

## **MARINE FISHERIES ADVISORY COMMISSION**

**April 15, 2021**

**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; Jeff Kennedy; Bob Glenn; Erin Burke; Anna Webb; Nick Buchan; Derek Perry; Tracy Pugh; and Steve Wilcox.

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

*Massachusetts Environmental Police:* Col. Santos; Lt. Col. Moran; Lt. Matt Bass; and Capt. Kevin Clayton

*Members of the Public:* Allen Rencurrel; Drew Kolek; Peter Fallon; Sarah Beth Menck; Genevieve McCloy; Rebekah Panaro; Emerson Hasbrouck; and Lizzie Roche.

## **INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane called the April 15, 2021 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

## **REVIEW AND APPROVAL OF APRIL 15, 2021 BUSINESS MEETING AGENDA**

No amendments were proposed to the April 15, 2021 MFAC business meeting agenda.

**Chairman Kane asked for a motion to approve the draft agenda. Mike Pierdinock made a motion to approve the draft agenda. The motion was seconded by Shelley Edmundson. The April 15, 2021 MFAC business meeting agenda was approved by unanimous consent.**

## **REVIEW AND APPROVAL OF MARCH 18, 2021 DRAFT BUSINESS MEETING MINUTES**

There were no amendments to the Draft Business Meeting Minutes.

**Chairman Kane asked for a motion to approve the March 18, 2021 meeting minutes. Mike Pierdinock made motion to approve the March business meeting minutes. Bill Amaru seconded the motion. The motion was approved by unanimous consent.**

## **CHAIRMAN'S COMMENTS**

Chairman Kane thanked everyone for their attendance and asked Commissioner Amidon to take the floor.

## **COMMISSIONER'S COMMENTS**

Commissioner Amidon commented positively on meeting attendance by MFAC members. He then reported on the budget process. With Earth Day on April 22, DFG was hosting a variety of events throughout the week.

## **DIRECTOR'S COMMENTS**

Among the Earth Day events scheduled was an event at the Back River in Weymouth to highlight the newly renovated herring run. The Director stated staff would forward the event invite to Commission members.

Dan stated MA was allocated about \$23 million for a second round of CARES funding for COVID-related fishing industry relief. The federal requirements regarding needing to demonstrate a 35% COVID related loss in revenue and not being able to be made more than whole by COVID relief funding sources remained in place. The sector specific industry working groups utilized during the first round of CARES funding are convening again to assist the agency in the development of its spending plans. Dan was hopefully DMF would submit a final spend plan to NOAA Fisheries in late May.

Dan announced the Massachusetts Shellfish Initiative recently approved and finalized a Strategic Plan. A press event was scheduled for May 4. Part of the final plan was to introduce legislation to formalize the makeup of the Shellfish Advisory Panel and require the body meet biannually.

Sooky Sawyer asked if fishing businesses would be allocated a percentage of CARES money if the full allotted amount would make the recipient more than whole. Dan indicated this is how he expected the spend plan would be organized.

Chairman Kane asked if ASMFC will be distributing the checks for the second round of CARES. Dan stated this will be the case for round two as well.

## **LAW ENFORCEMENT COMMENTS**

Lt. Matt Bass handled the comments for the Massachusetts Environmental Police (MEP). Lt. Bass stated their focus has been on the new endangered species regulations and clearing the trap gear closure of any lost or abandoned gear. He also added there has been a multitude of minor enforcement issues as well. Lt. Bass welcomed any questions from the commission.

Sooky Sawyer asked if there is anything being done about speeding vessels in Cape Cod Bay. Lt. Bass stated they are monitoring AIS, and MEP will be following up.

Ray Kane asked if they have seen poaching of glass eels. Lt. Bass stated they were investigating potential poaching activity.

### **ACTION ITEMS**

#### Commercial Striped Bass Season and Open Fishing Days

Director McKiernan provided a brief background on the commercial striped bass fishery. The Director then recommended the MFAC vote to open the commercial striped bass fishery on June 16, start the commercial fishing season with three consecutive open fishing days (Mondays - Wednesdays), and add Thursdays and Fridays as open fishing days effective October 1. The Director welcomed any comments or questions from the Commission.

Kalil Boghdan stated the memo is well thought out. He spoke about how the recreational and commercial fisheries share the resource, but how each fishery is managed differently to achieve the conservation objectives of the ASMFC's FMP. He thought the Director's recommendation attempted to reconcile some of the adversarial positions held by recreational and commercial fishing interests, and in that way, provided a good compromise. He opined there could be difficult decisions down the road for ASMFC regarding the management of the striped bass resource.

Lt. Bass and Lt. Col. Moran had no objections, but wanted DMF's advisory announcing these rules to clarify how limits would apply if fishing overnight on consecutive open fishing days. Jared Silva stated that if approved, DMF's advisory would address this issue.

Mike Pierdinock stated commercial striped bass management is a contentious public matter. MFAC needs to consider everyone's interests when making these management decisions. He expressed the importance of attempting to use the quota allocated by ASMFC and added decisions affecting access to the state's quota should not be viewed as conservation measures as the quotas are set in accordance with the FMP and the stock assessment. He expressed concerns about opening the season earlier and adding Fridays in the fall. Specifically, he was concerned about the ability to market fish in mid-June and get fish to markets on Fridays, and he also felt these two issues could potentially create user group conflicts between recreational and commercial fishermen.

The Director stated that based on the historical amount of fish that were caught in October is very low, and those fish could be sold locally rather than being shipped.

**Chairman Kane asked for a motion to adopt the DMF's recommendation on the commercial striped bass fishery. Sooky Sawyer made motion to approve the recommendation as provided by the Director. Bill Amaru seconded the motion. A**

**roll call vote was taken and the motion was approved 6-2, with Tim Brady and Mike Pierdinock voting in opposition.**

### Menhaden Limits and Reporting Requirements for Small Scale Fishery

The Director provided background on the state's menhaden fishery management system. There were longstanding concerns from the waterfront regarding non-compliance in the open access fishery. Additionally, after opting into the Episodic Event Set-Aside (EESA) fishery in 2020, DMF felt it necessary to clarify certain rules to ensure the state regulations adhered to the ASMFC's FMP. Accordingly, to address these issues, DMF recommended the following regulations be adopted for 2021:

1. Establish a maximum purse seine size of 450' x 48' (75 fathom x 8 fathom) for open access fishermen at all times and limited access fishermen during the small scale/incidental fishery. This restriction thus applies to all harvesters operating under a 6,000-pound trip limit, and it excludes only limited access fishermen during the quota managed fishery and episodic event set-aside (EESA) fishery when larger trip limits apply.
2. Require the immediate (at-sea) storage of harvested menhaden into 55-gallon barrels or standard fish totes by all open access fishermen at all time and limited access fishermen during the small-scale/incidental fishery. Similar to above, this requirement thus applies to all harvesters operating under a 6,000-pound trip limit, and it excludes only limited access fishermen during the quota managed fishery and EESA fishery when larger trip limits apply.
3. Establish a volumetric equivalency of 350 pounds of menhaden per level, filled 55-gallon barrel and 117 pounds of menhaden per level, filled standard fish tote (measuring 28 inches long x 16 inches wide x 11 inches deep). This results in an allowance for 17 barrels or 51 totes for the 6,000 pound trip limit.
4. Require any commercial permit holder participating in the EESA fishery to hold a bait dealer permit and report their harvest nightly into SAFIS as a bait dealer.
5. Establish a 6,000-pound trip limit for open access participants during the EESA fishery.

The Director welcomed any comments or questions.

Bill Amaru expressed concern over fishermen safety and the stacking of fish totes on small vessels, particularly as the open access fishery is often occurring in open waters. Accordingly, he asked about the characteristics of the vessels that participate in this fishery. Story Reed indicated the average vessel length was about 38' and the median vessel length was 40'. Nichola Meserve added through informal discussions with industry there was little concern about requiring vessels 40' and larger to stack totes. She added that Maine had similar requirements.

Bill Amaru then asked about at-sea enforcement. Nichola stated the motivation behind these regulations would be to more readily determine compliance during at-sea boardings. Lt. Col. Moran stated he did not have a summary of menhaden boarding incidents on hand, but could get back to Amaru later.

Sooky Sawyer recommended adding how many barrels and totes this would equate to in the regulations. Jared Silva stated this information was in the text of the regulation. Three fish totes would be the equivalent of one barrel and fishermen would be allowed to store fish in both totes and barrels.

Mike Pierdinock asked if the increase in maximum purse seine size was developed to accommodate the larger vessels in the fishery and if the smaller vessels will be required to convert over to the larger net size. Nichola stated the recommended purse seine size rule would apply only to vessels fishing at the 6,000-pound limit. Vessels fishing at higher limits in the limited access fishery are not subject to a maximum purse seine size. Nichola then explained this recommended maximum purse seine size was larger than the size proposed at public hearing, and that rule was developed in response to public comment.

Mike P. then asked if the larger net size will make the larger boats come further inshore. Based on public comment, Nichola expected this maximum net size would keep the open access purse seiners out of more near-shore shallow waters where the recreational fishery is conducted. She was uncertain of how a maximum net size restriction on the open access fleet would impact interactions with larger vessels. The larger seining operations hold inshore net permits allowing them to fish in the highly productive inshore net areas subject to a strict set of permit conditions, whereas the open access participants don't hold inshore net permits.

**Chairman Kane asked for a motion to adopt the DMF's commercial menhaden recommendations. Bill Amaru made motion to approve the recommendation as provided by the Director. Sooky Sawyer seconded the motion. A roll call vote was taken, and the motion was approved unanimously.**

Prohibition on Purse Seining for Atlantic Bluefin Tuna; Black Sea Bass Pot Ghost Panel Requirement; and Correction to Mobile Gear Rules

Jared stated he would like to have one sweeping motion to cover the three regulatory housekeeping recommendations. Jared provided a brief summary of each recommendation. Then he asked for a motion to: 1) require all black sea bass pots be configured with an escape panel that measures at least 3" by 6"; 2) prohibit purse seining for Atlantic bluefin tuna in the waters under the jurisdiction of the Commonwealth and rescind all historic regulations previously governing this regulated fishery as all permits to conduct this fishing activity have been retired; and 3) correct a typographical error in the state's mobile gear fishing regulations to clarify that certain ground gear may be used when fishing trawls in North Shore Exemption Areas 1A (Gloucester/Rockport) and 1B (Ipswich Bay).

**Chairman Kane asked for a motion to adopt DMF's regulatory housekeeping recommendations. Sooky Sawyer made motion to approve the recommendation as provided by the Director. Shelley Edmundson seconded the motion. A roll call vote was taken, and the motion was approved unanimously.**

## **DISCUSSION ITEMS**

### Updates on Protected Species Issues

DMF Senior Biologist Bob Glenn stated NOAA Fisheries and the Provincetown Center for Coastal Studies were conducted surveillance flights for right whales. Based on this surveillance, he provided an update regarding the presence of right whales in Massachusetts waters. These flights would continue into mid-May and inform DMF's decision making regarding the status of seasonal fixed gear closures and the small vessel speed limit.

### *Buoy Line Marking Proposal for Public Hearing*

Bob Glenn gave a presentation on NOAA's Buoy Line Marking Proposal. He discussed the different aspects of DMF's proposal regarding buoy line markings in state and federal waters and explained the importance of using the markers as a way to differentiate Massachusetts' gear from other fisheries in the case of an entanglement. Bob then discussed the rule making process, timeline, and rationale of buoy line marking requirements.

Sooky Sawyer asked for clarification on which parties are named in the ongoing lawsuit and if that included federal permit holders. Bob Glenn clarified that the lawsuit is specifically against the Secretary of Environmental Affairs and DMF. Sooky then asked about the requirements for additional gear marking for federal permit holders. Bob Glenn explained NOAA Fisheries draft rules require a green mark in the surface section to demonstrate the gear is federally permitted and the state-specific colors in the body of the buoy line based on homeport. DMF was working with NOAA Fisheries to add the green federal mark throughout the body of the buoy line for gear set in federal waters to help differentiate it from state-waters gear.

Sooky Sawyer asked about whale sightings on the North Shore. Bob stated there were several sightings off Cape Ann in April, most recently on April 13. Bob and Sooky then discussed how to best get this information to industry and agreed DMF could send out regular advisories relaying surveillance information.

Chairman Kane commended Bob Glenn and his staff for all their work. Ray asked if the buoy line marking timeline included the conch and fish pot fishermen. Jared Silva stated that this new proposal would apply to commercial lobster trap gear only, recreational lobster gear and fish and conch pot gear would continue to be subject to the existing buoy line marking requirements.

### *Gear Distribution*

Bob Glenn discussed the weak rope gear roll out. He thanked Erin Burke and Justin Wilson for their work on organizing the events. Erin Burke further discussed weak rope distribution. With funds from Governor Baker and an ASMFC grant, DMF purchased 2,500 coils of weak rope and 7,000 South Shore Sleeves. DMF sought to provide each fisherman with two weak coils of rope and 20 south shore sleeves to help them comply

with the new weak rope requirements. The expectation was that most fishermen would not fish fully formed weak rope, but would instead use the sleeves and segments of weak rope to insert weak contrivances into existing buoy lines. Then overtime, the fishery may turn over to fishing fully formed weak rope as they routinely replace gear. Erin then discussed the DMF Buoy Line Trap Gear Modifications Webpage, as well as the main email that has been setup for lobstermen to contact DMF.

Sooky Sawyer stated the initial batch of candy cane weak rope did not fish well and the manufacturer was working to develop a second batch based on feedback from industry. He was curious if DMF had received this improved candy cane rope. Bob Glenn stated DMF was waiting on a shipment. However, he did not intend to distribute the rope directly to industry, but to work with select fishermen to test this version of the rope.

Ray Kane asked if there is any way to utilize CARES money to subsidize the harvesters for the cost of the weak rope and contrivances. The Director stated CARES funding was to be distributed to those businesses affected by COVID. However, fishermen who are eligible for CARES money could spend it on purchasing gear.

Shelley Edmundson thanked DMF for distributing rope on Martha's Vineyard.

#### *Updates from ASMFC*

Nichola Meserve stated the ASMFC and MAFMC delayed the final action on the commercial/recreational allocation amendment for fluke, scup, and sea bass until December. The Council and Commission supported this delay to advance the Recreational Reform Initiative before allocation decisions are made. Additionally, more options within the range of alternatives may be developed in the interim based on concerns expressed during the public comment, which Nichola opined may help broker compromise between commercial and recreational interests. The implementation date has been flagged in the motion for 2023. The implications for the 2022 recreational fisheries are unknown, but all three species will go through a stock assessment this summer with the results factored into the fishery specification setting for 2022.

Nichola stated the agenda for the spring ASMFC meeting was posted online and the meeting was scheduled to occur virtually during the first week of May. Nichola made note of some high interest board actions, including: the identification of issues to be addressed in Amendment 7 to the Striped Bass FMP; a potential management action being initiated to reallocate commercial menhaden quotas among the states; a Policy Board review of an appeal by New York regarding state-by-state commercial black sea bass quota reallocations; and the development of an ASMFC Working Group to address the challenges associated with reallocation.

## **PRESENTATION ON MA OCEAN ACIDIFICATION COMMISSION REPORT**

Director McKiernan gave a brief overview of the MA Ocean Acidification Commission. Mark Rousseau then provided a summary of this Commission and its report on ocean acidification. Mark welcomed any questions from the Commission at the conclusion of his presentation.

Kalil asked if the oceans have reached the tipping point to sustain CO<sub>2</sub> absorption. Mark did not know the exact answer to Kalil's question, but stated there was a need for more sampling to occur in order to have more robust baseline data. He added that some local ocean acidification can be resolved by addressing local eutrophication that is occurring.

Bill Amaru commended Mark for his work and thanked him for making it understandable. Bill asked if acidification is standard throughout the entire water column. Mark stated pH levels were not likely equal throughout the water column. Moving forward, some technology needs to be developed to better sample this.

Mike Pierdinock asked if there is any connection between ocean acidification and recent dissolved oxygen levels in Cape Cod Bay. Mark stated this was yet to be determined.

Chairman Kane suggested Commission Members can reach out to Jared with any concerns or questions for Mark. Chairman Kane thanked Mark for his presentation.

## **OTHER BUSINESS**

Director McKiernan brought up two areas of other business from DMF. He suggested moving the May Business Meeting two weeks out. The May meeting was moved to June 3<sup>rd</sup>. The June MFAC meeting was cancelled.

Director McKiernan stated he received a request from a Hull purse seiner to allow menhaden seining in Boston Harbor on Friday. This request was made at the recent March 29 public hearing and was subsequently supported in writing by the Massachusetts Striped Bass Association. Dan and staff were preparing a memorandum for the MFAC that explains this request and Dan's likely decision to allow it for 2021.

### *Commission Member Comments*

Kalil Boghdan stated he really enjoys listening to the weekly seminars put on by DMF, and urged his fellow Commission members to listen in.

Bill Doyle would like an update on the Three Bay reclassification, as well as DMF's recent meeting with FDA. Director McKiernan provided an update regarding a recent meeting with the FDA, and added DMF was working to minimize the spatial extent to which it would reclassify and downgrade "Approved" shellfish growing areas to "Conditionally Approved". DMF would follow up with Bill Doyle with additional information.



Shelley Edmundson thanked DMF for all their hard work, particularly getting trap fishermen weak rope and weak contrivances.

Mike Pierdinock stated he got an email from NOAA Fisheries regarding a 90-day petition to place shortfin mako sharks on the Endangered Species List, and noted comments on this action are due June 14. He added that he has been participating in civilian science workshops through ACCSP to develop mobile applications as a means for reporting recreational and for-hire catch and effort data.

Ray Kane thanked the Commission for their continued attendance. Ray then asked Shelley Edmundson for an update on the whelk research fleet. Shelley stated the grant would begin in 2022.

Ray and Dan discussed a recent petition from the Massachusetts Conch Association to stall whelk gauge increases pending additional scientific review. The association hired Dr. James Sulikowski to review the agency's size-at-maturity work and management. DMF had received some comments from Dr. Sulikowski and was reviewing it with SMAST staff and preparing a response.

Bill Amaru asked Shelley to speak to a new seafood marketing program she promoted on NPR. Shelley discussed a new wholesale seafood marketing program focused at making local seafood more accessible on the island and better marketing locally caught seafood throughout the state.

### **PUBLIC COMMENTS**

No public comments were made.

### **ADJOURNMENT**

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

## **MEETING DOCUMENTS**

- April MFAC Agenda
- March 2021 Draft MFAC Business Meeting Minutes
- Commercial Striped Bass Recommendation
- Commercial Menhaden Management
- Housekeeping Recommendation Memo
- Buoy Line Marking Proposal

## **UPCOMING MEETINGS**

**9AM**

**June 3, 2021**

**Via Zoom**