



STATE OF NEW YORK CONSERVATION FUND ADVISORY BOARD
625 Broadway, Albany, NY 12233-4750

Monthly Meeting Minutes

Three Hundred Forty Ninth Meeting – April 13, 2015

Department of Environmental Conservation, 625 Broadway, Albany

Call to Order – The meeting was called to order by Chairman Kemper at 9:05 AM.

Roll Call: 9:05 am

Voting Board Members Present

| | |
|---|----------|
| Charles Bevilacqua | Region 1 |
| Dominick Scarzafava | Region 3 |
| Jason Kemper | Region 5 |
| Dave Corr | Region 6 |
| Charles Pace | Region 7 |
| Marc Osypian | Region 8 |
| Dale Dunkelberger | Region 9 |
| Bill Conners | FWMB |
| Raymond Merlotto-NYS Conservation Council | |

Voting Board Members Excused

| | |
|----------------|----------|
| Gordon Whiting | Region 2 |
|----------------|----------|

Voting Board Members Absent

Abbreviations

Ag. & Mkts = Department of Agriculture and Markets
CFAB or the Board = Conservation Fund Advisory Board
DEC or the Department = NYS Department of Environmental Conservation
DFWMR = Division of Fish, Wildlife and Marine Resources
DLE = Division of Law Enforcement

Ex-Officio Members Present

DEC Commissioner represented by:
Kathy Moser

Ex-Officio Members Absent

Senate Finance Committee
Senate EnCon Committee
Assembly Ways and Means Committee
Assembly EnCon Committee

DEC Personnel

Division of Fish, Wildlife and Marine Resources:
Patricia Riexinger, Douglas Stang, Stephen Hurst
Division of Law Enforcement: Director Timothy Duffy

Guests

DLF = Division of Lands and Forest
DMBS = Division of Management and Budget Services
DOB = Division of the Budget
DOP = Division of Operation Services
DPAE = Division of Public Affairs & Education
OSC = Office of State Comptroller

Correspondence

●Members requested revisions made to March minutes regarding the March 13, 2015 letter sent to Commissioner Martens expressing their concerns with the Habitat Access Account.

Minutes of Prior Meeting

MOTION: Dave Corr motioned to accept the March 9, 2015 meeting minutes, seconded by Dale Dunkelberger, the motion passed unanimously.

Executive Report:

- Kathy Moser indicated that 19 out of 50 Access projects were completed at the end of March 2015.
- Kathy hopes to have 2015-2016 Access projects list by next CFAB meeting
- Kathy will provide members with the Access and Hatchery Projects spreadsheet
- Kathy Moser will provide Members with information regarding the Adirondack Project, MOU Press Release and Boat Launching at the next CFAB meeting
- Jason Kemper asked Kathy Moser and other DEC staff in attendance when there would be a response to the February 20, 2015 email that was sent to Doug Stang, Steve Hurst, Jeff Stefanko and Kathy Moser on the Conservation Fund (Crossover) and Positions flow in future years. Kathy Moser stated she would follow up and see if Jeff Stefanko and Nancy Lussier would attend a future meeting and provide the information/answers that Jason and the members are looking for.
- Dave Corr inquired about the 480-A program and Kathy Moser indicated that Sloane Crawford and Bruce Williamson from Lands and Forests are the point of contact and would reach out to Sloane and see if Lands and Forests can have proposed options to members before the next meeting.

Update on DEC's E-Licensing system and sporting license sales:

e-Licensing:

Status Summary and Activities Completed This Period

- New York Enterprise eLicensing System (NYELS) continues with defect resolution with reports and has begun redesign of the sporting license panel to make the logo and fonts consistent with DEC's new "branding" guidelines.
- DEC will completed cycle 3 testing for the Accela upgrade (7.7.3.3).
- DEC and NYELS approved the proof of concept (POC) for DEC 2.0 (new user interfaces for license-issuing agents and on-line customers). Development of new user interfaces continues with demonstration for Executive Chamber schedule for April 14th.
- As part of DEC 2.0, a "secure printer solution" will be implemented whereby each printing of a license panel and carcass tag will have a unique document number.
- DEC, Accela and NYELS continued work with Walmart on Walmart's system upgrade to accept the Accela 7.3.3.3 system upgrade. Walmart is on schedule to complete their upgrades in New York stores during the week of April 20th.

- The Accela upgrade (7.3.3.3) is scheduled to be implemented system-wide on Tuesday, April 28th. Beginning at 8:00 PM on Tuesday, April 28th, DEC eLicensing system will be shut down to implement Accela 7.3.3.3. The outage is scheduled for approximately 12 hours and the system will be brought back up and will be available no later than 8:00 AM on Wednesday, April 29th.
- The Accela 7.3.3.3 conversion plan is nearing completion and has several “fail-safe” points whereby if conversion to the upgraded system is not going well, the conversion will cease and the current system will be brought back up on April 29th.
- License-issuing agents (LIAs) are currently upgrading their browsers (where necessary) in preparation for the Accela 7.3.3.3 upgrade.
- Training for LIAs (on-line training, webinars) will run through May. A training environment is being set up with DEC 2.0 so that LIAs can practice on their own schedule.
- Parallel implementation of DEC 2.0 (most LIAs will remain on current system while a subset of LIAs will operate under DEC 2.0) will run May 26th - June 3rd.
- DEC 2.0 is scheduled to be rolled out to all LIAs and online customers on June 3rd.
- License stock (valeron) has been ordered from supplier, material should be distributed to LIAs in mid- to late July, and fulfillment house can begin fulfillment of lifetime license holders in early July.

License sales

- A review of license, permit, privilege and “other” (e.g. habitat stamps, donations) sales for the period April 1, 2013 – March 31, 2014 compared to the period April 1, 2014 – March 31, 2015 reveals:
 - Revenues from gross sales (all items) have declined \$8.06 million
 - Annual resident fishing license sales declined 13%
 - Resident 1-day and 7-day fishing license sales declined 41% and 40%, respectively
 - Resident senior fishing license sales declined 25%
 - Resident hunting license and bow hunting privilege sales each declined 5%
 - Resident muzzleloader hunting privilege declined 10%
 - Resident senior bow hunting privilege increased 4% while resident senior muzzleloader privilege declined 5%
 - Resident turkey permit sales declined 17%
 - Annual non- resident fishing license sales increased 6%
 - Non-resident 1-day and 7-day fishing license sales declined 17% and 14%, respectively
 - Non-resident hunting license and bow hunting privilege sales each declined 12%
 - Non-resident muzzleloader hunting privilege declined 21%
 - Non-resident turkey permit sales declined 30%

- Lifetime license (sportsman) sales increased 26%
- Lifetime hunting license sales increased 26%
- Lifetime fishing license sales increased 25%
- Lifetime bow hunting and muzzleloader hunting privileges remained largely unchanged

Filled Position report:

Division of Fish, Wildlife, and Marine Resources

| <u>Account</u> | <u>Number of Staff</u> | <u>Change</u> |
|---|------------------------|---------------|
| Access (WMA acquisition) | 1 | +1.0 |
| Natural Resources Damages Account | 1 | |
| Hazardous Waste Cleanup Account | 2.85 | |
| State Purposes Account | 38.7 | +0.05 |
| Fish, Wildlife & Marine Grants Account | 58 | -1.2 |
| Conservation Fund (Marine Account) | 4 | -9.0 |
| Conservation Fund (Traditional Account) | 232.5 | +7.85 |
| Environmental Monitoring Account | 2 | |
| Environmental Regulatory Account | <u>5.8</u> | |
| Total | 345.85 | -1.3 |

Conservation Fund (Marine Account)

| <u>Division</u> | <u>Number of Staff</u> | <u>Change</u> |
|--------------------------------------|------------------------|---------------|
| Fish, Wildlife, and Marine Resources | <u>4</u> | -9.0 |
| Total | 4 | -9.0 |

Conservation Fund (Main Account)

| <u>Division</u> | <u>Number of Staff</u> | <u>Change</u> |
|--------------------------------------|------------------------|---------------|
| Fish, Wildlife, and Marine Resources | 224.65 | +7.85 |
| General Counsel | 1 | |
| Law Enforcement | 88 | +11.0 |
| Operations | 6 | |
| Management and Budget | 2 | |
| Office of Communications | 1 | |
| Regional Affairs | <u>3</u> | |
| Total | 333.5 | +18.85 |

Status of regulations (changes from previous month in bold):

Pending Proposals:

1) **6 NYCRR Part 186 - Deer feeding.** Adopt a new Part 186 on the feeding of wild white-tailed deer to address programmatic needs associated with a variety of wildlife disease risks and other resource management concerns associated with feeding and/or baiting of deer, including the use of 4-Poster Tickicide. This will be a “stand alone” Part dealing exclusively with the feeding and/or baiting of deer. *Rim signed 6-27-2013. Proposal is under development.*

2) **6 NYCRR Part 180.1 – Wildlife dangerous to health or welfare.** Amend 6 NYCRR Part 180.1 by expanding the list of dangerous animals in paragraph (b) of Section 180.1 to include all species listed in ECL 11-0103(6)(e) that have been found by the legislature to pose a serious threat to the health and safety of New York State residents and to include other species such as constrictor snakes (Boidae). To prohibit the private ownership or possession of live dangerous animals while allowing only facilities accredited by the Association of Zoos and Aquariums (AZA) to possess such animals under a license issued by the department. Exceptions to this standard will have to be made for certain legitimate, bona fide, widely recognized entities such as circuses as well as veterinarians, universities, humane societies and animal welfare organizations in temporary possession of listed species. To provide for the continued licensing of facilities that possess listed species and are currently licensed, and to prohibit propagation or acquisition of additional listed species at these facilities. To restrict possession of listed species for the following activities only: exhibition/education, propagation and scientific. *RIM signed 7-12-2013. Proposal has been drafted and is being circulated for review and consideration.*

3) **6 NYCRR Part 42 – Sanitary Control over Shellfish.** Amend regulations to attain consistency with the current National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish Model Ordinance: 2013 Revision. The proposed rule will: enable DEC to apply or modify special conditions to shellfish shipper permits and shellfish digger permits to require actions on the part of the permit holders that are necessary to prevent illness whenever DEC determines that a public health threat is imminent or ongoing and to ensure compliance with mandatory requirements under a State *Vibrio* Control Plan.; adopt new definitions defining requirements for shellfish harvester and shellfish dealer education, shellfish water storage, *Vibrio* Control Plan(s), maintenance of shellfish HACCP (Hazard Analysis Critical Control Point) plans, and shellfish transaction records; and require more stringent shellfish identification and tagging requirements for shellfish harvesting, receiving, packing and repacking operations, shellfish storage, and shellfish handling to better describe shellfish harvest areas. *Rim signed 10-31-2014. Proposal is under development.*

4) **6 NYCRR Part 43 Surf Clam/Ocean Quahog Fishery Management.** Amend regulations to eliminate a loophole that allows a single vessel to catch more than one individual fishing quota (IFQ) in a year by using the vessel replacement process by allowing any eligible vessel in the fishery, regardless of the Atlantic Ocean surf clam permit they are assigned to, to be used to catch only one IFQ or a portion thereof in any given year. The vessel replacement rules for eligible vessels in the fishery will be clarified and amended to minimize the potential for misuse and to be consistent with the provisions of Amendment 1 of the State’s FMP for the Atlantic Ocean surf clam fishery. The cage tagging requirements will also be updated to be consistent with the IFQ section of regulations. This will provide consistency with all harvest provisions for tracking vessel quota allocations on an annual basis. The regulations will temporarily allow a vessel to take surf clams without cage tags provided that the vessel

owner has a valid surf clam permit and has placed an order for cage tags for the year but is waiting on the order to be processed. *Rim signed 1-8-2015. Proposal is under development.*

5) **6 NYCRR Part 1.11 Deer hunting seasons and Part 1.30 Deer Management Assistance Program.** Amend regulations to: allow antlered deer only harvest in WMU 6A during early muzzleloader season, allow antlerless deer only harvest in WMUs 3M, 4J, 8A, 8C, 8F, 8G, 8H, 8N, 9A, and 9F from October 1 – October 15 in early bow hunting season and during the late bow hunting and late muzzleloader seasons. Amend the Deer Management Assistance Program, which provides site-specific management options for landowners and land-managers, to improve harvest reporting, increase program accountability, expand opportunity for landowners, reduce paperwork burden of applicants and staff, and increase flexibility for staff administering the program. ***RIM signed 3/31/2015.***

6) **6 NYCRR Part 6.2 Mink, muskrat, raccoon, opossum, weasel, red fox, gray fox, skunk, coyote, fisher, bobcat, and pine marten trapping seasons.** Reduce the fisher and marten trapping season from 46 days to 22 days in Adirondack Wildlife Management Units (WMUs) 5C, 5F, 5G, 5H, 5J, 6F, and 6J, where populations have declined in recent years. Establish a limited 9-day open trapping season, with a one-fisher seasonal limit, WMUs in Central/Western New York (4F, 4O, 7A, 7M, 7P, 7R, 7S, 8T, 8W, 8X, 8Y, 9J, 9K, 9M, 9N, 9P, 9R, 9S, 9T, 9W, 9X, and 9Y), to provide new opportunities for sustainable use of an expanding population in this region. Reword regulations to eliminate confusing language and to clarify that body-gripping traps with a jaw spread of more than 7.5 inches (also known as “330” traps) may be set in water for beaver or otter, as allowed by the ECL. Revise regulations to: prohibit setting of certain traps within 15 feet of a beaver den or house, to limit take of otter and beaver where they are highly vulnerable; lower the trap size (to >8.5 inches, from >9 inches currently) that requires an “off-set trigger” to minimize capture of otters when/where the otter season is closed, and simplify the season date table for raccoon, red fox, gray fox, skunk, coyote, opossum and weasel; and move the prohibition on use of body-gripping traps with bait or lure (for those species in the Northern Zone when fisher and/or marten trapping seasons are closed) to its own separate paragraph. This will simplify rule changes needed whenever fisher or marten seasons change in the future. ***RIM signed 3/31/2015***

7) **6 NYCRR Part 1.40 Hunting wild turkey.** Amend regulations to allow for a 14-day fall season and bag limit of one turkey of either sex in any open area. Open seasons: October 1-14 in WMUs 5A, 5C, 5F, 5G, 5H, 5J, 6A, 6C, 6F, 6G, 6H, 6J, 6K and 6N; 14 consecutive days beginning the first Saturday after October 14th in WMUs 3A, 3C, 3F, 3G, 3H, 3J, 3K, 3M, 3N, 3P, 3R, 3S, 4A, 4B, 4C, 4F, 4G, 4H, 4J, 4K, 4L, 4O, 4P, 4R, 4S, 4T, 4U, 4W, 4Y, 4Z, 5R, 5S, 5T, 6P, 6R, 6S, 7A, 7F, 7H, 7J, 7M, 7P, 7R, 7S, 8A, 8C, 8F, 8G, 8H, 8J, 8M, 8N, 8P, 8R, 8S, 8T, 8W, 8X, 8Y, 9A, 9C, 9F, 9G, 9H, 9J, 9K, 9M, 9N, 9P, 9R, 9S, 9T, 9W, 9X, and 9Y; and 14 consecutive days beginning the third Saturday in November in WMU 1C. ***RIM signed 3/31/2015.***

Proposals Filed:

1) **6 NYCRR Part 40.1 Marine fish – open seasons, size and catch limits.** Amend regulations pertaining to harvest of winter flounder to extend the winter flounder fishing season to 306 days, from March 1 through December 31, the maximum allowed by ASMFC guidelines. The winter flounder season may not be opened from January 1 through the last day of February. The possession limit (2 fish) and minimum size limit (12 inches) will not be changed. *Rim signed 10-31-2014. Notice of Proposed Rulemaking was filed with Department of State on 1/13/2015 and was published in the State Register on 1/28/2015 with the public comment period running through 3/17/2015. Assessment of public comment and Notice of Adoption under preparation.*

2) **6 NYCRR Part 44.1- Lobsters.** Amend the regulations for lobster harvest in Lobster Management Area 4 (included south shore of Long Island) to reduce harvest by 10% and allow for stock rebuilding. Change closed season from February 1 – March 31 to April 30 – May 31. *Notice of Proposed Rulemaking was filed with Department of State on 1/29/2015. Notice of Proposed Rulemaking was published in the New York State Register 2/18/2015 with the public comment period running through 4/30/2015.*

3) **6 NYCRR Part 10.1 Sportfishing Regulations and Part 40.1 Marine fish – open seasons, size and catch limits.** Amend regulations for striped bass fishing to establish an April 1 – November 30 open season, 1 fish / day, 18” to 28” or > 40” size limits in the Hudson River upstream from the George Washington Bridge; all year season, 1 fish / day and 28” minimum size limit the Delaware River; and April 15 – December 15 open season, 1 fish / day and 28” minimum size limit in all other waters of New York. These amended rules should result in a 25% reduction in harvest of New York striped bass and help to rebuild the striped bass stock along the Atlantic coast. *Notice of proposed Rulemaking filed with Department of State on 3/16/2015. Notice of Proposed Rulemaking was published in the New York State Register 4/1/2015 with the public comment period running through 3/18/2015.*

Pending Adoptions:

2) **6 NYCRR Part 40.7 – Coastal sharks – open seasons, size and catch limits.** Amend regulations to bring the New York’s shark regulations into compliance with Addendum III of the Atlantic State Marine Fisheries Commission Fisheries Management Plan: establish distinct species groups for the hammerhead sharks and blacknose sharks to allow closer monitoring of the landings for these two species groups and facilitate the management of the fishing quota; and increase the recreational minimum size limit from 54 inches to 78 inches fork length for the great hammerhead, the scalloped hammerhead and the smooth hammerhead sharks. *Notice of Proposed Rulemaking was filed with Department of State on 11/5/2014 and is scheduled to be published 11/26/2014 with the public comment period running through 1/10/2015. Assessment of public comment and Notice of Adoption under preparation.*

Emergency Rules:

1) **6 NYCRR Part 44.1- Lobsters.** Amend the regulations for lobster harvest in Lobster Management Area 4 (included south shore of Long Island) to reduce harvest by 10% and allow for stock rebuilding. Change closed season from February 1 – March 31 to April 30 – May 31. *The Emergency Regulation was adopted 1/30/2015 and expires 4/29/2015.*

2) **6 NYCRR Part 10.1 Sportfishing Regulations and Part 40.1 Marine fish – open seasons, size and catch limits.** Amend regulations for striped bass fishing to establish an April 1 – November 30 open season, 1 fish / day, 18” to 28” or > 40” size limits in the Hudson River upstream from the George Washington Bridge; all year season, 1 fish / day and 28” minimum size limit the Delaware River; and April 15 – December 15 open season, 1 fish / day and 28” minimum size limit in all other waters of New York. These amended rules should result in a 25% reduction in harvest of New York striped bass and help to rebuild the striped bass stock along the Atlantic coast. *Emergency regulation filed with Department of State on 3/16/2015 and became effective on 4/1/2015 when it was published in the New York State Register.*

3) **6 NYCRR Part 49 – Shellfish Management.** Amend regulations to extend the open harvest season, possession, and sales restrictions for bay scallops from March 31 to April 20 for 2015 only. Due to severe winter, much of the harvest area was frozen and inaccessible to fishermen so the season was extended to minimize the winter hardship. *Emergency regulation filed with Department of State on 3/27/2015 and became effective on 4/1/2015 when it was published in the New York State Register.*

Recent Adoptions:

1) **6 NYCRR Parts 10, 18, 19, and 35 – Freshwater sport fishing regulations and bait fish regulations.** Amend regulations (minimum size limits, seasons, daily harvest limits) pertaining to taking of sport fish from New York’s fresh waters. Adjust fish species allowed for use as bait fish, and amend rules for the taking of bait fish from certain New York waters. Proposed amendments provide for enhanced recreational opportunity and long-term sustainability of fish and aquatic resources. *RIM signed 5/8/2014. Notice of Proposed Rulemaking was filed with Department of State on 9/29/2014 and is scheduled to be published 10/15/2014 with the public comment period running through 11/29/2014. Notice of Adoption was filed with the Department Of State on 2/23/2015, was published in the New York State Register on 3/11/2015, and became effective April 1, 2015.*

DLE Report

- Director Duffy indicated that DLE is in rebuild/refocus mode for wildlife forensics/training thanks to DFWMR help with getting the equipment to do so.
- Director Duffy also announced Tim Huss as their New Manager, very happy to have him aboard
- Director Duffy indicated that DLE is starting their own 1st Aide Training this month along with Land Navigation, GPS, Wood Land tactics and getting back to their specialty.
- A Team of ECOs are teaching Trapping Education
- DLE is working off of a new list and hoping to get 40 ECOs and 10 Rangers
- Director Duffy also indicated the Academy should be ready in 2016; and DLE will focus on Maritime next year as well.
- Director Duffy stated that they have a Draft 5yr Strategic plan and should be going out for review within the next couple of weeks. Once the strategic plan is in place DLE will have a presentation ready for members at a future meeting.
- DLE is in contact with Division of Operations to get more trucks next year
- DLE is also looking for support from Down State

CFAB Business

- Steve Hurst sent working document for the 2011-2013 Annual Report to Charlie Pace and Jason Kemper. Jason will send to the document to members on April 14, 2015, please review and compare the two (2) documents and send comments to Jason by the end of the week (April 17, 2015) as this report needs to be done ASAP.
- Charles Pace indicated that the Level of Effort report needs to be worked on and should be cut down but with but with the most information possible.
- Members will clean up the 2011-2013 Annual Report
- Members broke briefly and re-opened to discuss the postponement of the nominating committee meeting until May.
- Members will also clean up the 2011-2013 Annual report and get it published to the website.