



# Marine Resources Advisory Council

Marine Resources Advisory Council  
November 13, 2018 – 2:00 p.m.  
205 Belle Mead Road, East Setauket, NY

Sean Barrett

Robert Danielson

John Davi, Jr.

Melissa Dearborn

Vincent Finalborgo

Thomas Jordan

Hank Lackner

Joseph Paradiso

Christopher Squeri

Charles Witek

Steve Witthuhn

Dean Yaxa

Chairman Frisk went over the agenda and shared sad news. Mr. William Young passed away. Mr. Young, better known to many as “Willie” was President of the New York Coalition for Recreational Fishing and was extremely active in the fishing community. Willie will be truly missed and his passing was acknowledged with a moment of silence.

## Announcements

Mr. Gilmore alerted everyone to upcoming important meetings:

**Tuesday, November 27<sup>th</sup>** – 6:30 pm is the NY Public Hearing on Draft Addenda XXI and XXXII. The meeting will take place at the DEC Offices, 205 Belle Mead Road, Suite 1, East Setauket. If you cannot attend the meeting, comments will be accepted until 5:00 p.m. on November 29, 2018 to: [comments@asmfc.org](mailto:comments@asmfc.org) – Subject line: Draft Addendum XXI or Draft Addendum XXXII; which will depend which Addendum your comments are referring to.

*Note: Two notices about this meeting have been sent to all MRAC Bulletin recipients prior to the meeting.*

**Monday, December 3<sup>rd</sup>** - 6:30 p.m. is the Commercial Fishing Quota Distribution Meeting. The meeting will take place at the DEC Offices, 205 Belle Mead Road, Suite 1, East Setauket. Questions or comments can be given to Gina Fanelli – [gina.fanelli@dec.ny.gov](mailto:gina.fanelli@dec.ny.gov) For additional information you can go to: <https://www.dec.ny.gov/outdoor/26821.html>

Mr. Gilmore added that Ms. Judy Drubicky, Kathy Moser’s replacement (as Acting Deputy Commissioner for Natural Resources) will be in attendance at the meeting for anyone who would like to meet her.

FYI: Multiple meetings are set up to give folks an opportunity to attend the meeting that works best for them, some folks feel they need to attend all the meetings which they really do not. This time, there will only be ONE meeting to simplify things.

*Note: Two notices about this meeting have been sent to all MRAC Bulletin recipients prior to the meeting.*

## Public Comment

Mr. John Mihale would like to have Striped Bass put on the agenda for January. Specifically, he would like to discuss changing the season to open May 15<sup>th</sup> and possibly extending the season to December 31<sup>st</sup>. This would give West End fishers an opportunity to catch fish late in the season while they are still plentiful. He would like an update regarding the results

Michael Frisk  
Chairman

Kim Knoll  
Staff Assistant

from any water sampling that has been done and should the news be good, he'd like to know what areas that were formerly closed to the commercial fishers will now be opened. He understands the results may not bring good news but hopefully that is not the case. The current closures are all based on tests conducted in 1994. Lastly he would like to see the Striped Bass quota fully utilized. Take the handcuffs off the Department so they can issue more tags and he believes in order to do that, limits need to be set at 3-year intervals. He continued by saying that over the past several years, between ~\$3.5 or \$4 million worth of Striped Bass have been left on the table because the commercial fishers couldn't harvest it. It is his hope having Mr. Gilmore as a member of the ASMFC, we might be able to get the appropriate changes.

Mr. Ralph Vigostad recalled that several months prior, Mr. LoRocca also questioned why the Commercial Striped Bass season could not be opened earlier. Mr. Gilmore cited PCB contamination as the cause for the closures. Mr. LoRocca believed it was time to conduct new surveys and reopen many of the sites. Mr. Vigostad said that after that meeting, he himself, began to look for more current information with regard to the closures and found on the EPA/Gov website information to bring clarity to the closures. The article he quoted was extensively long and after reading through it, he quoted what he felt was the most telling paragraphs, *"eight or more years of post-dredging fish data may be needed to establish with a high degree of confidence a long term statistical trend of PCB's in the fish. PCB levels have been declining but have not reached protective levels. The next review is expected to be completed in 2022."* Also, from another website referencing a meeting held in New York City on August 9, 2017, the following was said, "analysis by other federal and state agencies is failing to meet EPA targets. As it stands, New Yorkers will have to wait decades or even centuries before they can eat fish from the Hudson River again without restriction."

Mr. LoRocca countered – he found articles where the Federal EPA declared there was no danger, the danger passed 10 years ago. He also wanted to add to what Mr. Mihale said – you can actually go back to the inception of quota limits and see that since the ***inception***, the limits have not been met, all except for one year.

Mr. Gilmore said the earlier opening will be happening for the 2019 Commercial season – the exact date hasn't been determined yet but the Department will know shortly.

The EPA has said if the DEC wants to open more areas, i.e, more toward the city and the Hudson River regions, the PCB study needed to be replicated which the DEC is in the process of being done. Further openings might only happen beginning in 2020/2021. This, of course, is dependent on the findings.

Mr. James Schneider said he believes he is the only boat going out Blackfishing every day yet he has not had one observer approach his boat this year. In talking to other fishers, some have had as many as eight observers on their vessel in a year and he questions why the observers seem to no longer be interested in Blackfish.

#### **Approval of Minutes September 24, 2018**

The Minutes were approved as written.

#### **Commercial license renewals for 2019**

Mr. Gilmore informed everyone that if they plan on renewing any license or permit, it will need to be done by the end of this year, please pass that along to anyone you think it may concern. The DEC is sending out letters regarding renewals but want to make sure folks realize it must be taken care of by the end of this year. If you want to fish on January 1<sup>st</sup> – you need to do this before December 15th. **See attachment for letter.**

John Mihale asked if you wait until next year to renew – is it possible you might not get your permit to which Mr. Gilmore replied, that is correct. He can't stress it enough – ***just renew before the end of the year to avoid any headaches or delays.***

When people saw this as an agenda item, they assumed it was with regard to the draft report that is/was being prepared by Mr. George LaPointe concerning NYS commercial licensing issues. Recall Mr. LaPointe met with various stakeholders over the summer to gather information as to what they would add, change or like to see happen with regard to licensing in the future. Mr. Gilmore said the draft report hasn't been completed as of yet but he has heard positive things so far. Once completed, it will first go to The Commissioner followed by the Council and from there it will be given to the public stakeholders. Once the public has had a chance to review it, there will be 2 public meetings. It will be placed on January's agenda.

The report will be posted to the DEC website and be send via email to all the MRAC Bulletin recipients.

### **General Updates**

Quota Management Meeting - As stated before there will be a meeting on Monday, Dec 3<sup>rd</sup>. This meeting will help determine quota measures for 2019. All license holders and stakeholders are encouraged to attend.

Summer Flounder, Scup and Black Sea Bass meeting – On November 27<sup>th</sup> a representative from ASMFC will be coming to speak regarding two Addenda to the History Management Plan.

**Addendum XXXI** – The three points being addressed are noted below, however, for the full document, you may go to: [http://www.asmfc.org/files/PublicInput/SF\\_Scup\\_BSB\\_DraftAddendumXXXI\\_PublicComment\\_Oct2018.pdf](http://www.asmfc.org/files/PublicInput/SF_Scup_BSB_DraftAddendumXXXI_PublicComment_Oct2018.pdf)

### ***Conservation Equivalency for Recreational Black Sea Bass and Summer Flounder***

The Summer Flounder, Scup, and Black Sea Bass FMP requires uniform coastwide measures (applying to state and federal waters) for the recreational black sea bass fishery. From 1996 to 2010, uniform coastwide minimum fish size, season, and bag limits were used by the Commission and Council to constrain the recreational fishery to the annual recreational harvest limit (RHL). In recent years, the Commission has implemented addenda to allow temporary deviations from this requirement in state waters. In response to state concerns that coastwide regulations disproportionately impacted certain states, the Board approved a series of addenda that allowed for state-by-state flexibility – first through state shares in 2011 and then through an ad-hoc regional management approach from 2012–2018. Under the ad-hoc process used for 2012-2018, the Council and Board agreed to coastwide federal waters measures each year. Individual states or regions then worked through the Commission process to develop measures for state waters that would constrain harvest to the RHL. In recent years, the states of New Jersey north have implemented management measures in state waters that differed from the federal waters measures. Although the ad-hoc process allowed for variance in state or regional measures in state waters, uniform coastwide measures were still applied in federal waters. In some cases, differences between state and federal waters measures resulted in angler confusion and noncompliance, state/federal water transit issues (e.g. Block Island), and permitting problems for federal party/charter permit holders. The options considered in this addendum are intended to address some of these issues. Conservation equivalency could resolve some of these issues by allowing measures for federal waters to be waived in favor of state or regional measures, that, when taken as a whole, are the conservation equivalent (i.e. would achieve the same amount of harvest) of the non-preferred coastwide measures.

### ***Block Island Sound Transit Provisions***

From 2009-2017, the federal waters recreational black sea bass fishery was closed for at least a few weeks each fall/winter. The dates of the closure varied by year. These closures sometimes occurred when Rhode Island and other northern state waters were open, resulting in transit issues for vessels harvesting black sea bass in the state waters around Block Island. Specifically, vessels retaining black sea bass legally caught in the state waters around Block Island

were unable to transit back to the mainland without violating federal regulations. Additionally, federal permit requirements prevent non-federally permitted for-hire and commercial vessels from transiting Block Island Sound while in possession of black sea bass, Draft Addendum for Public Comment 6 summer flounder, or scup legally harvested from the state waters around Block Island.

### ***Slot Limits***

Slot limits may be implemented through the Commission process for summer flounder by states or regions through conservation equivalency, and for black sea bass and scup for state waters measures only. However, the Council FMP does not allow for specification of a maximum size limit for summer flounder, scup, or black sea bass. Therefore, slot limits may not be used as a management tool for these fisheries in federal waters. The Council's complementary framework will propose alternatives to address this issue.

### **Addendum XXXII**

For the complete document: [http://www.asmfc.org/files/PublicInput/SF\\_BSB\\_DraftAddendumXXXII\\_PublicComment\\_Oct2018.pdf](http://www.asmfc.org/files/PublicInput/SF_BSB_DraftAddendumXXXII_PublicComment_Oct2018.pdf)

Draft Addendum XXXII proposes alternative approaches for state management of the recreational summer flounder and black sea bass fisheries for the 2019 fishing year and beyond. The management unit for summer flounder in US waters is the western Atlantic Ocean from the southern border of North Carolina northward to the US-Canadian border. The management unit for black sea bass in US waters is the western Atlantic Ocean from Cape Hatteras, North Carolina northward to the US-Canadian border. Summer flounder and black sea bass fisheries are managed cooperatively by the states through the Atlantic States Marine Fisheries Commission (Commission) in state waters (0-3 miles), and through the Mid-Atlantic Fishery Management Council (Council) and NOAA Fisheries in federal waters (3-200 miles). This draft addendum is proposed under the adaptive management and framework procedures of Amendment 12 and Framework 2 that are a part of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). The Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) approved the following motion on May 3, 2018: Move to...develop a new action for the 2019 recreational fishery to address the changes in black sea bass abundance and distribution that consider management based on the distribution of the resources, along with any other options recommended by the Management Board. On August 8, 2018 the Board also agreed to add recreational management for summer flounder to the issues to consider in Draft Addendum XXXII.

Mr. Schneider said based on his conversations with MRIP survey takers coming from (240) Maryland area code numbers, they consistently restate wrong information. In three separate phone calls, they had the wrong information each time. When repeating the information they had before them, they told Mr. Schneider they have him down as fishing for Fluke when he specifically had told them previously that the Fluke fishery was closed and he has been fishing for Porgies and Sea Bass. Mr. Gilmore said the next time it happens, to get the surveyor's information because this is clearly something that needs to be addressed.

### **Addendum V – Coastal Sharks**

For the complete document: [http://www.asmfc.org/uploads/file/5be5af89CoastalSharksDraftAddendumV\\_Oct2018.pdf](http://www.asmfc.org/uploads/file/5be5af89CoastalSharksDraftAddendumV_Oct2018.pdf)

The Commission's Coastal Sharks FMP allows for commercial quotas, possession limits, and season dates to be set annually through Board approved specifications. All other changes to commercial or recreational management can only be accomplished through an addendum or emergency action, as outlined in the Adaptive Management Section (4.5) of the FMP (ASMFC 2008). While addenda can be completed in a relatively short period of time (less than 6 months), the timing of the addenda and state implementation can result in inconsistencies between state and federal shark regulations, particularly when NOAA adopts changes through interim emergency rules. Inconsistencies can create confusion for anglers and commercial fishers, present challenges for law enforcement, and most importantly,

undermine the conservation of the resource, particularly when more restrictive measures have been implemented in federal waters based on changes in stock conditions. At times, the states can take up to a year to implement changes while at other times, states never implement any changes. The only option for the Board to respond quicker than an addendum is through an emergency action, as outlined in the ISFMP Charter. However, there are rigorous criteria that define an emergency action, which are often not met. For example, NOAA Fisheries recently implemented an increase in the recreational size limit for shortfin mako sharks based on new assessment information. While this is an important conservation measure, it does not constitute an emergency action in states waters since the conservation of shortfin mako sharks is not substantially at risk by unanticipated changes in the ecosystem, the stock, or the fishery due to catch in state waters. After deciding not to modify shortfin mako regulations in state waters at the Board Meeting in May 2018, the Board chose to initiate this addendum to allow more flexibility in responding to changes in stock status for shortfin mako and all other shark species under the FMP moving forward.

This Addendum will give flexibility through Board action which will make things happen much quicker. Emergency rule making can make things happen quickly too, however, the criteria is very strict and many times the criteria does not get met. What they will be able to change are recreational size, possession limits, season length and area closures for both recreational and commercial fisheries.

~~~~~

It looks as if it will be status quo for recreational fisheries up and down the coast for 2019 at this time, however, Wave 6 data has not come out yet which means things can change – stay tuned.

~~~~~

Recreational Striped Bass – NOAA Fisheries is considering removal of the current prohibition on recreational Atlantic striped bass fishing in the Block Island Transit Zone. The Transit Zone is defined as the area of federal waters within Block Island Sound, located north of a line connecting Montauk Light, between areas south of Montauk Point, New York, and Block Island Southeast Light, Block Island, Rhode Island; and west of a line connecting Point Judith Light, Point Judith, Rhode Island, and Block Island Southeast Light, Block Island, Rhode Island. It is unique because it is a small area of federal waters substantially bounded by state waters.

Existing federal regulations prohibit recreational and commercial fishing for Atlantic striped bass in the Exclusive Economic Zone (EEZ); however, fishers may possess and transport Atlantic striped bass caught in adjoining state fisheries while crossing the Block Island Transit Zone.

They are requesting public comment on the removal of the prohibition on recreational fishing for striped bass and on other options to improve management of Atlantic striped bass in the Transit Zone. **The public comment period is now open.**

Mr. Gilmore said he wanted to clarify the DEC’s position on this. The DEC is in favor of opening up the transit zone the concern from the ASMFC is that it has been identified as a very unique area. The issue brought up at the last meeting was other states claiming that they, too, had unique areas and would also request special considerations which could become problematic. Because of the timing of the stock assessment, the Commission thought it would be prudent to see the results, followed by peer review before making any decision. Until it is peer reviewed, it’s impossible to say whether the news will be good or bad. The DEC will also look at: juvenile abundance index in the Hudson; how is the Delaware/Chesapeake doing in terms of different measures, in addition to analyzing their own statistics – there are a number of factors that will be looked at before a decision is made.

## Updates for Summer Flounder and Black Sea Bass

The benchmark stock assessment for Summer Flounder will be turned in at the end of November for review and the numbers will be out in February.

Black Sea Bass is going to have an operational stock assessment in 2019 where new MRIP data will be included. Mr. Gilmore stated that last year the DEC put together a work group due to the controversy surrounding this fishery in the hopes of coming up with a plan that will make fishers happier. They are currently looking at a mortality based management approach. We would be able to set a mortality threshold and let it ride for three years. Essentially, you will know where you stand for three years no matter whether the industry is facing ups or downs, giving more stability. The DEC recognizes that they need to help the New York fishers who fish in the winter months. Since this is a work in progress right now, Mr. Gilmore did not have many more details to share.

## Discussion Regarding email/NYSDEC Notifications

A discussion began about the best way to get information to stakeholders regarding upcoming meetings and fishing notifications.

Many audience members thought that texting would be the easiest and most cost effective way in which to get important announcements out.

Mr. John German still believes the tried and true method is still the way to go – post cards delivered in the US mail. Mr. Gilmore countered that it is probably the most labor intensive and costly of all the options. It is also not the quickest means of communication. Councilor Lackner added that sometimes fishers are away for long periods of time and do not have access to their physical mail, an email would be delivered no matter where they are.

It was also suggested that when you sign up for your Food Fish License, you include an email address as one means of conveying messages. Certainly not the only way since there are many people who are not computer savvy and they choose not to be.

It was mentioned that there are a number of government websites that will send you notices about various topics to keep you in the loop. When you sign up, you yourself, choose what areas of interest you have and what you would like information and notices about. You completely customize it for yourself. Once again though, this would require modern means of technology that not all people have.

The DEC website has improved greatly and has become more user-friendly. There will also be improvements made to the MRAC website to make it more user friendly as well, possibly have a Facebook page. It was also said that people in the industry need to be more pro-active about gathering information. If this is your livelihood, it is in your best interest to keep informed.

**2019 MEETING CALENDAR** – The following dates have been chosen as meeting dates. Meetings will generally take place at 2:00 p.m. at the DEC Offices 205 Belle Mead Road unless otherwise noted. Please check the MRAC website prior to all meetings for a possible change in time or venue as well as for the day's agenda topics.

January 22<sup>nd</sup>

March 26<sup>th</sup>

April 16<sup>th</sup>

May 21<sup>st</sup> July 23<sup>rd</sup> (evening meeting – exact time to be determined)

September 17<sup>th</sup>

November 19<sup>th</sup>

It was mentioned that since Mr. LaPoint's draft report will be coming out shortly, perhaps the Council will meet in a closed session shortly before the start of January's public Council meeting to go over the findings.

~~~~~

For further information about the Marine Resources Advisory Council, past and present bulletins, as well as any pertinent graphs, charts or data, please check the Council's web page: <http://you.stonybrook.edu/mrac/meetings/> Should you wish to suggest an agenda topic, contact the Chairman, Michael Frisk, ([Michael.frisk@stonybrook.edu](mailto:Michael.frisk@stonybrook.edu)) ; phone 631/632-8656; Staff Assistant, Kim Knoll, ([kim.knoll@stonybrook.edu](mailto:kim.knoll@stonybrook.edu)).