



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

Monthly Meeting Minutes

Three Hundred Fiftieth Meeting – May 11, 2015

Department of Environmental Conservation, 625 Broadway, Albany

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

Meeting Adjourned at 12:25 pm David Corr motioned – Dominick Scarzafava Seconded – motion passed.

Roll Call: 9:05 am

Voting Board Members Present

Charles Bevilacqua	Region 1
Gordon Whiting (Phone)	Region 2
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

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; Jeff Stefanko

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: Acting Director Joe Schneider;

Guests

Steve Piatt, Press

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

DFWMR items for each Conservation Fund Advisory

Correspondence

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Minutes of Prior Meeting

MOTION: Dale Dunkelberger motioned to accept the April 13, 2015 meeting minutes, seconded by Dominick Scarzafava, the motion passed unanimously.

Executive Report:

•Kathy Moser announced the retirement of DLE Director Timothy Duffy and that Joe Schneider will be Acting Director until a new Director is named.

•Kathy Moser also announced that Region 1's Director, Peter Scully, will be leaving DEC to serve as Suffolk County's Deputy County Executive for Administration and with Peter's departure, Regional Engineer Ajay Shah has agreed to serve as Acting Regional Director until a successor is identified.

•Kathy also announced that Maureen Coleman has left the Governor's Office and accepted a position with General Counsel with the ESD, and that Zack Knaub, General Counsel in the Governor's Office will replace Maureen Coleman.

•Jeff Stefanko indicated that they are working on the backfills and would like to be able to get back to the original amount of 80 employees at the Fish Hatcheries; Jason Kemper asked what can be done to get back to that level and to stay at that level.

•Jeff Stefanko indicated that they would be meeting DOB and working on their priorities for filling positions especially with the Hatcheries and the Academy; Jason Kemper expressed concerns with position for the Academy & CFAB Funding.

•Jeff Stefanko indicated that they have been reviewing their options for funding and are looking for other funding sources for the Academy.

•Dave Corr inquired about being able to track the Lifetime License Fund; Doug Stang and Steve Hurst will supply the code to Members for tracking the funds.

•Julie Tighe gave an update on options for the Stakeholders with the 480A Program, there has been a lot of negative feedback. Per Bill Conners how about approving Bill# S5096 as \$1.5 million from the Trust Account is going to the HCAA account; Julie Tighe answered that the with the new proposal, the 480A program will add to the resources; people will not be forced out of existing program; 480A is 1st and Foremost a Forestry Program and will get the dollar amount on all 3300 participants to the CFAB members for the 480A Program, a discussion between Julie Tighe and Bill Conners ensued over the 480A Program and DEC/CFAB members agree to disagree and per Bill Conners, the argument is requested to be put here in the minutes: Julie Tighe: DEC will not agree nor pass this bill; Bill Conners: CFAB members are voting for this bill.

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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 redesign of the sporting license panel to make the logo and fonts consistent with DEC's new "branding" guidelines and is upgrading reports (data queries).
- Implemented Accela upgrade (7.7.3.3) overnight April 28th and the system was back up and running by 8:00 AM on April 29th.
- Development of new user interfaces for license-issuing agents and on-line customers continues.
- Walmart completed their upgrades in New York stores and implemented the Accela 7.3.3.3 upgrade on April 29th.
- License-issuing agents (LIAs) continue to upgrade their browsers (where necessary) since they cannot operate on the system post Accela upgrade 7.3.3.3.
- In the next two weeks, testing of the "secure printer solution" whereby each printing of a license panel and carcass tag will have a unique document number will commence.
- Training for LIAs (on-line training, webinars) will run through May. An updated training environment is nearing completion so that LIAs can practice with DEC 2.0 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) remains scheduled for May 26th - June 3rd.
- Seventeen LIAs have volunteered (to date) to participate in the parallel implementation on the new DEC 2.0 system. DEC plans to have 40-50 LIAs participate.
- DEC 2.0 remains 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.

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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	
Natural Resources Damages	0	-1.0
Hazardous Waste Cleanup Account	3	+0.15
State Purposes Account	38.4	-0.3
Fish, Wildlife & Marine Grants Account	59.2	+1.2
Conservation Fund (Marine Account)	4	
Conservation Fund (Traditional Account)	235.6	+3.1
Environmental Monitoring Account	2	
Environmental Regulatory Account	<u>5.8</u>	
Total	349.0	+3.15

Conservation Fund (Marine Account)

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

Conservation Fund (Main Account)

<u>Division</u>	<u>Number of Staff</u>	<u>Change</u>
Fish, Wildlife, and Marine Resources	235.6	+3.1
General Counsel	1	
Law Enforcement	88	
Operations	6	
Management and Budget	2	
Office of Communications	1	
Regional Affairs	<u>3</u>	
Total	336.6	+3.1

DFWMR items for each Conservation Fund Advisory

Division of Law Enforcement

<u>Account</u>	<u>Number of Staff</u>	<u>Change</u>
State Purposes Account	149	
Conservation Fund (Traditional Account)	88	
Environmental Regulatory Account	40	
Waste Tire Account	<u>1</u>	
Total	278	

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

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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) **6NYCRR 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.*

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 5/18/2015.*

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4) **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. Notice of proposed Rulemaking filed with Department of State on 4/28/2015. Notice of Proposed Rulemaking is scheduled to be published in the New York State Register 5/13/2015 with the public comment period running through 6/27/2015.*

5) **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. Notice of proposed Rulemaking filed with Department of State on 4/28/2015. Notice of Proposed Rulemaking is scheduled to be published in the New York State Register 5/13/2015 with the public comment period running through 6/27/2015.*

6) **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. Notice of proposed Rulemaking filed with Department of State on 4/28/2015. Notice of Proposed Rulemaking is scheduled to be published in the New York State Register 5/13/2015 with the public comment period running through 6/27/2015.*

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7) **6 NYCRR Part 40.1 Marine fish – open seasons, size and catch limits.** Amend regulations to increase the minimum size limit by one inch, from 13 inches to 14 inches and modify the possession limit. The possession limit will remain at 8 fish from July 15 through October 31. It will increase to 10 fish from November 1 through December 31. The increase in minimum size is expected to reduce harvest of black sea bass by New York marine recreational anglers by 33%. The Atlantic States Marine Fisheries Commission (ASMFC) requires all states from Massachusetts through New Jersey to reduce recreational harvest of black sea bass by 33% to prevent recreational anglers from exceeding the coast-wide recreational harvest limit (RHL) set by the National Marine Fisheries Service (NMFS) for 2015. *Notice of proposed Rulemaking filed with Department of State on 4/28/2015. Notice of Proposed Rulemaking is scheduled to be published in the New York State Register 5/13/2015 with the public comment period running through 6/27/2015.*

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 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.*

2) **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.*

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Recent Adoptions:

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. Notice of Adoption published in the New York State Register 5/7/2015.*

Charles Pace asked Doug if there was any way that we could shift some of the ECO's off of the CFAB Funds and move to NRS Funds; Doug replied that it would not be possible for at least 7-8 years.

Doug will also send Members a License Sale Comparison along with a break down report on the Hatchery Projects.

DLE Report

- Acting Director Joe Schneider indicated that the 2nd batch of new vehicles were getting ready to be put into the field.
- Acting Director Schneider gave the following updates:
 - Working on refurbishing older safe boats;
 - 2015-2016 Academy is a go – 6 months of training has been approved for staff of 50 between DEC and Forestry;
 - Canvass letters will be going out soon;
 - DLE plans to continue with what Tim Duffy started and all programs are going forward.
 - As DLE moves forward, Acting Director Schneider will meet with Patty Riexinger and Doug Stang and work together on Wildlife Calls.

CFAB Business

- Charles Bevilaqua proposed a meeting for the Election of Nominating Committee:
 - Jason Kemper – Chairman
 - Charles Pace – VP
 - Bill Connors – Secretary; proposal seconded by Dave Corr, motioned moved.
- CFAB Members agree to Pass a Resolution on the Fisher Regs
 - Dave Corr motioned to oppose the Fisher Regs; Charles Bevilaqua seconded the motion.
- *CFAB is opposed to implementation of Fisher Management Plan that includes a season when the furs are not prime and a season exclusive of similar seasons with the same zone.*
 - Jason Kemper will draft up comments
 - Members will get the 2011-2013 Annual Report done; it should consist of the Chairman's message and the Level of Effort Report; members please send comments to Jason Kemper and Charles Pace; they will get it up to par and send it to Steve Hurst.
 - Region 9 review to be held in August; will decide on a meeting place as the date gets closer; Dale Dunkelberger will check options for Regional Review including Hatchery Visit and will get back to Jason.

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List of Upcoming CFAB Meetings:

JUNE 8, 2015

JULY 13, 2015

AUGUST 19, 2015 – REGION 9 REVIEW – DALE WILL CHECK INTO OPTIONS FOR MEETING.

SEPTEMBER 14, 2015

OCTOBER 13, 2015 (TUESDAY)

NOVEMBER 9, 2015

DECEMBER 14, 2015