MARINE FISHERIES ADVISORY COMMISSION December 10, 2020 Held Virtually via Zoom

In attendance:

Marine Fisheries Advisory Commission: Raymond Kane, Chairman; Michael Pierdinock, Vice-Chairman; Bill Doyle, Clerk; Arthur "Sooky" Sawyer; Kalil Boghdan; Bill Amaru; Lou Williams; Tim Brady; and Shelley Edmundson.

Division of Marine Fisheries: Daniel McKiernan, Director; Kevin Creighton, CFO; Michael Armstrong, Assistant Director; Story Reed; Jared Silva; Nichola Meserve; Kathryn Ford; Julia Kaplan; Bob Glenn; Anna Webb; Kelly Whitmore; and Tracy Pugh.

Department of Fish and Game: Ron Amidon, Commissioner and Mary Lee King, Deputy Commissioner.

Massachusetts Environmental Police: Lt. Col. Moran and Lt. Matt Bass.

Members of the Public: Patrick Paquette, Drew Kolek, Tom Smith, Jessica Skammels, Jack Skammels, Emerson Hasbrouck, Philip Coates, and Rich Wood.

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Ray Kane called the December 10, 2020 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

REVIEW AND APPROVAL OF DECEMBER 10, 2020 BUSINESS MEETING AGENDA

There were no proposed changes to the December 10, 2020 MFAC business meeting agenda.

Chairman Kane asked for a motion to approve the draft agenda. Bill Doyle made a motion to approve. The motion was seconded by Mike Pierdinock. The motion was approved by unanimous consent.

Note that prior to the meeting, Bill Amaru alerted DMF that he intended to raise issues related to time-of-year restrictions on dredging projects under "Other Business". To respond to Amaru's concerns, DMF made relevant staff available for this discussion. However, due to scheduling conflicts, Chairman Kane made an in-meeting determination to allow Bill Amaru to raise his questions with DMF staff prior to the presentation on dissolved oxygen monitoring, rather than under Other Business.

REVIEW AND APPROVAL OF OCTOBER 29, 2020 DRAFT BUSINESS MEETING MINUTES

There were no proposed amendments to the draft October 29, 2020 business meeting minutes. No comments were made.

Ray Kane asked for a motion to approve the draft October 29, 2020 business meeting minutes as provided. Kalil Boghdan made motion to approve; the motion was seconded by Tim Brady. The motion passed by unanimous consent.

CHAIRMAN'S COMMENTS

Chairman Kane thanked commission members for their attendance. He wished everyone a happy holiday season and turned it over to Commissioner Amidon.

COMMISSIONER'S COMMENTS

Commissioner Amidon discussed the Deer Island fishing pier project. He hoped DMF and DFG would be able to host a ribbon cutting ceremony in the spring. He then moved on to discuss ongoing diadromous fish restoration projects.

The Commissioner announced that DMF's CARES Act team received DFG's Pride and Performance award and was also nominated for the Governor's Manuel Carballo Award for excellence in public service. He congratulated Dan McKiernan, Kevin Creighton, and the entire CARES Act Team, noting that Massachusetts was the first state in the nation to issue the CARES grant money to affected industry members.

DEPUTY COMMISSIONER'S COMMENTS

Deputy Commissioner Mary Lee King announced she will be retiring at the start of 2021. DMF staff and commission members congratulated Mary Lee, thanked her for the years of public service, and wished her well in her retirement.

DIRECTOR'S COMMENTS

Director McKiernan thanked Ron for his kind words regarding the CARES Act team. Dan was pleased with the outcome of the CARES Act relief program and expressed the important role data played in completing the program. Accordingly, he recognized and thanked Anna Webb and Erich Druskat of DMF's Statistics Project for their work in auditing data and developing applications.

McKiernan then moved on to discuss the Massachusetts Shellfish Initiative (MSI). With the Scoping and Assessment Committee reports complete, the Task Force met on December 4 to discuss the development of a strategic plan. The Task Force established

a working group to draft this document. The sub-committee meetings would be open to the public and the working ground had scheduled their first meeting for December 14.

The Director briefly discussed a recent meeting with the Massachusetts Conch Association (MCA). The MCA is a newly formed industry group that consists of about 30-40 members. These members include conch pot fishermen and dealers and represent certain conch pot fishery interests. DMF met with members of the MCA to discuss the gauge increases, ongoing research, and other areas of concern. The MCA had commissioned their own size-at-maturity study by Dr. James Sulikowski at Arizona State University. They expected this study would be completed in the coming calendar year. In response, they requested DMF paused the whelk gauge increase schedule. The next scheduled increase is for 2021 and will raise the gauge width from 3" to 3 ½". They argued this would have a substantial negative economic impact on industry and management would be better served by the additional science provided by their size-at-maturity study. DMF did not support the request. DMF conducted two size-at-maturity studies over the past ten years that affirmed the need for these pending gauge increases. However, DMF would review the MCA's study and consider it in future management actions.

Dan then moved on to discuss the Deer Island fishing pier project. Dan was looking forward to a potential spring ribbon cutting event and noted a promotional video that will be featured on social media in 2021.

The Director stated the MFAC's sub-committee on commercial striped bass management was scheduled to meet on December 21 to discuss management changes for 2021 and begin to develop a long-term strategy for management the fishery.

The Director also noted that DMF has extended the validity of its 2020 commercial and dealer permits through January 31. This action was necessary because pandemic-related restrictions affected office capacity and turnaround time on processing permit applications.

LAW ENFORCEMENT COMMENTS

Lt. Matt Bass handled the comments for MEP. He began by discussing personnel. Three new officers entered the field; two officers had begun their field training; and MEP was conducting interviews to fill seven additional positions. Lt. Col. Moran thanked the MFAC for their support in increasing the MEP ranks.

Lt. Bass then notified the MFAC and DMF of an emerging incident involving serious lobster violations on the North Shore. Lt. Col. Moran stated the incident involved several different vessels and a wholesale dealer, and produced over 100 violations. The investigation was ongoing.

Lt. Bass concluded his comments by expressing his support for the MFAC's Law Enforcement Sub-Committee and noted that the recent November meeting was very valuable.

Ray Kane commended the MEP for all their work. He then asked about the schedule for the new hires to attend the policy academy. Lt. Col. Moran stated they are finishing interviews and they hope recruits will start the academy in March. Bill Amaru stated that the recent storm surge had washed bay scallops up onto Cape Cod beaches. Locals were informed that they were not allowed to remove the scallops from the beach, which ran counter to past practices. Bill asked if MEP has any information regarding this decision. Lt. Bass stated that he would look into the matter and get back to Amaru on the issue.

ACTION ITEMS

Review Open Meeting Law Complaint and Approval of Written Response

Jared Silva discussed an Open Meeting Law (OML) complaint received on November 3,
2020. The MFAC appealed to the Attorney General's Office (AGO) to extend the
complaint response deadline to December 14 to allow the MFAC to review complaint at
this business meeting.

Jared reviewed the complaint and the OML requirements applicable to the MFAC and determined that the OML compliant was erroneous and that the MFAC frequently goes beyond OML requirements to ensure transparency. He provided the MFAC with a draft response letter and recommended it be edited slightly to cite three applicable AGO OML compliant decisions that supported the MFAC's determination. Jared invited discussion from commission members.

Mike Pierdinock stated the format of the draft letter should be fixed before submission, but he otherwise approved of the draft letter.

No further comments were made. The Chairman called for a motion to approve the draft response letter with the amendments recommended by Jared Silva. Bill Amaru made a motion to approve the draft letter with amended recommendations from Jared. Sooky Sawyer seconded the motion. Motion was approved by unanimous consent.

Period I Summer Flounder Trip Limit Increase

Nichola Meserve presented information regarding the quota increase for summer flounder. The Director expressed his interest in having the commercial fishery utilize the available quota. He then recommended the MFAC vote in favor of increasing the summer flounder commercial trip limit from 1,000 pounds to 2,000 pounds for the extent of the 2021 Period I fishery (January 1–April 22). This 2,000 pound limit was recommended in response to anticipated increase in Massachusetts' annual

commercial quota for 2021. The intention was to enable the offshore fleet to achieve its 30% target allocation of the annual quota.

The Director reminded the MFAC that DMF had advocated for the MAFMC and ASMFC to grapple with the re-allocation of state-by-state commercial quota allocations to address the north and eastward shift in the distribution of certain stocks in response to changing oceanographic conditions. This pending quota increase is historically significant because it is in part occurring in response to this request. Bill Amaru concurred with the Director regarding the quota. He also noted that this proposal was very important to the commercial fishery and was pleased to support it.

Mike Pierdinock wanted clarification on whether the MFAC are approving an increase from 1,000 to 2,000 pounds per trip limit and where the fishing activity during Period I primarily occurs. Nichola confirmed that the trip limit will increase from 1,000 pounds to 2,000 pounds. McKiernan and Silva added that the effort is concentrated in those federal waters south of the islands and east of Montauk. Bill Amaru added that this proposal will allow local commercial fishermen to land fish that was previously either discarded or transported and landed in more southern states with higher limits and larger quotas.

No further comments were made. The Chairman called for a motion to approve the Period I Summer Flounder Trip Limit Increase. Bill Amaru made a motion to approve the motion. Bill Doyle seconded the motion. Motion was approved by unanimous consent.

Winter I Scup Limits

The Director recommend the MFAC vote in favor of adopting a 50,000-pound commercial scup trip limit for the 2021 Winter I period (January 1 – April 30). This recommendation was consistent with the anticipated federal possession limit for this quota management period.

No comments were made. The Chairman called for a motion to approve the Winter I Scup Proposal. Sooky Sawyer made a motion to approve the proposal. Shelley Edmundson seconded the motion. Motion was approved by unanimous consent.

The Director noted the winter period scup limits are regularly established twice a year for January 1 and October 1. It is routine for DMF to complement the federal limits to allow vessels fishing offshore during the winter months to land their lawful scup catch in MA. However, the regulations currently require DMF to seek public comment and obtain MFAC approval before implementing these complementary measures. He felt this process was onerous, and ultimately unnecessary. Accordingly, DMF was investigating alternative approaches to setting the winter period scup limits.

FUTURE RULE MAKING

Petition to Lift Bluefish Strikenet Closure in Eastern Cape Cod Bay

Director McKiernan reviewed a recent petition from the state's sole bluefish strikenetter seeking the agency reconsider the year-long closure to bluefish strikenets in southeastern Cape Cod Bay. The Director provided some historic background on the closure. It was implemented in the early 1980s to ameliorate a user-group conflict by separating the commercial gillnet fishery from the recreational hook and line fishery. Dan noted that the management of the bluefish fishery had changed dramatically over the past 40 years. The bluefish fishery was now subject to a federal and interstate management plan, from which Massachusetts is provided an annual commercial quota. Additionally, effort in the strikenet fishery has waned and there is now only one permitted fisherman. Given these factors, Dan it was appropriate to bring the petition to public hearing and consider potential changes to the strikenet closure.

Kalil Boghdan liked the idea of re-examining both the closure boundary and its seasonal timing and determining whether a compromise could be reached that would satisfy both user groups.

Mike Pierdinock asked about the transferability of the remaining bluefish strikenet permit. Dan stated that this was a matter of some historic uncertainty. The current permit holder recalled that DMF had informed him that the permit was not transferable. However, DMF does not have any records or legal documents documenting that it is non-transferable. Given this record, transferability was likely at the discretion of the Director and Dan was interested in pursuing this discussion with the MFAC.

Bill Amaru strongly supported the petitioner's request. Bill argued that providing access to this area would increase quota utilization, provide a high-quality product for market, and have a nominal impact on recreational fishing conditions. He noted that the petitioner has a strong reputation on the waterfront and is known for working cooperatively with competing users. Amaru and McKiernan noted that dealers tend to prefer strikenet caught product to hook and line caught product, because it is often handled better resulting in a higher quality meat.

Mike P. added that many recreational anglers have reached out to him expressing concern over this proposal. The for-hire fleet relies on this area through the summertime season and well past Labor Day. Given the current status of the striped bass resource inshore, and the new striped bass slot limit, the for-hire fleet in Cape Cod Bay is again dependent on bluefish for inshore day-trips. Vessels may often begin the day targeting striped bass, but if fishing is slow they will then take patrons to this area towards the end of the trip to make sure they get into bluefish. Mike P. estimated that upwards of 30 for-hire vessels rely on this area through November. Tim Brady concurred with Pierdinock. He added that this area is consistently relied upon by recreational fishermen to produce bluefish catch. For these reasons, Pierdinock and Brady did not support the petition.

Dan asked Mike Armstrong to discuss his expectations for the recreational striped bass fishery over the next few years. Mike A. anticipated there will be more slot limit sized fish available in 2021 and 2022, as some stronger year classes age into the fishery. These slot limit sized fish are not typically as affected by warmer water temperatures as larger fish and should be available throughout Cape Cod Bay in the summer and early fall.

Kalil Boghdan asked about how the procedure for determining whether or not to move a petition forward. Jared Silva explained that the decision to bring a petition to public hearing was at the discretion of the Director, then following a public hearing the MFAC could vote up or vote down the Director's recommendation.

Director McKiernan thanked the MFAC for their comments. He understood the objections raised by certain commission members but did not think that it was reason to prevent further discussion of the petition at public hearing. He felt public comment would allow for him to make a better informed final decision regarding the petition. Jared Silva anticipated a public hearing would occur in March or April with a final recommendation coming back to the MFAC in April or May.

Kalil Boghdan, Lou Williams, and Bill Doyle supported this approach.

Lou Williams opined that bluefish availability is highly cyclical. He provided an anecdote about the historic availability of bluefish along the North Shore.

Lou then asked for the dimensions of the strikenet gear being used. Bill Amaru stated that the maximum net length is 1,500 feet; Jared Silva concurred.

Update on Protected Species Rule Making Timeline

Director McKiernan provided a brief recap of the two recent public hearings regarding protected species and fixed gear closures and gear modifications. Dan was impressed with the amount of interest in these proposed measures and stated that each hearing had well over 100 attendees and DMF had received thousands of pages of written comment. He went on to commend Jared Silva for his administration of the hearings.

Dan expected that DMF would provide the MFAC with this final recommendation at their January business meeting and whatever regulations were approved by the MFAC would be implemented for late-February or early-March.

McKiernan anticipated he would have some difficult decisions to make regarding his final recommendation. Bob Glenn added that this is the most challenging situation DMF has had to navigate in recent history. McKiernan and Glenn then highlighted how adopting these final regulations fit within the context of the ongoing litigation and moving DMF's ITP application forward. DMF also anticipated NOAA would be publicizing new

draft Atlantic Large Whale Take Reduction Plan regulations this winter that would interact with the state's proposal.

While not on the public hearing docket, DMF did receive a substantial amount of comments regarding ropeless fishing technology. This was a very divisive issue. Certain conservation interests passionately argued that this transition was necessary to prevent the right whale from becoming extinct. However, there were also concerns that transitioning to ropeless fishing may cost the Massachusetts lobster fishery more than \$100 million in up front capital investment, increase gear conflicts if the technology does not have sufficient spatial resolution, and negatively impact fishermen safety. Ultimately, these factors could produce a sharp contraction in the lobster fleet and necessitate ocean zoning, having a ripple affect across working waterfronts throughout the state. To address this issue, DMF applied for and received a grant to investigate the obstacles facing ropeless fishing and a contractor has been hired to conduct this in-depth analysis and produce a white paper on the subject.

The Director then highlighted a <u>presentation</u> made by NOAA at last weeks' NEFMC meeting. This presentation addressed both the current status of the right whale and ropeless fishing technology. Dan asked staff to share the presentation with the MFAC.

Ray Kane asked how many MFAC members attended the hearings. Jared stated there were four or five members in attendance at each hearing. Jared also noted that the public hearings were available to watch on DMF's YouTube channel.

Kalil Boghdan commended DMF for how they conducted themselves listening to the public's questions and comments. He noted a conundrum between the livelihood of fishermen and right whale conservation.

Mike Pierdinock asked about the economic impact to the fishermen and if there will be any relief provided to them as a result of these measures. The Director stated DMF does not appropriate funds and he cannot forecast whether the Massachusetts legislature or the US Congress would provide financial relief. In the past, fishermen were provided vouchers when sinking line was required. Bob Glenn also noted that DMF would be providing fishermen with assistance to switch over to the weaker rope.

Sooky Sawyer expressed disappointment in a lack of attendance for North Shore lobstermen. He was hopeful they would submit written comments. He then expressed frustration that Massachusetts is the sole state dealing with proposed alterations to the lobster fishery.

Ray Kane asked to be updated on this matter at upcoming business meetings. Jared stated he will continue to update the website with updated public comments so that commission members can get ahead with reading.

DISCUSSION ITEMS

Review of Law Enforcement Sub-Committee Meeting

Jared Silva gave a brief presentation with key takeaways from the Law Enforcement Sub-Committee Meeting held on November 19, 2020. Topics discussed included: quota managed species, the closure of the Cape Cod Canal to commercial striped bass fishing, gear marking issues, lobster fishery issues, incidental catch of striped bass on non-circle hooks, and enhanced enforcement at dealer level for whelk. Jared welcomed any questions from the commission.

Sooky Sawyer stated that one of the companies that makes styrofoam buoys went out of business, and DMF should expect to see increased usage of go-deep buoys.

Updates from Joint ASMFC-MAFMC Meeting

Nichola Meserve provided a preview of the joint ASMFC-MAFMC meeting scheduled for December 15-16 on fluke, scup, sea bass, and bluefish. The annual recreational management measures for all four species would be set during this meeting. Due in large part to the pandemic's impact on the 2020 MRIP survey and the resulting lack of harvest estimates, Council staff have recommended status quo measures for all four species. If status quo measures are adopted, DMF would work to have its recreational black sea bass fishery start on a Saturday through conservation equivalency, as it has in past years. Additionally, the joint meeting would address the commercial black sea bass reallocation amendment. DMF supported options that would redistribute the coastwide quota to states based on the changing geographic distribution of the resource.

Mike Pierdinock thanked Nichola for trying to address the May 18 start date for the recreational black sea bass fishery. Additionally, he asked if the extended for-hire bag limit for sea bass in October was being considered for next year. Nichola stated that the change for the for-hire fleet this year was only for this year, and the status quo recommendation would be from last years' initial measures.

Mike P. then asked if catch and harvest data from the for-hire extend black sea bass season were available. Nichola stated that MA may be able to get additional information from eVTRs that are submitted, but they have not been reviewed yet.

2021 MFAC Business Meeting Schedule

Jared Silva discussed proposed dates for next year's meetings from January to June. The proposed dates were as follows: February 18, March 18, April 15 or April 22, May 13 or May 20 and June 17. Jared asked MFAC members to let him know if they have any conflicts on those dates.

PRESENTATION ON DISSOLVED OXYGEN MONITORING IN CAPE COD BAY

The Director introduced Dr. Tracy Pugh who gave a presentation on the dissolved oxygen monitoring project occurring in Cape Cod Bay.

Last September (2019), lobster fishers in the southern portion of Cape Cod Bay hauled up hundreds of pounds of dead lobsters, crabs, and finfish in their traps. DMF quickly learned that these deaths were caused by a severe hypoxia event; the bottom waters in the region did not have enough oxygen to sustain the life of those animals that could not migrate out of the area became asphyxiated. DMF, in cooperation with several area A fishermen, discussed a monitoring program to help detect the formation of another hypoxic event. This would then allow fishermen to move their gear away from the affected area.

This spring the Lobster Foundation of Massachusetts was awarded funding from the MA Climate Change Resilience in Fisheries and Aquaculture Grant Program to support a monitoring program. There are currently five vessels participating in the Study Fleet, covering the southwestern portion of CCBAY (Manomet to Barnstable) and the northeastern corner (Provincetown area).

Data collection instruments were attached to lobster traps and record dissolved oxygen (DO) and temperature every 15 minutes. When the traps were hauled, the instrument would communicate the data to an onboard data storage system via Bluetooth. This data is then downloaded to a land-based server via a cellphone signal. The captain never has to touch the logger; everything is completely automated and happens so quickly that the normal pace of hauling, emptying, re-baiting and setting back the traps is unaffected. The logger stays attached to the trap and goes back in the water when the gear is set back.

As a result of these monitoring efforts, researchers have learned that a "blob" of hypoxic water moves around in the southern portion of Cape Cod Bay, driven by oceanographic conditions. Strong northerly winds will push surface waters towards the shore, causing downwelling along the southern shoreline, which pushes the blob offshore into deeper waters. Conversely, southerly winds blow surface waters away from shore, allowing for upwelling along the shoreline, which causes the blob to move closer to shore.

DMF also partnered with researchers from the Center for Coastal Studies (CCS) and Woods Hole Oceanographic Institution (WHOI) for their expertise in water quality and oceanographic conditions. The collaboration between MA DMF, the Cape Cod Bay Study Fleet, and researchers from CCS and WHOI has drastically improved the ability to detect the formation of hypoxic conditions, and to track the movement of the blob in southern Cape Cod Bay.

DMF plans to continue this work in 2021. In the meantime, the partners from WHOI and CCS will be working to better understand what drives the development of the blob, to

increase our ability to detect and predict the potential onset of hypoxia in Cape Cod Bay. DMF will continue to develop ways to use the monitoring data to alert the commercial lobster fleet and other stakeholders of changing conditions in the Bay.

Ray Kane asked the commission if they had any questions or comments.

Mike P. asked if sewage runoff could be involved the formation of the blob. Tracy stated that being downstream of any heavily populated area allows for the creation of a catch basin, and as a result, rain events could contribute to the hypoxia. Tracy added that the collaborators are taking an in-depth look at other causes of the blob.

Kalil asked if there are other studies similar to this one occurring along the east coast or where striped bass breed. Tracy did not know of any other studies being done of this scale. She noted there are some boats on the west coast doing similar studies using Dungeness crab pots.

Sooky Sawyer commended Tracy Pugh for her work. He hopes the blob will not escalate throughout the Cape Cod Bay.

Lou Williams was concerned that the change in the chemical used in the treatment of effluent at Deer Island was affecting environmental conditions around the MWRA outfall pipe in Massachusetts Bay. Given the oceanographic conditions of Cape Cod Bay he was interested that this could be another source impacting water quality in the area.

Tim Brady recalled a cyanobacteria bloom that lasted into September in Plymouth. He added the blooms that used to occur in the summer are going later into the season.

OTHER BUSINESS

Commission member Bill Amaru raised concerns regarding time-of-year restrictions on harbor dredging. He noted that the fish population surveys used to develop these restrictions date back to the 1970s and are likely out-of-date. He was looking for DMF to conduct new surveys or update the existing surveys, so the time-of-year restrictions could better fit current ecological parameters. Bill stated he would like to see the Commission's support initiatives to modernize those fish population surveys used to develop the time-of-year restrictions.

The Director stated that DMF does not have the current staffing or funding necessary to take on this survey work. However, the habitat program was aware of the issues presented by these time-of-year restrictions and was reviewing other potential solutions.

Commission Member Comments

Bill Amaru expressed excitement that the trip limits for summer flounder were liberalized. Dr. Shelley Edmundson thanked everyone for their time and hard work. Mike

Pierdinock provided a brief ICCAT update. Ray Kane asked for DMF to provide an update on the port profile project at the January meeting.

PUBLIC COMMENTS

There were no public comments.

ADJOURNMENT

Chairman Ray Kane requested a motion to adjourn the December MFAC business meeting. Bill Doyle made a motion to adjourn the meeting. The motion was seconded by Shelley Edmundson. The motion was approved by unanimous consent.

MEETING DOCUMENTS

- December 2020 MFAC Business Meeting Agenda
- October 2020 Draft MFAC Business Meeting Minutes
- Draft OML Complaint Response
- OML Complaint Response Slides
- Summer Flounder Period 1 Trip Limit Recommendation
- Fluke Quota Change Slides
- 2021 Winter I Scup Recommendation
- Winter Scup Slide
- Review of Recent Petition to Rescind Bluefish Strikenet Closure
- Bluefish Strikenet Petition Slide
- Update on Proposed Protected Species Regulations Affecting Fixed Gear and Upcoming Public Hearing Schedule
- LESC Meeting Summary
- LESC Slides
- MCA Meeting Summary
- Updates from MEFMC for Oct to Dec 2020
- Permit Extension Exhibit
- Dissolved Oxygen Presentation

UPCOMING MEETINGS

9AM	9AM	9AM
January 28, 2021	February 18, 2021	March 18, 2021
Via Zoom	Via Zoom	Via Zoom
9AM	9AM	9AM
April 15, 2021	May 13, 2021	June 17, 2021
Via Zoom	Via Zoom	Via Zoom