

SPORT FISHERIES ADVISORY COMMISSION MEETING
Monday, April 16, 2007
6:00 p.m., Tawes State Office Building, C-1

Commissioners present:

William Carrier, III
David Dansberger
Edward O'Brien
Sgt. Beth McVeigh, NRP Representative

Diane Baynard
Dr. James Gilford, Chairman
William Windley

Welcome/Announcements/Old Business:

Marty Gary, MD DNR Fisheries Service, called the meeting to order at 6:10 p.m. He told the Commissioners that Howard King, Director, Fisheries Service, was unable to attend; he was at the Mid-Atlantic Council meeting in Ocean City. Mr. Gary noted that there had been a very good attendance at the last three SFAC meetings. He also asked that comments be limited to the Commissioners; if time allowed, the audience would be asked to comment.

There was no old business, nor were there any additions to the agenda.

NRP Update:

Sgt. Beth McVeigh, NRP representative to the Commission, gave a handout of noteworthy Marine Conservation activity of the Natural Resources Police from 11/12/06 to 04/02/07. She, then, went over points of interest to the Commission.

Commissioner Diane Baynard asked Sgt. McVeigh to find out from Corporal Matthews who sold the undersized yellow perch to the Jessup seafood markets that were seized on 03/10/07. Sgt. McVeigh said she would find out that information and give it to the Commission.

Sgt. McVeigh pointed out to the Commission that the handout stated that there was an operation effected at Harrison's Seafood on 02/01/07 and 405 lbs. of illegal striped bass were seized and charges are pending. She told them that the wording was incorrect – the violation was NOT by Harrison's Seafood. The violation was discovered at Harrison's, but was against a waterman.

Legislative Update:

Gina Hunt, Assistant Director, Fisheries Service, presented a handout that summarized the 2007 Legislative Session conclusions to the Fisheries Bills submitted this year. Ms. Hunt was asked to provide whether the Department supported, or opposed, the bills that passed. For summaries of all of the bills, see the attached handout.

Bills that passed:

- House Bill 54 – Somerset and Queen Anne's Counties – Authorization to Harvest Seafood and Engage in the Seafood Industry – Returned passed (Effective 10/01/07) Note: Was crossfiled as Senate Bill 554 which failed. The Department supported it.

- House Bill 133 – Natural Resources – Chesapeake Bay – Oyster Restoration – Enrolled (Effective 06/01/07 with Portions Effective 10/01/07) Note: Was crossfiled as Senate Bill 148 which also passed. The Department supported it, was instrumental in making amendments.
- House Bill 334 – Complimentary Sport Fishing License – POWs and Disabled Veterans – Approved by Governor (Effective 06/01/07) The Department supported it and amended it to include the non-tidal license.
- House Bill 412 – Natural Resources – Oyster Dredging Devices – Termination Date – Returned passed (Effective 10/01/07) The Department supported it with the amendment to extend the sunset date.
- House Bill 473 – Natural Resources – Soft Crabs – Bycatch – Enrolled (Effective immediately) Was crossfiled as Senate Bill 206 which failed. The Department did not support it.
- House Bill 760 – Diamondback Terrapin – Take and Possession – Enrolled (Effective 07/01/07) Was crossfiled as Senate Bill 532 which also passed. The Department opposed it.
- House Bill 964 – Atlantic Coastal Bays – Dredging for Oysters and Calms – Prohibition – Enrolled (Effective 10/01/07) It also provides for a delayed effective date (October 2008) Was crossfiled as Senate Bill 379 which failed. The Department opposed it.
- House Bill 1158 – Shellfish – Dealers Licensure – Enrolled (Effective 07/01/07) This was a Department bill.
- House Bill 1223 – Snapping Turtle Regulations – Returned Passed (07/01/07) This was a Department bill.
- Senate Bill 148 – Natural Resources – Chesapeake Bay – Oyster Restoration – Returned Passed (Effective 10/01/07) Was crossfiled as House Bill 133 which also passed. The Department supported it.
- Senate Bill 414 – Working Waterfront Commission – Approved By Governor (Effective 06/01/07-05/31/08) The Department supported it.
- Senate Bill 532 – Diamondback Terrapin – Take and Possession – Enrolled (Enacted 07/01/01) Was crossfiled as House Bill 760 which also passed. The Department opposed it..
- Senate Bill 702 – Natural Resources – Yellow Perch – Harvest Restrictions – Returned Passed (Effective 06/01/07) The Department supported the amended bill. [Mrs. Hunt pointed out that this bill was significantly different from its original form.]
- Senate Bill 1012 – Natural Resources – Fisheries Management Reform Act – Returned Passed (Effective 07/01/07-06/30/08) The Department supported it, but did not testify. [Mrs. Hunt pointed out that the bill sunsets in three years.]

Chairman Gilford remarked that Senator John Astle originally submitted Senate Bill 1012; he wondered who asked him to submit it? Mrs. Hunt told him that several sportfishing groups asked for it. Chairman Gilford asked if only monies from license fees are guaranteed for the State Fisheries Management and Protection Fund and the Fisheries Research and Development Fund; Mrs. Hunt said the Governor may match with General funds. The sunset is there to allow the Task Force to address any findings they may have. The Department will have to rework license fees to meet Magnuson-Stevenson requirements in the future.

Commissioner Carrier asked if a fiscal analysis was done to show that this would actually increase revenues. Mrs. Hunt assured him that one was done; she did it herself. Her analysis showed that with a stable level of sales, there should be a significant increase in revenues.

Chairman Gilford expressed concern that the fee increase was steep for young anglers. Commissioner Carrier felt that it makes the Department look foolish with its initiative to regain lapsed anglers.

Commissioner O'Brien asked how much money the Department would lose for non-compliance with the Magnuson-Stevenson Act. Sherman Baynard, CCCA, told him that approximately \$2.1 million was at stake.

Regulations Update:

Mrs. Hunt told the Commission that the Department will hold its first Bi-Annual Regulatory Public Meeting on May 14, 2007 at Anne Arundel Community College. She anticipates there will be more than 10 regulation changes to discuss at the meeting. Anything controversial at the public scoping meeting will have another meeting to address it.

Effective Regulations: See attached handout for summaries

- Targets for Licenses (Effective 04/09/07) Annual adjustment of target numbers for commercial fishing licenses
- Striped Bass Spring Season (Emergency effective 04/09/07) Changes the size limit to 28-35 inches, inclusive, or 41 inches or greater total length. Moves the Geographical line in the Susquehanna River for the catch and release season from the railroad bridge near Perry Point to a line beginning at Susquehanna State Park Boat Ramp in Lapidum to Twin Rocks to Tomes Wharf in Port Deposit.

Proposed Regulations:

- Terrapin Harvest Prohibition (Withdrawn – Final Action to be published in *The Register* on 04/27/07.
- Pocomoke River – Largemouth Bass (comment begins on 04/27/07)

Regulatory Topics under Consideration:

- Oysters – Names 4 new Harvest Reserve areas in the Chester River and 3 new sanctuaries
- Striped Bass Tagged Fish Possession (Emergency) – Allows the catch and possession of striped bass tagged for a mycobacteria study.

Inland Fisheries:

Trout stocking – all stockings are on schedule from Albert Powell Hatchery. The Western portion of the state may be delayed due to the recent storm.

Whirling Disease Update – Marty Gary and Brian Richardson, Hatchery Program Manager, presented two handouts, 1) Whirling Disease Action Plan and 2) Schedule for Whirling Disease Testing of Wild Trout Populations and Habitats

Mr. Richardson told the Commission that the Net Pens at Jennings Randolph Dam has 20,000 fish. The rainbow trout tested positive, the brown trout were negative for whirling disease. He asked for feedback from the Commission on the disposition of these fish. Whether they should all be destroyed, or the brown trout (approximately 10,000) be released into the Upper Potomac. 143,000 trout statewide have already been destroyed after testing positive for whirling disease.

Commissioner Carrier felt that releasing the brown trout would cause a public relations problem. Chairman Gilford agreed; he felt that the prudent thing would be to destroy all of the fish.

- Commissioner Carrier made a motion that the Commission advises the Department not to release the brown trout from the Net Pens. They should be destroyed along with the rainbow trout.
- Commissioner Baynard seconded.

- Motion passed unanimously.

Noel ?, Trout Unlimited, spoke to the Commission. He told them that he met with Howard King, Ken Pavol and representatives from the Federation of Flyfishers. He requested information on testing procedures the Department is using and offered to help. They engaged a consultant to support the Department; he is with the Fisheries Science Division of ? University and is currently evaluating the Bear Creek clean-up plan. Trout Unlimited is actively engaged in angler education on other ways of spreading the disease, such as on boots and waders or in mud and water. They are also putting out signage. Mr. ? also thanked the Department for receiving their comments in the spirit in which they are intended.

Chairman Gilford felt that it is especially important that the disease not be transferred into the Savage River Watershed where the Brook Trout habitat is. He asked that signs be put up as soon as possible.

Mr. Richardson was asked if the hatcheries would be dormant now. He told the Commission that one is closed, the other is being disinfected and can be restocked by the fall. It will be monitored for whirling disease every three months. He updated the hatchery information as follows:

Mettiki -- closed permanently

Jennings/Net Pens – closed; pens will be pulled in May

Murley Springs – tested positive, but will remain open

Albert Powell – tested negative

Bear Creek – being disinfected.

A draft of the Biosecurity Policy document has been put out for comments and will be constantly updated once accepted.

Chairman Gilford commented that additional funding will be needed to implement all of these procedures.

Deer Creek Single Hook Discussion:

Wayne Glottenberger called Chairman Jim Gilford; he would like to have the shad and river herring fisheries made single hook in Deer Creek, upstream of Stafford Bridge, from mid-March to the end of May. He wanted the Commission to ask the Department to make a regulation instituting this single hook fishery. Chairman Gilford asked how long it would take for the Department to institute this. Mr. Gary felt it would have to be part of the scoping process. Mrs. Hunt asked the Commission if they could make a motion.

- Chairman Gilford made a motion that the Commission ask the Department to consider a regulation on single hook in Deer Creek from March 15th to May 30th.
- Seconded by Commissioner Diane Baynard.
- Motion passed. 4 in favor, 2 opposed.

In a discussion before the vote, Sgt. McVeigh told the Commission that Bob Lunsford, Assistant Director, Inland Fisheries, asked her to check into violations in that area. She reported that only one violation had been recorded in the past 4 years.

Commissioner Carrier wondered why only Deer Creek was being included in this regulation. Chairman Gilford explained that upstream of Stafford Bridge is shallow, and incidents of snagging are more common there.

Mike Benjamin, a tackle shop owner, felt that making regulations in numerous small places makes it difficult for anglers to know and understand the various rules. He felt that it wasn't worth making new regulations for the few shad that are snagged.

Harley Speir, Fisheries Service, told the Commission that the Department did a survey in that area and did not find many fish that died from angling. There was a higher incident of snagging in the deeper portion of Deer Creek. He said there is already a single, barbless hook requirement for yellow perch that is very hard to enforce.

Inland Marketing Committee:

Commissioners Bill Carrier and Brenda Foster have been working together on this Committee. They came up with a pilot program targeting Westminster and Cumberland areas. They have developed a mailing to lapsed anglers in these areas. A letter from a Fisheries biologist would be mailed out in the spring during the National "Take Me Fishing" campaign. The letter has been drafted and approved and mailings are in the process; approximately 3500 anglers will receive letters. It is a low-budget project based on Idaho's experience with the same process. The Committee will come back with a report at the end of the year with recommendations to continue, expand, or discontinue the project.

Estuarine and Marine Fisheries:

Striped Bass:

Harley Speir spoke to the Commission on chum as a pollutant. In 2007, Georgetown Law Institute petitioned Maryland to declare chum as a pollutant in the Chesapeake Bay. MDE is sending a letter to Georgetown saying that there isn't enough information at present to make that declaration. This summer the Department will assist MDE through a survey for a determination. They will look at 1) the frequency of chumming; 2) the amount/type of chum; 3) The incidence of disease and 4) The distribution of chum. Commissioner Ed O'Brien felt that would be disastrous for charterboat captains. There has already been bad press on diseased fish; this will only garner more bad press.

Chairman Gilford suggested that to reduce inflammatory press, the Department put out an explanation of why the testing is being done.

Mr. Speir said the Department would like to enlist the help of charterboat captains and private anglers. MDE has an outline of the plan and is committed to doing water quality testing in areas of chumming. Rich Eskin and Charlie Pookish from MDE are currently working on this.

Mycobacterium Problem in Striped Bass:

Mr. Speir told the Commission that in 2005, VIMS began a tagging study to determine the incident of mortality by mycobacterium. The Department proposes to tag 1,000 fish a year in the Bay, beginning in May. Researchers will need live fish back for the study, so the proposal is to allow fishermen to take green-tagged fish above the creel limit, out of season and during catch and release season. An emergency regulation will come out shortly to allow possession of tagged fish.

Sherman Baynard, MD CCCA, asked if the Department has the ability to determine the presence of mycobacterium if there are no outward signs. Steve Early, Assistant Director, Oxford Cooperative Laboratory, said researchers can take sub samples of healthy appearing fish to necropsy and apply this percentage to tagged fish that appear healthy.

Striped Bass Proposals

Marty Gary, Fisheries Service, provided a handout of a proposal for change of Striped Bass regulations for the Susquehanna Flats Catch & Release area. The Department is proposing a late season possession

fishery of one (1) fish per person per day of 18 to 26 inches from May 16 to May 31, 2007. This fishery will coincide with the down Bay end of the striped bass spring “trophy” fishery and the onset of the summer regulations. The Flats possession proposal will permit a possession limit of 1 striped bass of a size that is deemed to be resident and not of the migratory population. These are the same fish that will be encountered in the fishery down Bay. The Department will bring this forward at the May TFAC meeting. Sgt. McVeigh told the Commission that NRP officers were unified in the belief that this change would create huge enforcement issues; there is always a lot of activity in that area. They feel that anglers would be tempted to keep the large migratory fish. They also feel it send a message that the Department is not committed to preserving the resource.

Commissioner Windley commented that if the change in regulation is approved, it would have to begin with angler education.

Mr. Gary said the Department would like to sit down with NRP officers and stakeholders to isolate any problems before implementing this regulation. The Department feels this would give the Upper Bay fishermen the opportunity to keep a fish of resident size.

Commissioner Dave Dansberger agreed that it would be a huge enforcement issue; anglers that were out of the regulated area would be considered poachers, pure & simple. It would create the need to place more NRP officers in that area during this period of time.

Other anglers in the audience felt that the Department should take a stand of hard enforcement for people who broke the rules. It would be an opportunity to give a message to the ASMFC that Maryland is serious about protecting the resource.

Commissioner Baynard asked if the same thing could be done in the Choptank and the Chester Rivers as well. Mr. Gary told her that the ASMFC Board feels the Flats is not part of the spawning area, unlike the two rivers Commissioner Baynard inquired about.

Subsequent to the meeting, ASMFC rejected this proposal.

Penalty Workgroup Update:

Members: SFAC Commissioners Diane Baynard, Bill Carrier and Richie Gaines
TFAC Commissioners Larry Simns, Russell Dize and Bill Woodfield

Mrs. Hunt told the Commission that she feels the workgroup has been very effective and has made some good decisions.

The workgroup was created to discuss the Fine & Bond Schedule. They set up a tiered process for fines for both recreational and commercial fisheries. They then went to the Points & Suspension schedule. Some changes from 2004 could not be implemented; some things were changed, others were deleted. The workgroup decided on points being given to charterboats, but the details need to be worked out. These problems should be ironed out at the next meeting; the workgroup invited Commissioner Ed O’Brien and other charter boat captains to provide input.

The Fine and Bond Schedule is usually effective by October 1st.

Artificial Reef Update:

Marty Gary told the Commission that Maryland received final comments for the plan and this week, the final draft of Maryland’s Artificial Reef Plan will be presented.

MARI, Maryland Artificial Reef Initiative, is putting together an Artificial Reef Committee. Applications are due by Friday, May 20th; Secretary John Griffin will choose committee members.

Mr. Gary reported that \$1,000,000 has been raised for artificial reef construction and monitoring through private donations, a bond fund and DNR.

Commissioner Baynard complimented Mr. Gary on his success with working with such diverse groups. She suggested that there is a need to address negative press about the project. She also asked if there is a screening process for the material being used for artificial reefs. Mr. Gary said the MES and the Army Corps of Engineers inspect each load before it is placed in the water. The Department plans to emulate Delaware's monitoring procedures.

Chairman Gilford asked if a comment from the SFAC to the Secretary would be helpful. Mr. Gary indicated that any show of support would be beneficial.

- Commissioner Baynard made a motion that the SFAC draft a letter of support to Secretary Griffin.
- Chairman Gilford seconded.
- The motion passed unanimously.

Chairman Gilford asked if there had been any feedback from the Governor's Office, or from the Legislature on the Seafood Marketing Report. Mrs. Hunt replied that the Department does not usually get a response; the parties involved may not have had time to read it during session. Chairman Gilford asked the Department to inquire whether, or not, the report was acceptable. He also asked that a copy be given to Secretary Griffin. Mrs. Hunt said she would make the necessary inquiries.

Sherman Baynard told Chairman Gilford that the report was part of the information given to the Transition Committee.

- Commissioner Bill Windley made a motion to adjourn.
- Commissioner Baynard seconded.
- Motion passed unanimously.