

MARINE FISHERIES ADVISORY COMMISSION

January 21, 2022

Held Virtually via Zoom

In attendance:

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

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

Department of Fish and Game: Ron Amidon, Commissioner

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

Members of the Public: Katie Almeida; Lizzie Roche; Andrew Kolek; Craig P; Emerson Hasbrouck; Tom McShane; Michael Moore; Tom Smith; Peter Kaizer; Beth Casoni; Eric Apjohn; Colleen Coogan; Heather Haggerty; Erica Fuller; Lori Caron; Kathleen Collins; Eric Matzen; Philip Coates; John Moran; Leah Baumwell; Henry Milliken; Scott Swicker; and Manuela Barrett

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Ray Kane called the January 21, 2021 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

REVIEW AND APPROVAL OF JANUARY 21, 2022 BUSINESS MEETING AGENDA

There were no amendments made to the January 21, 2022 business meeting agenda.

Chairman Kane asked for a motion to approve the draft January 21, 2022 business meeting agenda. Bill Doyle made a motion to approve the draft agenda. The motion was seconded by Sooky Sawyer. The January 21, 2022 MFAC business meeting agenda was approved by unanimous consent.

REVIEW AND APPROVAL OF DECEMBER 2, 2021 DRAFT BUSINESS MEETING MINUTES

Kalil Boghdan requested a minor modification to page 8 of the minutes; he asked that the word ‘from’ be changed to ‘similar to’. There were no further amendments made to the draft business meeting minutes.

Chairman Kane asked for a motion to approve the December 2, 2021 MFAC business meeting minutes. Kalil Boghdan made motion to approve the December 2, 2021 business meeting minutes as amended. Shelley Edmundson seconded the motion. The motion was approved by unanimous consent.

CHAIRMAN'S COMMENTS

Chairman Kane thanked the MFAC members who attended the recent DMF public hearings. The Chairman reminded MFAC members to complete their ethics training and provide DMF with updated resumes if they were seeking reappointment.

COMMISSIONER'S COMMENTS

Commissioner Amidon thanked Jared Silva for his assistance in organizing the MFAC reappointment process and expected reappointments would be completed by the spring. The Commissioner also commended Massachusetts Environmental Police (MEP) for their work to assist a vessel sinking off Chatham.

LAW ENFORCEMENT COMMENTS

Lt. Matt Bass handled the comments for the MEP. He supported the recent legislative action to rescind the statutory prohibition on setting and fishing lobster trawls in Gosnold waters. DMF and MEP were working with industry to address issues regarding the shucking of sea scallop in state waters. MEP had been involved with gear removal in Cape Cod Bay and were enforcing duck hunting season.

On the subject of staffing, one new hire had completed the Police Academy and another new hire was in the process of completing the work. MEP is looking to hire three to four individuals to backfill recent departures. Lt. Bass anticipated there may be another group of officers hired this upcoming fiscal year; Captain Clayton confirmed MEP would be able to hire 10 additional officers.

DIRECTOR'S COMMENTS

Director McKiernan started his comments by informing the MFAC the new striped bass conservation license plate were being issued. He provided some brief background on license plate and noted he would be appointing a five-member panel to distribute revenues generated.

On the subject of permitting, the annual permitting process was delayed. As a result, the permit 2021 permit was extended into 2022.

DMF's Shellfish Program was working with the Massachusetts Shellfish Officer's Association to transition the bi-annual shellfish constable training to an online format. The training will run for three weeks starting in the beginning of March.

DMF held two public hearings on January 5 and 6 to address commercial fishing regulations. The MFAC was scheduled to vote on final regulations on these matters today. DMF also held a public meeting to take comment on allowing a ropeless fishing project to occur this winter during the trap gear closure.

Lastly, Dan discussed the rescission of the law prohibiting lobster trap trawls in Gosnold waters. DMF intended to announce this in the coming week. He was hopeful this action would resolve certain enforcement issues and enable to the agency to more effectively address protected species issues. Sooky Sawyer supported this action.

ACTION ITEMS

New Trap Gear Buoy Line Requirements

Bob Glenn provided background information on the current buoy line marking rules and explained the need for the new trap gear buoy line requirements. He also highlighted the inconsistencies between state and federal buoy line marking rules that the recommended regulations sought to resolve.

Bob stated DMF was recommending: (1) all MA commercial lobster and crab trap fishermen fishing in federal waters have a green mark measuring at least 1' within 1' of all Massachusetts-specific red marks in the buoy line; (2) prohibit all Massachusetts commercial trap fishermen from fishing buoy lines with marks other than the prescribed marks; (3) require all federal green marks be removed from the buoy line when set in state waters; and (4) extend the state waters buoy line marking rules to apply to all commercial trap gear fisheries.

Sooky Sawyer asked for clarification on what constituted a solid mark and a non-solid mark. Bob Glenn stated paint, tape, a heat shrink tube, or a solid piece of red rope spliced or tucked into the buoy line would be acceptable. Weak contrivances such as a splice of red or candy cane weak rope may also double as a solid red mark. Tracers do not constitute a solid red mark but are sufficient to constitute a non-solid mark. Therefore, South Shore sleeves with a red tracer in them could double as a non-solid mark.

Sooky Sawyer asked about using a rope floating freely off the buoy line tucked at one end. Bob stated it would need to be tucked at both ends. Similar to 2021, DMF would be holding outreach events in the winter and the spring to educate fishermen on gear configuration and marking. DMF would also ontrivances and weak rope available to fishermen. .

Chairman Kane asked for a motion to approve the recommendation from the Director. Bill Doyle made a motion to approve the recommendation from the Director. Shelley Edmundson seconded the motion. A roll call vote was taken, the motion was passed unanimously 8-0.

Gillnet Closure to Protect Right Whales

Dan McKiernan provided the MFAC with a history of the existing gillnet closure in Cape Cod Bay to protect right whales. For 2022 (and beyond), he recommended the MFAC vote in favor of extending this closure to all state waters. This action would further protect right whales, particularly given the co-occurrence of the gillnet fishery and right whales in Massachusetts Bay in April and May.

Lou Williams understood the need to expand the closure but was concerned about the lack of gillnet and groundfish fishing opportunities in state waters. He advocated for DMF to roll back the May groundfish closure to 42°30' N latitude, which would open waters between Boston and Marblehead.

Jared Silva and Director McKiernan discussed procedure. They concluded DMF could not currently take action on the May closure because it had not been proposed at public hearing and comment was not taken on such an action. If the MFAC wanted DMF to move this forward, DMF would analyze the action and then potentially take it out to rule making. This could take up to six months, and as such, would not impact fishing in May of 2022. Jared added that DMF previously determined to maintain the southern boundary for the May groundfish closure at 42°20' N latitude due to spawning cod concerns.

Lou pressed DMF to consider more timely options to provide access to the state waters groundfish fishery beyond increasing trip limits. He noted the fishery is effectively closed from October through May due to groundfish and protected species closures. Lou advocated DMF use its emergency regulatory authority or develop a pilot program.

Bill Amaru stated he supported the Director's recommendation. However, if there were opportunities to allow additional groundfish fishing effort in state-waters, he expected DMF and the MFAC would consider pursuing them.

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

Commercial Groundfish Trip Limits and Spatiotemporal Closures

Jared Silva provided the MFAC with background on existing groundfish closures in state waters. These closures include winter flounder and cod spawning closures and seasonal groundfish mortality closures. Jared went on to summarize the findings from the IBS surveys, which detail when and where spawning cod were observed in state waters.

Jared then provided the Director's recommendation to the MFAC. This recommendation was bifurcated and multi-faceted. First, DMF sought to adopt a April 15 – April 30 commercial groundfish closure in state waters between Plymouth (42°00'N) and the MA/NH maritime border west of 70°30'W to protect spawning cod. This closure would

apply to all fishing gears capable of catching groundfish other than shellfish dredges. Then, should the MFAC approve the late-April cod spawning closure, DMF would further recommend three additional regulatory adjustments. This included: (1) rescinding the April 1 – April 30 conditional commercial groundfish closure in those state waters between Plymouth (42°00'N) and Marblehead (42°30'N) west of 70°30'W; (2) increasing the commercial trip limits for Gulf of Maine (GOM) cod from 200 pounds to 400 pounds; and (3) increasing GOM yellowtail flounder from 250 pounds to 350 pounds. DMF had proposed rescinding the May 15 – October 31 gillnet closure off Outer Boston Harbor but was not recommending any action to effect this existing regulation.

Lou Williams did not support the closure. He stated it would primarily impact trawlers and these vessels do not catch large quantities of cod in April. This would effectively limit spring-time groundfish fishing opportunities in Massachusetts Bay until June without providing much additional spawning protection for cod.

Bill Amaru asked if this closure would apply to a hook and line fishermen in Cape Cod Bay. Jared confirmed commercial hook fishermen would also be affected by the closure. Bill agreed with Lou's comments and stated he did not support the recommendation.

Chairman Kane asked for a motion to approve the recommendation from the Director. Mike Pierdinock made a motion to approve the first recommendation from the Director. Shelley Edmundson seconded the motion. A roll call vote was taken, and the motion was passed 5-3 with Bill Doyle, Bill Amaru, and Lou Williams voting in opposition.

With the late-April cod spawning closure being approved, the MFAC moved onto review the additional contingent recommendations.

Lou Williams sought clarification on these contingent recommendations. Jared Silva explained the conditional commercial groundfish closure would be lifted, opening the first half of April to commercial groundfish fishing, and the trip limits for GOM cod and yellow tail flounder would be increased.

Mike Pierdinock asked about how overages were handled and reported. Jared stated to comply with trip limits overages would be discarded. Fishermen are not required to report discards on their state reports. Information about discards is generated from federal observer data. These data are applied to the state-waters fishery when and accounted for in stock assessments.

Lou Williams stated gillnetters know how to scale their gear to avoid discarding. Based on his experience discarding is minimal.

No comments were made regarding rescinding the April conditional closure.

Chairman Kane indicated the MFAC would consider the three contingent recommendations as one motion.

Chairman Kane asked for a motion to approve the Director's recommendation (1) the increase in GOM cod trip limit from 200-400 pounds; (2) the increase the yellowtail trip limit from 250 to 350 pounds; and (3) rescind the April conditional closure between Plymouth and Marblehead west of 70 30'. Bill Amaru made a motion to approve the recommendations. Lou Williams seconded the motion. A roll call vote was taken, and the motion was passed unanimously 8-0.

Recommendation on Small Mesh Squid Trawl Season Adjustment

Dan McKiernan described the current state waters small mesh squid fishery season. He highlighted some of the issues the fishery faces and provided background on why DMF brought this proposal forward. Jared Silva then provided some information regarding the length of the fishery in recent years and anecdotes about the 2021 fishing season.

Dan recommended the MFAC vote to extend the inshore small mesh trawl squid season from April 23 – June 9 to April 23 – June 15 and eliminate the provision allowing the Director to extend the season beyond the regulatorily set season end date.

The Director stated that if the recommendation was not passed then status quo will remain in place for 2022 and he will rely primarily on anecdotal information when determining whether or not to extend the fishery past June 9. Dan further stated he did not intend to make an alternative recommendation or parse this recommendation to extend the season but maintain the season extension provision nor maintain the season and rescind the season extension provision.

Bill Amaru asked Dan why he felt the need to rescind his ability to extend the season past the closure date. Bill thought DMF should seek to retain its discretion to adjust fishing limits in real time.

Dan stated there were several reasons for this recommendation. First, he was trying to balance the interests of the commercial fleet with recreational concerns about forage. Second, under status quo rules he has to rely on anecdotal reports of fishing conditions to inform his decision because of limitations with using observer data for this purpose. Jared Silva further detailed these limitations.

Kalil Boghdan also expressed concerns over DMF not retaining discretion and flexibility. Kalil also noted there was little support for this action among Massachusetts squid trawlers. Dan explained that if status quo rules are maintained he's likely going to be making decisions to extend the season based largely on anecdotal reports and these reports would primarily come from trawlers and seafood dealers.

Mike Pierdinock discussed the concerns raised by recreational fishermen regarding forage availability and impacts on target species availability. Mike P. also noted the lack of support for this measure from Massachusetts trawl fishermen.

Shelley Edmundson echoed the concerns raised by the other MFAC members and supported status quo.

Dan McKiernan appreciated the MFAC's feedback. He then withdrew his recommendation.

Trap Tag Installation Deadline

Dan McKiernan recommended the MFAC vote in favor of requiring all commercial lobster traps to have current year trap tags installed into them by May 1 for all LCMAs. If gear is not set until after May 1, then it would have to have the current year trap tag installed when set.

There were no questions or comments regarding this recommendation.

Chairman Kane asked for a motion to approve the recommendation from the Director. Sooky Sawyer made a motion to approve the recommendation from the Director. Bill Amaru seconded the motion. A roll call vote was taken, and the motion was passed 7-0-1. Bill Doyle abstained.

Recommendation on Winter Period Scup Limits

Dan McKiernan and Jared Silva provided the MFAC with the background for this recommendation and briefly discussed the administrative burden associated with the current declaratory process to set the Winter period scup limits.

Jared then stated DMF was recommending the MFAC vote in favor of: (1) establishing a 2,000-pound possession limit for scup taken by commercial fishermen in state waters during the Winter I (January 1 – April 30) and Winter II (October 1 – December 31) periods; and (2) allowing commercial fishermen lawfully fishing in the federal zone during the Winter I and Winter I periods to possess and land scup in Massachusetts in accordance with the federal limits, provided the vessel transits directly through state waters and all gear is stowed.

There were no questions or comments regarding this recommendation.

Chairman Kane asked for a motion to approve the recommendation from the Director. Shelley Edmundson made a motion to approve the recommendation from the Director. Kalil Boghdan seconded the motion. A roll call vote was taken, and the motion was passed 7-0-1. Bill Doyle abstained.

ITEMS FOR FUTURE PUBLIC HEARING

Commercial Spiny Dogfish Trip Limits for 2022

Nichola Meserve informed the MFAC that DMF would take out to public hearing a proposal to increase the commercial spiny dogfish trip limit from 6,000 pounds to 7,500 pounds. This proposal was designed to match the trip limit adjustments being proposed

by the NEFMC and ASMFC. Nichola anticipated DMF would take this out to public hearing later in the winter with other proposed management measures affecting commercial quota managed species.

Commercial Bluefish Minimum Size for 2022

Nichola Meserve stated DMF intended to take to public hearing a proposal to establish an 18" commercial minimum size for bluefish. This minimum size was being proposed to eliminate the possibility that snapper bluefish are not retained in excess of the recreational bag limit under the guise of commercial fishing activity. Nichola further discussed this loophole and expressed the importance of the proposed adjustment. Nichola anticipated DMF would take this out to public hearing later in the winter with other proposed management measures affecting commercial quota managed species.

Bill Amaru asked what the other states have for their minimum size. Nichola stated RI has an 18" minimum size in their commercial fishery.

Recreational Georges Bank Cod Limits

Melanie Griffin addressed this agenda item. As part of Framework 63 to the Northeast Multi-Species Groundfish FMP, the NEFMC approved adopting a 22-inch to 28-inch slot limit; 5 fish per angler bag limit; and May 1–July 31 closed season for Georges Bank (GB) cod. If approved by NOAA Fisheries, these changes would go into effect for this upcoming federal fishing year (May 1, 2022–April 30, 2023). Accordingly, DMF would move to adopt complementary changes to its recreational fishing limits, likely through an emergency regulation, and then take public comment.

Bill Amaru asked if this applied to both east and west subsections of the GB management area. Melanie explained the east/west sections are designations for commercial fisheries management. The recreational fishery treats GB as a single management unit.

Mike Pierdinock asked about the ability for the state and federal government to enact rules by the start of the fishing year on May 1. Melanie expected NOAA Fisheries would have these rules promulgated by that time and DMF would work to fast track its regulatory process to be ready to file emergency regulations once federal rules are announced.

Bill Amaru asked about the current recreational fishing limits. Jared thought it was a year round season with a 24" minimum size and 10 fish bag limit. Bill asked if this was intended to be a harvest reduction method in response to the recent stock assessment. Melanie confirmed this and went on to explain some of the reasoning behind the cuts.

DISCUSSION ITEMS

Protected Species Update

Bob Glenn briefed the MFAC on issues relevant to protected species. The discussion focused on a recent public hearing on an application by the Pioneers for a Thoughtful

Co-Existence, Inc. (“Pioneers”) to fish on-demand (“ropeless”) trap systems in areas of areas of state waters during the February 1–May 15 trap gear closure. Bob provided the details of the proposal and the application, including the proposed areas; gear use; fishing practices; and risk management protocols.

Bob noted some of the applicants have since withdrawn. All remaining applicants are dual state/federal permit holders and are therefore required to obtain a federal Exempted Fishing Permit from NOAA Fisheries before DMF can issue a state authorization.

Dan McKiernan stated DMF was not asking the MFAC to vote on the proposal. Ultimately, the decision to issue an authorization fell within his purview. However, he sought the MFAC’s feedback on the proposal and the issue of ropeless fishing more generally. He highlighted some of the ongoing concerns with ropeless fishing, particularly as they pertain to cost and scalability and how this may impact the makeup of the inshore fishery if it were to become a fishery-wide requirement.

Sooky Sawyer noted there is negligible support for this proposal among state lobstermen. He argued the proposal had limited value as it would allow for fishing in an area where other trap gear would be prohibited and mobile gear fishing does not occur. He also expressed concerns about the cost of the gear and how a ropeless mandate may impact the inshore fishery.

Mike Pierdinock and Tim Brady discussed concerns about how ropeless fishing gear may cause gear conflicts with the for-hire fisheries and how for-hire operators would be aware of where the gear was set.

Mike P. then asked what would occur if a buoy release incidentally entangled a right whale. Bob noted the risk of this occurring is very low given how the gear is handled. However, if it occurred it would count as a take towards the Massachusetts trap fishery. Tim Brady struggled with allowing trap gear in this area when all other fishermen are prohibited from fishing due to right whale conservation concerns.

Lou Williams agreed with Sooky and expressed his frustration with the NGO push for the widespread adoption of this technology despite concerns about cost and scalability.

Kalil Boghdan asked about DMF’s review and response timeline. Dan explained that the two state waters only fishermen have dropped out of the application. This leaves only the three dual state-federal permit holders as the applicants. Accordingly, DMF cannot issue an authorization until NOAA Fisheries addresses whether or not these fishermen will obtain an EFP. Kalil expressed his support for appropriate research into this technology.

Atlantic Mackerel Management

Melanie Griffin provided the MFAC with an update on Atlantic mackerel management. The update highlighted a recent letter from the states of Maine, New Hampshire, and

Massachusetts to the MAFMC raising concerns about proposals requiring the states to reduce their recreational mackerel catch. Melanie the discussed the MAFMC's rule making timeline.

Mike P. noted mackerel are often live lined to catch striped bass and bluefin tuna. Both the striped bass and tuna rod and reel fisheries are of significant commercial and recreational value. He was concerned about the lack of economic data regarding the use of mackerel for these purposes, particularly for purposes of comparing it to the commercial fishery, which is valued at \$3-4M. Mike P. was also curious if there was any information on the end use of US caught mackerel and on the exportation of the product. Lastly, he raised concerns about the stock assessment not addressing the climatic shift of the mackerel stock to the north and east, which is similar to what is occurring with other species (e.g., summer flounder, black sea bass).

Updates from the New England Fishery Management Council

Melanie Griffin briefed the MFAC on the December 2021 NEFMC meeting and the outlook for the February 2022 NEFMC meeting. This focused on: spiny dogfish trip limits; Northeast Multi-Species Framework 63; Sea Scallop Framework 34; Skate Framework 9; cod stock structure; scallop rotational management and leasing; Atlantic mackerel; climate planning; and habitat issues in Southern New England. Melanie welcomed any questions from the commission.

Dan added that there is an open period for the public to reach out to us for a council seat vacated by Mike Sissenwine. DMF is accepting applications through the beginning of February.

Updates from the Atlantic States Marine Fisheries Commission

Nichola Meserve briefed the MFAC on pertinent issues addressed by the ASMFC in December 2021. This included: proposed requirements for electronic vessel tracking in the federal lobster and Jonah crab fisheries; approved recreational/commercial reallocations for scup, black sea bass, and summer flounder, and a preliminary outlook on recreational management for these species in 2022; and a continuation of the northern shrimp harvest moratorium. Nichola also highlighted several important action items on the ASMFC Winter meeting agenda, including the continued development of Draft Amendment 7 to the Striped Bass Fishery Management Plan and draft Addendum I to the Menhaden Fishery Management Plan; and final action on the spiny dogfish northern region trip limit for FY22. Nichola welcomed questions from the commission.

Ray Kane thanked Nichola for her presentation.

Mike Pierdinock thanked Nichola for the work she has done with ASMFC. He expressed concern over the recreational management of black sea bass, fluke, and scup. In particular, he was worried about the credibility of the management process if the recreational black sea bass fishery has to take substantial cuts even though stock conditions are strong and considering the commercial fishery is obtaining a sizeable quota increase.

Mike P. also asked if it would be possible if he could be forwarded information on the status of the northern shrimp stock. Nichola stated the stock assessment would be the starting point and stated she will forward the documents to him after the meeting.

OTHER BUSINESS

Commission Member Comments

Lou Williams has heard from a couple fishermen with smaller boats that may have trouble getting their gear out before the closure. He hopes that enforcement will not be heavy handed in enforcing the closure.

Kalil Boghdan stated he thoroughly enjoyed his visit to the newly reacquired DMF Facility at Cat Cove. He encouraged fellow commission members to visit as time allows. He then stated he read through DMF's 2020 Annual Report and encouraged members of the commission MFAC members to take a read through.

Bill Doyle told Dan the lack of MFAC support for his squid recommendation was a sign of confidence in the agency's ability to address this issue on an annual basis.

PUBLIC COMMENTS

No public comments were made.

ADJOURNMENT

Chairman Ray Kane requested a motion to adjourn the January MFAC business meeting. **Kalil Boghdan made a motion to adjourn the meeting. The motion was seconded by Mike Pierdinock. The motion was approved by unanimous consent.**

MEETING DOCUMENTS

- January 21, 2022 Business Meeting Agenda
- December 2, 2021 Draft Meeting Minutes
- Recommendation on Buoy Line Marking Rules for Commercial Trap Gear
- Recommendation on Gillnet Closure to Protect Right Whales
- Squid Season Recommendation
- State Waters Groundfish Recommendation
- Spiny Dogfish Trip Limit Adjustment Public Hearing Proposal
- Commercial Bluefish Minimum Size Public Hearing Proposal
- Recreational Georges Bank Cod Limits Public Hearing Proposal
- ASMFC Updates Presentation
- Atlantic Mackerel Updates Presentation
- NEFMC Update Presentation

UPCOMING MEETINGS

March 10, 2022
Via Zoom

April 7, 2022
Location TBA

May 12, 2022
Location TBA

June 9, 2022
Location TBA