

ADVISORY COUNCIL ON TIDAL FINFISHERIES



MINUTES OF July 24, 2018



Dover Public Library, 35 E. Loockerman St, Dover, DE 19901
Phone: 302-739-9914, Fax: 302-739-6157

ADVISORY COUNCIL

Dewayne Fox, Ph.D., Chair (*Absent*)
Bernie Pankowski
Brian Hoffecker
James "Jay" Little
Marvin Kahl, Jr.
P. "Wes" Townsend
Joseph Smith

DIVISION OF FISH & WILDLIFE

Captain Nick Couch
John Clark
Rebecca Hoover
Stewart Michels
David Saveikis, Director

PUBLIC

9 Visitors

Agenda Item 1. Welcome

Vice-Chairman P. "Wes" Townsend called the meeting to order at 6:00 PM and welcomed everyone.

Agenda Item 2. Approval of April 18, 2018 Meeting Minutes

A motion to accept the April meeting minutes was approved without objection.

Agenda Item 3. Reallocating Delaware's Commercial Striped Bass Quota between the Gill Net and Hook and Line Fisheries to Prevent Future Overages – John Clark, Fisheries Administrator, summarized the history of Delaware's Striped Bass commercial quota allocation, explained why the current allocation led to a quota overage in 2018 and proposed options for changing the quota allocation to prevent future overages. The TFFAC then unanimously approved a motion recommending that the Division allocate 95% of the quota to the gill net fishery and 5% of the quota to the hook and line fishery in 2019. The TFFAC also recommended a control date of Feb 1st of each year for the Division to receive Striped Bass commercial hook and line fishery quota applications. The Division will need to initiate a regulation change through the Administrative Procedures Act process.

Council member Brian Hoffecker had asked the Division to reconsider the prohibition on the use of anchor nets in the Delaware River during the spring Striped Bass gill net season. **Captain Nicholas Couch** of Fish & Wildlife Natural Resources Police explained why the Division still considers the prohibition necessary for boating safety. The issue was deferred to a future TFFAC meeting.

Agenda Item 4. Regulatory Update – Stewart Michels, Fisheries Program Manager, stated that there will be a public hearing on July 26, 2018 for the proposed regulation changes for Summer Flounder and Black Sea Bass. The Summer Flounder emergency order that reduced the minimum size limit to 16.5 inches was extended an extra 60 days. The draft Tautog regulation, which makes changes necessary to comply with Amendment 1 to the Tautog Fisheries Management Plan (FMP), will be the subject of a public hearing on August 23rd. A Start Action Notice is being drafted

for Cobia to adopt *de minimis* measures or measures consistent with our nearest non- *de minimis*. Neighbor (VA).

Agenda Item 5. Mid Atlantic Fisheries Management Council (MAFMC) June 2018 Meeting Summary – Stewart Michels, Fisheries Program Manager, stated that the MAFMC is working on the Atlantic and Chub Mackerel FMPs. MAFMC has scheduled a public hearing for September 13, 2018 on the draft Summer Flounder Amendment, which addresses goals, objectives and commercial issues. NOAA Fisheries requested that Delaware implement rebuilding measures for the Dusky Shark stock, which include requiring a non-offset, corrodible circle hooks to minimize hooking mortality. The TFFAC approved a motion recommending that the Division promulgate regulations consistent with federal Dusky Shark regulations.

Agenda Item 6. Atlantic States Marine Fisheries Commission (ASMFC) Update – John Clark, Fisheries Administrator, said that the attendees at Delaware's public hearing on Draft Addendum V to the American Eel FMP favored increasing the coast-wide harvest cap. The changes made to Addendum XXX to the Black Sea Bass FMP at the Spring Meeting did not affect Delaware's 2018 Black Sea Bass regulation. The benchmark Striped Bass stock assessment should be completed by February 2019.

Agenda Item 7. Boat Ramp Maintenance – John Clark, Fisheries Administrator, The Collins Beach boat ramp was cleared of mud and surveyed for possible dredging. The Augustine boat ramp is scheduled for dredging every two years and will be dredged in 2019. The mud has been cleared from the Newport boat ramp.

Agenda Item 8. Director's Update – David Saveikis, Fish and Wildlife Division Director, updated the TFFAC on the passage of SB 158 that allows the landing in Delaware of fish caught in federal waters with gear legal in federal waters and on SB 220 that provides for the Division of Motor Vehicles to issue two recreational fishing license plates (one saltwater fishing-themed, the other freshwater fishing-themed)

with a portion of the revenue from the sale of such plates going to the Division to enhance recreational fishing. He also discussed Little Creek boat ramp construction, due for completion in October, Phillips Landing boat ramp reconstruction, which will begin in late fall, and the reconstruction of the Millsboro Pond boat ramp reconstruction and parking lot expansion scheduled for 2019.

Suggested Agenda Items for Next Meeting

1. Further discussion of anchor netting for Striped Bass north of Liston Point.
2. TFFAC Annual Report.

The meeting adjourned at 7:25 PM
Respectfully Submitted by

Rebecca Hoover

Rebecca Hoover
Recording Secretary

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Assessment passed peer review with minor modifications and it showed the Delaware Bay stock is at a high level. The Atlantic Menhaden Board postponed the motion to find Virginia out of compliance on the condition Virginia does not exceed the 51,000 metric tons Chesapeake Bay harvest cap. The 2019 recreational Summer Flounder regulations will remain status quo in Delaware.

Agenda Item 5 Sub-Item. Results of a Delaware angler poll regarding a potential February 2020 Black Sea Bass recreational fishing season – Council. Councilor Jay Little discussed the possibility of opening the Black Sea Bass season in February 2020 and then closing the season during another part of the year to offset the portion of Delaware's quota caught in February. The angler poll conducted on the Saltfish.net website indicated that anglers would be in favor of opening the black sea bass season in February. Mr. Clark told the Council that Virginia had a successful February 2019 Black Sea Bass recreational season, but the success of that season required that Virginia close their Black Sea Bass recreational fishery for 21 days in June 2019, so Delaware anglers need to consider the consequences of a February season. The Council decided to revisit the February season at a later date.

Agenda Item 6. Anchor netting in the Delaware River – Council. Councilor Brian Hoffecker summarized his conversations with commercial netters regarding allowing anchor netting in the Delaware River from the north end of the Appoquinimink River downstream to the Liston Point marker. He had also spoken to the Division's Enforcement Section. He said that allowing anchor netting in this currently closed area will shorten the time needed by commercial netters to catch their quota, thus reducing interactions between recreational and commercial fishing in that area. The Council approved a motion asking the Division to investigate changes to either the laws or regulations that would allow anchor netting in the Delaware River from Appoquinimink River to Liston Point.

Agenda Item 7. Court assessed penalties for commercial fishing violations – Council. Councilor

Wes Townsend summarized issues arising from the current structure and court outcomes of commercial fishing violations and penalties. He recommended forming a subcommittee consisting of members from the Advisory Council on Tidal Finfisheries, the Shellfish Advisory Council and the Council on Game and Fish. This subcommittee will meet to explore recommended approaches to change state law governing the violation structure and fines to deter illegal activities.

Agenda Item 8. Delaware Sea Grant Fisheries Forums – Dr. Ed Hale, Marine Advisory Specialist, Delaware Sea Grant, gave a summary of his Delaware Sea Grant activities working with government officials, academic researchers and the public to gather and share fisheries information through workshops, lectures, meetings and courses. He also conducts and applies scientific research on issues associated with fisheries, aquaculture and seafood. He described the North Carolina Sea Grant-developed Carteret Catch Model, which helps the local commercial fishing community by creating a brand for local seafood and explaining to consumers why local is better than imported seafood. A Delaware Sea Grant survey in 2014 revealed that 28% of consumers will pay more for a local brand-name product, so a Carteret Catch Model may work for branding Delaware seafood. Delaware Sea Grant plans to help small fishing-related businesses by providing more web courses/training, facilitating networking and marketing and helping with grant applications.

Agenda Item 9. Update on Delaware's summer slot Striped Bass season – Dr. Jason Boucher, Fisheries Biometrician, stated that the preliminary data for the 2018 summer slot Striped Bass season harvest and live releases are similar to previous years. The slot season usually accounts for less than 20% of Delaware's total Striped Bass total catch and has been as low as 5%. The highest summer slot season harvest was in 2013 and the lowest was in 2016. Anglers are live releasing more Striped Bass than they are harvesting during the summer slot season.

Agenda Item 10. Proposed legislation to streamline adoption of Delaware tidal finfish regulations – David Saveikis, Fish & Wildlife Division Director, stated that the current Administrative Procedures Act (APA) regulatory process often requires six months or more to change a regulation. This process is inefficient and provides no value for those mandatory, specified management measures for which there are no options required by the ASMFC, MAFMC or National Marine Fisheries Service (NMFS), such as a mandatory specified requirement of a 16.5 inch recreational flounder size limit. The Division is considering developing legislation that would exempt such tidal finfish regulation changes from the APA regulatory process and allow them to be changed by only a Secretary's Order. All ASMFC, MAFMC and NMFS FMPs with such mandatory, specified management measures already go through an extensive public comment processes before approval, so Delawareans are given ample opportunity to comment on these FMPs before they are approved. The Council made and unanimously approved a motion to support the Division proceeding with developing the proposed legislation.

Agenda Item 11. Director's Update – David Saveikis Fish & Wildlife Division Director, informed the Council that HB

97, which would allow non-resident college students to purchase resident recreational fishing, hunting and trapping licenses, was introduced in the General Assembly. He also stated that the Division will be sending postcard reminders to commercial fishermen to submit their commercial fishing landing reports on time. Construction of the Little Creek Boat Ramp and reconstruction of the Phillips Landing Boat Ramp were both completed in April. Design and engineering for a Dobbinsville fishing pier will begin once a Memorandum of Agreement (MOA) with the City of New Castle is completed. An MOA with the City of Wilmington for the Division to reconstruct the 7th Street boat ramp is under final review before sending to the City of Wilmington. An updated Artificial Reef Guide is scheduled for publication and delivery in July 2019.

Suggested Agenda Items for Next Meeting

1. Subcommittee report on evaluating fish and wildlife violations/fines

The meeting adjourned at 8:13 PM

Respectfully Submitted by



Rebecca Hoover
Recording Secretary

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Respectfully Submitted by



Rebecca Hoover
Recording Secretary

Anchor Net Allowance TFFAC



Legend

- Luston Point Marker
- Proposed Opening (Approx)

Lower Alloways Creek

5 mi



Greenwich

Slow Creek

Quinton

Alloway

Elsinboro

Eagle Island

Money Island

Artificial Island

Artificial Island

Luston Point Marker

Robb Island

The Rocks

The Island

Odessus

Biddies Corner

New Castle

Townsend

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Agenda Item 4. Mid Atlantic Fisheries Management Council (MAFMC) – Stew Michels, Fisheries Program Manager, stated that the Atlantic Mackerel fishery caught its Shad and River Herring bycatch limit in less than 2 months, resulting in the closure of the 2019 directed Atlantic Mackerel fishery. MAFMC approved keeping the 2020 Atlantic Mackerel specifications status quo to the 2019 specifications and maintaining the Shad and River Herring bycatch cap of 129,000 metric tons.

Agenda Item 5. Atlantic States Marine Fisheries Commission (ASMFC) – John Clark, Fisheries Administrator, summarized results from the previous ASMFC meeting and previewed actions that will likely be taken at the upcoming meeting. The South Atlantic Board approved Amendment 1 to the Atlantic Cobia FMP, which finalized the transfer of management responsibility from the South Atlantic Fishery Management Council to ASMFC. The Atlantic Menhaden Board kept the 2020 total allowable catch at 216,000 metric tons. ASMFC held a public hearing in Delaware on Striped Bass Draft Addendum VI to the Striped Bass FMP to obtain public input on the management options. At the upcoming ASMFC meeting, a draft Addendum to change the management triggers for Croaker and Spot will be approved for public comment; the American Eel Board will finalize the draft coast-wide cap overage policy; the

Horseshoe Crab Board will set the 2020 specifications; the Spiny Dogfish Board will consider approving Addendum 6, which will allow catch transfers between states; and the Summer Flounder, Scup and Black Sea Bass Board will discuss Black Sea Bass management and 2020 specifications. Finally, the commercial Tautog harvest tagging program will be implemented in 2020 for which the Division will distribute tags provided by ASMFC to commercial fishermen.

Agenda Item 6. Review a possible regulation to allow anchor netting in the Delaware River between Liston Point and the Appoquinimink River – Council. Chairman Fox read the current regulation describing the areas open for anchor gill netting, followed by a reading of a draft regulation the Division provided at the previous request of the Council to extend the anchor netting area in the Delaware River from Liston Point to the mouth of the Appoquinimink River. **Councilor Brian Hoffecker** summarized his conversations with commercial netters and the Division's Enforcement Section regarding extending the anchor netting area in the Delaware River. Commercial fishing netters support and the Division had no objections to extending the area. The Council moved to recommend and request that the Division begin the regulatory process to move the upper boundary of the anchor netting area from Liston Point to the mouth of the Appoquinimink River. Motion made by Mr. Pankowski and seconded by Mr. Smith. Motion passed 4 - 0 with one abstention.

Agenda Item 7. Update on the Joint Multi-council Subcommittee Evaluating Fish and Wildlife Violations/Fines – Chairman Fox stated that the subcommittee held their first meeting in August, with a second meeting scheduled for September. A more detailed update will be given at the next Tidal Finfisheries Advisory Council meeting in November.

Agenda Item 8. Update on Offshore Wind Farms – DNREC Coastal Program. Kristi Lieski, Environmental Scientist, summarized the Federal Consistency process, administered by the DNREC Coastal Program, which gives Delaware input on Federal water activities that will affect Delaware's coastal zone, such as offshore wind power. There are

seven renewable energy lease areas off the Atlantic coast, and the American subsidiary of Ørsted A/S, a large Danish wind energy corporation, is leasing the area off of Delaware named Skipjack Wind Farms. Ørsted will submit a construction plan to the Bureau of Ocean and Energy Management for review in 2019. The power lines from the wind farm would connect to the power grid at the Indian River Power Plant, but the path has not been finalized.

Agenda Item 9. Public Question to Council: Should Delaware Black Drum Recreational Possession Limit (3) Match the Maryland Possession Limit (1)? – DFW. John Clark, Fisheries Administrator, stated that an angler requested that he ask the Council to consider providing input to the Division on whether to change Delaware's current recreational Black Drum possession limit of 3 to match the Maryland possession limit of 1. The Council moved to recommend that Delaware keep its current Black Drum recreational possession limit. Motion made by Mr. Kahl and seconded by Mr. Smith. Motion passed 4 - 0 with one abstention.

Agenda Item 10. Director's Update – David Saveikis, Fish & Wildlife Division Director, informed the Council that HB 6, which streamlines adoption of Delaware tidal finfish regulations, was passed by the General Assembly and signed into law by Governor Carney. Construction of the Little Creek Boat Ramp, Phillips Landing Boat Ramp and Woodland Wharf fishing access areas have been completed. The Masseys Landing bulkhead repair will take place over the fall and winter months. The Division of Watershed Stewardship is scheduled to dredge Masseys Ditch in early 2020. Design and engineering for the Dobbinsville fishing pier will begin upon completion of a Memorandum of Agreement (MOA) with the City of New Castle. An MOA with the City of Wilmington for the Division to reconstruct the 7th Street Boat Ramp has been signed and the design and engineering process will begin soon. The new recreational fishing license plates are now available for \$95 through the Division of Motor Vehicles. The freshwater plate features a largemouth bass and the saltwater plate features a striped bass. Seventy eight plates have been sold to date, bringing in over \$6,000 in revenue to the Division to promote sport fishing.

Suggested Agenda Items for Next Meeting

1. Update from the Subcommittee evaluating fish and wildlife violations/fines.
2. Division of Watershed Stewardship dredging projects update.
3. Black drum update on population decrease.
4. Update on Vibrio.
5. Discuss Summer Flounder possession limit.

The meeting adjourned at 7:40 PM

Respectfully Submitted by



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ADVISORY COUNCIL

Dewayne Fox, Ph.D., Chair
Bernie Pankowski
Brian Hoffecker
James "Jay" Little
Marvin Kahl, Jr.
P. "Wes" Townsend (*Absent*)
Joseph Smith

DIVISION OF FISH & WILDLIFE

John Clark
Stew Michels
Jason Boucher
Captain Nick Couch
David Saveikis, Director

PUBLIC

7 Visitors

Agenda Item 1. Welcome

Chairman Dewayne Fox called the meeting to order at 6:00 PM and welcomed everyone.

Agenda Item 2. Approval of April 17, 2019 Meeting Minutes

A motion was made and seconded and the Council voted unanimously to accept the April meeting minutes as written.

Agenda Item 3. Regulatory Update – Stew Michels, Fisheries Program Manager, stated that the public hearing on the proposed Lobster and Jonah Crab regulation was held on May 23, 2019, and the final regulation became effective on September 11, 2019. The draft regulations for Cobia, which will adopt either the default *de minimis* measures or the measures of the nearest *non-de minimis* neighbor (Virginia), are awaiting referral to the Deputy Attorney General. Draft regulations necessary to comply with HB 341 (Apprenticeship Program) and the Coastal Sharks Fisheries Management Plan (FMP) are under review.

Agenda Item 4. Mid Atlantic Fisheries Management Council (MAFMC) – Stew Michels, Fisheries Program Manager, stated that the Atlantic Mackerel fishery caught its Shad and River Herring bycatch limit in less than 2 months, resulting in the closure of the 2019 directed Atlantic Mackerel fishery. MAFMC approved keeping the 2020 Atlantic Mackerel specifications status quo to the 2019 specifications and maintaining the Shad and River Herring bycatch cap of 129,000 metric tons.

Agenda Item 5. Atlantic States Marine Fisheries Commission (ASMFC) – John Clark, Fisheries Administrator, summarized results from the previous ASMFC meeting and previewed actions that will likely be taken at the upcoming meeting. The South Atlantic Board approved Amendment 1 to the Atlantic Cobia FMP, which finalized the transfer of management responsibility from the South Atlantic Fishery Management Council to ASMFC. The Atlantic Menhaden Board kept the 2020 total allowable catch at 216,000 metric tons. ASMFC held a public hearing in Delaware on Striped Bass Draft Addendum VI to the Striped Bass FMP to obtain public input on the management options. At the upcoming ASMFC meeting, a draft Addendum to change the management triggers for Croaker and Spot will be approved for public comment; the American Eel Board will finalize the draft coast-wide cap coverage policy; the

Horseshoe Crab Board will set the 2020 specifications; the Spiny Dogfish Board will consider approving Addendum 6, which will allow catch transfers between states; and the Summer Flounder, Scup and Black Sea Bass Board will discuss Black Sea Bass management and 2020 specifications. Finally, the commercial Tautog harvest tagging program will be implemented in 2020 for which the Division will distribute tags provided by ASMFC to commercial fishermen.

Agenda Item 6. Review a possible regulation to allow anchor netting in the Delaware River between Liston Point and the Appoquinimink River – Council. Chairman Fox read the current regulation describing the areas open for anchor gill netting, followed by a reading of a draft regulation the Division provided at the previous request of the Council to extend the anchor netting area in the Delaware River from Liston Point to the mouth of the Appoquinimink River. Councilor Brian Hoffecker summarized his conversations with commercial netters and the Division's Enforcement Section regarding extending the anchor netting area in the Delaware River. Commercial fishing netters support and the Division had no objections to extending the area. The Council moved to recommend and request that the Division begin the regulatory process to move the upper boundary of the anchor netting area from Liston Point to the mouth of the Appoquinimink River. Motion made by Mr. Pankowski and seconded by Mr. Smith. Motion passed 4 - 0 with one abstention.

Agenda Item 7. Update on the Joint Multi-council Subcommittee Evaluating Fish and Wildlife Violations/Fines – Chairman Fox stated that the subcommittee held their first meeting in August, with a second meeting scheduled for September. A more detailed update will be given at the next Tidal Finfisheries Advisory Council meeting in November.

Agenda Item 8. Update on Offshore Wind Farms – DNREC Coastal Program. Kristi Lieski, Environmental Scientist, summarized the Federal Consistency process, administered by the DNREC Coastal Program, which gives Delaware input on Federal water activities that will affect Delaware's coastal zone, such as offshore wind power. There are

seven renewable energy lease areas off the Atlantic coast, and the American subsidiary of Ørsted A/S, a large Danish wind energy corporation, is leasing the area off of Delaware named Skipjack Wind Farms. Ørsted will submit a construction plan to the Bureau of Ocean and Energy Management for review in 2019. The power lines from the wind farm would connect to the power grid at the Indian River Power Plant, but the path has not been finalized.

Agenda Item 9. Public Question to Council: Should Delaware Black Drum Recreational Possession Limit (3) Match the Maryland Possession Limit (1)? – DFW. John Clark, Fisheries Administrator, stated that an angler requested that he ask the Council to consider providing input to the Division on whether to change Delaware's current recreational Black Drum possession limit of 3 to match the Maryland possession limit of 1. The Council moved to recommend that Delaware keep its current Black Drum recreational possession limit. Motion made by Mr. Kahl and seconded by Mr. Smith. Motion passed 4 - 0 with one abstention.

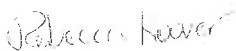
Agenda Item 10. Director's Update – David Saveikis, Fish & Wildlife Division Director, informed the Council that HB 6, which streamlines adoption of Delaware tidal finfish regulations, was passed by the General Assembly and signed into law by Governor Carney. Construction of the Little Creek Boat Ramp, Phillips Landing Boat Ramp and Woodland Wharf fishing access areas have been completed. The Masseys Landing bulkhead repair will take place over the fall and winter months. The Division of Watershed Stewardship is scheduled to dredge Masseys Ditch in early 2020. Design and engineering for the Dobbinsville fishing pier will begin upon completion of a Memorandum of Agreement (MOA) with the City of New Castle. An MOA with the City of Wilmington for the Division to reconstruct the 7th Street Boat Ramp has been signed and the design and engineering process will begin soon. The new recreational fishing license plates are now available for \$95 through the Division of Motor Vehicles. The freshwater plate features a largemouth bass and the saltwater plate features a striped bass. Seventy eight plates have been sold to date, bringing in over \$6,000 in revenue to the Division to promote sport fishing.

Suggested Agenda Items for Next Meeting

1. Update from the Subcommittee evaluating fish and wildlife violations/fines.
2. Division of Watershed Stewardship dredging projects update.
3. Black drum update on population decrease.
4. Update on Vibrio.
5. Discuss Summer Flounder possession limit.

The meeting adjourned at 7:40 PM

Respectfully Submitted by



Rebecca Hoover
Recording Secretary