



Chairman Frisk welcomed everyone, went over the day's agenda items which was followed by introductions by the Councilors present. He also introduced Julia Socrates who is the Interim Director of the Marine Bureau replacing James Gilmore who recently retired.

Public Comment

Mr. Tor Vincent brought live samples to punctuate his argument that he believes using large metal tags on the gill plate is responsible for creating mechanical injuries in fish. The two fish he brought had active sores on their bodies. He doesn't believe that the studies that were created by the DEC are accurate or valid showing no harm comes to the fish, these are not isolated incidents. The ASMFC has these complaints on their record but believes they were fooled by an invalid study. He feels that placing a large metal tag on the gill, an area that the fish need to constantly move. doesn't allow the area to heal from the puncture and it creates an active wound. We need a real study using water that doesn't contain bacteria. Councilor Witthuhn said that this is a loss of product because no one would buy a fish with wounds. The DEC took possession of the fish and will sacrifice the fish in order to run tests to determine the cause of the wounds.

Mr. John German wanted a timeline for the PCB study being performed to determine if areas are safe for fishing Striped Bass once again. Mr. Maniscalco said it is a 2-year study testing for PCBs and other contaminants. Councilor Witthuhn asked how much time are we looking at 3 years? 5 years? Mr. Maniscalco hopes the folks will be actively fishing in 5 years. Joseph Gittleman questioned which parts of the fish will be tested. Mr. Maniscalco said it's a specific filet which includes some of the skin. !t's not a whole fish, a bit blended up.

Ralph Vigmostad said it's not often that all sectors of the fishing community agree. however, he does think his next comments affect all fishers and there will be unison about this. There is a nuclear plant called Pilgrim Nuclear Power Plant in Massachusetts in the Monomet section of Plymouth on Cape Cod Bay, south of the tip of Rocky Point and north of Priscilla Beach which was shut down in 2019; the company Holtec is in charge of decommissioning the facility. This may involve the dumping of 1.1 million gallons of wastewater which was used to cool spent nuclear fuel rods. The water is KNOWN to hold both radioactive and non-radioactive pollutants. Something of this magnitude has never been done before so the short term and long-term effects are not known. To make matters worse, Holtec has also

Sean Barrett

Robert Danielson

John Davi

Melissa Dearborn

Vincent Finalborgo

Thomas Jordan

Henry Lackner

Joseph Paradiso

Christopher Squeri

Charles Witek

Steven Witthuhn

Michael Frisk Chairman

Kim Knoll Staff Assistant bought the Indian Point Energy Center which ceased power operations in April of 2021 and they will be dismantling that facility as well – where will they dispose of that water? Because of the location, it will be dumped into the Hudson River. Mr. Vigostad wants everyone to be aware of the situation so they can take action to stop this. There are currently petitions circulating and he hopes everyone will take part to let their concerns be known.

#### Approval of Minutes - January 24, 2023

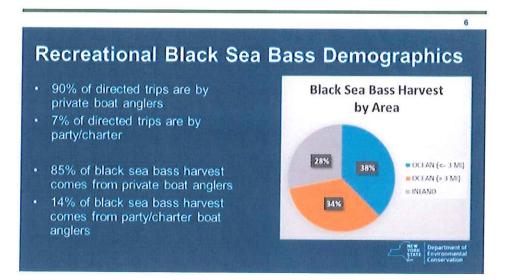
Councilor Witthuhn was afraid the Minutes didn't completely capture the point he was trying to make pertaining to Sea Bass. He would like the record to reflect that he has concerns about increasing to a 16.5" size limit because it would lead to an increase in discard release mortality which could lead to more restrictive regulations in the future.

Councilor Witek made a motion to accept with the above noted addition. Councilor Paradiso seconded. In favor – unanimous (7), Opposed – 0, Abstained – 1 (Chairman Frisk)

#### Motion passes

#### Recreational scup and black sea bass

Rachel Sysak gave the following presentation



**Options** 

 Option 1: 16.5 inch minimum size

 Option 2: Season start date of July 1

#### **Current Regulations:**

Minimum Size Posession Limit Open Season 16 3 Jun 23 - Aug 31 16 6 Sep 1 - Dec 31

NEW Department of Foregreation

### Feedback Survey

Survey was distributed through the saltwater fishing and boating newsletter and recently at a number of fishing shows in NY.

This was a ranked choice survey. Ranked choice surveys help provide better information on choice preference when one option is compared to others.

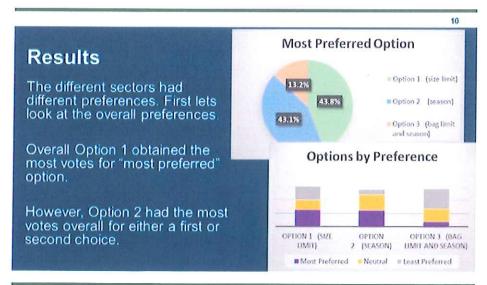


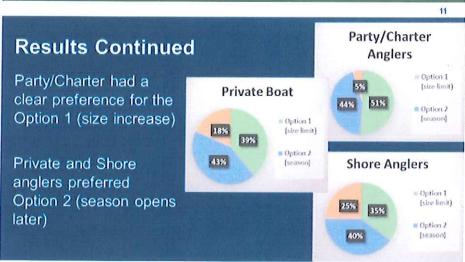
Feedback Survey

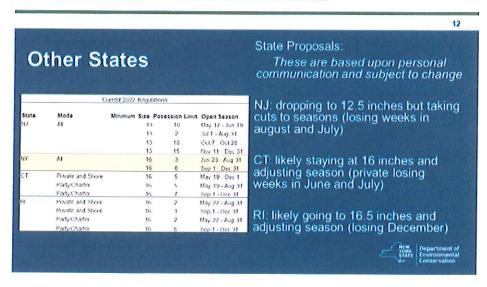
A total of 950 people responded to the survey

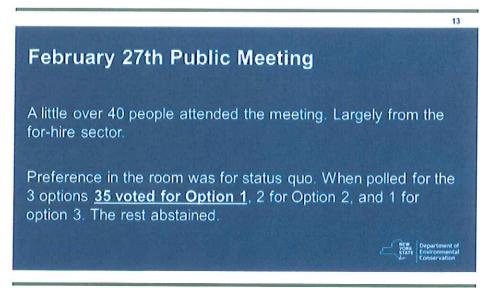
91% Recreational Anglers
8% For Hire Businesses
1% Unknown

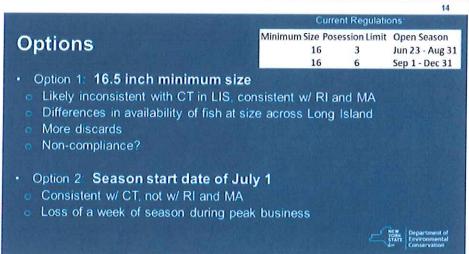
In State: 85% Out of State: 5%











Chairman Frisk reminded the Councilors that they will be voting on the options presented today, they will **not** be offering suggestions to be used for options.

Councilor Witthuhn wanted to know if there were any protocols put in place to restrict anyone from completing the survey twice because in doing so, they could manipulate the results. Ms. Sysak said the survey can only block duplicate surveys when using the same email address. That being said, if you completed the survey and didn't use an email address, you would be able to complete the survey more than once. To that point, there were only 30 surveys completed that did not include an email address, that is out of 950. Councilor Witthuhn thought the timeline for completing the survey should have been longer to which Ms. Sysak agreed.

Councilor Witthuhn wanted to know why the options didn't include a category for the For-Hire mode; he also wanted to know why a status quo option wasn't considered – who made these decisions, Albany or the DEC? Mr. Maniscalco said they were made by him to avoid splitting modes. He did not want to include a For-Hire mode because there isn't data to support it. He will support it when there is data to support it or a coastwide

mechanism is put in place. As far as status quo, Mr. Maniscalco doesn't believe they would want to go that route should a liberalization become available; he thinks we need to retain equity. Councilor Witthuhn doesn't feel that the DEC is even thinking about the For-Hire industry, and it is his belief they would be happy remaining status quo; he would like that comment on the record. Councilor Paradiso understands what Councilor Witthuhn is saying and he, too, is hearing from his group they would like to see the For-Hire industry sectored out especially when you see surrounding states doing it. He understands that Connecticut takes fish from their private sector to give to the For-Hire, would that work the same way for New York? Ms. Sysak said in order to do that you would need to take fish away from the private sector. There already needs to be a 10% decrease so sectoring out the For-Hire industry would mean an additional decrease in fish for the private sector group (20%). She agreed with Mr. Maniscalco that there just isn't enough data to support this, one single intercept could blow up the numbers and affect those percentages of either reduction or status quo. Councilor Witek said there are a lot of different ways to take care of the For-hire fishers. Three options had been proposed, however, there was a fourth option that was not offered but would have cut a substantial amount off the back end of the season. That is a period when it is almost nothing but a for hire industry, private boats are almost completely out of the water. Instead of going with that which would have had the least impact on the greatest number of people, the DEC decided to leave that long season in place. So, don't think that just because they do not have a separate set of options doesn't mean they aren't taking care of the For-Hire industry.

Councilor Dearborn said when doing polls, it would be best to capture the whole industry, one example of who was left out; tackle shop owners. Perhaps you could have a bullet for "other industry member" in the future for a more precise poll. Ms. Dearborn agrees that if we are going to sector out the For-Hire industry, we will need quality data first especially since Long Island has very unique issues for north, south, east and west.

Mr. Maniscalco said the public meeting was very different from the survey, the breakdown was very different. Ms. Sysak heard from a number of people say the survey should have allowed for additional comments to be added when completing. She also noted that when people were taking the actual survey, they had to make a decision right then and there which is not what the public meeting was asking them to do.

John Maniscalco believes that some of the For-hire options do take an equal cut but others make the private sector take a hit. The For-Hire split that's present for Connecticut and Rhode Island has been in place in 2022 whereas Massachusetts did not have a for-hire split.

Councilor Witek wanted to give an idea on how other states are—handling this; he just heard today that New Jersey will be going to a single sea bass for the summer season.

Mr. Paradiso believes there is perhaps a better cooperation in other states between their sectors and that is why they are willing to take cuts – he wondered if that was a fair statement. Mr. Maniscalco doesn't believe any sector in any state is happy to be giving up fish.

Councilor Witthuhn said he speaks at a number of different functions and is always happy to give out information to the fishing community but lately people thank him but tell him they are just going fishing and they aren't too concerned about the regulations, they are tired of regulations that they feel don't make sense. Non-compliance is through the roof and we need to fix that. How can we fix it? Mr. Paradiso said we need to fix the harvest control rule and that is still mandated by Magnuson Stevens which is where we need to start,

the Federal level. It's going to take an act of Legislation but we need to address that. It needs to be added that you can fish on an overbuilt stock beyond maximum sustainable yield in order to bring that stock that's so overbuilt down to just rebuilt levels, or something similarly worded. No matter what, it is going to take an act of Legislation to do it.

Councilor Dearborn added since the tackle shops weren't included in the survey, she created one herself. Her results were similar to that of Ms. Sysak's. (slightly more in favor of option 1-58% and option 2-34% and a few for option 3). Some people refused because they think a reduction of any kind is ridiculous, they believe it should remain status quo. She was a bit surprised at the results, she thought she would see different areas having very different views but that wasn't the case.

Councilor Jordan said the East End is for option 1. Councilor Paradiso said his group is for Option 1 as well.

Councilor Witek said when referring to the question of days lost – are these actually 8 days of business loss or is it when you are fishing for striped bass, porgy, etc. Does it represent a real economic loss or just a shift to what you are fishing for? Councilor Witthuhn said it helps to sell trips by advertising that the sea bass season is open.

Councilor Witek said he understands people don't want to give up the trip but can they make up the difference with another species whether they want to or not? Ms. Dearborn said from the tackle shop perspective that voted for the 16.5 option, they felt that if the season is not open then that IS a direct economic impact because they are not selling the tackle, bait, etc. for those particular trips. For those that were in favor of 16" fish felt that yes, they were going to lose a week in sales however, is losing that ½" worth it over the long run of the entire season for the guys who want to go out and at least be able to come home with some fish and what is the impact of that on the season. She feels it is a tough call between the two options.

Councilor Witek made a motion for Option 2 (a 16" fish/season start July 1st) Councilor Finalborgo seconded. Councilor Witek said the reason he is picking this option is basically a discard mortality issue and a compliance issue. He thinks the 16.5" would only exasperate the compliance problem that we are seeing right now. Discard mortality is also an issue and this year for the first time the allocation is not based on landings but is based on catch. This means that discards are playing part in the allocations now. Going with 16" would get you 8 days and in those 8 days, most people can find something else to fish for. Councilor Jordan disagreed, he said for the For-Hire guys, there is a big difference if you say to the folks coming to fish that instead of fishing for Black Sea Bass you're going to be fishing for porgies. These fishers need to make a living and for those 5 months out of the year, those days are extremely important.

Vote: Audience member Lawrence Bastiarelli questioned how the data being used for MRIP is obtained and he would prefer days on the water. MRIP data comes from a host of different places: log books that party and charter boats fill out themselves, recall surveys, recreational license sales, the intercept program, which are the doc side samplers as well as the samplers that actually go out on boats and observe trips. So even though 85% of harvest comes from that data set, there are numerous observed trips where a sampler observes the catch. That data is weighted most heavily against recall surveys or telephone surveys which are both part of the data set but having an observed trip is more validated. The largest source of error is definitely from shore but the good news is that it plays such a small part of the overall number. Councilor Witthuhn said it should be kept in mind that this is not a fish that is being overfished. When we start to harvest so heavily on a species

that is abundant and an aggressive predator you still have to direct people to start fishing towards other species which may or may not, have a greater risk of being overfished and you are allowing this extremely aggressive predator to have a huge impact on perhaps a species that is struggling. Mr. Paradiso said that was a very good point. When you lose days on the water for a specific species, you will target species that may (or may not) be at risk for overfishing.

Neal Delanoy, Executive Director, Captree Boatman's Association said his organization is against option 2, they would prefer option 1. Should fish be found at the last minute, whether through a revelation in science or a political decision, perhaps they can be given to the Party and Charter Boat sector.

Councilor Witek said of course, we would all rather have more days on the water because people are not going to pay attention to a change of half an inch. There is no sense in making a size limit that no one will follow; a 16" size limit makes more sense.

Vote: In favor – 1, Opposed – 6, Abstentions – 1 (Chairman Frisk)

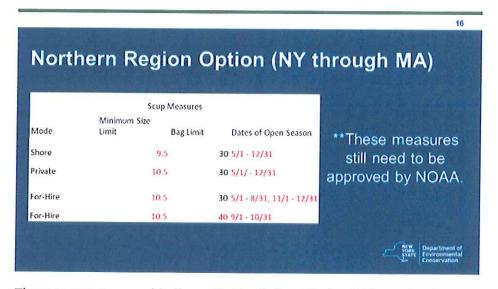
#### Motion fails.

Councilor Paradiso made the motion to go with Option 1, seconded by Councilor Witthuhn

Vote: In favor – 6, Opposed – 1, Abstentions – 1 (Chairman Frisk.)

Motion passes.

#### Scup



These measures would align with the federal limits. Still need to be approved by NOAA.

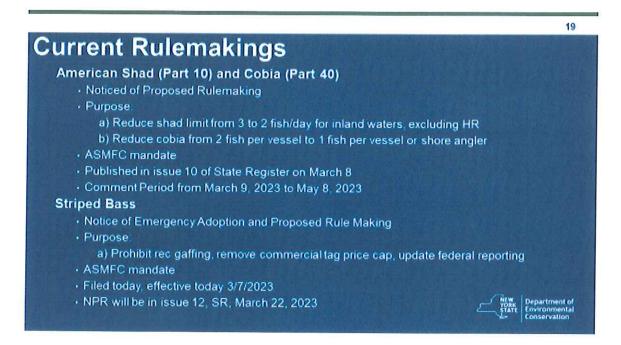
Councilor Dearborn was happy to see a shore-bound size, the more tools in the toolbox the better. An audience member questioned the increase in size. Ms. Sysak said Scup also faced a 10% reduction this year and when you shift around the season and bag limits the trade-off is still very poor. Even when you decrease the bag limit to 20 fish, people are still not keeping 20 fish. In order to achieve the reduction, that is why the size limit is going up to 10.5". It was questioned how they came to the decision they did. Ms. Sysak said the process is similar to Black Sea Bass. There is a stock assessment, the recreational information program; all of that data goes into a model to determine what the recreational harvest limit should be. The recreational

harvest limit is a coastwide limit and if the coast goes over the Feds require adjustment measures. Scup numbers have been over for the past three years and so has Black Sea Bass which is why we are required to make an adjustment. We have the percent change approach and that is how they make the decision for how much of a reduction is required. Unfortunately, when using the percentage change approach, there isn't a possibility for status quo even though you have two species with really high biomass. That is why there are so many comments about fixing the process.

Audience member Chris Fallier was wondering about the modeling (science) that goes into making decisions for Scup. Why is the size getting smaller and smaller each year? From everything he sees, he feels we should be liberalizing. Ms. Sysak replied that there are two different pieces here, one is the model that tells them how the stock is doing and the second piece is using the recreational harvest limit. The recreational harvest limit doesn't just look at how the stock is doing, they also factor in a certain amount uncertainty and discard mortality. Once that is all factored in, they set the recreational harvest limit. There are a number of things that need to be worked on but the process is slow. Another benchmark stock assessment is needed that would include these new MRIP numbers, improvements to MRIP models because there have been improvements to the model that haven't been included in the stock assessment updates which may also be why the recreational harvest limit has not changed dramatically even though we've seen that the stock is very high. There are also year class effects which are also labeled in the managerial table as "uncertainty". It's the uncertainty aspect that always has them being more conservative when they set the recreational harvest limits. The new benchmark is coming out next year and we'll have to see how that plays out. There was also a move with reallocation effort; ultimately it only moved 1% from commercial to recreational so she doesn't think it gave the gain they were hoping to accomplish. A percentage change approach was another way they were hoping would help, it would mean relying less on MRIP numbers and weigh more on how the stock is doing to set the limits. It's a complicated answer to a very simple question.

#### Rulemaking

Presentation by Caitlin Craig



## Current Rulemakings, cont'd

#### Shore Based Shark Fishing

- Introduced to MRAC at March 2022 meeting
- · Noticed of Proposed Rulemaking
- Purpose
  - a) Proposing gear restrictions for shore anglers to enhance law enforcement's ability to protect sharks.
  - b) Proposing handling and release requirements for both shore and vesselbased anglers to improve shark and angler safety.
- No mandate, however these amendments are intended to protect prohibited shark species consistent with requirements of ASMFC and NOAA Fisheries.
- · Currently in Legal Review
- 65 day public comment period once filed and published in SR (~Spring 2023)
- · Day 61 of public comment- virtual public hearing



21

# **Upcoming Rulemakings**

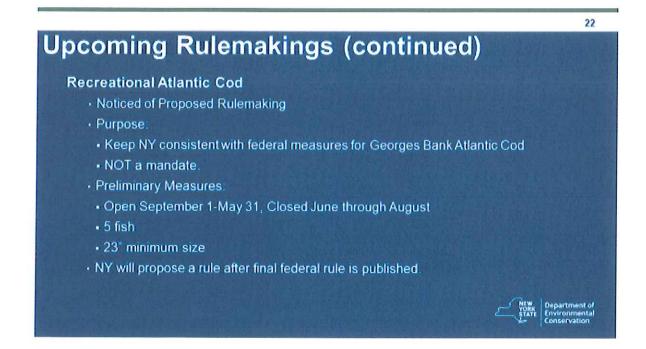
#### Cobia- Authority to Close

- · Noticed of Proposed Rulemaking
- · Purpose:
  - a) Allow NY to close the commercial cobia fishery
- · ASMFC Mandate

#### Black Sea Bass/Scup

- Notice of Emergency Adoption and Proposed Rule Making
  - Purpose
    - a) Depending on chosen option-changes to size limits, seasons, etc.
  - ASMFC/MAFMC mandate
  - · Rule will be in effect date of filing

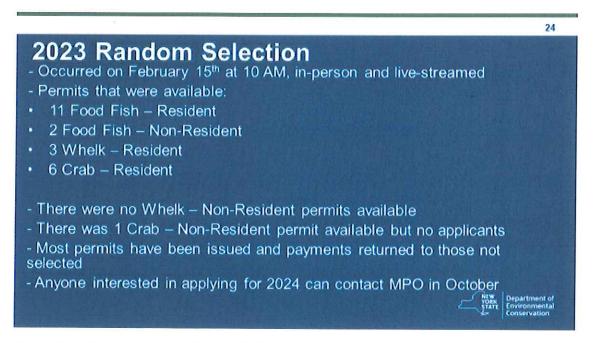




Councilor Witek questioned the setting of the size limit on Cod vs. going with a slot size - the New England Council decided *not to* go with the slot? Mr. Maniscalco said the Feds finalized that recreationally to go with a slot in July but by February 1<sup>st</sup>, the New England Council opted to make a change and move away from the slot. He is waiting for a final decision to be made.

#### Random selection results

Presentation by Jessica Steve



Councilor Witthuhn would like the DEC to provide a commercial sale summary, how many different permits there are and what the cost is. Ms. Steve said it's something they could do, she just doesn't have that information in hand.

#### Blackfish (Tautog) Commercial Fishing Regulations

Because the Councilors who requested this topic were unable to attend the day's meeting, this issue will be tabled until the April meeting. Chairman Frisk asked Mr. Maniscalco to give a brief summary for background. He said currently the limit is 25 fish, however, there is a provision if you are fishing with lobster pots and are in possession of 6 or more lobsters, you can only land 10. Councilor Lackner approached the DEC because he said this was discriminatory toward lobstermen and believes the rule needs to be changed so he wanted it brought before the Council for their input and possible change. John German agreed that this rule needs to be rescinded; it was done at a time when lobsters were plentiful and blackfish were not considered important at the time but now that situation is reversed. Blackfish were not important at the time but they are now and we need to see the regulations changed.

Councilor Paradiso asked about the impact to the harvest, he thinks it would be great if the DEC could possibly have some numbers at the next meeting when the discussion will take place. Mr. Maniscalco said he could do some really bad estimating or he can tell you that in the last two years, they have had 15 or less lobster license holders report landings. He believes a change to the regulations will have a low impact to the harvest.

#### **Tautog Tagging Program**

Melissa Albino gave the following presentations

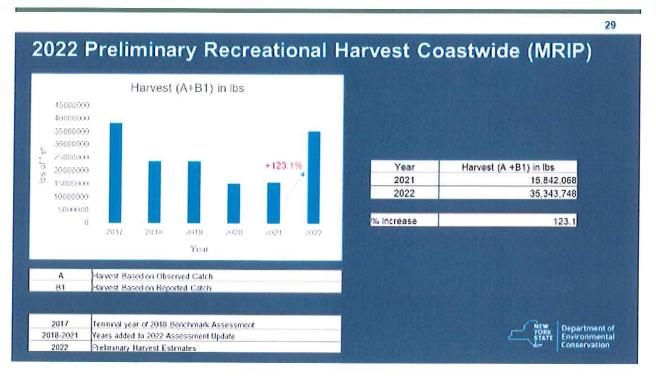
2023 Tautog Tagging Program

- \$0.30 per tag
- · Initial orders are only being accepted by mail or in person.
- Tag orders will not be mailed until payment is received.
- · Payment types: check, money order or cash (in person only)
- · Initial orders will begin being processed on March 15.
- Letters and order forms were mailed to 2023 permit holders last week.
- Please reach out to Data Management (631-444-0857) to address accounting issues.

No discussion took place.

12

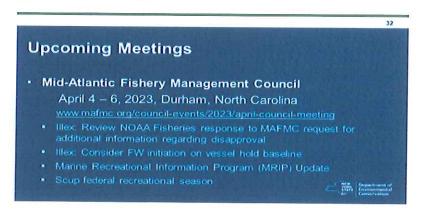
28 2022 Preliminary Recreational Harvest Coastwide (MRIP) Harvest (A + B1) + 9%(B2) in numbers of fish 7000000 6000000 \$ 5800000 5 4000000 Harvest (A +B1) in 9% (B2) in 9860008 Year # Fish #Fish 2,612,924 2021 1,858,386 2000000 2022 3,547,059 2,687,737 1000000 2.9 2019 2020 % increase ■Total Havest (A+B1) #Rec Rel Mod (9692) Harvest Dased on Observed Catch Harvest Based on Reported Catch Released Alive Rec Release Mortality Department of Environmental Conservation 2017 Terminal year of 2018 Benchmark Assessment 2018 2021 Years added to 2022 Assessment Update Preimmary Harvest Estimates



Councilor Witthuhn was leery about a jump of 123.1%, he does not think it's accurate and would like to know if it can be re-checked, possibly by calling Emily Frank. John German would like it on the record that the commercial doesn't go over and he doesn't want the commercial sector to be penalized in any way because the recreational sector went over by 123+%. He would also like to know how close did they come to catching the quota this year? Ms. Albino believes the number to be approximately 569,000, however, there are about 2,000 tags unaccounted for. Even with those additional tags, the number will still be below. Mr. German said he was making a point that the commercial sector doesn't go over, he can't recall going over in the last 30 years that he's been fishing.

Mr. Bastianelli said he believes the discard mortality is a lot higher than 9% for the recreational angler. He thinks that number should be revisited.

#### Upcoming meetings



The last comment of the meeting was made by Councilor Witthuhn. He said he attended the Sea Bass and Scup meeting virtually but it was the last 15 minutes of the meeting that were very disturbing to him. It reinforced his belief that there needs to be changes made to the Sea Bass thing. He continued by saying that no one seems to understand the new models using the harvest control rule, so many new and confusing acronyms, etc. During the meeting, the word *process* was repeated constantly. It is his hope that soon that word can be replaced with *progress*. We have rules in place that do not make any sense. There needs to be change.

#### 2023 MRAC Calendar

Tuesday, April 18<sup>th</sup> – 2:00 p.m.

<del>Tuesday, May 16<sup>th</sup> – 2:00 p.m. Postponed until WEDNESDAY, June 7,2023 – SoMAS – Stony Brook University Tuesday, July18th – 6:00 p.m.</del>

Tuesday, September 12<sup>th</sup> – 2:00 p.m.

Tuesday, November 14<sup>th</sup> – 2:00 p.m.

Please note that all meetings, unless otherwise stated, will take place at the DEC offices located at 123 Kings Park Boulevard, Kings Park, 11754.

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: <a href="https://you.stonybrook.edu/mrac/meetings/">https://you.stonybrook.edu/mrac/meetings/</a>

Should you wish to suggest an agenda topic, contact the Chairman, Dr. Michael Frisk, (Michael.frisk@stonybrook.edu); phone (631) 632-8656 or Staff Assistant, Kim Knoll (kim.knoll@stonybrook.edu).