

Aquaculture Advisory Council

April 12, 2013

Meeting Minutes

Attendees: Ms. Monique Purcell (Secretary Fisher), Mr. Russell Babb (Director Chanda), Mr. Rich Ritota (Commissioner Mary O'Dowd), Mr. Mike DeLuca (Dr. Busheck), Mr. George Saridakis, Mr. Steve Carnahan, Mr. Bill Avery (Mr. Twist), Mr. Paul Waterman, Mr. Gef Flimin (Dr. Goodman)

In Absentia: Mr. Tweed, Mr. Maxwell, Mr. Munson

Public in Attendance: Mr. Rick Bushnell, Mrs. Lisa Calvo, Ms. Betsy Haskin, Mr. Joseph J. Myers, Mr. Jeff Normant, Mr. Dale Parsons, Ms. Elizabeth Woodworth

Ms. Purcell called the meeting to order. Mr. Myers performed roll call. There is quorum for this meeting.

Ms. Purcell asked for a motion to approve the minutes from the January 13, 2013 meeting. Mr. Flimlin made one correction to the previous meeting minutes regarding a discussion about surf clams, noting that in addition to high salinity, the clam seed also need cold water, which may be a challenge in finding proper leasable areas. Mr. Carnahan made the motion to approve the minutes, which was seconded by Mr. Flimlin. Mr. Babb abstained, and all others voted in favor and the motion passed.

Ms. Purcell noted that the federal money is starting to come in through FEMA and small business loans for Hurricane Sandy relief. Ms. Purcell also noted that the Assembly Budget Committee will meet in about a week from this meeting, and the budget of the NJDA remains flat.

Mr. Myers provided a handout and discussed the NJDA's aquaculture statute and proposed rule changes. He reviewed the process and intent under which the current statute and rule were developed as well as the Council's recommendations which served as a basis for the updates. Mr. Myers noted that although an executive order will extend the rule two years beyond the current expiration date of July 2014, NJDA will continue to work on drafting an updated rule to ensure that the resulting policy will better serve the industry.

Mr. Myers elaborated on the statutory process that must be undergone to fill the Council's current vacancies. The goal is to update appointment since outdated agencies such as the Department of Commerce and Economic Development no longer exist. NJDA is currently in receipt of 2 resumes, and needs four more. Governor's appointment seats will likely be handled by the NJDA. Instructions on how to submit resumes for the other seats, the Assembly Speaker and Senate President appointments, will be announced after the NJDA's legislative liaison to determine the appropriate contact. The Council will be updated when that information is received.

Mr. Myers discussed changes to the statute, which would include an update to the aquaculture definition to remove the "subsequent processing, packaging and marketing" portion of the definition to better align aquaculture with other agricultural policy, as no other agricultural production activity policy includes this post-harvest aspect. Mr. Ritota noted that in addition to the policy language, these activities are also overseen by divisions of DEP, requiring other permits and licenses for these activities.

In addition, Mr. Myers pointed out the consideration of changing "License" to "Registration" or "Certification" and subsequent changes to the aquaculture application, in order to reflect current agricultural production policy, which does not provide a "license" for any other agricultural sector production. Mr. Flimlin noted that the word "certification" has a certain denotation that someone did something to pass a test and now is certified to do something, which is not the case with aquaculture. He thinks that "Registration" is a more appropriate designation for aquaculturists, saying that the original intent to providing a "License" was to keep track and better identify what growers were doing and served as an informational tool for potential aquaculturists and

ability for them to qualify for disaster assistance. Mr. Ritota agreed that “Registration” is more appropriate. Ms. Purcell added that aquaculture has come a long way since its initial integration into the agency. The initial intent was to cast a wide net to get aquaculture into agriculture, and now we can move on from that thinking.

Following the change to licensure program, the application itself would change to streamline and make the process more user-friendly. The new application would reflect the six categories of applications that the Office of Aquaculture Coordination receives, instead of the current one-size-fits-all approach, to reduce confusion and receipt of incomplete applications. The new system would consist of giving all applicants the same 1 or 2 page general application with an attachment for their specific type of operation. Mr. Ritota asked what the renewal time frame would be. Mr. Myers said it would be the same, 5 years. If a grower were to change their category or significantly change their volume for example, the grower would re-file the attachment to ensure that no regulatory change is necessary.

An additional statutory change may be the delivery of Agricultural Management Practices document. It is written in the statute that the Guidebook needs to include AMP’s, and combining the guidebook and AMP’s or simply adding references to the AMP’s in the guidebook to make clear the Right to Farm protections that following these practices grants, will be considered. If a separate AMP document is determined to be the best option, it would need to be reviewed by the State Agriculture Development Committee.

Mr. Parsons and Mr. Avery then brought up the confusion over Army Corps discharge permits and which operations need them. Mr. Babb noted that Bivalve Packing uses fresh water to rinse the product which requires very expensive discharge permits. To Mr. Myers earlier point, Bivalve water usage is considered “processing” so would not fall within the updated definition of aquaculture within NJDA’s oversight.

Ms. Woodworth reviewed each subchapter of the Aquaculture Rule under consideration for update. As with the statutory change to the aquaculture definition and renaming of the “license” the concerns remain the same for the rule, with the Council noting the preference for a “Registration” over “Certification.” Elaborating again on the same change in the statute, Ms. Purcell added that originally a “License” was decided on to illustrate ownership but now we have moved past this.

Regarding Subchapter 3, Effluent Treatment, Mr. Myers noted that depending on what is found by researching updated national and state discharge and animal waste rules, there may no longer be a reason to keep these subchapters in the rule. By following updated AMP’s is how growers would comply with animal waste practices.

Mr. Myers then said that there has been interest from the legislative branch to address the ownership and limit portions of the statute as well, which would then reinforce the change from “License” to “Registration” in the statute and rule. If the statutory changes to the size and creel limits occur, it may make Subchapter 4, the Identification of Aquaculture Stock, a moot point.

Mr. Flimlin noted another reference regarding changes to Aquatic Animal Health Management Subchapter 5, and Subchapter 6, The Importation of Aquacultured Stock, which would move these rules to the NJDA Division of Animal Health. The Northeast Regional Aquaculture Center is producing an updated manual over the next couple months and can be used as a reference when the subsequent changes to the animal health management practices document is updated. Mr. Myers added that a National aquatic animal health Plan has also been developed in the last several years by USDA APHIS, which was not available when the aquaculture rules went into effect in 2004.

Finally, the compliance and enforcement subchapters would ultimately reflect the changes of the licensure program and the appropriate regulatory authority and process would be identified.

Mr. Myers said that a draft of the updated rules will be sent to the Council for review that includes explanations for the changes. The rule will ultimately go through the standard legislative process of a public comment period as well. Ms. Purcell added that depending on the extent of the rule changes, there may be a need for a Council Subcommittee to review.

Ms. Purcell then moved onto the next agenda item, Hurricane Sandy relief. She introduced Mr. Babb from DEP who spoke briefly about the Emergency Coastal Zone Rules which are in the pipeline to be approved and will subsequently be adopted as permanent rules for aquaculture. Mr. Flimlin suggests to Mr. Babb that DEP put out an announcement when the rules are filed. Mr. Babb agreed, and said that the Council could issue a letter about the importance of the rules for the aquaculture industry.

Mr. Myers then noted that NJDA is seeking emergency permits for those impacted by Hurricane Sandy and is working with FSA and the Emergency Conservation Program applicants to help get some costs shared to complete the demo and rebuild efforts for some growers' property. There have been questions around the eligibility to qualify for money, and NJDA is currently working with NRCS who implements the Emergency Conservation Program to determine the eligibility for growers to replace certain equipment destroyed in the storm. NJDA has also been putting together recommendations as these processes unfold and presents them to the NJDEP working groups. Things are very fluid, and issues are being approached on a case by case basis.

Mr. Ritota asked about whether there were shellfish stock assessments after the storm. Mr. Babb said that NJDEP hopes to have a 25% assessment of Barnegat Bay and Little Egg Harbor to compare to the 2011 and 2012 pre-storm data. They are scheduled to do a Raritan clam stock assessment. They still need to wait for final debris removal before they can assess the Barnegat Bay.

PUBLIC COMMENT

Mr. Myers points to the Aquaculture Development Zone information sheet he has been distributing at conferences and via email. Mr. Babb suggested speaking with DEP's lawyers about lowering the ADZ lease fee to attract more growers to fill the available leases. Many suggestions for leasing in the Barnegat Bay have been put forward over the last several months, but Mr. Babb noted the siting difficulties resulting from SAV assessments. NJDEP Division of Fish and Wildlife's Jeff Normant explained the difficulties of shellfish production in the Barnegat Bay due to water quality, SAV and depth issues. Mr. Babb said that the ADZ model of siting areas is good, because it puts all the parcels together. As it stands now in the Barnegat Bay, there is a lot of overlap of siting issues – SAV areas, CZM rules – that leave little open area for shellfish.

After Mr. Parsons expressed that regulation should better illustrate where SAV areas are that would prohibit shellfish production, Mr. Babb noted that they must be careful not to set a precedent of violating SAV rules, even though, as Mr. Normant explained, shellfish production would improve water quality in some areas. Mr. DeLuca noted that there are some updated SAV maps available. Mr. Flimlin suggested he provide Mr. Babb with pictures and a case study of an area in Virginia to illustrate what can happen to improve water quality and actually increase SAV areas with clam planting.

Mr. Babb suggests that since aquaculture is now on the radar of the Governor and NJDEP Commissioner Martin, that NJDEP, NJDA and Rutgers put together joint information session to discuss the state of SAV maps, how it impacts shellfish growth in the Bay and types of structures that may potentially be used in the Barnegat Bay. Mr. Flimlin noted a colleague of his has done research on eelgrass and could be a good resource, saying that floating shellfish structures actually improve the clarity of the water around SAV zones. Mr. Babb noted there are still challenges with these structures, as they can drag along the sediment, pulling up vegetation. An information session would be helpful to discuss any new technologies and mapping evaluation they could explore to help get more shellfish into the Barnegat Bay.

Mr. Bushnell from ReClam the Bay introduced himself, and shared the highlights of his conversation with Governor Christie. Mr. Bushnell told that Governor that in order for the Bay to be an economic success, it must be an ecological success and that aquaculture is a large component of what needs to happen in order to improve the quality of the Bay. He had a recent meeting with the Baymen of Viking Village, and discussed the importance of putting an emphasis on Bay seafood products. ReClam the Bay is looking for partners to expand Barnegat Bay seafood. He then shared the letter he sent to the Governor with the Council.

Mr. Flimlin recapped the recent activities of two shellfish grower groups who are forming cooperatives. The clam group has named themselves the Heritage Shellfish Alliance, based on the long standing family traditions of the growers, and they are currently evaluating hard clam packaging through the RBOG grant. The oyster group will be exhibiting at the Philly Food and Farm Show event.

Mr. Flimlin noted that there has been a tangible impact from the lack of personnel in the Shellfisheries Bureau at NJDEP on the development of the industry. He suggests that Secretary Fisher bring this to the attention of Commissioner Martin and note that it is critical that the Bureau be well staffed. Mr. Ritota agreed, noting that the recent illegal harvesting of oysters may have been prevented if there was proper enforcement staffing. This is direct supporting evidence to why these divisions need more staff.

Mr. Flimlin then noted that as per the AAC member vacancies, the statute lists the Cumberland County College and Rutgers Cooperative Extension as designees under the ATIC. Mr. Saridakis, who continues to serve as the ATIC representative although Cumberland County College is no longer involved in aquaculture instruction, could be moved into one of the public seats on the Council. Mr. Flimlin acknowledged that Dr. Gustavo Calvo has left the Shellfisheries Bureau and thanked him for all his work. Mr. Flimlin also noted that Dr. John Kraeuter is now retired.

Lisa Calvo noted that she is compiling the results of her Shellfish Census. As of January 2013, there are 19.6 million clams and 17.3 million oysters planted. There may be more because she did not receive responses from all the contacted growers. She will make the report public.

There were no further comments.

The next AAC meeting is tentatively scheduled for July 26, 2013. Ms. Purcell asked for a motion to adjourn. Mr. Carnahan provided the motion which was seconded by Mr. DeLuca. All voted in favor and the motion passed.