

## **MARINE FISHERIES ADVISORY COMMISSION**

**December 2, 2021**

**Held Virtually via Zoom**

### **In attendance:**

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

*Division of Marine Fisheries:* Daniel McKiernan, Director; Michael Armstrong, Assistant Director; Kevin Creighton, CFO; Story Reed; Jared Silva; Julia Kaplan; Nichola Meserve; Jeff Kennedy; Kelly Whitmore; Maren Budrow; Stephanie Cunningham; Tracy Pugh; Steve Wilcox; Scott Schaffer and Anna Webb

*Department of Fish and Game:* Mark Reil

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

*Members of the Public:* Katie Almeida; Lizzie Roche; Andrew Kolek; Craig P; Emerson Hasbrouck; and Manuela Barrett

## **INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane called the December 2, 2021 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

## **REVIEW AND APPROVAL OF DECEMBER 2, 2021 BUSINESS MEETING AGENDA**

Dan McKiernan recommended amending the December 2, 2021 MFAC draft business meeting agenda to have items 3a and 3b switched. There were no other amendments made to the agenda.

**Chairman Kane asked for a motion to approve the amended draft December 2, 2021 business meeting agenda. Mike Pierdinock made a motion to approve the amended draft agenda. The motion was seconded by Bill Doyle. The amended December 2, 2021 MFAC business meeting agenda was approved by unanimous consent.**

## **REVIEW AND APPROVAL OF November 10, 2021 DRAFT BUSINESS MEETING MINUTES**

Kalil pointed out a typo at the end of page 3 on the meeting minutes. Jared Silva stated he would correct this type. There were no other amendments made to the November Draft Business Meeting Minutes.

**Chairman Kane asked for a motion to approve the November 10, 2021 MFAC business meeting minutes. Tim Brady made motion to approve the November 10, 2021 business meeting minutes with his amendments. Shelley Edmundson seconded the motion. The motion was approved by unanimous consent.**

### **CHAIRMAN'S COMMENTS**

Chairman Kane thanked the commission for their continued attendance and wished everyone happy holidays.

### **COMMISSIONER'S COMMENTS**

Commissioner Amidon was absent from the meeting.

### **LAW ENFORCEMENT COMMENTS**

Lt. Matt Bass handled the comments for the Massachusetts Environmental Police (MEP). He stated MEP has been identifying and removing abandoned recreational lobster gear. Lt. Bass expressed concern over the lack of a uniform size limit on lobsters coming from the Outer Cape between the state and federal waters component of the Lobster Management Area. He then discussed MEP staffing and stated there are nine in command staff, 14 in bureau safety, and 75 uniformed officers in the field—36 of which are assigned to the coast.

Ray Kane asked if the MEP are trying to add new officers. Lt. Bass stated there is an active civil service list. He stated he is only aware of one position they are trying to fill.

Sooky Sawyer asked for an update regarding lobster-related enforcement incidents on the North Shore. Lt. Bass stated he was uncertain which case Sooky was referring to, but noted a recent favorable court decision in a North Shore lobster case.

Kalil Boghdan asked about how the MEP schedule shifts. Lt. Bass stated the scheduling is flexible and the schedules are usually put out two weeks in advance. Lt. Bass also stated officers will work into the night as well.

### **DIRECTOR'S COMMENTS**

Director McKiernan welcomed everyone to the meeting. Dan started his comments by discussing DMF's new recreational permitting system, which went live on December 1.

Dan briefly discussed several recent meetings. This included the MFAC sub-committee meetings on Law Enforcement and Atlantic Mackerel. DMF's Conservation Engineering Program also arranged a call with colleagues from Pacific state fishery agencies regarding protected species issues germane to the removal and hauling of abandoned fixed gear. Several states use a "finders-keepers" method whereby abandoned gear becomes the property of the finder and it may be sold back to the original owner. Dan

was uncertain about this approach in Massachusetts. However, he was looking to discuss the issue with the lobster industry with the ultimate goal of developing a statutory amendment to allow for a direct approach to the issue.

Director McKiernan then went on to discuss the final decision in the endangered species litigation. While the court is no longer requiring DMF apply to NOAA Fisheries for an Incidental Take Permit, given the most recent Biological Opinion and the content of the judge's decision, DMF was continuing the ITP application process.

On behalf of the Massachusetts Lobstermen's Association, Sooky Sawyer thanked DMF for all the effort expended on the litigation and the ITP application. Sooky then asked about the number of catastrophic gear loss claims DMF has received as a result of the recent Nor'easter. Dan stated he will get back to Sooky regarding the specific number claims. Sooky and Dan then discussed the potential for economic support given the scale of gear loss.

### **ACTION ITEMS**

#### 2022 Winter I Scup Trip Limit

Jared Silva discussed the Winter I Scup Trip Limit. The Director recommended establishing a 50,000-pound trip limit for the 2022 Winter I (January 1 – April 30) period. This limit is consistent with federal catch limit and would allow vessels fishing in federal waters to land scup in state ports. Jared welcomed any questions and discussion.

Bill Amaru stated this will benefit the crew and captains even though the trip limit may not necessarily be met every trip.

**Chairman Kane asked for a motion to approve the recommendation from the Director. Bill Amaru made a motion to approve the recommendation from the Director. Tim Brady seconded the motion. A roll call vote was taken, and the motion was passed unanimously 8-0.**

#### Declaration to Increase Period I Summer Flounder Trip Limit for 2022

Director McKiernan and Jared Silva provided a brief overview of the stock status for summer flounder. Jared then went on to discuss the summer flounder quota and utilization and background information on the state's summer flounder management system.

The Director's recommendation was to increase the Period I (January 1 – April 22) summer flounder trip limit from 1,000-pounds to 2,500-pounds for 2022. Jared then went on to discuss the rationale. The summer flounder quota is increasing to 1.39mlbs, a 37% increase from 2021. This is the second consecutive year of substantial increases, as the quota increased by 28% from 2020 to 2021. Additionally, the annual quota was underutilized the past three years (2019-2021). The Period I fishery has a demonstrated ability to harvest its quota allocation provided the trip limit is set sufficiently high.

Mike Pierdinock asked if the quota has also been increased for vessels fishing in federal waters. Nichola stated the coastwide quota for the fishery has increased, which resulted in most states seeing an increase. Dan added there are no federal trip limits, the fishery is managed on a state-to-state basis with state possession limits dictating the level of fishing effort occurring in federal waters. Jared explained how the coastwide quota is distributed amongst the states and how the quota increase effects each state's quota.

Kalil Boghdan expressed concern over the increase in coastwide quota due to the underutilization in previous years. Jared explained how socioeconomic and environmental factors, as well as management, have constrained the fishery's ability to harvest its quota.

Bill Amaru stated this is a good opportunity for fishermen to utilize quota. He pointed out that it's a wintertime fishery and most of the fishermen will deal with harsh conditions that sometimes prevent them from fishing. He concluded his comment by stating he supports the recommendation.

Ray Kane asked if there are fish houses from North Carolina buying fish from Massachusetts ports. Dan stated all fish landed in in state get counted against the state's quota, regardless of whether the primary buyer is headquartered elsewhere.

**Chairman Kane asked for a motion to approve the recommendation from the Director. Sooky Sawyer made motion to approve the recommendation from the Director. Shelley Edmundson seconded the motion. A roll call vote was taken, and the motion was passed 7-0 with Kalil Boghdan abstaining.**

## **ITEMS FOR FUTURE PUBLIC HEARING**

### Adjustments to Commercial Summer Flounder Limits for 2022

Director McKiernan and Jared Silva gave an overview of summer flounder public hearing proposals. Jared then went into detail on each proposal for the summer flounder fishery.

With regards to Period I, DMF was proposing to increase its share of the annual quota from 30% up to 50%; increase the trip limit from 1,000lbs to at least 2,500lbs; maintain a trip limit reduction trigger based on new quota allocation; and codify multi-state pilot program as regulation. With the quota increase, providing additional wintertime access to the resource would better enable the utilization of the available resource.

Kalil Boghdan asked about the trip limit trigger which reduces the trip limit to 100-pounds once a certain amount of the Period I quota allocation is taken. Jared explains this is done to ensure the Period I fishery does not exceed its allocation while allowing them to continue to maintain a bycatch thereby preventing regulatory discarding.

Bill Amaru and Ray Kane expected there will be pushback from the inshore fleet against increasing the Period I allocation. Jared noted that based on recent performance the Period II fishery is underperforming its quota allocation and with the quota increase in 2022, DMF expects the summer flounder quota will be substantially underutilized if status quo measures stay in place. Director McKiernan also explained the 50-50 split represents the most extensive re-allocation that may occur and any reallocation may be tied to the magnitude of the quota.

Mike Pierdinock stated he would reluctantly support the proposal and is curious to see how fishery performance may change. He stated there is more to be done at the federal level to determine changes in spatial distribution of fish stocks resulting from environmental changes and how it affects quota management.

Jared then moved on to discuss proposals affecting Period II fishery. DMF is proposing to decrease Period II quota allocation from 70% to no less than 50%; adjust timing of the directed fishery to start as early as April 23, rather than June 10; increase trip limits; and eliminate closed fishing days during the directed fishery.

With regards to trip limits, options include increasing trip limits from 400 to 500-pounds for trawlers and 250 to 300-pounds for hook and line gear. During the period overlapping with state's small mesh trawl squid fishery the trip limit for trawlers would remain at 100-pounds if in possession of squid. DMF is also proposing to establish a built in-season trip limit increase on dates certain based on quota utilization (e.g. September 1 increase to 800lbs for all gears should > 75% of the quota remain). Then after the recreational fishery closes on October 9, DMF was proposing to increase the trip limit to accommodate the offshore fleet. This would be done by increasing the limit to 1,500lbs for all gear types in <15% of quota or 2,500lbs if >15% of quota remains.

With regards to fishing days, options could include starting the season with no closed days, one closed fishing day or phasing in additional open days based on quota availability at dates certain.

Lastly, on the subject of the fishing season, starting the season earlier would provide trawls with flexibility to target another species should the squid run be late or poor. It also gives hook and line fishermen a profitable spring fishery option, which has been sought since the black sea bass quota was moved to summer in 2013. For open days, DMF wanted to provide fishermen with more flexibility to pick good weather days, particularly given potential safety issues if vessels are travelling further offshore to fish. Finally, it may result in increasing number of overall trips to compensate for loss of active permits.

Kalil Boghdan asked if DMF has statistics on daily efforts and an average of how many fishermen are actively fishing during the winter fishery. Jared did not have the data regarding daily effort on hand. However, he estimated about 25 vessels participate in the Period I fishery.

Kalil asked if the decline in effort and decrease in permits held is due to aging out or poor fishing. Jared stated the reasons are likely multi-faceted and complicated. A segment of the population is retiring out, but there are also other factors a variety of socioeconomic and environmental factors that may be causing attrition in participation (e.g., lower near-shore abundance; seasonal dockage and overhead costs; profitability in other fisheries).

Bill Amaru stated his support for DMF to take comment on these proposals.

#### Adjustments to Commercial Black Sea Bass Limits for 2022

Dan McKiernan and Nichola Meserve discussed the black sea bass quota and quota utilization. With an anticipated quota increase in 2022 and given fishery performance in 2021, DMF was proposing several adjustments to the commercial black sea bass rules to ensure the quota is utilized.

DMF was proposing to: move the season start date from July 8 to July 1; add Mondays and Wednesdays as open fishing days, allowing fishing Sunday – Thursday from July 1 – September 30; on October 1 eliminate closed fishing days allowing commercial fishing seven days per week; increase the possession and landing limit by 25% from 400 to 500-pounds for pots and from 200 to 250-pounds for other non-trawl gears (mostly hook and line); and if more than 10% of quota remains on October 1, increase trip limits to 600-pounds for pots and 300-pounds for hook and line. Finally, in regards to trawler bycatch limits, should changes be made to the summer flounder season and open fishing days, trawler rules for black sea bass should be adjusted accordingly to allow for retention of bycatch and reduce regulatory discarding.

Kalil asked for information regarding the commercial sea bass permit holders. Nichola stated that data was not pulled for this memo. However, that data could be pulled when this proposal goes to public hearing.

#### Establishing a Commercial Menhaden Season for 2022

Nichola Meserve discussed a proposal to establish a June 1 menhaden season start date. Weirs would be exempted from this start date given the opportunistic nature of this fishery. DMF was also considering a similar exemption for the small-scale and incidental catch fishery.

Nichola explained the 2021 fishery began in earnest in late-May. In turn this increased reliance on EESA and state quota transfers during the summer to keep the fishery open when local bait demand was high. A June 1 start would better align the fishery with local bait demand and aligned with the opening of the inshore net areas to purse seining. Nichola noted Maine established a June 14 start date in 2021 for similar bait availability reasons. Regarding the weir fishery exemption, this gear is opportunistic and seasonal, and it is warranted to allow them to retain menhaden if encountered.

Director McKiernan and Mike Pierdinock discussed conflict in the Boston Harbor fishery last year. At Pierdinock's request, the Director agreed to take public comment on the

inshore net permit conditions allowing fishing on Fridays in Boston Harbor. Dan also noted he was going to directly deal with the single permit holder who was causing user group conflicts in the area and was considering conditioning his permit to prevent him from fishing in Boston Harbor in 2022.

## **DISCUSSION ITEMS**

### *Shellfish Advisory Panel Meeting*

Dan McKiernan provided background information regarding the Shellfish Advisory Panel (SAP). This body was initially formed in 2014 by DMF on an ad-hoc basis. The following the recommendations of the Massachusetts Shellfish Initiative, the Legislature codified it as a formal advisory body in the Acts of 2021. DMF reviewed the enabling statute and described the purpose and composition.

The newly constituted SAP met for the first time on November 18, 2021 in Plymouth. The meeting was largely informational with DMF providing an overview of the public body and why it was formed and briefing them on ongoing issues DMF's Shellfish Program has been working on. Lastly, the DMF appointed members discussed their priority issues they would like the SAP to address. DMF anticipates the next meeting will be in February 2022.

Bill Doyle stated he found the meeting very informative and powerful having all stakeholders together in one room working together towards a common goal. He believes a lot of good will come from the Panel. He thanked Dan for the opportunity to serve on the Panel.

### *Law Enforcement Sub-Committee Meeting*

Jared Silva provided the MFAC with a brief summary of the recent Law Enforcement Sub-Committee meeting held on November 17, 2021. Jared briefed the full MFAC on the various items discussed, which ranged from ongoing enforcement challenges to potential regulatory adjustments to enhance enforcement and compliance, and the emerging need to develop enhanced protocol for the hauling, seizing, and storing of non-compliant or abandoned gear. Jared noted it would provide a more substantive memorandum in early 2022 to cover potential regulatory amendments supported by the Sub-Committee.

### *Review of Atlantic Mackerel Sub-Committee Meeting*

Dan McKiernan provided the MFAC with an overview of the emerging issues regarding Atlantic mackerel. The MFAC's Atlantic Mackerel Sub-Committee met on December 1. The purpose of the meeting was to begin to discuss anticipated management challenges emerging out of the MAFMC's development of a mackerel rebuilding plan. This included the potential need to develop recreational fishery management measures in New England (e.g., harvest limits), including within state waters. DMF was working on an extensive memo on the subject, which the Sub-Committee reviewed, and this memo would be shared with the full MFAC in early 2022. Additionally, the Massachusetts, Maine and New Hampshire were expected to sign a joint letter to the MAFMC

expressing concerns shared among the states. Sub-Committee members also expressed concerns about the quantitative basis for taking a management action, including the use of MRIP data to estimate recreational catch; the seeming lack of tools to account for and managing the shifting geographic distribution of stocks based on climatic shifts; unprecedented levels of local availability contrary to the overall assessment of the coastwide stock; and the MAFMC's rapid time for implementation and the lack of outreach to stakeholders including formal engagement with the NEFMC and New England states. Dan asked those MFAC members who serve on the sub-committee for additional thoughts.

Bill Amaru stated Kelly Whitmore did a great job at preparing the list of concerns to be included in the letter to MAFMC. Bill then discussed the memo sent out and stated it lacked data regarding the midwater trawl fishery. He was also curious regarding how the resource was managed in Canada.

Kelly Whitmore stated the memo was still in a draft form and staff intended to update it with information regarding the mid-water trawl. She also stated the Canadian fishery had a 10.5 inch minimum size which was informed by the data in the last stock assessment.

Kalil Boghdan found the meeting very informative and went on to discuss his concerns regarding observed declines in spawning stock biomass.

Mike Pierdinock was pleased with the draft letter to the MAFMC and was glad the three states would co-sign it.

#### *Updates from the Atlantic States Marine Fisheries Commission*

Dan McKiernan stated ASMFC was trying to figure out how to manage a hybrid in-person and virtual meeting for January. Dan also addressed the draft addendum requiring federal lobster permit holders to have cellular phone trackers on board their vessel to obtain more refined spatial data.

## **PRESENTATIONS**

#### *Seafood Value Trends by Species*

Story Reed provided the MFAC with a presentation on ex-vessel value trends by species. Story stated the value of the state's fisheries not only rebounded from 2020, it set an all-time high. The presentation focused on sea scallops, lobsters, and oysters.

Kalil Boghdan asked about where to find the graphs similar to those provided at the September 18<sup>th</sup> MFAC meeting regarding top 10 ex-vessel value by species. Story stated that those graphs can be found within the annual report.

#### *New Cat Cove Laboratory and Facility*

Mike Armstrong provided the MFAC with a virtual tour of DMF's new Cat Cove Marine Laboratory in Salem. He provided some historic background on the facility and DMF's



use of it, as well as some of the highlights of the facility including the Smith pool an extensive wet lab. DMF plans to build out offices to house employees who work on stock assessments and management. He also discussed future work opportunities such as a winter flounder hatchery, eelgrass seed grow out, striped bass studies in the Smith Pool, and a possible shellfish hatchery.

Shelley Edmundson expressed excitement about the lab and thanked Mike for the presentation. Shelley asked if the in-flow pipes to the hatchery are taking water from the pool or elsewhere. Mike stated the pipes come from the pool.

Tim Brady asked if the pond is salt or brackish. Mike stated it is a salt water pool fed by Salem Harbor.

Bill Amaru hoped some of the money from the newly passed infrastructure bill could be used by the state for the facilities repairs.

Dan discussed the old lobster hatchery that was used by DMF in Oak Bluffs. DMF got permission to create a lease so the MV Shellfish Group can use the facility at almost no cost for 15 years. While DMF still owns the building, MV Shellfish Group can maintain and use the building as they see fit. Dan stated the hatchery is named after John T. Hughes who sadly passed earlier this week.

## **OTHER BUSINESS**

### *Business Meeting Schedule for 2022*

Jared stated that Jan 20<sup>th</sup>, March 3<sup>rd</sup> or March 10, April 7, May 12 or 19, and June 9 or 16 are possible future meeting dates for 2022. Jared will circulate an email to get feedback on the suggested dates. He expected the January meeting to be in-person, and then DMF and the MFAC will consider going to every other month for in-person and virtual meetings thereafter.

### *Commission Member Comments*

Sooky Sawyer would like to Dan to pass along his thanks to the Attorney General's office for their work on the recent endangered species litigation.

Mike Pierdinock discussed an outfall pipe from the nuclear power plant in Plymouth possibly releasing radioactive water being discharged into CCB. DMF will consult with DEP on the subject and report back at the next MFAC when more details are known. Mike closed his comments by highlighting the upcoming NEFMC meeting.

Shelley Edmundson stated she was grateful to DMF for figuring out how to lease the facility to the MV Shellfish Group. She also paid respects to John T. Hughes.

Bill Doyle was alarmed that Wareham was in the process of creating a sewage discharge pipe. He was excited certain quotas were being increased and thought DMF

could share this information in a press release. hopes that this information could be shared in a press release.

Mike Pierdinock added to Bill's comment and expressed concern regarding the Wareham project and potential impacts on the Canal. Jeff Kennedy explained the Canal is deep and has a lot of mixing water, so it may be a better location for an outfall.

Kalil asked about reconvening the Striped Bass Sub-Committee. Story stated DMF continued to work on the analysis requested at the last meeting and anticipated meeting this winter.

Tim Brady echoed what Mike Pierdinock stated regarding the radioactive discharge.

Bill Amaru was looking forward to the return of in-person meetings.

Ray Kane thanked the Commission and commended the leadership of Dan McKiernan. He wished everyone happy holidays.

#### **PUBLIC COMMENTS**

Ed Barrett stated the proposals for summer flounder are fairly significant and was hopeful DMF would do additional outreach to industry and suggested full date meetings in advance of the public hearing.

Beth Casoni thanked DMF and the Attorney General's Office for their work on the recent endangered species litigation. With regards to the radioactive discharged, MLA was seeking a meeting with EOEEA.

#### **ADJOURNMENT**

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

## **MEETING DOCUMENTS**

- December 2, 2021 MFAC Business Meeting Agenda
- November 10, 2021 MFAC Draft Business Meeting Minutes
- 2022 Period I Summer Flounder Recommendation
- 2022 Winter I Scup Recommendation
- Commercial Summer Flounder Public Hearing Proposal
- Commercial Black Sea Bass Public Hearing Proposal
- Commercial Menhaden Public Hearing Proposal
- Presentation on Public Hearing Proposals
- Shellfish Advisory Panel Presentation
- November 2021 Draft Shellfish Advisory Panel Meeting Minutes
- Law Enforcement Sub-Committee Meeting Summary
- Atlantic Mackerel Sub-Committee Presentation
- Seafood Value Trends Presentation
- Cat Cove Virtual Tour Presentation

## **UPCOMING MEETINGS**

**January 21, 2022**  
Zoon

**March 10, 2022**  
Location TBD

**April 7, 2022**  
Location TBD

**May 12, 2022**  
Location TBD

**June 9, 2022**  
Location TBD