

**Aquaculture Advisory Council
January 15, 2016
Burlington County Soil Conservation District Office,
Columbus, Burlington County
Meeting Minutes**

Members Present: Secretary Douglas Fisher, Mr. Dave Chanda (Commissioner Bob Martin), Mr. Loel Muetter (Acting Comm. Cathleen D. Bennett), Dr. Dave Bushek, Mr. Gef Flimlin, Mr. Mike DeLuca (Dr. Robert Goodman), Mr. Ned Gaine, Mr. Steve Carnahan, Mr. Bill Avery (Mr. George Saridakis), Mr. John Maxwell, Ms. Amanda Wenczel

Members Absent: Ms. Nancy Belonzi (Lt. Gov. Kim Guadagno), Mr. Paul Waterman, Mr. Richard Herb, Mr. Dave Burke

Public in Attendance: Mr. Brian Harman, Ms. Lisa Calvo (Rutgers), Ms. Betsy Haskin, Mr. Tony Ni, Mr. Nick Morolda (FSA) Mr. Richard Cash, Ms. Stephanie Cash, Mr. Matthew Gregg, Mr. Jonathan Atwood (Sen. Van Drew/ Asm. Andrzejczak), Mr. Brandon Muffley (NJDEP), Ms. Virginia Wheatley (NJDOH), Mr. Jeff Normant (NJDEP), Ms. Betsy McShane (USDA-NRCS)

Secretary Fisher called the meeting to order. Ms. Wenczel performed roll call. There was a quorum present.

Secretary Fisher called for a motion to approve October 30, 2015 meeting minutes. Approval of the minutes was motioned by Gef Flimlin and seconded by Ned Gaine. All voted in favor and the motion passed.

Secretary Fisher began the primary meeting discussion on “Comments on Rules Proposal DEP Docket Number: 11-15-10; Proposal Number 2015-148 (Shellfish Aquaculture)” by opening up the floor to public comment. At this time, Nick Moloda with the Burlington County FSA office introduced himself and offered the services of the office to the growers and Council. He wanted to ensure that growers consider FSA services as new rules are developed and revised.

The remainder of this discussion revolved around a thorough review of the draft AAC comments on the proposed and revised rules. The rules are a result of the FDA non-compliance. It was noted during this discussion that several Councilmembers have been unable to obtain a copy of the non-compliance letter. The letter would better guide Councilmembers in addressing the new rules. It was suggested that if the non-compliance letter was difficult in obtaining that an Open Public Records Act (OPRA) request be placed. It should only take 7 business days to receive the requested records, after the request is successfully received by the appropriate State agency.

The complete review of the draft rule comments resulted in the final document- submitted to the NJDEP, via email (due to file size) around 4:00pm on the day of the Council meeting- Friday, January 15, 2016. For a complete record of the comment, please see final rules comments.

Several councilmembers noted the lack of public meetings regarding this rule-making process. It was suggested by Secretary Fisher that a meeting between the Council and the Bureau of Marine Water Monitoring be scheduled immediately. It was resolved that a meeting between a subcommittee and the

BMWM was to be scheduled for February or early March, with the goal of having the comments inform rule revisions before the rules are adopted. Dave Bushek motioned to have the meeting between AAC and BMW; it was seconded by Steve Carnahan and all were in favor. It was also suggested that an FDA representative be present at the meeting between the AAC subcommittee and the BMW. This rule-making is in response to the FDA noncompliance document.

Further clarification on the timing was requested by several Councilmembers. Specifically, Bill Avery asked what changes from the comments would require a new rule. If some of the items noted are clarification, could those be changed without making a big change to the rules? Loel Muetter noted that any substantive changes to the rules based on comments received may require the rules to undergo another public review, reopening the rules for review for another 60 days. Further, it was noted that the BMW staff have conveyed a proposed April 2016 adoption date, so they are moving quickly on this portion of the rule-making. Any changes that could delay the process will be reviewed by the NJDEP legal staff.

It was noted by several in attendance, including Jeff Normant (NJDEP) and Loel Muetter that all comments submitted in response to the rule proposal must be addressed by the NJDEP. The responses to the comments are included in the rule adoption. This does not mean they must change the rules to reflect the comment, but they must acknowledge receipt and consideration of the comment.

After completion of the review of comments from the AAC regarding the new rule proposal, Secretary Fisher moved the discussion to the Food Safety Modernization Act (FSMA) and its potential impacts to shellfish aquaculture. Amanda Wenczel noted that she and Gary Wolf at the FDA discussed this item and that Gary was not aware of any items related to FSMA impacting seafood. This lack of information at the FDA office overseeing seafood shows there are no immediate items from FSMA effecting seafood/shellfish aquaculture. Additionally, Amanda Wenczel clarified that through her research on the Act, it seemed the HACCP plans that all Certified Dealers must maintain are similar to what is now being required for other food crops through FSMA. It seems the requirements for seafood products are ahead of other food products and may have influenced the creation of FSMA.

Next Gef Flimlin introduced the topic of bow hunting for cownose rays. This topic is being addressed in other states as well as ASMFC. Brandon Muffley noted that if bow hunting were to be allowed to limit cownose rays on a lease, it would require a rule change. It seemed there was no action required of the Council at this time; more information was requested by Secretary Fisher if future discussions on this topic are warranted.

The council next addressed old business, with Amanda Wenczel noting that the Programmatic Biological Assessment, required for formal consultation on structural shellfish aquaculture in areas of red knot use, would be submitted that day to the US Army Corps of Engineers. [Note: It was later realized that additional items were still required for the PBA, and it was not submitted until February 10, 2016.] Ned Gaine asked what resulted from the AAC letter drafted in December. Amanda Wenczel explained that the AAC letter was similar information to that of the ENSAC letter/white paper, and was reviewed and considered accordingly.

In response to the red knot situation, and the dual Councils working on advising the State, Dave Bushek requested that the AAC and ENSAC agendas be distributed to the other Council whenever aquaculture or endangered species are discussed. Additional dialog between these expert advisory groups would better serve the State as opposed to the two groups working independent.

Addressing new business for the Council, Amanda Wenczel stated that the US Small Business Administration has reopened the Hurricane Sandy funding (low interest loans). Anyone wanting additional information should contact Amanda or the appropriate contacts in the US SBA announcement (sent via email).

During the closing public comment period, Lisa Calvo suggested that the State and AAC consider ways to redo rules and regulations so as to streamline and consolidate aquaculture permitting. Secretary Fisher suggested that a subcommittee of the AAC be formed to review this suggestion and provide something for the Council to review. A subcommittee was tentatively formed, including Ned Gaine, Mike DeLuca, Dave Bushek, and Steve Carnahan, with Amanda Wenczel serving as NJDA staff. This subcommittee will begin their efforts in June, after the BMW rule language is final upon adoption.

A motion to adjourn the meeting was passed, and the meeting was completed.