind energy documents from different developers in the coming weeks.

The meeting concluded at 8:35 pm. The next Marine Fisheries Council Meeting will be held on May 13<sup>th</sup> either webinar or in-person, depending on the COVID-19 situation at that time.