

ADVISORY COUNCIL ON TIDAL FINFISHERIES



MINUTES OF *DECEMBER 4, 2012



Richardson and Robbins Building Auditorium, 89 Kings Highway, Dover, Delaware 19901
Phone: 302-739-9914, Fax: 302-739-6157

*This meeting was rescheduled from Nov. 21, 2012

ADVISORY COUNCIL

Dewayne Fox, Ph.D., Chairman
Bernie Pankowski (absent)
Brian Hoffecker (absent)
James "Jay" Little
Marvin Kahl, Jr.
P. "Wes" Townsend
Vacant-NCC Commercial

DIVISION OF FISH & WILDLIFE

John Clark
Stewart Michels
David Saveikis, Director
Jeff Tinsman
Scott Newlin
Sr. Cpl. Drew Aydelotte

PUBLIC

2 Visitors

Agenda Item 1. Welcome

Chairman Fox called the meeting to order at 6:00 and welcomed those in attendance.

Agenda Item 2. Approval of 9/19/12 & 10/17/12 meeting minutes

A motion was made, seconded and passed to approve both the September and October sets of meeting minutes.

Agenda Item 3. Coast Guard inspections

Mr. Clark stated that the Coast Guard's voluntary dockside safety exams are now mandatory for commercial vessels. Commercial fishermen working in federal waters must call the Coast Guard to schedule their inspection.

Agenda Item 4. Update on the USS Radford artificial reef site

Mr. Tinsman gave a Power Point presentation documenting the steps that the DFW followed to obtain the USS Radford for sinking as an artificial reef site and the lengthy clean-up process to prepare the vessel prior to sinking. He explained that a 5-year monitoring program has begun in order to study the marine species expected to make use of this artificial reef which broke into 3 separate pieces. He showed video of various species found at the site during a dive in October. Some species seen on the video include thousands of blue mussels (outside and inside the structure), schools of bluefish, and numerous black sea bass.

Agenda Item 5. Fisheries damage from Super Storm Sandy

Mr. Clark explained that Councilman Townsend had called the DFW after super storm Sandy and indicated that he lost a great deal of fishing gear as a result of the storm. He had inquired about similar cases of missing or damaged fishing gear after the storm. Mr. Clark researched the availability of funds to reimburse commercial fishermen for this type of storm damage. He contacted Delaware Emergency Management Agency (DEMA), who in turn contacted the Federal Emergency Management Agency (FEMA), but the response was that lost or damaged commercial fishing gear is not covered through these agencies. Mr. Clark found out that the only option open to commercial fishermen who suffer damages from these storm events would be from instances when the Governor declares a "fisheries disaster". He added

that damages appeared to be limited only to some commercial vessels that go out to the ocean. The National Marine Fisheries Service (NMFS) definition of a "commercial fishery failure", which would prompt a declaration of a "fisheries disaster", requires a fishery to suffer a revenue loss of at least 35% for the year (based on a 5-year average). Due to this requirement, and no other known commercial losses in DE, the DFW is not able to seek any funds for commercial fishing damages suffered from Sandy.

Agenda Item 6. Spiny dogfish quota for 2013

Mr. Newlin stated that the most recent stock assessment for spiny dogfish shows that the stock is not being over-fished and over-fishing is not occurring. This population is doing very well. In response to the data, the NMFS and ASMFC have increased the coastwide quota by about 5-million pounds. Delaware receives about 1% of the mid-Atlantic quota. This 1% allocation will be approximately 365,000 pounds. The Fishery Management Plan allows the Mid-Atlantic States to adjust their trip limits, so a 10,000-lbs. commercial trip limit is being proposed for DE, up from the current 3,000-lbs trip limit. Some discussion took place regarding the increased risk to sturgeon and other species that may be caught as by-catch with the proposed trip limit increase. The Council passed a motion to approve the quota increase.

Agenda Item 7. Regulatory update

Mr. Michels reviewed several DFW regulations currently in the process of proposed changes. The weakfish public hearing was held on Oct. 31 and there were no attendees from the public. The Dept. received a faxed written comment signed by 11 members of the commercial fishing sector expressing opposition to the proposed change of the definition of a weekend. Concerns were based on possible impacts of the proposed changes to foodfish sales. Mr. Michels stated that unless the Council urges the DFW to continue to move forward, the issue will be put "on hold" until the Commission can be contacted to inquire about other options to accommodate Friday or weekend menhaden fishing by the commercial fishermen. The Council had no comment on the weakfish issue. Mr. Michels continued, stating that a Start Action Notice (SAN) proposing to designate snakehead, blue catfish, flathead catfish, walking catfish and grass carp as invasive in tidal waters, is currently going through Departmental review. This proposed regulation would

expressly allow invasives to be taken by bow and arrow in tidal waters. Language will likely be included to make it unlawful to possess, transport, purchase or sell live invasives without the written permission of the Division Director. The public hearing is tentatively scheduled for Jan. 24, but once the date is set, notice will be posted to the Statewide Public Meeting Calendar (*web address: <http://egov.delaware.gov/pmc/#agency114>*) and the newspapers. A SAN is being developed regarding Highly Migratory Species (HMS – tuna, billfish, some coastal sharks) found in state and federal waters. This proposal would most likely adopt the federal rules and allow for enforcement and prosecution of HMS infractions at the state level. A public hearing took place on Oct. 26 regarding non-tidal regulation changes, mostly pertaining to freshwater trout and invasive finfish in non-tidal waters, and there were no attendees from the public. Mr. Michels expects the changes to be published in the Jan. 1 Register of Regulations as “Final”. A Horseshoe Crab SAN is currently under Departmental review to allow the quota to be adjusted annually according to the outputs of the ASMFC’s Adaptive Resource Management Model or Board action. Delaware’s quota for 2013 should be 162,136 male horseshoe crabs, which is an increase of 62,136 males. The DFW is seeking the ability to close this fishery predictively upon reaching 95% of the quota to prevent overages. Hopefully the proposed regulations will be published in the Jan. 1 Register of Regulations and a Jan. 23 public hearing date is tentative.

Agenda Item 8. Summary of ASMFC Annual Meeting

Mr. Clark explained that the ASMFC Annual meeting took place in Philadelphia, PA, Oct. 22-25. He went over the DE-relevant Board actions. New York reported that recreational fishermen there are catching tautog in federal waters and selling them live in NYC. There is a loophole allowing this activity, but they were warning other states of the premium paid for live tautog in Asian fish markets, so they can be on the lookout for similar activity. There is no word yet on the timing of a decision regarding the potential Endangered Species Act (ESA) listing of river herring. Some indices suggest that the weakfish population may be recovering. Delaware inquired about changing the current 34-day annual net closure in May and June to a seasonal closure similar to NJ. This results in 34 fewer days to catch weakfish in DE. The Weakfish Board did not act on this request due to demands for various changes (that are deemed restrictions in the Fishery Management Plan [FMP]) from other states. The Striped Bass Board discussed the Terms of Reference (TOR) to be used in the upcoming benchmark stock assessment. The American Eel Board discussed the status of ESA listing for American eel. A petition to add Am. eel to the Convention on International Trade in Endangered Species (CITES) list of species requiring import and export controls was also discussed. Management measures to be included in the draft Addendum were reviewed but no decisions were made in this regard. The Draft Interstate FMP for Black Drum was approved for public comment. The Atlantic Sturgeon Management Board tasked the Technical Committee with developing a delisting and/or down-listing petition to either remove Atlantic sturgeon Distinct Population Segments (DPS) from the ESA list or lower the DPS status from “endangered” to “threatened”. The Board approved prioritizing a new

benchmark Atlantic sturgeon population assessment. The Spiny Dogfish & Coastal Sharks Board approved increasing the quota for the 2013 fishing season. The Board also approved a 2013 36-fish possession limit for sharks in the Large Coastal Sharks (LCS) species group, which includes; silky, tiger, blacktip, spinner, bull, lemon, nurse, scalloped hammerhead, great hammerhead, and smooth hammerhead sharks. The Horseshoe Crab Management Board approved the harvest specifications for horseshoe crabs of DE Bay origin. Delaware’s quota will increase from 100,000 males last year to 162,136 males for 2013. Summer flounder landings estimates for 2012 are below the 2012 landings target. Black sea bass 2012 harvest estimates have exceeded both the harvest target and the Annual Catch Limit (ACL), which triggers a closure of the recreational fishery in federal waters. NOAA Fisheries announced this closure on Oct. 23, 2012. State water fishing seasons will remain as published at the start of each state’s fishing season, and in DE, black sea bass is currently open in DE waters until Dec. 31.

Agenda Item 9. Sturgeon ESA update

Mr. Clark stated that DFW Biometrician Des Kahn is continuing to work on the Section 10 permit. Data from all of DE’s fisheries that might have sturgeon interactions is being included. Observer data has been received from NMFS that covers 31 gill net trips between 1999 and 2009. From these trips (in the mid-bay, inshore area), 23% had Atlantic sturgeon in the gill net.

Agenda Item 10. Director’s update

Mr. Saveikis stated that he will have Fisheries-related press releases forwarded to Council members along with the agenda for upcoming meetings. This will be a regular occurrence. He mentioned the article on shad in *Outdoor Delaware* magazine (www.dnrec.delaware.gov/Admin/Pages/OutdoorDelaware). When the 2013 Fishing Guide is published, hopefully by the end of January, the cover will be the winner of the 2nd Annual Photo Contest featuring children anglers and the theme “carrying on the tradition”. There will be an update in January on Executive Order 36 (EO36), which requires all state agencies to review regulations older than 3 years. The Department’s fee structure analysis is on-going and a presentation and opportunity for review will be provided as soon as possible. Mr. Saveikis also mentioned legislation the DFW is currently considering proposing, including violation fee increases and promoting license sales.

Agenda Item 11. Agenda items for Jan. 16, 2013 meeting

Dr. Fox requested items for the next meeting’s agenda:

1. EO36
2. Shark finning
3. Bowers dredging update
4. Council by-laws
5. February meeting—postpone or cancel?

This meeting adjourned at approximately 7:15 PM.

Respectfully submitted,



Kim Stangl
Recording Secretary