

MARINE FISHERIES ADVISORY COMMISSION
Draft Business Meeting Minutes
January 23, 2025
via Zoom

In attendance:

Marine Fisheries Advisory Commission: Raymond Kane, Chairman; Bill Doyle, Vice Chair; Shelley Edmundson, Clerk; Kalil Boghdan; Arthur “Sooky” Sawyer; Bill Amaru; and Chris McGuire. Absent: Tim Brady.

Division of Marine Fisheries: Daniel McKiernan, Director; Story Reed, Deputy Director; Kevin Creighton, Assistant Director; Anna Webb, Acting Assistant Director; Jared Silva; Nichola Meserve; Kelly Whitmore; Ben Gahagan; Tara Dolan; Alex Boeri; Steve Wilcox; Derek Perry; Chrissy Petitpas; Tracy Pugh; Cara Litos; Scott Schaffer; Brad Schondelmeier; Nick Buchan; Kim Lundy; Kerry Allard; Kristen Thiebault; Gabe Lundgren; Matt Ayer; Amanda Meli; and Mike Armstrong.

Department of Fish and Game: Tom O’Shea, Commissioner; Sefatia Romeo-Theken, Deputy Commissioner; and Jennifer Sulla, General Counsel.

Massachusetts Environmental Police: Col. Mason; Lt. Col. Chris Baker; Captain Jack Chapin; and Lt. Matthew Bass.

Members of the Public: Beth Casoni; Julia Logan; Anthony Friedrich; Cody Rubner; Nick Jones; David; and Alvin.

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Ray Kane called the January 25, 2025 Marine Fisheries Advisory Commission (MFAC) business meeting to order. He wished everyone a happy new year and reminded everyone of the upcoming Massachusetts Lobstermen’s Association trade show on January 31 and February 1 at the Margaritaville Resort in Hyannis, MA. Ray also reminded MFAC members to read Jared Silva’s most recent e-mail and ensure they are compliant with the state’s conflict of interest training requirements.

Jared Silva then conducted roll call attendance for the MFAC. Bill Amaru arrived late, and Tim Brady was absent.

REVIEW OF JANUARY 23, 2025 BUSINESS MEETING AGENDA

Chairman Kane asked if there were any amendments to the January 23, 2025 MFAC business meeting agenda. No amendments were sought or made.

REVIEW AND APPROVAL OF DECEMBER 17, 2024 DRAFT MEETING MINUTES

Chairman Kane asked if there were any amendments to the December 17, 2024 draft MFAC business meeting minutes. No amendments were sought. The Chairman requested a motion to approve the draft business meeting minutes. **Sooky Sawyer made the motion to approve the December 17, 2024 business meeting minutes as drafted. Bill Amaru seconded the motion. Jared Silva conducted a roll call vote. The motion was approved 6-0-1 with Chairman Kane abstaining.**

LAW ENFORCEMENT

Captain Jack Chapin provided comments on behalf of Law Enforcement. MEP briefed the MFAC on: conflicts related to the possession and landing of lobsters caught by trawlers in federal waters; the presence of right whales on Jeffery's Ledge; ongoing discussions among DMF and MEP on the seasonal trap gear closure, buoy line marking, and derelict gear clean-up efforts; reports of a disgruntled former employee at Wellfleet Shellfish sabotaging their lobster tanks; and MEP's acquisition of a new 41' safe boat for coastal patrols, which should be operation by this summer.

Sooky Sawyer asked if draggers could land lobsters at night. DMF and MEP clarified that there is a lobster landing window of 6AM to 8PM during the period of February 1 through April 30 affecting the landing of lobsters by all harvesters, including draggers. Sooky raised interest in potentially extending this landing window requirement to include more months of the year.

DFG COMMISSIONER

Commissioner O'Shea discussed three items. First, he praised DMF for the recent 2024 Recreational Fishing Derby Award ceremony at the New England Boat Show. He applauded DMF's efforts to breathe new life into this event. Next, Tom informed the MFAC that he appointed Tammy King to the Massachusetts' Recreational Fisheries Development Panel. Tammy is a surfcasting guide and educator from Nantucket and Tom stated felt that she would bring a unique perspective to the public body. Tammy replaces Mike Moss who recently stepped down. Lastly, the Commissioner noted the dynamic situation surrounding lobster management following Maine's announcement that they would not implement regulations to comply with Addendum XXVII to the Interstate Fishery Management Plan (FMP) for Lobster.

Chairman Kane noted that the MFAC did not receive an invite from DMF this year to attend the Recreational Fishing Derby Award ceremony. Director McKiernan apologized for the oversight. He noted the boat show was earlier than usual and came right after the holiday and DMF failed to send out a timely notification.

Chris McGuire asked if there were any updates or developments around the Department's Biodiversity Strategic Plan and the Governor's Biodiversity Executive Order. The Department is looking to finalize the report and will then be sending it to the Governor's

office.

DMF DIRECTOR

Director Dan McKiernan opened his remarks by discussing personnel. Vin Malkoski recently retired from DMF after working as a DMF biologist and dive safety officer for more than 40 years. Brad Schondelmeier was promoted into the role of DMF's wind energy specialist, which was vacated this spring after Dr. Justin Bopp retired. Brad previously worked for DMF's Fisheries Dependent Investigations Project. Lastly, DMF has filled out staffing for its Protected Species Project having hired Leah Crowe (Science Lead), Manali Rege-Colt (Acoustician); Cara Litos (Spatial Analyst); and Emma Fowler (Protected Species Specialist); and re-assigned David Chosid and Brendan Reiley from the Conservation Engineer project and the Invertebrates Program, respectively.

Dan expanded on Captain Chapin's remarks about the presence of right whales on Jeffery's Ledge. A recent New England Aquarium flight observed more than 75 right whales in the area and among fixed gear. Maine, New Hampshire, and Massachusetts sent out notices to the trap fishers to inform them of the presence of whales in the area and request that gear be moved. However, Dan recognized it would likely be difficult to relocate gear given the wintertime weather constraints. Counts of right whale counts in Cape Cod Bay remain low, but he expected this would increase in the coming weeks consistent with prior observations.

Dan then discussed issues pertaining to lobster management and Addendum XXVII. He provided some historic background on the Addendum, why it was drafted, and prior delays on implementation. He then discussed Maine's decision to not move forward with compliant regulations following substantial industry objections and a series of volatile public hearings. New Hampshire then followed suit and indicated they would not comply with the Addendum as well. Unlike Maine who could simply not move forward with their proposed rules, New Hampshire would be required to repeal the rules implemented in late 2024 before July 1. For various reasons, Dan opined that the ASMFC's Lobster Board would likely move to repeal the addendum or aspects thereof at their February 4 meeting. Commissioner Pat Keliher from Maine indicated that he wanted his industry to consider the development of conservationally equivalent measures. However, Dan was skeptical that Maine could accomplish this, particularly given the July 1, 2025 implementation date. Dan then reiterated his prior commitment to MFAC to not subject Massachusetts fishers to rules that are not shared across region, and should the Board opt to repeal the addendum, DMF would follow up with complementary rules. Lastly, Dan spoke to the claim made by certain industry members and politicians that, if implemented, Addendum XXVII would produce a 30-40% loss in landings. Dan argued this claim was greatly exaggerated and not supported by the sea sampling data, which for LMA1 shows a decline in catch of about 12% assuming steady state biomass. However, he noted that independent of this action lobster landings will likely decrease over the coming years due to declining abundance.

Sooky Sawyer thanked Dan for his forthright assessment of the current situation. Sooky opined that some fishers fear the impacts of the gauge changes in Addendum XXVII will be more significant than 12% because they fish in discrete areas where there is a smaller

run of lobsters.

Chairman Kane asked about the prospect of Maine potentially proposing four 1/32" gauge increases over five-years in lieu of two 1/16" gauge changes of three years, and if adopted, would manufacturers produce and distribute these new 3 9/32" gauges for July 1. Dan stated that he would support a potential 1/8" gauge increase done incrementally through 1/32" adjustments. However, he felt it was premature to discuss this in any detail and was doubtful there was sufficient consensus in Maine for Commissioner Keliher to propose it.

UPCOMING PUBLIC HEARING ITEMS

Commercial State Waters Groundfish Management

Jared Silva reviewed DMF's memorandum that set forth several public hearing proposals affecting the management of the commercial state waters groundfish fishery. Jared anticipated these proposals would be included in the pending late-winter 2025 public hearing for implementation this spring.

The primary actions address codfish management. With the adoption of the new cod stock areas in the FMP, DMF proposed complementary definitions for the state waters portion of the Western Gulf of Maine (WGOM) and Southern New England (SNE) cod stock areas. This effectively changes the management area designation for those waters east of Cape Cod and Nantucket from SNE to WGOM. Additionally, with the low Annual Catch Limit (ACL) approved for WGOM producing a limited state-waters sub-components for Fishing Years 2025 and 2026, DMF proposed a trip limit reduction from 400 pounds to 300 pounds. This reduction seeks to buffer the potential for a state waters overage which could trigger an accountability measure affecting the federal fishery should it cause the CL to also be exceeded. At industry's request, DMF will also consider other approaches to limit overall state waters cod landings, including seasonal-specific trip limits. For SNE cod, DMF proposed enacting a moratorium on harvest, which would match expected federal rules affecting the recreational and commercial common pool fishery. The actual impact of this moratorium in state waters is negligible because Massachusetts does not have an active cod fishery in SNE.

For non-cod species, DMF is proposing to increase Cape Cod/Gulf of Maine yellowtail flounder trip limits from 350 to 500 pounds and increase monkfish tail trip limits from 536 pounds to 1,000 pounds. These actions are designed to ameliorate the impacts of cod cuts by providing access to other stocks.

Lastly, DMF proposed updating the control date for the state waters Groundfish Endorsement from December 31, 2018 to December 31, 2024. No action was proposed to further limit entry based on the revised control date. However, DMF may opt to use the control date in the future in response given the historic performance of this fishery, low sub-components for certain stocks (e.g., WGOM cod) and high levels of latent effort.

Bill Amaru noted DMF's interest in maintaining access to the sub-components for current participants. However, he noted his objection to taking action to eliminate latent permits as

a means of accomplishing this. He requested that DMF consider creating a way for existing permit holders to retain potential access to the fishery in the future should stock conditions rebound.

Silva responded and explained that DMF was not proposing any action to limit the issuance of Groundfish Endorsements. Rather, the proposal was to update the control date so that should such an action be needed in the future it would include more recent participants. He noted that individuals who activated a permit between January 1, 2019 and December 31, 2024 would fall outside the current control date but would be within the proposed control date. Jared also expressed some skepticism that DMF would actually move to use the control date for the Groundfish Endorsement given the very strict rules governing the transferability of this endorsement.

Director McKiernan closed the discussion by contrasting the management of the state waters groundfish fishery with those programs in place for quota managed species.

Commercial Striped Bass Management

Nichola Meserve reviewed DMF's public hearing proposal on commercial striped bass management. The first aspect of the proposal was to potentially adopt a maximum size between 38" and 44". This proposal considers the current recruitment failure being experienced by striped bass and attempts to support a productive spawning stock biomass should there be favorable environmental conditions. The scientific literature indicates that larger spawning striped bass produce larger eggs and larger larvae that grow and may be more resilient. Moreover, the timing of spawning for larger fish may better link with available prey for spawn and a broader age structure of fish in the population may increase spawning success. Additionally, to maintain a wide enough slot limit to encourage the use of the available quota, DMF was also considering reducing the minimum size from 35" to as low as 32". This would maintain a 1" gap between the maximum recreational size and the minimum commercial size for enforcement purposes. Nichola noted that all commercial size limit changes are subject to quota adjustments by the ASMFC. At this juncture, DMF was uncertain what the specific quota adjustments would be for each slot limit but expected it would be available by the time DMF made a final recommendation to the MFAC.

Additionally, should a commercial slot limit be adopted, DMF was proposing to revisit a gaffing prohibition for the commercial fishery. The current gaffing rule for the commercial fishery applies only to undersized fish. A blanket prohibition was not adopted given industry's interest in expediently and safely getting large fish into boats. However, if a maximum size is adopted, this should be revisited given the need to return oversized fish.

Amaru asked if DMF had any data on how this would impact release mortality in the commercial fishery. Nichola stated that DMF has not modeled this. However, the adoption of a maximum size would require the release of all oversized fish. DMF's market sampling data shows that about 15% of commercial landings are comprised of fish exceeding 44" (the largest maximum size proposed). However, a reduction in the minimum size may also result in more smaller fish being retained. Jared Silva added that changes in the size limit may also affect fishing behavior in ways that would make it challenging to model.

Sooky Sawyer asked if DMF was proposing to maintain the existing daily trip limits. Meserve confirmed this.

Chairman Kane expressed his support for a gaffing prohibition. Ray also recalled that DMF proposed adopting a standard pinched tail method of total length measurement for striped bass and asked if this would apply to the commercial sector as well. Meserve confirmed it would.

DISCUSSION ITEMS

Cape Cod Bay Fixed Gear Free Zone for Whiting

Jared Silva explained that Sooky Sawyer requested DMF put this item on the January 2025 MFAC agenda. Silva and McKiernan then provided some historic background on seasonal whiting area and fixed gear free zone in Cape Cod Bay.

Jared then asked Sooky to speak to his interest in the item. Sooky explained that some area lobster trap fishers have noted that there is no longer any whiting fishing in the area and questioned why the fixed-gear free zone some be retained. Silva noted that while effort may be diminished compared to historic levels, he was aware of some draggers who fish the area. Jared added that DMF was in the process of analyzing harvester reports to quantify whiting effort in this area and would present on this at the upcoming MLA Annual Weekend and Trade Show.

Amaru noted that whiting effort is generally down given the declining mobile gear sector and low ex-vessel value for whiting. However, Bill noted that several Cape area vessels still seasonally target whiting this and this has been an important fall fishing ground. He also added that the presence of ghost gear in this area makes it a difficult place to safely and effectively tow.

Kalil Boghdan asked DMF about the spatial history of the fixed gear free zone and why it represents only a sub-set of the seasonal whiting area. Director McKiernan explained that while whiting are generally available throughout the deeper waters of upper Cape Cod Bay in the fall, the fixed gear free zone was the area most important to the whiting fleet in the late 1990s when these rules were developed.

PRESENTATION ON OPEN MEETING LAW

The Department of Fish and Game's General Counsel, Jennifer Sulla, presented to the MFAC on Open Meeting Law. The presentation focused on agenda item specificity and avoiding serial communications.

Boghdan and Amaru raised communications between individual MFAC members and not a quorum. Sulla explained that this is allowed but cautioned against it because of the potential for the communication to become serial and involve more than a quorum of members at which point it would be a violation. becoming a violation.

Kane asked whether this would constrain the ability of MFAC members to discuss fishery management issues with the public and DMF. Silva and Sulla felt this would be perfectly appropriate behavior for an MFAC member.

OTHER BUSINESS AND PUBLIC COMMENT

Public Comment

Chairman Kane sought comment from members of the public. Tony Frederick, Ray Jarvis, Mike Hogan, Kyle Schaeffer, Nick Jones, Terry Nugent, Peter Jenkins, T. Edwards Nickens, Rex Messing, and Cody Rubner all expressed their support for DMF's proposed action on albacore and Atlantic bonito management and the agency's willingness to consider a size limit and various options for bag limits. Terry Nugent, Peter Jenkins, and Cody Rubner also thanked DMF for their leadership at the ASMFC's Striped Bass Board.

Beth Casoni stated her interest in DMF working with NOAA Fisheries to resolve buoy line marking issues given the similarities between the marking requirements for the MMSTF and other trap and pot fisheries in the northeast.

Other Business

Chris McGuire praises DMF's choice to hire Brad Schondelmeier as DMF's Wind Energy Specialist.

Sooky Sawyer raised the importance of DMF communicating the sea scallop management rules in advance of the opening of the Northern Gulf of Maine fishery on April 1.

ADJOURNMENT

Chairman Ray Kane requested a motion to adjourn the January 23, 2025 MFAC business meeting. Sooky Sawyer **made a motion to adjourn the meeting. The motion was seconded by Shelley Edmundson. No objections were made to the motion.**

MEETING DOCUMENTS

- January 23, 2025 MFAC Business Meeting Agenda
- December 17, 2024 MFAC Draft Business Meeting Minutes
- Commercial State Waters Groundfish Management Memo and Slides
- Commercial Striped Bass Management Memo and Slides
- Slide on Cape Cod Bay Fixed Gear Free Zone for Whiting
- Presentation on Open Meeting Law

UPCOMING MEETINGS

9AM
Thursday, March 27, 2025
via Zoom

9AM
Thursday, April 24, 2025
Kingston Town Hall