

## **MARINE FISHERIES ADVISORY COMMISSION**

**September 13, 2022**

**Via Zoom**

### **In attendance:**

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

*Division of Marine Fisheries:* Daniel McKiernan, Director; Mike Armstrong, Assistant Director; Kevin Creighton, CFO; Story Reed; Bob Glenn; Jared Silva; Nichola Meserve; Melanie Griffin; Kelly Whitmore; Brad Chase; Anna Webb; Julia Kaplan; Stephanie Cunningham; Kerry Allard; Nick Buchan; Gary Nelson; Scott Schaffer; and Jeff Kennedy

*Department of Fish and Game:* Ron Amidon, Commissioner

*Massachusetts Environmental Police:* Lt. Matt Bass

*Members of the Public:* Beth Casoni; and Lizzie Roche

## **INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane called the September 13, 2022 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

## **REVIEW OF SEPTEMBER 16, 2022 DRAFT BUSINESS AGENDA**

No changes to the agenda were requested.

## **REVIEW AND APPROVAL OF AUGUST 18, 2022 DRAFT BUSINESS MEETING MINUTES**

Chairman Kane asked for comments or edits regarding the August 18, 2022 MFAC draft business meeting minutes.

Kalil Boghdan requested changes to a paragraph on page eight of the minutes. He stated he emailed Jared with the requested changes.

Chairman Kane questioned the wording regarding the status of the herring fishery listed on the second paragraph of the second page. Jared stated that he will talk with Melanie Griffin and revise the minutes accordingly.

There was then some discussion regarding the approval of amended meeting minutes. Mike P. stated there should be no vote on the amended meeting minutes until the specific changes proposed by Kalil and Ray are seen by the MFAC. Jared suggested no action be taken. Instead, Jared would incorporate these potential edits into the draft

August business meeting minutes and recirculate them to the MFAC for their review and approval at the October business meeting. There were no objections to this approach.

### **CHAIRMAN'S COMMENTS**

Chairman Kane thanked Ron Amidon for expediting the re-appointment of commission members. He reminded commission members of a required ethics webinar and asked that they complete the training if they have not done so already.

### **COMMISSIONER'S COMMENTS**

Commissioner Amidon stated he is pleased to see the re-appointment process coming to completion. He stated he went to Hingham Harbor Day for the re-opening of the Hingham Harbor Boat Ramp and commended Ross Kessler and Doug Cameron for their work on the project. Commissioner Amidon welcomed any questions.

### **LAW ENFORCEMENT COMMENTS**

Lt. Matthew Bass provided comments for the Massachusetts Environmental Police (MEP). He highlighted a few minor fisheries enforcement issues along the North Shore, south of the Cape, and in Chatham.

### **DIRECTOR'S COMMENTS**

Director Dan McKiernan started his comments noting that former Director Pierce sends his regards.

Dan then discussed fisheries aid programs. DMF continued to work with the other states and the ASMFC to address the federal disaster relief funds for the sea herring fishery. Massachusetts was allocated \$500,000 to help trap fishers comply with new right whale conservation regulations, including offsetting the cost of materials to mark buoy lines for dual state and federal permit holders. Dan added that DMF will be working with the MA Lobster Foundation to help distribute the funds.

Director McKiernan moved on to highlight several updates concerning ongoing federal litigation surrounding the right whale and interactions with fixed fishing gear. Additionally, DMF submitted its draft Incidental Take Permit application to NOAA Fisheries for their review; the review process is iterative and may take more than a year to complete.

The Monterey Bay Aquarium released its Seafood Watch Assessment, which red-listed American lobster due to potential interactions with right whales. The red-listing means they are recommend consumers choose other seafood options. Dan was frustrated and concerned by this action. He noted that prior the release of the assessment, DMF actively advocated for the organization to not take this action based on the state's aggressive conservation program. DMF was now considering appropriate responses.

DMF established a task force to develop a program to improve and modernize how the state handles and disposes of abandoned fishing gear and fishing gear debris. The Task Force consists of DMF staff (Bob Glenn, Jared Silva, David Chosid, and Julia Kaplan); DFG's Office of General Counsel; two MFAC members (Ray Kane and Sooky Sawyer); the Executive Director of the Massachusetts Lobster Association (Beth Casoni); and personnel from the Center From Coastal Studies who do derelict gear work (Laura Ludwig). Dan then mentioned that Julia Kaplan, as part of her master's program, had drafted a white paper on the subject, which provided a foundation for the task force to work from.

The menhaden fishery will likely be facing some changes to its management system next year. The ASMFC will be voting on an addendum at the November meeting affecting how state quotas are allocated. There will be a public hearing tomorrow night in Gloucester regarding the addendum and an industry meeting will be held directly after the public hearing. Dan welcomed any questions from the commission.

Bill Amaru thanked Dan for his thorough comments and expressed frustration over the Seafood Watch Assessment.

### **ACTION ITEMS**

#### Recreational Fishing Limits for Cod and Haddock

DMF held a public hearing on this recommendation immediately prior to this MFAC business meeting. Jared Silva briefed the MFAC on the final recommendations. In summary, the final recommendation was to finalize the recreational fishing limits for Gulf of Maine cod and haddock and Georges Bank cod that were implemented on an emergency basis earlier this summer and are set to expire this fall. These recommended limits are also identical to those enacted by NOAA Fisheries. The recommendations were as follows:

- Georges Bank Cod. Open season of August 1 – April 30 with a 22" minimum size and 28" maximum size and 5-fish per angler bag limit.
- Gulf of Maine Cod. Open season of September 1 – October 7 and April 1 – April 14 with a 22" minimum size and a 1-fish per angler bag limit.
- Gulf of Maine Haddock. Open season of April 1 – February 28 with a 17" minimum size and 20-fish per angler bag limit.

Mike Pierdinock thanked DMF for the work to improve the data used in the stock assessments for these species. However, he noted some recreational anglers remain frustrated by restrictive federal limits for recreational cod. Mike P., Bill Amaru, and Tim Brady all argued there is a disconnect between NOAA Fisheries' stock assessments and what is being observed on the water by the fishing community. Dan McKiernan added these observations generally correspond with the strong 2018-year class aging into the fishery, but noted recruitment is down from historic levels.

There was then some discussion from Tim Brady and Ray Kane about how surveys are being conducted and whether they are accurately capturing biomass. Melanie explained the trawl survey is a random stratified design and is not built to dynamically target fish where they are known to be abundant. Melanie added this has been a longstanding concern from industry regarding survey design and the NEFMC is well aware of it.

Director McKiernan appreciated the comments but reminded the MFAC the recommendation was more narrowly focused on whether DMF should finalize the emergency regulations as implemented and complement federal limits.

Ray Kane asked for a motion to approve the recommendation. **Tim Brady made a motion to approve the recommendation. Shelley Edmundson seconded the motion. The motion was passed 4-0-1, with Bill Amaru abstaining.**

#### In-Season Adjustment to October - December Commercial Summer Flounder Trip Limit

Director McKiernan briefed the MFAC on the recommended in-season adjustment to the October-December commercial summer flounder trip limit. Despite the regulatory liberalizations to the summer flounder limits for 2022, the fishery is performing similarly to how it has in recent years and will likely underperform its quota again by a large margin. Accordingly, Dan recommended increasing the 2022 commercial summer flounder possession limit for the period of October 1–December 31 from 3,000 pounds per trip to 10,000 pounds per trip. The trip limit increase would encourage vessels to land fish caught offshore in adjacent federal waters in Massachusetts' ports, rather than steaming further distances to other states with more substantial seasonal trip limits (e.g., Virginia and North Carolina) to offload. Additionally, with the recreational fishery closing on September 29, Dan did not expect this would lead to user group conflicts.

Mike P. stated that the recreational community appreciated DMF's attention to time frames and implementing this increase after the recreational fishery closes. He asked if this increase in trip limit would apply to both state and federally permitted vessels. Jared and Dan explained the trip limit would apply to any vessel with a fluke fishery endorsement, regardless of where the fishing activity is occurring. However, given seasonal spatial shifts in distribution, DMF anticipated the benefits would principally be to those vessels fishing in federal waters.

Mike P. then asked about quota utilization in other states. DMF staff reached out to other states and it seemed commercial quota was being underutilized coastwide. Jared Silva stated he spoke to a number of industry members regarding the performance of this fishery to date and there were a number of economic factors limiting participation and effort this year. It was thought that increasing the trip limit to 10,000 pounds would create the economic incentive to target the fish. Nichola Meserve heard similar refrains from her counterparts in other Atlantic coastal states.

Mike P. then asked if a vessel hailing from Mid-Atlantic state would be able to land summer flounder in Massachusetts and if this fish would count against Massachusetts quota. Jared stated that regardless of where a vessel is homeported fish caught in

federal waters can be landed in Massachusetts provided the commercial fishing permitted in Massachusetts to land the fish. For summer flounder, there is no federal quota so all poundage landed in a state is counted against that states quota regardless of where the fish was caught or the homeport of the vessel.

Chairman Kane asked for a motion to approve the recommendation. **Kalil Boghdan made a motion to approve the recommendation. Shelley Edmundson seconded the motion. The motion was passed unanimously 5-0.**

## **DISCUSSION ITEMS**

### *2022 Quota Managed Fishery Performance Update*

Story Reed and Anna Webb provided the MFAC with an update on the performance of 2022 quota managed fisheries. Story noted the update will only cover those fisheries that remain open.

- The bluefish quota is currently projected to be reached in late-October. However, performance usually declines dramatically around early October. DMF would consider obtaining a quota transfer should the quota be taken and the fish remain available.
- On a pound-for-pound basis, the black sea bass fishery performing similarly in 2022 to prior years. However, the 2022 quota is much higher than these prior years. As such, the fishery would likely remain open throughout the fall and eventually underperform the quota by a small margin.
- On a pound-for-pound basis, the summer flounder fishery is performing better in 2022 than it was in 2021. However, the quota is substantially higher this year than in past years. At present, about 60% of the quota remains available. DMF was interested in how performance may change in the fall with the approval of the October 1 – December 31 trip limit increase.
- The horseshoe crab bait fishery is tracking below previous years. Story stated that this could be attributed to the performance of the inshore fishery and some harvesters switching over from the bait fishery to the biomedical fishery.

Anna Webb then moved on to discuss ex-vessel value and landings across all species. Anna Webb stated the total ex-vessel value and landings are down compared to previous years. Sea Scallops and lobster landings and ex-vessel value are down. These two species are driving the downward trend of ex-vessel value and landings. Oyster trends have not changed at all in 2022 and has been very consistent with previous years.

Ray Kane asked if the prices were higher in 2021 due to domestic consumption rather than eating at restaurants. Anna stated that to the best of her knowledge this question had not been looked into by a fisheries economist.

Ray Kane asked about the export value of oysters. Anna noted DMF only collects ex-vessel value data. Data on exports may be tracked by NOAA Fisheries. Dan added that oyster exports are currently fairly limited due to the complexities of international trade with raw shellfish product and varying public health programs across jurisdictions.

There was further discussion between Ray Kane and Nichola regarding dogfish and a possible reduction in quota for 2023.

#### *Fall 2022 Industry and Stakeholder Meetings*

Jared Silva reiterated DMF was an ASMFC public hearing on menhaden and a menhaden industry meeting tomorrow night in Gloucester. Additionally, DMF would convene a horseshoe crab and summer flounder industry meeting later this fall to scope regulatory changes for 2023.

Director McKiernan discussed various challenges regarding the management of the limited entry menhaden fishery. He was hopeful the fleet will provide good guidance on how to improve management moving forward and respond to the pending ASFMC addendum. Dan then discussed challenges with the horseshoe crab fishery and shifting demands for these crabs for bait and biomedical purposes. DMF was meeting individually with the biomedical companies and conservation advocates before meeting with the industry more broadly.

Bill Amaru stated he was now working with a biomedical company to rebroadcast bled crabs and spoke to the care taken to handle the animal throughout the biomedical process.

#### *Amendment 23 and Allowance for Maximum Retention of Groundfish*

Story Reed discussed a federal experimental permit where the combination of electronic monitoring and dockside monitoring allowed for the maximum retention of certain groundfish species caught in federal waters. This so-called “maximum retention program” was formalized in Amendment 23 to the Multi-Species Groundfish FMP. As such, it was expected that by the end of this year this would become a regulatorily formalized program rather than experimental fishery. SAt the state level, DMF accommodated the experimental federal fishery with a Letter of Authorization (LOA) and would continue to temporarily do so once a final federal rule is implemented. However, DMF over the long term, DMF would likely need to produce a regulatory amendment. Story and Jared were working with partners at NOAA Fisheries, Gulf of Maine Research Institute, and other New England state fishery agencies to manage implementation. One of the biggest challenges is managing the exemption for non-conforming product throughout the seafood supply chain.

#### *Convening MFAC Sub-Committees*

DMF was seeking to convene the MFAC’s Permitting Sub-Committee and Law Enforcement Sub-Committee during the fall.

## **PRESENTATION ON RIVER HERRING MANAGEMENT PLANS AND HERRING RIVERS**

Brad Chase provided a presentation regarding the ASMFC's River Herring Sustainable Fishery Management Plans. In the mid-2000s, the ASMFC implemented a moratorium on the harvest of river herring from state waters. More recently, in 2017, the ASMFC allowed states to open river herring runs subject to a sustainable fishery management plan. To date, Massachusetts has not opened any of its runs.

In Massachusetts, DMF sets the overarching regulatory program for river herring, then river herring runs are managed subject to "home rule". Under home rule, municipalities may set run specific limits and permitting requirements. Therefore, in most instances, the burden of developing, implementing, and managing a potential sustainable fishery management plan falls primarily on the municipality. Municipalities have been hesitant to reopen runs but there remains persistent interest in opening two of the state's stronger runs—the Nemasket River (Middleborough/Lakeville) and the Herring River (Harwich). Brad reviewed the biological metrics for both runs.

Dan asked Brad to speak to the run counts. Brad stated numbers have generally improved but recent years have seen some drop offs, which may be due to environmental conditions. Brad noted the impacts of droughts on future recruitment.

Ray Kane asked about permitting and enforcement should these runs open. Brad stated the primary authority would be the local warden. However, the towns would share their permitting rosters with MEP and DMF to assist in the enforcement of possessing river herring.

Mike P. and Brad Chase discussed some of the management choices towns would have to make, such as allowing harvest for bait and permitting non-residents. Brad noted this would likely be an iterative process requiring alignment with DMF regulations and ultimately approval from ASMFC.

Mike P. closed his comments by commending DMF for getting the fishery to this point.

Lt. Bass sought clarification on the possession of river herring as bait, as it may be fished at a location other than the run from which it was taken. Brad stated the intention is to only allow the permittee to possess herring. DMF regulations require anyone in possession of river herring to hold a permit and harvest receipt for the fish.

Kalil Boghdan thanked Brad for his presentation and asked how long the YOY can survive in a freshwater system. Brad stated they typically can overwinter, but there is a significant decline in food sources resulting in mortality.

Mike P. asked about toxic algae blooms affecting herring. Brad Chase stated systems with blooms may be a cause for concern. However, he would be more concerned about the impacts of nutrient loading in spawning habitats and impacts on water quality and

juvenile herring recruitment. Dan asked Brad about the water quality of the Nemasket and Herring Rivers. Brad stated the water quality is generally good, but it remains a key area of concern.

## **OTHER BUSINESS**

### *Commission Member Comments*

Bill Amaru discussed the importance of water quality in managing fish populations. He highlighted various concerns he has about nutrient loading in Cape Cod waterways and the runoff of these nutrients into the Sounds.

Tim Brady thanked Brad for the presentation and stated he appreciated the work to rebuild herring habitat and populations.

Mike P. was curious about potential impacts people moving to coastal communities, like the Cape, during the pandemic and as a result of telecommuting may have on local water quality given the likely increase in year-round pressure on septic and sewer systems.

Ray Kane stated he would like to be updated on the permitting sub-committee meetings as they move forward. He thanked everyone for their attendance and opened the meeting up to public comment.

## **PUBLIC COMMENTS**

Beth Casoni thanked the Commission and stated a public relations strategy is needed to counter Seafood Watch Assessment's red-listing of lobster and to promote the various steps the lobster industry has taken to protect right whales.

## **ADJOURNMENT**

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



## **MEETING DOCUMENTS**

- September 13, 2022 MFAC Business Meeting Agenda
- August 18, 2022 MFAC Draft Meeting Minutes
- Recreational Cod and Haddock Limit Recommendation Memo and Presentation
- Summer Flounder In-Season Adjustment Recommendation Memo and Presentation
- Quota Managed Species Update Presentation
- River Herring Sustainable Fishery Management Plans Presentation

## **UPCOMING MEETINGS**

October 18, 2022  
Virtual Meeting  
Via Zoom

November 22, 2022  
DFW Field Headquarters  
Westborough, MA