



MRAC BULLETIN

Sean Barrett

Robert Danielson

John Davi

Melissa Dearborn

Vincent Finalborgo

Thomas Jordan

Hank Lackner

Joseph Paradiso

Christopher Squeri

Charles Witek

Steve Witthuhn

Dean Yaxa

Michael Frisk
Chairman

Kim Knoll
Staff Assistant

May 19, 2020

Chairman Frisk explained that once again, due to the Governor's Orders restricting public meetings surrounding the Coronavirus pandemic, May's in-person Council meeting was being held instead via webinar. Chairman Frisk explained that even though this process doesn't allow for public input as the meeting is progressing, the public and audience members should submit any comments or questions they may have to kim.knoll@stonybrook.edu by Friday, May 22nd and they will be reviewed and answered.

James Gilmore, Director of the Marine Bureau of NYSDEC, posted information with regard to COVID-19 for the Commercial Industry and For-Hire Industry:

COVID-19 Commercial and For-Hire

Responsible Parties must limit in-person gatherings on vessels and boats, as follows:

- **Commercial Vessels:** No more than the minimum number of crew members necessary for safe operations; provided, however, that members wear acceptable face coverings when unable to maintain an appropriate social distance of six feet.
- **All Other Vessels and Boats:** No more than the maximum number of people who can safely maintain an appropriate social distance of six feet, inclusive of both crew and passengers, unless all are members of the same household. If such distance cannot be maintained, acceptable face coverings must be worn at all times by all individuals on the vessel.
- **Walk-In Fishing Guide:** Permitted so long as personal contact is minimized and social distancing protocols, including wearing acceptable face coverings when individuals are less than six feet apart from one another, are adhered to by all parties.

Department of Health

Guidance: <https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/FishingForHireVesselsMasterGuidance.pdf>

Councilor Davi questioned if Mr. Gilmore had any information with regard to Charter and Head boats, specifically when they would be able to start up. Mr. Gilmore said there are seven criteria that must be met, basically, there are questions that need to have correct answers before the businesses can begin. (i.e., how many new cases, were the number of cases declining, was testing being performed, etc.). Upstate has met the criteria but at the present, Long Island and NYC have not. He did want to thank Tony DiLernia and Joseph Paradiso for working with the Executive Chamber to get clearer guidelines put in place to help the fishermen.

Mr. Gilmore then went on to explain the CARES Act (acronym for: COVID-19 Aid, Relief and Economic Security Act). This is the \$2 trillion dollar Federal aid package with specifics noted here:

5

CARES Act: Assistance To Fishery Participants

Section 12005 (a) In General.—The Secretary of Commerce is authorized to provide assistance to Tribal, subsistence, commercial, and charter fishery participants affected by the novel coronavirus (COVID-19), which may include direct relief payments.

(b) Fishery Participants.—For the purposes of this section, "fishery participants" include Tribes, persons, fishing communities, aquaculture businesses not otherwise eligible for assistance under part 1416 of title 7 of the Code of Federal Regulations for losses related to COVID-19, processors, or other fishery-related businesses, who have incurred, as a direct or indirect result of the coronavirus pandemic—

- (1) economic revenue losses greater than 35 percent as compared to the prior 5-year average revenue; or
- (2) any negative impacts to subsistence, cultural, or ceremonial fisheries.

(c) Rolling Basis.—Funds may be awarded under this section on a rolling basis, and within a fishing season, to ensure rapid delivery of funds during the COVID-19 pandemic.

(d) Appropriations.—In addition to funds that are otherwise made available to assist fishery participants under this Act, there are authorized to be appropriated, and there are appropriated, \$300,000,000, to remain available until September 30, 2021, to carry out this section, of which up to 2 percent may be used for administration and oversight activities.

(e) Emergency Requirement.—The amount provided by this section is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

<http://www.asmfc.org/home/cares-act-resources>



Mr. Gilmore explained the Federal Government is providing aid directly to the states as opposed to how the stimulus checks which are being mailed directly to Americans that qualified. This enables each state to decide the best way to distribute the funds.

NOAA has since come up with a distribution plan for the money (which the DEC only received a week prior to today's meeting) which show a summary of allocations for the east coast states:

CARES Act Tentative Timeline

- **August 2020:** Submit Final Plan to NOAA Fisheries
- **September 2021:** All funds must be distributed to qualified recipients
- NOAA Audit requirement
- *Funds will be distributed through ASMFC*

<http://www.asmfc.org/home/cares-act-resources>

Summary of Allocations*

Maine	\$20,308,513
New Hampshire	\$2,732,492
Massachusetts	\$28,004,176
Rhode Island	\$3,294,234
Connecticut	\$1,835,424
New York	\$6,750,276
New Jersey	\$11,337,797
Pennsylvania	\$3,368,086
Delaware	\$1,000,000
Maryland	\$4,125,118
Virginia	\$4,520,475
North Carolina	\$5,460,385
South Carolina	\$1,525,636
Georgia	\$1,921,832
Florida (both east and west coasts)	\$23,636,600

Mr. Gilmore wanted it noted that Commissioner Seggos had written to Christopher Oliver, the Assistant Administrator for NOAA Fisheries prior to any financial decision being made that he *NOT* come up with an allocation plan that only considers the value of fisheries for each state. He asked that they also take into account the negative impact the COVID Virus has had on each state. Unfortunately, that is exactly the way in which the money was allocated; Commissioner Seggos' request was ignored which is evident when looking at the figures. In addition to the above chart, Alaska received \$50 million and Washington State also received \$50 million which means that the total for just those 2 states was 1/3 of the total amount of money received. If you compare New York to Alaska - New York shows 100,000 COVID 19 cases – with tens of thousands of deaths while Alaska had 300 cases and 10 people died; Mr. Gilmore did not see the distribution as fair and raised that issue during a conference call with Christopher Oliver, Paul Deremis, Sam Roush and Kelly Bennett from NOAA last week. Their reply was that they used the only metric they could to distribute the money and there will not be any change to the figures.

ASMFC will be the conduit for the distribution of the funds. Recalling the numerous problems the DEC encountered getting folks their Hurricane Sandy money, it was thought if the money would come directly from the ASMFC, it would remove an unnecessary step and fishers could receive their money in a speedier manner. The DEC will give them the names of recipients once they are determined, but the checks will be cut directly from the ASMFC. The funds must be distributed by September 2021 or they will be lost.

Firstly, the DEC needs to come up with plans for the distribution, which NOAA will still need to review and accept. Mr. Gilmore said they will use the Sandy model from several years ago as their rubric. Included will be commercial fishing businesses consisting of charter for hire, aquaculture, shellfisheries, processors and other fishery related businesses.

Councilor Davi is confused as to how the money was broken down, who is responsible? He doesn't understand how New York could come up so short when we have such a large fishing community. Mr. Gilmore said it was simply done by fishery values and COVID 19 wasn't factored in at all. Many of the states also had governmental officials heavily involved and he isn't sure how involved NY's governmental officials were during the process. It was thought that perhaps we should try to find how much NY was hit by the virus and what impact to the revenue it had/has. Mr. Davi also feels that the length of how NY was and is impacted also needs to be considered. We closed earlier and will remain closed longer; other states (like Alaska) never stopped fishing – it's a completely different scenario between states.

President's Executive Order on Seafood Industries

- Federal Waters Aquaculture Focus
- Streamlining Aquaculture Regulatory Process
- Accelerating regulatory reform to maximize commercial fishing

<https://www.whitehouse.gov/presidential-actions/executive-order-promoting-american-seafood-competitiveness-economic-growth/>



Mr. Gilmore believes the true intent of this Executive Order pertains more to aquaculture than anything else. If you read through the document, you will read that it focuses on aquaculture in Federal waters and it also streamlines the approval process should someone wish to become involved in aquaculture. In addition, there is language that puts further restrictions on importing seafood from foreign nations, its intent is to focus more on domestically caught and consumed fish. The Commissioner tasked the DEC with noting their reaction to this order and Mr. Gilmore stated that while the DEC is all for promoting more domestically caught seafood, ocean aquaculture should never outdo wild caught species. This should move forward keeping that in mind, we do not want this to compete with the current commercial industry. Species that are being depleted or in bad shape that *could* be helped through aquaculture. They were concerned that nothing was noted about having a terrestrial base conducting aquaculture for marine species and there is a very nice facility up on The Hudson, near Albany that is a closed cycle system showing that you can do aquaculture without using large sections of the ocean. Mr. Gilmore said this seems to be more of a guidance document and there are numerous things to consider putting this through such as: not being able to use non-native species, spatial competition between commercial fishers and offshore wind farms, disease control, rearing healthy populations, what about the food supply? He welcomed comments from not only the Council, but from listeners as well. Your comments can be sent directly the federal representatives or to the DEC and they will forward them. If anyone has any comments, you can either send them to the federal representatives or to the DEC for forwarding.

Councilor Davi said he has some strong ideas about this and would like to sit with Mr. Gilmore to put a few things together; they will be setting up a meeting. Councilor Barrett said that he and Bonnie Brady have been fighting aquaculture on several different levels and wanted to know the formal channel for submitting opposition letters. Mr. Gilmore said they should definitely go to state representatives, but also include Federal representatives (Congressman Zeldin, Senators Schummer and Gilibrand) because it's an Executive Order through the Federal sector. Chairman Frisk wonders if there is existing Federal law that has already gone through the Congressional process, how can an Executive Order bypass that? Councilor Witek (who is an attorney) said Mr. Frisk is entirely correct. Congress ultimately has the law making responsibilities and an Executive Order cannot conflict with any existing law. Even in Section IV of the Executive Order, which deals with regulatory burdens, it specifically admits an Executive Order cannot supplant law and

it cannot supplant Magnusson Stevens. When it comes to aquaculture, there is an interesting question here as to whether the Executive Order can legitimately give NOAA lead agency over aquaculture. Right now there is a Federal Law that does not specifically authorize NMFS and very likely NOAA to regulate aquaculture. There is a new law in Congress called the Aqua Act which is supposed to be *giving* NOAA the authority to regulate off shore aquaculture. This Executive Order is just going to bring a lot of litigation particularly in the Gulf of Mexico. Mr. Frisk asked who currently has the authority to which Mr. Witek replied – no one does. The states can regulate up to 3 miles and there is no authority in Federal waters.

2020 Summer Flounder Quota Distribution

9

2020 Summer Flounder Quota Distribution					
Period	Dates	Quota (lbs.)	Initial trip limit	Weekly limit	% Distribution
1	January - February	176,340	70	1,000	20%
2	March - April	132,255	140	TBD	15%
3	May - July	352,679	70	xxx	40%
4	August - October	176,340	70	xxx	20%
5	December	44,085	70	TBD	5%

Conservation

Ms. Davidson reminded everyone that the previous discussion had been whether or not to extend the weekly trip limit program through May, however, at the last MRAC meeting it had been decided to NOT extend the weekly program but instead to increase the daily trip limit from 70 to 100 lbs. Ms. Davidson then went over the landings:

Current Summer Flounder Landings

Period	Quota	Quota with rollover	Landings (SAFIS)	% of quota	Remaining quota	Weeks remaining	Pounds per week
1 – Jan-Feb	176,340		107,261	61%	69,079	0	0
2 – Mar - April	132,255		116,215	88%	16,040	0	0
3 – May - July	352,678	368,718	26,612	7%	342,106	11	31,101
4 - Aug- Oct	176,340	518,446	-	0%	518,446	0	518,446
5 - Nov - Dec	44,085	113,164	-	0%	631,610	0	631,610
Quota	881,698		250,088	28%	631,610		

SAFIS report May 14, 2020



Ms. Davidson said the remaining quota from period 1 – will rollover to period 5 (November/December).

Remaining quota from period 2 rolled into 3 (May/July). Moving forward, any remaining quota from period 3 will go into period 4 and any leftover from period 4 will go into period 5. Mr. Davi believes there will be an increase in fluke landings over the next several weeks and wonders how quickly VTR numbers get processed. He recalled that last year they had to increase the daily trip limits because there were so many fish left; he just wants adjustments made quickly so as not to leave fish that could be caught. He doesn't want to lose fish in the actual period as it's happening.

Projections – Summer Flounder

- Summer flounder can likely remain at 100 lbs through the end of June.
- Triggers for reduction can be 50% of period quota or a 20% overage in the weekly harvest of 31,000 lbs for multiple weeks.
- No change in daily trip limit is recommended at this time.



Councilor Jordan agrees in closely monitoring the fishery and make adjustments as necessary.

Black Sea Bass

12

Black Sea Bass

Black Sea Landings for Periods 1 and 2

Period	Dates	Quota (lbs)	Trip Limit (lbs)	Landings (lbs)	Percent of Period Q	RollOver (lbs)
1	Jan - April	39,060	150	18,106	46%	20,954
2	May 8 - June	136,710	50	2,410	2%	

Period 1 (Jan-April) – Remaining 20,954 lbs rolls into Period 5 (Nov- Dec).



Mr. Davi thinks that based on the landing number for period 2 so far, he believes the trip limit should be increased. Ms. Davidson thinks we need to wait until the end of May because it's been her experience that Black Sea Bass numbers have a way of sneaking up on you. One minute they're low and the next – you've caught the quota. We very rarely leave any fish behind. Perhaps it might mean that we won't have to close the fishery this year. Mr. Davi agrees, he would like the fishery to remain open.

Scup – Period 1 (May-June)

- Quota: 890,542
- Landings: 83,266 (9%)
- Limit: 900 lbs daily/4000 lbs weekly
- Periods rollover consecutively.



Mr. Davi asked what is the closing date in June? Ms. Davidson said it was June 15th. He then questioned how many fishers are involved in the weekly trip limit program and the answer was 2.

Atlantic Menhaden

- Quota: 3,266,014
- Landings: 890,707 (27%)



- **Bluefish**

Bluefish Landings for Periods 1 and 2						
Period	Dates	Quota (lbs)	Trip Limit (lbs)	Landings (lbs)	Percent of Period Q	RollOver (lbs)
1	Jan - April	43,150	5,000	402	1%	42,748
2	May - June	86,300	750	2,835	2%	

The quota for Period 2 with roll over from Period 1 is 100,549 pounds.



Further updates

Mr. Gilmore said the nominations for the Mid-Atlantic Council are posted on NOAA's website should anyone wish to review them. The new members will be announced June 22nd and will be sworn in sometime in August (hopefully in person).

Councilor Witthuhn wanted to speak to his request that a medical exemption be put in place using emergency rule-making for fishers who are unable to fish due to a medical condition. He was upset because he had brought this up before today's meeting, but no one has gotten back to him and he wanted to know how he could get this moving. He understands that criteria needs to be met before a letter of authorization would be granted for the affected fisher, but he would specifically like to know what would need to take place in order to get this to happen. This topic has been covered in the George LaPointe report so it isn't something that hasn't been discussed and agreed to. Mr. Gilmore said he had in fact had spoken to Commissioner Seggos and several elected officials about this, however, with so many other things on the front lines, this does not have top priority. The LaPointe report is delayed and on hold right now due to lack of personnel, but the medical exemption topic was discussed. Due to the many variations (short term/long term – what is the deciding number, etc.). If there is to be a regulation, there are many specifics that would need to be set in place. Mr. Witthuhn feels that is just an excuse, our elected officials should be able to handle more than one problem at a time. He also thinks we should rename the CARES ACT to the DON'T CARES ACT – what an insult to the For-Hire Industry in New York. The For-Hire Industry was never given any guidance on how to approach this pandemic. There should have been clear and concise information given, the industry should not rely on information gathered by word of mouth – commercial people get post cards, but the DEC never keep the for-hire industry informed, Mr. Witthuhn said it was a total disgrace. This pandemic is unprecedented and he is very unhappy with the way the DEC handled this and other things as well. You need to be able to walk and chew gum at the same time, there is no reason our elected officials cannot do two things at the same time. A lot of people are hurting right now and that is one way in which you could help them get a letter of authorization for a medical exemption. The DEC's new building in King's Park is coming along nicely though, that seems to be where interests lie. Mr. Gilmore says the DEC has tried to work on this but it's the Health Department which currently has the lead, however, Mr. Witthuhn disagreed. He said he's tired of excuses and he wants it on the record. He's upset as are many in the For-Hire Industry.

Approval of the Minutes from April 21, 2020 – Closed Session

The Minutes were approved as written.

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**2020 Meeting Calendar:**

July 14<sup>th</sup> – 6:00 p.m. via webinar

September 15<sup>th</sup>

November 17<sup>th</sup>

Please check the Council’s webpage prior to each meeting for information as to how the meeting will be conducted while the pandemic continues.

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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, Mr.Michael Frisk, (Michael.frisk@stonybrook.edu); phone 631 632-8656; Staff Assistant, Kim Knoll (kim.knoll@stonybrook.edu).