

NEW JERSEY MARINE FISHERIES COUNCIL

Galloway Township Public Library
Jimmies Leeds Road
Absecon, New Jersey
September 3, 2009

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

Absent: Councilwoman Eleanor Bochenek
Councilman Barney Hollinger

Also in attendance representing the Division of Fish and Wildlife:

David Chanda, Director
Thomas W. McCloy, Administrator, Marine Fisheries Adm. (MFA)
Brandon Muffley, Chief, Bureau of Marine Fisheries
James W. Joseph, Chief, Bureau of Shellfisheries
Peter Himchak, Supervising Biologist, MFA
Jeffrey Brust, Research Scientist, MFA
Timothy Cussen, Chief, Bureau of Law Enforcement
Mark Chicketano, Captain, Bureau of Law Enforcement
Linda Barry, Assistant Biologist, MFA

Mr. McCloy read the compliance with the Sunshine Law. Notice of meeting was filed with the Secretary of State on August 25, 2009.

Mr. Goldman made two corrections to the minutes. The first correction was on page 19, first paragraph, James W. Balsiger; Acting Director of NMFS was the individual who provided the MAFMC update. On page 30, first paragraph, Mr. Goldman indicated the MAFMC requested consideration for a Mid-Atlantic unit.

Minutes from the July 2009 meeting were unanimously approved as corrected.

Law Enforcement Report

Captain Chicketano presented the Law Enforcement Report. Captain Chicketano introduced Timothy Cussen, Chief, Bureau of Law Enforcement.

District 7 Highlights: June – July 2009

The Marine Region Office received information that the Point Lobster Company in Point Pleasant Beach was in possession of sublegal live American lobsters. On 6/18/09 CO's responded to a complaint and found that Point Lobster had received approximately 2000 pounds of lobster from a dealer in Massachusetts. These lobsters originated in Canada. The CO's began measuring the lobsters and found most to be less than New Jersey's 3-3/8 inch minimum size. The company was written a summons for possession of 40 sublegal lobsters with a penalty of \$1200.00 plus court costs. The company was also directed to return the sublegal lobsters back to the dealer in Massachusetts.

On 6/18/09 CO's conducted a surveillance of a jetty in Long Branch that has a long history of producing violations. The tautog season was closed at the time. They watched three individuals on the jetty, of which only two were actually fishing. The non-fisherman would remove tautog from the hooks of the fishermen and stomp the fish down in between the rocks to keep them from flopping around. Every so often the non-fisherman would stomp a fish as it tried to flop around and escape. When the CO's apprehended the fishermen, each was charged with possession of five tautog out of season. They were also charged with littering beer cans and plastic bags.

On 6/29/09 at 9:00 p.m., a CO was patrolling the Barnegat Inlet jetty in Barnegat Light when he encountered two fishermen returning to their vehicle. The vehicle was parked on a side road and not in an area where jetty fishermen normally park. The first fisherman to arrive at his vehicle was carrying a bag containing bergalls and one tautog. The CO advised this fisherman about the violation of possessing the tautog out of season. The second fisherman, upon hearing the CO's statement threw a bag into a wooded area. The CO retrieved this bag which contained an additional six tautog. The appropriate summonses were issued.

On 6/30/09, the MRO received a call from an individual who claimed he just witnessed the sale of a striped bass to a restaurant in Belmar. The caller said he knew the seller as "Jimmy the Bridge Tender". A CO who was in close proximity and responded to the restaurant. The CO also knew the identity of the seller due to previous fishery violations. The CO conducted a tactful interview of the restaurant owner which resulted in the seller returning to the restaurant. The seller admitted to selling the restaurant two, forty pound striped bass. The penalty for the violation is \$300 – 3,000.00.

CO's responded to a complaint of buoys impeding boat traffic in the channel leading to Highlands in Sandy Hook Bay. The buoys were marking a conch pot line. All of the conch pots were hauled by the CO's with most of them located in the middle of the channel. At one point during the haul, the SeaStreek ferry had to wait for the CO's to clear the channel. The owner of the pots was contacted and issued a summons for the placement of the pots in a channel. This commercial fisherman was also cited by a CO last year for the same violation. The CO also apprehended another commercial fisherman for not marking his pound nets set in Sandy Hook Bay.

In response to the high degree of tautog violations during the closed season on the Barnegat Inlet jetty, on 7/4/09 CO's conducted a plain-clothes surveillance while acting as fishermen and other COs were in uniform and in position to apprehend the fishermen

returning to their vehicles. As the CO's walked to the end of the jetty, they observed a fisherman catch a large tautog and throw it back. Later on, the fisherman and his fishing partner began walking back to their vehicle parked on a side street. They came out to their vehicle in a staggered fashion. When the first fisherman observed the COs, he alerted the second fisherman of the CO's presence. The second fishermen hid a bucket in vegetation next to the road. The COs asked if they had any fish and they replied that they did not. The COs recovered the bucket of fish which contained ten, very large tautog. The two fishermen were issued summonses for interference and possession of ten tautog out of season. In another incident, a CO observed a woman walking back and forth between a family group on the beach and fishermen on the jetty. When finished for the day, the entire group consisting of five adults and six children walked out in smaller groups and back to different vehicles. This made it difficult for the CO's to keep track of the group. All of the male adults came out with coolers containing hundreds of bergalls. The CO's did notice the female from earlier carrying a backpack. The woman, alerted to the CO's presence began to enter the bathroom at Barnegat Light State Park. The CO's apprehended the woman prior to her entering the bathroom. The backpack contained four tautog. She was issued summonses for the illegal possession of the tautog and interference. Two other individuals were also in possession of mussels and were each issued summonses for not having shellfish licenses. A total of nine summonses were issued that day.

While checking incoming recreational fishing boats at the Belmar Municipal Ramp, the CO's observed an individual discard a fluke rack into a garbage can by a fish cleaning station. The CO retrieved the rack and it measured eighteen inches. The CO inspected the contents of the cooler which contained additional legal fluke and a couple of fillets with skin attached. The individual tried to tell the CO's that the fillets were from the rack. The CO attempted to match the fillets to the rack, but the pieces didn't fit properly. It also appeared that the rack might have been from a fish caught from a previous fishing trip. The individual admitted that the fillets were from a short fish he had caught. A summons was issued for possession of mutilated fish.

Nine Marine CO's conducted an at sea patrol utilizing two patrol vessels on 7/6/09. The purpose of the patrol was to investigate many complaints lodged referencing illegal lobster fishing activity in federal waters, in the area of the Atlantic Ocean known as the Mud Hole. One of the patrol vessels patrolling the northern end of the Mud Hole encountered a New York lobster fishing vessel hauling its pot line. Four CO's boarded the vessel and found 30 sublegal sized lobsters and six females with attached eggs. The fisherman had these lobsters separated from the rest of his legal catch in a locking fish tote floated in a large tank. It was later learned that the fishermen and his family have a violation history with New York DEC. NMFS has opened an investigation on this vessel that may result in further violations for the vessel and the buyer of their lobsters. A case package has been submitted to NMFS for review.

While at Belmar Municipal Marina, a CO walked up to a woman who was cleaning a bluefish at a fish cleaning station. Making small talk, he asked the woman where she was fishing. She stated that she did not catch the fish, but bought it off an individual on the Belmar Princess, a party boat. The woman was very cooperative and the CO went back to

the party boat. The crew had just left, but a new crew was there to conduct the night fishing trip. The CO asked the captain the identity of the day crew and obtained their names. The second individual on the list of crew members that the CO contacted admitted to selling the fish. The CO issued a summons to the mate for selling bluefish to an un-permitted dealer, a penalty of \$300 – 3,000.

District 7 Highlights: July – August 2009

A CO received very specific information regarding violations on the fishing club-owned vessel Ideal, in Point Pleasant Beach. The information identified two subjects who were catching undersized summer flounder, cutting the heads off and hiding them on a compartment in the boat. When the boat returns to the dock their MO is; one subject retrieves their vehicle that is parked a block away, while the second subject removes the illegal fish from the vessel's compartment. After they recognize that there is no law enforcement around, the second subject quickly places the fish into their vehicle when it arrives at the vessel. On 7/18/09 CO's set up surveillance and waited for the vessel to return from a fishing trip. Immediately after the vessel tied up, the first subject walked to the vehicle, which was being watched by a CO. Another CO observed the second subject carry a bag of fish and place it in a bed of a pickup truck parked near the vessel. This subject then returned to the vessel, retrieved their equipment and waited at the edge of the road for the first subject to arrive with the vehicle. When the vehicle arrived, the second subject placed all the equipment in the vehicle. He then looked around and walked to the pickup truck, picked up the bag of fish and quickly placed in the vehicle. The vehicle left and the CO's stopped it a short distance down the road. An inspection of the vehicle uncovered a plastic bag containing five headless summer flounder; all of which would have been undersized. The appropriate summons was issued.

Information was received that the party boat, F/V Elaine B II out of Highlands was filleting summer flounder at sea and discarding the racks prior to landing. This is a violation of the vessel's State fillet permit. On 7/31/09, the CO's boarded the boat in plain clothes as regular paying customers. These undercover CO's fished along with other patrons on the vessel and documented observations of the crew and patrons. The CO's observed the mate fillet undersized summer flounder at sea, and discard the rack overboard. The CO's also observed the mate fillet additional fish while at sea, but could not determine if the racks went overboard. The CO's also observed one of the patrons keep three over his limit of summer flounder. The undercover CO's relayed this information to CO's who were waiting for the vessel to return to the dock. As the vessel pulled up to the dock, the CO's observed the mate kick a rack off of the deck. The mate was issued summonses for discarding the racks of filleted fish. One patron was issued summonses for filleting at sea, possession of three summer flounder over the daily bag limit and possession of three undersized summer flounder. Another patron was issued a summons for an undersized summer flounder. The captain/owner of the vessel was issued a summons for failing to retain the racks of filleted fish. If convicted the vessel will have its fillet permit suspended for a period of sixty days.

On 8/1/09 CO's conducted a boat patrol in the Sandy Hook Bay and Shrewsbury River. The CO's immediately observed several individuals harvesting hard clams in restricted

waters off of Sandy Hook National Park. The CO's who were in the 25' Parker patrol vessel, could not get to the clambers. The CO commandeered a small Zodiac boat from an individual crabbing in the area and was driven to the illegal clambers. At that location, the CO apprehended eight clambers for not having a shellfish license and harvesting hard clams from special restricted waters. While the CO was with the eight clambers, the other CO's observed another two individuals harvesting clams. When the CO finished with the larger group, he was directed to the other two clambers. The CO then returned back to the Zodiac and was driven to the two clambers and they were apprehended. Later in the patrol, the CO's apprehended a commercial crab pot fisherman for not having his pot line marked properly.

On the night of 8/3 –8/4/09, CO's patrolled the Atlantic Highlands Municipal Marina/Ramp. While inspecting incoming fishing vessels, a marina security guard alerted the officers to a vehicle with a boat trailer parked in the marina parking lot. The guard claimed that the individual was currently out in a sport boat and usually returns to the ramp at approximately 1:00 a.m. He added that this individual usually returns with "buckets of fish". The CO's waited for the vessel to return. Meanwhile, the party boat FV Angler returned from an evening striped bass/bluefish trip. The CO making efficient use of his time decided to inspect the FV Angler while the other CO continued surveillance of the ramp. The CO apprehended one of the patrons with an undersized striped bass. At approximately 11:30 p.m., the suspect vessel returned to the ramp with two people on board. The CO's inspected the vessel and discovered a 150 foot long gill net that still had fish and crabs entangled in it. They also found a bucket of hard clams and a horseshoe crab. The occupants were issued summonses for undersized scup and summer flounder, clamming without a shellfish license, clamming in prohibited waters, possession of blue claw crabs with eggs, and use of a gill net with out a license. A summons was also written for forfeiture of the gill net and a warning for possession of the horseshoe crab.

On 8/8/09 eleven CO's from District 7 and Central Region conducted a saturation patrol of the Raritan Bayshore targeting the illegal taking and possession of marine fish. The CO's teamed up to provide coverage from Perth Amboy and east to Sandy Hook National Park. A district 7 patrol vessel also patrolled the waters of Sandy Hook and Raritan Bays, and the Shrewsbury River. Over 330 inspections were made of recreational marine fishermen and clambers. Several marinas and boat ramps were inspected as well as shoreline fishermen and the Keansburg fishing pier. A total of 44 summonses, 3 written warnings and several verbal warnings were issued for violations of marine fish and shellfish regulations. The breakdown of summonses issued are as follows: sixteen summonses were issued for the possession of 26 undersized summer flounder; two summonses were issued for possession of four mutilated summer flounder; one summons for two fish over bag limit of summer flounder; five summonses for possession of 20 undersized scup; two summonses for possession of undersized blue claw crabs; twelve summonses issued for clamming without a shellfish license; and six summonses and three written warnings for clamming in prohibited waters. One notable apprehension involved a vessel with two persons on board, returning to the Atlantic Highlands Municipal Ramp. The CO's stationed at the ramp found fourteen summer flounder on this vessel, of which thirteen were undersized. The CO's while detailed at Sandy Hook National Park

accounted for the eighteen shellfish violations. These annual saturation patrols continue to be an effective means of enforcing the State's marine fish and shellfish regulations.

In response to reports of increased tuna fishing activity off shore, on 8/9/09 CO's inspected a recreational tuna-fishing vessel at Brielle Marine Basin. The vessel possessed one yellowfin tuna. When the officer's asked for their federal HMS Angling Permit, the fishermen did not produce one. A case package was completed by the CO and forwarded to NMFS.

On August 15, 2009, CO's in plain clothes boarded the party boat Big Mohawk in Belmar, NJ. This operation was put into play in response to complaints which had been received that the vessel's captain and crew were deliberately conspiring to kill and fillet undersized summer flounder. As the fishing trip progressed, the undercover officers observed summer flounder less than 18" deliberately retained and killed. Prior to filleting these short fish, the mate would grab the summer flounder by the tail and bang the fish's head into the deck of the vessel. The mates aboard the vessel would intermittently brag about their vessel catching more summer flounder than other vessels because they used parts of summer flounder to catch other summer flounder. The mates added that summer flounder are a carnivorous fish species that can often be caught by using parts of one fish to catch another. Additionally, individual patrons retained undersized summer flounder, throwing them onto the fillet table for subsequent filleting by the mate. The undercover Conservation Officers counted at least 25 undersized summer flounder carcasses that the mate cut up for bait purposes. Upon docking, the vessel was inspected by uniformed Conservation Officers. One patron was issued a summons for the possession of three summer flounder measuring less than 18" in length; three patrons were each issued a summons for the taking of five summer flounder over the daily bag limit; another patron was issued a summons for taking one summer flounder over the daily bag limit. The captain/owner of the Big Mohawk was issued summonses for discarding parts of summer flounder prior to landing, and filleting fish less than the minimum size limit. This violation is also a violation of the vessel's Special Fillet Permit. This permit, issued by the New Jersey Division of Fish and Wildlife, allows party fishing vessels (i.e. vessels accommodating 15 or more persons for daily hire for the purpose of recreational fishing) to fillet legal size fish while at sea. A conviction on these violations would require a 60-day suspension of the vessel's fillet, for the first offense. The first mate was also issued summonses for discarding parts of summer flounder and filleting undersized fish. Another mate on the vessel was observed by the undercover Conservation Officers selling seven summer flounder to two of the patrons. This is a violation of state regulations where all summer flounder sold, must be sold to a federally permitted summer flounder dealer. Each of the summonses issued to the captain and two mates, upon conviction, carry a minimum penalty of \$300.00 to \$3,000.00.

MONTHLY HIGHLIGHTS DISTRICT 8 -AUGUST 09

On July 25th Conservation Officer (CO) observed suspicious activity in the inlet section of Atlantic City. He watched as an individual made several trips from an adjacent jetty to a parked vehicle on the street. During an hour of observation, the CO determined that the man was collecting tautog from an unidentified fisherman out of the CO's. This mans

sole purpose was “running” illegally taken tautog to his car. Once the scheme was apparent to the CO, he moved in and inspected the individual at the vehicle. The CO apprehended the man with 15 undersize tautog and one undersized Black Sea bass. The man would not identify his partner(s) who caught the fish. The CO was assisted by another CO and each officer issued one summons to the individual. Summonses were issued for possession of 15 undersize tautog and possession of 14 tautog over the daily bag limit.

On July 27th a CO apprehended another individual in possession of 17 tautog taken from the inlet jetties in Atlantic City. The size ranges of these fish were 6-10”, well short of the 14” minimum legal size limit. The CO issued summonses for possession of 17 undersize tautog and possession of 16 tautog over the daily bag limit.

On Sunday, 7/26/09 Conservation Officer observed the occupants of a boat clamming in Grassy Sound, Middle Twp., Cape May County. The boat contained four adults and two juveniles. The CO observed the clammers until they finished clamming. He maintained observations as the boat returned to their slip in Upper Twp., Cape May County. As the boat approached the fuel dock at Shawcrest Marina, the owner tipped the clammers off that a CO was close by. In an attempt to elude apprehension, the boat operator made a detour for the purpose of discarding the harvested clams and hiding their clam rakes. Upon inspection, all of the occupants of the vessel denied that they were clamming. The CO, during the interview of the adults, obtained admissions that they had been clamming and that they were warned by the dock master. The subjects explained how they attempted to hide their violations by discarding their clams and rakes. The CO issued the adults 4 summonses for interference, three summonses for harvesting clams on Sunday, three summonses for harvesting clams without a license, and one summons for littering. The CO warned the operator of the fuel dock for his interference in the case.

On 8/1/09 while conducting a boat patrol in the Delaware Bay, a CO boarded a recreational vessel in possession of a 24-inch Brown Sandbar Shark. The CO issued a State summons for the possession of an undersize shark. The CO was able to return the shark to the water alive and unharmed. Under New Jersey’s marine finfish regulations, current minimum size is 48-inches for sharks taken in state marine waters. NJ State regulations presently conflict with Federal regulations concerning shark possession and limits. Efforts are being made to make NJ’s regulations coincide with federal restrictions.

On 7/29/09 Conservation Officers boarded Charter/Party Vessel Bodacious as it returned to its dock in Port Norris, Cumberland County, following a 30-hour “open boat” tuna trip. When boarded the captain of the vessel claimed to have only one and one half Bluefin tuna on board and directed the CO’s attention to an exacta in the stern of the vessel. The captain said the half Bluefin tuna was a result of a hungry shark that attacked one of the Bluefin as it was being reeled in. During further inspection of the vessel, Conservation Officer’s located two additional coolers with tuna. He found fresh tuna fillets in a cooler on the deck of the vessel and a 150-quart cooler filled with tuna steaks hidden in the cabin. The captain claimed that the tuna in the cooler on the deck were also from the

partially eaten tuna. He claimed the tuna in the 150-quart cooler was one 70-inch Bluefin tuna which was processed as the vessel sailed back to the dock on the return trip. Initially the Captain made statements to the officers that he thought he could retain two trip limits because the trip was longer than 24 hours in duration. The captain also falsely represented that he thought his NJ fillet permit would allow him to fillet tuna prior to landing them at their dock as long as it was done in State Waters. Neither claim that the captain made was a valid argument since federal regulations govern Atlantic Tuna harvest. Federal regulations require only one Bluefin tuna measuring 27-inches up to less than 47 inches and one 47-inches to less than 73-inches may be landed per trip regardless of the trip's duration. Additionally, Bluefin tuna must be landed in a condition where an accurate curved fork length can be determined. The captain admitted that they retained three Bluefin tuna measuring between 47 and 73 inches, which is a violation. The CO's seized the Bluefin tuna parts for analysis. Since a large quantity of tuna parts were landed, lab analysis would determine the exact number and species of tuna actually landed by the vessel. Following sampling of the tuna parts, the number of federal charges that the captain and owner of the vessel would face could increase significantly. NJ CO's are preparing samples taken from the vessel to be sent to the lab and completing federal case reports for submission to NMFS for the prosecution of the Vessel's violations under Atlantic Tunas Regulations.

Mr. Goldman asked a question from the July meeting enforcement report where it was reported that a fisherman was apprehended in possession of a horseshoe crab. It is Mr. Goldman's understanding that anyone caught in possession of a horseshoe crab is subject to a fine of \$10,000. Captain Chicketano will look into this issue further.

Dr. Donnelly asked Captain Chicketano's opinion on the blackfish regulations on how the Council could help improve these regulations. Captain Chicketano felt that by closing the season when the possession limit is one fish, the violation rate would be less. He cautioned that most of the violations appear to be people that know the regulations and are intentionally trying to violate them.

Legislative Report

Mr. McCloy brought Council's attention to S2973, Handout #2, which is sponsored by Senator Jim Whelan. S2973 would establish conflict resolution procedures through the Department of Agriculture for complaints against commercial fishing docks and fish processing facilities. Mr. Goldman wondered why this was addressed to the Department of Agriculture only.

Mr. McCloy brought Council's attention to A4039, Handout #2a, which is sponsored by Assemblyman Albano. A4039 is the current version that would authorize clamming on Sundays.

Atlantic States Marine Fisheries Commission (ASMFC) Report

Mr. Himchak and Mr. McCloy presented the ASMFC report for the various management boards where they represent the Director.

American Lobster Management Board

The American Lobster Board approved draft Addendum XV for public comment, which primarily deals with the Gulf of Maine and access issues. The problem with the Southern New England stock is that the lobster resource is depleted. The ASMFC asked the Technical Committee to come up with management options to help rebuild the stock. Some projections included reduction of landings by 50 percent.

Atlantic Herring Section

The Atlantic Herring Section reviewed an update on the Transboundary Resource Assessment. The assessment is conducted by Canada and United States. The ASMFC fears that the New England Fishery Management Council (NEFMC) will reduce the 145,000 mt total allowable catch that is currently in place. The ASMFC is initiating an addendum to address the inconsistencies between the NEFMC and ASMFC Atlantic herring specification definitions and specification setting process. The Atlantic Herring Section and the NEFMC's Herring Oversight Committee will meet jointly in October.

Horseshoe Crab Management Board

The Horseshoe Crab Management Board approved extending the provisions of Addendum V to the Interstate Fishery Management Plan for Horseshoe Crab for an additional year as it awaits the results of the upcoming peer-reviewed stock assessment.

Atlantic Menhaden Management Board

Atlantic Menhaden Management Board has approved for public comment Draft Addendum IV to Amendment 1 to the Interstate Fishery Management Plan for Atlantic Menhaden. The Draft Addendum proposes extending the Chesapeake Bay reduction fishery harvest cap, established through Addendum III, for an additional three years (2011 – 2013). Under the proposed Addendum, the Board would annually review measures to determine if they are appropriate given the most recent information available about the stock and fishery.

Spiny Dogfish & Coastal Shark Management Board

The Spiny Dogfish and Coastal Sharks Management Board approved Addendum I to the Interstate Fishery Management Plan (FMP) for Atlantic Coastal Sharks. Addendum I allows for the finning and processing at sea in the commercial smooth dogfish fishery and removes both the smooth dogfish recreational possession limits and the 2-hour net check requirement for commercial large mesh gillnets. Addendum I allows commercial fishermen to remove all smooth dogfish fins, with a fin to carcass ratio of 5% to 95%, for March through June. In addition to approving Addendum I, the Spiny Dogfish & Coastal Sharks Management Board agreed to send two letters, one to the NMFS and one to the US Fish and Wildlife Service, opposing an Appendix II CITES listing for spiny dogfish.

Ms Puskas asked what happened to the marketing of spiny dogfish. Mr. Himchak responded that the market on spiny dogfish had collapsed.

Summer Flounder, Scup and Black Sea Bass Management Board

Summer Flounder, Scup and Black Sea Bass Board approve Draft Addendum XX for public comment. The Draft Addendum proposes changes to the transfer provisions for the commercial fisheries for both black sea bass and scup summer period (May 1 – October 31) managed under the Commission's plans.

Atlantic Striped Bass Management Board

Striped Bass Board approved Draft Addendum II for public comment. The Draft Addendum proposes to allow unused coastal commercial quota of striped bass to be rolled over from one year to the next.

Weakfish Management Board

Weakfish biomass is at an all time low. The Board initiated the development of Draft Addendum IV, which will propose a range of options to reduce fishing mortality, including complete harvest moratoria and limited bycatch only fisheries.

Shad & River Herring Management Board

Shad & River Herring Management Board approves Draft Amendment 3 for public comment. The Draft Amendment proposes a suite of monitoring and management measures to protect, enhance and restore American shad stocks to sustainable levels.

Mr. McCloy announced that public comment meeting nights are tentatively scheduled at this moment for October 5 (Shad, Black Sea Bass, Scup) and October 6 (Striped Bass, Weakfish).

Mr. McCloy spoke about two recent conference calls. The call on the Winter Flounder FMP, was, in part, to discuss NJ's conservation equivalent proposal for the recreational fishery. This proposal would have allowed NJ to modify existing seasons and possession limits as opposed to the Addendum I requirement of a 2 fish possession limit. The NJ proposal was not approved by the Winter Flounder Board. On the second call, the Summer Flounder, Scup and Black Sea Bass Board focused on projected harvest overages of the black sea bass, summer flounder and scup fisheries in 2009. A motion was made that subsequently failed, to close the recreational black sea bass season for the remainder of 2009. Following this decision no action was taken regarding summer flounder and scup.

Dr. Donnelly asked if there is a peer review committee to review the data used besides NMFS? Mr. McCloy responded that this is MRFSS data and that the survey had been reviewed by the National Research Council. He was not aware of any peer review of the current projections as related to the above three species.

Mid-Atlantic Fishery Management Council (MAFMC)

Mr. Goldman presented the MAFMC report. Handouts 4a and 4b were referenced, along with more detailed information regarding MAFMC that can be found at their website.

The MAFMC met on July 14, 2009 to have each of its species Committees address the development of annual catch limits (ACLs) and associated accountability measures (AMs). The outcome from the workshop will be used to provide guidance to the Fishery Management Action Team (FMAT) that is involved with the development of the Council's Omnibus Amendment for ACLs, AMs, and related control rules.

The workshop was focused on addressing the MAFMC specification setting process following receipt of fishing level recommendations (acceptable biological catch – ABC) from its Scientific and Statistical Committee (SSC). The reauthorized Magnuson-Stevens Act (MSA) requires the MAFMC SSC to provide a fishing level recommendation that accounts for scientific uncertainty. It is also to develop control rules to account for scientific and management uncertainty.

The MAFMC and the ASMFC Summer Flounder, Scup, Black Sea Bass and Bluefish Boards (Board) met to achieve consensus on their recommendations regarding proposed fishing regulations for 2010. The total allowable landings (TAL) in millions of pounds for summer flounder: 22.13, scup: 13.50, black sea bass: 2.30, and bluefish: 29.26. The MAFMC voted to include the following Gear Restricted Areas (GRA) as Marine Protected Areas (MPA): Scup Northern and Southern GRAs; Tilefish GRAs in Oceanographer, Lydonia, Veatch, and Norfolk Canyons.

The MAFMC voted to begin the scoping process for Amendment 14 to the Squid, Mackerel, and Butterfish FMP.

The MAFMC is seeking nominations for its annual Fishery Achievement Award. Anyone can submit a nomination and any person or organization can be nominated. The MAFMC will accept nominations for the 2009 award through September 30, 2009.

Mr. Berg thanked Mr. Goldman for all his hard work on the MAFMC. He announced that Mr. Christopher Zeman was NJ's new representative to the MAFMC.

Dr. Donnelly asked how a ruling works when there is a joint meeting between ASMFC and MAFMC. Are there 2 independent votes? Mr. Goldman commented yes there are 2 independent votes.

Ms. Puskas commented that there seems to be an overlap of the same people on both boards, which may lead into why both ASMFC and MAFMC vote the same.

Chairman Ewing indicated that the ASMFC doesn't always get to vote on a motion unless it is first approved by the MAFMC.

Mr. McCloy commented that those fisheries jointly managed by ASMFC and MAFMC are problematic. Where an ASMFC decision is final, a MAFMC decision is subject to approval by NMFS.

Mr. Himchak commented that is why the ASMFC is addressing the SSC before the quotas are determined. Once the SSC determines the limits they will not revisit the issue.

Shellfish Council Reports

Atlantic Coast

Mr. Maxwell presented the Atlantic Coast Shellfish Council report. The Surf Clam Advisory Committee (SCAC) met to set the quotas for the 2009-2010 surf clam harvest season. The 2009 estimated standing stock is 1.81 million bushels. Therefore, the quota could be set at a maximum of 181,000 bushels. Due to declining stocks and lack of recruitment, the SCAC recommended to set the harvest at 55,296 bushels. The quota last year was 58,368 bushels. However, aside from clams harvested for bait purposes, no edible clams were landed in NJ waters.

Delaware Bay

Mr. Joseph presented the Delaware Bay Shellfish Council report in Mr. Hollinger's absence. The direct market oyster harvest season, which is open from early April to mid-November, has a quota of 85,000 bushels in 2009. As of today the harvest is 55,000 bushels. Thus far in 2009, the catch per unit effort is approximately 62 bushels/day, down slightly from 2008.

Oyster Management Regulatory Proposal

The Division is proposing amendments to the "Oyster Rules" that govern the management and harvest of oysters from the Delaware River, Delaware Bay and their tributaries. The proposed rules reorganize the existing subchapters and incorporate provisions reflecting how the fishery has been operating since the start of the direct market harvest season in 1996. Staff is currently in the process of working with the Office of Legal Affairs on the response document. The Division is hoping for a fall adoption.

Oyster Consolidation Regulatory Proposal

Bureau staff continues to work on an additional amendment to the "Oyster Rules" that would allow for the consolidation of up to three licenses on a single vessel. A Council-appointed committee discussed this industry proposal for approximately 2 ½ years. The Bureau has submitted a draft rule proposal to the Office of Legal Affairs.

Delaware Bay Oyster Restoration Program

Bureau staff is nearing completion of the 2009 oyster reef enhancement program. Approximately 145,000 bushels of sea clam shell had been deployed on approximately 4 sites in the Delaware Bay. Early monitoring seems to indicate that oyster spawning success may have been above average on the inshore seed bed plants. Since 2005 over 2.1 million bushels of shell have been planted with very positive results.

Delaware Bay Oyster Restoration Program Receives Prestigious Coastal America Partnership Award

The project was recently awarded a Coastal America Partnership Award, which is the only environmental award of its kind given by the White House. The award will be presented to the project partners at a bayside ceremony on October 4 during the University of Delaware's Coast Day festival in Lewes, Delaware. This award adds to a growing list of accolades for the joint NJ-DE project: a list that also includes a gold medal from the Federal Executive Board in May and a 2008 Government Award from the Water Resources Association of the Delaware River Basin.

Mr. Joseph noted that since the multi-year bi-state oyster restoration program had reached the federal funding cap, the project would not be receiving federal funding in 2010. Ms. Puskas asked if the restoration project would continue in 2010. Mr. Joseph indicated that the work would continue, although perhaps at a smaller scale, using funding provided by the oyster industry via the \$2.00/bushel landing fee for all oysters harvested from the State's natural seed beds.

Committee Reports

Mr. McCloy indicated there are no committee reports at this time.

However, committees should meet in regards to striped bass and eel. One should be set up for summer flounder and black sea bass to discuss next year's plan for trip limits. Please keep in mind the four ASMFC public hearings on striped bass, weakfish, shad, scup and black sea bass, which are tentatively set for October 5th and 6th.

Chairman Ewing asked if we could get in a striped bass, summer flounder, and black sea bass meeting prior to the ASMFC public hearings and save the eel for later.

Mr. Herb agreed with Chairman Ewing.

Chairman asked the Council if meetings held in this order were appropriate: striped bass then the summer flounder, scup and black sea bass, with eel being the third meeting. Seeing none, Chairman Ewing asked for dates for these committees to be scheduled in that order.

Regulatory Updates

Mr. Muffley updated the Council on the 2009 Multi-Species Rule Proposal. There is nothing new to report, except that we are hoping for a September 17 filing date and October 19 publication date.

Last meeting Mr. Muffley mentioned that the Bureau of Freshwater Fisheries is moving forward with their rule proposal to change the recreational river herring possession limit to 10 fish (currently a 35 fish possession limit). This will then be inconsistent with NJ Marine regulations, in that the marine regulation is a 35 fish possession limit. Mr. Muffley indicated the Council had agreed to approve a Notice of Administrative Change

(NAC) to make the possession limit consistent with fresh water. Upon further investigation this change cannot be done through NAC, and will have to go through a regulatory proposal. Since ASMFC passed an Addendum that will result in a moratorium in NJ for river herring in 2012, NJ will keep the marine regulation as is at a 35 fish possession limit.

Mr. Goldman asked for clarification in that the river herring for marine is a 35 fish possession limit and the fresh water will be a 10 fish possession limit. Mr. Muffley said that is correct.

Mr. Muffley brought Council's attention to Winter Flounder NAC, Handout #5. The recreational limit as it stands now is a 2 fish limit at 12" minimum size limit and the commercial limit of 50 lbs per day. However, it was suggested that to make it easier for fisherman and enforcement, to change the commercial limit to a 38 fish daily possession limit (the 38 fish was deemed to be equivalent to the 50 lbs by the Winter Flounder Technical Committee). The Winter Flounder NAC is drafted to include this commercial change.

Dr. Donnelly made a motion for the Winter Flounder NAC draft proposal to read as follows with a two fish per angler per day, and a commercial daily possession limit of 38 fish per day. Mr. Herb seconded.

Public Comment on Winter Flounder

Mr. Jim Rickmers, agrees that 38 fish possession limit is the safest way to go.

Mr. Jeff Barrow, agrees with 38 fish and asked if the length was going to stay the same.

Mr. DiDominico agrees with the 38 fish and thanked the staff for working on this to keep NJ fisherman in business.

Motion was passed.

Old Business

Mr. Muffley brought Council's attention to Handout #6. This is a press release sent out by the Navy. The Navy announced that it will transfer the decommissioned destroyer ex-Arthur W. Radford to the State of Delaware for use as an artificial reef. The Radford will ultimately be reefed at the jointly-developed Del-Jersey-Land Inshore Site, which is equidistant from Cape May, NJ, Ocean City, MD, and Indian River Inlet, DE. The site was permitted in 2006 and has an area of about one square mile and a depth of 120 – 130 feet. The expected deployment date to the reef site is June 2010.

Windfarms

Mr. Lance Miller, from the NJ Board of Public Utilities presented the Council with a presentation on Windfarms. Handout #7 is a map showing where the windfarms are to be located. He was asked to provide information on the status and the impacts on recreational and commercial fishing. Three sites have been approved for exploratory work for offshore wind farms. They are Fishermen's Energy of New Jersey, Deepwater Wind LLC and the Bluewater Wind LLC. The offshore development companies will have no restrictions on the fishing in the area. The fishery benefit of these windfarms are an increase in fish that will be good for hook and line and pot gear and scuba diving. The negative fishery impacts would be to clam dredges and mobile gear fishing which will have to avoid the area. These offshore development companies plan on staying in touch with the all fishing committees.

Ms. Puskas asked who is going to allow the fisherman to fish in these areas? Mr. Miller commented that the ultimate decision will be up to the federal Mineral Management Service.

Chairman Ewing asked for public comment on windfarms.

Mr. VanDaley questioned who would decide what fishing could occur around the wind farms and was told that this would be up the Mineral Management Service. The developers have not asked for any fishing restrictions.

Mr. Hammerstrom, asked the distance from top to bottom of the blade. Mr. Miller responded 100'.

Mr. Siciliano, asked about boats tying up to the wind tower structures. Mr. Miller responded that the developers would decide if that would be permitted.

Mr. Nowalsky asked if the meteorological data would be available to the public. Mr. Miller responded that some initial data will be available to the public and that the offshore developers are working with Rutgers to determine how the data is used.

Mr. Mackey asked about the transmission cables running onshore. Mr. Miller indicated that the cables would be buried but there may be exclusion zones (for dredging) around the cables.

Chairman Ewing was under the impression that new regulations exist for cables in these areas. Mr. Miller said that is correct.

New Business

Mr. Muffley informed Council's that NJ and DE are working together to develop a fishery management plan for black drum in the Delaware Bay. The intent is for both states to have the same regulations across the Delaware Bay. The plan will include a change in the size and possession limits for the recreational fishery and change in the

quota and trip limits for the commercial fishery. In order for DE to change the regulations they need an interstate management plan in place first. Mr. Muffley will keep Council informed once the draft is complete.

Mr. Goldman asked how this will work with our regulatory concerns. Mr. Muffley commented that DE and NJ are working together to have the same regulations for both states. Delaware is looking to adopt NJ regulations.

Dr. Donnelly asked Mr. McCloy for clarification on what research-set-asides (RSA) are? Especially given that 3% for research set aside is taken off the top of the quotas, which are already being reduced across the species. Mr. McCloy explained the federal research set aside program. He indicated that NJ usually needs to issue a scientific collection permit to allow the fish caught to be landed in NJ. The program exempts participating fisherman from closed seasons and trip limits and prior to this year has been restricted to commercial fisherman. Mr. McCloy indicated that this year for the first time, the Department decided to issue a permit to a party boat to take summer flounder after the recreational season closes.

Director Chanda responded that research set asides have evolved over many years. In our current status we will be looking at all our scientific permits to learn more, and make changes as needed.

Dr. Donnelly commented that since the fisherman are experiencing cuts in quotas, it doesn't seem fair for someone with money can cut into the already reduced quota taking fish away from fisherman who are trying to make a living. He asserted that this sets a dangerous precedent.

Chairman Ewing asked Mr. DiDominico to come up to address the Council.

Mr. DiDominico presented his perception on how research set asides came into being up to the present. He praised the program for its economic benefits to fisherman and indicated that the industry plans to make it easier so more fisherman can participate in the future.

Chairman Ewing commented that this seems to be something we need to learn more about since so many did not know it even existed for the recreational sector and requested the Executive Committee discuss.

Mr. Yates (party boat), asked how he could participate in the RSA program. And Mr. DiDominico said the only requirement was to join the National Fisheries Institute.

Mr. Buzas supported the RSA.

Chairman Ewing asked for a clarification on funds that were taken by Treasury from the shellfisheries accounts.

Director Chanda responded that all accounts have experienced a reduction in funds with the exception of the Hunter Angler account, which faces to lose federal money if the funds are directed for some purpose other than fish and wildlife management. It is too early to tell how these reductions will affect all our programs. Director Chanda suggested Council's Executive Committee should discuss with the Division where cuts might be made if there are insufficient funds.

Chairman Ewing announced he invited Chris Zeman (new MAFMC member) to attend this Council meeting but he had a prior commitment.

Chairman Ewing personally, and for the Council, thanked Ed Goldman for all his work on the MAFMC during his tenure.

Mr. Goldman made a motion to send a letter to the Treasurer and copy to the Governor indicating Council's concern with the reduction in the shellfisheries accounts. Motion passed.

Public Comment

Mr. Hammerstrom, mentioned that there are plenty of markets for dogfish. Dogfish is the predator which we cannot control that is eating all the young fish. He requested that the dogfish fishery be reinstated. In regards to black sea bass, he said fisherman should be allowed to have all the sea bass they want.

Mr. DiDominico expressed concern of the projected recreational over harvest of black sea bass. He did not want to see the commercial fishery impacted. Mr. Himchak stated that another joint meeting is to be held in December where the recreational measures for 2010 will be set. The recreational over harvest will not be taken off the commercial quota.

Mr. Goldman commented that when the SSC came up with a number the scientific uncertainty was taken into account. When the technical committee for the MAFMC and the monitoring committee met, both said after the commercial specifications were set that the recreational specifications should be dealt with in December.

Mr. Rickmers, fyke net fisherman, asked if he had to sell his fish (winter flounder) everyday. According to the ASMFC he is only allowed a 38 fish daily trip limit and would be in violation of that if he has more than that in possession, even if it is from 3 separate days of fishing.

Mr. Rickmers, asked if it was going to be a problem once you dump your fyke net into the boat to be sorted and there are more than 38 fish? Captain Chicketano responded that Law Enforcement will be reasonable and fair.

Chairman Ewing commented that Enforcement knows the difference between those who are out their fishing and working their nets verses those who are on their way home. If

you are in possession of more than 38 fish on your way home, then enforcement sees that as a violation of the regulations.

Mr. Cuneo (Sportsmans' Federation) read a letter from Jason Varano (DEP) regarding lack of filling council appointments. He also noted that this was his first time attending a Marine Fisheries Council meeting and thanked the Council for all their hard work. He expressed his concern for lack of funding from the State for marine fisheries management.

Mr. Adam Nowalsky, expressed his concern about perceived recreational overages in the black sea bass fishery and the data collected by the NMFS. He requested that Council look at the raw data from NMFS for the year 2009.

Mr. VanDaley thanked Mr. Goldman for all his work on the MAFMC.

Meeting adjourned.

Next Meeting is Monday, November 9, 2009.

The normal meeting day conflicted with the Annual ASMFC meeting.