

## NEW JERSEY MARINE FISHERIES COUNCIL

**Galloway Township Public Library  
Jimmies Leeds Road  
Absecon, New Jersey  
November 6, 2008**

In Attendance were: Chairman Gilbert H. Ewing, Jr.  
Councilman Erling Berg  
Councilwoman Eleanor Bochenek  
Councilman Patrick Donnelly  
Councilman Edward Goldman  
Councilman Richard Herb  
Councilman John Maxwell  
Councilwoman Frances Puskas  
Councilman Joseph Rizzo

Absent: Councilman Barney Hollinger

Also in attendance representing the Division of Fish and Wildlife:

Thomas W. McCloy, Administrator, Marine Fisheries Adm. (MFA)  
James W. Joseph, Chief, Bureau of Shellfisheries  
Brandon Muffley, Chief, Bureau of Marine Fisheries  
Mark Chicketano, Captain, Bureau of Law Enforcement  
Russ Allen, Principal Biologist, Bureau of Marine Fisheries  
Russ Babb, Supervising Biologist, Bureau of Shellfisheries  
Jeffrey Brust, Research Scientist, MFA  
Linda Barry, Technician I, Bureau of Marine Fisheries  
Jen Resciniti, Technician II, Bureau of Marine Fisheries

Ms. Barry read the compliance with the Sunshine Law. Notice of meeting was filed with the Secretary of State on October 2, 2008. Chairman Ewing reminded everyone of proper conduct for the meeting. Chairman Ewing asked Council members to speak directly into the microphones, because it is not picking up as well as we thought. Chairman Ewing stated that the meeting would end at 6:30pm because the ASMFC will be holding a River Herring Hearing at 7pm.

### **September 4, 2008 Minutes**

Mr. Goldman asked for a correction to the minutes regarding his comments that the federal government needs to have a registry in place by 2009 but there will be no charge (federally) until 2011. The corrected minutes were unanimously approved.

## **Law Enforcement Report**

Captain Chicketano presented the Law Enforcement Report.

### **District 7 Highlights**

On October 4, Conservation Officer's (CO) inspected the F/V Dauntless, a party boat which docks at Point Pleasant Beach. This vessel was filled with patrons as it returned from a bottom fishing trip. The CO's were able to apprehend five individuals. Three fishermen were apprehended with between 28-30 undersized black sea bass each, including several fish over the bag limit. The two other fishermen had 10 shorts each. The appropriate summonses were issued.

On October 7, Conservation Officer's (CO's) set up a surveillance of Barnegat Inlet at the south jetty in response to a history of complaints of undersized fish being kept. There were several fishermen on the jetty. When the CO's decided to inspect the fishermen, it created a "Chinese Fire Drill" with individuals moving in all directions. Individuals on cell phones were calling for rides to be picked up so the CO's wouldn't inspect them. The CO's staked out two individuals waiting for a ride and was able to apprehend them as two other individuals were picking them up. The illegal fish were located in the vehicle. The two individuals in the vehicle were issued summonses for possession of nine undersized blackfish and four over bag limit. In a separate incident at the Barnegat Inlet, a CO apprehended two individuals in possession of sixteen undersized scup, three undersized black sea bass and six undersized blackfish. The appropriate summonses were issued.

Conservation Officer investigated a complaint that the Pathmark Supermarket in Middletown was selling undersized lobster tails. CO confirmed that the tails were from American Lobster and were undersized. The store was issued a summons for possession of undersized American Lobster. The out of state seafood distributor supplying these tails was contacted and advised to stop deliveries to any businesses in New Jersey.

An informant called a specific CO in reference to an individual catching several blackfish and having his female partner take the fish away in blue bags and walk out of sight with the fish. This was occurring at Manasquan Inlet at Pt. Pleasant Beach. The CO was unable to respond, as he was involved in the Governor's Surf Fishing Tournament at Island Beach State Park. He relayed this information to a Lt. and DCO who responded to the complaint. The DCO set up a surveillance of the inlet jetty while the Lt. searched for the female. While driving around the Lt. observed a female sitting in a vehicle in the general direction of where the female was last seen walking and matching the description given by the informant. The Lt. watched this vehicle while keeping in contact with the CO who was communicating with the informant. The female left the vehicle and was observed by the informant picking up a bag of fish from the fisherman. The Lt. observed the woman walking back to the vehicle with a large purse over her shoulder. He also observed the woman place the contents of the purse in the rear of the vehicle and proceeded to make an inspection. There were seven blackfish wrapped in blue plastic bags in a cooler, in the rear of the vehicle. The woman attempted to call the fisherman on her cell phone, but was thwarted by the Lt. as the informant observed another fish kept by the fisherman. The Lt. apprehended the fisherman who had another blackfish in

possession on the jetty. The fisherman was issued summonses for possession of seven blackfish over the limit and taking two undersized blackfish. Meanwhile, DCO observed a separate group of two fishermen take and possess five undersized blackfish. The appropriate summonses were issued.

While a CO was returning back from a boat patrol in the Forked River observed sheen in the water in the vicinity of Silver Cloud Marina. The CO contacted marina personnel who assisted in locating the source of the sheen. The sheen was traced to a bilge outlet of one of the vessels docked at the marina. The CO and the marina owner boarded the vessel and discovered a leaking steel fuel tank. The tank was badly rusted and contained diesel fuel. They also observed a roll of paper towel placed near the leak in the tank. NJDEP Emergency Response was contacted, but the marina had the spill contained and removed the vessel from the water prior to them arriving on scene. The CO contacted the vessel's owner who admitted that he was aware of the leak, stating it was "only leaking a cup to a cup and a half a day". He also admitted that the leak had been occurring for several weeks. A summons is pending.

### **District 8 Highlights**

On Sunday September 21, a CO received a call about the recreational fishing vessel "Good as Gold" which was targeting fluke during the closed season. The CO had received numerous complaints about this vessel in years past but was unable to apprehend the vessel. With assistance from other CO's, surveillance was set up to board the vessel upon its return from offshore. Late in the afternoon the CO's boarded the vessel inspecting the coolers of the five fishermen stowed on the deck of the vessel. One cooler containing the collective legal possession limit of bluefish was located. Based on the information he obtained, the CO pressed the owner of the vessel about additional fish hidden on board the vessel. The owner repeatedly denied that more fish were on board the vessel. A more thorough inspection of the vessel, concentrating on the compartments in the forward portion of the vessel, yielded a bag of filleted fish concealed under a hatch. The fillets were identified as parts from four summer flounder and nine undersize black sea bass. The CO's issued the appropriate summons for possession of fluke during closed season, filleting at sea, and interference with Conservation Officer for making false statements.

On September 23, a CO observed the FV Helen W. Smith offloading croakers at Cold Spring Fish Co. in Cape May. He learned that the vessel had landed its weekly limit of summer flounder under New Jersey regulations on the 22<sup>nd</sup> and boarded the vessel to inspect the vessel's paperwork. In the wheelhouse of the vessel, the CO noticed that the Captain appeared uneasy. In addition, the crew hastily finished its offloading and closed the lid to the fish hold. Sensing that they were hiding something, the CO insisted on inspecting the hold of the vessel. On initial inspection it appeared as if the bins only had ice in them. As the CO dug down below the top layer of ice, approximately two feet, and discovered a load of summer flounder, which had not been offloaded. In addition to the fluke not being listed on the vessel's Federal Fishing Vessel Trip Report; which is a federal violation, it landed in excess of the NJ weekly limit. The CO ordered that the vessel offload all of the concealed fluke. A total of 2,114 lb of fluke was removed from

the vessel's hold. The captain stated that it was his intention to land the fluke in his home state of Virginia. The CO documented the violations, issuing a state summons to the vessel for landing more than their trip limit of fluke and a federal warning for the failure to accurately complete its FVTR. Upon conviction the vessel faces up to a \$3,000.00 penalty and 60-day suspension of its New Jersey Fluke landing Permit.

On 9/30/08, while patrolling alone, a CO encountered a large number of recreational violations. While engaged in an apprehension on one of the finger jetties in the inlet section of Atlantic City, the CO observed a woman dump a bucket of illegal tautog when she saw him. The CO ordered her to stop and began retrieving the fish. While collecting the discarded fish a male fisherman on the same jetty also began dumping his illegal fish. The CO ordered the man to stop and when his attention was momentarily diverted to him, the female tried to finish her destruction of evidence. The CO took both individuals into custody removing them from the jetty to issue several summonses for over the limit tautog, undersize tautog and interference with the duties of a conservation officer. During the interview of the individuals, the CO encountered a language barrier. The woman's daughter helped translate for the CO. During translation, the little girl told him that they didn't have a vehicle in the area.

An hour later, the CO noticed that the woman and her daughter appeared to be acting as lookouts for the other fishermen who were on the jetties. When they began to pack up their gear and leave, they loaded up a car that was parked on the street. The CO returned just as they were finished loading the car. Through their daughter, they made another false claim that no fish were in the vehicle. The CO recovered a cooler concealed between the front seats of the vehicle, which contained 9 under sized tautog, and one summer flounder. He issued the additional summonses to the male individual.

On 10/13/08 CO prosecuted the individuals in Atlantic City Municipal court. The couples plead guilty to most of the violations and were sentenced to a collective penalty of \$1200.00

On 10/1/08 acting on a call received by the Marine Region Office, a CO observed a small inflatable "Zodiac" style boat tautog fishing along the jetties in Cape May Inlet. The CO watched the occupants of this vessel; a husband and wife catch and retain several tautog. After hours of fishing, the vessel's operator pulled the anchor and beached the boat near a clam processing plant adjacent to the Two-Mile Bridge. The couple stopped to collect green crabs for use as tautog bait. The CO took the opportunity to approach the fishermen on foot. As he approached, the woman immediately ran for the vessel while the man attempted to obstruct the CO view. The CO ordered the individuals to stop their attempt to discard fish from the vessel. The female suspect ignored his orders and threw a bag containing illegally harvested fish into the bay. The CO was able to recover the bag of fish and apprehend the individuals. The bag contained 30 tautog; 20 measured less than the legal size limit. He issued the appropriate summons for possession of over the limit and under size tautog and for interference with the duties of a conservation officer.

On 10/3/08 Lt and CO's assisted NMFS in apprehending FV Capt Charlie in Sea Isle City for harvesting sea scallops from the Elephant Trunk limited access area that is presently closed. NMFS Agents are completing the case package.

A CO with the assistance of other District 8 officers has concentrated on the inlet area of Atlantic City to reduce the widespread disregard for the recreational tautog fishery. The CO has written numerous summonses for violations of the 14" size limit and the one fish bag limit. The fall/winter is typically the time of year when the tautog recreational fishery becomes very active and is especially popular within the Asian cultures highly valuing the white meat.

On 10/19/08 District 8 Officers assisted by CO's conducted a plain-clothes operation for compliance with the tautog regulations in the inlet area of Atlantic City. Despite the 20+ mph winds and the tidal surge associated, which made the inlet jetties inaccessible the operation yielded eleven violations. Six individuals were issued nine summonses for violations of the tautog size and bag limit.

While patrolling Atlantic City, a CO received a citizen complaint that a person fishing on the Madison Ave. jetty was wrapping up tautog, hiding them in his jacket, and placing them in a van parked nearby. The CO watched for an hour and observed two males going to and from the van several times. He thought the suspects might be using the van as shelter from the wind and cold. During his observations, CO saw one male discard a plastic bag into the nearby bushes. At one point both men were seen attempting to re-enter the van; it appeared they had inadvertently locked the keys inside van. The CO continued his observations as panic swept over the individuals in their unsuccessful attempts to regain access. In the fervor, one male pried window open and the other ran back to jetty to get his fishing rod. Smoke from a camp stove locked inside the van began to billow out the open window. The second male used his fishing rod to retrieve the van keys through the pried open window. After the man unlocked his van the CO inspected the fishermen. One legal size tautog was located inside the van along with fillets of another tautog left cooking on the portable camp stove inside the van. Upon recovery of the discarded plastic bag, the CO found the rack of the sub-legal tautog being prepared inside the van. CO issued a summons for one undersized tautog.

Chairman Ewing asked when recreational fishermen are apprehended can enforcement and does enforcement confiscate their equipment.

Captain Chicketano responded routinely and of course pursuant to state law; once they pay their penalty they get their equipment back. What he found interesting was the same person was caught twice in one day and another was caught three times in the same day.

Dr. Donnelly commented you usually see a big increase in violations when there is a change in the seasons or regulations. This season has been like this for a long time, and there seems to be increased violations. Dr. Donnelly asked if this is the case this year or is there more enforcement?

Captain Chicketano asked for a special effort to be made on tautog to try to gather more information. In general, there is about an 80% violation rate on tautog.

### **Legislative Report**

Mr. McCloy presented the Legislative report and called Council's attention to Handout #2, which is a copy of legislation sponsored by Senator Van Drew S2194 (A3252). This legislation mandates DEP to register all recreational saltwater fishermen for free. Senator Bateman's Bill, S2080, was revised to be the same as S2194. Neither of these bills provides any funding to cover the cost of this free registration. The cost could be substantial based on the number of NJ saltwater anglers.

Mr. Rizzo asked if this has to be done through legislation or was it something Council could do as a regulation?

Mr. McCloy stated that since it is to be free, it could be done as a regulation, legislative action would be necessary if accessing a fee. Both bills state that Council should work with the Commissioner to develop the specifics of the registration program. This seems to be an after thought of the legislation, considering that the Council should have been involved from the start.

Council has had many discussions in the past year on legislation for a spiny dogfish commercial fishery that would establish a license with a fee. A bill has been written but not introduced, sponsored by Assemblyman Fisher (A3445). There is no companion bill at this time from the Senate. The Division will keep the Council updated on this issue.

A question was asked about an update on the artificial reef bill.

Mr. McCloy responded that bill S-336, which prohibits the use of certain commercial gear, specifically fish pots, on artificial reefs was passed by the Senate but there has been no activity in the Assembly.

Mr. Rizzo inquired if there is a reason why these bills keep getting passed back and forth between Council and Legislation?

Mr. McCloy explained that there are two processes going on. The DEP has taken a position on this and it is included in the current rule proposal. That proposal is identical to the provisions in the Legislation. The Department has a public comment period to go through before any regulations can be adopted. The Legislature has their own process to go through. Mr. McCloy could not comment on why the Legislature may or may not move a bill forward. Should the legislation pass then there would be no need for the Department to continue this aspect of the rule proposal.

Mr. Maxwell asked who is the current Commissioner?

Mr. McCloy responded it is Commissioner Jackson, but she has accepted a position as Chief of Staff to Governor Corzine that is slated to start December 1<sup>st</sup>, 2008. A new Commissioner has not been designated as of yet.

Chairman Ewing stated that Council should write a letter to the sponsors (Van Drew/Bateman) of these bills (S2194/S2080) to have Council involved before the legislation is approved.

Motion was made by Mr. Berg to write a letter to the sponsors of these bills to include the Marine Fisheries Council in the development of a license before it goes to legislation, not after. Mr. Herb seconded.

Ms. Puskas asked specific to what bills.

Mr. Herb responded to the bills requiring registration of recreational saltwater anglers. It is not a license, it is a registration. Mr. Herb expressed his opinion that the Council is already involved. The intention of this bill is to develop a registry program with no specifics written in it, except stating that the Commissioner should start the discussion process in conjunction with the Council. Mr. Herb believes that the intention is to do this as a regulation and not through legislation.

Chairman Ewing disagreed that the Council was considered because it is specific that there be no fee. He asserted that there is no way this can be done without setting a fee for this registration program. Since these bills specify no fee the DEP or the Council cannot do anything to create a processing fee for the registration program after adoption of the legislation.

Ms. Puskas stated that Senator Bateman's bill proposes fees of \$15 for residents and \$20 for non-residents, wouldn't that cover S2194.

Mr. Ewing responded in the negative indicating that Senator Bateman's bill was withdrawn and Senator Van Drew's (S2194) bill replaced it. Senator Van Drew's bill mandates free registration of anglers.

Mr. Goldman stated that the letter should also include a question on how the sponsors plan to fund this registry. To point out that the Division has no resources to do this as an un-funded mandate and would take too much away from the Division and that they need to fund it.

Ms. Puskas concurred stating that if there is no plan already on how to fund this, then that point should be included in the letter.

Mr. McCloy stated that the Council should also look beyond a fee just to cover the cost of registration of anglers. Mr. McCloy reminded Council of the numerous discussions Council has had about inadequate funding for marine fisheries management. He further commented about the current budget situation in NJ as well as NJ's failure to meet

mandates of ASMFC plans. Without some stable source of funding for marine fisheries management it is only a matter of time before NJ faces a moratorium on one or more of its fisheries.

Chairman Ewing also stated that people in southern NJ have to pay a fee to fish in Delaware's waters and the people in northern NJ will probably have to pay a fee to fish in New York's waters.

Mr. Herb feels that it is important to address the sponsors for not involving Council prior to their proposals. He also stressed the importance of a fee along with specifics in licensing and registration that develop in the future.

Mr. Goldman commented on an event he attended where the discussion was about how sparse NJ personnel are to support conservation. He stated the necessity for increasing funding for marines fisheries in the future and that point should also be included in the letter.

Chairman Ewing agreed, but commented that the main focus of this letter is to bring their attention to the fact that the Council should have been approached prior to their bills being developed and the importance of a fee to fund this registry program.

Dr. Donnelly agreed with the motion, that the letter shall indicate that the Council should be included prior to developing legislation and that funding should be sought for the long term, not just for this specific program. All future fishery management programs need to be considered especially in light of the Division's current staffing levels. If this program is going to move forward it needs to be done right from the start.

Motion passed.

### **Atlantic States Marine Fisheries Commission Report**

Mr. Berg presented the ASMFC Report.

### **Atlantic Striped Bass Management Board**

The Board met to review four proposals for alternative management and a report from the Technical Committee concerning management objectives.

The Board approved a set of options for alternative recreational management in the Delaware River, Bay and tributaries. Delaware and Pennsylvania will open two-month fishing seasons targeting mature male striped bass. In Delaware's portion of the Delaware Bay and River the fishing season will occur in the summer, whereas in Pennsylvania's portion of the Delaware River the season will occur in the spring.

The Board approved two proposals from Maryland for its Chesapeake Bay recreational fisheries.



In an earlier meeting this year, the Board had discussed the possibility of initiating an addendum to respond to new stock status information. A report from the Technical Committee indicated that the management objectives in Amendment 6 were largely being met to date, and that the Board needs to provide clear guidance on alternative objectives for consideration. The Board chair and staff will work with interested Commissioners to identify potential management objectives and measures for technical evaluation.

### **Summer Flounder, Scup and Black Sea Bass Management Board**

Staff presented the Board with preliminary 2008 landings estimates for the recreational summer flounder fishery through the end of August. All states are over their 2008 target with the exception of Delaware, Virginia, and North Carolina. The Board reviewed a report from the Technical Committee (TC) on slot limits. The TC recommended that slots be considered on a coastwide basis. The TC will examine a series of possible slot limits with and without trophy fish and will present the results to the Board at the December joint meeting.

### **Winter Flounder Management Board**

The Board was presented with a summary of the Gulf of Maine (GOM) and Southern New England/Mid-Atlantic (SNE/MA) stock assessments. The Groundfish Assessment Review Meeting (GARM III) estimates that the winter flounder SNE/MA stock is at 9% of the target biomass (overfished) with overfishing occurring.

The Board discussed at length its response to the GARM results. With the anticipated release of NMFS proposed interim rule in November, the Board agreed to meet again in early December to initiate an emergency rule and identify management options to be included in an addendum. This could potentially result in a complete closure of the winter flounder fisheries.

### **Weakfish Management Board**

The Weakfish Management Board met to review the Fishery Management Plan (FMP) Review for 2008. Review of the Addendum I to Amendment 4 monitoring requirements indicated that three states – Rhode Island, New York, and New Jersey – had not collected the required number of otoliths and/or lengths in 2007. The Board exempted the states for this year based on stated commitments to work towards fulfillment of the requirements in future years.

### **Horseshoe Crab Management Board**

The Board accepted Addendum V implementation plans for New Jersey, Delaware, Maryland and Virginia. All states currently have regulations in place that are consistent with Addendum V provisions.

### **Spiny Dogfish & Coastal Sharks Management Board**

The Board approved Addendum II to the Interstate Fishery Management plan for Spiny Dogfish. The Addendum includes measures from both Draft Addenda II and III that were released for public comment throughout September and early October.

Addendum II uses the regional management approach from Draft Addendum II and includes and allocation for North Carolina similar to options contained in Draft Addendum III. Under Addendum II, the annual quota will be divided regionally with 58% allocated to the states of Maine to Connecticut, 26% allocated to the states of New York to Virginia, and the remaining 16% allocated to North Carolina. The Board allocated a specific percentage to North Carolina because spiny dogfish are not available to their fisherman until late into the fishing season when most of the quota has already been harvested.

The Board approved a 12 million pound quota with a maximum possession limit of 3,000 pounds for the 2009/2010 fishing year (May 1 – April 30).

Mr. Berg announced that he is being replaced on the ASMFC, so this will be the last report he will be giving this Council. Chairman Ewing thanked Mr. Berg for a job well done on his representation of New Jersey and NJ fisherman.

Chairman Ewing commented on Spiny Dogfish Addendum II. It is not the draft Addendum II that went to public hearing. At the public hearing two draft addendums came out. At the Board meeting portions of draft addenda II and III were combined into one, which is now Addendum II. It was questioned if this should go back out to public hearing again, but it was concluded that the intent of the draft addenda's are still in tack.

Mr. Berg mentioned that all this information and more is available on the ASMFC website.

Mr. Herb asked about the percentage of overage in summer flounder. New Jersey was over the quota by 4%. Mr. Goldman stated that there is no way NJ was over by 4%.

Mr. Goldman asked if the Summer Flounder Technical Committee (TC) recommended all states to have summer flounder slots limits. Mr. Ewing responded that the TC stated if the states should use slot limits, then it should be coastwide.

Mr. McCloy responded that more information is being gathered in regards to slot limits and it will be forthcoming at a future meeting.

Mr. McCloy also commented on Mr. Berg's departure. The Governor has nominated Tom Fote, but we are still awaiting Senate approval, and until then Mr. Berg will still serve on the ASMFC.

Dr. Donnelly asked Mr. McCloy about State's lack of data on the weakfish age requirements. Mr. McCloy responded that it comes down to staff availability and other priorities to stay in compliance. The Division will certainly do its best to fulfill all future requirements.

Ms. Puskas asked if there is a plan in the budget for weakfish, so that the fishery is not lost. Mr. McCloy responded that the Division is doing the best they can with the available resources and that the Board, thus far, has been understanding.

Ms. Puskas asked if we could use college students and other scientists to help in collection of data. Mr. McCloy responded it comes down to money. Nobody wants to do anything for free and we don't have the money to pay someone else.

Mr. Muffley commented that the two people we have to collect weakfish data are not Fish and Wildlife staff members. They are ASMFC employees stationed at the Nacote Creek Office.

Mr. McCloy mentioned that the Striped Bass Management Board is looking for other suggestions on the future of striped bass management. He encouraged Council members to get back to him with any ideas by the following week.

### **Mid-Atlantic Fishery Management Council (MAFMC)**

The MAFMC Report was presented by Mr. Goldman, which can also be found online.

Amendment 10 to the Atlantic Mackerel, Squid, and Butterfish (MSB) Fishery Management Plan (FMP) was approved. Amendment 10 is designed to rebuild and maintain the long-term health of the butterfish stock, and, to the extent practicable, generally minimize bycatch and bycatch mortality in the mackerel, squid, and butterfish (MSB) fisheries.

The MAFMC held its yearly election of officers and elected Richard B. Robins, Jr. of Virginia as its Chairman and Dr. Lee G. Anderson of Delaware as its Vice-Chairman.

Three individuals were sworn in as new Council members and two members were reappointed. Howard King will occupy the obligatory seat for Maryland, Jule Wheatly will occupy the obligatory seat for North Carolina, and John McMurray will occupy the obligatory seat for New York. Pat Augustine was reappointed to fill the at-large seat for New York and Dr. Gene Kray was reappointed to retain the obligatory seat for the state of Pennsylvania.

The MAFMC approved Framework 2 to the joint Spiny Dogfish FMP for submission to the Secretary of Commerce. Framework 2 will redefine the stock status determination criteria.

The National Marine Fisheries Service (NMFS) Office of Protected Resources addressed the MAFMC regarding the NMFS proposed rule for use of turtle excluder devices (TEDS) in all trawl fisheries throughout the Atlantic and Gulf of Mexico. The objective of the proposed measures is to effectively protect all life stages and species of sea turtles in Atlantic trawl fisheries where they are vulnerable to incidental capture and mortality.

## **Shellfish Council Reports**

### **Delaware Bay Shellfish Council Report**

Mr. Joseph presented the Delaware Bay Shellfish Council Report in Mr. Hollinger's absence.

### **Delaware Bay Direct Market Harvest Program**

Bureau of Shellfisheries staff continue to coordinate and monitor the Delaware Bay direct market oyster fishery. After nearly seven months of harvesting, approximately 81,000 bushels of oysters had been directly marketed. The total industry allowable catch (TAC) for the current season is 90,604 bushels. As of October 17<sup>th</sup> the industry had harvested the TAC for all beds below and including Shellrock, which includes the high mortality areas. As a result, all beds within those management areas are closed to harvest for the remainder of the season. The season is scheduled to close on Friday, November 14, 2008. The Council made a motion at its October public meeting to extend the season by one business week if Delaware Bay water temperatures are above 50° F on November 13, 2008. Real-time water temperatures will be obtained from the National Oceanographic Data Center's Ship John Shoal Station. The Council's November meeting will be held on November 13, 2008 at 6 p.m. at the Rutgers University Haskin Shellfish Research Laboratory.

### **Oyster Management Regulatory Proposal**

Bureau staff has submitted a final version of the Oyster Management Regulations, NJ Administrative Code 7:25A. The Department has governed the operation of the direct market harvest program through a *Terms and Conditions* (TC) contract signed by each harvester prior to commencement of the annual harvest season. The TC had been adopted after the last round of revisions to N.J.A.C. 7:25A when the direct market program was initiated (ca. 1996). Concurrently, staff began working on a regulatory proposal that would allow for the consolidation of multiple licenses onto a single vessel. This initiative has been spearheaded and strongly supported by the Delaware Bay Section of the New Jersey Shellfisheries Council and vetted through a committee of license holders. This rule proposal will be forwarded once the current proposal is adopted.

### **Delaware Bay Oyster Restoration Program**

Bureau staff has completed the federally funded 2008 oyster reef enhancement program. Project funding is shared equally by the states of New Jersey and Delaware. This funding came largely through the efforts of the Delaware Bay Oyster Task Force (Task Force), which consists of staff from the NJDEP, DNREC, Delaware River and Bay Authority (DRBA), Rutgers University, U.S. Army Corps of Engineers (USACE), DRBC, the Delaware Estuary Program and the Partnership for the Delaware Estuary.

Approximately 374,000 bushels of sea clam shell had been deployed on approximately 10 sites throughout Delaware and New Jersey waters in the Delaware Bay. Early monitoring seems to indicate that oyster spawning success may have been above average on the upper bay seed bed plants. Staff completed re-harvest and seed transplant activities for the shell planted in the lower bay high recruitment zones. In total, more

than 21,000 bushels had been moved from the lower bay sites to the upper bay restoration areas. In addition to the upper bay replants, an additional 3,000 bushels of spatted shell was planted in the Maurice River Cove tongers' area.

The restoration program, now in its fourth year, is designed specifically to address the recruitment problem that has plagued the resource over the last seven years. The 2005, 2006 and 2007 oyster reef enhancement programs involved the planting of over 1,000,000 bushels of shell throughout the Bay (with 18 restoration sites in the NJ alone). Multiple year harvest projections, while often tenuous due to the vagaries of nature, have the potential to significantly increase future commercial harvests.

### **Shell Planting Contracts**

Bureau staff has begun the process of working with the Department of Treasury in drafting shell purchasing and shell planting contracts in order to facilitate future planting programs. Contracting as part of the federally funded program has largely been handled by the U.S. Army Corps of Engineers. Due to program funding cap limits in the Omnibus Appropriations Bill that was used to fund this program, the federal government's role in the program is likely to diminish. As a result, the State of New Jersey (DEP) will once again need to handle contracting logistics.

### **Aquaculture Advisory Council Update**

Mr. Joseph noted that the Aquaculture Advisory Council's (AAC) Leasing Committee (LC) had met in September and October, with another meeting to be held following the MFC meeting. At the request of the Shellfisheries Council (SFC), the LC was focusing on issues related to the Aquaculture Development Zones (ADZ) in Delaware Bay. The SFC has indicated its intent to form its own leasing committee, which will focus on various issues related to traditional on-bottom oyster and clam culture in both Delaware Bay and the Atlantic Coast estuaries.

Finally, Mr. Joseph announced that the next meeting of the AAC was scheduled for November 14, 2008 (9 am) at the Ocean County Agriculture Building in Toms River.

### **Atlantic Coast**

Mr. Maxwell presented the Atlantic Coast Shellfish Council Report.

### **Mullica River Oyster Harvest Season - Fitney Bit**

Based on a review of the Bureau of Shellfisheries ongoing monitoring of bed conditions (% oyster), mortality and growth of transplanted oysters on Fitney Bit, which is located at the mouth of the Mullica River, the Atlantic Coast Section of the New Jersey Shellfisheries Council recommended a limited one-week oyster harvest season on Fitney Bit at the September 15, 2008 meeting. The season will commence on Monday, November 10, 2008 and end on Saturday, November 16, 2008 (daily harvest times are sunrise to sunset). As per the Atlantic Coast Harvest Season regulations (NJAC 7:25-19.5), shellfish harvest will be limited to hand tongs only and all other oyster beds listed under the Atlantic Coast Harvest Season regulations will remain closed to harvest. The harvest is open to all commercial and recreational shellfish license holders. Recreational shellfish license holders will be limited to 150 oysters or clams in aggregate per day.

Notice of the oyster harvest season was posted on the NJ Division of Fish and Wildlife website and sent via the Division's listserv system.

### **Committee Reports**

Mr. Goldman brought Councils attention to Handout #5 on Recreational Summer Flounder Report. The purpose of the meeting was to obtain comments in regards to the future management of the summer flounder recreational fisheries. The ASMFC Summer Flounder Management Board has directed the Technical Committee to develop maximum size limits as a management tool for summer flounder, which could make the use of slot limits a management option. There was no support for a "slot" limit.

Another option the Board is considering is mandatory regional management. Instead of the coastal recreational quota being divided among individual states, as is done now, it would be divided among regions. There was no support for a mandatory regional approach because of the concern New Jersey would likely loose out and see its current allocation decline.

Dr. Donnelly brought Councils attention to Handout #6 on Commercial Summer Flounder and Black Sea Bass Report. The purpose of the meeting was to review the current 2008 commercial landings and the potential 2009 commercial quotas, and to discuss potential trip limit changes for the 2009 commercial seasons.

The 2008 New Jersey summer flounder commercial quota is 1,334,442 pounds; should the proposed 2009 coastwide quota be approved, New Jersey's 2009 quota will be 1,666,311 pounds. New Jersey allocates its quota into six, two-month seasons. Based on input during the meeting, the Committee agreed on the following summer flounder commercial trip limits by season:

- Jan. – Feb:** 3,000 pound trip limit and a maximum of 2 trips per week or  
5,000 pound trip limit and a maximum of 1 trip per week.
- March – April:** 1,500 pound trip limit and a maximum of 3 trips per week.
- May-June / July- Aug.:** 500 pound trip limit and a maximum of 4 trips per week or  
250 pound trip limit and a maximum of 7 trips per week.
- Sept. – Oct.:** 750 pound trip limit and a maximum of 4 trips per week or  
3,000 pound trip limit and a maximum of 1 trip per week.
- Nov.- Dec.:** 1,000 pound trip limit and a maximum of 4 trips per week or  
3,500 pound trip limit and a maximum of 1 trip per week.

The 2008 NJ black sea bass commercial quota is 361,038 pounds; should the proposed 2009 coastwide quota be approved, the 2009 allocation for NJ will be 203,400 pounds. New Jersey allocates its ASMFC quota into four seasons. Based on input during the meeting, the Committee agreed on the following trip limits by season for black sea bass:

#### **Season 1:**

- Jan 1 – April 15: 500 pound trip limit and a maximum of 7 trips per week.
- Seasons 2, 3, and 4:** 1,000 pound trip limit and a maximum of 1 trip per week or  
500 pound trip limit and a maximum of 2 trips per week.

Other issues, not specific to a particular species, raised by commercial advisors were: permits allegedly issued to fisherman based upon falsified information; the issuance of numerous latent permits; dealer reporting issues, (specifically for black sea bass) and the need for a New Jersey landing license. The Committee will convene in the future to review these issues.

### **Regulatory Updates**

Mr. Muffley brought Council's attention to Handout #7 on the draft Notice of Administrative Change for modifications of black sea bass and summer flounder commercial trip limits for 2009.

Dr. Donnelly made a motion to approve the draft Notice of Administrative Change on the black sea bass and summer flounder commercial trip limits based on the information presented in the Committee Reports above. Motion seconded by Mr. Herb.

Chairman Ewing asked for questions from Council.

Ms. Puskas wanted clarification that this proposal was what the Committee had recommended. Dr. Donnelly responded in the affirmative.

Mr. Rizzo indicated he had heard since the meeting that a few fisherman wanted to change a few things, he does not feel comfortable about passing something unless the public comments first. Mr. Rizzo did mention he was on the Committee and no fisherman had contacted him.

Chairman Ewing then asked for public comment.

### **Public Comment**

Mr. Benson requested a third option to be added to summer flounder for the September to October season to read as: 400 pound trip limit and a maximum of 7 trips per week.

Mr. Buzas requested a second option to be added for black sea bass to read as: 1,000 pound trip limit and a maximum of 3 trips per week for the January – April 15 season.

Mr. Chew commented that he is a sea bass fisherman but wasn't invited to attend these committee meetings. He asserted that there seems to be selected fishermen that are allowed to attend.

Mr. Berg motioned to amend Dr. Donnelly's motion to include Mr. Buza's second option for black sea bass. Ms. Puskas seconded the motion.

Mr. Goldman commented that he felt this second option for black sea bass was good, from a safety standpoint, considering the bad weather that could occur in season 1.

Mr. Berg's motion carried.

A vote was then taken on the new main motion and it carried.

Mr. Goldman questioned whether an alternative for hook and line fisherman such as Mr. Benson's proposal could be included to help out the hook and line fisherman.

Chairman Ewing commented that he does not see how we could single them out for special consideration.

Mr. Benson commented his option was not a methodology issue, but a boat capacity issue in that certain size boats can only carry so much fish. He was not asking it to be a separate issue for hook and line.

Mr. McCloy commented that the point of a committee meeting is to get a handle on what recommendations should be made to the Council. Every time the Committee meets on black sea bass and comes up with a recommendation that recommendation gets changed at the Council meeting. That is fine when reacting to commenter's such as Mr. Chew who was not at the committee meeting. But when the comments are from the same people attending the committee meeting and didn't make those comments then, one has to question the point of a committee meeting. Mr. McCloy reviewed the history of quota management in NJ. Originally the only thing that was monitored was the annual quota, through a few seasons. The program was then modified to include more seasons with trip limits. That program was then modified to include trip limit options during various seasons. Mr. Benson's proposal is to have three trip limit options for the summer flounder Sept/Oct season. If approved, following this progression, there will be three trip limit options for all seasons. Eventually you reach a limit and must make do with what exists. Mr. McCloy reminded Council of his earlier comments indicating the Division cannot do more, with less people and less money. Unfortunately there is now less opportunity to be flexible with the regulations. The agency cannot support Mr. Benson's recommendation for additional trip limit options.

Chairman Ewing agreed with Mr. McCloy's comments questioning the purpose of committee meetings when everything changes when presented to Council.

Mr. Rizzo agreed with Chairman Ewing and would like to establish a protocol for the future so when the committee meeting is over there is an understanding of what will be recommended to the Council.

Dr. Donnelly agreed with Mr. Rizzo stating that in the last 4 out of 6 black sea bass committee report recommendations he has presented the recommendations have been changed.

Chairman Ewing responded that committee process would be opened up to public comment at a later date. All business on commercial trip limits has been completed.



### **2008 Regulatory Proposal**

Mr. Muffley updated the Council that the 2008 Regulatory Proposal is about to go into review.

### **Old Business**

Mr. McCloy brought Council's attention to Handout #8, Marine Recreational Information Program (MRIP). The MRIP Implementation Plan has been released. This Plan provides an update on progress to date in developing the many components of MRIP, as well as a blueprint for putting it into action. The full plan may be downloaded at [www.CountMyFish.noaa.gov](http://www.CountMyFish.noaa.gov)

In addition, the Angler Registry final rule is due out in November. All comments can be read at [www.regulations.gov](http://www.regulations.gov) and searching for 'Angler Registry.'

Mr. McCloy pointed out Handout #9 to Council that is a letter addressed to the Commissioner on S2080. On the back of this Handout is the Commissioner's response that once the final rule in November 2008 is made and some final guidelines are available the Assistant Commissioner for Natural and Historic Resources will be available to meet with Council Members and others to discuss this important issue.

Mr. McCloy pointed out Handout #11 on Council Meeting dates for 2009. The November 5<sup>th</sup> meeting falls on the last day of the ASMFC annual meeting. Since the ASMFC meeting is in Newport, RI there is no way staff can get back in time for the Council meeting. He indicated the November Council meeting could be rescheduled for Monday November 9<sup>th</sup>.

Chairman Ewing asked for discussion on the change of November 2009 meeting date. The change will be made to reflect that the Council meeting in November 2009 will be held on Monday November 9<sup>th</sup>, 2009.

### **New Business**

Mr. McCloy stated that the Commissioner is receiving complaints in regards to surf fishermen reserving beach. He requested that Council members talk to their contacts to see how big a problem this may be. He indicated that the Bureau of Freshwater Fisheries regulates how many rods can be fished in trout stocked waters. Dr. Donnelly indicated this was a problem at Island Beach State Park.

Chairman Ewing commented that it seems to be located on one beach at this time. He suggested talking to them first and if need be, revisit this issue in the future.

### **Public Comment**

Mr. Chew commented on the ASMFS spiny dogfish 12 million pound quota and how it is divided by states and regions. He questioned what the state has to do to take advantage of this fishery.

Mr. McCloy responded that there is industry support for A3445 and when this legislation is passed it will supercede the regulations. It is up the Legislature to approve the A3445.

Mr. Sciliano commented that every year the JCCA honors someone who improves the environment and conservation in fishery in NJ. This year this honor is bestowed upon Councilmen Dr. Donnelly and he will be honored on November 16<sup>th</sup>. He also thanked Mr. Berg for all his work on the ASMFC.

Mr. Benson recommended using the Division of Motor Vehicles to register saltwater anglers. He also suggested the state put something in place to charge out of state residents for licenses in NJ, (i.e. landing license). All the other states seem to have a plan for out of state residents where a fee is applied for licensing.

Mr. Rizzo commented that the council has come close to recommending a landing license in years passed, but nothing was finalized. He indicated that the problem was recreational fisherman who wanted to sell fish.

Mr. Buzas commented that the sea bass trip limit recommendation was a thought that developed after the committee meetings.

Next Meeting is January 8, 2009.

Meeting adjourned.