



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

Monthly Meeting Minutes

Three Hundred Fifty Sixth Meeting – December 14, 2015
Department of Environmental Conservation, 625 Broadway, Albany

Call to Order – The meeting was called to order by Chairman Kemper at 9:12 AM.

Meeting Adjourned at 2:15 pm David Corr motioned – Charles Pace, Seconded – motion passed.

Roll Call: 9:13 am

Voting Board Members Present

Charles Bevilacqua Region 1
Tom Williams Region 4
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

Dominick Scarzafava Region 3

Voting Board Members Absent

Gordon Whiting Region 2

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, Doug Stang
Division of Law Enforcement: Director Joe
Schneider;

Guests

Steve Piatt – New York Outdoor News

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

Minutes of Prior Meeting

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

Executive Report:

- Kathy Moser announced the following:

Marc Gerstman's last day is January 4, 2016;

Peter Walke had joined the Department as Chief of Staff

NY Works Update: Very few projects were completed with the NY Works 4 funds

NY Works 5, if such is included in the 2016-17 NYS Budget, will be used for bigger projects and has asked the Regions for suggested list of priorities.

Patty and Doug provided an update on the proposed rulemaking to allow convicted criminals to become license-issuing agents based on DEC criteria; Joe Therrien is compiling and evaluating the comments that were received and the Department will notify CFAB Members with an update once a decision has been determined with regards to the Proposed Rulemaking and evaluation criteria.

The Department informed Board Members that Hatchery improvements at Salmon River are being discussed.

Board Member Charlie Pace inquired about the status on the Mute Swan Plan; Patty informed the Board that the Department a plan would be released after January 1st, 2016.

Board Member Marc Osypian inquired about the Proposed Hunting Regulations with NYS Parks allowing hunting and trapping in State Parks; the Department will reach out to Ron Rausch (NYS Parks) and request a representative be present at a future meeting.

Patty provided an update on the HCAA account; Habitat management plans are being prepared and cutting should occur in a couple of areas in 2016.

Board Member Charlie Pace inquired as to having more information and highlights on WMAs posted on the website.

Board Member Dave Corr provided an update on the fish and game trust account: the Board passed a motion to ask the Comptroller to invest the fish and game trust account funds in with the NYS Pension fund; Dave Corr will draft the letter and send to the Comptroller.

Board Member David Corr provided the Department with proposed bills for Julie Tighe

Board Members expressed their support for legislation with regard to prohibiting the sale of angler-caught panfish.

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

e-Licensing:

Status Summary and Activities Completed This Period

- DEC and Accela continued development of prototype game harvest and electronic license application for use on mobile devices (APP).
 - APP now runs on iOS and Android devices
 - Testing of the APP continues and issues are being resolved in a timely manner
 - Availability of game harvest and electronic license APP is slated for spring 2016
- System experienced a significant outage on 11/22 and 11/23 – root cause was exceeding a sequence number in the Accela database
 - Outage created issues with hunters trying to report deer and bear harvest after the opening weekend of southern zone; however, DTF call center staff put in extra effort by physically transcribing and subsequently entering into the database wrote more than 400 game harvest reports on Monday, 11/23
- Since 2015-16 licenses went on sale in August, there have been a 9 system outages totaling 26 hours.

License Sales

- Pattern of license sales experienced since August continues (see handout):
 - 2015-16 revenues from sales of sporting licenses are down approximately 2% compared to same period in 2014-15 license year
 - Number of customers served is similar
 - Number of “licenses” sold are similar
- Breakout of “sales channel” is similar to past years:
 - Call Center – 2%
 - Internet Sales – 6%
 - Municipal Agents – 28%
 - Retail Agents – 64%
- A comparison of SFY 2015 license sales and the same period in SFY 2014 (see handout):
 - Overall revenues are down 2% (approximately \$801,000)
 - Revenues from lifetime license sales are down 24% (approximately \$709,000)
 - Revenues from resident license sales flat (approximately \$247,000 less)
 - Revenues from non-resident license sales are up 2% (approximately \$164,000)

Filled Position report:

Division of Fish, Wildlife, and Marine Resources

<i>Account</i>	<i>Number of Staff</i>	<i>Change</i>
Access Land Acquisition	1	
Capital (Habitat Conservation and Access Account)	8	
Hazardous Waste Cleanup Account	2.7	
State Purposes Account	42	
Fish, Wildlife & Marine Grants Account	67.3	
Conservation Fund (Marine Account)	4	
Conservation Fund (Traditional Account)	232.8	+0.9
Environmental Monitoring Account	1	
Environmental Regulatory Account	<u>6</u>	+0.2
Total	364.8	+1.1

Conservation Fund (Marine Account)

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

Conservation Fund (Main Account)

<i>Division</i>	<i>Number of Staff</i>	<i>Change</i>
Fish, Wildlife, and Marine Resources	232.8	+0.9
General Counsel	1	
Law Enforcement	87	
Operations	6	+1.0
Management and Budget	2	
Office of Communications	1	
Regional Affairs	<u>3</u>	
Total	332.8	+1.9

Division of Law Enforcement

<i>Account</i>	<i>Number of Staff</i>	<i>Change</i>
State Purposes Account	144	
Conservation Fund (Traditional Account)	87	
Environmental Regulatory Account	38	
Waste Tire Account	<u>2</u>	
Total	271	

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) **6NYCRR 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.*

6) **6NYCRR Part 189 - Chronic Wasting Disease.** To amend regulations to prohibit the use of any material containing or purporting to contain urine, blood, glands, gland oil, feces, or other bodily fluids of any member of the family Cervidae for any purpose including hunting, attracting, surveillance, or scouting big game. Urine from certain members of the deer family may contain prions, the agents responsible for chronic wasting disease (CWD). Urine is used by some deer hunters as a lure to attract wild deer. Such use represents an avenue for chronic wasting disease transmission to wild deer. By prohibiting the use of deer urine and other related biological products for big game hunting, we increase the odds maintaining a healthy wild deer population. *Rim signed 6-17-2015. Proposal is ready to be filed.*

Proposals Filed:

1) **6 NYCRR Part 41 - Sanitary Condition of Shellfish Lands.** Amend regulations to prohibit harvest of shellfish from several areas of New York where recent bacteriological surveys of certain shellfish growing areas in Nassau and Suffolk counties indicate increased level of coliform bacteria and the increased potential to cause illness in shellfish from these areas are consumed. Certification category was changed for approximately 1800 acres (e.g. status changed from: year-round certified to seasonally uncertified, year-round certified to year-round uncertified, amended dates for seasonal certification). *Notice of Emergency Rulemaking and Notice of Proposed Rulemaking filed with Department of State on 10/14/2015. Notice of Emergency Rulemaking and Notice of Proposed Rulemaking was published in the New York State Register on 11/4/2015. The public comment period runs through 1/5/2016.*

1) **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. Notice of Proposed Rulemaking filed with Department of State on 12/1/2015 and slated for publication in the State Register on 12/16/2015. The public comment period is expected to run 12/16/2015 through 1/30/2016.*

2) **6 NYCRR 180.3 - Definition and use of firearms, guns, and airguns.** To amend regulations and allow for the use of big bore air rifles for the hunting of big game species. To allow for the use of big bore air rifles (.30 caliber or greater) for the taking of big game and other wildlife in New York. *Rim signed 6-17-2015. Notice of Proposed Rulemaking filed with Department of State on 12/8/2015 and slated for publication in the State Register on 12/23/2015. The public comment period is expected to run 12/23/2015 through 2/5/2016.*

Pending Adoptions:

1) **6 NYCRR Parts 183 - License-Issuing Officers and 184 - Wildlife Rehabilitators.** To conform with New York State Corrections Law Article 23-A, remove the stipulation that previous criminal conviction bars a person from meeting the qualifications of a license-issuing officer or a wildlife rehabilitator. Applicants with a previous criminal record will be evaluated for their suitability as a license-issuing officer or a wildlife rehabilitator on a case-by-case basis. *Notice of proposed Rulemaking filed with Department of State on 7/14/2015 and refiled on 8/11/2015. Notice of Proposed Rulemaking was published in the New York State Register on 7/29/2015 and was re-published in the New York State Register 8/26/2015. The public comment period ended 11/24/2015. DEC staff is assessing public comment received.*

Emergency Rules:

1) **6 NYCRR Part 41 - Sanitary Condition of Shellfish Lands.** Amend regulations to prohibit harvest of shellfish from several areas of New York where recent bacteriological surveys of certain shellfish growing areas in Nassau and Suffolk counties indicate increased level of coliform bacteria and the increased potential to cause illness in shellfish from these areas are consumed. Certification category was changed for approximately 1800 acres (e.g. status changed from: year-round certified to seasonally uncertified, year-round certified to year-round uncertified, amended dates for seasonal certification). *Emergency Rulemaking filed with Department of State on 10/14/2015. Emergency Rulemaking was published in the New York State Register and effective on 11/4/2015.*

Recent Adoptions:

None

Status of DEC Hatchery System Infrastructure Work:

Please see attached update on the DEC Hatchery projects funded via New York Works III and New York Works

In addition to the NYW-funded projects, additional work at the Salmon River Hatchery (funded via the Lake Ontario Sport fishing NRD settlement monies):

1. Three deep wells at Salmon River have been rehabilitated using the Aqua Freed (liquid CO₂) process. This was very successful and we are now working on getting well monitoring equipment installed and operational.
2. A contract for the design phase of the Salmon River water recirculation system is currently being developed in cooperation with OGS.

DLE REPORT

- Director Schneider provided CFAB Members with the following:
 - The Academy is moving forward with a target date of February 29, 2016
 - 37 DEC enforcement positions to be filled – 17 of the 37 will be Forest Ranger Positions;
 - Portable Radios were purchased at \$6,000 each
 - New Car Delivery is scheduled for January – February of 2016;
 - DLE has purchased 2 shallow water vessels (Mud Boats) and would like to have them in every Region.
 - Will provide CFAB Members with an Annual Report

CFAB BUSINESS:

Members discussed getting the Annual Report(s) together and finalized for the website.

Members also discussed getting a summary together for the Region 9 Field Trip that took place in August.

Mileage Reimbursement questions were asked and answer, everyone is up to date and updated required forms were sent out to Board Members.