

# ADVISORY COUNCIL ON TIDAL FINFISHERIES



## MINUTES OF JUNE 19, 2013



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

### ADVISORY COUNCIL

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

### DIVISION OF FISH & WILDLIFE

John Clark  
Stewart Michels  
Des Kahn, Ph.D.  
David Saveikis, Director  
Sr. Cpl. Drew Aydelotte  
Kim Stangl

### PUBLIC

4 Visitors

#### **Agenda Item 1. Welcome**

**Acting Chairman Townsend** called the meeting to order at 6:00 and expressed gratitude to those in attendance.

#### **Agenda Item 2. Approval of 5/15/13 meeting minutes**

The **Council** passed a motion approving the May meeting minutes.

#### **Agenda Item 3. By-laws Discussion**

**Mr. Townsend** announced that this topic is postponed until the next meeting in September.

#### **Agenda Item 4. Regulatory update/regulatory review**

**Mr. Michels** went over recent regulatory actions. The regulation increasing the limit for spiny dogfish daily commercial landings from 3,000 to 10,000 lbs. per day will be published in the August Register of Regulations. Due to a Registrar oversight, the tidal invasive finfish regulation was not published in the June Register, as anticipated. Although it will not be published until the July Register, its effective date is June 11<sup>th</sup>. The new summer flounder regulation which decreases the minimum size limit to 17 inches, with a 4-fish daily limit and no closed season, became effective June 11<sup>th</sup>. Proposed regulation to adopt federal rules to allow for enforcement and prosecution of Highly Migratory Species (HMS) infractions at the state level has been referred to the Attorney General's Office because it may not be practical due to the frequency of updates to HMS federal rules. The DE DFW Atlantic Menhaden Implementation Plan has been approved by the Atlantic States Marine Fisheries Commission (ASMFC). The Start Action Notice (SAN) has been prepared and proposes mandatory daily harvest reporting through the Interactive Voice Response system. A SAN for black sea bass to reduce the possession limit from the current 15/25 fish to 20 fish during all seasons, consistent with the federal rules, is still on hold until the DFW receives confirmation that the federal rules are published. Amendments are being drafted to the striped bass regulations to make them more consistent with other tidal regulations, mostly to attempt to clarify weigh station and harvester tagging/reporting requirements. A SAN to prohibit the possession and use of Asian horseshoe crabs has been submitted for publication in the July Register of Regulations. A public hearing on the Asian horseshoe crab

proposed regulation will be held in this auditorium on July 25<sup>th</sup> at 6:00 PM.

#### **Agenda Item 5. ASMFC Spring Meeting summary**

The ASMFC met in May in Alexandria, VA. **Mr. Clark** went over action items from these meetings that are pertinent to DE. The American Lobster Board requested that DE have its artificial reefs in federal waters designated as Special Management Zones (SMZ). This has already been approved by the Mid Atlantic Fishery Management Council which has jurisdiction over marine fisheries in federal waters. There was no vote taken on this topic, just discussion. The recently approved addendum to the Spiny Dogfish and Coastal Sharks Inter State Fishery Management Plan (ISFMP) allocates state shares of the annual smooth hound shark (formerly smooth dogfish) quota, with DE's allocation being 0.34%. Draft Addendum III to the American eel ISFMP was postponed until the summer meeting because agreement could not be reached regarding management options. Delaware's implementation plan for compliance with Amendment 2 to the Atlantic menhaden ISFMP was approved by the Board. **Mr. Clark** indicated that the National Marine Fisheries Service (NMFS) discussed as required as part of an Endangered Species Act (ESA) Section 7 consultation their draft Biological Opinion for the seven major northeast federal fisheries that have incidental takes of Atlantic sturgeon. The NMFS opinion is that these fisheries will not jeopardize the Atlantic sturgeon stock. This finding is considered a good sign for DE's application for an ESA Section 10 permit for its commercial fisheries. The draft black drum ISFMP was approved, which requires all states to maintain current regulations for black drum and, for those states with more liberal regulations, implement a maximum possession limit of 3 and minimum size limit of 12 inches by 2014 and then raise the minimum size limit to 14 inches by 2016. Delaware's current size and bag regulations will remain in place and will be expanded to apply to all state waters. **Mr. Michels** recently went to a meeting of the Mid Atlantic Fishery Management Council (MAFMC), which administers fisheries in federal waters, and he reported various updates including the Omnibus Recreational Accountability Measures Amendment. This amendment addresses recreational accountability measures for Atlantic mackerel, bluefish, scup, summer flounder and black sea bass. He went over the actions taken by the MAFMC in

this regard, including the approval of measures that would allow a scaled pay-back under certain conditions, except situations where overfishing occurred which would require pay-back pound for pound.

Respectfully submitted,



Kim Stangl  
Recording Secretary



**Agenda Item 6. Proclamation authority in other states**

**Mr. Clark** went over various techniques used in other states for streamlining the regulatory process in order to remain compliant with changes to ASMFC species management plans. Currently in DE, the regulatory process takes 5 to 6 months to complete, which can cause issues of non-compliance with ISFMP changes and the delay can place Delaware fisheries at a competitive disadvantage compared to surrounding states. In some instances, such as the federal season determination for last year's black sea bass fishery, the lengthy regulatory process can cause lost fishing days for DE fishermen. The streamlined regulatory process details of Maryland, New Jersey and North Carolina were used as examples for DE DFW to consider. Mr. Clark stated that he plans to have some proposals to present and discuss for possible implementation in DE for the next TFFAC meeting.

**Agenda Item 7. Delaware City Refinery water intake impact on fish**

DFW Biometrician **Dr. Kahn** gave an overview of the effects the Delaware City refinery water intake system has on fish populations. He estimated that, in 1998, young-of-the-year (YOY) striped bass killed by the refinery's water intake system would have produced almost 13,000 adult striped bass and YOY weakfish killed by the water intake system would have produced almost 3,600 adult weakfish. Some discussion occurred regarding specifics of information presented in some of the graphs included in the presentation.

**Agenda Item 8. Director's update**

**Director Saveikis** provided an update on the Executive Order 36 regulatory change to black sea bass regulations. The proposed regulatory change would allow for black sea bass pot and hook-and-line permits to be transferred. He stated that the DFW proposed legislation (prompted by this Council) which would repeal the code banning the use of electric lights for fishing met legislative resistance and will not be considered this session. House Bill 94, which improves the issuance of scientific collection permits, was passed by both houses. House Bill 160, which will open up the Inland Bays to shellfish aquaculture, passed the House. Director Saveikis explained how this bill would result in administrative costs on the DFW, thus DFW requested a fiscal note attachment to the bill to cover these costs.

**Agenda Item 9. Agenda items for 9/18/13 meeting**

**Mr. Townsend** requested items for the next meeting's agenda:

1. By-laws discussion.
2. Update on SB117 and HB160.
3. Proclamation authority discussion.
4. Weakfish net closure days/permits discussion.
5. Discussion regarding Proclamation Authority.
6. Summer ASMFC meeting update.

This meeting adjourned at 7:43 PM.