



**Marine
Resources
Advisory
Council**

BULLETIN

12 November 2013

Volume XVIII, No. 5

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 2:00 p.m. After introductions by all the councilors present and the Director of the Marine Bureau of the DEC, James Gilmore, Chairman William Wise went over the day's agenda.

Approval of Council Meeting Minutes

The draft minutes of the Council's meetings on 09 April, 14 May and 17 September of 2013 were approved by a unanimous vote.

Public Comment Period

Mr. Gilmore announced that Pat Augustine's current tenure as a commissioner from New York on the Atlantic States Marine Fisheries Commission (ASMFC) is coming to an end. Governor Cuomo needs to either reappoint or replace Pat. If anyone is interested or would like to recommend someone, they should contact Mr. Gilmore. The Commission meets four times a year and a commissioner must be able to effectively represent a particular segment of either the recreational or commercial fishing community of New York. Their position is unsalaried, but travel costs are covered.

Mr. John Mihale asked about black sea bass. Only 79% of the 2013 coastwide commercial quota has been caught to date. Regarding the depressed condition of local winter flounder stocks, he would like to see a permanent solution for the problem rather than continually putting a band aid on it. He believes very strongly that cormorants are responsible for much of the problem and would like this aspect to be taken seriously.

Mr. Ronald Turbin of the Gateway Striper Club said he does not want to see another crash in striped bass stocks. Harvests fell significantly from 2006 to 2012 according to data available from the National Marine Fisheries Service (NMFS). Connecticut had a spike in bass catches in 2008, and New York in 2011. However, he indicated, even with these spikes, the fishery is still having problems. Mr. Turbin stated that the Gateway Striper Club recommends that the 2nd striped bass available to for-hire anglers in New York be removed and the recreational minimum size limit (28") be raised to, perhaps 32" – 33". Scientists should decide what would work and shoot for a 90% spawning stock biomass. Also, if you are fishing with bait for striped bass, you should use circle hooks.

William Wise
Chairman

Kim Knoll
Staff Assistant

Mr. Marc Hoffman, a member of advisory panels for the ASMFC, spoke about minimum size limit changes. Sea bass will stay the same, scup is being cut back. Scup biomass is now 207% of the target biomass. In light of this, why is the minimum size for scup being reduced? He noted that the stock assessment scientists apparently have stated that the precision of the scup stock estimate is not that good and they were reluctant to recommend a liberalization of scup management measures until a more precise stock estimate is available.

Responding to Mr. Hoffman, Mr. John Maniscalco of DEC said that scup biomass is actually declining. By setting limits as they have, managers are trying to keep things above the threshold contained in the management plan for this species.

Audience member Mr. Mike Decker asked the Council to look into various aspects of the commercial fluke quota in New York. The allocation of this quota across different gear types in the fishery is not working and there have been closures when there needn't have been. Multiple permits on a single boat only add to the problem but he would like to see the quota last through the time period allotted. Mr. Wise said that this will be an agenda item for the Council's January 2014 meeting.

Winter Flounder as a "Species of Special Concern"

At the September 2013 Council meeting, the Council asked DEC to determine whether a listing for winter flounder as a species of special concern under pertinent State statutes and regulations is appropriate at this time due to the poor condition of local winter flounder stocks. Mr. Gilmore passed out the regulation that would be deals with such a listing. It reads as follows:

182.4 Listing of species of special concern

a) Criteria for listing. The department will consider one or more of the following factors to determine whether a native species should be listed as a species of special concern in New York:

- 1) The species is designated as a federal candidate species under the Federal Endangered Species Act or is listed as threatened or endangered in three or more adjacent states or provinces;*
- 2) The species is determined to be in some jeopardy due to adverse trends to which it is vulnerable, and if not monitored or ameliorated, could lead to more serious decline and listing as either an endangered or threatened species in New York;*
- 3) The species appears to have undergone a serious, non-cyclical decline or could do so if protection or proactive management steps are not undertaken, and*
- 4) The species is sufficiently uncommon or severely restricted in its range in New York that any reduction in its population or habitat may cause it to become threatened in the foreseeable future.*

b) Criteria for de-listing. A species will be removed from the list of species of special concern when, after applying the factors set forth in subdivision (a) of this section, the department determines that the species no longer qualifies as a species of special concern.

Mr. Gilmore asked the Council if they would like to pursue this. Councilor Charles Witek reiterated the concerns he first voiced at the September 2013 meeting. He feels very strongly that winter flounder is in trouble and this is something we can do that is pro-active. Councilor Farnham asked what stock assessment Mr. Witek is basing his opinion on. Mr. Witek responded that evidence for very low abundance of nearshore winter flounder stocks, perhaps leading to in-breeding, has been produced by a recent study at Stony Brook University's study performed by Dr. Michael Frisk. Mr. Farnham disagrees, stating that the fishermen he knows are seeing lots of winter flounder.

Mr. Wise reminded the Council that it had asked the DEC to investigate whether a listing for winter flounder was appropriate. If there is conflicting evidence that it should be listed, DEC can help sort it out. Councilor Melissa Dearborn, acknowledging the exploratory intent of the Council's request to DEC, is concerned that this might eventually lead to a shut-down of the winter flounder fishery. Councilor Christopher Squeri is dead set against shutting down a fishery but believes that winter flounder is in trouble and in order to make an informed decision, we need statistics. A thorough and complete description of the factors now affecting winter flounder abundance and how the State might deal with those factors to start the stock on the road to recovery.

Mr. Gilmore said that we need to figure out a time line because they don't know how much work this will entail. Mr. Wise thought perhaps a student from Stony Brook University might be asked to help compile the statistics so as not to put a burden on DEC staff. Councilor Paul Risi questioned if designating winter flounder as a species of special concern would effectively remove it from the normal regulatory process designed to develop management measures for marine fishes? Mr. Gilmore indicated that it would not; this would happen only if the species were officially listed by DEC as "endangered".

Omnibus (Multi-species, Crustacean) Regulatory Package

DEC will hold a public meeting on 16 December 2013 at 6:30 pm at the Marine Resources Headquarters at 205 Belle Mead Road, East Setauket to get input from the marine fishing community on a multi-species regulatory package in development for crustaceans. Comments may also be sent to DEC staffer Kim McKown at the address above or via e-mail at fwmarine@gw.dec.state.ny.us with the subject "whelk/crab regulations".

Ms. McKown gave the Council an overview of the measures the Department is thinking of proposing to deal with several crustacean-related management issues. Among the measures possibly to be incorporated into the rule-making are:

- mandate commercial harvester reporting and a minimum size limit for whelk
- prohibit importing, possessing and use of Asian horseshoe crab as bait
- require the use of terrapin excluder devices in crab traps
- ban the release of live crustacean from out-of-state waters into New York's marine waters

Ms. McKown noted that this multi-species rule may affect many licensed industry members. Before proceeding with the rule making, DEC is providing information describing the need for these new regulations and what the regulations will do. Following is a link to a document which provides detailed information about the need for these regulatory changes <http://www.dec.ny.gov/outdoor/75333.html> .

Whelk

Whelk (conch) licenses are one of the few commercial fishing licenses that does not have mandatory reporting. DEC has regulatory authority for whelk. New York whelk landings increased from 2008 to 2013 and currently. Revised reporting requirements were adopted in August 2011 which required

food fish, lobster and crab permit holders to report *all* species harvested on their State or Federal harvest reporting form. It also required food fish and crustacean dealers and shipper's license holders to report sale of whelk. Compliance monitoring of 2012 whelk permit holders indicate that only 17 out of 263 whelk license-holders did not also hold food fish, lobster, crab or food fish and crustacean dealers and shipper's licenses, and therefore were not required to report. Only 31% of the 246 whelk permit holders who were required to report catches were fully compliant, i.e., they sent in at least one report monthly. 69% of those whelk license-holders required to report catches were missing at least one report; 13% have sent in no landing reports. Only 15% of the whelk permit holders reported landing whelk. In light of this poor reporting, the published landings data on whelk in New York are surely low estimates of what was actually taken.

There is limited information on population status. The information that is available suggests that the abundance of this animal in New York waters is declining. Further, whelk life history characteristics make them especially prone to depletion. They grow slowly, mature at a relatively advanced age and produce relatively few young. Most of the information available is on smooth/channeled whelk; little is available on knobbed whelk.

Female whelk do not begin to mature until they are at least 5 ½ "in length. To preserve them from harvest until they spawn at least once, DEC is considering a minimum size limitation that would allow them to mature (5.5" in length/3" in width).

Asian horseshoe crabs

The limits on harvests of domestic horseshoe crabs has created a market for imported, frozen horseshoe crabs for use as bait in eel pots and whelk traps. The main concern surrounding these imported horseshoe crabs is the potential for hosting parasitic pathogens that, once introduced into New York's marine waters may have harmful economical and ecological affects. The ASMFC has adopted a resolution that calls on its member states to prohibit the importation of these animals.

Terrapin excluder devices (TED's)

Diamondback terrapin and blue crabs utilize much the same habitat. Significant diamondback terrapin mortality can occur through bycatch and drowning in crab pots. The usage of "TED's" is effective at decreasing the bycatch of terrapins, with little to no negative impact on blue crab catch rates.

Ms. McKown noted that this issue was discussed by the Council several years ago but now it is time to implement the consensus then achieved to require TED's in crab pots.

Ban the release of crustaceans harvested out of state

Crustaceans (lobsters (*Homarus americanus*) and crabs) are often sold live at markets. These animals are not always harvested from New York's waters, and in some cases are not even indigenous to the east coast of the United States (such as Dungeness crab (*Metacarcinus magister*)). These non-native marine animals are sometimes intentionally released into New York's waters. DEC is concerned that these animals may harbor pathogens not native to our local stock or carry hitchhikers which could become invasive in our waters. In addition, non-indigenous species may be harmful ecologically to our local marine communities. The Department proposes to prohibit the release of any live crustacean that was not harvested from New York's waters.

Councilor John Davi thought the prohibition on release of crustaceans harvested outside State water should be addressed on a regional basis, rather than by New York State alone. He also pointed out

that, as whelks are active predators on hard clams, establishing a minimum size for whelks may harm hard clam stocks.

Mr. John German, commercial fisherman, stated that in his opinion, the proposed minimum size limit on whelks and the need for such a measure is based on unproven assumptions.

Commercial harvester Mr. Pete Wenczel commented the price for whelk has doubled in the last three years. When the lobster fishery declined, many lobstermen began whelk fishing. There is a big market for them. With more people in the fishery, there's added pressure and the whelk population has gone down. Mr. Wenczel feels that, if needed conservation measures to protect whelk stocks are put in place now, the size of the fishery could easily double within 5 years. Without protective measures, the whelk fishery will become a marginal in just a few years.

Ms. McGown would like to present the complete regulatory package at the Council's January 2014 meeting. DEC's intention is to keep the 4 issues together in a single rule-making, but should there be problem with one of the issues, they will pull it to work on it individually.

Species Management Updates

Fluke/summer flounder

Mr. Gilmore said that a working group has been assembled under ASMFC and that group is looking at perhaps going with a regional approach to fluke management. That group has been making progress. Since Governor Cuomo went on a fishing trip over the summer, he is very interested in this fishery and wants to see an improvement. He has sent a letter on needed improvement in fluke fishery management to the U.S. Secretary of Commerce. ASMFC set a coastwide fluke quota at its October 2013 meeting and it is looking at alternatives to state-by-state (i.e., regional management, fish sharing, fish averaging, retention rates, etc.) A couple of models are being looked at but won't be ready until 2014.

Councilor Paul Farnham suggested that an external, impartial 3rd party is needed to go over the data on fluke because he doesn't believe it's correct.

Atlantic Menhaden

A quota management system was established by ASMFC for Atlantic menhaden in December, 2012; this system includes restrictions on both the reduction and bait fisheries for menhaden. Data on New York's bait fishery for menhaden is considered poor. There may be a further addendum to the Interstate Fishery Management Plan for Atlantic Menhaden that will contain improved catch data.

American Eel

Addendum III to the Fishery Management Plan for American Eel was adopted by ASMFC in August 2013. It contained increase restrictions on commercial and recreational fisheries for all life stages of eel, young-of-the-year ("glass" eels) to adults. The addendum calls for a 30-40% reduction in eel fishing mortality. Addendum IV, dealing specifically with the glass eel fishery, is scheduled for 2014. The combined effect of the two addenda on eel fisheries in New York could be dramatic, up to a 90% reduction in harvests.

Councilor Dearborn said she currently buys eels from out of state and would like to know how is this going to affect retail bait & tackle shop? Would limits for eels apply to animals held for sale as bait? Ms. Carol Hoffman of DEC said "No"; the limits apply to fishing activity and don't have to do with possession.

Striped Bass

The most recent data from the stock assessment is showing a decline over the past few years that bears watching. Regarding possible harvest reductions in striped bass, the good news is that we are in better shape. One fish per angler per day is what many in the recreational fishing community are looking for and many would also like to see an increase in the minimum size limit. DEC is getting this feedback as are the fishery management agencies in New Jersey, Connecticut and other states along the East Coast. It would appear that, unless action is taken, the spawning stock biomass of striped bass will dip below the target in the fishery management plan sometime in the near future.

Mr. William Young said that you must let the stock spawn in order to help the industry.

Capt. Neal Delanoy asked that, whatever is decided, let it be fair. He doesn't want to see New York doing all the sacrificing while the other states reap the benefits, which is what usually happens.

Councilor Jordan spoke regarding fluke. New York needs to do a much better job pertaining to scup, seabass and fluke, triage management doesn't work and neither does failing to follow up. We need to go back over the philosophy – limit the closures, keeping access to the different seasons. This is an agenda item for the January 2014 Council Meeting

2014 Council Meeting Schedule

The following are the dates of the regularly scheduled meetings of the Marine Resources Advisory Council in 2014:

January 14th
March 11th
April 15
May 20th
July 15th
September 16th
November 18th

Except as noted, all regularly scheduled meetings of the Council are held at 2:00 p.m. at DEC's offices at 205 Belle Mead Road in East Setauket, New York.

14 January 2014 Council Meeting

The following are the tentative agenda items to be discussed at the 14 January 2014 Council meeting:

- multi-species crustacean regulatory package
- improving commercial harvest quota management
- impact of new inlet on eastern Great South Bay
- summer flounder 2014 quota adjusted for 2013 overages

Check the Council's web page <http://www.somas.stonybrook.edu/community/MRAC/index.html> for other agenda items, added to the list after this bulletin is distributed. 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 submitting written comments on an agenda item, or to suggest an agenda item, contact: William M. Wise, Chairperson, Marine Resources Advisory Council; phone 631/632-8656; FAX 631/632-9441; william.wise@stonybrook.edu.