

## **MARINE FISHERIES ADVISORY COMMISSION**

**March 10, 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; Bob Glenn; Jeff Kennedy; Melanie Griffin; Kelly Whitmore; Stephanie Cunningham; Tracy Pugh; Derek Perry; Brad Schondelmeier; Sam Truesdell; Nick Buchan; Scott Schaffer and Anna Webb

*Department of Fish and Game:* Ron Amidon, Commissioner

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

*Members of the Public:* Beth Casoni; Eric Morrow; Jim; Janet; Heather Haggerty; Bob DeCosta; and Philip Coates

## **INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane called the March 10, 2022 Marine Fisheries Advisory Commission (MFAC) business meeting to order. He stated that there will be a roll call vote taken for the meeting minutes, and there will not be an approval process for the agenda going forward.

## **REVIEW AND APPROVAL OF JANUARY 21, 2022 DRAFT BUSINESS MEETING MINUTES**

Kalil Boghdan requested ‘not’ be added to a sentence in the second paragraph on page 6. Jared stated that this change will be made.

**Chairman Kane asked for a motion to approve the amended January 21, 2022 MFAC business meeting minutes. Sooky Sawyer made motion to approve the amended January 21, 2022 business meeting minutes as amended. Shelley Edmundson seconded the motion. A roll call vote was taken and the motion passed unanimously 8-0.**

## **CHAIRMAN’S COMMENTS**

Chairman Kane thanked commission members for their attendance and turned the floor over to Commissioner Amidon.

## **COMMISSIONER'S COMMENTS**

Commissioner Amidon thanked the commission members for their attendance and dedication. He stated that he has done all he can to ensure that those above him know the importance of the work the commission does. He stated he has continued to recommend the reinstatement of all commission members. He hopes that by the end of the month all reinstatements will be in, and so far three have been received. He welcomed any questions from the commission.

## **LAW ENFORCEMENT COMMENTS**

Capt. Clayton handled the comments for the Massachusetts Environmental Police (MEP). He stated MEP has two items for discussion. There is ongoing whale protection underway and in the coming months there will be a promotion for the coastal bureau. He turned the floor over to LT. Bass to discuss the whale protections.

Lt. Bass stated there is a coordinated effort between DMF and MEP to remove gear left behind in state waters. Lt. Bass stated there is mostly lost gear in the Cape Cod Bay area and some non-compliance on the north shore with contrivances. Lt. Bass stated the process has been pretty efficient and welcomed any questions from the commission.

## **DIRECTOR'S COMMENTS**

Director Dan McKiernan pointed out there is a petition from the MA Conch Association to amend the gauge guidelines in the meeting materials, but noted that this will not be discussed at length during today's meeting. He stated his intent is to have DMF staff review the status of the fishery and come back to him with a recommendation that will then be brought forward to the commission this summer.

Dan concluded his comments by welcoming any questions from the commission.

Ray Kane stated Rhode Island and possibly Connecticut's measurements are four and a half inches and asked how that compares to Massachusetts'. Dan stated there is not an interstate management plan and subsequently, each state has their own management scheme. He stated some states use total length to measure whelk, while others measure from the cyphen to the apex of the shell. He added there is a report coming out within the month that compares and contrasts different states rules, but added each state likely has different size at maturities due to environmental differences. Dan stated he will pass the report on to the commission when he receives it.

Ray Kane asked Shelley Edmundson about the status of her whelk study. Shelley stated the project will begin this season and will focus on testing the at-sea data tablet and collecting shell measurements and other fishery-dependent data.

Shelley asked about research from SMAST regarding whelks. Bob Glenn stated there is a pilot effort conducting a size-at-maturity study, similar to two previous studies conducted by DMF. He was unsure if SMAST had obtained any additional funding for this.

Shelley then asked if there was a way to model whelk sex ratios at various minimum size requirements. Director McKiernan and Bob Glenn suggested this could be done.

## **EMERGENCY REGULATIONS TO SET 2022 RECREATIONAL FISHING LIMITS**

### ***Black Sea Bass***

Dan McKiernan thanked DMF staff for the thorough memo put together for today's meeting. Dan highlighted the background of the proposed regulations and the results/comments that came from the scoping meeting DMF held to gain insights on the preferred rules for 2022. Dan also discussed 2021 regulations and how they vary from what is being considered for 2022. Dan stated there was a 20.7% reduction required. DMF prefers a May 21-Sept 4 season, 4 fish, and a 16" minimum.

Dan stated MEP was consulted and they recommended having a consistent bag limit throughout the season. Dan stated the ultimate goal is more compliance, and simpler rules may equate to more compliance. Dan welcomed questions from the commission.

Mike Pierdinock stated that the MRIP data for MA the PSE exceed 50% in May and June. He was under the impression that PSE over 50 % would not be included. Nichola stated moving forward within the next year or two MRIP will stop posting the wave estimates with PSE over 50. The 20.7% reduction is based on a coastwide estimate over 4 years of data. She stated the technical committee also did an outlier study. Due to the study, the reduction was reduced to 20.7% from 28%.

Mike Pierdinock expressed frustration over the reduction, and asked that the PSE on the state level be looked at in the future. Mike stated NY, RI, and CT have bag limits in addition to shoreside bag limits that change over time. He stated he understands there are compliance issues and asked why other states are able to have different limits and seasons. Nichola stated the separate seasons only pertain to fluke only and not sea bass. The legal-size limit is also higher.

Dan asked the environmental police to speak to the compliance issues. Lt. Bass stated the non-compliance when the fish are in can be substantial and advocated for simplicity when it comes to bag limits and enforcement. Mike Pierdinock thanked Lt. Bass and stated he would like to see statistics in regards to non-compliance in the future. Jared further clarified the differences in bag limits in other states.

Kalil Boghdan expressed concern over perception and added that fishery management can be complicated. He complimented DMF staff for putting the memo together and added that decisions made can sometimes be confusing to stakeholders.

Tim Brady echoed Mike's frustration regarding the start date of the season. He stated he understands the concerns around enforcement, and added that there is a need for for-hire vessels to be able to communicate to DMF concerns in regards to regulations. He expressed frustration over data from trip reports going unused, as well as charter vessels being put into the same pool as recreational fishermen.

Ray Kane discussed buy-backs for federal groundfish permits. He stated most fishermen went to maritime school and received their captain's license. He would like to see the charter fishery separated from the recreational fishery. He expressed the importance of the charter fishery on

Nichola responded to Ray and Mike's point and stated it may be a good time to discuss the harvest control rule approach. She then discussed the reasons for the addendum. Nichola recognized the concern, but stated the May 21 start is a traditional approach for the fishery.

Kalil Boghdan stated having three days cut from the beginning of the season can be detrimental as a charter fisherman. Kalil asked if there will be a time when bag limits will be liberalized and the season would be elongated. Director Dan McKiernan stated that the additional effort within the recreational fishery is concerning and is grounds for the lower bag limits. He discussed some management options if the time comes to liberalize the fishery and bag limits. Dan asked Nichola to comment on if there may be liberalizations in the future. Nichola stated it is hard to tell if there will be liberalizations in the future and discussed how the liberalization trends varied in the past.

Ray Kane advocated for recognition from ASMFC for Massachusetts conservation efforts for black sea bass.

Mike Pierdinock stated that the biomass is 2x as high as it was before, and expressed frustration over the bag limit reductions. He was concerned that there may be further cuts in the future if the effort in the recreational fishery is increased due to more fish being present. He further advocated for separate bag limits for the for-hire fleet and recreational.

Dan welcomed comments on his proposal, and asked if there were any objections.

Ray Kane stated he would support the proposal.

Mike Pierdinock would support the measure, it's the fairest for the shoreside angler, charter, and recreational fisherman with the constraints from the Magnuson Stevens act.

Kalil Boghdan echoed Mike's comments and stated he would rather have status quo. Kalil stated he would support this proposal.

### *Summer Flounder*

Dan McKiernan stated there was a 16.5% liberalization allowed. He stated DMF prefers a May 21-Sept 29 season, 5 fish, and a 16.5" minimum. Dan discussed some of the comments received as well as discussions with law enforcement. Nichola added that there is a short reduction in the season length due to the proposed half inch size increase. Dan asked Nichola to speak to any comments received about those who fish for fluke in October. Nichola stated there was no significant comments asking for days in October.

Dan stated law enforcement would prefer whole numbers when it comes to size limits and asked Lt. Bass to speak to the concerns for the commission. Lt. Bass stated having the size limit be a whole number would be preferred and having it align with black sea bass would be preferred. Dan McKiernan explained the rationale for the 16.5" size limit by stating that the season would need to be shortened if the size limit was reduced to 16".

Captain Clayton suggested that any consistency that the commission can afford MEP as far as size or bag limit would be beneficial from an enforcement standpoint.

Kalil Boghdan asked for clarification on Option 1 where the season is May 23-October 25, 17" minimum size, and a 6 fish bag limit. Nichola stated Option 1 increases the bag limit to 6 however, only 10% of anglers are bagging 5 fish. Nichola explained the data does not indicate a need to increase the bag limit. Kalil asked about other possibilities for options that would make the season longer. Nichola further explained the reasoning behind the options.

Ray Kane discussed Option 5 with Nichola, he was in favor of a lower minimum size.

Mike Pierdinock pointed to the difficulty of catching fish over 17" due to warmer waters. He stated the commercial limit size of 14.5" is what is usually caught. Mike stated he would support Option 2.

Ray Kane recognized Bob DeCosta, a member of the public, to speak on this issue. Bob stated the full month of September is crucial and expressed support for Option 2. Bob also stated that 17" is not hard to find on the shoals, but inshore is more difficult.

Captain Clayton further clarified his comments on consistency of rules across the jurisdictions.

Ray Kane asked Captain Clayton about the recreational size and bag limits for RI. Captain Clayton was not aware and would need to look it up. Dan stated the limits from last year should be in the memo, but added they are subject to change.

Kalil Boghdan stated he supports Option 2. He asked what the impact of going to a 16" minimum size would be with a bag limit of 5 fish. Nichola explained the season would need to end earlier.

Ray Kane stated the consensus is Option 2 and stated that Dan can move on to scup.

### *Scup*

Dan McKiernan explained there is a 1" size limit increase required. DMF prefers a January 1-December 31 season, 30 fish with the exception of 50 fish for for-hire vessels during May and June, and a 10" minimum. Dan asked Nichola to speak to the reasons behind the required increase. Nichola explained the reasons behind the increase and noted that the increase in the size limit is non-negotiable. She went on to discuss that the NMFS may adjust their limits separately for federal waters.

Dan thanked the commission for their comments thus far and moved on to discuss federally managed species.

### *Gulf of Maine Cod and Haddock*

Jared Silva discussed the changes for the upcoming season to GOM cod and haddock. The GOM cod size limit will be increasing one inch to 22". The open season for both private anglers and for-hire vessels will be September 1 – October 7 with a bag limit of 1 fish per angler per day.

Jared stated that the GOM haddock open season will be May 1 – February 28 and then April 1 – April 30, with a bag limit of 20 fish at a 17" minimum size. Jared welcomed any questions and stated that these regulations would match the proposed council regulations.

### *George's Bank Cod*

Jared stated that for GB cod there will be an open season of August 1 – April 30 with a bag limit of 5 per angler per day. The size limit will now be a slot limit from 22" – 28". This applies for the entirety of the George's Bank.

## **CONSULTATION ON RESIDENCY ISSUES REGARDING STUDENT LOBSTER PERMIT**

Dan McKiernan discussed a draft policy affecting the student lobster permit. He stated that DMF brought a proposal to public hearing to clarify DMF's interpretation of state law governing the issuance of student lobster permits to non-residents. Following public hearing, DMF drafted a policy that accomplishes several things. First, it would clarify that non-resident students may obtain a student lobster permit. Second, the permit is for the commercial catch of lobsters only; the harvest and sale of edible crabs is not authorized. Lastly, it defines a full-time student as any person 12 years of age or older enrolled in middle school, high school, or in a full-time college or post-graduate education program as defined by their institution. He further explained that there was a 150 permit issuance cap put into place, and noted that DMF usually issues around 100

permits per season. Dan added that DMF feels pretty comfortable allowing a non-resident, full time student to obtain a permit. Dan welcomed any questions from the commission.

Sooky Sawyer asked why there wasn't an upper age limit on the permit. Dan McKiernan stated there wasn't a need for an upper limit because it indicates being a full-time student. For a college student to be eligible it would need to be 12 credit hours.

## **DISCUSSION ITEMS**

### *Protected Species Update*

Bob Glenn provided the commission with a protected species update presentation. He stated that DMF staff working on the incidental take permit are making great progress and highlighted an upcoming meeting with NMFS. DMF plans to submit the permit application in July.

Bob Glenn then moved on to highlight gear distribution events that took place last year. He stated the goal is to have these events this year to give out weak rope and gear marking supplies. Unfortunately, DMF has run into supply chain issues and is waiting for the supplies to come in from manufacturers to schedule the next events. Bob Glenn appreciates the patience from the fishermen.

Bob then discussed the trap closure gear removal program which is a cooperative effort between DMF, MEP, and 6 commercial lobstermen. He explained the reasoning and importance of the program which ensures the effectiveness of the protected species closure. Bob provided the commission with an overview of the compliance and totals of gear hauled throughout the duration of the project. Bob closed his comments by thanking MEP, DMF staff, and the contracted lobstermen.

Sooky Sawyer asked if the governor was going to provide funding for supplies for fishermen to who need to switch their buoy lines over in federal waters. Dan McKiernan stated the focus has been on the gear retrieval project, but he believes there is a federal bill that is expected to be enacted totaling \$14 million for coastal states that is designed to help fishermen comply with these rules. The money is expected to be divided out based on the number of permit holders each state has. Dan stated DMF will look into the matter and get back to sooky offline.

### *Upcoming Public Hearing on Quota Managed Species*

Jared Silva reminded the MFAC of the upcoming commercial fishery public hearings on March 14 and March 16. On March 14, DMF will take comment on a bluefish minimum size, menhaden season start date, and striped bass permit control date. On March 16, DMF will take comment on commercial fishing limits for black sea bass, summer flounder, and dogfish. Final recommendations would then be made to the MFAC at their April 7 business meeting for implementation in May of 2022. Jared highlighted a recent meeting DMF held with the fluke industry and most of the industry members are expected to be in attendance of the public hearing to provide further input.

Sooky Sawyer asked where he could find the Zoom information for the public hearings. Jared stated he will send along the notices to the commission after the meeting.

#### *Summary of March 1, 2022 Shellfish Advisory Panel Meeting*

Dan McKiernan discussed the second Shellfish Advisory Panel meeting that was held virtually on March 1. He highlighted what was discussed at the meeting such as DMF updates, creation of two new sub-committees – one will look at the transfer of municipal aquaculture licenses, and one to address bulk tagging. Dan stated he is looking forward to future Shellfish Advisory Panel meetings.

Dan discussed the statute describing the training course for shellfish constables. He stated that DMF has been partnering with MEP, and the MSOA on running a virtual MSOA training course. The course will be a half day each weekday for a total of three weeks. Dan added that the attendance for the course seems to be up due to the virtual aspect. Dan welcomed any questions from the commission.

Bill Amaru discussed the transferability of the aquaculture licenses. He stated the local communities that take care of their own waters and the ideas behind the transfers they've come up with means a lot to the communities. He stated the idea that a central government having power over the transfers is concerning to communities. Dan stated that DMF is only trying to examine the issue and plans to be transparent with the entire process.

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

Nichola discussed the ASMFC winter meeting which was held January 25-27. She explained the lobster draft Addendum XXVII (increased protection of spawning stock in GOM/GBK) was approved for public comment with hearings in June. There are potential revisions to gauge sizes, v-notch definitions, and reissuance of lost trap tags. Nichola then discussed black sea bass. She noted the recreational harvest reduction was revised from 28% to 20.7% through outlier analysis. The final approval of states' proposals for black sea bass and fluke are due by the March 24 meeting. The meeting materials for the March 24 meeting should be posted later today. Nichola moved on to spiny dogfish. For the upcoming season the Northern Region trip limit was set equal to pending federal waters limit (7500lb expected for May 1). Comments are due March 14 on the federal waters proposed rule for the 7500lb limit. For menhaden, the board continues to work on a draft addendum that could revise the commercial allocation/EESA/ICSSF allowance is expected to be approved for public comment next meeting after the board changes are made. Public hearings on the document will likely be held in June or July.

Nichola closed her comments by discussing striped bass. Nichola highlighted upcoming virtual public hearings on the ASMFC's Amendment 7 to the Striped Bass FMP and the ASMFC/MAFMC Harvest Control Rule Addendum for black sea bass, summer flounder, scup and bluefish. The MA Amendment 7 hearing is scheduled for March 21 at 6PM and the MA hearing on the Harvest Control Rule is scheduled for April 13 at 6PM.

Ray Kane asked for clarification on whether management changes can be made at the October meeting in regards to striped bass. Nichola stated that this is likely the case, but there will likely be options brought to the table during the August meeting.

#### *Updates Concerning Federal Fisheries Management*

Melanie Griffin briefed the MFAC on the February NEFMC meeting that focused on skates (Amendment 9), SNE Habitat Areas of Particular Concern and GSC Habitat Management Area, and recreational groundfish management. Looking forward to the April NEFMC meeting, DMF briefed the MFAC on habitat and scallop leasing issues. Lastly, DMF provided the MFAC with an update on recent decisions issued in Atlantic sea herring litigation regarding buffer zones; Atlantic mackerel management; and upcoming Council appointments. Melanie welcomed questions from the commission.

Bill Amaru stated he was happy to see the results of the egg larvae maps for mackerel, and is glad to see it will lead to a more comprehensive management plan in the future.

Mike Pierdinock thanked Melanie and DMF staff for leading the way on mackerel. Mike stated that using eVTR data from for-hire and commercial vessels could prove very useful. Melanie hopes that this is not a single FMP or species issue and hopes this will be part of conversations at the summit. Mike stated he would be in attendance at the summit and will voice his concerns.

### **OTHER BUSINESS**

#### *Commission Member Comments*

Sooky Sawyer asked what the status is of the LOA for the ropeless project in the closed area. Dan stated it is still in process and no final decision has been made.

Shelley Edmundson thanked Dan and Bob for hosting a meeting in Fairhaven and hearing the concerns of the lobstermen in regards to the lifting of the trawl prohibition in Gosnold.

Tim Brady thanked everyone involved in making the season for cod a bit longer. Tim expressed frustration over the fact that the eVTR data they report is only used for calculating effort.

Bill Amaru thanked DMF for hosting a meeting with the fluke industry and hearing their concerns.

Mike Pierdinock thanked Dan and his staff for all their work and added on to Tim Brady's point - not only for-hire, there are commercial and recreational interests who want to help in being more transparent when it comes to reporting.

Ray Kane thanked the commission for their attendance and thanked DMF staff. Ray Kane stated that he would like to move the MFAC meetings to Tuesdays from

Thursdays. The next MFAC meeting is April 7 which is a Thursday, after that the meetings will be held on Tuesdays. Ray Kane asked if there was any opposition on the matter. Tim Brady stated he works on Tuesdays now, but he can do what he can to get coverage.

Ray Kane closed his comments by stating there may not be a May meeting and he hopes the meeting in June will be in person.

### **PUBLIC COMMENTS**

Phil Coates was happy to see the Division is addressing striped bass management issues. Phil closed his comments by commending the DMF staff for their hard work.

Beth Casoni thanked DMF for their efforts in getting the weak rope and gear marking supplies out to the industry. She would like to see the north shore events for gear distribution set up since the lobstermen are anxious to get their gear squared away for the season. Beth stated MLA has submitted comments in regards to Pilgrim releasing contaminated water into the CCB.

### **ADJOURNMENT**

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

## **MEETING DOCUMENTS**

- March 10, 2022 Business Meeting Agenda
- January 21, 2022 Draft Meeting Minutes
- Recreational BSB, Fluke, and Scup Limits Emergency Regulations Memo
- Recreational GOM Cod and Haddock Emergency Regulations Memo
- Recreational GB Cod Emergency Regulations Memo
- Student Lobster Permit Determination Memo and Policy
- Quota Managed Species Public Hearing Notice and Draft Regulations
- March 1 Shellfish Advisory Panel Meeting Materials
- ASMFC Meeting Summaries
- Whelk Petition
- Issue Brief Amendment 8 Suit and Inshore Buffer Zone

## **UPCOMING MEETINGS**

**April 7, 2022**

**Location TBA**

**May 12, 2022**

**Location TBA**

**June 9, 2022**

**Location TBA**