

**Advisory Council on Shellfisheries
Minutes of February 9, 2004**

A scheduled meeting of the Advisory Council on Shellfisheries was held on February 9, 2004 at 7:30 PM in the Richardson and Robbins building, 89 Kings Highway, Dover, Delaware. Those Council members in attendance were **Chairman Alan Davis, Virgilio Pacelli, Charles Auman, Leonard Voss, and Patrick Gaffney**. Division of Fish and Wildlife staff members present were **Roy Miller, Rick Cole, Jeff Tinsman,** and Kim Records. There were approximately 25 members of the public in attendance.

Mr. Davis began the meeting by asking Mr. Cole to begin speaking about the first item on the agenda regarding qualification criteria for participation in the horseshoe crab dredge lottery. **Mr. Cole** summarized what was discussed at the last meeting in October and then went over his draft legislation, which is intended to broaden the criteria for eligibility in the horseshoe crab dredge lottery. The additional qualifying criteria to be added would be that a participant would have to possess a crab dredge, clam dredge, or an oyster dredge license. Mr. Cole also stated that the draft legislation stipulates a qualifying participant must provide documentation that the vessel to be designated on the permit is at least 35 feet in total length. He continued to say that the draft contains verbiage that the Department would not issue a horseshoe crab dredge permit to anyone that was issued the same permit during the previous year and did not report any landings during that previous year. **Mr. Joe Smith** stated his concern over the regulation's stipulation of a 35 ft. vessel, because the documentation for his own vessel states 34 ft. 6 inches. **Mr. Cole** said that the length can be changed before the statute is passed, however, whatever length is stated in the final statute will have to be strictly enforced. **Mr. Davis** said that he would like to see some kind of verbiage to include those currently in possession of one of the qualifying licenses with a vessel whose documentation is close to the proposed 35 ft. stipulation (i.e. grandfather these individuals into the regulation). **Mr. John Satterfield** asked if conch dredge license should be included in the qualifying criteria. **Mr. Cole** responded that if the Council wanted it to be included, it can be added. An **audience member** asked how many owners would be allowed to be listed on the documentation, to which **Mr. Cole** answered that the vessel would only be allowed one allocation of the total quota, and that only one person/one boat would be eligible for participation in the lottery. **Mr. Auman** expressed concern that the draft regulation does not state one person/one boat/one chance. **Mr. Cole** said that this will be included in a new draft of this proposed regulation. After having **Mr. Miller** check the current horseshoe crab dredge statute in Title 7, Del. C., **Mr. Davis** said that the new draft will have to include an added section to specify this license would be issued by lottery only and that only 5 eligible participants would be drawn per year to receive said license. **Mr. Davis** asked the Division to prepare an estimate of the number of people who would become eligible under this new proposed statute if the qualifying criterion of an eligible person in possession of a conch dredge license was added. He said that his recollection of the prior discussion was that the eligibility criteria needed to be more expansive; however no one wanted the "flood gates" to be opened. **Mr. Cole** clarified with the Council that they prefer to have the year 2003 be the cut-off date for individuals having possessed one of these proposed licenses to be eligible, to which **Mr. Davis** responded positively. Then, **Mr. Cole** asked about Council's preference on the issue regarding vessel length. **Mr. Davis** responded that he will prepare some draft language for the Division that will identify individuals with boats less than 35 ft., who have previously participated in any of the fisheries mentioned, will be grandfathered in.

Mr. Davis then moved on to the second item on the agenda, the blue crab economic assistance program. **Mr. Miller** summarized the results of the survey mailed out to the licensed crabbers. He said that these results are based on 135 ballots received on time and pointed out that the Division never received ballots back from 99 people. The option that received the most votes was "Option C", which includes all crabbers who reported any landings from 1999-2001, and that each person would receive an equal share. **Mr. Auman** stated that he believes the results of the survey should stand, liked or not, the majority rules. **Mr. Voss** expressed concern that these statistics could be used by the federal government in the future for some sort of blue crab management measure. **Mr. Davis** stated that if the Division goes with the survey results (Option C), he believes that in some instances bad behavior is being rewarded, since there are some individuals who under-report their landings. At the same time, he continued, he does not want to vote against the majority, even though he believes that this could send the wrong message to Delaware's commercial crabbers. **Mr. Miller** stated that the Department appreciates the Chairman's comments and concurs, in that our preference would have been the selection of one of the performance based options. A motion was made to accept the survey results and advise the Department to use Option C from the survey-motion passed. **Mr. Miller** then went over the anticipated procedures for distributing these funds to the individuals who are eligible. **Mr. Miller** mentioned that there are 2 individuals who have passed away, and sought the Council's advice on how the Department should go about disbursing their portions. **Mr. Davis** suggested looking into whether or not these individuals Estates may still be open, and if so, having their checks made payable to their Estate. **Mr. Miller** also brought up the notion (because the Department will require either a Federal Tax Identification Number or Social Security Number) that some individuals may have an issue with receiving these funds due to personal reasons having to do with the Internal Revenue Service. It was widely agreed upon that the Department should mail out certified letters instructing each person to come in to the Division of Fish and Wildlife for sign-up to receive their individual portion of these funds.

Mr. Davis asked Mr. Miller to go over the next item on the agenda regarding report compliance issues. **Mr. Miller** stated that the failure to submit reports has become a major problem for the Department. He then summarized §1910 from Title 7, Del. C. that pertains to the failure to submit reports (the first time-you can be warned by the Department, the second time- results in a possible suspension for up to 30 days by the Department Secretary until reports are submitted in a manner acceptable to the Department, and the third time-results in possible revocation of the shellfish license until all reports are submitted in a manner acceptable to the Department). Mr. Miller said that after looking through the Division's records, in any given year 40% to 50% of all commercial fishermen have been late on one or more reports, some are chronic violators. He said that the Licensing Office does not renew any licenses until all reports are up to date, however, oftentimes the scenario where a fisherman is at the Licensing window to renew and is told that he owes reports, will proceed to complete a report on the spot. Mr. Miller said that the probability of the data contained on these kinds of reports is very likely to be fictional. Sometimes there are honest mistakes or legitimate delays, both on the fisherman's side and on the Department's side; however considering the history and the high rate of non-compliance, most cases appear to be blatant violations. Mr. Miller stated that he brings this topic up to call it to the Council's attention as a chronic problem and asked if there are any suggestions for a possible remedy. One **audience member** made a suggestion to computerize the reporting system. **Mr. Miller** agreed that this would make the system more simplified and probably greatly improve compliance; however, there are obstacles to consider, including that some watermen do not own or have access to a computer. This kind of project, Mr. Miller continued, would also be very expensive and take a great deal of time to accomplish.

Mr. Davis asked Mr. William Poulin what he wanted to say regarding the horseshoe crab quota for this year. **Mr. Poulin** said that he would like to know how the quota of 150,000 horseshoe crabs will be divided up between the people who hand collect, and those that dredge. He said that he believes each individual allocation should be equal. **Mr. Auman** suggested to Mr. Poulin that he pick up 1,000 horseshoe crabs on June 8th, and he won't have to worry.

Mr. Davis mentioned that the oyster issue regarding multiple licenses per vessel has come up again, and that the bill did not make it through the Legislature last session. He suggested that it may be a good idea for everyone to speak with their own Legislator on this issue in order to try to make some progress. Mr. Davis then announced the public hearing coming up on March 23rd at 7:30 PM for the oyster harvest and seasons. Meeting adjourned at 8:50.

Respectfully submitted,

A handwritten signature in blue ink that reads "Kim Records". The signature is written in a cursive, flowing style.

Kim Records

Advisory Council on Shellfisheries Minutes of June 7, 2004

A scheduled meeting of the Advisory Council on Shellfisheries was held on June 7, 2004 at 7:30 PM in the Richardson and Robbins building, 89 Kings Highway, Dover, Delaware. Those Council members in attendance were **Chairman Alan Davis, Virgilio Pacelli, Leonard Voss, and Charles Auman**. Division of Fish and Wildlife staff members present were **Roy Miller, Rick Cole, Jeff Tinsman, Patrick Emory**, and Kim Records. There were approximately 7 members of the public in attendance.

The meeting started with the approval of the minutes from the last meeting held in February. **Mr. Davis** began the discussion on the qualification criteria for participation in the horseshoe crab dredge lottery. **Mr. Cole** stated that this new draft contains the specifications requested during the last meeting, and briefly summarized them. He said under this new criterion, 108 individuals would be eligible to participate in the annual lottery. **Mr. Davis** cautioned that because this proposed legislation is a “dredge” bill, it may encounter difficulty in being considered by the General Assembly. **Capt. Willis Hand** remarked that he does not see any benefit in this proposed legislation. **Mr. Rob Piascinski** suggested clarifying the original regulation instead of sending an unpredictable “dredge” bill to Legislative Hall. **Mr. Davis** said the Department will need to help this bill get through any debates, and asked if the Department Deputy Secretary, Dave Small, had “tested the waters” on this proposed legislation yet. Both **Mr. Miller** and **Mr. Cole** answered “not to their knowledge.” **Mr. Davis** said that he would be willing to testify on the floor that this bill is not a big change, if that would help it go through. **Mr. Auman** commented that he does not believe this new draft clarifies the “one man-one boat-one chance” theory that the previous drafts, and the original regulation, had stipulated. His concern is that several people could sign up for the lottery, indicating their intent to use the same vessel. **Mr. Cole** said that this can easily be changed if the legislation goes through. **Mr. Davis** stated that Council has three options; one is to try to find a sponsor for the bill, another is to just make very minor changes, or “house clean”, and the last option is to leave it alone. **Mr. Voss** made a motion to seek a sponsor with just a minor change to the current draft, if politically feasible to proceed this way-motion passed.

Mr. Miller gave a final report on the blue crab federal economic assistance program for the next agenda item. He said there were 200 people eligible, and of those 200, 190 returned their form on time stating their desire to participate in receiving the federal funds. Those 190 individuals each received an allocation of \$982.86 of the total \$186,743.00 for Delaware.

Mr. Davis introduced Mr. John Ewart, Aquaculture and Fishery Specialist for the Delaware Sea Grant Program at the University of Delaware, Lewes, to give a presentation for the next agenda item. **Mr. Ewart** talked about the status of experimental oyster plantings in Indian River Bay. He stated that he has been working with the Center for the Inland Bays at the James Farm Ecological Preserve for the past three or four years. He said the James Farm is a 150 acre property that is used for environmental education, and he has been using the aquatic side to evaluate some shellfish culture methods. An experimental oyster reef was set up to study and evaluate the habitat development. Mr. Ewart summarized how the program was set up and presented some of the data collected during the study, thus far. He said they ended 2003 with a 50% mortality rate and an average oyster size of 48 mm. The

Center sponsored a project to have sentinel sites set up, and recruited volunteers to monitor these oyster plots. There are 14 sites set up around the Bay, with the greatest concentration in the Assawoman Bay.

Mr. Davis moved on to the next agenda item by introducing Mr. Miller to speak about the possibility of a regulation allowing the retention of some daily number of horseshoe crabs injured or killed as by-catch. **Mr. Miller** said that he and another staff member had been out a couple of times on dredging trips with some of the commercial fishermen and there were some horseshoe crabs being caught and injured in the dredge. He said that he was asked if there was something the Department could do to help in regard to allowing some type of by-catch, since the extensive horseshoe crab regulation changes last year deleted the 6 per day by-catch regulation. Mr. Miller pointed out topics that would need to be considered before pursuing a new by-catch regulation for dredgers, including: any by-catch would have to count against the total quota, a new regulation would require ASMFC approval, it would be more difficult to enforce, it would be subject to the same reporting system, and any proposed new regulation would not be supported by environmentalists. **Capt. Willis Hand** commented that if a fisherman keeps his gear in good shape and the dredge is used properly, there won't be much by-catch. **Mr. Piascinski** suggested making a new regulation stating by-catch would be for personal use only. **Mr. Voss** made a motion that the Department prepare a draft regulation to be presented at the next meeting-motion passed.

The next item on the agenda was new legislation needed for Delaware to be in compliance with ASMFC's lobster plan. **Mr. Miller** stated that as of July 1st of this year, ASMFC requires that we make the minimum size limit for landing lobsters 3 3/8" (carapace length measurement). He said that Delaware is considered a "de minimus" state because our landings are so low. This means that we do not have to perform the full biological monitoring that other northern states do (because their lobster fisheries are much more important/lucrative), however we must implement the minimum size limit in the lobster plan. He said that ASMFC also requires that a maximum size restriction of 5 1/2" be implemented for female lobsters. Mr. Miller stated that these changes can not be made by regulation because the size limit is in the statute, it must be done legislatively. The draft regulation presented tonight (2501), he continued, includes wording changes to implement the new size limits. He also proposed wording changes to statute 1902, which governs shellfish, under Duties of the Department. The proposal would have made it possible for the Department to make size limit changes, as needed, to remain in compliance with ASMFC without going through the legislature. He said he had corresponded with Senator Simpson and Senator Venables regarding this proposed change, and Senator Simpson was uncomfortable with changes to 1902, stating that he does not think the time is right. Mr. Miller conveyed that Senator Simpson said he would be supportive of the required changes to 2501. A motion was made to adopt the changes to 2501-motion passed.

Mr. Davis asked for topic ideas for the next meeting tentatively scheduled for September, to which **Mr. Auman** suggested a discussion of the Department possibly relaxing horseshoe crab hand collection regulations for 2005. **Mr. Miller** said he would have a draft regulation prepared for horseshoe crab by-catch. Meeting adjourned at 9:25 PM.

Respectfully submitted,



Kim Records