Meeting of the Marine Resources Advisory Council

November 18, 2014

This was the final scheduled Council meeting for calendar year 2014. Chairman Wise went over the agenda and members of the council in attendance introduced themselves.

News/Announcements

James Gilmore, Director of NYSDEC’s Marine Bureau called Pat Augustine, long-time New York Commissioner on the Atlantic States Marine Fisheries Commission (ASMFC), to the front of the room. He informed the Council that Mr. Augustine had recently received the prestigious Captain David H. Hart Award issued by the Atlantic States Marine Fisheries Commission (ASMFC). This is the Commission’s highest award and was given to Mr. Augustine in recognition of his tireless service to the Commission and the fishing industries of the East Coast. Mr. Augustine then spoke of his years as an ASMFC Commissioner and his hopes for the future of fisheries management in New York and in the nation. He warned that he was not entirely retiring from the field with his departure from the Commission and he intends to remain engaged in the process. Congratulations Pat!! For the full ASMFC press release on Pat’s award, go to:

Draft Minutes, 15 April, 15 July and 16 September 2014 Council Meeting

The minutes of the 15 April 2014 and 15 July 2014 Council meetings has not been approved at the July and September meeting, respectively, due to lack of a quorum of councilors. These draft minutes, and those of the 15 September 2014 meeting were motioned to be accepted as written by Councilor Bob Danielson (seconded by Council Tom Jordan). The motion was adopted unanimously.

Public Comment Period

Mr. John German, a commercial fisherman, asked why there are still three vacancies on the commercial fisheries side of the Council; what is the hold-up and what can be done to fill the vacancies. He personally knows of two individuals who have expressed a willingness to serve on the Council. What happened to their applications? He personally spoke to Kathy Moser, DEC
Deputy Commissioner, after the last Council meeting and she assured him that she would at least be looking into the vacant seat that could be filled by a direct Commissioner appointment. Mr. German stated that Michael Craig applied for this position but hasn't heard back. Does Mr. Gilmore have any further information on this appointment?

Mr. Gilmore said that he had spoken to Ms. Moser approximately two weeks ago about Mr. Craig's application and they are actively tracking it and believes we will see results shortly, possibly by the next Council meeting. Filling the other two vacant seats requires a nomination to the Commissioner from the Speaker of the State Assembly (Sheldon Silver) and is being followed up by Julie Tighe, the Director of Legislative Affairs for the Department. She will try to find out why there has been no action regarding the names that have been submitted to Mr. Silver's office.

Nancy Solomon from LI Traditions asked for an update with regard to the Sandy Relief fund. She worries because so many folks are still in desperate need of financial help and wonders when they can expect to receive money. Mr. Heins said that there has been a short delay that will hopefully be cleared up mid-December. More detailed information will be available in January.

Ralph Vigmostad from the New York Coalition for Recreational Fishing believes that ASMFC should reconsider taking action to improve the menhaden industry which he believes will also help the striped bass industry.

Ronald Turbin, of the Coastal Conservation Association and the Gateway Striper Club, referred to the $6,000,000 that is supposedly dedicated to creating new land and water access projects for hunters, anglers and "others" and asked how much of these funds will be given to Marine District projects? Mr. Gilmore said that the money will be filtered through the Governor's office; he is unsure of the intended distribution at this time. He believes he will have more information by the January 2015 Council meeting.

Species Management Updates

*Black Sea Bass*

John Maniscalco of the DEC noted that black sea bass is a problematic species to manage. As of August, the Atlantic states had already harvested 102% of the 2015 Total Allowable Landings. Catch data for September, October, and November are not in yet, but it's safe to say that we have gone over the allowable limit and by a considerable amount. Fishing mortality reductions in 2015 are a near-certainty. Black Sea Bass are managed jointly by ASMFC and the Mid-Atlantic Fishery Management Council (MAFMC). Councilor John Davi worried that we will be looking at a closed fishery in 2015 but Mr. Maniscalco said that is not necessarily the case. There may be other steps taken in lieu of a closure. He will have more data (Wave 5 catch data) by the January 2015 Council meeting; however, they will not have enough information to make any determination of restrictions at that point. Mr. Gilmore commented that black sea bass are a "data-poor" species and the Science and Statistical Committee will be very conservative regarding catch limits for it. Councilor Charles Witek questioned if there was a particular area that was catching the most fish but Mr. Maniscalco said that it appeared that everyone was having a healthy fishery with Massachusetts perhaps showing the highest catch.

Mr. Arnold Leo of the East Hampton Fisheries Committee wanted it on record that when a quota can be so readily and rapidly filled, the stock is obviously in a healthier standing than believed. This happened with scup several years ago too. Mr. Neal Delaney of the Captree Boatmen's Association urged that DEC provide input to the ASMFC/MAFMC as to what the 2015 Black Sea Bass quota
should be for next year. He described what, in his view, is a major inequity in the winter fishery for this species (November and December) that needs to be addressed. This is a shared fishery and it needs to be treated as such. If New Jersey fishermen are entitled to a bag limit of 15 fish, New York boats that fish right beside them in the ocean should be entitled to the same. Councilor Bob Danielson said that New Jersey has many time closures for Black Sea Bass, something that New York did not want – you can’t have your cake and eat it too.

Black Sea Bass will again be discussed at the January 2015 Council meeting.

Striped Bass-

For the Power Point presentation given by Jim Gilmore – please see attachment sent with this bulletin

Mr. Gilmore referred to the ASMFC Striped Bass Board meeting that was held in Mystic, Connecticut several weeks prior. The meeting dealt with Addendum IV to the Interstate Fishery Management Plan for Atlantic Striped Bass and Mr. Gilmore wanted to go over the outcome. The Biological Reference Points in this plan have been adjusted. The previous target fishing mortality rate (F) of 0.3, which was based on the 2007 stock assessment for this species, has been lowered .18 with a threshold F of 0.22. The Commission has agreed that all states will fish at the target level of F (i.e., 0.18). Implementing this change will take approximately one year. In 2015, New York will be required to reduce its striped bass fishing mortality rate by 25% over what occurred in 2013.

For the recreational fishery, there was a request to examine the possibility of instituting conservation equivalency in the states from Delaware through Massachusetts, as opposed to a uniform measure of a one-fish possession limit at 28” minimum size limit, which coastwide would reduce striped bass recreational fishing mortality by an estimated 31% from 2013. These options had all been included in the Addendum.

Commercial fishery options with the minimum size were straight calculations. At a 28” minimum size limit, New York’s annual commercial harvest quota would be about 800,000 lbs. If a slot size were retained in the commercial fishery, New York’s quota would decrease to approximately 620,000 lbs.

Mr. Gilmore reported that, since the October meeting in Connecticut, there was a conference call between Massachusetts, Rhode Island, Connecticut, New York and New Jersey. Each of these states has agreed to consider conservation equivalency. The “for-hire” sector of the recreational fishery has been asked to consider a two-fish bag limit with a higher (than 28”) minimum size or a higher size limit with a one-fish trophy allowance. Fishery managers from Massachusetts to New Jersey have agreed that, if they go to conservation equivalency-based management approach for striped bass in their recreational fisheries, the resulting measures would need to be uniform throughout this region. An agreement had NOT been made on the phone, just the request to consider the effect of a two fish bag limit on conservation equivalency.

Time line – the states need to submit conservation equivalency proposals to ASMFC by 01 December 2014 for their review. The Commission’s Striped Bass Board will approve any of these measures at its meeting to be held in February 2015, hopefully in time for the measures to be implemented by the states before the start of the 2015 striped bass fishing season.

Mr. Davi questioned whether unique management measures for the “for-hire” recreational sector wouldn’t create an enforcement nightmare?” Mr. Gilmore stated that this was indeed the source for many of the disagreements among for-hire fishermen. Officer Timothy Huss of DEC’s Division of Law
Enforcement said that it is at times difficult to determine whether or not someone is actually chartering a boat (and thus eligible for the unique limits) because sometimes there's collusion between boat captains. The actual enforcing of differential limits is not itself that big a problem.

Mr. Danielson said that he has an issue with the conservation equivalency that is currently in the approved Addendum. At the public hearings held in New York, there was a strong outcry for a one-fish possession limit at a 32" minimum size (recreational), with some organizations preferring a one-fish bag limit at a 28" minimum size. When ASMFC held their meeting everyone then agreed to one fish at 28" but believes it was under the guise that they would be going with what was originally in the document (Options B7 to B9 – two fish at 33" / two-fish bag limit with a slot). Mr. Danielson stated that everyone agrees that the striped bass population is not what it once was and can be improved significantly; to consider allowing anglers to take two fish regardless of mode is reckless. There are plenty of boats taking two 33" striped bass now and during most of the season. If we need to reduce, the bag limit should be recuced to one fish and move forward from there. Councilor Paul Risi thinks 2 fish at 32" is good, it's conservation equivalency and, if such limits secure the fishing mortality reduction goal, we should take it. He was skeptical that many of the other states will actually support one fish at 28; why does New York always suffer with disparities. The "for-hire" industry has specific needs they require in order to be viable, there needs to be a balance. Ego and jealousy should not come into play in making these decisions.

Councilor Melissa Dearborn wanted to know if New York is only looking at the for-hire industry in terms of a two-fish possession limit or are they looking at all sectors. Mr. Gilmore said New York is looking at for-hire. Ms. Dearborn asked whether, if two fish were allowed to all New York mariner anglers, would New York achieve the required 25% reduction in recreational fishing mortality? Mr. Gilmore said yes, the reduction would actually be closer to 29%.

Councilor Joe Paradiso agreed with Mr. Risi that neighboring states will adopt one of the conservation equivalency options and feels that the 28" size limit is the most important issue for New York. He supported Option B7 (two-fish bag limit, one fish in a slot of 28"-34" and one a trophy fish ≥36'). Mr. Witek stated that the most important objective in this discussion is stewardship of striped bass as a public resource. It was clear at the meetings that the general angling public, in New York and up and down the coast, wanted a one-fish recreational possession limit. The two-fish option was supported by only a very small minority of the attendees at the meetings. That minority should NOT control the recommendation. The call for one fish was done for conservation purposes; going with two fish will not meet this need. In 2013, the sector of the recreational striped bass fishery that took the most fish was the "for-hire" sector (217,911 fish or roughly 2/3 of the State's total striped bass recreational catch). We have a situation in New York that he has never seen before; almost all sectors of the fishing industry were in agreement with the option of having a one fish limit. And the fact that up and down the coast, folks are also in agreement with a one fish limit should mean something.

Ms. Dearborn was concerned that the focus was too much on looking at the "for-hire" sector as taking more than one fish; there is the issue of what the other states are doing and how that will or will not present New York "for-hire" operators with a level playing field. She also said that if they knew earlier that conservation equivalency was going to be put on the table, perhaps not everyone would have gone with the one-fish option, they might have looked at different choices. Ms. Dearborn believes that many in the fish and tackle trade would still support for the one-fish option BUT only if it encompasses all trades. Mr. Witek doesn't think we should compare ourselves with New Jersey because there will never be parity – New Jersey does not have a commercial fishery for striped bass. Whatever regulations we put in place New Jersey can always give their commercial allocation to anglers.
Mr. Risi said we might no: have exact parity but things need to be fair, why should we shoot ourselves in the foot? We can always look at this again next year. Councillor Thomas Jordan said that New York has taken the conservation higher ground on many occasions and yet we have never been rewarded for it. If the general recreational fishery wants to take just one striped bass, they should go for it. However, the Addendum allows for several other options and we should look at them. If the for-hire sector is forced into a one-fish option while the neighboring states adopt higher bag limits for their “for-hire” anglers, it will be a death blow. Our responsibility is to find a good balance. We have never been able to make every sector happy. Why are we talking about a blanket approach now? Mr. Risi said one of the reasons he sits on the Council is because he believes we need to take the management of for-hire and commercial industries more seriously. It is a viable industry, he doesn’t demean recreational fishermen but commercial fishermen do this for a living and it needs to be considered with a greater weight. Councillor Chris Squeri agreed but doesn’t think one industry should get preferential treatment over the other. He feels the general angler get knocked all the time and it’s his business that supports bait and tackle shops, fuel docks, marinas, etc. Allowing “for-hire” anglers a larger bag limit of striped bass than the private angler is just not fair.

Mr. Witek said that people need to remember that with recreational fishing, we are talking about striped bass which means, live fish not dead fish. When you take fish out of the water, you are denying other anglers the opportunity to interact with these fish, you are undermining the recreational angler experience, and this is why it should be kept at one fish. We have to get rid of the notion of “dead fish management” and think more in terms of “live fish management.” It’s about the opportunity to fish and in having a quality experience which would include multiple encounters. Having a full stock does this. Abundance matters. It’s not all about killing them in 2015 but more about having them in 2020.

Ms. Dearborn expressed frustration with the direction of this discussion. She noted that there were public meetings and which input from anglers, fishing organizations, and others were present and there was a strong consensus around a one-fish recreational possession limit. Now a variety of two-fish possession limit options have been put on the table. If we had known these other options were possible, the public’s decision might be different. We should have the time with these new options to go back to our communities and hash these out as well. Mr. Gilmore said fisheries management is unpredictable and iterative process. In two weeks the information will change and will in fact, change several more times between now and the actual meeting.

Mr. Davi commented that New York’s commercial striped bass fishery had never exceeded its annual quota (it rarely if ever actually caught the quota), however, it is being asked to go along with the 25% reduction. He understands that “for-hire” folks want to go with a two-fish limit so they can get what they need but, if this propels the recreational striped bass fishery into again overharvesting their allocation, once again the commercial sector will be asked to make a reduction. For this reason, he feels a one-fish bag limit is most appropriate.

What Mr. Gilmore needs to know right now is:
- Are we going to consider a two-fish bag vs one fish & if we go with one fish – do we care what the other states are doing?
- Do we want conservation equivalency for the commercial sector?
- Do we want a slot for the commercial sector?

Mr. Jordan moved that the Council recommend to DEC that it prepare a two-fish option for the for-hire industry and put it out for comment and develop calculations for the commercial industry on haw
conservation equivalency would work with 28''-36'', 28''-38'' and 28''-40'' commercial fishery slot sizes. Mr. Davi seconded.

Discussion: Mr. Danielson asked if Mr. Jordan would consider rewording his motion to not include a recreational measure of two fish at 33'' and use the three options that included a slot size. Mr. Jordan thought that it should be up to the state to discuss with the “for-hire” industry what parameters will work for them. That's what the process if for. Mr. Squeri said shouldn’t we have a motion that considers all modes?

Mr. Witek made a motion that the two sectors be handled separately – to divide the recreational and commercial issues. Mr. Danielson seconded.

Discussion: Mr. Witek explained the reason for his motion. He can support the commercial side very easily but not the recreational side and he would rather not vote against the entire motion. In view of this, Mr. Jordan withdrew his earlier motion.

**Mr. Witek’s motion to handle both the commercial and recreational sectors separately was adopted by a vote of 10 in favor, 0 opposed, 1 abstention (Mr. Wise).**

Mr. Jordan then made another motion: the Council recommend to DEC that it prepare conservation equivalency numbers for a lower limit of 28'' and upper limits of 36'', 38'' and 40'' for the commercial industry. Mr. Danielson seconded.

Discussion: Mr. Davi said he was leaning more toward 36'' as the upper limit, he doesn’t think it’s necessary to use 38” or 40”. Mr. John German said that we have been operating on a 24” fish for a number of years and has spoken to a number of folks and thinks 28”-36” would be fine. He also believes timely information regarding the numbers is important for all concerned. Mr. Marc Hoffman believes the series of reductions has less to do with overfishing and more to do with a certain year class that we are short; he thinks it's a reasonable motion. **The Council then adopted Mr. Jordan’s motion; the vote was 10 in favor, 0 opposed, 1 abstention (Mr. Wise).**

Ms. Dearborn made a motion: DEC develop a proposal for a two-fish recreational bag limit for all modes and assess how it fares on the conservation equivalency yardstick. Councilor Risi seconded.

Discussion: Mr. Witek said this approach is not what anglers actually want according to the hearings previously held. 90% of the people up and down the coast all agreed on one-fish, only a small number of people were asking for two fish. Mr. Squeri said then all the people who only wanted one fish should only take one fish. Ms. Dearborn said by asking now, you are at least leaving the avenue open to revisit it later. Mr. Wise said he might not be particularly in favor of a two-fish bag limit but he supports the Ms. Dearborn’s motion because it’s a way to get more information. It does not commit the Council/DEC to anything.

Mr. Gilmore said keep in mind how long New York will be able live with the decision that’s made. Should you take a larger hit now, you may see it by 2017 in the next stock assessment; however, since the stock assessment is only done every 5 years, if you take a smaller hit now, New York will have to live with it until 2022 before it can be adjusted.

Mr. Turbin said universally, the striped club he represents were all in favor of a one-fish bag limit with a size limit of 32” or higher. Also, as a representative of the Coastal Conservation Association, he said they, too, feel the same.
Mr. Arnold Leo had been asked to speak at the Stony Brook hearing as a representative for the “for-hire” sector – in Easthampton, they would want a 2-fish bag limit, spread over a two-year reduction. They also feel that the “for-hire” sector should be viewed separately; they should not be lumped together with the general recreational fishery.

Mr. Ross Squire, recreational angler, reminded the Council that the alternative options presented only have a 50% chance of working. He doesn’t feel the Council is a fair representative of the average recreational fisherman. He also wanted it noted he feels MRAC should convene in the evening when it would be more convenient for the fishing community to attend; he doesn’t believe the Council is hearing what people involved in the fishery are really saying. He doesn’t think it’s wise to compare ourselves to any other state, New York has always taken the higher ground and he is proud of that. He is not in favor of this motion. Mr. Delanoy feels New York should try to get the best deal for their fishing communities. The truth is that New York will conserve the fish; they then swim to New Jersey where they are taken. He’s in favor of being conservative but if everyone is going with conservation equivalency, New York should too. He is in favor of the motion. Mr. Joseph McBride, who works in the “for-hire” industry, supported Ms. Dearborn’s motion.

Mr. Marc Hoffman supported the motion; he personally sees taking two fish at 33” as best. Mr. Jensen stated that the North Fork Captains Association favors a two-fish bag limit with a 28” – 34” slot size plus a trophy fish.

Ms. Dearborn clarified that her motion applied to all modes within the recreational striped bass fishery. The Council adopted her motion by a vote of 6 in favor; 2 opposed; 3 abstentions.

American Eel –

Yellow eels (New York’s bait fishery) -
ASMFC made a preliminary decision to go to a quota-managed fishery for yellow eels. However, the Commission used 2010 as the base year of landings to make state-by-state allocations of the quota. New York was not very diligent in record keeping in 2010 so the recorded State landings of yellow eels that are thought to be much lower than what was actually harvested. Better tracking of eel catches in New York began in 2011. 2011 – 2014 data suggest an average annual harvest of approximately 50,000 lbs. At the August 2014 Commission meeting, it was decided to form a working group to further refine future yellow eel management. For now, the working group instituted a coastwide cap of 908,000 lbs. Once that cap is reached, a state-by-state quota management system will be instituted to regulate further catches of yellow eels. Under this, New York’s allocation would only be 15,000 lbs. which would most likely require seasonal closures in New York. Mr. Gilmore noted that anyone who is landing eels for bait MUST fill out the reports for accurate accounting and data.

Mr. Gilmore asked if he could present the most current data for New York in the hopes of having the 15,000 lb. allocation revised; he is unsure if this can/will be done. The good news is that quota transfers will be allowed and hopefully other states will work with New York. North Carolina and Maryland have already agreed to give quota to New York because they don’t feel that they will be able to catch their allotment. The cap on yellow eels could create a derby fishery. Ms. Dearborn questioned how this will affect possession, because she purchases her eels from Maryland, holds them and sells them as bail. Mr. Gilmore said this would not affect her at all.
Silver Eels
For 2015 there is a cap in New York of 9 permits annually. Sometimes the silver eels haven't turned yellow yet which could create another set of problems. This is a relatively small fishery in New York—approximately 3,000 lbs -5,000 lbs annually.

Glass eels
The initial reason for the current Addendum being considered to the Interstate Fishery Management Plan for American Eel is because of the situation in the glass eel fishery of Maine. They are harvesting tens of thousands of pounds and the cost had risen drastically to $2,000 per pound, it has since gone down to $600 per pound but still well beyond the normal range. Maine is working very hard to rid the state of illegal poaching of glass eels. This is not a New York fishery.

Fluke
Mr. Gilmore said that Draft Addendum XXV to the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan is coming up for discussion at the December 2014 joint ASMFC-IWAFMC meeting. There were many discussions surrounding the scoping license, which is essentially a 2-3 year process. Public meetings were held in Montauk, Brooklyn and East Setauket. The DEC had received recommendations (particularly from Montauk) regarding improved landing restrictions, however, since that meeting Mr. Gilmore has learned that just as many folks are against it. As far as the recreational side they did get wave 4 data and it showed that regional management was working. The Northern region, which is New Jersey, New York and Connecticut, is below the quota anc New York and Connecticut are going to carry New Jersey because they were over by 29%. The southern region, Delaware to North Carolina, is also in very good shape. Delaware is way over, however; they will be covered by the other states. Rhode Island was significantly over (very long season and an 8-fish bag limit) as was Massachusetts (300% over, ~90,000 fish). They will once again have an addendum to consider regional management for 2015. Last year there was an option for a transition size limit in Delaware of 17". Since Delaware was significantly over, it would make sense to consider the transition, a separate size limit. Stock assessment survey is not coming up for a couple of years.

Mr. Delanoy thinks New York should change its fluke regulations for next year. He would like to expand, possibly either at the beginning of the season or at the end of the season. Mr. Gilmore said they are more than willing to do that.

An audience member would like to know earlier in the season when the fluke season will open. Folks are afraid to book charters. It will come up at the January meeting.

Blackfish
Mr. John Schoenig thinks that we need to revisit having a recreational spring blackfish season brought back. Need to improve the biomass and would like to curtail any fishing during the spawning season though. Councilor Dearborn would like the blackfish industry to have the opening date take advantage of a full weekend.

Marine Resource Program Funding Work Group
Mr. Wise recalled that Councilors Witek and Renaldo were tasked with the analysis and assessment surrounding the funding aspect of the Marine Resources Account of the State Environmental Conservation Fund. They were asked to possibly find ways to find more financial resources to funnel
into the marine program. They handed out their analysis and options available at the last meeting hoping for input from others in the industry and Mr. Witek has only heard back today with feedback. Mr. Wise said that he will sit down with Councilors Witek and Renaldo, go over the information and comments received and put together something to send to Commissioner Martens. It will include ideas and suggestions to use moving forward.

Statutory fishery limits vs. responsiveness in marine fishery management

Mr. John Mihale had brought this up previously. He wanted to know what options the Department has to change its current regulations quickly. Mr. Gilmore said that right now there are two options available –

1. Regulatory authority – it must go through normal rule-making which takes several months

2. Emergency rule making, which is usually done in a rushed, fast paced manner

If the Commissioner had “Declaratory Ruling” authority, once he was advised by the DEC what limits/conditions to set, he would be able to put a measure into effect within 48 hours. Securing the power to make declaratory rulings is currently part of the budgetary bill being put through by DEC. Several other states have this in place and it makes managing the fishery much easier. Ms. Dearborn said she would find this very useful and while it would not be intended to replace meetings, the speed with which things could get done would be greatly appreciated. This will be looked into.

New England Groundfish Disaster Relief

Mr. Heins said the money has not come through yet for business relief for those affected by the declared disaster in the New England groundfish fishery; it’s been applied for but it hasn’t been received. DEC/NYS is asking ASMFC to get the grant and then the money will come forward. He would like to have the funding distributed to eligible fishermen by the end of the year in time for the holidays. This is not the SANDY Relief money, there is an issue there and that money has been suspended for the time being. NEW YORK RISE has been moving forward and folks are getting checks.

The next regularly scheduled meeting is **Tuesday, January 13th at 2:00 p.m.** at the DEC Offices – 205 Belle Mead Road, East Setauket. The meetings for the 2015 calendar year will be decided at that meeting.

**PLEASE NOTE:** While there was much discussion about a different time/date/venue for January’s meeting, the meeting will take place as originally scheduled.

Check the Council’s web page, [http://www.msrc.sunysb.edu/MRAC/](http://www.msrc.sunysb.edu/MRAC/), for agenda items added after this bulletin is distributed. For further information about the Marine Resources Advisory Council or items covered in this bulletin, to make arrangements for addressing the Council on an agenda item or submitting written comments on an agenda item, or to suggest an agenda item, contact: William M. Wise, Chairman, Marine Resources Advisory Council; phone 631/632-8856; FAX 631/632-9441; William.wise@stonybrook.edu