

MARINE FISHERIES ADVISORY COMMISSION

June 3, 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; and Shelley Edmundson.

Division of Marine Fisheries: Daniel McKiernan, Director; Michael Armstrong, Assistant Director; Kevin Creighton, CFO; Story Reed; Jared Silva; Nichola Meserve; Melanie Griffin; Kelly Whitmore; Jeff Kennedy; Bob Glenn; Scott Schaffer; Maren Budrow; Maggie Nazareus; Stephanie Cunningham; and Anna Webb

Department of Fish and Game: Ron Amidon, Commissioner

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

Members of the Public: Beth Casoni; Eunki Seonwoo; and Eric Lorentzen

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Ray Kane called the June 3, 2021 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

REVIEW AND APPROVAL OF JUNE 3, 2021 BUSINESS MEETING AGENDA

There were no amendments to the June 3, 2021 MFAC business meeting agenda.

Chairman Kane asked for a motion to approve the draft agenda. Kalil Boghdan made a motion to approve the draft agenda. The motion was seconded by Sooky Sawyer. The June 3, 2021 MFAC business meeting agenda was approved by unanimous consent.

REVIEW AND APPROVAL OF APRIL 15, 2021 DRAFT BUSINESS MEETING MINUTES

There were no amendments to the April 15, 2021 draft MFAC business meeting minutes.

Chairman Kane asked for a motion to approve the draft April 15, 2021 meeting minutes. Bill Amaru made motion to approve the April business meeting minutes. Shelley Edmundson seconded the motion. The motion was approved by unanimous consent.

CHAIRMAN'S COMMENTS

Chairman Kane thanked MFAC members for their participation and attendance. He was hopeful the MFAC could begin hosting in person meetings again in the near future.

LAW ENFORCEMENT COMMENTS

Capt. Kevin Clayton handled the comments for the Massachusetts Environmental Police (MEP). He highlighted some recent issues regarding fluke, scup, and sea bass, and river herring.

DIRECTOR'S COMMENTS

Director McKiernan stated the May 13 aerial survey of Cape Cod Bay and Massachusetts Bay by the Provincetown Center for Coastal Studies (CCS) showed the seasonal aggregation of right whales in the area had migrated out. Subsequently, the trap gear closure was lifted and the lobster fishery opened on May 14. The trial regarding Massachusetts fixed gear fisheries and the Endangered Species Act (ESA) was scheduled to begin on June 9th. The trial was scheduled to occur over 12 business days.

The Director moved on to discuss NOAA's Biological Opinion on 10 Fishery Management Plans. With regards to right whales, the document maps out the need for routine review of mortalities, and if entanglements continue to occur, more risk reduction may be required. To this point, the Director emphasized the importance of the recommended buoy line marking rules the MFAC would be taking action on at this meeting. These marking rules will provide regulators with an enhanced ability to determine the origins of entangling gear and establish more surgical risk reduction strategies.

Director McKiernan then moved on to discuss proposed wind lease area on Coxe's Ledge. Calculating the fishing effort and forecasting the effects on fishermen from the development is difficult, largely due to the lack of adequate spatial data for certain sectors (e.g., commercial lobster and for-hire). Dan stated his interested in improving spatial data collection for these sectors and DMF was surveying for-hire fishermen to determine how many trips they take in this area during recent seasons.

The Director then discussed the Massachusetts Shellfish Initiative (MSI). The MSI Strategic Plan was completed in early May and members of the MSI participated in a press conference regarding the release of the report. As recommended in the Strategic Plan, the Shellfish Advisory Panel will be codified in statute and will be required to meet twice a year.

The Port Profile Project, which was completed in early May in conjunction with UMass Boston and the Urban Harbors Institute, was available on DMF's website. Dan thought this document will help municipalities address commercial fishing infrastructure needs.

The Director then welcomed questions from the MFAC.

Ray Kane and Director McKiernan discussed the CCS aerial surveys for right whales around Cape Cod.

Mike Pierdinock, Kalil Boghdan, and Director McKiernan further discussed offshore wind energy development off Martha's Vineyard and Nantucket. Mike P. was disappointed by the extent to which the Bureau of Energy Management addressed concerns from the fishing industry. He also raised issue with how wind arrays may impede navigation by interfering with radar. Mike P. was encouraging fishermen to contact Orsted, as they were providing simulations of navigating wind arrays.

ACTION ITEMS

Buoy Line Marking Rules for Commercial Lobster and Crab Traps

In April 2020, Judge Talwani ordered the Commonwealth to obtain an Incidental Take Permit (ITP) under the ESA to cover the permitting and regulating of buoy lines in fixed gear fisheries due to the risk of such lines entangling endangered turtles and whales. To address this, DMF conducted rule-making in late 2020 and early 2021 to address the risk posed by these buoy lines in anticipation of applying for the ITP. DMF was now pursuing a second round of rule-making towards this goal.

The proposed rules established new and enhanced buoy line marking regulations. The purpose is to better delineate lobster traps fished in state waters fishery from gear fished in other jurisdictions. Should entanglements continue to occur, the origin of the gear could be more readily determined.

Dan noted that Massachusetts has aggressively managed fixed gear interactions with protected whales since the late-1990s. He argued that the entanglements that are continuing to occur are likely from other jurisdictions and being detected in Massachusetts waters, as our waters are well observed. Dan explained that enhanced buoy line marking could help demonstrate this argument and exonerate the MA state-waters fishery if entanglements occur in the future.

Bob Glenn discussed the importance of the need for MA to be able to distinguish the fishery from all other fisheries to allow for Massachusetts lobster trap fishery be listed separately on NOAA's annual List of Fisheries promulgated under the Marine Mammal Protection Act. Last year, DMF provided comments to NMFS suggesting that based on our conservative program to protect right whales, MA should be listed separately. In NOAA's response, it was noted the characteristics of MA fishing gear did not differentiate it enough from other jurisdictions to warrant a separate listing. Bob was optimistic the new rules would accomplish this goal. Bob explained this rule would not

go into effect until 2022. However, it was critical for it to be on the books this summer for NOAA to consider it in their annual development of the List of Fisheries.

Sooky Sawyer and Bob Glenn discussed the use of tracers to meet buoy line marking requirements. Bob indicated that tracers may be used in the body of the buoy line, but solid marks must be used in the surface system. Bob and his staff were eager to work with industry to gain input on methods to comply with these new requirements. There was then additional discussion between Bob Glenn, Jared Silva, Sooky Sawyer, and Lou Williams to clarify how weak inserts could double as a buoy line marks.

Ray Kane asked if DMF was giving away weak rope to industry members. Bob stated that DMF was still doing this and was holding events in June to provide coils of rope to seasonal lobster fishermen and commercial fishermen could obtain rope at these events.

Bill Amaru asked about NOAA's use of underwater cameras to inspect buoy line systems. Bob Glenn stated he is aware of this technique, but noted the process is labor intensive and visibility presents a problem.

Mike Pierdinock was happy to see that DMF is developing these measures to differentiate the state's lobster fishery from those in other jurisdictions.

Chairman Kane asked for a motion to adopt the DMF's recommendation on the buoy line marking rules for commercial lobster and crab traps. Mike Pierdinock made motion to approve the recommendation as provided by the Director. Shelley Edmundson seconded the motion. A roll call vote was taken, and the motion was passed unanimously 8-0.

DISCUSSION ITEMS

Incidental Take Permit Application Update

Bob Glenn provided a brief update on DMF's ITP application. DMF added two additional staff members to work on this project. Scott Schaffer was brought into the statistics program to provide fisheries specific data for the ITP application, and Taylor Stoni was brought in to serve as an ITP permit specialist. These new hires will be critical for DMF's timely completion of the ITP application.

CARES Act Relief Update

Dan McKiernan provided a brief update regarding the second round of CARES relief. He compared and contrasted this second program to the first program. The most notable difference was that the second program will use additional qualification timeframes, which may result in qualifying more people. Additionally, DMF was setting aside a portion of the funding to be potentially allocated to a sector that may have been disproportionately affected. Unlike the first program, applications for this second

program will be sent out all at once, resulting in everyone getting paid at once. Dan was confident the payments would be made in the early fall.

Ray Kane sought clarification on the ASMFC's September 30th deadline to distribute funding. Dan stated this deadline was when the money needs to be turned over from NOAA Fisheries to the ASMFC. The ASMFC will be allowed to make payments to fishermen after this date.

Kalil Boghdan, Kevin Clayton, and Director McKiernan discussed funding for Native American tribes.

Report on ASMFC and Council Meetings

Nichola Meserve reported on recent ASMFC meetings. The ASMFC last met in early May. An issue of primary focus was the ongoing development of Striped Bass Amendment 7. Issues from the scoping document that were selected for continued development include management triggers, conservation equivalency, and recreational release mortality, plus a new item of measures to protect the 2015 year class. Items removed from further considerations include: goals and objectives, BRPs, stock rebuilding schedule, regional management, recreational accountability, and coastal commercial quota allocation.

Nichola then discussed the recently approved commercial black sea bass quota reallocation addendum. NY had brought forward an appeal for not also receiving an initial 2% increase for stock expansion into LIS similar to CT. This was supported by the Policy Board, which remanded the issue back to the species management board for corrective action in August. Because of the joint management of this species, the MAFMC would also be discussing this issue in June to consider withdrawing the submittal of its complementary amendment to NOAA Fisheries. The Bluefish Board would also be meeting jointly with MAFMC in June to take final action on the bluefish allocation and rebuilding amendment.

Nichola noted that the MAFMC meeting would also include a one-hour presentation about the 2020 MRIP estimation methodology that accounted for limited intercept and head boat sampling due to the pandemic. On the subject of Covid, she added that the summer meeting for ASMFC is virtual but the hope is to resume to in person meetings in October (in New Jersey), while the MAFMC was attempting a hybrid virtual/in-person meeting in August (in Philadelphia).

Mike Pierdinock asked about the striped bass measures to protect the 2015 year class. Nichola stated that the specifics were still under development but some configuration of moving size limits was expected. Mike commented on the increased abundance of black sea bass throughout the northeast, not just NY. Nichola reminded him that 25% of the coastwide quota would now be allocated based on regional biomass given the stock's northerly skewed distribution, but NY's appeal sought to address stock

expansion into LIS specifically. Mike asked if the lack of MRIP data would impact the setting of measures, such as necessitating status quo. Nichola indicated that NOAA Fisheries' objective was to develop recreational catch estimates that would be used to inform the setting of measures as usual.

Kalil Boghdan asked if ASMFC foresees any red flags regarding the striped bass fishery. Nichola stated that the goal of Amendment 7 is to prevent the further decline of striped bass. Kalil asked about the timeline of the amendment. Nichola stated it is expected to be implemented by 2023. Kalil emphasized a need for efficiency and speed regarding the amendment.

Dan McKiernan provided a brief update from the lobster management board. Development of the MSE was postponed until the August meeting to prioritize work on Draft Addendum XXVII. A subcommittee was formed to help guide development of Draft Addendum XXVII: trigger mechanism for measures to improve biological resiliency of GOM/GBK stock. The plan is to approve for public comment in August. There was also a technical working group formed regarding electronic vessel tracking.

Mike Pierdinock provided a photo of a proposed wind farm for the commission that displayed the cable that runs from inshore to offshore.

Bill Amaru asked whether or not the fleet should be made aware they are going to be required to have vessel monitoring in the future. Dan stated he cannot speak to that, but would personally advise lobstermen to begin using vessel tracking and added that it would be confidential. NMFS would like to see ASMFC create an addendum to lobster management plan where this can be codified.

Bill Amaru expressed there needs to be a way to implement a VMS program that can benefit the fishery members as well as the data collection given that there is a possibility that VMS does not work properly 100%. Story Reed spoke to his pilot program that is being conducted with lobster fishermen. The longer the pilot program has been running, the more options have become available.

Mike Pierdinock stated the for-hire fleet was concerned over the cost, but added VMS may not be necessary but rather eVTRS are easier and more cost effective.

Melanie Griffin gave an update on NEFMC April meeting and what to expect from the June Meeting. There were no final actions at the April meeting. The June council meeting will be remote, but in person for the remainder of the year. Melanie stated that there was a lot of discussions regarding climate change which included strategies and an action plan. Melanie gave a brief overview of the climate strategies which included the National Climate Science Strategy, Northeast Regional Action Plan, and Scenario Planning by Northeast Region Coordinating Council (NRCC). Melanie then gave an overview of what is to come at the June Council meeting. NEFMC will finalize research

priorities, EBFM workshop plans and comments on SE eVTR and HMS Amendment 13. There will be ongoing development specifications/other priorities regarding groundfish, scallops, herring and skates. Melanie welcomed questions from the commission.

Mike asked Melanie to forward him the information regarding the information to comment on the eVTRs as well as the webinar information for the end of the month.

Allowing Menhaden Seining on Fridays in Boston Harbor

Director McKiernan provided a brief background on seining in Boston Harbor. He then notified the MFAC that DMF amended the purse seine inshore net permit conditions to allow Friday fishing in Boston Harbor. The Director noted he received written support for this action from the Massachusetts Striped Bass Association. However, some members of the recreational fishery have voiced their concerns and frustrations to DMF.

Mike Pierdinock asked about the current menhaden trip limit. Jared Silva stated the current trip limit was 125,000 pounds. However, the vessel that typically fishes in Boston Harbor fishes at about a 25,000-pound capacity. Mike P. then asked about the quota utilization this year compared to years past. Story Reed stated DMF did not have this data on hand but would provide a quota managed species update at the August meeting.

Mike P. then asked if DMF could rescind this allowance. Dan stated he had the authority to rescind the authorization. However, his preference was to let the program run its course then evaluate it moving forward. He also did not want to encourage some individuals to provoke user group conflicts in order to have the authorization pulled. He noted the Boston Harbor seiner was well liked on the waterfront and worked to build relationships with the recreational fishing community in the area. Mike P. agreed with Dan's assessment of the Boston Harbor seiner, but he was worried about boats from other ports showing up to take advantage of the Friday opening.

Ray Kane asked if there was a way to run this opening as a single-year pilot program. Dan stated he would consider this and would discuss future management with the MFAC over the winter.

Kalil Boghdan emphasized that this is a complicated issue. He expressed concern over the opening of the harbor over one petitioner. He was not comfortable with DMF's decision to allow seining on Fridays.

Bill Amaru commended Dan for standing up for what he believes is best for the fishery. Bill understands that this is complex issue. He supported the Director's action, but requested Dan be willing to rescind the authorization should user group conflicts become untenable.

Bill Doyle expressed concern that this action was taken without the approval of the MFAC. He also asked that DMF brief the MFAC on what their authorities are and under what circumstances DMF can work unilaterally.

Lt. Col. Moran asked a clarifying question regarding the closure. He was anticipating receiving some complaints and wanted to ensure that his office was delivering the correct message.

Renewing Period II Summer Flounder Pilot Program

Jared Silva gave a brief background on the pilot program which allows draggers to fish two consecutive days and obtain two trip limits. Jared stated DMF has renewed the program and the tags and LOAs will be distributed next week.

Ray Kane asked if there were any known violations of this pilot program. Jared stated there are no known compliance issues and this program is supported by industry.

Shellfish Program Updates

Jeff Kennedy provided an update on DMF's shellfish program and the ongoing shellfish growing area reclassification work.

Bill Amaru and Jeff Kennedy discussed PSP closures in the Nauset estuary. Jeff recalled that Nauset is unique and the area has been subject to PSP closures in all but two years since 1972. This year's closure was extensive but toxicity was coming down and he anticipated the closures would last a couple more weeks.

OTHER BUSINESS

Status of Sub-Committees

Jared Silva gave an overview of upcoming sub-committee meetings. The sub-committees include state-waters groundfish (expected to convene this Fall for rule changes for 2022); commercial striped bass (expects sub-committee to meet this fall); law enforcement (met last November and Jared expects the meeting will be held the same time this year); and permitting.

MFAC Meeting Dates and Format for Remainder of 2021

Jared Silva discussed how the open meeting law is being adjusted due to the state of emergency being lifted. MFAC will meet virtually via Zoom in August. Jared expected that the first in person meeting will be in September. Jared anticipates that virtual models for public meetings will still be allowed, but he does not know if there will be additional requirements. He opined that there could be technical difficulties with a hybrid model. The MFAC meeting schedule for the remainder of the year is as follows: August 19, Sept 23, October 28, and December 2.

Commission Member Comments

Mike Pierdinock discussed upcoming deadlines for public comments regarding certain fisheries.

Bill Amaru wished everyone a safe and productive Summer.

Ray Kane thanked commission members for their engagement and attendance.

PUBLIC COMMENTS

Eric Lorentzen stated he is the Boston Harbor seiner who petitioned to have the closure on purse seining in Boston harbor lifted on Fridays. He welcomed any questions from the commission. He expressed concern over other operations coming into the harbor.

Beth Casoni asked if there will be an advisory or memo sent to the commercial industry regarding the second round of CARES relief. Director McKiernan stated that DMF will update the webpage in addition to sending an advisory once the spend plan has been approved.

ADJOURNMENT

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

MEETING DOCUMENTS

- June MFAC Business Meeting Final Agenda
- April Meeting Minutes
- Buoy Line Marking Recommendation Memo
- Inshore Net Permit Memo
- Fluke Pilot Program Memo

UPCOMING MEETINGS

August 19, 2021 Via Zoom	September 23, 2021 TBD
October 28, 2021 TBD	December 2, 2021 TBD