

## **MARINE FISHERIES ADVISORY COMMISSION**

**February 18, 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; Julia Kaplan; Bob Glenn; Anna Webb; Kelly Whitmore; Maggie Nazarene; Stephanie Cunningham; Derek Perry; Kerry Allard; Tracy Pugh; Sam Truesdell; Steve Wilcox; and Gary Nelson.

*Department of Fish and Game:* Ron Amidon, Commissioner; and Mark Reil, Director of Legislative Affairs.

*Massachusetts Environmental Police:* Lt. Matt Bass.

*Members of the Public:* Anna Priester; Joe Grady; Christine Tierney; Rachel Downey; Peter Fallon; Heather Haggerty; and Emerson Hasbrouck.

## **INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane called the February 18, 2021 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

## **REVIEW AND APPROVAL OF FEBRUARY 18, 2021 BUSINESS MEETING AGENDA**

No amendments were proposed to the February 18, 2021 MFAC business meeting agenda.

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

## **REVIEW AND APPROVAL OF JANUARY 28, 2021 DRAFT BUSINESS MEETING MINUTES**

Bill Doyle requested that the public comment section be updated to include more details regarding from the public comment provided by Gregg Morris. Morris spoke to the reclassification of the Three Bays and advocated for limiting the scope of reclassification to a 300 yard buffer zone around the current prohibited area in Plymouth Harbor and a

new dye study to account for dredging projects that have changed how water flows through the area. There were no objections to this request. No further amendments were proposed to the draft January 28, 2021 business meeting minutes.

**Ray Kane asked for a motion to approve the amended January 28, 2021 meeting minutes as amended by Bill Doyle. Bill Doyle made motion to approve the January business meeting minutes with his recommended amendment. Shelley Edmundson seconded the motion. Motion was approved by unanimous consent.**

#### **CHAIRMAN'S COMMENTS**

Chairman Kane thanked the MFAC for their full attendance.

#### **COMMISSIONER'S COMMENTS**

Commissioner Amidon stated since the pandemic began, more work and meetings are being held virtually. With that in mind, he appreciated how the MFAC held well run and professional business meetings in this new format.

#### **DIRECTOR'S COMMENTS**

The Director began his comments by discussing the protected species regulations approved by the MFAC at their January business meeting. He stated that the internal review of these final regulations was complete, and the new rules would be promulgated on March 5, 2021. This would be the effective date for the trap and gillnet closure extensions, whereas the rules allowed the gear modification rules to be implemented for May 1, 2021. DMF was committed to conducting extensive outreach to industry regarding these changes and was in the process of building out a website to serve as a central information hub for commercial fishermen affected by the new regulations. Staff remained fully engaged on protected species issues and continued to work on the state's ITP application, draft comments on NOAA Fisheries' Atlantic Large Whale Take Reduction Plan's proposed rules and its biological opinion on right whales, and were working with industry and NOAA Fisheries to develop new weak contrivances.

The Director moved on to discuss the second round of CARES Act fisheries relief. He stated Congress was being pressured to reduce the 35% loss threshold, which would allow more businesses to qualify for this funding. He was uncertain how much funding Massachusetts would ultimately receive, but he expected it would be somewhat reduced compared to the first round as additional funding was being allocated to native tribes and the Great Lakes states. Dan added that ASMFC will be mailing all CARES relief recipients their 1099 forms in the coming week.

DMF was working to complete the Port Profile Project. At present, port-specific profiles have been sent to the respective harbormaster for final vetting. A copy will also be sent to the Seafood Marketing Steering Committee for their review.

The Massachusetts Shellfish Initiative (MSI) has a public meeting schedule for Monday, February 22 at 6 PM on its draft Strategic Plan. Written public comment is due by March 5, 2021. The comments will be reviewed at the MSI's Strategic Plan Working Group at their March 9, 2021 meeting. A final version of the Strategic Plan will then be drafted and set to the Task Force for their review and approval.

Director McKiernan continues to work with stakeholders in regards to the Three Bays re-classification and intends to establish a working group on the issue.

DMF has adopted a permit transfer policy for limited entry black sea bass, fluke and tautog endorsements for the rod and reel fishery. The permit transfer policy has been posted onto DMF's [website](#). In summary, these endorsements are individually transferred provided the permit holder has sold at least one trip limit for that permitted species in four out of the past five years, or they may be bundled and transferred together provided the permit holder has sold at least one trip limit for one of the permitted species in four out of the past five years.

Dan stated that Gary Nelson and Steve Wilcox will be presenting on the whelk fishery later in this meeting. On the subject of whelks, VIMS hosted a symposium on channeled whelk fisheries and management, which DMF participated in. He found it notable that MA's fishery is twice as big as any other state on the east coast and most other states do not have any reporting requirements and nominal conservation standards. Dan added the ACCSP approved a grant to create one-year study fleet to gather more fishery dependent data. Commission member Shelley Edmundson is the co-PI for this grant and would be working with local fishermen.

DMF and DFG were working to fill the NEFMC seat held by John Quinn. DMF was compiling the letters of support for candidates and a formal announcement of a selected nominee will occur June.

Sooky Sawyer emphasized the need for industry outreach on the pending trap closures and gear modification requirements.

Bill Amaru asked about convening a sub-committee dedicated to discussing permit transfers. The Director stated there is a standing sub-committee he would like to convene regarding permitting issues and bringing younger fishermen into the fleet. However, his ability to convene this group has been limited due to other obligations and commitments.

### **LAW ENFORCEMENT COMMENTS**

Lt. Matt Bass handled the comments for MEP. MEP hired seven new officers and these new officers will be completing training in July. MEP was working this winter to remove abandoned gear in the Cape Cod Bay.

Bill Amaru was concerned about the presence of large surf clam dredge vessels in eastern Cod Bay. Bill was curious if MEP could patrol the area; Lt. Bass stated that MEP was aware of the concerns and would look into whether the activity was lawful

## **DISCUSSION ITEMS**

### 2021 Conditional April Groundfish Closure

DMF informed the MFAC it would seek public comment to lift the conditional April groundfish closure between Plymouth and Marblehead for 2021. This conditional closure was implemented in 2019 in response to concerns from federal permit holders that state waters groundfish landings were on track to exceed federally allocated state-water set-asides and could potentially trigger federal accountability measures for fully utilized stocks. To balance these concerns with providing the state waters fleet with seasonal access to the resource, DMF may annually lift this closure if data for the fishing year (May 1 – April 30) demonstrates that the federally allocated state water subcomponents will not be exceeded and federal conservation objectives are not compromised. DMF will accept public comment on lifting this closure through March 5, 2021 and the MFAC will vote on a final recommendation at their March 18, 2021 business meeting.

Jared Silva pointed out other overlapping closures that would additionally restrict groundfish fishing in certain areas even if this closure is lifted. Data for the 2020 Fishing Year shows that state-waters groundfish harvest is well below the federally allocated sub-components for all stocks. This is likely driven, in part, by a COVID related reduction in fishing effort.

Mike Pierdinock asked if this closure was just for the month of April or several months. Jared stated that there are closures in the state waters portion of the Gulf of Maine in April, May, and June. The proposed action would only affect the April closure; the May and June closures would remain in place.

Mike P., Jared, and Dan then discussed how the state waters sub-components were allocated and how they affected the management of the state waters fishery.

Sooky Sawyer expressed frustration over the possibility that the April closure could be lifted and thereby allow gillnet fishermen to fish in areas where lobster trap fishermen are prohibited to fish due to the risk of interactions between buoy lines and right whales.

Bill Amaru was surprised by the low level of state waters groundfish landings and opined that this is most likely due to the decline in the size of the inshore mobile-gear trawler fleet.

### 2020 Channeled Whelk Fishery Performance

Director McKiernan stated that channeled whelk are not managed on a coastwide basis. Therefore, there is no interstate or federal framework for management. Moreover, there

is a very limited recreational fishery for this species. Ultimately, the management and sustainability of this resource falls to DMF and the MFAC. He then recounted the ongoing VIMS symposium, which highlighted the general lack of management and science dedicated to this species on a coastwide basis.

Steve Wilcox provided a preliminary analysis of the performance of the channeled whelk fishery in 2020, as well as an overview of how fishery performance has changed overtime. The 2020 data presented was preliminary, and DMF's Statistics Project expected landings may increase by 4-5% as the data is further quality controlled. MA landings are primarily coming from Nantucket Sound with harvest also occurring in Vineyard Sound and Buzzards Bay. He then discussed the size-at-maturity management approach that DMF has been methodically advancing since 2013 and the pending 2021 gauge increase. Steve noted that even with this gauge increase to 3 1/8", 0% of females are sexually mature at that size at harvest in Nantucket Sound and Vineyard Sound and only about 15% are sexually mature at that size at harvest in Buzzards Bay.

Bill Amaru asked why there was no distinguishment between the two types of whelk. Steve stated this update was just for channeled whelk.

Chairman Kane asked Steve to explain why there are discrepancies in the size at maturity for sexually mature female whelk in Buzzards Bay, as compared to Vineyard Sound and Nantucket Sound. Steve noted that environmental factors, namely water temperature, influence growth rates and size at maturity, with whelks reaching sexual maturity at small sizes in warmer waters. With Massachusetts being the northern extent of the species range, it is not surprising that Massachusetts has the largest size at maturity across the species range and that Nantucket Sound has the largest size at maturity in the state.

Kalil asked about the survivability of whelks to size at maturity. Steve was unaware of any studies that looked into this question.

Dan asked Steve to discuss the life history traits of whelk. Steve then gave a brief overview of the life history traits of channeled whelk.

Mike Pierdinock asked if the low percentage of mature females in Buzzards Bay, Vineyard Sound, and Nantucket Sound with the 2021 gauge increase meant the status of the stock was at risk. Steve clarified that the data is indicative that there are no female whelks protected by the pending 3 1/8" gauge size in Nantucket Sound and Vineyard Sound and few protected in Buzzards Bay. Given this, there are no assurances that female whelks can reproduce before harvest.

Ray Kane asked if there were studies being conducted into male size at maturity. Steve stated his size at maturity studies produced data for both sexes. Male whelk tend to mature at a smaller size than female whelk.

Shelley Edmundson expressed concern that by the terminus of the current gauge increase schedule the fishery will result in the forced discarding of all males and the commercial fishery will occur exclusively on breeding sized females. She was worried that this would end up skewing sex ratios in the biomass and leading to underutilizing the resource. With this in mind, Shelley requested DMF establish a working group or a sub-committee to review the state's size at maturity management strategy and review other conservation management options. Dan suggested waiting one-year until some data could be collected through her new grant work; Shelley preferred convening it as soon as possible.

Shelley then discussed her upcoming grant work with ACCSP. Ray, Dan, and Shelley discussed the type of data that would be collected and the data collection methods. Shelley indicated that she intended to work with DMF on this further.

Lou Williams expressed concern over how the fishery was being managed and that the fishery would be regulated out of existence with the size at maturity management strategy. Lou then asked if whelk spawn get dispersed in the water column and moved by oceanic currents. Shelley stated channeled whelk spawn do not get dispersed through the water column and egg casings are typically laid into the seafloor.

Gary Nelson gave a brief presentation regarding DMF's stock assessment for channeled whelk in Nantucket Sound. The models used in DMF's channeled whelk stock assessment calculate bMSY at 22 million pounds, and at this biomass the MSY estimate is between 1.2 and 1.6 million pounds annually depending on the model used. However, the stock is currently overfished and experiencing overfishing and the biomass is estimated to be closer to 8 million pounds. Accordingly, DMF anticipated that any potential MSY-based quota would be substantially lower than MSY at bMSY. DMF committed to continue to work with the MFAC and industry on the management of this fishery and noted that Shelley' grant would enhance the fishery dependent data available for management.

#### Updates from Winter ASMFC Meeting

Nichola Meserve gave a brief presentation to the MFAC on the recent February 2021 ASMFC business meeting. Her highlights included: approval of the scoping document for Amendment 7 to the Interstate Fishery Management Plan for Striped Bass, for which hearings will be held this spring; the states' ongoing implementation of the recreational circle hook mandate in Addendum VI to the Striped Bass FMP, particularly ASMFC approval of the joint MA/ME proposal to study the tube rig fishery during a two-year exemption period, and a forthcoming effort to address the states' varying regulatory definitions of bait; approval of the black sea bass commercial state allocation amendment with a reallocation alternative that addresses the species' redistribution; the ongoing development of the summer flounder, scup, and black sea bass commercial/recreational allocation amendment; the approval of the bluefish allocation and rebuilding amendment for public comment; and the initiation of a review of how the coastwide commercial menhaden quota is allocated.

## Upcoming Spring 2021 Public Hearings

### *2021 Recreational Black Sea Bass Fishing Season*

Nichola Meserve presented on the upcoming recreational black sea bass season. For 2021, states are required to maintain status quo limits for the recreational black sea bass fishery, with the exception of possible minor season adjustments not projected to increase harvest. For MA, status quo measures would result in a May 18 – September 8 open season with a 5-fish bag limit and 15” minimum size. DMF has historically opened the fishery on either the third or fourth Saturday in May, but under status quo rules the fishery would open on a Tuesday. To accommodate a Saturday opening, DMF submitted a conservation equivalency proposal to the ASMFC with two different seasonal options: May 15 – September 3 and May 22 – September 14. Both proposals were approved at ASMFC and DMF collected public comment on the three potential season options.

Nichola stated that public comment generally preferred the May 22 start date, but it was notable that a number of for-hire operators preferred the May 15 start date for business and marketing reasons. DMF’s preference was for a May 22 start date, particularly as it would provide additional Wave 5 (September – October) MRIP data that could help the state argue for a later closing date in the future, in addition to the arguments put forth by the public. The Director urged the MFAC to vote on DMF’s preferred May 22 start date, and stated he would like an endorsement from the Commission since any change from the existing limits would be enacted by an emergency action. Chairman Kane opened the floor to questions.

Tim Brady stated there is most likely going to be a necessity to book charter/party trips as early as possible this year. He would prefer the earlier start date of May 15. The Director stated that with more CARES funding coming he will work to ensure funds are allocated to the for-hire fleet. Dan added he would like to see more September fishing since some locations do not see fish until later in the season.

Mike Pierdinock asked if the VTR data submitted to NOAA Fisheries from the extended 2020 for-hire season has been analyzed yet. Nichola stated the data has not been received and it would only represent a small portion of the landings since only a fraction of MA’s for-hire fleet submit VTR data. Dan asked Nichola if the data from the VTRs would be helpful to describe the likely catch rates of the whole sector during the fall. Nichola stated that it may be helpful in providing some data to argue for extending the season into the fall in the future, but having more MRIP data across all modes would likely make a stronger argument.

Mike Pierdinock noted that a for-hire bonus season was accommodated in 2020 and asked if the for-hire bonus season was considered for this year. Nichola noted that this was authorized due to mitigate loss of access due to springtime COVID related closures, and a similar bonus season was not anticipated absent similar COVID related closures in 2021.

Lt. Bass stated law enforcement would be in support of a longer season that would encompass both holiday seasons.

**Chairman Kane asked for a roll-call vote for support of the May 22 – September 14 season. The vote failed in a tie of 4-4-1 with Kalil Boghdan, Lou Williams, Mike Pierdinock, and Tim Brady voting No, and Chairman Kane abstaining.**

Chairman Kane suggested consideration of the status quo measures. The Director asked the Commission to support the status quo season. Mike Pierdinock stated he could support status quo measures.

**Chairman Kane asked for a roll call vote for status quo measures. The vote passed unanimously 8-0-0.**

#### *Spring 2021 Public Hearing Docket*

Jared Silva provided a brief presentation on the upcoming 2021 public hearing schedule. DMF will hold two different sets of public hearings on proposed regulations this spring.

The first regulatory initiative affects recreational fisheries. DMF is proposing to implement the striped bass circle hook mandate consistent with Addendum VI to the Interstate Fishery Management Plan for Striped Bass; adopt Gulf of Maine cod and haddock limits to conform to expected federal rules; and prohibit the use of trap gear to take blue crabs to address the incidental take of protected diamondback terrapins. DMF is currently accepting public comment on these proposed rules. The public hearing will be held virtually via Zoom on March 2 and the public comment period will conclude on March 5. DMF anticipated that the MFAC would vote on final recommendations at their March 18 business meeting.

The second regulatory initiative affects commercial fisheries. DMF is proposing to adjust the commercial striped bass open season and open fishing days; adopt a maximum purse seine size and volumetric equivalencies for the open entry menhaden fishery and establish a nightly reporting requirement for the EESA fishery; require black sea bass pots be rigged with a 3" x 6" ghost panel; and modernize the state's bluefin tuna purse seine regulations in response to DMF no longer issuing these permits. DMF anticipates the public comment period on these proposals will occur from early-March through early-April with a public hearing in late-March or early-April, and a final recommendations will be brought the MFAC for their April 15 business meeting.

Mike Pierdinock asked if the state proposal included the for-hire bonus season during the fall for GOM cod. Jared confirmed that the proposal includes the for-hire bonus season, as approved by the NEFMC. Mike P. and Jared both recognized that there was some uncertainty as to whether NOAA Fisheries would ultimately, approve this bonus season for 2021, as it was implemented in 2020 to mitigate loss of access due to springtime COVID related closures. Jared indicated that DMF's final recommendation



would likely reflect NOAA Fisheries decision on this, as DMF was seeking to complement federal rules.

#### Convening Sub-Committee on Single Trap Fishing

At the January 28, 2021 MFAC business meeting, a sub-committee was formed to address single trap fishing and the strategies to reduce the potential risk of protected species becoming entangled in the gear. At present, DMF is analyzing buoy line data in the development of its ITP application for endangered sea turtles and wanted to complete this analysis before convening the group. DMF intended to reach out to sub-committee members in the coming weeks for springtime meeting. Director McKiernan stated DMF would like to hold the first sub-committee meeting following the March Commission meeting.

Ray Kane asked for comments from the Commission. No comments were made.

#### Overview of DMF's Outreach on Gear Modification Grant Programs

In response to the new trap gear regulations approved by the MFAC at their January 28, 2021 business meeting, Bob Glenn provided a brief overview of DMF's outreach on Gear Modification Grant Programs as well as upcoming contrivances that will be tested at Maine DMR which commercial fishermen will use to rig their traps with to meet the breaking strength requirement of 1,700 pounds. In anticipation, DMF has hired a new staff member—Justin Wilson—to work directly with industry on new weak rope requirements. Additionally, DMF obtained funding to purchase weak rope and South Shore sleeves and would be convening events throughout the state to disperse this gear. Additionally, Justin will be working as an intermediary between industry and NOAA Fisheries to develop additional weak contrivances. DMF anticipated several new contrivances may be approved by mid-March for the 2021 season.

Sooky Sawyer stated the new gear marking requirements need to be put out soon to the public to avoid misinformation. Bob stated DMF will continue to work on these issues with NOAA Fisheries and proposed holding an informational meeting in the coming weeks to answer all outstanding questions. Bob added that the buoy line marking requirements will not be implemented until 2022.

Sooky Sawyer asked if lobstermen would need to change out their gear marking if they fish in both federal to state waters. Bob Glenn was uncertain about this and DMF was still working with NOAA Fisheries on this important detail.

Bob stated DMF was prepared to launch a new webpage that would serve as a central resource for gear modification outreach activity and broadcast an advisory on the new rules and the various resources available to industry in the coming days.

Julia Kaplan showed the MFAC what the draft webpage currently looks like and discussed how DMF plans to build the page out in the future.

Chairman Kane thanked Bob Glenn and his staff for all their work.

## **OTHER BUSINESS**

### *Commission Member Comments*

Lou Williams requested DMF review the potential to increase the state waters yellowtail flounder trip limit.

Mike Pierdinock briefed the MFAC on the recent ICCAT meeting and upcoming Atlantic bluefin tuna stock assessment.

Bill Doyle thanked DMF for their continued attention to shellfish growing area classification issues affecting shellfisheries in Duxbury, Plymouth, and Kingston.

Sooky Sawyer discussed protected species management and requested DMF reach out to commercial trap fishermen with information regarding new gear marking and configuration regulations.

Shelley Edmundson spoke about whelk management and concerns regarding the schedule to increase the gauge size.

## **PUBLIC COMMENTS**

Emerson Hasbrouck (ASMFC delegate from NY) congratulated Chairman Kane on running productive and smooth commission meetings. He commended DMF's efforts regarding protected species management and commercial black sea bass reallocation.

## **ADJOURNMENT**

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

## **MEETING DOCUMENTS**

- February 2021 MFAC Business Meeting Agenda
- January 2021 MFAC Draft Meeting Minutes
- State Waters Groundfish FY20 Summary and April Condition Closure
- Groundfish Presentation
- Whelk Presentation
- ASMFC Meeting Summary Winter 2021
- ASMFC Updates Presentation
- Recreational Black Sea Bass Season Proposal
- Spring 2021 Public Hearing Overview
- Public Hearing presentation

## **UPCOMING MEETINGS**

9AM  
March 18, 2021  
Via Zoom

9AM  
April 15, 2021  
Via Zoom

9AM  
May 13, 2021  
Via Zoom

9AM  
June 17, 2021  
Via Zoom