



Marine Resources Advisory Council
September 13, 2016

Volume XXVII No. 5

Sean Barrett

Chairman Frisk began the meeting by going over the day's agenda. Immediately following, the Councilors introduced themselves along with Mr. Gilmore, Director of the Marine Division of the DEC as well as DEC's Law Enforcement Officers, Major Huss and Officer Bengel.

Michael Craig

Robert Danielson

John Davi, Jr.

Melissa Dearborn

Paul Farnham

Chairman Frisk then spoke regarding the impending appointments to fill the vacant commercial council seats which will be filled by Sean Barrett and Hank Lackner. Steve Witthuhn has also been appointed and he will be replacing Paul Risi, whose term has expired. Christopher Squeri has received a reappointment and the remaining Councilor reappointments will continue to be secured.

Thomas Jordan

Hank Lackner

Mr. Gilmore made several announcements, the first being that the last day to renew your 2016 limited entry permits for commercial fishermen is Friday, December 30th. Please note: the Marine Permits Office will be closed on the 26th and 31st of December.

Joseph Paradiso

John Renaldo

Mr. Gilmore then introduced their newest staff member, Sherryll Jones. Ms. Jones will be working closely with Karen Chytalo on ocean related issues. She comes to DEC from the Cornell Cooperative Extension.

Christopher Squeri

Charles Witek

Steve Witthuhn

Dean Yaxa

Major Huss said he had numerous inquiries pertaining to the article in Newsday about Safe Harbor and what specifically it entails. Safe Harbor is something that is guaranteed to any commercial fishing vessel seeking a port/harbor to dock for various reasons, i.e., mechanical failure, a health issue, unsafe weather conditions. This guarantee is outlined in the Magnuson Stevens Act. Councilor Davi asked what happens to the vessel's cargo in those situations to which Major Huss replied that each case will be handled on an individual basis. For more information or clarification, please visit the DEC's website: <http://www.dec.ny.gov/regulations/107286.html>

Michael Frisk
Chairman

Public Comment - Non agenda items

Kim Knoll
Staff Assistant

John Schoenig, Conservation Chairman for Imperial Sportsman and Suffolk Seniors, representing 150 fisherman, is upset that the topic of Blackfish keeps being removed from the agenda and he would like to have the topic cemented on November's agenda specifically to address bringing back the Spring fishing season for recreational fishermen. Mr. Frisk agreed to put it on November's agenda.

John German voiced his discontent regarding the DEC's press release (<http://www.dec.ny.gov/press/107152.html>) having to do with DEC Enforcement confiscating approximately 1,100 lbs. of illegal lobsters over the last several months. His umbrage comes from the article stating that overfishing is responsible for a size decline in the stock and that is simply not true. Lobster populations are at an all-time high. What is especially worrisome for him is that it's almost time for the regulations to be written and if people refer to this article, they will have a biased and inaccurate accounting of the lobster stock. He feels that there should be some screening on articles such as this before they go to print for truth and accuracy. Mr. Frisk stated that there will be a guest lecturer at our November meeting who will speak about lobsters and their decline from an environmental standpoint.

John Mihale would like to speak about *predesignation of a beneficiary* and 2 issues he sees as a problem.

- 1) Everybody who has a foodfish license fills out "Predesignation of beneficiary" whether they fish or don't fish, whether they have income or don't fill out vessel trip reports. Ultimately their license will go to someone who will begin to fish. He feels if more people are brought into the fishery it will be devastating for the fish stock. It should be stopped at a one-time only transfer. Recipients should know when they receive it; it has now become non-transferrable.
- 2) We need to begin an Apprenticeship Program.

Councilor Jordan said that initially the predesignation of beneficiary was created to aid family members when the breadwinner passes away. They are usually stuck with a permit that cannot be transferred in addition to owning thousands of dollars' worth of fishing equipment they cannot operate or use. He appreciates John trying to keep this provision for what it was originally intended. When talks for this began, it was not viewed as having any inherit value and we do need to fix this loophole otherwise we will not be reducing the number of permits, which was the actual intention.

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Ron Turbin, CCA NY and Gateway Striper Club has mentioned several times before the fact that there is currently nothing going on to educate fishermen on what is allowable and what is not allowable. The last thing that was posted at Jones Beach State Park was from about 4 years ago which is totally moot. Currently the only thing posted is in regard to sturgeon, the likelihood of a fisherman landing a sturgeon is so remote, it's laughable, however, money is being wasted creating all weather signs. Current signs need to be given to bait and tackle shops in addition to fishing areas for posting as to the allowable size and season for the various fish people are catching. What is the sense in having law enforcement when the fishing community is ignorant to what they should be adhering to? Up to date fishing regulations need to be more transparent.

He also reiterated comments made at a prior meeting that he feels this Council meeting should move from borough to borough to better accommodate the entire fishing community affected by the Council's decisions, not just the Suffolk County residents. Mr. Frisk said this will be brought up when we prepare next year's calendar.

As per regulation notices, Mr. Gilmore said there actually was a plan in place to create a fishing guide, however, with budget cuts, the plan had to be abandoned. He suggested folks use "pocket ranger" which is an app for smart phones. This app was created by DEC and it lists every species of

fish and the most current regulations. It is on live time and it's free to the user. There is another app called Fish Rules. Mr. Gilmore said this one has the added bonus of actually using your phone's navigation to see where you are and giving you the most precise limits pertaining to your location (within the U.S.).

### **Approval of Minutes from July 12, 2016 Meeting**

The Minutes were unanimously approved as written.

**Update on Summer Flounder, Scup, Black Sea Bass and Bluefish** – (slides were presented by John Maniscalco of the DEC – please note that if the slides within the document appear hard to read, I have also attached a separate copy which should be clearer)

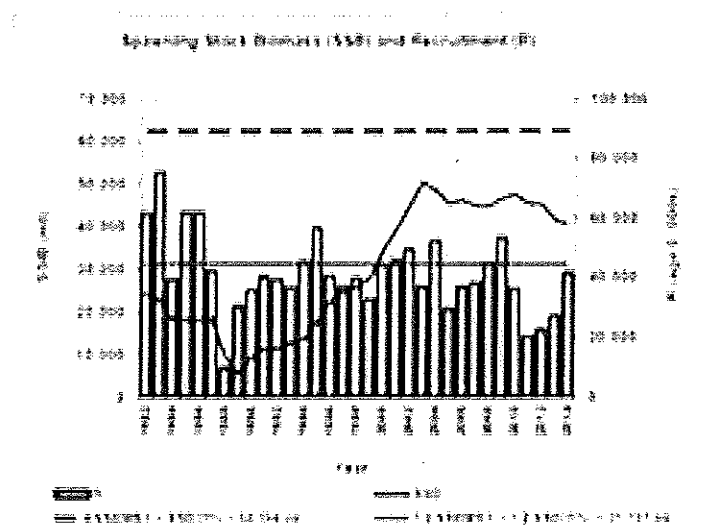
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## **Summer Flounder**

Assessment update July 2016 (data through 2015):

- Biomass declining
- Overfishing
- Poor recruitment for multiple years
- Approaching threshold

2017 Catch limit will decrease by 30%



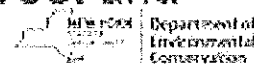
## Summer Flounder Catch Limits

| Species            | Year | Commercial Quota<br>(millions of pounds) | Commercial Minimum<br>Fish Size (TL) | Commercial<br>Diamond<br>Mesh Size | Recreational Harvest Limit<br>(millions of pounds) |
|--------------------|------|------------------------------------------|--------------------------------------|------------------------------------|----------------------------------------------------|
| Summer<br>Flounder | 2016 | 8.12                                     | 14"                                  | 5.5"                               | 5.42                                               |
|                    | 2017 | 5.64                                     | 14"                                  | 5.5"                               | 1.77                                               |
|                    | 2018 | 6.63                                     | 14"                                  | 5.5"                               | 4.42                                               |

What does a 30% reduction mean?

Commercial: Adjustments to open season and/or trip limits will have to be made – to be discussed at Dec./Jan. quota management meeting

Recreational: Depends on recreational harvest and if/how much the coast is over



Mr. Maniscalco gave a recap of the Mid-Atlantic Council meeting that took place in August. Unfortunately the news regarding summer flounder is bad. There will be a catch decrease of 30% for 2017. Mr. Davi wants to know how the fishery can cut back their quota every year for more than 20 years yet *still* have to cut back an additional 30%. How is that even possible? Mr. Maniscalco replied that some years the limits are increased but some years they need to be decreased. Mr. Davi countered that any increase is never as high as the decrease.

Mr. Maniscalco continued by saying since we have had poor recruitment over the last several years, we are not seeing young fish. This is the basis of the problem; every year they look at recruitment and project three years down the line. What is happening is that the actual recruitment is lower than the optimistic projections.

Councilor Craig wanted to know what is happening to the small fish? Mr. Maniscalco said that even though it's believed the fish haven't been produced (which is possible) it's more likely that they are being taken by predators. Also, relative to where the population is – too many fish are being taken.

As far as the commercial fishery, actual numbers will be discussed at the December/January quota management meeting. Mid-December will give them a pretty good idea where things stand, however, the final numbers won't be known until February. What is certain is that Summer Flounder numbers are not going to be good.

Chairman Frisk sympathizes that this is an ugly situation especially for the folks relying on this fishery for their income. Unfortunately, when you have poor recruitment and continue to remove the adults, you won't have the adults necessary to produce a comeback of the stock, which is what happened to the winter flounder fishery. This is the challenge when setting the quota limit; we need to have an adult population to help bring the numbers back up.

Councilor Jordan wants to know what happens when we have to bear this cut recreationally AND New Jersey catches what they caught in 2014. Mr. Maniscalco said it would be a huge problem.

Recreational landings seem to be lower than they have been recently for New Jersey, giving credence to the assessment.

Councilor Dearborn said it should be noted when recreational data comes in from Waves 4 and 5, if the numbers seem a little askew; many folks took their boats out of the water for the storm that landed over Labor Day weekend. She believes that will have a big impact on the numbers.

## Scup

## Scup

- Slight decline in biomass
- ABCs decline w/ biomass
- Very large 2015 year class seen consistently in all northern surveys

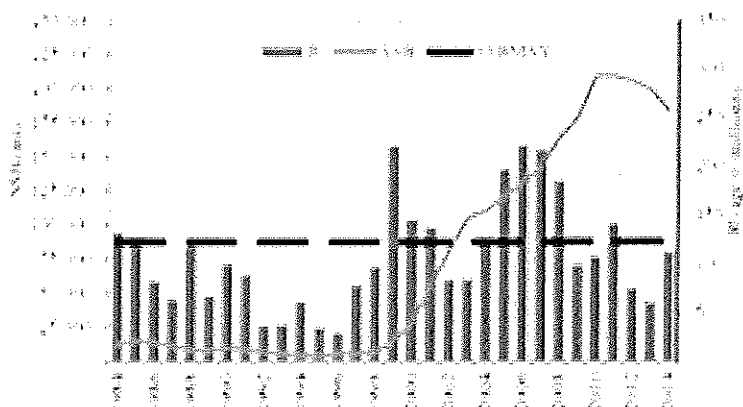


Figure 2: Scup age and size (M. chirocentrus) 1984-2014. Data from the New Jersey Department of Environmental Conservation.

## Scup Catch Limits

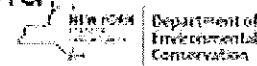
| Species | Year | Commercial Quota<br>(millions of pounds) | Commercial Minimum<br>Fish Size (TL) | Commercial<br>Diamond<br>Mesh Size | Recreational Harvest Limit<br>(millions of pounds) |
|---------|------|------------------------------------------|--------------------------------------|------------------------------------|----------------------------------------------------|
| Scup    | 2016 | 20.47                                    | 9"                                   | 5"                                 | 6.09                                               |
|         | 2017 | 18.38                                    | 9"                                   | 5"                                 | 5.50                                               |
|         | 2018 | 17.34                                    | 9"                                   | 5"                                 | 5.21                                               |

Perspective from 2015 coastal scup fisheries:

Commercial harvested 17.031 m lbs

Recreational harvested 5.060 m lbs

By 2018, the 2015 year class will be 3 yrs old,  
mature, and 10.0" total length



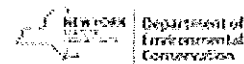
Scup is pretty much status quo and there should be no reason to worry.

## Black Sea Bass

## Black Sea Bass Catch Limits

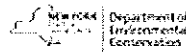
| Species           | Year | Commercial Quota<br>(millions of pounds) | Commercial Minimum<br>Fish Size (TL) | Commercial<br>Diamond<br>Mesh Size | Recreational Harvest Limit<br>(millions of pounds) |
|-------------------|------|------------------------------------------|--------------------------------------|------------------------------------|----------------------------------------------------|
| Black<br>Sea Bass | 2016 | 2.70                                     | 11"                                  | 4.5"                               | 2.82                                               |
|                   | 2017 | 2.71                                     | 11"                                  | 4.5"                               | 2.82                                               |

- Catch limits above not based upon an accepted assessment and are probably overly-conservative
- Assessment scheduled to be complete late 2016, may result in management changes for 2017
- Similar to the 2011-2012 year class, 2015-2016s will probably be very strong



## 2016 Commercial Black Sea Bass

To be determined....



A fisherman, who has fished for 78 years in the Shinnecock Bay area, said he finds this breed of fish to be very resilient. He thinks we worry too much about this fish, it's very durable.

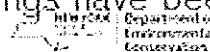
Marc Hoffman questioned about the ongoing stock assessment. Mr. Maniscalco said they are working extremely hard to counter any negative feelings generated from previous ones in order to get the next one passed. So far it looks positive; peer review will begin the end of November/beginning of December.

Commercially, period 6 is subject to change but currently is open at 50 lbs. and that will hopefully remain in effect through October 13<sup>th</sup>.

Bluefish 2017

## Bluefish 2016

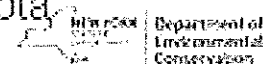
- Coastwide, commercial quotas depends upon recreational harvest from the previous year
  - Initial estimates of 2015 rec. harvest were very high, these were adjusted and catch limits updated in final Federal Rule dated August 4<sup>th</sup>, 2016, including state comm. allocations
  - NY comm. allocation ~507,000 lb.
  - Transfers are being secured to increase that to ~757,000 lb.
- NY is currently open at a 500 lb. trip limit
- In previous years, NY's commercial bluefish landings have been around ~1 million pounds.



## Bluefish Catch Limits

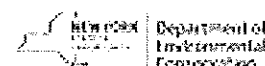
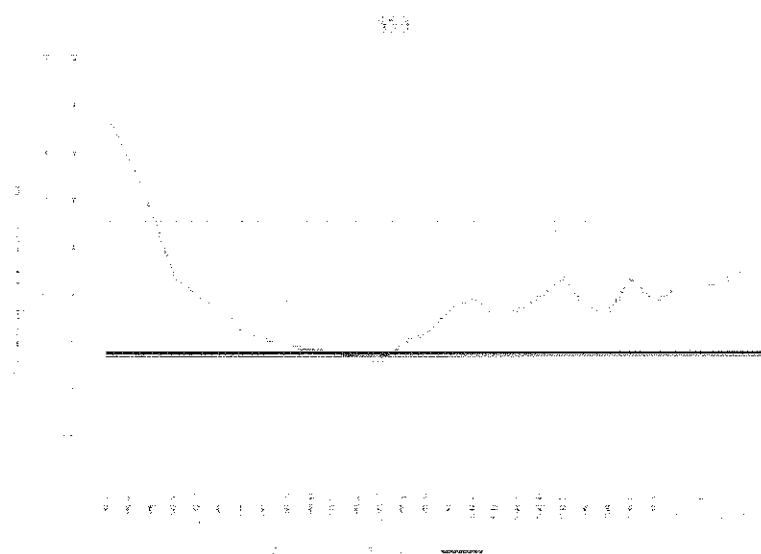
| Species  | Year | Commercial Quota<br>(millions of pounds) | Commercial Minimum<br>Fish Size (TL) | Commercial<br>Diamond<br>Mesh Size | Recreational Harvest Limit<br>(millions of pounds) |
|----------|------|------------------------------------------|--------------------------------------|------------------------------------|----------------------------------------------------|
| Bluefish | 2016 | 4.88                                     | Varies by state                      |                                    | 11.58                                              |
|          | 2017 | 6.07                                     | Varies by state                      |                                    | 11.58                                              |
|          | 2018 | 7.24                                     | Varies by state                      |                                    | 11.58                                              |

- Catch limits increase over next few years
- Comm. quota remains dependent upon rec harvest
- NY comm. allocation is ~10.4% of coast-wide quota



## Bluefish SSB from 2015 Assessment

Bluefish SSB from 1985-2014



In 2016, commercial catch limits are 4.88 million lbs. which will hopefully increase but how much is based on recreational landings and what is taken.



## Observer Program Overview

<http://www.nefsc.noaa.gov/fsb/>

Over the last several months there have been many complaints from commercial fishermen with regard to the Observer Program, which is mandatory. Should an observer wish to board your vessel, you must allow them to do so. Failure to comply could result in stiff penalties and the probability that your vessel will be kept dockside.

It was thought to bring someone to the meeting who could explain the benefits as well as the necessity of having such a program.

Ms. Lisa Bonnacci works as a biologist for the DEC on marine protected resources and is responsible for coordinating the DEC side of the expansion on observer coverage for NOAA's Northeast Fisheries Observer Program. Also in attendance was Jade Heidt who works for MRAG Americas as the Lead Area Observer Coordinator for New York; together they hope to answer any questions folks may have concerning this program.

Ms. Bonnacci began by saying the primary goal is to enable the NY Commercial fisheries as they interact with Atlantic Sturgeon to continue to operate and the secondary goal is to collect information to conserve and manage Atlantic Sturgeon along with sea turtles and marine mammals.

Once Atlantic Sturgeon were listed as "endangered" any fisheries that could/would potentially come in contact with them (both State and Federal) were now required to acquire Incidental Take Permits (authorized by Section 10(a)(1)(B) of the Endangered Species Act (ESA) of 1973). Rather than having individuals acquire this permit, which is a burden, DEC applied for them which will encompass all fisheries. In order to do that, they need better by-catch data to work with. NOAA needs to come up with a reasonable allowable take for the fisheries of Atlantic Sturgeon. Previously the level of observer coverage was very low which did not produce enough information so their goal right now is to increase coverage. Self-reporting was not working; the information received could not be counted on for accuracy. The program was expected to run for 2 years 2015 – 2017, however, should more money become available, it will run longer.

Ms. Bonnacci said they have received questions regarding how a vessel is chosen because some captains complain their vessel appears to be targeted more than another. She said the rule of thumb, State-only vessels are being selected twice a month and Federal vessels may be selected more.

They had also received queries as to what gave NOAA the authority to sanction this program. The Magnuson Stevens Act, because the Atlantic Sturgeon now fall under "endangered species" has the authority to act in the best interest of any endangered species. Also, if you are fishing for a category 1 or 2 fish, it again, falls under the Magnuson Stevens Act.

It is unlawful to refuse to take an observer aboard your vessel with the minimum civil penalty being \$2,500; in addition, you would not be able to fish until the situation has been remedied. Please keep in mind that the primary effort for this is to keep fisheries open.

Safety requirements – Steve Pigeon is the local representative for The Coast Guard in our area and is available to help you figure out and meet the safety requirement for your vessel.

much food he brings on his vessel for lunch, how much ice he uses, etc.” He worries about repercussions should he choose not to answer. Mr. Gilmore said that many times Albany questions the DEC about the economic value of NY’s fisheries and the questions they are asking will help give valuable data statistics.

Mr. Davi also questioned about liability. Should one of the observers become injured on a vessel – who is responsible for their medical costs? He would like each observer to present a form of sorts saying the vessel owner is exempt from responsibility. He also believes there should be monetary compensation for the inconvenience, perhaps they could have an increase in their quota, they do it for the scallop fishery. Instead of being able to bring 50 lbs. of quota in, perhaps when the observer is on the boat, the amount could be 100lbs.

Mr. German blames the NYSDEC for bringing this to the fisherman. Mr. Gilmore countered that this program is important to the fishery and it’s Federal Law.

Nancy Solomon from LI Traditions said in New England they have to pay for their observers. Mr. Gilmore said that would never happen here; the state is paying and will continue to pay for the observer program. Ms. Solomon believes this is a lot of fuss for the rare occurrence of catching sturgeon.

Richard LaRocca is federally registered and has taken at least 50 trips with an observer onboard. He has a valid US Coast Guard sticker which says that he has passed a safety equipment inspection, why do they have a need to inspect my equipment upon boarding too? Ms. Bonnacci felt it was just an additional safety precaution for their people.

#### ***Discussion on Striped Bass commercial season opening date.***

Councilor Davi was approached in June by a number of commercial fishermen who were interested in having their striped bass season coincide with the recreational season, both the opening as well as the closing date. He has since questioned many more commercial fishermen as to their thoughts and each person he asked was of the same mind. They would like to bring back the Spring season. Mr. Heins reminded everyone the reasoning behind pushing the season back to June 1st and that was because of the presence of PCB’s in the Hudson River which tends to be more prevalent in the earlier part of the year, typically around spawning season. The Hudson River also sees a rise in PCB’s in the Fall which they relate to resident fish that don’t seem to move. If we want to go back to an earlier season there would need to be a study to monitor PCB levels. Even with prioritizing the study, it would take close to 2 years to complete.

Mr. Gilmore continued, this would be two divisions that would have to work in tandem collecting the data and then it would be forwarded to the NYS Health Department before a decision could be made. Catching the fish would come out of DEC’s budget, which they will have to allow for. The Division of Fish and Wildlife would then be responsible for the analysis; they too, will have to come up with the funds. Mr. Davi questioned if the health department requires this, shouldn’t they be the one to fund the effort. In any event, Mr. Davi thinks this would be important information for the fisheries to have. It was at this point where audience members expressed their outrage as to why it’s okay for recreational fishermen to catch the fish – doesn’t it matter who will eat their fish?

Mr. Gilmore said the difference is that you are providing a product to the public and as such, there are guidelines that need to be adhered to as outlined by the Health Department.

Motion: Councilor Davi made a motion for the DEC to pursue a Striped Bass contamination study in cooperation with the Department of Health to evaluate potentially an earlier season opening for the commercial fishery in Western LI Sound, Western South Shore, Eastern LI Sound, and the Eastern South Shore.

Seconded by Thomas Jordan

Discussion: Mr. Witek questioned what the financial benefit is to the commercial industry if the season opened earlier. Mr. Davi said that the fish are worth more in the Spring and therefore their income would be higher. Mr. Jordan said that he was also questioning folks in the commercial industry and everyone he spoke with said that they should be allowed to catch their tags whenever they can. This isn't creating a higher quota because there will still be a limited number of tags; it's just being fished at a different time of the year. Mr. Heins said it would depend on what the council wants to do if they sampled in areas that are closed, it would save cost and time by needing less fish.

Mr. Mihale thinks the study should go further. It should compile the 5 boroughs.

Mr. Jordan asked how much would adding the fifth area increase the cost to which Mr. Heins replied, the cost would go up but he wasn't sure if it would be substantially more. Mr. Jordan also questioned what would be the possibility of having average fishermen collect the fish necessary for the study; this would help to defray the cost. Mr. Heins said that was how they did it in the past. Mr. Gilmore said this will call for cooperation from many different areas.

John German wanted to know if we could just move it back a little without conducting a study, possibly go back one month? Is there something we can do immediately?

Ken Bates feels that the recreational fisherman who fishes during the early season eat the fish; they might not sell their fish – they may give them away but what makes them different – are those fish not contaminated? You're talking about a fishery that will catch 10 million lbs. of fish vs. the commercial fishery that catches ~250,000 lbs. Do only the fish that end up in the commercial fisherman's net contain PCB's? I don't think so - the argument doesn't hold water. It's just not fair.

Councilor Craig agrees with John German's idea of just trying to move the date to the point of not needing a study as an immediate fix but for a long term solution, begin working on the study now to see if it can go back further.

Nancy Solomon, Director of LI Traditions, believes that the health of the fisherman should also be taken into account. The weather is better for fishing in the Spring than the Fall. When you take the significance of global warming into consideration, the storms in the Fall are becoming increasingly dangerous.

Mr. Turbin feels that the health of the general public is important – the fish must be safe to eat. He feels the study is important.

Councilor Sean Barrett questioned the size of the fish vs. the amount of contamination - would fishing for a smaller fish be safer for the general public? Mr. Heins replied that was the rationale behind changing the slot size to a smaller one. It used to be larger.

Vote: In favor – 9, Opposed – 0, abstentions -1 (Mr. Frisk) ***Motion passes***

## Update on Striped Bass license/permit sub-committee

Mr. Heins reminded everyone that there had been several recommendations regarding striped bass commercial permit transferability and tag transferability so a subcommittee was formed to review those recommendations and perhaps fine tune them. The subcommittee met on April 5, 2016 and came up with a number of recommendations and Mr. Heins compiled the suggestions into a rough draft document which he shared with everyone. Initially, one of the chief concerns was requalification – with one of the obstacles being the use of an income qualifier (50% income qualifier for partial share vs. full share). The DEC had received notice from the State Attorney General's Office and the DEC's own General Counsel who stated that they should not be using the 50% qualifier since the DEC staff is not versed in reading and evaluating tax documents. Mr. Heins said he found this very interesting since the DEC staff does seem to be capable and are allowed to evaluate them when considering them for commercial foodfish licenses. There will need to be further discussions regarding this. Mr. Heins has started following what other states are doing. He is particularly interested in how Massachusetts handles this. Mr. Squeri wondered if income tax documents could be used. He believes it would lessen the likelihood of falsifying paperwork being submitted and if not tax documents, how about paycheck stubs?

There is more tweaking that needs to be done and several issues need to be resolved so the subcommittee will reconvene to come up with a final document. This will once again be placed on the November agenda.

### ***2016 Meeting Dates***

The November meeting is the final one for the 2016 calendar year. Next year's calendar (2017) will be chosen at that time.

November 15<sup>th</sup> 2:00 p.m. – 5:00p.m. DEC Offices

For agenda items and any pertinent graphs, charts or data, please check the Council's web page prior to a meeting. <http://you.stonybrook.edu/mrac/meetings/>

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: Chairman, Michael Frisk, Marine Resources Advisory Council ([michael.frisk@stonybrook.edu](mailto:michael.frisk@stonybrook.edu)); phone 631/632-8656; Staff Assistant, [kim.knoll@stonybrook.edu](mailto:kim.knoll@stonybrook.edu)