



Marine
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**Advisory
Council**

BULLETIN

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Meeting of the Marine Resources Advisory Council

Robert Danielson

John Davi, Jr.

Melissa Dearborn

Paul Farnham

Thomas Jordan

Joseph Paradiso

John Renaldo

Paul Risi

Karen Rivara

Christopher Squeri

Charles Witek

Dean Yaxa

Chairman Wise began the meeting at 2:05 p.m.

Mr. Wise and the other Councilors present introduced themselves, along with Mr. Jim Gilmore, Director of Marine Resources for DEC. Mr. Wise noted that 2 additional commercial fishery representative councilors were needed to achieve a quorum of Council members. Until and unless that occurred, the Council would be unable to take any official action at today's meeting. Chairman Wise then went over the meeting agenda.

Public Comments

Mr. John Mihale questioned the current status regarding recreational black sea bass limits in 2013. After having a conversation with Pat Augustine, a New York Commissioner to the Atlantic States Marine Fisheries Commission (ASMFC), he worried what would happen to the fish caught in January and February this year relative to the 2013 quota and will it impact the recreational fisherman later in the year. Mr. Gilmore assured Mr. Mihale that this will be talked about when that agenda item is brought up further into the meeting.

Marc Hoffman (a member of advisory panels for the ASMFC) wanted to inform people that during a conference call last month he was informed that under the current manner in which data is collected regarding MRFFS, it will not show any difference in effort for this coming year as it has in the past. With the amount of damage to recreational boats from Hurricane Sandy, he guesses that the estimate of recreational fishing effort in New York is going to be very low, perhaps down by 30% over 2012. If a MRFFS field agent gets results from 10 boats that pull into the dock, he will still get results from 10. It will not reflect that only 50 boats pulled in instead of the usual 100, you will not have the proper representation of less effort. And even though Atlantic States say they are using NOAA's new Marine Recreational Information Program (MRIP) they are not. Mr. Gilmore said that there is already a committee put together to address this topic and Mr. Hoffman should make his comments to that group.

Dr. Nancy Solomon of Long Island Traditions asked for an update on the Hempstead sewage treatment plant. Mr. Gilmore replied that Ms. Debra Barnes of the Shellfish Management Program was in attendance and perhaps she could speak with her later to get that information.

William Wise
Chairman

Kim Knoll
Staff Assistant

Commercial Conch/Whelk Licenses

Councilor John Davi had requested that this item be put on the agenda. He was participating in the meeting via speaker phone. Mr. Davi said that folks in the commercial industry had a meeting and they discussed modifications to the current system for allotting commercial conch licenses, including assigning preference points to certain persons filing an application. Specifically, they feel a person should receive a preference point for each year they applied and were not selected for a license. This would confer an advantage to people who were trying to get a license for years and couldn't get one vs. someone who just applied and got lucky. Mr. David suggested that preference points would level the playing field a little.

Ms. Barnes of the DEC said the qualifying process for this license is what's in the law – the first come, first served. Applications for a conch license can only be filed individually (no businesses or corporations), you must be 16 years old and there is a qualifying income requirement (\$15,000 a year for a minimum of 3 years earned from commercial fishing). The criteria is the same for all limited entry licenses: foodfish; crab and whelk. Since 2005, the Department has received more qualified applications than they have licenses available so they are forced to go with random lottery. The current law does not provide for the issuance of preference points.

Mr. Davi commented that many in the industry believe that non-residents are getting preferential treatment over State residents in securing these licenses, but Ms. Barnes said that is not true. Each year, there are separate limits for residents and non-residents. Fisherman John German feels that if you've been trying to get in and you're a full time fisherman you should be entitled to get points which will earn you a higher spot when it comes to getting a license. Changing the licensing law is an issue for the State Legislature and people in the industry are pursuing it as such.

Chairman Wise said this discussion brought to mind a discussion held several meetings ago regarding eligibility criteria **generally** for commercial fishermen in New York State. The Council agreed to work together with DEC to assemble proposals for the Legislature to consider. The license eligibility laws are renewed every three years or so and, for the past 10 years they have not really been examined or changed. DEC has asked the Council's assistance in a re-examination of the current eligibility requirement and changes that should be made to those requirements. This topic will be taken up at the March 2013 Council meeting.

2013 Recreational Fluke, Scup and Black Sea Bass Limits

Mr. John Maniscalco of the DEC presented information on the 2013 limits for New York recreational fisheries for fluke, scup and black sea bass. Mr. Maniscalco countered the statements made earlier by Mr. Hoffman and assured the Council that, if less people are fishing and fewer trips are being taken, this **WILL** be captured by MRIP. There will be meetings to explain the ins and outs of how the new program works but be assured that the number of trips taken will be captured.

Basically the take away message for the 2013 summer flounder, scup and black sea bass is that everything is still in flux. **Mr. Maniscalco gave a power point presentation, which is attached to this bulletin, and provides the specifics of what he presented.**

Hurricane Sandy Impacts to New York Fishing Industries and Federal Assistance

Mr. Gilmore said that within a few days of Hurricane Sandy, DEC requested disaster relief through the Magnuson Stevens Fishery Conservation and Management Act because of the extensive damage to fishing industry infrastructure. The federal Department of Commerce official declaration that New York and New Jersey had suffered a fishery-related disaster was made on 16 November 2012. This opens the door for Congress to appropriate money towards alleviating the financial hardship caused by the disaster. If money is appropriated, NOAA will work closely with Congress, the states and affected communities to help stem the cascading economic and social impacts of this storm.

DEC was inundated with questions from commercial and recreational fishermen regarding disaster relief. Mr. Gilmore stated that the Department thought it best to have someone from the National Marine Fisheries Service come in person to address the Council on this topic and to try to answer any questions about the disaster declaration. He introduced Mr. Harry Mears, Assistant Regional Administrator for Operation and Budget in the Gloucester, Massachusetts office of NOAA Fisheries.

Mr. Mears began by saying that the last time the disaster process was enacted on Long Island was in the year 2000, associated with the Long Island Sound lobster die-off. Implementation of disaster relief in that instance was a joint effort between New York and Connecticut. Funds were subsequently made available to use for research, economic impact assessment, fisherman retraining, loans, lobster tag buy back program, etc. There was also a \$1M initiative led by New York Sea Grant that brought together academia, federal scientists and state scientists that resulted in a symposium.

This is only 2nd time that there has been a disaster determination based on hurricane damage in the Northeast, the first being Hurricane Agnes in 1972.

Congressional funding for fisheries suffering from a disaster was first provided through the 1964 Commercial Fisheries Research and Development Act of 1964. The objective was to assist states in restoring fisheries and prevent future failures. At the time, the law stipulated that Congressional funds not be used for "for-hire" fisheries, to off-set an inability to sell raw fish or to compensate fishermen for economic loss.

The fishery disaster relief law was further elaborated in 1986 by Section 308B of the Inter-jurisdictional Fisheries Act. In this language, local cost-sharing was dropped as a requirement if Congress specifically appropriated funds. Direct economic assistance to impacted fishermen, support services, etc. was included in the 1986 law. Section 308D was one of the two authorities the Secretary of Commerce used in the Hurricane Sandy disaster determination

In 2006, the Magnuson Stevens Act came into play through its Section 312(a) and section 315. This further stipulated how assistance could be provided.

Assistance could be given to aid commercial fishery failures due to a fishery resource disaster. The funds can be used to assess economic and social impacts and in assisting fishing communities to be restored to their former state of health. The cause of any declared disaster must be due to natural causes or causes that are beyond the control of fishery managers, or to the promulgation of fishery regulations to protect human health (Section 315). The Federal cost share under 312(a) was 75% federal; 25% must come from the states.

Hurricane Sandy put into play 308D (usually associated with hurricanes) and Section 315 (not Section 312). This is the first time that Section 315 has been used. That is because the Governor of New York and the Governor of New Jersey both wrote to the Secretary to request a fisheries disaster determination. This made it a catastrophic regional fishery disaster. This is very important to the states because this does away with the requirement for the state to match the funds given (relief under Section 315 does not carry a cost-share requirement).

Disaster review procedures

1. State submits data and justification to Secretary of Commerce for determination request
2. Secretary reviews request to see if there is sufficient basis for resource disaster determination. Was there a commercial fishery failure?
3. A response to the state – if it's positive, then it's up to Congress to come up with a dollar amount.
4. The money is given to the states and then a spending plan is put into action via a grant proposal.

The Hurricane Sandy determination is the first under MSA Section 315. About \$140 million has been appropriated thus far. Once a disaster determination has been made, it also opens the door for other loan programs for affected businesses. In June of 2011, a disaster policy was established to streamline the process and to also level the playing field. It also helps people to understand what can and cannot receive federal assistance. There are 3 steps and they are:

#1 – has there been a fishery resource disaster?

#2 – is it due to an eligible cause as defined by the Legislation?*

#3 - it is up to Congress to appropriate the funds followed by the states coming up with a budget

*The secretary takes a much more active role in agreeing that a disaster has in fact occurred and must make the resources available to do an initial snap shot of the damage caused by the hurricane. There is a two way feedback with the associated Governors documenting to the economic loss. Then it goes to Congress.

There is no standing fund to allocate toward determinations that might be made. Congress examines each disaster individually, and decides whether to appropriate funds, and if so, what amount. If Congress decides to appropriate funds, NOAA's Fisheries Service works with the states, interstate fisheries commissions, fishing industry, and others to distribute funds in response to these determinations.

Mr. Wise asked if there were surveys being prepared of Sandy-related damages to the State's fishing industries. Mr. Gilmore said there were. There was a federal survey performed by FEMA. However, when the surveyors went out seek information it was difficult to gather it because the folks who the storm impacted were no longer living in their homes or *what was left of their homes*, so FEMA wasn't sure how to get in touch with people to get their information. NMFFS is finding the same problem in its attempt to get a synoptic view of fisheries damages. Mr. Gilmore said the DEC wants to make sure if there are holes in the data, it's not because they couldn't contact the appropriate folks. The NMFS report will shortly be sent to the Governors of New York and New Jersey.

An audience member questioned if there was a formula used to calculate the amount of money. Mr. Mears said once the state receives Congressional monies, it is the state itself that determines how it will be paid out which is known as the Developmental Spending Plan.

Mr. Wise asked Mr. Gilmore what he saw the process to be once Governor Cuomo receives the report from the service. Mr. Gilmore said the first thing will be to see if there are any significant gaps – those would need to be filled in first, followed by a public meeting to receive input. The DEC is actually in the middle of the process but once the assessment is done and they come up with a figure for the estimated damage, it goes back to the Governor's office where a request for a suitable appropriation through the NY/NJ Congressional delegation is made. Mr. Wise asked what agency in New York would handle the fisheries aspect of the appropriation? Mr. Gilmore said it would be run through DEC but would use a third party to distribute the money. Councilor Dearborn said that she, Jim Hutchinson, John Mantione and several others are working with Antoinette Clemetson of New York Sea Grant to put together an industry survey to help capture and evaluate the economic losses and physical damages for the recreational side (party and charter boats as well as bait and tackle shops). There is a similar survey targeting marinas, also through New York Sea Grant. Ms. Dearborn said if anyone was interested to see her and she would give them contact information. She wondered what Mr. Gilmore thought her estimated time frame for gathering the information should be? Mr. Gilmore said it could be anywhere from 30 to 60 days depending on how much data is captured. Mr. Davi said he would sit together with Mr. Gilmore to try and come up with a way for him to get the information out there to the commercial industry about the surveys. There is going to be an outreach plan put on DEC's website to gather information and everyone is welcome to contact them.

Mr. Wise expressed a concern that appropriations might be made and cast in stone before a full and accurate assessment of fisheries damages from the storm is available. Ms. Clemetson of Sea Grant echoed his concern. She feels that much has been learned about how information should be gathered and hopes that improvements will be made and then shared with the fishing industry should something like this happen again.

Mr. Mears said he does think that much has been learned about the process, what works, what doesn't work and believes improvements will be made for future events. This is a very unique part of Federal law which does require a Secretarial determination and had the assessment not been made quick enough, there would have been complaints about that too.

Everyone thanked Mr. Mears for coming and answering questions.

2013 Council Meeting Dates

The Council chose the meeting dates for the 2013 calendar year. They are:

March 12th

April 9th

May 14th

July 9th

September 17th

November 12th

All meetings take place at 205 Belle Meade Road, East Setauket at 2:00 p.m. The July meeting is usually held in the evening but the time will be determined at a later date.

12 March 2013 Council Meeting

The following are the tentative agenda items for the Council's 12 March 2013 meeting:

- Instituting a MRIP pilot project in New York
- Review/revision of NYS commercial fishing license eligibility requirements
- Fluke, scup and black sea bass recreational limits for 2012
- New York's compliance with mandated reduction in menhaden landings

Check the Council's web page, <http://www.somas.stonybrook.edu/MRAC> for additional agenda items for the 12 March 2013 Council meeting added after this bulletin was released. For further information about the Marine Resources Advisory Council or items covered in this bulletin, to make arrangements for addressing the Council on an agenda item, or to suggest an agenda item, contact: William Wise, Chairman, Marine Resources Advisory Council; PHONE: 631/632-8656 FAX: 631/632-9441; wwise@notes.cc.sunysb.edu.

SPECIAL NOTE TO BULLETIN RECIPIENTS & READERS: *The Environmental Conservation Officers who enforce New York's environmental laws and regulations, including those dealing with marine resources, play an essential role in safeguarding the State's natural heritage. Their ranks were recently diminished by one with the retirement of Captain Dorothy Thumm, head of DEC's Marine Enforcement Unit (MEU). On December 31, 2012, Captain Thumm completed 40 years of State service in combined service with DEC and SUNY Farmingdale. She joined DEC's Division of Law Enforcement in 1980 and rose to eventually command the Marine Enforcement beginning in 2005. Captain Thumm was a regular presence at meetings of the Marine Resources Advisory Council. Her insights and observations on marine law enforcement issues were of tremendous value to the Council's deliberations. We commend Captain Thumm for her leadership and her dedication to the conservation of New York's marine resources. We wish her well in her retirement.*