



MRAC Bulletin

Sean Barrett

November 17, 2020

Robert Danielson

John Davi

Dr. Frisk welcomed everyone, went over the day's agenda and asked all Councilors participating to introduce themselves, including members from DEC.

Melissa Dearborn

Coronavirus Aid, Relief, and Economic Security (CARES) Act

Vincent Finalborgo

Ms. Julie Socrates gave a recap regarding the CARES ACT:

Thomas Jordan

Hank Lackner

Joseph Paradiso

Christopher Squeri

Charles Witek

Steve Witthuhn

Dean Yaxa

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Coronavirus Aid, Relief, and Economic Security (CARES) Act

- Provides \$300 million in economic assistance for coastal and marine fishery participants
- Eligible applicants must demonstrate a greater than 35% revenue loss due to COVID-19 as compared to the prior 5-year average revenue (2015-2019)



Michael Frisk
Chairman

Kim Knoll
Staff Assistant

Funding Details

- New York's final allocation is \$6.75 M, after admin fees \$6.68 M to be distributed
- NYS funds will be distributed to State fishermen by ASMFC.
- All funds must be distributed by September 2021.

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	\$6,750,278
New Jersey	\$11,337,797
Pennsylvania	\$3,368,066
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

Advisory Committee

DEC DMR convened an Advisory Committee consisting of stakeholders from each of the identified fishery sectors.

Provide sector-specific information on:

- Impact of COVID and NYPAUSE
- Reduced markets
- Need for economic assistance
- Review spend plan and provide feedback

Tony Dilemma – For Hire - Charter Boats
 Emerson Hasbrouck – Commercial fisheries (Cornell)
 Gregg Rivara – Aquaculture (Cornell)
 Neil Delaney – For Hire – Party Boats
 Bob Danielson – MRAC - Recreational Fishing
 Paul McCormick - Aquaculture
 Melissa Dearborn – MRAC – Bait & Tackle
 August Ruckdeschel – Suffolk County
 Daniel Farnham Jr. – Commercial Fishing – Offshore
 Chris Quantuccio – Seafood Sector (Dealers/Distributors/Aquaculture)
 Tom Jordan – Commercial fisheries - Inshore



Accomplishments to Date

- July 2020: DEC released a stakeholder survey
- August 2020: The spend plan was sent to NOAA Fisheries for review and approval
- August 2020 – October 2020: Comments from NOAA and responses/edits from DEC, as well as meetings with Advisory Committee
- November 2020: Approval of NY's plan is forthcoming



Summary of Survey Results

- Most respondents were commercial fishermen.
- Sixty-four percent claim 100% of income from fisheries.
- Majority claim revenue lost in second quarter of 2020.
- Most losses reported between \$10,000 to \$50,000.
- Reported losses ranged from \$0 to \$60,000,000.



Eligibility Requirements

1. Individuals (18 years or older) & Businesses
2. Sectors include:
 - commercial fishers
 - for-hire fishing operations
 - marine aquaculture
 - seafood wholesale distribution (dealers and processors)
3. Valid Resident Marine Fishery license issued by NYSDEC for 2020 and previous years, with exceptions as described in NY's Spend Plan



Eligibility Requirements

4. Active participant in one or more of the fishery related sectors in 2020 and previous years with documented fishing/purchasing history
5. Must demonstrate a greater than 35% revenue loss from fishery-related revenue caused by COVID-19
 - February 1 to July 31, 2020
 - Minimum of 60 consecutive days,
 - Compare to the previous 5-years (2015-2019) for the same period.
6. Average annual income of at least \$7,500 for fishery business for 3 of the last 5 years (2015-2019)
 - Exceptions for less than 5-year history as described in NY's Spend Plan.



Awards & Denials

- Base awards on tiers of losses
 - <\$7,500; \$7,500 to <\$50,000; \$50,000 to <\$100,000, and \$100,000 or greater (subject to change)
 - Awards across tiers would be proportional to the loss experienced by those in the tier.
 - Within a tier, all applicants will receive the same award.
- Initial application denials can be appealed
 - DEC will work with the appellant on a case-by-case basis to provide an opportunity to satisfy the minimum eligibility requirements, especially in cases of undue hardship.



Implementation Plan

- **November 2020:** Distribute Information for Application Submission
- **November/December 2020:** 30-Day Application Period
- **November 2020 - January 2021:** Review of Applications
- **January/February 2021:** Appeals Process
- **January - March 2021:** Send List of Awardees/Coordinate Payments with ASMFC



Comments

Mr. Gilmore said the spending plan would be completed shortly and will be sent to the Council. Councilor Dearborn who is a member of Advisory Committee wanted it known that even though the bait and tackle industry was initially not

eligible to receive money because it was thought they fared better than other industries, that thought has been amended and should a business feel they suffered significant loss they are now eligible to seek financial assistance under the appeal process.

Mr. Gilmore said because there is a short application period, he hopes that the Council and even audience members can be counted on to spread the word.

#13, will depend on how many applications are approved. Everyone in a tier will receive the same award.

Note: If you are initially found illegible to receive compensation, you will be able to appeal during the appeals process.

February 1 – July 31 – is the only time you can be considered eligible. NOAA Fisheries came up with the time line they are using.

Public Comments

Nancy Solomon, Director of LI Traditions, questioned if the application is going to be strictly on line or will it be available in paper format. Ms. Socrates said both would be available; on line, it will be in a fillable PDF format.

John Schoenig entered the meeting a little late and missed the public comment period but wondered if Black Sea Bass/Blackfish (recreational sector) would be discussed today. Mr. Gilmore answered that as we enter the cooler months, there are a number of things that will be coming up that will be brought up for discussion, however, it is not on today's agenda. Mr. Schoenig added that he has been fishing for Black Sea Bass and is encouraged by the amount of fish he is seeing. Mr. Schoenig then asked how the plans for the new building were coming along in the midst of the pandemic. Mr. Gilmore replied that the construction is moving along on schedule and they hope to be in the new building by the end of June. He hopes that the July meeting of the Council will be able to be held in the new location.

Michael Scott wanted to know when they would get the exact information as to what is needed for the application. Mr. Gilmore said the spending plan should be completed shortly and will be sent out - that will give all the pertinent information as well as contact information should anyone have any questions.

Ms. Dearborn questioned the "Minimum of 60 consecutive days" - are they including the whole period of February 1st – July 31st? Ms. Socrates stated that you would have to select a 60-day consecutive period, which you will be comparing it to the same timeframe from previous years to show your loss.

ASMFC Striped Bass Advisory Panel – Commercial Representative Designation

Mr. Gilmore said going back over the last year the Advisory Panel had two representatives – Arnold Leo and John McMurry. Mr. Leo retired and stepped down from the panel leaving the commercial side open. Just before the annual meeting in October, Mr. Gilmore was notified that since Mr. McMurry was representing Senator Kaminsky on the Board, he couldn't do both – it was a conflict of interest. There was a quick search for the advisory panel and Mr. Robert Danielson agreed to do it. Some people weren't happy about the way his nomination came about and feel he represents the recreational side more. Mr. Gilmore welcomes suggestions for applicants to represent the commercial sector. Send a letter, along with your resume indicating if you would like to serve on the Panel to Mr. Gilmore where the applications will be reviewed. This is open until December 15th. Mr. Gilmore said folks should remember they would be filling Arnold Leo's shoes, which are pretty large. They are currently trying to fill the commercial side but should another person come forward for recreational side, Mr. Danielson might step down.

Captain Julie Evans stated that she replaced Arnold Leo on the Fisheries Advisory Committee from East Hampton – she feels that since Mr. Leo represented East Hampton, they should be given the first opportunity to nominate someone. Captain Evans asked if this appointment is made solely by Mr. Gilmore or the entire Committee. Mr. Gilmore said he has

typically made it because not too many people step up, should he receive a number of nominees, he will welcome input from others. Captain Evans thinks “democratic” is the key word.

Captain Evans thinks that MRAC should find some way to honor Mr. Leo for all his service.

Approval of Minutes - July 14th & September 15th, 2020

Both sets of Minutes were approved.

New Commercial Summer Flounder Allocation

Mr. Maniscalco gave the following presentation:

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Commercial Summer Flounder Allocation

MAFMC revised SFL state x state commercial allocations

- Process began in 2014
- Council/Commission took final action on Amendment 21 in March 2019
- NMFS published proposed rule in August 2020
- NMFS final rule should be published soon
- We expect new rule to be implemented by January 2021



9.56 Million Pound Trigger

The new allocation regulations are based upon a trigger:

- Coastwide quota up to the 9.56 M Lbs. trigger is distributed according to the 1993 allocations (NY = 7.65%)
- All coastwide quota, after the trigger, is distributed evenly among the states (except for small participants DE, ME and NH)

	≤ 9.56 M Lbs	11.53 M Lbs	14.0 M Lbs
ME	0.05%	0.10%	0.14%
NH	0.00%	0.06%	0.11%
MA	6.82%	7.77%	8.58%
RI	15.68%	15.12%	14.63%
CT	2.26%	3.99%	5.47%
NY	7.65%	8.46%	9.15%
NJ	16.72%	15.98%	15.34%
DE	0.02%	0.07%	0.12%
MD	2.04%	3.81%	5.32%
VA	21.32%	19.79%	18.48%
NC	27.45%	24.86%	22.66%

Commercial Summer Flounder in 2021

2020&2021 Commercial Quotas	2020 % Alloc.	2020 Quota Lbs	2021 % Alloc	2021 Quota Lbs	% Alloc Dif	Quota Lbs Dif
ME	0.05%	5,484	0.11%	14,327	0.07%	8,843
NH	0.00%	53	0.08%	9,826	0.08%	9,773
MA	6.82%	786,399	8.13%	1,014,901	1.31%	228,502
RI	15.68%	1,808,248	14.91%	1,861,715	-0.78%	53,467
CT	2.26%	260,241	4.63%	578,870	2.38%	318,629
NY	7.65%	881,698	8.76%	1,093,876	1.11%	212,178
NJ	16.72%	1,928,391	15.70%	1,961,279	-1.02%	32,888
DE	0.02%	2,051	0.09%	11,482	0.07%	9,431
MD	2.04%	235,108	4.47%	558,042	2.43%	322,934
VA	21.32%	2,457,822	19.22%	2,400,023	-2.10%	-57,800
NC	27.45%	3,164,505	23.90%	2,985,656	-3.54%	-178,849
COASTWIDE		11,530,000		12,490,000		

Commercial Summer Flounder Litigation

- Council re-allocation process had stalled
- NYS submitted a petition to NOAA/NMFS in March 2018
- NYS filed a lawsuit against the Dept. of Commerce in January 2019 in response to the establishment of the 2019 allocations
- NYS amended lawsuit to also challenge the establishment of 2020 allocations in October 2019
- The expected adoption of the new allocation scheme (trigger approach – Nov/Dec 2020) may require NYS to amend our current lawsuit or bring a new action



Discussion

Councilor Davi said he was glad to see the plan is moving in the right direction. Although he believes New York will probably never get to complete equality with other states, he did want to acknowledge the efforts put forth by Mr. Maniscalco and the staff at the DEC and he thanked them.

Councilor Barrett agreed. He, too, appreciates all the behind the scenes work involved.

Mr. Davi asked if there is a possibility this scenario might happen with other fisheries. Mr. Maniscalco said he expects some change for Black Sea Bass and even though it's moving in the right direction, he wanted everyone to keep in mind the principle behind the trigger. New York can get more when things are good but when things are bad, we will be back down to our allocation which for New York has been inadequate. He doesn't feel as if this would be the best way to manage this fishery.

Mr. Gilmore said Magnuson-Stevens has been very silent on the matter but if change is to take place, it should come through federal law. This will be the ultimate solution for all the fisheries, lawsuits are not.

Councilor Witek questioned where we are in the litigation process. Mr. Maniscalco doesn't really want to talk about it without counsel present to say what is/isn't permissible to speak about. Mr. Witek continued by saying that Senator Liberman in Connecticut has put together something called the Shift Act and this would require the Councils to look at the shifting stocks on state allocations. This is something that has affected Southern New England states as well as New York and he expects to see that followed up in the next Congress.

Emerson Hasbrouk wanted it noted that all 3 ASMFC New York State Commissioners as well as NY Councilors at the Mid-Atlantic Fisheries Management Council also worked to get this through in addition to the folks at the DEC.

Announcements

1. Tautog tagging program resumes in 2021
2. Permit holder notification by email and text messaging (E-notification)
3. FF&C Dealers/Shippers license holders reporting compliance
 - a) Effective January 1, 2021
4. 2021 Quota Distribution Meeting
 - a) December 9, 2020, 4:00 PM – 8:00 PM
 - b) Menhaden and horseshoe crab will be added to the discussion



Discussion:

- 1) Because of COVID safety concerns, the Tautog tagging program was put on hold but will resume in 2021 and commercial fishers will be receiving detailed information shortly.
- 2) Permit holder notification (E notification by email or text messaging). If the DEC has your email or cell phone number, you will no longer receive a post card. They believe this will be a more user-friendly way to receive time sensitive information and certainly be much quicker. This will be active, beginning January. Councilor Dearborn asked if someone wasn't a permit holder, could they also receive the information if they just want to stay on top of things; Mr. Gilmore said the information is on the DEC's website for anyone to access.
- 3) Food fish and Crustacean dealers and shipper license holders are required to report all purchases they make on line, however, the DEC has not had full cooperation on this so beginning January 1, 2021, the DEC will begin a monitoring program for FF&C dealers. They will be receiving notifications if they are late in reporting. This program is going to parallel VTRs. If someone isn't reporting, the records will be turned over to the DEC's legal team and penalties will be forthcoming. This is not new, dealers have always had to report, it's just that now the DEC has a way to monitor if someone is not in compliance. Mr. Emerson Hasbrouk said money is being set aside for a program, which will help train commercial fishers (both Federal and State) with this very endeavor. You can contact Mr. Hasbrouk ech12@cornell.edu or Scott Curatolo-Wageman sw224@cornell.edu at Cornell Cooperative Extension for more information.
- 4) 2021 Quota Distribution Meeting, there will be an agenda set up with specific times for the various species so interested parties will know when they should sign on (times are approximate).

Mr. Davi is concerned about the horseshoe crab closure. Because of COVID, people were not hand harvesting them so where did the DEC come up with the numbers to validate a shut down. Ms. Davidson did not have the actual numbers in front of her but said they usually rely on VTRs. He doesn't believe the numbers would have been high enough to

warrant a closure. Mr. Maniscalco replied that they based the closure on the numbers they were seeing as well as following the history of horseshoe crabs from previous years. History has shown that horseshoe crab harvest can be extremely explosive and coupled with the lag in receiving VTR numbers; they did feel it prudent to close the fishery using the trigger number.

Ms. Solomon recommended a scheduled break during the distribution meeting for those folks who plan to participate for the entire meeting.

Circle Hooks

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Circle Hooks and Striped Bass Update

- ASMFC adopted Addendum VI to Amendment 6 (Oct. 2019)
- Requires circle hooks when recreationally fishing for striped bass using bait (by Jan 1 2021) to reduce discard mortality
- ASMFC Approved States Implementation Plans at Oct 2020 Board Mtg.
 - No exemptions were approved
 - Maintain enforceability and intent of provision



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Rulemaking Status

- Rulemaking currently under DEC legal review
- Proposed rule filed sometime in December
- There will be a 60 day comment period
- Final rule adopted ~March, before start of 2021 recreational striped bass season opens (April 1 on Hudson)



Proposed Text

Recreational anglers are required to use a non-offset circle hook when fishing for striped bass with any natural bait. Striped bass caught on any other type of hook baited with natural bait must be returned to the water immediately without unnecessary injury.



Definitions I

'Non-offset circle hook' means a fishing hook designed and manufactured so that the point and barb of the hook are not offset from the plane of the shank and bend, and the point is turned perpendicularly back towards the shank to form a circular or oval shape.



Definitions II

'Natural bait' means all baits which entice or might be ingested or swallowed by fish including, but not limited to, fish (dead or alive), fish eggs, worms, shellfish, crustacea, amphibians (salamanders, frogs and toads), insects (including all stages of development as larvae, pupae, etc.), pork rinds, liver, meat, corn or other vegetable matter, tapioca, candy, cheese, bread and putty or dough-like scented baits.



Further Information

- DEC Proposed Regulatory Revisions:
<https://www.dec.ny.gov/education/1616.htm>
- DEC Environmental Notice Bulletin:
<https://www.dec.ny.gov/education/1616.htm>
- DEC Marine Resources Email:
FW.Marine@dec.ny.gov
- NYS Register:
<https://www.dec.ny.gov/infrastructure/2020.htm>



Councilor Dearborn wondered if there was any discussion about enforcement (more specifically how enforcement would handle folks who used J hooks for other species); do they know now or will we have to wait. Mr. Maniscalco agreed there would be enforcement issues; however, the Officers will need to use their discretion, which is what they do for many other areas as well. He did add that when using a circle hook, natural bait must be used.

Mr. Scott Curatolo-Wageman wanted to thank Councilor Paradiso for coordinating the effort using circle hooks.

Meeting calendar for 2021

January 19th

March 23rd

April 20th

May 18th

July 20th p.m. – hopefully we will be in the DEC's new conference room in Kings Park.

Sept 14th

November 16th

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Councilor Davi requested that there be an agenda topic for January's meeting regarding an update on licensing reform. Mr. Gilmore said he would have information to share at that meeting.

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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).