



**MARINE FISHERIES ADVISORY COMMISSION  
BUSINESS MEETING AGENDA**

**9:00 AM**

**February 18, 2021**

**Held Virtually Via Zoom**

**Webinar Link: <https://bit.ly/3ggcbK3>**

**Dial In: 1-929-436-2866**

**Webinar ID: 881 3094 7443**

**Webinar Passcode: 796426**

1. Introductions and Announcements (9:00 – 9:10)
  - a. Review and Approval of the February 18, 2021 Business Meeting Agenda
  - b. Review and Approval of the January 28, 2021 Draft Business Meeting Minutes
2. Comments (9:10 – 9:30)
  - a. Chairman
  - b. Commissioner
  - c. Director
  - d. Law Enforcement
3. Discussion Items (9:30 – 11:30)
  - a. 2021 Conditional April Groundfish Closure
  - b. 2020 Channeled Whelk Fishery Performance
  - c. Updates from Winter ASMFC Meeting
  - d. Upcoming Spring 2021 Public Hearings
    - i. 2021 Recreational Black Sea Bass Fishing Season
    - ii. Spring 2021 Public Hearing Docket
  - e. Convening Sub-Committee on Single Trap Fishing
  - f. Overview of DMF's Outreach on Gear Modification Grant Programs
4. Other Business (11:30-12:00)
  - a. Commission Member Comments
  - b. Public Comment
5. Adjourn (12:00)

**Future Meeting Dates**

**9AM  
March 18, 2021  
Virtual via Zoom**

**9AM  
April 15, 2021  
Virtual via Zoom**

**9AM  
May 13, 2021  
Location TBD**

**9AM  
June 17, 2021  
Location TBD**

All times provided are approximate and the meeting agenda is subject to change. The MFAC may amend the agenda at the start of the business meeting.

## **MARINE FISHERIES ADVISORY COMMISSION**

**January 28, 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; Kathryn Ford; Jeff Kennedy; Kelly Whitmore; Kerry Allard; Kaley Towns; Chrissy Petitpas; Tom Shields; Greg Sawyer; Nick Buchan; Stephanie Cunningham; Sue Boehler; Steve Wilcox; Derek Perry; George Davis; Tracy Pugh; Brianne Shanks; Vinny Manfredi; Gabe Lundgren; and Maren Budrow.

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

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

*Members of the Public:* Philip Coates; Beth Casoni; Hannah Brennan; John Moleti; Tom Falasca; Sean Horgan; J Mahoney; Anastasia Lennon; Scott Swicker; Caitlin Rowley (Senator Michael Rodrigues); Emerson Hasbrouck; Maryanne Reynolds; Max Strahan; Noah Oppenheim; Stephanie Baima; Tara Cox; Tom Mikus; Olaf Aprans; Gib Brogran; Doug Sibbald; James Moleti; Gregg Morris; John Donahue; William McCormick; John McCluskey; Melissa Campbell; Chad Hunter; Rachel Downey; Ed Barrett; Peter Fallon; Joe Grady; Gail Waitt; Sara Bolduc; Ryan Joyce; Harry Korslund; Leah Baumwell; Emerson Hasbrouck; Diane Regan; Tom Falasca; Terry O’ Neil; Eric Lorentzen; Ben Lloyd; Dan Sirignano; Peter Fallon; Nancy Downes; Sean Horgan; Indi Khera; Mike Lane; Laura Hayes; Barry Clifford; Jack Skammels; Drew Kolek; Noah Asimow, Jeff S; Ken Preston; John Weble; Skylar Cowley; Steven Abdow; Russell Cleary; Rob Martin; and Lori Caron.

## **INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane called the January 28, 2021 Marine Fisheries Advisory Commission (MFAC) business meeting to order. He stated the January business meeting agenda was busy. To keep the meeting on schedule, the Chairman requested Jared Silva provide time management updates and added that some agenda items may need to be pushed to the February meeting. He then reminded the public that comment would only be accepted at the end of the business meeting—if time permitted. All votes on action items would be taken via roll call vote facilitated by Jared Silva.

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

In the interest of time, Lt. Bass stated that he would forgo law enforcement comments. No further proposed changes to the January 28, 2021 MFAC business meeting agenda were made.

**Chairman Kane asked for a motion to approve the amended draft agenda. Bill Doyle made a motion to approve the January 28, 2021 MFAC business meeting agenda. The motion was seconded by Tim Brady. The motion was unanimously approved by roll call vote (8-0).**

#### **REVIEW AND APPROVAL OF DECEMBER 10, 2020 DRAFT BUSINESS MEETING MINUTES**

There were no proposed changes to the draft December 10, 2020 business meeting minutes.

**Ray Kane asked for a motion to approve the December 10, 2020 MFAC business meeting minutes. Bill Amaru made motion to approve the December 10, 2020 MFAC business meeting minutes. Sooky Sawyer seconded the motion. Motion was approved unanimously by roll call vote (8-0).**

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

Chairman Kane thanked the MFAC for their attendance. He turned the floor over to Commissioner Amidon.

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

Commissioner Amidon acknowledged the DMF CARES Act Team and noted they were scheduled to receive the Manuel Carbello Award for Excellence in Public Service from Governor Baker this afternoon.

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

Director Dan McKiernan thanked the MFAC for their attendance, as well as their dedication to reading all the documents prior to this meeting.

The Director stated the CARES Act Team is being honored by Governor Baker for their work in distributing the CARES Relief funds. On the subject of CARES relief, Director McKiernan stated more funding is coming to the state and he anticipated learning more at the upcoming ASMFC Executive Committee meeting. Dan added that the requirement for a 35% loss still stands and the funds cannot make the recipient more than whole.

Director McKiernan then moved on to discuss the Massachusetts Shellfish Initiative (MSI). The MSI Task Force established a working group to develop a Strategic Plan;

this process was ongoing. Dan was optimistic that a draft strategic plan would be available for public comment in early February with the goal of finalizing the document by the end of March.

The Period I Winter Fluke Pilot Program began January 1. This allows vessels fishing offshore to possess multiple state limits. In Massachusetts, 20 vessels have enrolled in the program thus far.

DMF staff are analyzing the state waters groundfish landings and will be providing an overview at the next Commission meeting. This would help inform decision making on whether or not to take action to lift the conditional April closure.

Director McKiernan stated the Fisheries Workgroup Report for the MA Ocean Plan was submitted to CZM. Several members of the MFAC contributed to the recreational fishing advisory committee and assisted in identifying areas that are important for recreational fishing around the state.

The Director then discussed the suspensions of two conch pot permits for violations of the minimum size rule and the trap allocation rules. On the subject of the channeled whelk fishery, the Director noted the pending gauge increase the virtual symposium among the Atlantic coastal states organized by Virginia Sea Grant. The symposium was a helpful resource for fisheries regulators and scientists looking to better understand how that status of fisheries and management schemes along the coast.

The Director expected the recommended protected species regulations would generate substantial discussion at today's meeting. He appreciated that the MFAC were amendable to postponing the January meeting by several weeks to allow DMF ample time to consider public comment and generate a final recommendation. He then thanked Bob Glenn, Erin Burke, Jared Silva, Anna Webb, and DMF's Statistics Program for their contributions to this recommendation.

### **PRESENTATION ON RISK REDUCTION TOOL**

Bob Glenn provided a presentation on the NMFS Decision Support Tool. This tool was developed to compare management measures and risk reduction to whales in the development of the Atlantic Large Whale Take Reduction Plan (ALWTRP). The current draft ALWTRP rules aim to reduce risk to right whales by 60%. DMF had NOAA model several potential regulatory proposals with the tool, as the state aimed to achieve greater risk reduction in order to support its Incidental Take Permit application. The various proposals achieved about a 75% risk reduction.

Sooky Sawyer, Bob Glenn, and Dan McKiernan discussed the anticipated risk reduction provided by the existing Massachusetts Restricted Area trap gear closure and the proposed closure of the North Shore.

Lou Williams asked if an ITP permit was guaranteed if the recommended regulations were enacted. Bob Glenn stated there was no such guarantee, but he felt these proposed regulations gave DMF a strong chance of obtaining the ITP. Lou expressed concern that these closures will have substantial impacts on the lobster fishermen without the desired management effect.

## **ACTION ITEMS**

### Recommendation on New Protected Species Regulations

Director McKiernan presented summary slides regarding the status of the Northern Atlantic right whale (right whale). He highlighted that DMF is responding to two challenges one being the Atlantic Large Whale Take Reduction Team initiative, and the other being the ongoing ITP permit application and the related Endangered Species Act litigation.

The Director then moved on to discuss the draft regulations and summarize the public comment received on them. A substantial component of the public comment addressed ropeless fishing; despite not being among the proposals, many requested that DMF immediately consider its implementation. The Director stated that DMF received a grant through the National Fish and Wildlife Foundation to investigate the questions surrounding ropeless fishing and has hired a consultant to conduct the analysis and produce a white paper on the subject.

### *Commercial Trap Closure*

Director McKiernan recommended the MFAC adopt a February 1 – May 15 commercial trap gear closure north and east of Cape Cod. The closure would apply dynamically during the period of May 1 – May 15, allowing DMF to adjust the closure in response to the presence and absence of whales as they seasonally migrate out of our waters. The recommendation exempted those waters within LCMA 2 (south and west of Cape Cod) from the closure.

Bill Amaru thanked Dan for the presentation. Bill asked how risk mitigation would be impacted if DMF were to also exempt Massachusetts Bay and the North Shore. Bob Glenn stated that DMF did not have NOAA evaluate this specific option, but his professional judgement was that it would increase risk by about 12-14% compared to the recommended measures.

Mike Pierdinock and Director McKiernan discussed the timing of the closure and how the dynamic closure would apply.

Sooky Sawyer expressed frustration over the recommended North Shore closure. He noted that right whales do not frequently use this area and there have been no recorded right whale deaths attributable to Massachusetts' state waters lobster gear.

Lou Williams expressed concern that these measures would ultimately be deemed insufficient and the lobster fishery would be looking at further regulation in a few years time.

Kalil Boghdan asked about potential consequences if DMF were to not enact the recommended closure. The Director stated that it could influence the state's ITP application and the courts could potentially issue a temporary restraining order on the use of vertical lines in fixed gear fisheries.

Mike Pierdinock asked if DMF could further explain how a North Shore exemption may influence the state's ITP application. Bob Glenn stated that NOAA Fisheries does not disclose the exact criteria that the state must pursue to obtain an ITP. However, DMF viewed the recommended closure as the cornerstone of the ITP application. Bob was of the opinion that exempting the North Shore would likely negatively impact the state's ability to obtain the ITP.

Mike Pierdinock stated that as trap fisheries across the state may be fundamentally impacted if DMF were not to obtain an ITP, he would vote in favor of the Director's recommendation.

Bill Amaru expressed frustration over government asking the lobster industry to bear the burden of protecting the right whale when there were a number of other factors influencing their survival.

Lou Williams suggested allowing lobstermen to experiment with ropeless fishing within the closed area on the North Shore. Director McKiernan's memorandum on ropeless fishing noted that this would be possible.

Shelley Edmundson expressed her concerns regarding the recommendation. She asked if it would be possible for DMF to reassess this closure in the future if it were implemented. The Director stated that it was possible.

Kalil Boghdan urged the MFAC to view the recommendation in the context of DMF's ITP application and the ongoing litigation, and consider the potential impacts should DMF not obtain an ITP or a courts issue an order to halt the use of buoy lines.

Bill Doyle asked for clarification on whether the MFAC can amend the Director's recommendation or submit their own motions. Jared Silva stated that recommendations are made by Director and voted on by the MFAC. If a recommendation is not moved or is voted down, then the Director can offer an amended recommendation based on feedback from the MFAC. However, the MFAC may not make alternative or substitute recommendations.

**The Chair called for a motion. Kalil Boghdan made a motion to adopt the Director's recommendation. Mike Pierdinock seconded the motion. Motion**

**passed by a 6-1-1 roll call vote with Sooky Sawyer voting in opposition and Bill Amaru abstaining.**

*Commercial Gillnet Closure Extension*

The Director recommended extending the spatial boundaries of the existing January 1 – May 15 sink gillnet closure in Cape Cod Bay to include those waters west of 70° 30' west longitude between Gurnet Point at 42° 00' north latitude and Scituate Harbor at 42° 12' north latitude.

Ray Kane called for a discussion. There were no comments made.

**Ray Kane called for a motion. Kalil Boghdan made a motion to adopt the Director's recommendation. Shelley Edmundson seconded the motion. The motion passed unanimously by a roll call voted (8-0).**

*Recreational Lobster Trap Haul-Out*

The Director recommended a November 1 – May 15 buoyed recreational trap gear haul-out period for all waters under the jurisdiction of the Commonwealth. This would include those state waters within LCMA 2 where the commercial fishery is not subject to a seasonal trap gear closure. The haul-out period would not apply to the buoy-less gear that is typically fished along the banks of the Cape Cod Canal.

Ray Kane called for a discussion. Sooky Sawyer stated he would like to include buoy-less gear fished in the Cape Cod Canal within the closure. The Director stated that a seasonal closure on buoyless gear fished in the Canal would not address problems related to right whale entanglements or marine debris and was therefore not included.

**The Chair called for a motion. Bill Doyle made a motion to adopt the Director's recommendation. Mike Pierdinock seconded the motion. The motion passed unanimously by roll call vote (8-0).**

*Single Trap Prohibition*

The Director recommended prohibiting commercial fishermen using vessels larger than 29' from fishing single lobster traps. The effective date of this regulation would be January 1, 2022, giving affected fishermen one year to transition to fishing trawls. Vessels with an overall length under 29' would be allowed to continue fishing single traps within the existing single trap exemption area. If approved, the rule would not apply in the waters of Gosnold, where single trap fishing is mandated by statute. However, DMF intended to work with the legislature to amend this law to allow fishing trawls in these waters.

Chairman Kane called for discussion.

Bill Amaru and Shelley Edmundson both raised concerns related to fisherman safety and economics. The lobster fishery in both LCMA2 and the OCCLCMA are subject to individual trap allocations. These trap allocations constrained an individual's ability to

scale up their businesses and they fished single traps to increase their catch efficiency. This then also resulted in many fishermen fishing singlehandedly. Bill and Shelley both stated that if the state were to force them to fish trawls many would have to choose between being less profitable (e.g., hiring a sternman) or fish more dangerously (e.g., fishing from a smaller vessel or fishing trawls singlehandedly).

Kalil supported allowing good cause exemptions for those who are disabled, or having appeals submitted on an individual basis and allowing the Director to give good cause exemptions.

Tim Brady asked if this motion applied to recreational or commercial fishermen. Jared Silva stated that the recommendation applied to only commercial fishermen.

Shelley Edmundson, Mike Pierdinock, and Bill Amaru advocated for the recommendation to be tabled and a sub-committee formed to review alternative measures to reduce the number of buoy lines.

Dan and Bob discussed how tabling the measure may impact DMF's ITP application. Dan concluded that—given rule-making timelines and DMF's pending sea turtle regulations—there was sufficient leeway to convene a working group on this subject. The Director then withdrew his recommendation and asked the Chair to form a sub-committee. The Chairman stated he would serve on the sub-committee with Shelley Edmundson, Bill Amaru, and Sooky Sawyer.

#### *1700 Pound Breaking Strength Buoy Line*

The Director recommended mandating that all commercial trap fishermen deploy buoy lines that have a breaking strength of 1,700-pounds or less. This can be accomplished in two ways. First, by fishing with 1,700-pound breaking strength buoy line. Second, weak contrivances that have been approved by NOAA Fisheries may be inserted into the buoy lines no less than every 60' in the top 75% of the buoy line. If approved, this rule will become effective on May 1, 2021, allowing for the rule to be in effect by at the earliest time when commercial trap gear may be set north of Cape Cod (if the dynamic closure is lifted) while also providing fishermen fishing south and west of Cape Cod two-to-three months to rig over their gear.

Ray Kane noted that a prototype of a weak line was delivered to lobstermen this past fall and it received good reviews. Ray then asked where lobstermen could obtain this weak rope. Bob Glenn noted that the rope is currently available through marine supply stores. Additionally, a second prototype has been approved that addressed some of the feedback regarding diameter and stretchiness. DMF also received a grant and will be working with industry to provide them with weak rope and sleeves.

Sooky Sawyer stated that there are some manufacturer's that are hesitant to start producing the rope until the regulation goes into effect.



Bill Amaru asked about the breaking strength of the normal 3/8" line used by the fleet. Bob Glenn stated that this line typically breaks around 3,000lbs of tension. If fishermen wanted to continue to use this line, they would have to insert weak contrivances into it.

Lou Williams suggested the May 1 deadline be pushed back as the fishermen will need time to adjust their lines. Ray Kane asked Sooky how quickly the manufacturer would be able to have the rope available. Sooky stated that the line will be produced within 3-4 weeks of the state announcing its rules. Dan committed to announcing the approved measures immediately following the meeting.

Bob Glenn and Ray Kane then discussed NOAA Fisheries' buoy line marking requirements. Bob stated that DMF will have to go back out to public hearing to adopt complementary rules once NOAA publishes their final regulations this spring.

No further comments were made.

**The Chair called for a motion to approve the recommendation. Bill Doyle made a motion to approve the recommendation. The motion was seconded by Tim Brady. The motion passed unanimously 8-0.**

#### *Maximum Buoy Line Diameters*

The Director recommended establishing a maximum buoy line diameter of 3/8" for all commercial trap fisheries and 5/16" for the recreational lobster/crab trap fishery.

No comments were made, nor objections raised.

**The Chair called for a motion to approve the recommendation. Bill Doyle made a motion to approve the recommendation. Shelley Edmundson seconded the motion. The motion passed unanimously 8-0.**

#### *Housekeeping*

The Director recommended the MFAC approve the proposed housekeeping measures that would: (1) revise and update the purpose of the state's protected species regulations to better reflect the current approach to managing protected species; (2) consolidate regulations that govern vessel interactions with right whales into one section; (3) establish a consolidated section of maps relevant to these protected species regulations; and (4) refine all regulatory language as necessary to improve the clarity and readability of the existing regulations. In addition to this, DMF recommended the MFAC vote to approve the adoption of a new section of regulation to eventually address authorizing the experimental use of alternative gears.

No comments were made, nor objections raised.

**The Chair called for a motion to approve the recommendation. Kalil Boghdan made a motion to approve the recommendation. Bill Amaru seconded the motion. The motion passed unanimously 8-0.**

### *Seasonal Lobster Permit Cap*

The Director stated his intention is to annually cap the issuance of seasonal lobster permits at 150. As this is a permitting regulation, it does not require a formal MFAC vote. However, he sought consensus from the MFAC and wanted to allow them to voice any opposition to his intended action. No comments were made, nor objections raised.

## **DISCUSSION ITEMS**

### Commercial Striped Bass Management

The MFAC Commercial Striped Bass Subcommittee convened on December 21, 2020 to discuss short and long-term management options for the commercial striped bass fishery. In the short-term (2021), there was consensus support to consider providing additional access to the commercial quota through increasing the season length and the number of open fishing days per week.

Currently, the season starts on June 23. DMF received a petition to start the season in late-May and the sub-committee supported opening the fishery a week earlier on June 15. Accordingly, DMF was moving forward a strawman of June 1. Sooky Sawyer stated that North Shore fishermen did not support the June 1 opening date, because large commercial sized fish are typically not available north of Boston at that point. Chairman Kane requested that June 15 be stated as the preferred option in the public hearing notice, as it was the date supported by the sub-committee.

As for open fishing days, the current schedule affords two open fishing days per week on Mondays and Wednesdays. The sub-committee supported allowing as many as four consecutive days per week to start the season, provided the open days were Monday – Thursday. The also supported increasing access later in the fall to account for poor seasonal weather by going to five-days per week (Mondays – Fridays) on September 15 and seven days per week on October 1.

DMF was also proposing to close the fishery on November 1, if the quota was not taken. This would allow DMF to more expediently begin its commercial striped bass tag accounting. Bill Amaru suggested the closure date be moved back to November 15 in case the fish remained later into the fall. Director McKiernan supported this change.

No further comments were made. The sub-committee meeting summary was not addressed due to time constraints.

### Recent and Upcoming ASMFC Meetings

Nichola Meserve discussed some highlights of the upcoming ASMFC Winter Meeting Week (February 1-4). In regards to recreational black sea bass, Massachusetts had put in a conservation equivalency proposal to start the season on either Saturday, May 15 or Saturday, May 23. Public comment would be taken following approval of the proposal.

Massachusetts also submitted a revised implementation plan for the circle hook mandate for recreational fishing for striped bass with bait. The state's existing exemptions for for-hire vessels and all artificial lures would be rescinded per prior ASMFC action, while the new plan would exempt only tube rigs for a period of two years if the ASMFC approved a joint proposal from MA and ME to study the occurrence of deep hooking with this terminal tackle in the interim. State regulations would also exclude pork rind attached to an artificial lure from the definition of natural bait.

A final decision is pending on the commercial black sea bass allocation amendment. Massachusetts is working to advance a favorable option that would follow a principle of reallocation in response to species redistribution caused by climatic shifts.

Mike Pierdinock asked if the black sea bass for-hire season extension from 2020 would be carried forward into 2021 under status quo management. Nichola stated the season extension occurred only because the for-hire fishery was entirely prohibited in the beginning of the 2020 season due to the pandemic, and status quo means reverting to the original season ending in early September. Mike indicated that he had heard support for the May 15 start for black sea bass. Nichola noted that the 2021 season dates will come to the Commission at the February business meeting after the public input period.

Director McKiernan stated that Mike Armstrong, Nichola Meserve, and himself met with the Stellwagen Charter Bank Association. He commended Mike Pierdinock and the Association on the submittal of a letter that grabbed the attention of other states which did not approve of using tube and worm measures.

Dan added that since the data collection was not sufficient last year management bodies are more likely to be hesitant to liberalize bag-limits. Nichola concurred and stated that the most recent estimates from 2019 harvest levels for all species through the re-calibrated MRIP limits are higher in the recreational harvest limits for 2021. All four species will incorporate the stock assessments and not having 2020 data was a big factor in status-quo measures.

Ray Kane asked for updates on NEFMC in future meetings.

#### Update on Port Profile Project

Story Reed made a brief presentation about the ongoing Port Profile Project. This effort was a collaboration between DMF, Urban Harbors Institute, and the Cape Cod Commercial Fishermen's Alliance. The final report will look at trends in commercial landings as well as infrastructure needs on a port-by-port basis. Story showed the draft port profiles for Chatham and Gloucester. He was hopeful the complete report would be finalized and published this winter.

Mike Pierdinock asked Story to confirm that finfish landings were inclusive of all species and not just groundfish specific; Story confirmed this. Shelley Edmundson stated that this will be very informative and commended DMF and the collaborators for their work.

### Shellfish Program Updates

Jeff Kennedy provided an overview of two ongoing challenges related to public health and shellfish growing area classifications. First, a change in the National Shellfish Sanitation Program's (NSSP) Model Ordinance requiring identification, delineation, of all mooring areas in state waters followed by a pollution assessment and dilution analysis to gauge the impact on shellfish growing areas issuing closures were indicated. The second on-going issue, is that FDA—as part of their NSSP program evaluation—is requiring DMF work to reclassify shellfish growing areas around Plymouth's wastewater treatment plant outfall pipe in response to the findings of a 2018 dye study. Both matters are contentious given the potential economic impacts on the state's commercial shellfish fisheries. DMF is working with municipalities on the mooring field reclassification issue. Jeff wrapped up his Shellfish Program Update by discussing the Duxbury-Kingston-Plymouth Three-Bay System and the recommendations that came from the dye-study as well as some potential options for the future.

Bill Doyle raised his concerns regarding how the reclassification of the Three-Bay system may impact market access, marketing, and economic activity of local aquacultures. He discussed the 2018 dye-study that prompted this reclassification effort and opined that the results may no longer be accurate given dredging activity in Plymouth Harbor. In response, he advocated for the dye study to be redone. Bill then made a motion that DMF not make any change in shellfish growing area classifications in the Three-Bay system until a resolution on this issue was reached. To facilitate such a resolution, Bill also made a motion that a working group be formed comprised of state and federal regulators, state legislators, industry members, and municipal authorities. Kalil Boghdan expressed interest in seconding the motion.

The Director questioned the appropriateness of the motion given the statutory authority governing the MFAC and the statutory authority governing shellfish growing area classifications. However, Dan supported the idea of a working group.

Ray Kane asked when Dan would like to form this sub-committee. Dan stated that this would not be a MFAC sub-committee, but a working group comprised of specific state, local, federal, and industry representatives. Dan stated that the Shellfish Program would work with Bill Doyle on the issue.

The Chairman asked Bill Doyle if the agency's commitment to form a working group met his needs. Bill stated it did. However, he also wanted assurances that re-classification would not occur prior to the February 18, 2021 MFAC business meeting, but preferably until a resolution was reached.

The Director and Jeff Kennedy were both skeptical about the extent to which they could stall reclassification and avoid non-compliance findings from FDA. However, DMF would likely be able to delay reclassification until after the February 18, 2021 MFAC business meeting.

Bill also requested that FDA be included in the working group. Dan and Jeff stated that they would look into involving FDA.

## **OTHER BUSINESS**

### *Commission Member Comments*

Kalil Boghdan commended Ray Kane for running a fluid meeting. Kalil thanked the Director for spending time addressing Commission member's questions on concerns.

Sooky Sawyer stated he would like to see an extension of the February 1 effective date of the trap gear closure to allow fishermen to remove their gear from the waters along Cape Ann. The Director clarified that the rules would go into effect two weeks after the filing deadline, which would be March 5 at the earliest.

Lou Williams stated that gillnetters and draggers are seeing an increase in their catch of yellowtail flounders. He asked DMF to review the state-waters set-asides and determine if the current trip limit of 250 pounds could be relaxed.

Bill Amaru thanked Dan and Ray, as well as the whole Division for all their hard work and dedication.

Shelley Edmundson expressed concern over the channeled whelk fishery, specifically how it was impacted by COVID and the pending gauge increase. She asked if DMF could provide an overview of the 2020 fishery at the February meeting. Mike Pierdinock and Chairman Kane concurred. The Director would work with his staff to see if this is possible.

## **PUBLIC COMMENTS**

John McCluskey expressed concern over the impacts the reclassification of the Three-Bay system. He also questioned the reliability of the dye-study due to recent dredging projects in Plymouth Harbor.

Ed Barrett expressed concern regarding the interest of the public in pursuing ropeless fishing technologies without understanding how this may impact a multitude of inshore fisheries.

Drew Kolek asked about status of a policy allowing the transfer of rod and reel permits for fluke and sea bass permits. Jared Silva stated that the policy was being finalized and should be published soon.

Beth Casoni thanked the commission for their work and expressed concern over the closure on the North Shore. Beth advocated that area lobstermen be given some leniency to get their gear out of the water, so they are not forced to undertake unsafe working conditions. Beth concluded her comments by congratulating DMF on being the first state in the country to disperse CARES relief money.

Olaf Aprans appreciated Bob Glenn's presentation, and expressed concern over the North Shore closure. He also expressed these concerns in a written letter to the MFAC on January 27, 2021.

Gregg Morris thanked the Commission and DMF for their work during the pandemic. He raised similar concerns to John McCluskey and Bill Doyle and advocated for another dye study.

### **ADJOURNMENT**

Chairman Ray Kane requested a motion to adjourn the January MFAC business meeting. **Tim Brady made a motion to adjourn the meeting. The motion was seconded by Kalil Boghdan. The motion was approved by unanimously 8-0.**

## **MEETING DOCUMENTS**

- January 28, 2021 MFAC Business Meeting Agenda
- December 10, 2020 Draft MFAC Business Meeting Minutes
- Presentation on NOAA's Risk Decision Tool
- Recommendation on Protected Species Regulations Affecting Fixed Gear and Right Whales
- Supplemental Memo on Ropeless Fishing
- Commercial Striped Bass Limit Adjustment Proposal
- Commercial Striped Bass Sub-Committee Meeting Summary
- ASMFC Winter 2021 Meeting Agenda
- Recreational Striped Bass Circle Hook ASMFC Implementation Plan
- Request to ASMFC on Tube and Worm Study and Exemption
- Conservation Equivalency Proposal on 2021 Recreational Black Sea Bass Season
- NEFMC Summary for December 2020 to February 2021
- Memo on Shellfish Sales at Farmer's Markets
- Three Bays Letter from Plymouth-Duxbury-Kingston Shellfish Growers Association

## **MEETING DOCUMENTS**

**9AM**  
**February 18, 2021**  
**Via Zoom**

**9AM**  
**March 18, 2021**  
**Via Zoom**

**9AM**  
**April 15, 2021**  
**Via Zoom**

**9AM**  
**May 13, 2021**  
**Via Zoom**

**9AM**  
**June 17, 2021**  
**Via Zoom**



# The Commonwealth of Massachusetts

## Division of Marine Fisheries

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KATHLEEN A. THEOHARIDES  
Secretary

RONALD S. AMIDON  
Commissioner

DANIEL J. MCKIERNAN  
Director

### MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director

DATE: February 12, 2021

SUBJECT: Conditional April Groundfish Closure

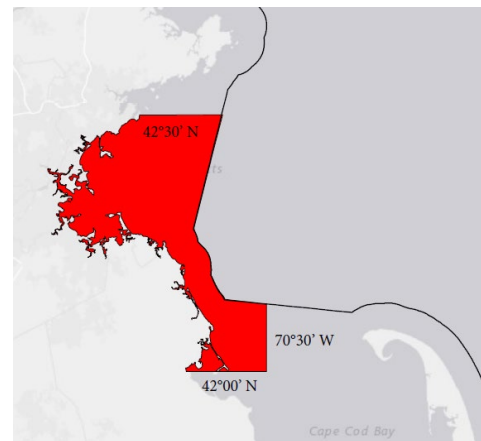
Consistent with the procedure and authority set forth in regulation [322 CMR 6.42(2)(d) and 322 CMR 8.05(2)], I intend to move forward with the process necessary to lift the April conditional groundfish closure in Massachusetts Bay between Plymouth and Marblehead (Figure 1).

#### Background

DMF regulations at 322 CMR 8.05<sup>1</sup> establish an April conditional groundfish closure within those state waters between Plymouth (42°00'N) and Marblehead (42°30'N) west of 70° 30' (1). As this closure occurs at the end of the federal fishing year (May 1 – April 30), it effectively serves as a fail-safe to constrain the state waters only (“SW”) fishery should it outperform the federally allocated sub-components for groundfish stocks for the federal fishing year (and in turn potentially trigger accountability measures for the federal fishery).

Accordingly, staff annually review the performance of the GE fishery in the current fishing year relative to the federal sub-components and the Director may then annually lift this closure if the data demonstrate the closure is not necessary to meet these objectives. As the April closure is within the Gulf of Maine (GOM) and the GE fishery occurs almost exclusively within the GOM, the focus of the analysis is on GOM groundfish stocks.

Fig. 1 – April Groundfish Closure



#### FY2020 Analysis

It should be no surprise that our initial analysis demonstrates the April groundfish closure may be lifted for FY2020. Landings this fishing year are well below the federally allocated sub-components (Table 1). I suspect this is largely attributable to the COVID-19 pandemic. The

<sup>1</sup> 322 CMR 8.05(2). “The Director may annually rescind this April closure...if, based on the Division’s review of relevant data, it determines that rescinding this closure will not result in an exceedance of the annual federally allocated state-waters sub-components for regulated groundfish stocks during the federal fishing year of May 1 through April 30 or federal conservation measures are not compromised.



pandemic has negatively impacted the performance of most of our commercial fisheries, as altered demand for seafood and personal health concerns have affected fishing effort. This is apparent in our GE fishery where effort is down compared to recent years in terms number of total trips.

### **Proposed Action**

Based on the discretion afforded to me in the implementing regulation, I am proposing to use my declaratory authority to lift the April groundfish closure. The next steps will be to accept public comment on the action and then return to the MFAC for a final vote. Written public comment will be accepted between February 19 – March 5. I will then provide the MFAC with a final recommendation to vote on at their March 18 business meeting.

If approved, this will allow commercial groundfish (e.g., trawls, gillnets, hook and line) fishing to occur inside the April closure area. However, overarching protected species, mobile gear, and spawning closures will continue to restrict certain activities within these waters.

- Gillnet fishing is prohibited in April (and through May 15) south of Scituate Harbor (42°12'N) due to the spatial extension of the overarching seasonal gillnet closure to protect right whales in Cape Cod Bay.
- Mobile gear fishing is restricted in all Inshore Net Areas and seasonally restricted within waters of mobile gear Area 1 (North Shore) and 2 (Greater Boston Harbor).
- All commercial groundfish fishing is prohibited within the inshore winter flounder spawning closures.

**Table 1.** Estimates of SW Landings and State-waters sub-component utilization for select groundfish stocks during FY2019-FY2020.

Groundfish Stock	FY2020			FY2019		
	State Waters Sub-Component (lbs)	Preliminary SAFIS Dealer Landings for SW fishermen (lbs)	% Utilization	State Waters Sub-component (lbs)	State Estimates of SW Landings (lbs)	% SW Utilization
American Plaice	70,548	4,564	6%	70,548	14,110	20%
GOM Cod	105,822	29,917	28%	103,617	62,391	60%
GOM Haddock	143,300	87,986	61%	200,621	325,843	162%
GOM Winter Flounder	306,443	82,343	27%	147,710	147,710	100%
GOM Yellowtail Flounder	127,868	66,822	52%	112,436	93,256	83%
Pollock	2,420,676	683	0%	886,258	1,543	0%
Redfish	132,277	88	0%	2601,145	8,598	3%
SNE/MA Winter Flounder	79,366	*	<1%	160,937	1,543	1%
White Hake	24,250	198	1%	63,934	220	0%
Witch Flounder	97,003	38,691	40%	88,185	42,770	49%

Data Source: NMFS VTRs, MA trip-level reports, MA permitting database,  
[https://www.greateratlantic.fisheries.noaa.gov/ro/fso/reports/h/groundfish\\_catch\\_accounting](https://www.greateratlantic.fisheries.noaa.gov/ro/fso/reports/h/groundfish_catch_accounting), compiled February 2020.



# Atlantic States Marine Fisheries Commission

## 2021 Winter Meeting Webinar Summary

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*Sustainable and Cooperative Management of Atlantic Coastal Fisheries*

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2021 Winter Meeting Webinar  
February 1 – 4, 2021

Toni Kerns, ISFMP, or  
Tina Berger, Communications  
For more information, please contact  
the identified individual at  
703.842.0740

### Meeting Summaries, Press Releases and Motions

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**SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS MANAGEMENT BOARD & MID-ATLANTIC FISHERY MANAGEMENT COUNCIL (FEBRUARY 1, 2021)**

***Press Release***

**ASMFC and MAFMC Approve Changes to State Allocations  
of Commercial Black Sea Bass Quota**

The Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) and the Mid-Atlantic Fishery Management Council (Council) jointly approved several changes to the management program for black sea bass commercial fisheries. These changes include modifying the state allocations of the commercial black sea bass quota, adding the state allocations to the Council's Fishery Management Plan (FMP), and modifying the regulations for federal in-season closures. The Board adopted the new allocations through Addendum XXXIII to the Summer Flounder, Scup and Black Sea Bass FMP, while the Council recommended these changes through an amendment to its FMP. These actions address significant changes in the distribution of black sea bass that have occurred since the original allocations were implemented under Amendment 13 in 2003 and also account for the historical dependence of the states on the black sea bass fishery.

Under the approved changes, Connecticut's baseline allocation will increase from 1% to 3% of the coastwide quota to address its disproportionately low allocation compared to the increased availability of black sea bass in state waters. The state allocations will then be calculated by allocating 75% of the coastwide quota according to the new baseline allocations (historical allocations modified to account for Connecticut's increase to 3%) and 25% to three regions based on the most recent regional biomass distribution information from the stock assessment (see Table 1). The three regions are: 1) Maine-New York, 2) New Jersey, and 3) Delaware-North Carolina. The regional allocations will be distributed among states within a region in proportion to their baseline allocations, except Maine and New Hampshire will each receive 1% of the northern region quota. Because the allocations are based in part on the regional biomass distribution from the stock assessment, they will be adjusted if a new assessment indicates a change to the biomass distribution. The Board and Council committed to reevaluating the approved state allocation system within 5 years.

The Council and Board agreed to add the state allocations to the Council's FMP. As a result, future modifications to the allocations will require a joint action of the Board and Council. Additionally, they approved a change to the federal regulations such that the entire black sea bass commercial fishery will close in-season for all federally permitted vessels and dealers once landings are projected to exceed the coastwide quota plus an additional buffer of up to 5%. The buffer aims to minimize negative economic impacts of coastwide closures on states that have not fully harvested their quotas. The Council and Board considered, but did not adopt, changes to the regulations for paybacks of state quota overages; states will only be required to pay back overages of their state quota if the coastwide quota is exceeded.

Addendum XXXIII's measures are final for state waters (0-3 miles from shore) and become effective January 1, 2022. The Council will submit their amendment to NOAA Fisheries for review, approval, and implementation.

**Table 1. Revised state allocation percentages of the black sea bass commercial quota based on the most recent regional biomass distribution information.**

State	Allocations under Amendment 13	New Allocations Using Most Recent Biomass Distribution*	Difference from Amendment 13 to New Allocations
ME	0.50%	0.40%	-0.10%
NH	0.50%	0.40%	-0.10%
MA	13.00%	15.64%	+2.64%
RI	11.00%	13.23%	+2.23%
CT	1.00%	3.67%	+2.67%
NY	7.00%	8.57%	+1.57%
NJ	20.00%	20.10%	+0.10%
DE	5.00%	4.11%	-0.89%
MD	11.00%	8.88%	-2.12%
VA	20.00%	16.14%	-3.86%
NC	11.00%	8.88%	-2.12%
<b>Total</b>	<b>100.00%</b>	<b>100.00%</b>	

\*These allocations are based on the results of the 2019 Operational Stock Assessment and will be updated if future assessments indicate a change to the biomass distribution.

Addendum XXXIII will be available on the Commission website, [www.asmfc.org](http://www.asmfc.org), on the black sea bass webpage by the end of February. Updates on the Council's amendment will be posted at <https://www.mafmc.org/actions/bsb-commercial-allocation>.

### **Contacts**

For more information, please contact either:

**Julia Beaty**, Mid-Atlantic Fishery Management Council, [jbeaty@mafmc.org](mailto:jbeaty@mafmc.org), 302-526-5250

**Savannah Lewis**, Atlantic States Marine Fisheries Commission, [slewis@asmfc.org](mailto:slewis@asmfc.org), 703-842-0715

###

PR21-02

### ***Meeting Summary***

The Summer Flounder, Scup, and Black Sea Bass Management Board met to consider approval of a New Jersey summer flounder proposal and a Massachusetts black sea bass proposal to adjust 2021 recreational measures, consider a Virginia proposal for its February black sea bass recreational fishery, and take final action on Black Sea Bass Addendum XXXIII (see above press release for additional information).

Staff presented the three recreational proposals and the Technical Committee (TC) report on the technical merit of the proposals. Due to COVID-19 effects on 2020 APAIS sampling, all three proposals rely on Marine Recreational Information Program (MRIP) estimates from 2018-2019. The Commission's Conservation Equivalency Policy allows states to submit proposals for alternative measures in state waters that are projected to achieve the same level of recreational harvest that would have been achieved under the regulations approved by the Board in December 2020.

New Jersey submitted a proposal to modify its recreational summer flounder fishery to open the Friday before Memorial Day, May 28, 2021. To accommodate the delayed opening, New Jersey proposed adding nine days onto the end of its season based on average daily harvest rates across the two years to account for differences in wave 3 and wave 5 landings. Harvest under this proposal is projected to be 0.09% lower than harvest under status quo measures. In addition, Massachusetts put forward a proposal for its black sea bass recreational fishery with two season options for a Saturday opening that the state will take to the public to solicit feedback. The options include: 1) May 15 to September 3; and 2) May 22 to September 14. To account for the shift in opening date, Massachusetts calculated the adjusted season closure date based on average daily harvest rates in wave 3 and wave 5.

Staff presented Virginia's proposal to participate in the February 2021 black sea bass recreational fishery in accordance with the start of the federal waters open season. Virginia will account for its harvest during the February 2021 fishery by adjusting its season later in the year. Landings in pounds will be calculated in February from mandatory angler reporting, and season adjustments to account for February landings will be based on the average daily harvest rate in pounds, by wave, from 2018-2019 MRIP data.

Based on the TC's recommendation, the Board approved both New Jersey and Massachusetts's conservation equivalency proposals as well as Virginia's proposed methodology to account for its February black sea bass season.

For more information on summer flounder, please contact Dustin Colson Leaning, Fishery Management Plan Coordinator, at [dleaning@asmfc.org](mailto:dleaning@asmfc.org) and for more information on black sea bass, please contact Savannah Lewis, Fishery Management Plan Coordinator, at [slewis@asmfc.org](mailto:slewis@asmfc.org).

## ***Motions***

### **Board Only Motions**

**Move to approve the following 2021 recreational conservational equivalency season adjustments: New Jersey summer flounder fishery (May 28 through September 28), and Massachusetts's black sea bass fishery (options A, May 15 – Sept 3, and B, May 22 – Sept 14), and approve Virginia's proposal for adjusting recreational black sea bass measures to account for February harvest.**

Motion made by Mr. Gilmore and seconded by Mr. Luisi. Motion stands approved.

### **Board & Council Motions**

#### **Main Motion**

#### **Move to approve:**

**Modified Option B – Increase CT to 3% and NY to 9%, with the change occurring over 2 years**

**Option C – DARA approach, with the following sub options:**

- **Sub-option C1-B: allocations based 50% on stock distribution and 50% on the initial allocations at the end of the transition phase**
- **Sub-option C2-A: 5% change in weights per adjustment**
- **Sub-option C3-A: annual adjustment to factor weights**
- **Modified allocation adjustment cap (C4-A): cap the change in regional allocations at a maximum of 5% per adjustment.**

### **Regional configuration option G2 – NJ as separate region**

Board: Motion made by Dr. McNamee and seconded by Mr. Hasbrouck.

Council: Motion made by Mr. DiLernia and seconded by Ms. Davidson.

### **Motion to Substitute**

**Move to substitute to address Black Sea Bass Commercial State Allocations by approving Option B - Increase Connecticut Quota to 3%; Option D - Trigger Approach, with a trigger of 4 M lbs. (a trigger value between Sub Options D1-A and D1-B); Sub-option D2-B - Distribution of surplus quota based on regional biomass from stock assessment; Sub-option D3-B - Proportional distribution of regional surplus quota; Sub-option D4-A - Static base allocations; Option G - Regional Configuration Options; and Sub-option G2 - Establishing three regions with New Jersey as a separate region.**

Board: Motion made by Mr. Clark and seconded by Ms. Bolen.

Council: Motion made by Ms. Bolen and seconded by Mr. Cimino.

### **Motion to Amend Substitute Motion**

**Move to amend the substitute motion option b: “increase Connecticut's base allocation to 3% and New York’s base allocation to 9%.”**

Board: Motion made by Mr. Borden and seconded by Dr. Davis. Motion fails for lack of a majority (5 in favor, 6 opposed, 1 abstention).

Council: Motion made by Mr. Farnham and seconded by Mr. DiLernia.

### **Motion to Substitute**

**Move to substitute to address Black Sea Bass Commercial State Allocations by approving Option B - Increase Connecticut Quota to 3%; Option D - Trigger Approach, with a trigger of 4 M lbs. (a trigger value between Sub Options D1-A and D1-B); Sub-option D2-B - Distribution of surplus quota based on regional biomass from stock assessment; Sub-option D3-B - Proportional distribution of regional surplus quota; Sub-option D4-A - Static base allocations; Option G - Regional Configuration Options; and Sub-option G2 - Establishing three regions with New Jersey as a separate region.**

Board: Motion made by Mr. Clark and seconded by Ms. Bolen. Motion fails for lack of a majority (6 in favor, 6 opposed).

Council: Motion made by Ms. Bolen and seconded by Mr. Cimino.

### **Main Motion**

**Move to approve:**

**Modified Option B – Increase CT to 3% and NY to 9%, with the change occurring over 2 years**

**Option C – DARA approach, with the following sub options:**

- **Sub-option C1-B: allocations based 50% on stock distribution and 50% on the initial allocations at the end of the transition phase**
- **Sub-option C2-A: 5% change in weights per adjustment**
- **Sub-option C3-A: annual adjustment to factor weights**
- **Modified allocation adjustment cap (C4-A): cap the change in regional allocations at a maximum of 5% per adjustment.**

### **Regional configuration option G2 – NJ as separate region**

Board: Motion made by Dr. McNamee and seconded by Mr. Hasbrouck. Motion fails for lack of a majority (6 in favor, 6 opposed).

Council: Motion made by Mr. DiLernia and seconded by Ms. Davidson.



## **Main Motion**

**Move to adopt the following options for black sea bass commercial allocations:**

- **Modified Alternative B: Increase CT's base allocation to 3% and NY's base allocation to 9%.**
- **Alternative F: Percentage of coastwide quota distributed based on initial allocations:**
- **Sub-alternative F1-B: 75% of the coastwide quota allocated using the initial allocations.**
- **Sub-alternative F2-B: Remaining quota (25%) allocated based on regional biomass from the stock assessment.**
- **Sub-alternative F3-B: Proportional distribution of regional quota.**
- **Sub-alternative G2: Establish three regions: 1) ME-NY; 2) NJ; and 3) DE-NC.**

Board: Motion made by Ms. Meserve and seconded by Dr. Davis.

Council: Motion made by Ms. Davidson and seconded by Mr. Farnham.

## **Motion to Amend**

**Move to amend to modify alternative B to remove "and NY's base allocation to 9%" and add at the end of the motion "to review the state by state allocations in not more than 5 years".**

Board: Motion made by Mr. Batsavage and seconded by Mr. Clark. Motion carries (6 in favor, 5 opposed, 1 abstention).

Council: Motion made by Mr. Batsavage and seconded by Mr. Cimino. Motion carries (14 in favor, 5 opposed, 1 abstention).

## **Main Motion as Amended**

**Move to adopt the following options for black sea bass commercial allocations:**

- **Modified Alternative B: Increase CT's base allocation to 3%.**
- **Alternative F: Percentage of coastwide quota distributed based on initial allocations:**
- **Sub-alternative F1-B: 75% of the coastwide quota allocated using the initial allocations.**
- **Sub-alternative F2-B: Remaining quota (25%) allocated based on regional biomass from the stock assessment.**
- **Sub-alternative F3-B: Proportional distribution of regional quota.**
- **Sub-alternative G2: Establish three regions: 1) ME-NY; 2) NJ; and 3) DE-NC.**

**Review the state by state allocations in not more than 5 years.**

Board: Motion carries (10 in favor, 2 opposed).

Council: Motion carries (13 in favor, 7 opposed).

## **Board Only**

**Move to approve Addendum XXXIII, as modified today, with an implementation date of January 1, 2022.**

Motion made by Ms. Meserve and seconded by Dr. Davis. Motion carries without objection with one abstention from NOAA Fisheries (11 in favor, 1 abstention).

## **Council Only:**

**Move to submit the Black Sea Bass Commercial State Allocation Amendment, with identification of the preferred alternatives, to NMFS.**

Motion made by Mr. Defur and seconded by Mr. Cimino. Motion passes (13 in favor, 2 opposed, 3 abstentions).

## **AMERICAN LOBSTER MANAGEMENT BOARD (FEBRUARY 2, 2021)**

### ***Meeting Summary***

The American Lobster Management Board met to consider a number of items: the Proposed Rule and Draft Environmental Impact Statement (DEIS) for proposed modifications to the Atlantic Large Whale Take Reduction Plan for 2021 and Draft Biological Opinion for Atlantic fisheries; management responses to the 2020 American Lobster Benchmark Stock Assessment and Peer Review; the potential for conducting a management strategy evaluation for the lobster fishery; the recent Executive Order on the Northeast Canyons and Seamounts Marine National Monument; a nomination to the Jonah Crab Advisory Panel; and the election of a Board Vice Chair.

NOAA Fisheries staff presented a summary of proposed modifications to federal lobster fishery regulations being considered for 2021 along with a DEIS. The proposed changes to the Plan would (1) modify gear marking to introduce state-specific colors for gear marks and increase the number of gear markings and areas requiring marked lines; (2) modify gear configurations to reduce the number of vertical lines by requiring more traps between buoy lines; (3) introduce weak insertions or weak rope into buoy lines; (4) modify existing seasonal restricted areas to allow ropeless fishing; and (5) add one or two new seasonal restricted areas closed to buoy lines but open to ropeless gear. The Board discussed some concerns with the changes related to the timeline of federal rulemaking and conservation equivalency for state management programs.

Additionally, NOAA Fisheries staff summarized the Draft Batch Fisheries Biological Opinion (Opinion) for several federally-permitted fisheries including lobster. The Opinion analyzed the impacts of the proposed fisheries on protected species, along with a Conservation Framework that intends to reduce mortality and serious injury to North Atlantic Right Whales by 95% over ten years. The Opinion determined that the proposed action is not likely to jeopardize any listed species or destroy or adversely modify any critical habitat. The Board made a recommendation to the Interstate Fisheries Management Program (ISFMP) Policy Board to send letters to NOAA Fisheries including comments on both the proposed rule and the Biological Opinion.

The Board reviewed the results and recommendations from the 2020 American Lobster Benchmark Stock Assessment and Peer Review, which was accepted for management use in October 2020. While the Gulf of Maine/Georges Bank (GOM/GBK) stock is near time-series high abundance and not experiencing overfishing, the Board felt that proactively addressing stock resiliency is essential. As such, the Board directed the Plan Development Team to continue work on Addendum XXVII with a focus on developing a trigger mechanism that would automatically implement management measures to improve the biological resiliency of the GOM/GBK stock if the trigger is reached. For the Southern New England (SNE) stock, the assessment and peer review recommended substantial measures, such as a moratorium, to improve the declining trend in abundance. Even so, improvements are likely to be limited as a result of unfavorable environmental conditions and declining recruitment.

Staff also presented the Board with a prospective work plan to outline potential focal areas, resource needs, and associated workload tradeoffs for a management strategy evaluation (MSE) of the lobster fishery. The Commission's Management and Science Committee identified American lobster as a potential priority species for which an MSE could be developed to inform management decisions. The Board agreed an MSE could allow environmental and economic factors to be more effectively incorporated into management. The Board tasked staff and the Technical Committee to identify

timelines and cost estimates for developing an MSE for both stocks with several potential focal areas, including recommendations from the SNE stock assessment. This information will be presented at the Commission's Spring Meeting.

The Board discussed a recent Executive Order from President Biden, which requires a review of a 2020 proclamation that modified the Northeast Canyons and Seamounts Marine National Monument by returning commercial fishery management authority to the Magnuson-Stevens Act. The Interior Secretary shall report his/her findings to the President by March 21, 2021. The Board forwarded a recommendation to the ISFMP Policy Board to send a letter to the Secretary of the Interior during the review period to restate the Commission's position that management authority over commercial fisheries in the area should remain with the New England Fishery Management Council.

The Board also approved the nomination of Jon Williams, an offshore commercial trap fisherman representing Rhode Island, to the Jonah Crab Advisory Panel. Finally, Dr. Jason McNamee was named Vice Chair of the Lobster Board.

For more information, please contact Caitlin Starks, Fishery Management Plan Coordinator, at [cstarks@asmfc.org](mailto:cstarks@asmfc.org) or 703.842.0740.

### ***Motions***

**Move to recommend to the ISFMP Policy Board that the Commission send letters to NOAA Fisheries with comments on the proposed rule to amend the regulations implementing the Atlantic Large Whale Take Reduction Plan and the draft biological opinion. The letter should include the following:**

- The rule and bi-op should be completed by the end of May to ensure the court does not intervene.
- Implementation timeline recommendations that address practical start dates
- Supporting trawl equivalency such that 8 traps with 2 endlines = 4 traps with 1 endline
- Support enforcement and coordination with state agencies
- Conservation Equivalencies that would allow for modifications related to trawl lengths
- (specific to the bi-op) A statement that address the burden the US Fishery could bear based on the actions of Canada.

Motion made by Mr. Keliher and seconded by Mr. Borden. Motion carries without objection with one abstention (NOAA Fisheries).

**Move to task the TC and staff with the development of a set of prioritized options, timelines and a draft budget to assist the Board in considering if MSE could be of use for management, for the GOM and SNE stocks, in as timely a manner as possible. This information shall be presented to the Board at the spring meeting.**

Motion made by Mr. Keliher and seconded by Dr. McNamee. Passed by unanimous consent.

**Move to re-initiate PDT and TC work on the Gulf of Maine resiliency addendum. The addendum should focus on a trigger mechanism such that, upon reaching of the trigger, measures would be automatically implemented to improve the biological resiliency of the GOM/GBK stock.**

Motion made by Mr. Keliher and seconded by Ms. Patterson. Passed by unanimous consent.

**Move to recommend to the ISFMP Policy Board that the Commission send a letter to the Secretary of the Interior restating the Commission's position on modifying the Northeast Canyons and Seamounts Marine National Monument.**

Motion made by Mr. Reid and seconded by Ms. Patterson. Passed by majority with one abstention (NOAA Fisheries).

**Move to approve the nomination to the Jonah Crab Advisory Panel for Jon Williams of RI.**

Motion made by Mr. Reid and seconded by Mr. Hasbrouck. Passes by unanimous consent.

**Move to elect Dr. Jason McNamee as Vice Chair of the American Lobster Management Board.**

Motion made by Mr. Reid and seconded by Ms. Patterson. Passed by unanimous consent.

**WINTER FLOUNDER MANAGEMENT BOARD (FEBRUARY 2, 2021)**

***Meeting Summary***

The Winter Flounder Management Board reviewed reports from both the Technical Committee (TC) and the Advisory Panel (AP) and set status quo specifications for the 2021-2023 fishing years. The TC was supportive of status quo commercial and recreational measures for a few reasons (see Table 1). First, the New England Fishery Management Council (Council) set the 2021-2023 state waters sub-component equal to 2017-2019 average catch with the assumption that commercial and recreational measures would be held constant. Second, the TC's 2018 commercial measures analysis indicates the Southern New England and Mid-Atlantic (SNE/MA) region is essentially a bycatch fishery. Any further restriction in measures would likely increase regulatory discards and have a limited impact on fishing mortality.

**Table 1. 2021-2023 Winter Flounder Commercial and Recreational Measures for the Gulf of Maine and Southern New England/Mid-Atlantic Stocks**

Stock	Sector	Trip Limit/ Possession Limit	Size Limit	Season	Gear
GOM	Commercial	500 lbs/trip/day	12"	Maintain closures	Minimum 6.5" square or diamond mesh in cod-end
	Recreational	8 fish	12"	Open all year	
SNE/MA	Commercial	50 lbs/38 fish/trip/day	12"	Maintain closures	Minimum 6.5" square or diamond mesh in cod-end; 100-lb mesh trigger
	Recreational	2 fish	12"	March 1 – December 31	

The Board also discussed the SNE/MA stock's low likelihood of rebuilding back to the biomass target by 2023 despite sustained low levels of catch. The Board intends to continue to work collaboratively with the Council to determine the best path forward in improving understanding of the biology of the winter flounder stock and determining the right management approach for this depleted stock.

For more information, please contact Dustin Colson Leaning, Fishery Management Plan Coordinator, at [dleaning@asmfc.org](mailto:dleaning@asmfc.org) at 703-842-0714.

### ***Motions***

**Move to nominate William Hyatt as the Vice Chair to the Winter Flounder Management Board.**

Motion made by Ms. Ware and seconded by Ms. Patterson. Motion stands approved.

## **ATLANTIC MENHADEN MANAGEMENT BOARD (FEBRUARY 2, 2021)**

### ***Meeting Summary***

The Atlantic Management Board met to review landings as required by Amendment 3 and as part of an initial discussion on revisiting commercial allocations. Landings data from 2016-2019 and quota transfers from 2018-2020 were presented to highlight recent trends. Maine's proportion of coastwide landings has increased in recent years and the states of Maine, New Hampshire, and Massachusetts have received the majority of quota transfers over the past three years. The Board discussed further evaluating the current allocations based on additional landings information by category such as from the Episodic Set-Aside Program and incidental catch. Preliminary 2020 landings will be available in the coming months through state compliance reports, due April 1<sup>st</sup>, and the Board will continue discussions on commercial allocations at the Spring Meeting.

The Board also briefly discussed the management of Atlantic menhaden in the Chesapeake Bay and data needed to expand the stock assessments to include spatial dynamics. The 2020 single-species and ecological reference points (ERP) benchmark stock assessments evaluated Atlantic menhaden coastwide as a single population and described the ecological impacts of its population on key predator and prey species. Currently, the models used to assess Atlantic menhaden do not have spatial or seasonal dynamics although that remains a long-term goal. The Board tasked the Technical Committee and ERP Workgroup with identifying and prioritizing data or data collection programs necessary to develop the ERP models to include spatially explicit information, with particular interest in the Chesapeake Bay, to be considered at their next Meeting.

For more information, please contact Kirby Rootes-Murdy, Senior Fishery Management Plan Coordinator, at [krootes-murdy@asmfc.org](mailto:krootes-murdy@asmfc.org) or 703.842.0740.

### ***Motions***

No motions made.

## **ATLANTIC HERRING MANAGEMENT BOARD (FEBRUARY 2, 2021)**

### ***Meeting Summary***

The Atlantic Herring Management Board met to set 2021-2023 fishery specifications. The New England Fishery Management Council (Council) approved 2021-2023 fishery specifications back in September 2020 through Framework 8. The framework proposes a lower sub-annual catch limit (ACL) for Area 1A in 2021 (1,391 mt) and 2022/2023 (1,184 mt) based on results of the 2020 Management Track Assessment and following the acceptable biological catch (ABC) control rule outlined in Amendment 8.

The Board reviewed the specifications at the 2020 Annual Meeting, and set seasonal allocations for the 2021 fishing year based on the information, but decided to wait to take action on the 2021-2023 specifications until NOAA Fisheries had released a final rule on the framework. While a final rule had not been published at the time of this meeting, the Board approved the specifications as outlined in

the Council's framework (see table below) contingent on a final rule being published by NOAA Fisheries.

**2021-2023 Atlantic Herring Specifications (in Metric Tons)**

Specification	2021	2022	2023
<b>Annual Catch Limit (ACL)</b>	4,814	4,098	4,098
<b>Domestic Annual Harvest</b>	4,814	4,098	4,098
<b>Border Transfer</b>	0	0	0
<b>Area 1A Sub-ACL</b>	1,391*	1,184*	1,184*
<b>Area 1B Sub-ACL</b>	207	176	176
<b>Area 2 Sub-ACL</b>	1,338	1,139	1,139
<b>Area 3 Sub-ACL</b>	1,877	1,598	1,598
<b>Fixed Gear Set-Aside</b>	30	30	30
<b>Research Set-Aside as % of Sub-ACLs</b>	3%	0%	0%

\*If the New Brunswick weir fishery catch through October 1 is less than the associated "trigger", then 1,000 mt of the management uncertainty buffer will be added to the Area 1A sub-ACL

The Board also received an update on the Council's Amendment 8. Approved in 2018, the Amendment's purpose is to establish a long-term ABC control rule for Atlantic herring that explicitly account for herring's role in the ecosystem. Additionally, the Amendment addresses the biological and ecological requirements of the species by establishing a restricted area prohibiting fishing with midwater trawl gear to prevent potential localized depletion and user group conflicts. The restricted area is inshore of 12 nautical miles U.S./Canada border to the Rhode Island/Connecticut border and inshore of 20 nautical miles off the east coast of Cape Cod. In considering potential impacts of the new restricted area to state waters fisheries, Maine and New Hampshire currently do not allow midwater trawling in their state waters. Massachusetts and Rhode Island are reviewing potential loop holes that allow state only permitted midwater trawl vessels to fish in the restricted area and addressing them where needed. NOAA Fisheries released a final rule of the Amendment in January 2021 with an effective date of February 10, 2021.

Lastly, the Board received a brief update regarding ongoing discussions between Commission and Council leadership on coordinating state and federal herring management. Following a meeting that occurred between the Executive Directors of the Commission and Council and NOAA attorneys, Commission and Council leadership will reconvene to continue coordination discussions and review the responsibilities of each management body. Further updates on this coordination effort will be provided at the next Board meeting.

For more information, please contact Emilie Franke, Fishery Management Plan Coordinator, at [EFranke@asmfc.org](mailto:EFranke@asmfc.org) or 703.842.0740.

### ***Motions***

Move to approve the following Atlantic herring specifications for 2021-2023 as recommended by the New England Fishery Management Council contingent on the final rule being published by NOAA Fisheries:

#### **For 2021**

- Annual Catch Limit (ACL) = 4,814 mt
- Domestic Annual Harvest = 4,814 mt
- Border Transfer = 0 mt
- Area 1A Sub-ACL = 1,391 mt
- Area 1B Sub-ACL = 207 mt
- Area 2 Sub-ACL = 1,338 mt
- Area 3 Sub-ACL = 1,877 mt
- Fixed Gear Set-Aside= 30 mt
- Research Set-Aside as % of Sub-ACLs= 3%

#### **For 2022 and 2023**

- Annual Catch Limit (ACL) = 4,098 mt
- Domestic Annual Harvest = 4,098 mt
- Border Transfer = 0 mt
- Area 1A Sub-ACL = 1,184 mt
- Area 1B Sub-ACL = 176 mt
- Area 2 Sub-ACL = 1,139 mt
- Area 3 Sub-ACL = 1,598 mt
- Fixed Gear Set-Aside= 30 mt
- Research Set-Aside as % of Sub-ACLs= 0%

Motion made by Ms. Ware and seconded by Mr. Abbott. Motion passed by unanimous consent.

### **EXECUTIVE COMMITTEE (FEBRUARY 3, 2021)**

#### ***Meeting Summary***

The Executive Committee met to discuss several issues, including the second round of CARES fisheries disaster assistance, legislative and appropriations update, annual meetings update and new approach to allocations. The following discussions took place, with no action items:

- Mr. Beal provided a brief overview of the second round of CARES assistance, and introduced Ms. Kelly Denit, Director of NOAA's Office of Sustainable Fisheries, to field questions. The appropriations language provides \$300 million for fisheries, with \$255 million allocated to marine coastal states. One significant change to the language is that there is a 1% minimum allocation to each state, meaning the ASMFC states will get at least \$3 million each (This value may be slightly reduced by administrative fees).
- Mr. Beal gave an update on the legislative and appropriations front. With the change in Administrations in the Presidency and in Congress, Committees will be reorganized with new leadership. The NOAA Assistant Administrator has not been announced yet, and the President has not submitted a FY22 budget yet. The Committee discussed a draft letter to Office of

Management & Budget regarding funding priorities for the Atlantic states; a line will be added to the letter regarding Menhaden research focusing on the Chesapeake Bay.

- Mrs. Leach provided an update on future Annual Meetings, with plans to hold the 80<sup>th</sup> Annual Meeting in Long Branch, NJ October 17-22, 2021. Future Annual Meetings will be conducted in North Carolina (2022), Maryland (2023), and Delaware (2024). The Committee also discussed the future balance of virtual and in-person meetings following COVID. This discussion will be continued at a future Executive Committee meeting.
- The Committee discussed pursuing a new approach to allocation due to the changing of species distribution. This discussion will continue on the bi-weekly Executive Committee calls.

For more information, please contact Laura Leach, Director of Finance and Administration, at [lleach@asmfc.org](mailto:lleach@asmfc.org) or 703.842.0740.

### ***Motions***

No motions made.

## **COASTAL SHARKS MANAGEMENT BOARD (FEBRUARY 3, 2021)**

### ***Meeting Summary***

The Coastal Sharks Management Board received updates on a number federal shark activities. Dr. Cami McCandless, with NOAA Fisheries, updated the Board on the NMFS Cooperative Shark Tagging Program, which has administered a citizen science shark tagging program throughout the Atlantic since the 1960s. The program collects survey data annually and also collects fishery-dependent data from commercial vessels and recreational tournaments. Despite the pitfalls of 2020, tagging has increased by 7% and recapture reporting is up 25% year over year. Data collected by the program has served multiple uses including: updating essential fish habitat designations, research on shifting shark distributions, and as the basis for delineating stocks of blacktip, bonnethead, and sandbar sharks for assessments.

During Board discussion, the issue of how does NOAA Fisheries coordinate its activities with state permitting requirements was raised. South Carolina and Florida require anglers to get a permit to tag sharks. In order to make sure that participants follow state regulations, NOAA Fisheries includes a reminder with its issued tags to check with their respective state about additional restrictions or required permits to use these tags.

Karyl Brewster-Geisz, with NOAA Fisheries Division of Highly Migratory Species (HMS) Management, provided the Board with updates on upcoming shark actions from the Atlantic HMS Division. Draft Amendment 14, which was released for comment in 2020, explored options to reestablish a new framework for shark quotas consistent with new guidelines under Magnuson-Stevens Act National Standard 1. Three of the options being considered include (1) actively managing both commercial and recreational sectors, (2) eliminating the commercial quota linkages between management groups, and (3) allowing the flexibility to determine the overfishing status using a 3-year average of fishing mortality rather than only making determinations concurrent with stock assessments. Any resulting changes in quotas would be implemented in subsequent rules following the release of Final



Amendment 14 later this year. NOAA Fisheries is also undertaking a comprehensive review of the shark fishery that will examine the current state of the fishery and how previous management actions have affected the fishery.

Lastly, the Board approved the nomination of Capt. Rick Bellavance to the Coastal Sharks Advisory Panel. Capt. Bellavance has been a charter boat fisherman targeting a variety of fish for over 30 years, is a member of the Rhode Island Charter Boat Association, is a consultant for the New England Fishery Management Council, and previously held a seat on NOAA Fisheries Highly Migratory Species Advisory Panel.

For more information, please contact, Kirby Rootes-Murdy, Senior Fishery Management Plan Coordinator, at [krootes-murdy@asmfc.org](mailto:krootes-murdy@asmfc.org).

### ***Motions***

#### **Move to appoint Rick Bellavance to the Coastal Sharks Advisory Panel.**

Motion made by Mr. Reid and seconded by Mr. Miller. Approved by unanimous consent.

### **ATLANTIC COASTAL COOPERATIVE STATISTICS PROGRAM (ACCSP) COORDINATING COUNCIL (FEBRUARY 3, 2021)**

#### ***Meeting Summary***

The ACCSP Coordinating Council met to review and take action on program funding for FY2021. The Council was provided an update on ACCSP Leadership Team membership and meetings since the October 2020 Annual Meeting. The Council supported the use of ACCSP grant extension for the SAFIS helpdesk, NJ staff support, and the extended timeline for completing the approved the South Atlantic Fishery Management Council/North Carolina citizen science application project. The Council reviewed the revised FY2021 administrative grant. Several factors combined to allow the Leadership Team to support funding all maintenance and new proposals for 2021. These included the final determination of utilizing the 2016-2021 grant funds, the reduced the ACCSP administrative proposal, and a return of unused ACCSP funds from the Florida Headboat sampling project.

For more information, please contact Geoff White, ACCSP Director, at [Geoff.white@accsp.org](mailto:Geoff.white@accsp.org).

### ***Motions***

#### **Motion to approve the 2016-2020 Administrative Grant extension tasks as presented, and approve the revised 2021 ACCSP proposal at \$2,122,916.**

Motion made by Ms. Patterson and seconded by Mr. Bell. Motion stands approved.

### **ATLANTIC STRIPED BASS MANAGEMENT BOARD (FEBRUARY 3, 2021)**

#### ***Press Release***

#### **Atlantic Striped Bass Board Approves Draft Amendment 7 PID for Public Comment**

The Commission's Atlantic Striped Bass Management Board approved for public comment the Public Information Document (PID) for Draft Amendment 7 to the Interstate Fishery Management Plan (FMP) for Atlantic Striped Bass. As the first step in the amendment process, the PID seeks input from

stakeholders and those interested in striped bass about changes observed in the fishery/resource and potential management measures.

The last time a new plan amendment to the Atlantic Striped Bass FMP was adopted was in 2003 (Amendment 6). Since then, the status and understanding of the striped bass stock and fishery has changed considerably which raises concern that the current management program no longer reflects current fishery needs and priorities. The results of the 2018 Benchmark Stock Assessment in particular led the Board to discuss a number of prominent issues facing striped bass management. Consequently, the Board initiated the development of Amendment 7 in August 2020.

The purpose of the PID is to solicit stakeholder input on prioritizing the importance of each topic for continued development and potential inclusion in the Draft Amendment. The PID considers the following management topics: (1) fishery goals and objectives; (2) biological reference points; (3) management triggers; (4) stock rebuilding targets and schedule; (5) regional management; (6) management program equivalency (conservation equivalency); (7) recreational release mortality; (8) recreational accountability; (9) coastal commercial quota allocation; and (10) other issues raised in public comments.

Stakeholders are encouraged to provide input on the PID either by attending state public hearings or providing written comment. It is anticipated that states from Maine through North Carolina will be conducting public hearings, likely in a virtual format, in March and April 2021. A subsequent press release will provide the details of those hearings. The Atlantic Striped Bass Management Board will meet at the Commission's 2021 Spring Meeting in May to consider public comment and provide direction to staff for items to be included in Draft Amendment 7.

The PID is available at [http://www.asmfc.org/files/PublicInput/StripedBassAm7PID\\_PublicComment\\_Feb2021.pdf](http://www.asmfc.org/files/PublicInput/StripedBassAm7PID_PublicComment_Feb2021.pdf) or via the Commission's website, [www.asmfc.org](http://www.asmfc.org), under Public Input. Public comment will be accepted until **5 PM (EST) on April 9, 2021** and should be forwarded to Emilie Franke, Fishery Management Plan Coordinator, 1050 N. Highland St, Suite 200A-N, Arlington, VA 22201; 703.842.0741 (FAX) or at [comments@asmfc.org](mailto:comments@asmfc.org) (Subject line: Striped Bass PID). For more information, please contact Emilie Franke, Fishery Management Plan Coordinator, at [efranke@asmfc.org](mailto:efranke@asmfc.org) or 703.842.0740.

###

PR21-03

### ***Meeting Summary***

The Atlantic Striped Bass Management Board met to receive a Technical Committee (TC) report on assessment model sensitivity to recreational release mortality assumptions; consider approving for public comment an updated draft of the Public Information Document (PID) for Amendment 7; and consider proposed study collecting information on the tube rig gear and a proposed exemption to the circle hook requirement for this gear.

The Board reviewed a TC report on the sensitivity of the stock assessment model to different scenarios of recreational release mortality. This TC task was the result of Board and public concern about the assumption of a coastwide 9% release mortality used in the assessment. The analysis focused on the sensitivity of the model to that assumption and addressed the question of whether model results or stock status would change if a different release mortality rate was used. The report highlighted that

significant changes to the release mortality rate assumption in the model resulted in significant changes to the scale of the population, but did not affect the final stock status determination. While having a more refined estimate of recreational release mortality may not change the assessment model performance for past years, the TC emphasized that reducing release mortality through management measures and angler education and outreach continues to be important for the recovery of the stock. In response to questions from Board members, the TC noted that it is important to understand and track how changes in recreational management (e.g. circle hook requirements) affect the stock trends in the future. The Board reiterated the importance of hearing from the public on the issue of recreational release mortality which is included in the PID as part of the Amendment 7 development process.

The Board also heard from the TC on the timeline for the next stock assessment update for striped bass, which is currently scheduled for 2021. Due to the impacts of COVID-19 on data collection and considering that 2020 is only the first year of Addendum VI implementation, the TC recommended that the stock assessment update be postponed until 2022. The Board noted that COVID-19 may also impact data collection in 2021 and they may have to consider this issue again next year. The Board agreed by consensus to forward this recommendation to postpone the striped bass stock assessment to 2022 to the ISFMP Policy Board.

The Board then considered a proposed study by Maine and Massachusetts to collect information on the striped bass baited tube rig fishery and an accompanying request for a two-year exemption to the circle hook requirements for the tube rig gear. Addendum VI requires the mandatory use of circle hooks when fishing for striped bass with bait to reduce discard mortality in recreational striped bass fisheries. At their October 2020 meeting, the Board approved Addendum VI state implementation plans for circle hook requirements with the caveat that no exemptions to mandatory circle hook requirements will be permitted. Since then, the Commission and several states have received request to consider exemptions for tube rig gear. The Board heard from Maine and Massachusetts on their proposed study to assess the prevalence of baited tube rigs in the fishery and to assess the incidence of deep hooking (i.e. gut hooking). Some Board members expressed support for this study and the need to re-consider this exemption considering the anecdotally low incidence of gut hooking with this gear. Some Board members reiterated concern that this exemption may lead to requests for other exemptions, making enforceability difficult and potentially undermining the intent of the provision. The Board accepted the Maine/Massachusetts proposal to study the tube rig fishery and approved a delayed implementation of the circle hook requirement for tube rig gear coastwide through 2022. Other states interested in participating in the study should submit a letter of intent to the Commission within two weeks.

The Board also discussed the uncertainty around the definition of bait and the differing interpretations of natural bait among states. The Board approved by consensus the creation of an ad hoc committee to develop a definition of bait that would require the use of circle hooks and method of fishing that would require the use of circle hooks as well as how to handle incidental catch. The ad hoc committee will report back to the Striped Bass Board at a special Board meeting to take place early March 2021 or as soon as possible.

Finally, the Board approved the following new members to the Striped Bass Advisory Panel: Andrew Dangelo and Michael Plaia representing Rhode Island; Dennis Fleming representing the Potomac River Fisheries Commission; and Nathaniel Miller representing New York.

For more information, please contact Emilie Franke [efranke@asmfc.org](mailto:efranke@asmfc.org), Fishery Management Plan Coordinator, or Toni Kerns [tkerns@asmfc.org](mailto:tkerns@asmfc.org), ISFMP Director, or at 703.842.0740.

### ***Motions***

**Move to approve the Public Information Document for Draft Amendment 7 to the Striped Bass Fishery Management Plan for public comment as modified today.**

Motion made by Mr. Fote and seconded by Mr. Gary. Motion approved by consensus.

**Move to accept the Maine/Massachusetts proposal to study the tube rig fishery and, for the duration of the study, delay implementation of the circle hook requirement for tube rig gear through 2022 for all states in the striped bass management unit. Other states wishing to participate in a study on the tube rig fishery should submit a letter of intent to ASMFC within two weeks to ensure consistency in data collection.**

Motion made by Ms. Ware and seconded by Mr. Armstrong. Motion passes (11 in favor, 4 opposed).

### **Main Motion**

**Create an ad hoc committee established by the chair to develop a definition of bait that would require the use of circle hooks. This committee will report back to the Striped Bass Board at a special Board meeting to take place early March 2021.**

Motion made by Mr. Hasbrouck and seconded by Dr. McNamee

### **Motion to Amend**

**Move to amend to add method of fishing that would require the use of circle hooks and how to handle incidental catch.**

Motion made by Mr. Cimino and seconded by Dr. Davis. Motion passes (15 in favor).

### **Main Motion as Amended**

**Create an ad hoc committee established by the chair to develop a definition of bait that would require the use of circle hooks and method of fishing that would require the use of circle hooks and how to handle incidental catch. This committee will report back to the Striped Bass Board at a special Board meeting to take place early March 2021 or as soon as possible.**

Motion passes by consent.

**Move to approve Andrew Dangelo and Michael Plaia representing Rhode Island, Dennis Fleming representing the Potomac River Fisheries Commission, and Nathaniel Miller representing New York to the Striped Bass Advisory Panel.**

Motion made by Mr. Gary and seconded by Mr. Sikorski. Motion adopted by consent.

## **SHAD AND RIVER HERRING MANAGEMENT BOARD (FEBRUARY 4, 2021)**

### ***Meeting Summary***

The Shad and River Herring Management Board met to consider several items: (1) Board action in response to the 2020 American Shad Benchmark Stock Assessment and Peer Review, (2) Technical Committee recommendations to improve Amendments 2 and 3 to the Fishery Management Plan

(FMP), (3) approval of updated shad habitat plans, (4) the FMP Review and state compliance for the 2019 fishing year, and (5) two nominations to the Advisory Panel.

The Board reviewed recommendations from the Technical Committee (TC) and comments from the Advisory Panel (AP) regarding paths forward for improving shad stocks in light of the 2020 Assessment results. The assessment found that American shad remain depleted on a coastwide basis, and determined that several systems are depleted, experiencing unsustainable adult mortality, or have an unknown stocks status despite having active fisheries. The TC emphasized that habitat-related issues (such as passage barriers) and bycatch in coastal mixed-stock fisheries are likely limiting recovery for a number of stocks. Therefore, the TC did not recommend management changes at this time, but recommended states focus on restoration efforts and data improvements to improve future assessments. Consistent with the recommendations, the Board tasked the TC to develop methods to evaluate bycatch removals in directed mixed-stock fisheries in state waters in order to understand and reduce impacts to external stocks. Additionally, to address data deficiencies highlighted by the TC, the Board forwarded a recommendation to the Interstate Fishery Management Policy Board to send a letter to NOAA Fisheries requesting increased prioritization of stock composition sampling of American shad in offshore fisheries.

The TC Chair presented recommendations for improvements to Amendments 2 and 3 to the FMP. These Amendments require states or jurisdictions to have an approved Sustainable Fishery Management Plan (SFMP) to allow any harvest of river herring and shad, respectively. The TC recommendations provide additional criteria to guide the development of SFMPs, such as appropriate time series for sustainability metrics, management responses to falling below sustainability thresholds, clarification on the use of SFMPs versus Alternative Management Plans, and interjurisdictional management guidance. The Board agreed with the TC recommendations and tasked them to develop a technical guidance document for use in SFMP development and evaluation.

The Board also reviewed updates to the American Shad Habitat Plans for Maine, New Hampshire, Maryland, North Carolina, South Carolina, and Georgia. The habitat plans are required by Amendment 3 to the FMP and updates to include current information and recent restoration programs were requested on a five year basis. The Board approved the presented shad habitat plans, and will review remaining updates at their next meeting.

As recommended by the Plan Review Team, the Board approved the FMP Review for Shad and River Herring for the 2019 Fishing Year, state compliance reports, and *de minimis* requests. Lastly, the Board approved two nominations to the AP: Dr. Ed Hale of Delaware, and Eric Roach of New Hampshire. For more information, please contact Caitlin Starks, Fishery Management Plan Coordinator, at [cstarks@asmfc.org](mailto:cstarks@asmfc.org) or 703.842.0740.

### ***Motions***

**Move to task the Technical Committee with developing methods to evaluate bycatch removals in directed mixed-stock fisheries in state waters in order to understand and reduce impacts to stocks outside the area where directed catch occurs.**

Motion made by Mr. Cimino and seconded by Dr. Davis. Motion carries unanimously.

**Move to task the Technical Committee with developing a technical guidance document to guide SFMP/AMP development and evaluation based on the recommendations presented today.**

Motion made by Dr. Davis and seconded by Mr. Haymans. Motion passes (10 in favor, 8 opposed).

**Move to approve the updated shad habitat plans submitted by ME, NH, MD, NC, SC, and GA.**

Motion made by Ms. Patterson and seconded by Mr. Haymans. Motion passes unanimously.

**Move to approve the FMP Review for the 2019 fishing year, state compliance reports, and *de minimis* requests from ME, NH, MA, and FL.**

Motion made by Mr. Clark and seconded by Ms. Patterson. Motion is approved by consensus.

**Move to approve nominations to the Shad and River Herring Advisory Panel for Dr. Ed Hale from Delaware, and Eric Roach from New Hampshire.**

Motion made by Dr. Davis and seconded by Mr. Miller. Motion is approved by consensus.

**BLUEFISH MANAGEMENT BOARD (FEBRUARY 4, 2021)**

***Meeting Summary***

The Bluefish Management Board met to consider Technical Committee (TC) recommendations to revise the Addendum I age sampling requirements, discuss additional TC recommendations on bluefish recreational release length sampling, and consider a nomination to the Bluefish Advisory Panel.

In accordance with TC recommendations, the Board changed the threshold for required participation in the Addendum I age sampling program from 5% of total coastwide bluefish harvest for the period 1998-2008, to 4% of total coastwide bluefish removals (recreational and commercial landings and dead discards) for the period 2010-2019. This update added Florida to the list of states that are already required to submit age samples under Addendum I. While Virginia does not meet the updated threshold, the state will continue its current sampling regime for bluefish and provide the same minimum 100 samples as other states for the purposes of continuing its valuable collection of biological data used in stock assessments. The Board also changed the 50 fish spring and fall sampling requirements to a target in recognition that bluefish are not present in state waters year round for all states. However, the 100 annual sampling requirement still remains. The sampling program seeks to support bluefish stock assessments by improving the quantity and quality of information used in assessments.

The Board also discussed the need for increased recreational release length sampling to accurately characterize discards for catch accounting and stock assessments. Rhode Island, Connecticut, and New Jersey already have voluntary angler programs that collect these data, but the TC encouraged state members consider expanding upon these programs for broader participation along the Atlantic coast. Lastly, the Board appointed John LaFountain a seafood processor/dealer from Rhode Island to the Bluefish Advisory Panel.

For more information, please contact Dustin Colson Leaning, Fishery Management Plan Coordinator, at [dleaning@asmfc.org](mailto:dleaning@asmfc.org).

***Motions***

**Move to revise Addendum I to Amendment 1's sampling requirements from 5% of coastwide harvest to 4% of the total coastwide removals, defined as the sum of recreational and commercial landings**

**and dead discards, for the period 2010-2019; adding Florida to the states required to collect samples; and changing the 50 fish seasonal requirement to a target but the 100 fish annual sampling requirement remains.**

Motion made by Mr. Cimino and seconded by Mr. Hasbrouck. Motion is approved by unanimous consent.

**Move to approve the nomination to the Bluefish Advisory Panel for John LaFountain of RI.**

Motion made by Dr. McNamee and second by Dr. Davis. Motion is approved by unanimous consent.

## **INTERSTATE FISHERIES MANAGEMENT PROGRAM (ISFMP) POLICY BOARD (FEBRUARY 1 & 4, 2021)**

### ***Meeting Summary***

The ISFMP Policy Board (Policy Board) met to review a full suite of issues, including:

- Executive Committee update
- State declared interests for Commission managed species
- Pennsylvania's participation on the Atlantic Menhaden Management Board
- Recreational Management Reform Initiative discussion with the Mid-Atlantic Fishery Management Council (Council)
- Process issues for Commission work on Recreational Management Reform Initiative
- Progress update on the draft Risk and Uncertainty Policy
- Review of the 2020 Commissioner Survey results
- Electronic recreational data collection
- Reports from the Atlantic Coastal Fish Habitat Partnership, Habitat Committee, and Artificial Reef Committee

### **Executive Committee Report**

Commission Chair Pat Keliher presented the Executive Committee Report to the Policy Board (see Executive Committee meeting summary earlier in this document).

### **States Declared Interests on Species Management Boards**

Annually, states and agencies review their declared interest to participate on the management boards for each Commission managed species. The following changes were made: the U.S. Fish and Wildlife (USFWS) withdrew its interest in participating on management boards for black sea bass, summer flounder, scup, bluefish, Spanish mackerel, tautog, weakfish, winter flounder, cobia, black drum, red drum, spot, spotted sea trout, Atlantic croaker. The Commonwealth of Massachusetts withdrew from weakfish board due to the significant decline of weakfish in state waters. Several states declared interest in participating on species boards due to an increased presence of those species in state waters in recent years, these include: Delaware-spotted seatrout; New Jersey-spotted seatrout; New York-Spanish mackerel; Rhode Island-Spanish mackerel and cobia; and New Hampshire-black sea bass. The Policy Board approved all of these changes.

### **Pennsylvania's Participation on the Atlantic Menhaden Board**

Articles II, VIII, and XII of the Interstate Compact address participation by certain states eligible for Commission fishery management activities, including Pennsylvania, generally requiring that such participation be limited to anadromous species found in those states' waters. Pennsylvania has been part of the Atlantic Menhaden Management Board since 2016, but because Atlantic menhaden are not

anadromous, the question arose whether it is proper for Pennsylvania to participate on the Menhaden Board. The Policy Board agreed to maintain Pennsylvania's participation in the Menhaden Board in light of the ecological linkage between menhaden and striped bass, which is consistent with the Commission's increased focus on ecosystem-based management.

## **Recreational Management Reform Initiative**

### **Joint Discussion with Council**

The Policy Board met jointly with the Council to receive an update on the Recreational Management Reform Initiative and discuss next steps. This initiative considers improvements to the management of recreational fisheries for summer flounder, scup, black sea bass, and bluefish. As part of this initiative, the Council and Commission are developing a joint framework/addendum and a joint amendment, each of which will consider several topics. During the meeting, the Board and Council agreed to focus on the harvest control rule proposal put forward by six recreational organizations as an immediate next step. Council, Commission and NOAA Fisheries staff will work together to consider how this proposal may need to be modified to comply with Magnuson-Stevens Fishery Conservation and Management Act requirements to implement annual catch limits and prevent overfishing.

### **Policy Board Only Discussion**

The Council and the Commission have been working on a Recreational Management Reform Initiative for summer flounder, scup, black seas bass and bluefish. The Policy Board has been meeting with the Council to discuss these issues because it is the overarching Board of the two management boards as well as the initiative could have solutions for other Commission management species, the Board affirmed it will continue to work with the Council vs another Commission management board. In addition, the Board agreed to have Commission leadership bring forward a voting process recommendation to the MAFMC leadership. The Board agreed the two management bodies could have independent motions on an issue rather than identical motions as in the process used for the jointly managed species.

## **Draft Risk and Uncertainty Policy**

Dr. Jason McNamee presented on the Commission's Draft Risk and Uncertainty Policy. Updates included a refined decision tool criteria, a revised process, a sample weighting preference survey, and an updated striped bass example. The Board provided feedback and supported using tautog as a pilot case for the Risk and Uncertainty Policy.

## **2020 Commissioner Survey**

Deke Tompkins presented the results of the 2020 Commissioner Survey Results. Many responses showed similar trends from years past. It was noted some obstacles to the Commission's success in rebuilding stocks include depleted stocks, environmental/climate conditions, balancing individual and collective interests, management response time, inadequate federal resources/support, reallocation, recreational data shortfalls, and cooperation with the Councils. Some of the issues Commissioners would like to focus more on include: include depleted species, modernizing outreach for the next generation, habitat and climate change, socioeconomics, improvements to MRIP, regulatory consistency among states, stakeholder engagement, accountability measures, increased Congressional support, quota allocation, and regional differences and intra-species interaction.

## **Electronic Recreational Data Collection**

In a recent review of biological reporting requirements, the Bluefish Technical Committee noted the



stock assessment recommendation that an accurate characterization of recreational release lengths is integral to the assessment and that improvements to the methodology used to collect these data is recommended. The Technical Committee discussed options for electronic reporting that could be used for collecting recreational angler release data to remove the need for a state to create a new data collection system. The Technical Committee recommended to the Bluefish Board that it advance the importance of broadly collecting reliable recreational release length frequency data for all recreational species through a request to the Policy Board. The specific request was to ask the Policy Board task the Assessment Science Committee to work with the ACCSP to develop a comprehensive program for reporting released fish of all recreationally important species the Commission manages. However, the Bluefish Board had some concerns about the lack of specificity in the recommended task. In light of this concern, Toni Kerns presented an overview of SciFish, an electronic recreational reporting application in development by ACCSP, which could have the potential to collect quantitative data. Staff recommend that Commission staff and the Assessment Science Committee provide feedback for assessment and management concerns to ACCSP as the application is developed.

### **Reports from Atlantic Coastal Fish Habitat Partnership and ASMFC Habitat and Artificial Reef Committees**

Dr. Lisa Havel provided updates on Atlantic Coastal Fish Habitat Partnership (ACFHP), Habitat Committee, and Artificial Reef Committee. The ACFHP Steering Committee met virtually November 9-10, 2020. The Committee discussed the National Fish Habitat Conservation through Partnerships Act passage, received updates on current on-the-ground projects, and reviewed the final version of the Fish Habitat Conservation Mapping Assessment. For the FY2021 National Fish Habitat Action Plan – USFWS funding, ACFHP received 14 applications, and is recommending 11 for funding. These 11 applications cover seven states in the North, Mid-, and South Atlantic, and improve tidal vegetation, riverine bottom, and shellfish beds if funded. The selections are usually announced in late spring. ACFHP also recently endorsed three projects: Big Pink Key Aquatic Habitat Hydrological Restoration in Florida; Evaluating an Approach to Long-Term SAV Monitoring in North Carolina; and Tuckerton Reef in New Jersey.

The Habitat Committee met virtually November 12-13, 2020. It discussed the status and next steps for the documents the Committee is currently working on: Acoustic Impacts to Fisheries, Fish Habitats of Concern, and the *2020 issue of Habitat Hotline Atlantic*. The Committee continued working on designating Fish Habitats of Concern for ASMFC-managed species, and discussed developing a comment letter on the proposed elimination of dredge windows in the U.S. Army Corps of Engineers Wilmington District, which was unanimously approved by the Policy Board.

Dr. Havel also presented a new document from the Artificial Reef Committee, updating the 1988 publication *Profiles of State Artificial Reef Programs and Projects*. The update highlights accomplishments of Atlantic state artificial reef programs over the past 30+ years, and was approved unanimously for publication by the Policy Board.

The Policy Board agreed to send four letters to NOAA Fisheries (see relevant sections of the American Lobster Board and the Shad and River Herring Management Board for details on the letters). The one letter not discussed at the American Lobster Board meeting was a request to NOAA Fisheries for additional time to comment on the draft “batched” Biological Opinion for ten fishery management plans in the Northeast and the implementation of the New England Fishery Management Council’s

Omnibus Habitat Amendment 2. The additional time will allow the 15 Atlantic coastal states the opportunity to thoroughly review the Biological Opinion and provide meaningful feedback.

For more information, please contact Toni Kerns, ISFMP Director, at [tkerns@asmfc.org](mailto:tkerns@asmfc.org).

### ***Motions***

#### **Move to approve the changes to the species declared interest.**

Motion made by Mr. Fote and seconded by Dr. Rhodes. Motion passes by consensus.

**On behalf of the Lobster Board, move the Commission to send letters to NOAA Fisheries with comments on the proposed rule to amend the regulations implementing the Atlantic Large Whale Take Reduction Plan and the draft biological opinion. The Biological opinion letter should include the following:**

- The bi-op should be completed so it will support the proposed rule to avoid a jeopardy.
- A statement that address the burden the US Fishery could bear based on the actions of Canada.
- The Atlantic Large Whale Take Reduction Plan letter should include the following:
- The rule should be completed by the end of May to ensure the court does not intervene.
- Implementation timeline recommendations that address practical start dates
- Supporting trawl conservation equivalency that would allow for modifications related to trawl lengths as well as address the need to fish a single endline in areas. Example 8 traps with 2 endlines = 4 traps with 1 endline
- Support enforcement and coordination with state agencies

Motion made by Mr. McKiernan. Motion passes with 1 abstention (NOAA Fisheries).

**On behalf of the Lobster Board, move the Commission send a letter to the Secretary of the Interior restating the Commission's position on modifying the Northeast Canyons and Seamounts Marine National Monument.**

Motion made by Mr. McKiernan. Motion passes with 2 abstentions (NOAA Fisheries and USFWS)

**Move to request the Commission send a letter to NOAA requesting a short extension of the comment period on the Endangered Species Act Section 7 Consultation-Biological Opinion from February 19 to March 1, 2021.**

Motion made by Mr. Borden and seconded by Ms. Patterson. Motion passes with 1 abstention (NOAA Fisheries).

**On behalf of the Shad and River Herring Board, move to send a letter to NOAA fisheries to request that shad be made a higher sampling priority, particularly for genetic stock composition sampling, to improve our understanding of the impacts of mixed-stock fisheries on system-specific stocks, as recommended by the 2020 Assessment and Peer Review and the Technical Committee.**

Motion made by Mr. Armstrong. Motion passes with 2 abstentions (NOAA Fisheries and USFWS).

#### **Motion to adjourn.**

Motion made by Mr. Bowman and second by Mr. Haymans. Motion passes.



# The Commonwealth of Massachusetts

## Division of Marine Fisheries

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DANIEL J. MCKIERNAN  
Director

### MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director

DATE: February 12, 2021

SUBJECT: Spring 2021 Rule Making Schedule

#### Overview of Spring 2021 Rule Making

Following initial review and debate by the MFAC, DMF is moving two draft regulatory packages forward during the spring of 2021 for potential implementation for this upcoming fishing season. The first package proposes several recreational fishing measures; the second package addresses several commercial fishing measures.

Recreational Fishing Measures. DMF recently published a [public hearing notice](#) on three proposed adjustments to the state's recreational fishing regulations for 2021. These adjustments are summarized below. The public comment period is currently open and DMF is accepting written public comment through March 5, 2021. Additionally, a virtual public hearing will be held via Zoom at 6PM on March 2, 2021. I anticipate the MFAC will receive my written final recommendation around March 12, 2021 for your consideration at the March 18, 2021 MFAC business meeting. If approved, final rules will be effective for April 2021.

#### *Circle Hooks*

For 2020, DMF implemented circle hook regulations affecting the recreational striped bass fishery. These regulations require recreational anglers fish with circle hooks when using whole or cut natural baits, and provides exemptions for anglers during for-hire trips and anglers fishing with natural baits attached to artificial lures designed to be trolled, vertically jigged, or cast and retrieved. Now, consistent with Addendum VI to the ASMFC's Striped Bass Management Plan and subsequent decisions made by the ASMFC's Striped Bass Management Board at their February 3, 2021 meeting, DMF is proposing several modifications to the rule.

The proposed regulatory changes are: (1) eliminate the exemption for anglers during for-hire trips; (2) eliminate exemptions for artificial lures rigged with natural baits that are to be cast and retrieved, trolled, and vertically jigged; (3) allow for the continued use of baited tube-and-worm rigs provided the lure consists of at least 8" of latex or rubber tubing with a single hook protruding from the end portion of the tubing where bait may be attached and that the hook is not a treble hook; (4) clarify that pork rinds are not to be considered a natural bait; and (5) require

that any striped bass caught on non-conforming terminal tackle be immediately released to the water without unnecessary injury.

#### *Gulf of Maine Cod and Haddock*

DMF is moving to amend its recreational Gulf of Maine cod and haddock limits consistent with recently adopted federal interim rules for the remainder of the 2020 Fishing Year (May 1, 2020 – April 30, 2021) and expected federal rules for the 2021 Fishing Year (May 1, 2021 – April 30, 2021) that were recently approved by the NEFMC. For Gulf of Maine cod, this means adopting open fishing seasons for all anglers during April 1 – April 14 and September 15 – September 30. Anglers fishing during for-hire trips will be afforded a bonus season during the fall, which spans September 8 – October 7. During any open season, the minimum size will be 21” and the bag limit will be one-fish per angler. For Gulf of Maine haddock, this means adopting an open fishing season of April 1 through the last day of February with a 17” minimum size and 15-fish bag limit. This effectively extends the existing open season to include the first two weeks of April.

#### *Prohibition on Trap Fishing for Blue Crabs*

DMF is proposing to prohibit the taking of blue crabs by traps. This action is being taken in response to concerns that blue crab trapping may be resulting in diamondback terrapin deaths. It is unlikely that these turtles are being captured in other permitted trap gear (i.e., lobster traps, fish pots, conch pots) given where and when this gear is fished and how this gear is configured. Fishermen will continue to be able to fish for blue crabs using active fishing methods, such as trot lines, dip nets, and collapsible traps. Given permitting requirements (i.e., need for a commercial lobster permit to sell edible crabs) and the low daily catch limit (25 blue crabs) this fishery is exclusively recreational and should have no impact on commercial fishing.

In Massachusetts, blue crabs are commonly caught in our warmer southern waters in estuaries, marshes, and salt ponds. This is also the habitat of the diamondback terrapin. This turtle species is listed as threatened under the Massachusetts Endangered Species Act. Traps set in these inshore waters can capture and drown these protected turtles. This was documented during routine gear inspections by the Environmental Police during the summer of 2020.

This proposed prohibition will prevent these turtles from being captured and drowned in blue crab traps. This management approach is taken by a number of our states to our south. Those states that do continue to allow trapping require the use of a turtle excluder device. These states tend to have commercial blue crab fisheries. Given that MA does not have a commercial fishery for this species, that turtle excluder devices are not 100% effective, and that there are numerous active fishing techniques that may be successfully used by recreational fishermen to harvest blue crabs, DMF’s preferred option is to prohibit this trap fishing activity.

Commercial Fishing Measures. The four proposed commercial fishing regulatory adjustments for 2021 are described below. DMF expects a public hearing notice will be published in late February or early March. Based on this anticipated schedule, DMF will likely hold a public hearing in late March or early April with the public comment period concluding shortly thereafter. A final recommendation should then be provided for the MFAC’s consideration in

advance of the April 15 MFAC business meeting. If approved, final rules will be effective in May 2021.

### *Commercial Striped Bass*

DMF is proposing to adjust the commercial striped bass fishing season and open fishing days for 2021. This proposal was developed with input from the MFAC's Commercial Striped Bass Sub-Committee (SBSC) and is being moved forward in response to public petitions and recent fishery performance.

DMF is proposing to open the season earlier. The preferred option—supported by the SBSC—is to open a week earlier on June 15. However, DMF will also take comment on a petition to open the season in late May. Then, if the quota is not taken, DMF is proposing a season end date of November 15. This will allow for more expedient striped bass tag accounting and reporting. It should also not impact the commercial fishery, as fish have typically migrated out of our waters by that time of year.

Regarding open fishing days, DMF is proposing to start the fishery with four consecutive open fishing days (Mondays – Thursdays); then if quota remains available, add Fridays as an open fishing day on September 15 and go to seven days per week on October 1. These proposed open fishing day adjustments are consistent with the consensus positions reached by the SBSC.

### *Commercial Menhaden*

DMF is proposing two draft regulations affecting the open access commercial menhaden fishery to enhance compliance with the 6,000 pound limit. The first proposal is a maximum purse seine size of 300' by 30'. Based on discussions with industry members, a net of this size is sufficient to harvest the 6,000 pound trip limit. The second proposal is that all fish be immediately stored in 55-gallon barrels or standard fish totes; a level filled barrel is the volumetric equivalent of 300 pounds of menhaden and a level filled tote is the volumetric equivalent of 125 pounds of menhaden. Accordingly, 20 barrels or 48 totes would represent one trip limit.

DMF is also proposing several modifications to its Episodic Event Set Aside (EESA) and Incidental Catch and Small-Scale Fishery regulations. In response to comments from ASMFC, DMF is proposing to further clarify that all vessels participating in the EESA fishery hold a bait dealer permit and report nightly. This is mandated by the FMP, and while most participating vessels are currently complying with due to other rules, this proposal would clarify this obligation. For the small scale fishery, which functions at a 6,000 pound limit once the quota is taken, DMF is proposing to require a maximum purse seine size of 300' by 30', consistent with the open access fishery rule being proposed.

### *Black Sea Bass Pot Ghost Panels*

DMF is proposing to require black sea bass pots to be rigged with a ghost panel that measures at least 3" by 6". This was flagged as a regulatory deficiency during a recent ASMFC compliance report. This is not a new requirement of the FMP, but rather a historic deficiency that was just recently observed. I do not anticipate this will require gear modifications, as most fishermen already comply with this by rigging a trap side or trap door as a ghost panel.

### *Bluefin Tuna Purse Seining Regulations*

This is a housekeeping regulatory proposal. DMF began permitting and regulating the bluefin tuna purse seine fishery in the 1970s. This activity was then slowly phased out over time. The fishery has been inactive in state waters for about 20 years and all permits have now been retired. Accordingly, DMF is moving to strike the endorsement and explicitly prohibit the use of purse seines for taking bluefin tuna.

### *Bluefish Gillnetting*

At this time, DMF is not moving forward with a proposal to lift or amend the bluefish gillnet closure in southeastern Cape Cod Bay. You may recall this proposal was discussed at the December 2020 MFAC business meeting. The closure is historic—dating back to the 1980s—and was designed to ameliorate gear conflicts between the bluefish gillnet fleet and recreational fishermen. Then a few months back, DMF received a petition from the lone bluefish gillnetter who wanted enhanced access to this area. I initially intended to take this petition out to public hearing to better understand the potential impact lifting this closure may have on the recreational fleet and determine if there were areas or seasons where the closure could be lifted. However, upon further consideration, I am delaying rule making on this proposal. Staff continues to work with the petitioner to refine his request.

### **Emergency Regulations**

We are currently taking public comment on three options for the 2021 recreational black sea bass season. The first is status quo, which allows for a May 18 – September 8 with a 5-fish bag limit and 15” minimum size. The second, is to open from May 15 – September 3 with a 5-fish bag limit and 15” minimum size. The last is to open from May 22 – September 14 with a 5-fish bag limit and 15” minimum size. More details on our preferred option will be set forth in a forthcoming memo and discussed at the February 18, 2021 MFAC business meeting. If the second or third options are moved forward, DMF will implement these rules using its emergency rule making authority. DMF will then hold a public hearing during the 90-day emergency rule making period to codify the final rules.