

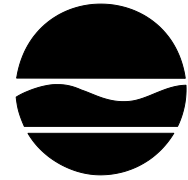
**New York State Department of Environmental Conservation
DIVISION OF LAW ENFORCEMENT**

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MEMORANDUM

TO: Marine Resource Advisory Council
FROM: Major Timothy A. Duffy
RE: SDO MRAC Report – October 2009
DATE: October 29, 2009

MARINE RESOURCES

MFC Inc.

On 17 July 2009 and 24 July 24 2009, MEU (Marine Enforcement Unit) Officer Jamie Powers and Region 2 ECO Nathan Favreau issued MFC, Inc. violations for the possession of quota-managed species that were imported into the State in containers that did not meet the legal packing requirements. Under New York State regulation, no person shall possess summer flounder, scup, black sea bass, bluefish or spiny dogfish unless the containers are legally labeled. MFC, Inc. agreed to settle the matter, entered into a consent order and paid \$800 in penalties.

A Busy Night At The Fulton Fish Market (Bronx County)

On 04 September 2009, MEU Officers teamed up with ECO's from Region 2 for an inspection of the Hunt's Point Fulton Fish Market. Lt. Todd Richards had set up the detail to allow the officers to perform detailed inspections on all of the units. By the end of the night, several violations were found including: improperly labeled fish containers; undersize lobsters and out-of-slot size striped bass. Ten summonses were issued. The detail was a large-scale effort to bring the largest fish market in New York City into compliance with New York State's Environmental Conservation Law.

Porgy Enforcement (Suffolk County)

On 20 September 2009, MEU ECO Sean Reilly and Region 1 ECO's Joshua Sulkey and Donald Damrath patrolled Long Island Sound on the 25-foot Mako. While they were in the area just off of Old Field, the ECO' checked a vessel that contained coolers of fish. The officers found more than 60 porgies, 46 of them undersize, and 24 short black sea bass. They issued the three adult fishermen onboard two tickets each for short sea bass and short porgy. After completing that boarding, the ECO's patrolled into Smithtown Bay and checked two fishermen in a rowboat. They found 63 porgies, 33 of them undersize, and no PFD's (personal floatation devices). The fishermen were each issued two tickets for the illegal fish.

Oyster Ponds Access Site Part Do's and Don'ts (Suffolk County)

On 20 September 2009, Region 1 ECO Tom Gadomski again visited the Oyster Ponds access site in search of unpermitted use violations, observing several groups of fishermen on the beach. Officer Gadomski glassed the beach and saw a group heading toward the parking lot. Concealed in the bushes, he watched as one individual in the group broke off ahead of the rest. As he got to the parking lot, the fisherman looked around, then called someone on his cell phone and said, "No police". The rest of the group then came up into the parking lot. Officer Gadomski then showed himself, requesting the group prepare to be inspected. The first fisherman had no fish, but the others were in possession of 55 undersize scup, some as small as 3.5", and 15 scup over the daily limit. After finishing with the first group, ECO Gadomski saw another group packing up. He again waited for the group to enter the parking lot and begin to load their gear into their vehicle before approaching them. The second group was in possession of over 90 undersize scup, eighty of which were over the daily limit, several undersize black sea bass and out of season blackfish. A total of 15 summonses were issued and over 150 fish were seized and donated to several needy families in the area.

Queens Boat Patrol (Queens County)

On 23 September 2009, MEU ECO's Jamie Powers and Kevin Thomas were on boat patrol. As they approached a fishing vessel, they saw one of the fishermen run to the back of the boat. They warned him not to dump anything overboard but the individual at the back of the boat picked up a weighted burlap bag and tossed it overboard anyway. The ECO's had boarded the vessel, and after a brief interview, the fishermen admitted to throwing over a weighted bag containing 5 undersize tautog, 5 undersize scup and 5 undersize black sea bass. The officers then issued the two fishermen 7 summonses.

Undersized Fish, Fire Island Inlet (Suffolk County)

On 26 September 2009, MEU ECO Sean Reilly and Region 1 ECO Tim Fay patrolled Fire Island Inlet. The officers boarded a vessel that was anchored near the inlet bridge. Onboard, they found buckets of illegal fish. There were out-of-season blackfish and undersize sea bass and porgy. The ECO's issued three tickets to each of the two fishermen, returnable to Suffolk District Court. During the patrol, ECO Fay also issued two other fishermen tickets for undersize blackfish and undersize black sea bass.

A Day Too Late And Four Short Fish (Westchester County)

On 27 September 2009, one day after the closing of the recreational porgy season, Region 3 ECO Jason Curinga was on patrol in Westchester County on Long Island Sound. Officer Curinga checked some of the more popular porgy fishing spots and saw one fisherman on the rocks off Playland Park in Rye. He approached the fisherman to check his catch and asked the man what he was fishing for. The man replied he was fishing for porgy. When the fisherman was asked if he knew when the season closed, he replied that he did not; however, he was able to state what the legal size and catch limits were. ECO Curinga checked the fisherman's catch and found that he was both over-the-limit and in possession of short fish, in addition to taking the fish out-of-season. He was issued the appropriate tickets.

DEC & Islip Harbor Police Working Together (Suffolk County)

On 28 September 2009, at 11:15, Region 1 ECO Tim Fay received a call about a 25 foot Boston Whaler named the Drifter taking undersize fish in the Great South Bay near the Robert Moses Bridge. ECO Fay called the Islip Harbor Police for assistance getting to the location. In a few minutes, Islip Harbor Police Officers Mike Thein and Mike Handelman were underway. At 11:30, they picked up Officer Fay, and began patrolling, looking for the boat in question. The vessel was located heading west on the bay. As the patrol vessel made a u-turn to approach the boat, one of the fishermen started moving quickly toward a bucket at the stern. ECO Fay began verbally telling the fisherman not to dump the bucket. However, with a smooth

no-look back, between 5 and 8 fish were dumped overboard. After the officers stopped the boat, the fisherman admitted to possessing four undersize black sea bass and using them for striper bait. The owner/operator and a fisherman onboard the Drifter received two summonses for possessing undersize fish and one Navigation Law Ticket for safety violations.

Illegal Commercialization Of Tautog (Westchester County)

On 30 September 2009, Region 3 ECO James Davey was conducting a shellfish inspection at Mamaroneck Harbor on Long Island Sound. After speaking with the harbormaster days earlier about illegal commercial fishing activity, ECO Davey began surveillance on a vessel reported to have landed blackfish in excess of the legal limit. The commercial vessel was soon spotted from shore entering the harbor and docking at a bait station where a white van was waiting for the "drop-off". ECO Davey observed fish being carted in from the boat and a live fish pen tied to the dock where the vessel had moored. Upon inspection, the captain of the boat was questioned as to how many fish had been landed that day. He stated that 43 had come in on the boat and 46 had been stored live in the pen. It was explained that only 25 fish could be stored in a live pen on the water and 25 fish landed from a licensed commercial vessel per day. Four summonses were issued to the captain and his partner for illegal commercialization of fish and wildlife -- landing in excess of 25 tautog from a commercial vessel and storing in excess of the daily limit on the waters of the State. One summons was issued to the driver of the van for purchasing marine foodfish without a foodfish/crustacea shippers & dealers permit. 269 pounds of live tautog were released back into the waters of the State.

These Blackfish Are Legal (?) (Nassau County)

On 01 October 1 2009, Region 1 ECO Erik Dalecki received a complaint about an angler keeping short blackfish near the Meadowbrook Bridges in the Town of Hempstead. The officer responded and went on boat patrol with Town of Hempstead Bay Constable Taddeo. They pulled up to a boat tied to the northernmost Meadowbrook Bridge. During the inspection, ECO Dalecki asked if the angler had any fish on board. When the angler replied that he did, ECO Dalecki asked him to hold them up. All of the blackfish looked to be undersize. ECO Dalecki then measured the fish to be 11", 12" and 13". The angler then replied that they were at least 13 and 3/4". ECO Dalecki advised the angler that even 13 and 3/4" was under the 14 " regulation, but that none of his fish were even close. ECO Dalecki issued him a summons for possession of undersize blackfish.

Street Corner Striper Sale (New York County)

On 02 October 2009, Region 1 ECO Dustin Dainack began surveillance outside of the NYC Public Library in Manhattan's Chinatown after receiving a tip about possible illegal commercialization of fish in the area. Shortly thereafter, ECO Dainack observed an individual stop in front of the Library, pull out a short striped bass from a bag and begin holding the fish up to passing pedestrians. Little did the individual know that ECO Dainack was watching from a convenience store across the street. As soon as ECO Dainack observed the suspect exchange the fish for cash, he approached the individual and identified himself as a Conservation Officer. The suspect fully understood what he was doing was illegal but was shocked at how he had just been caught. The suspect admitted that he had been selling on the street for about a week whatever fish he had caught. ECO Dainack issued two summonses to the individual for the sale of untagged striped bass and possession of undersize striped bass.

Operation Night Fish (Nassau County)

During October, Region 1 Lt. Matt Blaising directed his officers to conduct dedicated night patrols to address night fishing activity in Zone 1. On 08 October 2009, Region 1 ECO's Erik Dalecki and Michael Unger conducted a late night boat patrol in the Town of Hempstead. While the officers patrolled near the Wantagh and Meadowbrook Bridges, they spotted anglers fishing near shore. ECO Unger piloted the boat as he dropped ECO Dalecki off to check the anglers. Officer Dalecki asked the anglers if they had caught any

fish. They both replied, "No." Upon inspection of a nearby black garbage bag, it was found to contain an undersize porgy, three undersize black sea bass and two undersize blackfish. No legal size fish were found. ECO Dalecki issued two ECATs to the angler for possession of undersize black sea bass and blackfish.

Porgy Poaching On Coney Island Pier (Kings County)

On 09 October 2009, Region 2 ECO Timothy Machnica responded to Coney Island Pier in reference to multiple subjects keeping undersize porgies. ECO Machnica interviewed and checked multiple fishermen at the pier. Three subjects were issued NYC Universal Summons for short porgy, out-of-season, ECL 13-0340(e). One subject was found in possession 22 short porgy, out-of-season. One subject was found in possession of 29 short porgy, out-of-season and the third subject was found in possession of 32 short porgy, out-of-season. The minimum legal size limit for porgy is 10.5 inches in length. None of the fish were legal size limit, even if porgy was in season. The fishermen expressed great appreciation for ECO patrol and the citations that were issued on the pier.

Hanging Over The Edge (Kings County)

On 09 October 2009, Region 2 ECO Neil Stevens responded to a complaint at the IKEA Pier in Brooklyn in reference to recreational fishing and the illegal taking of blackfish. After several minutes of surveillance, ECO Stevens moved in for an inspection of the pier. After a preliminary "walk-through" of the pier, a more thorough inspection was conducted. A bag was observed hanging over the edge of the pier. The bag was suspended in the water with several short blackfish trapped inside, alive. Coincidentally, the bag was suspended directly in front of an individual who was observed fishing and matched a description given by the complainant. The individual was issued a summons for possession of undersize blackfish. The fish were released into the water.

Blackfish (Kings County)

On 10 October 2009, Region 2 ECO Matthew Krug acting on a TIPP complaint, went to Gerritsen Inlet to look for two male subjects alleged to be catching over-the-limit and short blackfish. ECO Krug approached two individuals fishing at the locations. When one individual saw ECO Krug, he dumped a large plastic bag filled with blackfish into the water. The man continued to disobey lawful orders of ECO Krug and was subsequently arrested for a variety of Penal Law and Environmental Conservation Law charges.

Charter Check (Kings County)

On 10 October 2009, Region 2 ECOs Shea Mathis and Neil Stevens and MEU ECO Jamie Powers were conducting boat patrol in Raritan Bay when they sighted "The Jet"; a recreational party boat. Following "The Jet" was a large group of sea gulls. This is usually a good indication that fish are going overboard. The officers quickly boarded the vessel to check the recreational fishermen. After checking approximately 20 fishermen, ECO Mathis and ECO Stevens found several violations. Four summonses were issued for violations involving possession of undersize scup and black sea bass.

Shinnecock Inlet (Suffolk County)

On 11 October 2009, MEU ECO Brian Farrish and Region 1 ECO Jeremy Eastwood were on boat patrol aboard A2 making their way out of Shinnecock inlet when ECO Farrish noticed a boat that was using live bait while drifting the inlet for striped bass. Officer Eastwood found three live undersize black sea bass in the vessel's live well. The individuals on the boat claimed that they have been using undersize black sea bass for bait for over five years and did not think it was an issue because they were not taking them home to eat. The individuals were issued a summons for possession of undersize black sea bass.

Digging For Trouble (Suffolk County)

On 11 October 2009, ECO Kaitlin Grady patrolled the shoreline of Mt. Sinai Harbor by vehicle and foot. The tide was low and the officer had heard rumors that the shellfish diggers in the area who take soft shell clams on the mud flats at low tide were not working in certified waters. Sure enough, Officer Grady observed one digger working several hundred feet over the line into illegal waters. As the tide came back in, the violator was the last digger to return to shore. The officer met the subject back at the Cedar Beach boat ramp, where he admitted to knowingly digging in uncertified waters. On 20 October 2009, ECO Grady again was on patrol around Mt. Sinai Harbor around sunrise, again at low tide. Perhaps mistakenly thinking that all ECO's sleep late, three diggers were working well inside the uncertified area. This time, Officer Grady did not have long to wait before the diggers headed back to shore. All the subjects received tickets for taking shellfish from uncertified waters, a misdemeanor.

Beach Patrol (Suffolk County)

On 11 October 2009, US Fish and Wildlife Service Officer Tom Loring and Region 1 ECO Joshua Wolgast conducted a plainclothes fishing detail at Target Rock National Wildlife Refuge. Over the summer months, this area had been the subject of increasing complaints concerning short fish and garbage being left on the beach. During the assignment, the two officers observed several individuals keep out-of-season porgy, as well as one individual burying his empty beer bottles and garbage in the sand. Upon questioning the man, he replied that he always digs up his garbage at the end of the day. A total of five citations were issued to the fishermen.

No Fish, No Driver's License, No More Car (Nassau County)

On 20 October 2009, Region 1 ECO Denise Ferraro was conducting shore side checks of night fishermen. She observed several cars at the far end of Wantagh Park in the Town of Hempstead and figured there were probably some fishermen under the bridges. Rather than approach them by the water, she hid and waited for them to come back to their cars. As two men returned to their vehicle, she approached them and conducted a compliance inspection that revealed no immediate violations. However, their nervous behavior made Officer Ferraro suspicious. She decided to leave the area and wait to see what happened next. Sure enough, the two individuals exited the park, got onto the parkway and headed south to the bridge. Once there, the passenger got out of the vehicle, went into the bushes and pulled out a bag. ECO Ferraro pulled up and surprised them, issuing them summonses for the undersize blackfish. There were also issues with their driver's licenses and vehicle paperwork, so ECO Ferraro TOT'd the remainder of the case to the State Police, who issued the appropriate summonses and impounded the car.

FDA Annual Shellfish Patrol Evaluation

On 20 September 2009, Captain Dorothy Thumm facilitated the annual review at the Marine Resources office in Setauket. Captains Tim Huss and Ronald Stabak and several lieutenants were in attendance. The patrols of uncertified areas are reviewed by a Regional US Food and Drug Administration shellfish specialist to determine if New York is in compliance with patrol standards directed by the Model Ordinance. If New York is found to be out of compliance, it would affect the ability of our harvesters and dealers to ship New York shellfish in interstate commerce. Approximately 4,000 patrols per year are mandated.