

Tuesday, March 23, 2021

The meeting was once again held via webinar due to the ongoing social distancing requirements. Chairman Frisk went over the day's agenda followed by introductions by the Council as well as several DEC staff members.

Sean Barrett

Robert Danielson

John Davi

Melissa Dearborn

Vincent Finalborgo

Thomas Jordan

Henry Lackner

Joseph Paradiso

Christopher Squeri

Charles Witek

Steven Witthuhn

Public Comment

Nancy Solomon, Director of LI Traditions questioned Mr. Gilmore. She wanted to know where things stood with the George Lapointe report. She sympathizes with fishers who are waiting to see the actual changes take place that are recommended within the document. Many of them are thinking of retiring but wonder what might happen with regard to their licenses.

Mr. Gilmore said the report has seven or more recommendations that need to be addressed and the DEC, after conferring with the Commissioner, has opted to have the simpler of the recommendations taken care of first. License transfer is going to be trickier because it cannot be handled through the regulatory process, it will involve legislation, which in turn would require finding someone to sponsor the bill initially. To further complicate this particular issue is that the DEC doesn't believe there is a consensus among the fishers for what they would like to see happen. COVID has certainly not helped this situation at all; the DEC is frustrated as well. Ms. Solomon asked if Mr. Gilmore has been in communication with Senator Todd Kaminsky because he actually brought up the topic to her when they were speaking. As the Chair of NY Senate's Environmental Conservation Committee, he definitely is interested and he could possibly help to get things moving. Mr. Gilmore said the Albany staff has been talking about the situation with the Legislative staff and they are aware things need to get moving, they are hoping they will see improvement over the next several months.

Ms. Solomon seemed surprised to hear Mr. Gilmore say that there isn't a consensus among the fishers and asked Councilor John Davi what his thought. Mr. Davi said he disagreed with Mr. Gilmore because all he hears from the commercial fishers is, "When are we going to be able to transfer our licenses?" Everyone wants to see this happen. Mr. Gilmore said about three of the seven items seem easier to move along and that's what they will be taking on first. Mr. Davi said Mr. Gilmore needs to find a staff member and make this their top priority. Mr. Gilmore said his staff is already stretched since there is a countdown with regard to the CARES Act funding and cannot spare anyone right now.

Michael Frisk
Chairman

Kim Knoll
Staff Assistant

The minutes were approved by consensus.

CARES Act Update

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CARES Act NY Fisheries Relief Program

- \$6.7 M for New York fishing industry sectors
- **Application period:** December 1 – 31, 2020
- 299 applications: 202 approved, 32 pending, 64 ineligible based on Spend Plan criteria



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Remaining Implementation Plan

- **March 2021** - Finalize award tiers and pending applications
- **March/April 2021**- Award letters will be coordinated with payments through ASMFC; denial letters with Appeal Forms
- **April/May 2021**- Appeals Review
- **May/June 2021** - Final awards and denial from appeals; coordinate final payments through ASMFC
- Details still pending from NOAA about second round of relief



New York will be receiving additional funding through the Cares Act 2, however, as of right now Mr. Gilmore has not been informed regarding the amount of the allocation. He hopes to hear over the next several days. (this information can now be seen here: aquaculture.noaafisheries@public.govdelivery.com). The deadline for getting the second allocation is September of 2021, which solidifies what Mr. Gilmore said earlier about the herculean tasks his staff are being asked to handle. If anyone has any questions, please contact Julia Socrates

Discussion - Councilors

Mr. Davi asked if the fishermen who were approved to receive monies had been notified of that yet – Mr. Gilmore said they have not. Mr. Davi also asked, if folks received money in the first round, would they be eligible in the second round of allocation monies? Mr. Gilmore said that the idea behind this is to make someone whole, not to exceed more than what they lost. With that in mind, he believes the answer to the question would be yes.

Public Comments

There were no additional comments.

Circle Hooks Update

Mr. Maniscalco gave the following presentation:

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ASMFC Circle Hook Issue

- In response to stakeholder comments, at its February 2021 meeting ASMFC established an ad-hoc committee to review circle hook rule details:
 - Bait definition, lures, incidental catch
- Management Board met virtually on March 16, 2021 to review committee findings and finalize guidance to the states
 - States can be more restrictive than ASMFC guidance

Sample Language

- Recreational anglers are required to use a non-offset (inline) circle hook when fishing for striped bass when using any marine or aquatic organism, live or dead, whole or parts thereof.
 - This shall not apply to any artificial lure with any marine or aquatic organism, live or dead, whole or parts thereof attached.
- Striped bass caught on any unapproved method of take must be returned to the water immediately without unnecessary injury.



Definitions

'Non-offset (inline) 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.

Artificial lures shall mean manmade flies, spinners, spoons, plugs, jigs and other lures, even though there may be some natural substances contained in such lures as, but not limited to, deer hair and feathers.



Discussion - Councilors

Mr. Danielson who was a member of the Circle Hook Ad-Hoc Committee as a representative for New York, said that one of the topics that received a lot of attention was for the *natural bait definition*. One of the dilemmas raised was the use of earth worms when targeting striped bass. New York needs to include terrestrial invertebrates into the language of natural bait. This would include earthworms, crawfish – anything that is land-based. That language would help to eliminate a possible loophole for folks to use J hooks to target and harvest striped bass.

Mr. Maniscalco's recollection is that the board did not ultimately vote to include earthworms for baits being used with circle hooks. While he is not opposed to the idea, but if we do adopt that regulation, keep in mind it is making things more restrictive for the New York fisher. Mr. Danielson thinks it's a great idea and thinks the department would be in

the “right” to include that so there is no confusion creating a loophole. Chairman Frisk asked for feedback from the Council on this particular issue.

Councilor Paradiso said if the intention is that people use earthworms instead of sandworms or bloodworms, he believes we do need to look at this further. He agrees with Mr. Danielson. Councilor Witek wanted to make sure this only applies to the marine district, correct? And we have other language that’s applicable to the freshwater areas of the Hudson and Delaware Rivers that already includes earthworms?

Mr. Maniscalco answered that in referring to slide 12 the language applies in particular to Striped Bass in the Hudson and also in freshwaters because of the Delaware River fishery. Because we are using this language the freshwater actual bait definition language doesn’t apply here so you can essentially argue that Striped Bass caught in the Hudson can be taken if using a J hook and earthworm. Mr. Witek said if that is the case, then he endorses Mr. Danielson’s recommendation.

Mr. Maniscalco said that terrestrial invertebrates is a very broad range. We could limit it to terrestrial worm. Mr. Witek asked if there is any downside to include the broader term invertebrates - so we don’t have some kind of insect larva, etc. it might be better to be more inclusive.

Mr. Gilmore said the downside to using a broader term is you may not think it will create additional problems but that is actually what has landed us in this pickle to start with; folks were using broad terms and it brought in things that were never thought of. We may have to define the word invertebrates in order to keep things as clear as possible.

Mr. Danielson reiterated that we need to be proactive when it comes to the circle hook regulation. During the discussion with the Management Board on March 16th, it was mentioned that folks may try to circumvent the regulation by painting a snag hook for bunker and considering it a lure. If other terrestrial invertebrates are being used as bait, they need to be under the same scrutiny as the circle hook regulation. We need the extra verbiage in our regulation regardless of what ASMFC comes up with.

Mr. Davi, although this is a recreational topic, he wondered if this was brought up at the ASMFC hearing, and wondered why we are penalizing NYS fishers, yet again.

Mr. Danielson said the language we are seeing right now was created by the ASMFC AD-hoc committee to the Striped Bass Board for the express purpose of circle hooks. In the last addendum, there was circle hook mandates for any circle hook being used but unfortunately because of the way it was written, it included certain things like pork rind on a bucktail because bait was never defined. The Ad-hoc committee reconvened and came up with this definition of bait and accepted uses where circle hooks had to be used and where they could be exempted. Using the language now given, each state will have to use this language as a *minimum* to begin crafting their own regulation to prevent non circle hook targeting and harvesting of Striped Bass. The regulations can be written to be *more* restrictive but not less.

Ms. Dearborn said she would be in favor of including the night crawler especially since they were part of the initial intent definition, however, it was thought to be too specific – naming out freshwater bait yet didn’t have guidance for saltwater bait. She is surprised it hasn’t been included especially if we are going to be in those tidal areas where this will apply a worm is most obviously a natural bait. It will create a loophole for areas down here which could make things tricky for law enforcement officers. She would be fine using the words terrestrial worm and would leave it to the department if they want to include invertebrate in their definition.

Ms. Dearborn did want to share a concern she has regarding the circle hooks. Was there any discussion in the Ad-hoc meetings surrounding the expectation of having supply of product this year? She knows that the manufacturers as well as the tackle shops do not have the stock needed when the implementation of this rule goes into effect. Due to COVID, there are numerous delays with regard to the manufacturing, shipping and delivery of the circle hooks. Will enforcement take that into account?

Mr. Gilmore said this had been discussed in previous years and Mr. Gilmore himself had asked this to be postponed previously but we need to move forward with this and know that enforcement will take numerous considerations and hopefully the industry will be receiving the circle hooks soon.

Mr. Maniscalco wanted to add that he doesn't think New York State is going to be alone in adding the night crawler restriction.

Mr. Danielson also wanted to clarify – the circle hook restriction only applies to the recreational fisherman.

Striped Bass Cooperative Anglers Program

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Striped Bass Cooperative Anglers Program

New York State Marine Waters & Hudson R. South of George Washington Bridge:

- <https://www.dec.ny.gov/outdoor/7899.html>
- e-Mail : sbcaprogram@dec.ny.gov

Hudson River North of George Washington Bridge:

- <https://www.dec.ny.gov/animals/6953.html#Hudson>
- e-Mail : HUDSONangler@dec.ny.gov



Mr. Maniscalco encouraged people who actively fish for striped bass to join the committees. For more information please refer to the websites.

2020 NY Striped Bass Commercial Fishery – slide 16

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2020 NY Striped Bass Commercial Fishery

- 95% reporting

Harvest(lbs)	Quota(lbs)	% Harvested	Tags (#)	Returned(#)	% Returned
496,685	640,718	78%	61,545	10,956	18%

- **April 15, 2021:** Deadline for renewing Food Fish Licenses and Striped Bass permits for 2021 striped bass fishing year



Mr. Davi thought this slide needed clarification – the slide says renewing food fish licenses and striped bass permits for 2021 but it is really confusing because it's not food fish licenses that have to be renewed, it's only if you have a striped bass license. Mr. Maniscalco said Mr. Davi was absolutely correct and thanked him for eliminating any confusion.

Black Sea Bass ASMFC Appeal

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State by State Black Sea Bass Commercial Allocations

- ASMFC/MAFMC met on February 1, 2021 and approved Addendum 33 to the FMP (commercial allocation)
- Changes include:
 - +2% to Connecticut for expansion of BSB into Long Island Sound
 - Distribution of 25% of quota based upon stock biomass
- New York will be appealing the ASMFC decision



Recap – there was supposed to be a change in the commercial allocations to correct the disparity between the northern and southern fishing communities. A compromise motion was brought about by Massachusetts that would increase the base allocation for CT and NY because current data shows a high increase of fish in the Long Island Sound. What was off putting was they had no problem giving the additional fish to CT, however, the additional 2% was characterized as a handout for NY fishers which then brought about other issues beyond management.

The end result (when you factor in the distribution of a 25% of the quota based upon stock biomass) was that New York would go from 7% - 8.5%, however, if we had the base allocation increased, it would have gone over 11 – 11.5% and the commercial quota would have increased significantly. Based upon that and other criteria it is under appeal, Mr. Gilmore along with the other two Commissioners - Emerson Hasbrouk and Senator Todd Kaminsky, NY filed an appeal to see if New York could get a higher quota. This would be for the 2021/22 fishing season.

Discussion- MRAC – no comments

Public Comments

Mr. Emerson Hasbrouk wanted to reiterate that New York really got a raw deal in this whole process, unfortunately the Chairman also stated that he didn't want to give NY "a handout."

He wanted to thank Mr. Gilmore, Mr. Maniscalco and the DEC staff for putting the appeal together. Mr. Gilmore gave John Maniscalco all the credit. He applauded the phenomenal job Mr. Maniscalco did; he added that the appeal was written so well that even the DEC's lawyers had nothing to change/add – something that doesn't happen very often.

Mr. Tony DiLernia also wanted to thank the DEC staff. He did wonder though, should the increase be approved, how this would reconcile with the Federal level of distribution? Mr. Gilmore said it would create quite a mess – a federal plan

and a state plan – both with different limits. There will be much discussion taking place in the future should the appeal go through.

2021 Rule Making

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Whelk Rule

Includes min. size limit, max pot size, bait bags, reporting:

- With Executive in Albany for sign-off
- A normal rulemaking
 - 60 day public comment period
- Marine Resources committed to reviewing comment received with MRAC before final adoption (several months at least)
- In contact with Connecticut over the progress of their rulemaking



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Circle Hooks

- Proposed rule was published on January 6, the public comment period ended March 8
- Following March 16 ASMFC Board, New York needs to revise language (already covered)
 - We will file an emergency rule in order to get the new circle hook language in place as soon as possible
 - May not make April 1 (Hudson River opening)
 - Expect to make April 15 (M&CD opening)
- If you are fishing w/ bait of marine/aquatic origins, use a circle hook (unless using a lure)



FYI: There are no changes, recreationally, for bluefish, seabass, scup – all will remain status quo.

Discussion - Councilors

Mr. Davi asked what is the expected date for implementing rule making with concern to Whelk. He knows of two petitions that are being passed around for signatures – one for and one against. There is much more discussion that needs to take place before moving forward. He understands both sides of the argument and he believes there are more things that need to be considered and taken into account.

Mr. Gilmore replied average rule making takes approximately six months depending on public comment. This was initially brought up three years ago and since then they have received a gamut of opinions and thoughts that vary from – do nothing – to – very restrictive. And as far as Connecticut moving ahead, it's Mr. Davi's understanding that CT does not want this to go through. Mr. Gilmore continued - once the DEC receives the science they will put together a recommendation for the ruling. It will then go out for public comment and Mr. Gilmore understands there will be many received, from both sides of the fishery. It will then come to the Marine Resources Advisory Council (as per the ECL rules) where they will put forth a motion based on the options received. Connecticut is also moving forward with a ruling and their time frame pretty much will coincide with New York's. Mr. Gilmore believes this will only go into effect for the 2022 season. Mr. Davi said it is his understanding from talking to Connecticut fishers that they DO NOT want to see a ruling put in place, especially for the western end of The Sound where the conks don't grow as large as they do on the East End. There should be something with regard to an exclusion for the Long Island Sound. Can there be a barrier of sorts put in place? To tackle this right now where we are only discussing this online because of COVID is an injustice, there are so many more voices that need to be heard, not everyone is comfortable or familiar with doing things online. He is not in favor of this. Mr. Gilmore reiterated that they will be hearing comments from both sides of The Sound as well as from Law Enforcement agents, this is not going to happen quickly – there will be a long comment period where folks who want their voice/opinion heard will find a way. Keep in mind that different rules for the same waterway only adds to the difficulty for everyone. Mr. Davi asked if Whelk can be pulled from the rule making for now. Mr. Gilmore said we can't. The fishery is in bad shape and if we wait much longer, there won't be a whelk fishery to even talk about. Mr. Danielson said this topic has been talked about to death – it's time to move forward.

Councilor Witthuhn, who was having communication issues, referred to slide 16 and asked if going down to a 26" fish helped the Striped Bass and if he noticed an increase in gill netting as opposed to rod and reel? Mr. Maniscalco answered that he was unaware of the specific gear type. They haven't run an analysis because they do not have complete data to put through. Once he has that information they can run a more complete analysis. Mr. Witthuhn said even with COVID, and the fishery in decline, the numbers appear to be better than the previous year. Mr. Witthuhn would be very interested in hearing the difference in numbers between rod and reel and gill netters.

Public Comments - none

Updates and Notifications

Councilor Davi stated that after much consideration, he has decided that he will be resigning from his post as a Councilor. He said he has been thinking of stepping down for a while and it is mainly because he feels frustrated. He doesn't feel as if the commercial fisherman has a voice any longer, he believes the Department has their agenda and while he can speak for the commercial industry, the Department really doesn't listen. He is also upset that we have had vacant seats on the commercial side for much too long – what is the hold up in filling those seats? How is it fair when a discussion is taking place to have more recreational councilors than commercial ones, especially when the topic relates to the commercial industry? There were numerous comments from the Council as well as audience expressing their dismay at possibly losing Mr. Davi as a Councilor. He is one of the longer-standing Councilors and one who brings much knowledge and depth to the various discussions. Not only is he an advocate for the commercial industry, he also rallies for the recreational side as well. Mr. Gilmore and Mr. Frisk have asked to speak to Mr. Davi separately in the hopes of changing his mind.

ASMFC Striped Bass Amendment 7 Hearing

TONIGHT, March 23 at 6 PM:

- <https://register.gotowebinar.com/rt/0105253291056270608>
- www.asmfc.org

Primary Issues Considered in Public Information Document (PID):

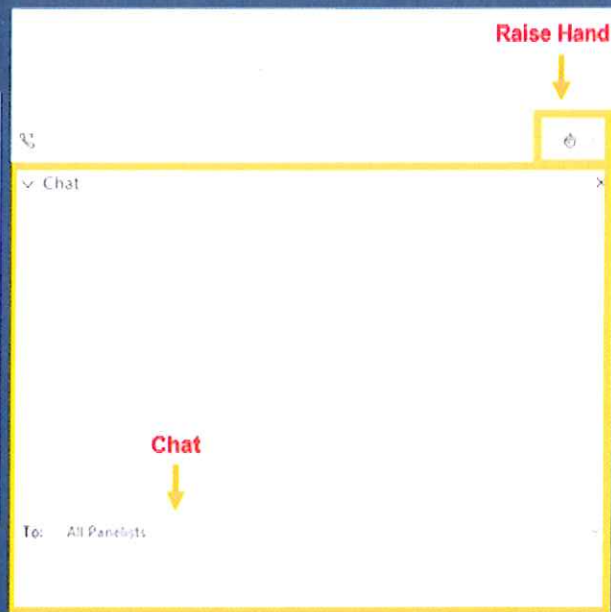
1. Fishery Goals and Objectives
2. Biological Reference Points
3. Management Triggers
4. Stock Rebuilding Targets & Schedule
5. Regional Management
6. Management Program Equivalency (Conservation Equivalency)
7. Recreational Release Mortality
8. Recreational Accountability
9. Coastal Commercial Allocation
10. Any other issues concerning the management of Atlantic striped bass

Interstate Fisheries Meetings

- **March 30, 6 PM**, MAFMC & ASFMC Bluefish Allocation & Rebuilding Amendment
- **March 31, 5:30 PM**, MAFMC Summer Flounder Management Strategy Evaluation (MSE) Workshop
- **April 6 - April 8, 2021**, Mid-Atlantic Fishery Management Council (MAFMC) Meeting
- **April 6, 10:00 AM – 4 PM**, MAFMC & ASMFC Summer Flounder, Scup, and Black Sea Bass during MAFMC meeting
- Visit www.mafmc.org to register for meetings above.

Two Ways to Comment

1. Use the **Chat Panel** to type comments to be included in the meeting minutes.
2. Use the 'Raise Hand' button on the **Participants Panel** to request to be unmuted and make a verbal comment. Please remember to put your hand down by clicking on the 'Raise Hand' button again. ****Requires audio connection****



Meeting calendar for 2021

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

All meetings will take place at 2:00 p.m. unless otherwise stated. Check the Council's webpage prior to the meeting for the agenda topics as well as format details (webinar instructions, in-person, venue, etc.)

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).