

## **MARINE FISHERIES ADVISORY COMMISSION**

**June 16, 2022**

**SMAST East**

**836 S. Rodney French Blvd**

**New Bedford, MA 02744**

### **In attendance:**

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

*Division of Marine Fisheries:* Daniel McKiernan, Director; Kevin Creighton, CFO; Story Reed; Jared Silva; Nichola Meserve; Melanie Griffin; Julia Kaplan; and Jeff Kennedy

*Department of Fish and Game:* Ron Amidon, Commissioner; Mark Reil, Director of Legislative Affairs; Jennifer Sulla, General Counsel

*Massachusetts Environmental Police:* Lt. Col. Pat Moran and Lt. Matt Bass

*Members of the Public:* Phil Coates

## **INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane called the June 16, 2022 Marine Fisheries Advisory Commission (MFAC) business meeting to order. He expressed excitement over meeting in person for the first time in two years.

### **REVIEW AND APPROVAL OF JUNE 16, 2022 DRAFT BUSINESS AGENDA**

Dan McKiernan requested that the Belding Award Nomination be moved up the agenda and handled prior to “Action Items”. No objections were raised to this request.

Chairman Kane asked for a motion to approve the June 16, 2022 MFAC business agenda as amended by Director McKiernan. **Mike Pierdinock made the motion to approve the amended June 16, 2022 business meeting agenda. Tim Brady seconded the motion. The motion passed unanimously 7-0.**

### **REVIEW AND APPROVAL OF APRIL 7, 2022 DRAFT BUSINESS MEETING MINUTES**

Chairman Kane asked for comments or edits to the April 7, 2022 MFAC draft business meeting minutes. No comments were made. Chairman Kane sought a motion to approve be moved. **Tim Brady made the motion to approve the April 7, 2022 business meeting minutes as provided. Mike Pierdinock seconded the motion. The motion passed unanimously 7-0.**

## **CHAIRMAN'S COMMENTS**

Chairman Kane expressed his appreciation of DMF convening an in-person MFAC meeting since early 2020. He also commended DMF for their work running virtual meetings over the past two years.

## **COMMISSIONER'S COMMENTS**

Commissioner Amidon echoed Chairman Kane. The Commissioner then discussed \$500,000 in capital funds for artificial reef enhancement and an additional \$350-400,000 allocated to upgrading DMF's office space in Gloucester and Salem.

## **LAW ENFORCEMENT COMMENTS**

Lt. Matthew Bass provided comments for the Massachusetts Environmental Police (MEP). Lt. Bass stated trap fishermen were excited to get their gear in the water once the seasonal right whale protection closure was lifted. Regarding finfish fisheries, there had been no significant violations to date.

Jared Silva asked if MEP had encountered any issues regarding the appropriate way to measure striped bass. Lt. Bass noted the current "total length" definition was written when there was a minimum size, which allowed anglers to squeeze the forks together to get to the minimum size. Now with the slot limit, anglers were both fanning tails out to retain larger fish at the maximum size and squeezing tails to retain smaller fish at the minimum size. Lt. Bass suggested refining the definition of total length to improve enforcement and compliance. Jared Silva opined the MFAC Law Enforcement Sub-Committee should deliberate on this during the fall.

## **DIRECTOR'S COMMENTS**

Director Dan McKiernan welcomed everyone to the meeting. The Director briefly touched on capital funding and wind energy development issues.

The menhaden limited access fishery trip limit had been reduced from 125,000 pounds to 25,000 pounds this week, as the fishery hit its quota utilization trigger. Nichola Meserve was working to secure quota transfers from other states to ensure the fishery could remain open into the summer period when local bait demand is higher. Dan stated there was interest in reducing the menhaden trip limit in future years to utilize the quota over a more prolonged period and keep the fishery open during periods when bait demand was high. Dan also noted the interstate fishery management plan may be amended to 2023 and these amendments may limit the mechanisms for small scale bait fishing to function once the state quota was utilized.

Dan McKiernan briefly discussed the state's FY23 budget and funding mechanisms. He then moved on to federal sea herring disaster funds. Congress had approved \$11.3 million in funding and he expected approximately \$3 million would be distributed to DMF

for Massachusetts fishery. However, there was some confusion about how to most effectively distribute funding throughout the region given vessels often land in multiple states. He expected this would be challenging and that the states would have to work through the ASMFC to develop a uniform approach to allocating fundings. Congress also allocated funding to the states to comply with the Atlantic Large Whale Take Reduction Plan gear modification requirements and recent ASMFC electronic vessel tracking mandates for federal lobster permit holders.

Mike Pierdinock asked how menhaden quota utilization in 2022 compared to prior years. Dan opined that it tracked similarly to prior years. DMF would provide a quota utilization presentations during late summer and early fall meetings, which would provide additional details.

### **BELDING AWARD NOMINATION**

Dan summarized the purpose and significance of the Belding Award. He then nominated former MFAC Chairman Mark Amorello. Dan stated Mark's lifetime of work in marine fishery issues—including his time on the MFAC and NEFMC and his fish passage and restoration efforts through the Pembroke Herring Fisheries Commission—made him worthy of this distinction. Dan then sought the MFAC's support and approval of this nomination.

Chairman Kane sought a motion to approve the Director's nomination of Mark Amorello for the 2022 Belding Award. **Tim Brady made a motion to approve the recommendation from the Director. Kalil Boghdan seconded the motion. The motion was passed unanimously 7-0.**

### **ACTION ITEMS**

#### 2022 Recreational Fishing Limits for Black Sea Bass, Scup, and Summer Flounder

Jared Silva stated the recommended limits were adopted via an emergency regulation on April 29, 2022 and are currently in effect during the 90-day emergency period. This final action will codify these limits beyond the 90-day period, which ends on July 29. The recommended limits were:

1. *Black Sea Bass*. Adopt an open season of May 21 – September 4 with a 4-fish bag limit and 16" minimum size.
2. *Summer Flounder*. Adopt an open season of May 21 – September 29 with a 5-fish bag limit and 16.5" minimum size.
3. *Scup*. Increase the minimum size by 1" from 9" to 10" while retaining the same seasons and bag limits. For private anglers, the season is January 1 – December 31 with a 30-fish bag limit or a 150-fish vessel limit, whichever is most restrictive. For the for-hire fishery, the season is January 1 – April 30 and July 1 – December 31 with a 30-fish bag limit and a May 1 – June 30 "bonus season" with a 50-fish bag limit.

Nichola added that NOAA Fisheries had issued a final rule for federal 2022 recreational scup measures and determined not to close federal waters. This was initially proposed to further reduce MRIP-projected harvest limit because the 1” minimum size increase adopted by the coastal states did not achieve the requisite reduction. However, state directors and commissioners submitted a comment to NOAA Fisheries advocating that the federal proposal was heavy-handed when balancing impacts on recreational fisheries against conservation, particularly given the biomass of the stock and the continued underutilization of the ACL.

Mike Pierdinock thanked DMF and DFG for their contributions to comment letter to NOAA Fisheries and noted it was appreciated by the for-hire industry.

Chairman Kane sought a motion to approve the Director’s to adopt final 2022 recreational fishing limits for black sea bass, scup, and summer flounder. **Mike Pierdinock made a motion to approve the recommendation. Shelley Edmundson seconded the motion. The motion was passed unanimously 7-0.**

Regarding recreational fishing limit adjustments for Georges Bank (GB) cod and Gulf of Maine (GOM) cod and GOM haddock, Jared Silva explained that there were delays in federal rulemaking. As a result, DMF was not in a position to propose complementary rules. Given the anticipated federal rule making timeline, Jared opined DMF would likely file emergency rules during the summer in response to federal filings, hold another public hearing on the subject during the late summer; and the submit final recommendations to the MFAC at an early fall meeting.

Mike Pierdinock noted the various negative consequences of the delays in federal rule making. First, anglers are foregoing an additional 5-haddock this spring and summer that they should otherwise be allowed. Second, the conservation benefits of the May – July cod closure is undermined by these delays, as the fishery remains open. As this fishery is most productive during the summer months, he was concerned these delays may result in the fishery exceeding harvest limits and NOAA Fisheries then requiring additional conservation in future years. Director McKiernan indicated DMF would draft a letter to NOAA Fisheries expressing these concerns.

### **ITEMS FOR FUTURE PUBLIC HEARING**

Jared Silva expected DMF would host a virtual omnibus public hearing during the early fall. This hearing would address proposals presented to the MFAC at their June and August meetings. The items proposed at the June business meeting for public hearing area described herein.

#### ***Mackerel Possession Limit and Commercial Permit Endorsements***

Jared discussed a proposal to establish a new regulatory section affecting Atlantic mackerel in response to the MAFMC’s updated mackerel rebuilding plan. This new section would establish two specific requirements:

1. A 20-fish per person recreational possession limit for Atlantic mackerel. Exempt from this will be recreational anglers in possession of mackerel lawfully purchased from a bait dealer from which they have a receipt.
2. A commercial open entry regulated fishery permit endorsement for mackerel, which would be required to sell mackerel, as well as catch, possess, and land mackerel in quantities that exceed the recreational possession limit.

Jared explained the recreational limit for mackerel would apply similarly to the recreational limits for eel and lobster. Melanie Griffin and Dan also provided some additional background on the development of the 20-fish landing limit and how this was being coordinated between the northeaster states and the MAFMC.

Jared stated the commercial permit will not allow for a way to easily exceed the recreational limit; the part of the regulation that does not allow for mixing of commercial and recreational catch (with the one exception for bluefin tuna) would apply. Melanie added there was confusion surrounding permitting and how catch reporting will work. The MFAC asked NOAA Fisheries to enhance communication on the subject.

Ray Kane asked Melanie about incidental catch permits or restricting small boat access. Melanie stated the rebuilding plan did not address these issues.

Mike Pierdinock thanked DMF for working to avoid a recreational closure or lower bag limit. He asked about bycatch issues in the large-scale mid-water trawl fleet. Melanie stated she would have to look into the question. Ray Kane added that he was told the current TAC will not be reached this year since the mid-water trawl fleet is tied up due to impacts of the low TAC of fishery economics.

Kalil Boghdan and Melanie discussed the ongoing coordination among Maine, New Hampshire and Massachusetts. Melanie noted the majority of recreational Atlantic mackerel catch among these states occurs in state waters, unlike states to our south. She opined that the northern states would continue to coordinate towards complementary rules in states waters (e.g., 20-fish possession limit)

Bill Amaru and Mike Pierdinock asked about the federal court ruling overturning the mid-water trawl buffer zone. Melanie explained the court vacated the buffer zone established by Atlantic Herring Amendment 8 and the Department of Justice appealed the decision. While the buffer zone is not in place at this time, given low herring and mackerel quotas, Melanie questioned whether this will prompt fishing activity in the area.

#### *Prohibition on Shortfin Mako Retention*

Nichola Meserve discussed the public hearing proposal to ban retention of Atlantic shortfin mako caught in state waters. This is being proposed to comply with the Interstate Fishery Management Plan. Nichola stated the shortfin mako is not rebuilding as expected, and in order to meet the rebuilding timeline, ICCAT sought a retention prohibition while establishing a process whereby some retention could be allowed in the future subject to rebuilding progress. NOAA Fisheries had proposed and was in the

process of adopting this retention prohibition for federal waters. While Massachusetts does not have a state waters mako fishery, the rule would be adopted for regulatory consistency across jurisdictions.

Mike Pierdinock asked about the final federal rule. Nichola expected it would be promulgated in June.

Kalil asked if there was a directed shortfin mako fishery. Mike P. stated pelagic longline fisheries typically catch shortfin makos as bycatch, but offshore pelagic longline management in the US is strict and helps to offset mako bycatch. Mike added there are very few federal commercial mako permits.

## **DISCUSSION ITEMS**

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

Striped Bass Amendment 7 was approved by the ASMFC in May. Nichola Meserve reviewed the changes to the management triggers and Board processes that will position ASMFC to respond quickly to the upcoming stock assessment and the potential for lower recruitment in the future. With regards to recreational release mortality, the ASMFC adopted two new requirements—a ban on the use of gaffs and a mandate to release of fish caught on restricted terminal tackle. Both of these requirements were previously and unilaterally implemented by DMF. The Board also placed new limits on the use of conservation equivalencies in setting recreational fishing measures. Nichola concluded by stating that at present DMF and the MFAC are not required to pursue rule making for 2023, however, this may if the upcoming stock assessment demonstrates the stock is not on track to rebuild by 2029.

Nichola then discussed fluke, scup, sea bass, and bluefish. With regards to recreational fisheries management, the ASMFC and MAFMC approved the harvest control rule. Nichola opined this was an important step for improving the interannual management of recreational fisheries by providing additional flexibility. The rule was adopted on a provisional basis and will sunset after three-years. This provides an opportunity to tweak the rule before setting is as a permanent requirement. Nichola then reviewed how this new rule would affect the setting of annual recreational catch limits.

Jared Silva asked Nichola to describe how the new approach would have affected recreational black sea bass and summer flounder limits this year were it implemented. Nichola described how black sea bass would have been subject to a 10% reduction rather than a 20% reduction, and the fluke liberalization would have been more conservative.

Dan discussed the lobster resiliency addendum. The addendum proposes increases to the LCMA1 gauge and more uniform v-notch and maximum size rules across LCMAs. Maine had pursued the development of this addendum in response to anticipated declines in the GOM stock. However, dealers have expressed concerns about how these changes may impact international commerce with Canada. Dan was uncertain the

rule would move forward at this time. However, he was considering enacting more uniform v-notch and maximum sized rules in Massachusetts regardless of the outcome of the addendum. Lt. Col Moran supported this.

Bill Amaru expressed concern that more uniform rules could create problems for Cape fishermen.

#### *Updates Concerning Federal Fisheries Management*

Melanie Griffin provided a summary of the April NEFMC meeting and an overview June NEFMC agenda. In April, the NEFMC initiated Monkfish FW13 and Groundfish FW65, approved the Atlantic scallop limited access leasing scoping document, and remanded further work on potential alternatives for a Southern New England Habitat Area of Particular Concern back to the Habitat Committee. The NEFMC is scheduled to meet in-person (with a remote option) in Portland, ME from June 28-30, 2022. It is a busy agenda with a final action on 2022-2026 Research Priorities, 2023-2024 RSA priorities for monkfish and sea scallops, and the habitat framework to designate a new HAPC in SNE. The rest of the agenda is filled with Council educational opportunities, including groundfish sector operations and the state space modeling research track, as well as various FMP and other updates. The Council will also receive a few updates on relevant regional work outside of the Council process, including the May meeting of the Atlantic Large Whale Take Reduction Team, and a draft action plan to reduce Atlantic sturgeon bycatch in federal large-mesh gillnet fisheries by 2024. Finally, the Council will have an opportunity to discuss NOAA's scoping process to consider a Hudson Canyon national marine sanctuary and what factors will contribute to determination.

Bill Amaru highlighted concerns of fishermen regarding possible new cod stock delineations and how one stock not responding to conservation measures would impact other stocks' management. Melanie stated they probably wouldn't differentiate between winter and spring spawning. Bill stated the temperature will determine the redistribution of the fish and he hopes that when the assessments are done they do not base it on past findings.

Mike Pierdinock asked if DMF will be sending a comment letter to NMFS regarding the Hudson Canyons. Dan stated that DMF could submit a letter if there is an open comment period. Mike stated he will be at the NEFMC meeting next week and he hopes it will be productive.

#### *Vineyard Wind Innovation Panel*

Dan briefed the MFAC on the Vineyard Wind Innovation Panel and thanked Shelley Edmundson and Mike Pierdinock for serving on it. He stated the panel will determine how the money from Vineyard Wind mitigation is spent and distributed.

Dan then described separate funding to enhance vessel safety and navigation within wind arrays. Dan asked Mike P. to speak to a study being conducted into high-resolution radar. Mike P. stated there are safety concerns regarding wind arrays and

radar interference, but it is diminished when certain technologies are stacked. However, this requires training and capital investments.

Dan asked if the Vineyard Wind money would be beneficial for offsetting the cost of the units and training. Mike stated there is a significant cost differential between the systems and was unsure if the funds would be sufficient. Mike reiterated that radar on larger boats are often more effective because they are situated higher above the water reducing interference.

Kali Boghdan asked about the timeline of construction for the Vineyard Wind projects. Dan stated the completion of the Vineyard Wind project is likely a year away, but the cable will be laid later this year. Dan stated that Simonetta Harrison could be added to the agenda at the next MFAC meeting to provide a full update on wind energy development.

### **OTHER BUSINESS**

Dan had additional comments for the commission and stated the Monterey Bay Sea Watch team reached out to DMF for comments regarding red-listing certain species. Dan described the outcome of the meeting with the commission and stated that the DMF Statistics Team are currently working to respond to data requests from the Sea Watch team.

Dan stated the state of RI had reached out regarding recreational tautog management, and how they had adopted a slot limit with allowance for one trophy fish, and asked if DMF would consider following suit. Additionally, the RI fisheries commission was interested to meet with the MFAC to discuss issues of mutual concern. Dan stated DMF would be willing to entertain the management scheme and would consider a meeting date when looking at the MFAC schedule for the year.

Dan stated that DMF is planning to submit the ITP to NMFS in the coming weeks. He described the work that has gone into the permit and stated that DMF is applying for a three-year permit with the ability to renew the permit. Dan welcomed any questions.

#### *Future Meeting Schedule*

Jared discussed the proposed future meeting schedule which will now be on Tuesdays. Jared stated the commission should expect an email with potential dates next week, and asked members to send along any scheduling conflicts.

Ray Kane stated the possibility of meetings switching between in-person and virtual. Both Kalil Boghdan and Mike Pierdinock stated they would like to have a meeting on the vineyard. Mike Pierdinock stated he likes the flexibility of the virtual meetings, and suggested considering moving the meeting location each month rather than always having the location in Westborough.

Dan stated DMF will look into the meeting law requirements in regards to a hybrid model.

### *Commission Member Comments*

Shelley Edmundson expressed concern over reduced whelk landings as reported to her from industry. She recommended a meeting or adding whelk management to an MFAC future agenda. Dan stated how DMF received a petition to amend the gauge increase schedule and his expectation for a hearing on this later in the year with additional MFAC discussion.

Tim Brady stated he thought Melanie's presentation regarding cod and haddock was very informative.

Bill Doyle recommended a future agenda item regarding home rule issues.

Kalil Boghdan expressed appreciation for being back in person, yet stated his preference to continue with electronic documents rather than having stacks of print-outs for the meetings.

Ray Kane thanked the commission for their attendance, and hoped it will continue with future in-person meetings. He stated he would like to reconvene all the sub-committees in the coming months. Lt. Col Moran asked for a list of the sub-committees. Jared listed off several sub-committees and stated the striped bass and law enforcement sub-committee would be the only committees reconvening in the coming months.

### **PUBLIC COMMENTS**

There were no public comments.

### **ADJOURNMENT**

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

## **MEETING DOCUMENTS**

- June 16, 2022 Business Meeting Agenda
- April 7, 2022 Draft Meeting Minutes
- Recreational Fishing Limit Recommendations
- Atlantic Mackerel Public Hearing Proposal
- Prohibition on Shortfin Mako Retention
- Belding Award Nomination Memo
- 2022 Menhaden Permit Conditions

## **UPCOMING MEETINGS**

<b>August 18, 2022</b> Via Zoom	<b>September 13, 2022</b> TBD	<b>October 18, 2022</b> TBD
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