

MARINE FISHERIES ADVISORY COMMISSION

Tuesday, May 21, 2024

Via Zoom

In attendance:

Marine Fisheries Advisory Commission: Raymond Kane, Chairman; Michael Pierdinock, Vice-Chairman; Kalil Boghdan; Shelley Edmundson; Bill Amaru; Chris McGuire; Bill Doyle; Tim Brady (left early); and Arthur “Sooky” Sawyer (arrived late).

Division of Marine Fisheries: Daniel McKiernan, Director; Michael Armstrong, Deputy Director; Bob Glenn, Deputy Director; Kevin Creighton, Assistant Director; Story Reed, Assistant Director; Jared Silva; Nichola Meserve; Melanie Griffin; Ben Gahagan; Anna Webb; Tracy Pugh; Derek Perry; Kelly Whitmore; Scott Schaffer; Gabe Lundgren; Steve Wilcox; and Jacob Dorothy.

Massachusetts Environmental Police: Acting Col. Patrick Moran

Members of the Public: Phil Coates; Lizzie Roche; and Jillian Swinford.

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Ray Kane called the May 21, 2024 Marine Fisheries Advisory Commission (MFAC) business meeting to order. The Chairman had no introductions or announcements. Jared Silva called roll call attendance. Sooky Sawyer was absent to start the meeting but arrived late.

REVIEW OF MAY 21, 2024 BUSINESS MEETING AGENDA

Chairman Kane asked if there were any amendments to the May 21, 2024 MFAC business meeting agenda. No amendments were proposed.

REVIEW AND APPROVAL OF APRIL 23, 2024 DRAFT BUSINESS MEETING MINUTES

Chairman Kane asked if there were any amendments to the April 23, 2024 draft business meeting minutes. Sooky Sawyer recalled there was discussion at the April meeting regarding Director McKiernan’s willingness to rescind regulations implementing Addendum XXVII to the American Lobster Interstate Fishery Management Plan should the other states opt to not adopt compliant measures. However, Sooky did not recall this being reflected in the meeting minutes. Jared Silva and Shelley Edmundson confirmed this was captured in the first paragraph on page six of the April meeting minutes.

There was no further discussion. The Chairman requested a motion to approve the minutes. **Shelley Edmundson made the motion to approve the April 23, 2024 business meeting minutes. Bill Amaru seconded the motion. A roll call vote was taken and the motion passed unanimously 8-0-1 with Chairman Kane abstaining.**

CHAIRMAN'S COMMENTS

Chairman Ray Kane thanked the MFAC for their continued attendance at monthly business meetings and DMF public hearings.

LAW ENFORCEMENT

Acting Colonel Pat Moran provided the comments for the Massachusetts Environmental Police (MEP), which focused on substantial state-wide enforcement and compliance challenges in the recreational striped bass fishery.

Director McKiernan asked if there were certain hotspots for non-compliance, noting a recent Facebook post by MEP regarding violations on the Merrimack River. Moran stated the shore fishery along the Merrimack River in Lawrence and Lowell has been a hot spot this season and added that fishery violations exposed other criminal activity (e.g., drug possession). However, Pat suspected violations of striped bass rules were occurring state-wide and the frequency of violations observed along the Merrimack River was being driven in part by MEP's ability to regularly patrol this area at night.

Chairman Kane, Acting Colonel Moran, Director McKiernan, Bill Amaru and Jared Silva discussed the viability of other tools to deter non-compliance.

Kalil Boghdan posed three questions: (1) can MEP reallocate resources from the inland bureau to the coastal bureau to address acute enforcement issues; (2) does MEP seize recreational fishing gear used in committing a fishery violation; and (3) is the fishing gear observed generally legal. Moran stated: (1) resource sharing between inland and coastal regularly occurs, particularly in the Merrimack River area but the ability to borrow inland resources is limited because of their seasonal priorities; (2) MEP does seize recreational fishing gear; and (3) nearly all of the citations have been size limit and bag limit violations, and the fishing activity is generally otherwise lawful (e.g., permitted, use of conforming gear).

Mike Pierdinock and Bill Amaru speculated this may be an organized criminal effort to sell fish into the black market.

Chairman Kane sought and received unanimous support from the MFAC to send a letter to Secretary Tepper requesting additional funding for MEP. Jared Silva stated he would draft a letter of the Chair's signature for review at the June MFAC business meeting.

DIRECTOR'S COMMENTS

Director McKiernan stated that the next MFAC meeting will be held on June 18 at DMF's Cat Cove Marine Lab in Salem. Following the meeting, DMF will be hosting a social event at near by Winter Island State Park to celebrate Mike Armstrong's career with DMF.

Dan then discussed meetings regarding Gulf of Maine wind energy development and to

address questions regarding wind energy demand, infrastructural needs, and to the eight lease sites recently identified by the Bureau for Ocean Energy Management. While wind energy development in this region is about a decade out, Dan expects the impact of development on fishing will be more pronounced than it is in Southern New England due to the use of floating platforms.

Bill Amaru opined that there is a need to monitor the impacts of offshore wind energy on fish abundance and availability. Bill noted the correlation between Vineyard Wind recently coming online and the poor performance of the inshore longfin squid fishery this year.

Director McKiernan agreed that there is a need to monitor potential impacts and better understand the relationship between offshore wind energy and marine resource health. However, he pushed back on reading too much into any single correlation. With regards to the longfin squid fishery, the fishery tends to have a high annual variance in performance and is highly influenced by the relationship between water temperature and wind direction. The recent northeast blow has likely impacted the performance to date. Bill agreed that other factors have likely influenced squid fishery performance. However, he views 2024 as a threshold year for viewing the impacts of wind energy on marine resources south of Cape Cod.

Chairman Kane asked if DMF staff attended recent meetings in the Mid-Atlantic regarding longfin squid. Dan stated he was not aware of the specific meeting the Chairman was referring to and that staff did not attend.

ACTION ITEMS

Director McKiernan provided an overview of the process regarding the three action items on the May 21 MFAC business meeting agenda and the use of DMF's emergency authority to implement these changes for the start of the fishing season.

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

Nichola Meserve stated the recommendation is to adopt as final regulations those limits that were implemented on an emergency basis (Table 1). Nichola then provided background on why these limits were changing for 2024. For summer flounder, there was a mandatory 28% coastwide harvest reduction and the adjustment to the season and the size limit increase for vessel-based anglers would achieve this requisite reduction for Massachusetts. For scup, there was a mandatory 10% coastwide harvest reduction and the minimum size increase for vessel-based anglers would achieve this across the northeast region (New York, Connecticut, Rhode Island, and Massachusetts). Lastly, for black sea bass, DMF was amending the season in a manner that was not expected to affect harvest but would allow the fishery to continue to open—as it historically has—on the third Saturday in May.

Mike Pierdinock noted the recreational fishing community strongly supports DMF's actions to maintain smaller minimum sizes for shore-based anglers. Mike P. then noted that fishing has been slow to start the season and this likely portends lower than normal catch, particularly for black sea bass. Accordingly, he was curious if there was a mechanism to

increase harvest opportunity in Massachusetts later in the season or next season. Nichola explained that such an opportunity was not within the framework of the fishery management plan for these species, the recreational harvest limits for these species are set on a coastwide basis, and limits are adjusted on a set schedule and coastwide basis to respond to harvest in recent years compared to the harvest limit for the coming year.

Table 1. Recommended Final Limits for Black Sea Bass, Scup, and Summer Flounder

	Mode	Open Season	Bag Limit	Minimum Size
Summer Flounder	Private Vessel & For-hire Vessel	May 21 – September 29 May 24 – Sept 23	5 fish	16.5" 17.5"
	Shore			16.5"
Scup	Shore	May 1 – Dec 31	30 fish	9.5"
	Private Vessel			10.5" 11"
	For-hire Vessel	May 1 – June 30	40 fish	10.5" 11"
		July 1 – Dec 31	30 fish	
Black Sea Bass	All Modes	May 20 – September 7 May 18 – September 3	4 fish	16.5"

There was no further discussion. The Chairman requested a motion be made. **Mike Pierdinock made a motion to adopt the Director’s recommendation. Bill Doyle seconded the motion. A roll call vote was taken and the motion passed unanimously 8-0-1 with Chairman Kane abstaining.**

Recreational Filleting of Striped Bass

Director McKiernan provided background on the regulatory recommendation. The regulatory action was precipitated by Addendum II to the Interstate Fishery Management Plan. This addendum requires rack retention for any authorized at-sea filleting, which Massachusetts accommodates for its for-hire fleet. Additionally, as part of this rule making initiative, DMF sought to better clarify when all other anglers may fillet striped bass.

Nichola Meserve briefly reviewed the requirements set forth in Addendum II regarding the recreational filleting of striped bass. Nichola then discussed the Director’s recommendation. With regards to filleting on for-hire trips, DMF will continue to allow legal-sized fish to be filleted for the patrons provided the rack is retained until the trip is over; no more than two fillets are possessed per patron; and at least two square inches of skin remain on the fillet. This is consistent with the recently adopted emergency regulation. Regarding the private angler mode, the emergency regulation explicitly prohibits filleting at sea or any shoreside parcel of land or roadway but allows for at-sea or shoreside evisceration, bleeding, and descaling. DMF received public comment that argued the emergency rule was overly onerous and supported enhancing shoreside

filleting opportunities, particularly given the presence of shoreside filleting stations. In consideration of this public comment, DMF was recommending the final rule to allow the shoreside filleting of striped bass, in addition to allowing the at-sea or shoreside evisceration, bleeding, and descaling of the fish. The allowance for shoreside filleting would be contingent on the fish being legal sized; the activity occurring after fishing activity is complete and all fishing gear is stowed; no more than two fillets are possessed per patron; and at least two square inches of skin remain on the fillet. Lastly, the recommendation would continue to allow the at sea filleting of striped bass by any recreational angler for immediate and complete consumption upon the conclusion of fishing and the stowage of gear.

Nichola noted that DMF was mindful that this new allowance may increase shoreside filleting and as a result may produce shoreside rack disposal issues, particularly at busy access points and fishing sites. DMF intends to monitor this situation and provide outreach and education as necessary.

Chairman Kane requested a motion be made to adopt the recommendation. **Mike Pierdinock made a motion to adopt the Director's recommendation. Sooky Sawyer seconded the motion.** The Chairman opened the floor for questions and discussion.

Bill Amaru noted the irony that DMF's recommendation on striped bass filleting follows the earlier discussion regarding striped bass poaching. However, he noted this recommendation will likely better accommodate lawful fishers and not influence the poaching observed by MEP. Accordingly, he supported the recommendation. Jared Silva agreed with Bill Amaru's assessment and added that the recommendation regarding shoreside filleting provides MEP with an opportunity to inspect catch at sea and at landing but does not impose the burdens associated with having to take the fish home before processing it.

Chairman Kane stated there was some discussion at the ASMFC regarding the use of smart phone photographic technology to more broadly accommodate at sea filleting while ensuring size standards are met. He supported this idea and advocated for DMF to advance it.

Chairman Kane, Nichola Meserve, and Jared Silva discussed how DMF's recommendation was compliant with Addendum II. Nichola noted that prior to Addendum II, Massachusetts was the only state that allowed any at sea filleting without a rack retention requirement.

Mike Pierdinock supported the action and agreed with assessment that this would not likely influence those individuals who are already poaching striped bass.

Chris McGuire noted his support for the action. He then asked about how DMF conducts outreach when it takes an emergency action. Jared Silva spoke to DMF's outreach process. The agency employs an e-mail list serve service to distribute all its notices. People can subscribe to this list-serve through our website and pick and

choose the types of information they want to receive. At present, there are about 100,000 unique subscribers and nearly all of those subscribers have opted to receive information about recreational fishing. Additionally, DMF can import permit holder lists into this list-serve system, which is routinely done for items of particular interest (like these recreational fishing regulations). DMF staff, including folks from its Recreational Fisheries Program, routinely engaged with recreational fishers, fishing clubs, and tackle shops. Lastly, DMF annually promotes and publishes outreach materials (e.g., recreational fishing guide, recreational fishing limit posters). Ben Gahagan added that DMF's Recreational Fisheries Program is working towards sending out an annual welcome letter to all recreational permit holders and this welcome letter will include information on hot button management and science issues. Additionally, DMF promotes these types of measures on our social media accounts.

Chairman Kane asked about the ability for DMF to send out these e-mails with read receipts or otherwise determine if recipients are actually reading their e-mails. Jared Silva stated DMF can analyze metrics through the e-mail list serve program but this is not routinely done.

Chris McGuire questioned if the annual welcome letter would include information about non-compliance, recognizing balancing the tone of the message may be difficult. Ben's preference was to conduct outreach separate from the welcome letter to discuss compliance issues. However, he was happy to discuss this further with Chris.

During this item, Tim Brady lost his internet connection and left the meeting.

There were no further comments. Chairman Kane called the motion to a vote. **A roll call vote was taken and the motion passed 7-0-1 with Chairman Kane abstaining.**

Matching Federal Recreational Fishing Limits for Gulf of Maine Cod and Haddock

Jared Silva stated that DMF took out to public hearing a proposal to complement eventual federal regulations for the FY24 recreational Gulf of Maine cod and haddock limits. The federal rule making process was ongoing with NOAA Fisheries recently publishing proposed regulatory changes (Table 2). As specific limits have not yet been finalized at the federal level, DMF's recommendation was to adopt the final limits eventually implemented by NOAA Fisheries. DMF anticipates NOAA Fisheries will adopt the proposed regulation as a final regulation in July.

Table 2. NOAA Fisheries Proposal to Adjust Recreational Gulf of Maine Cod and Haddock Limits for Fishing Year 2024

Stock	Mode	Open Season	Bag Limit	Size Limit
GOM Cod	All Anglers	September 1 – October 31	1-fish	22" 23"
GOM Haddock	All Anglers	May 1 – February 28 April 1 – April 30	15-fish	18"
	For-Hire Private Anglers	May 1 – February 28 April 1 – April 30	10-fish	17"

Chairman Kane asked about the size at maturity for Gulf of Maine haddock. DMF did not

have this information offhand.

Chairman Kane requested a motion be made to adopt the recommendation. **Mike Pierdinock made a motion to adopt the Director's recommendation. Sooky Sawyer seconded the motion.** There were no additional questions or comments. Chairman Kane called the motion to a vote. **A roll call vote was taken and the motion passed 6-0-2 with Bill Amaru and Chairman Kane abstaining.**

FUTURE PUBLIC HEARINGS

Prohibit Retention of Oceanic Whitetip Reef Sharks

Nichola Meserve stated that the NOAA Fisheries and the ASMFC's Coastal Shark Management Board recently moved to prohibit the retention of oceanic whitetip sharks. While this shark species is not commonly caught in Massachusetts state waters, DMF is required to take a conforming action to similarly prohibit the retention of this species. Accordingly, this regulatory adjustment will be included on a larger public hearing docket later in 2024 for implementation in early 2025.

DISCUSSION ITEMS

Interstate Fisheries Management

DMF provided the MFAC with a presentation covering the spring 2024 ASMFC meeting. Director McKiernan reviewed what occurred at the American Lobster Board meeting. This included: a Technical Committee (TC) report regarding the implications of proposed federal actions to open parts of Closed Area II on the northern edge of Georges Bank to sea scallop fishing; a review of work by the Plan Development Team to evaluate alternative measures to trap caps for LCMA3; discussions regarding potential trade implications related to the implementation of Addendum XXVII in 2025 and efforts to have Canada adopt complementary rules for their Gulf of Maine fishery; and an update on the lawsuit in Maine regarding the FMP's requirement for electronic trackers onboard vessels with a federal lobster trap permit.

Chairman Kane, Director McKiernan, and Story Reed discussed potential technological challenges should the vessel tracking requirement be amended. Story noted there is an ASMFC committee looking into this and working with existing tracking device vendors to determine what the challenges and implications may be.

Chris McGuire was interested in whether the TC's report provided any information to inform the concept of seasonal access to parts of Closed Area II. Chris chairs the New England Fishery Management Council's Habitat Advisory Panel and the body was scheduled to meet to discuss this pending action. Dr. Tracy Pugh concluded that if a goal was to open areas in a manner that would avoid interactions with the lobster resource and the lobster fishery, then she would recommend maintaining a closure during the late summer and fall. Tracy and Chris also discussed the relationship between seasonal lobster abundance in the area and reported lobster fishing effort.

Nichola Meserve reviewed the Striped Bass Board meeting. The Board reviewed

Addendum II implementation plans. The next milestone for management will be the review of the stock assessment due at the fall meeting. If the assessment demonstrates there is less than a 50% chance of rebuilding by 2029, then the Board can act by specification to change fishing limits. The Board also developed a working group to focus on reducing recreational fishing mortality. This working group will report back to the Board at the fall meeting with the goal of informing how best to manage for release mortality to appreciably affect overall fishing mortality.

Kalil Boghdan expressed his serious concern about the long-term health of the striped bass stock particularly given the persistent environmental factors that are negatively impacting on the species reproductive capabilities. Accordingly, he was curious about worst case scenario planning. Nichola noted that the Board shares similar concerns. The situation affecting striped bass is not being treated as business as usual by the Board and management mechanisms have been built into the Interstate Fishery Management Plan to allow for expedient action. Additionally, the Board is working to develop improved tools to address release mortality. Nichola added that there are also discussions occurring about whether the current stock assessment reference points are realistic given changing environmental conditions impacting young-of-the-year production. Kalil added that he is most concerned about what can be done beyond managing for fishing mortality and to address the various environmental conditions impacting reproduction. Kalil cited work done in the past to address pollution in the Chesapeake Bay, but noted it is far more nebulous to address the current environmental issues affecting young-of-the-year production and recruitment (climate, invasive species).

Mike P. noted that he has supported and continues to support reviewing the appropriateness of the current reference points in light of environmental and climatic changes.

There was discussion about related to managing for release mortality. Mike Pierdinock opined that the formation of this ASMFC working group likely portends substantial changes to the terminal tackle and the gear that fishers will be allowed to use in the future. Bill Amaru advocated for phasing in a prohibition on barbed hooks. Chairman Kane hoped this important discussion would not devolve into recreational fishers finger-pointing at each other over the impacts of their preferred gear, but rather a concerted effort to reduce release mortality across the board. Nichola explained that the Board established this working group as part of their due diligence to assess how to best manage for release mortality and have informed discussions about specific regulatory actions. The striped bass fishery is unique in that the primary source of fishing mortality now comes from fish released back to the water that cryptically after release as a result of trauma endured while being caught, handled, and released.

Director McKiernan noted that DMF is at the forefront of a lot of the scientific work into release mortality that the Board will be considering. Dan invited Ben Gahagan to speak to this research. Ben Gahagan stated DMF is examining questions related to release mortality and is doing so in phases. While there are a diversity of factors that may affect release mortality rates, the early findings show a leading factor is where the hook ends up. Gill trauma is seemingly a leading cause in post-release death and fishing multiple

hooks—particularly multiple treble hooks—is a leading cause of damage to the gills. Additionally, work needs to be done to evaluate the level of effort being conducted with various types of tackle and gear in order to strategically assess meaningful regulatory actions. DMF is also working with On the Water and renowned outdoor media personalities to produce a series of best handling practice videos.

The American Eel Board approved Addendum VI to the Interstate Fishery Management Plan to set the glass eel quota for Maine and Addendum VII to address yellow eel harvest and fishing mortality through quotas and a coastwide cap.

DMF's Deputy Director Mike Armstrong received the ASMFC's Hart Award for his career-long contributions to fisheries management and science.

Lastly, the ASMFC was currently reviewing two requests from DMF regarding adding both smooth dogfish and winter flounder to consecutive daily trip limit programs. Nichola anticipated DMF would hear back from the ASMFC on these requests by no later than the summer meeting.

Recent Adjudicatory Hearings

Jared Silva provided an update on the various adjudicatory proceedings that have been initiated and resolved since 2022.

Horseshoe Crab Stock Assessment

Derek Perry provided the MFAC with an overview of the most recent 2024 horseshoe crab benchmark stock assessment. The stock status coastwide has improved from neutral to good since the last benchmark stock assessment in 2019. At a regional level, the Delaware Bay improved from neutral to good compared to the 2019 benchmark assessment while the status of the other regions (Northeast, neutral; New York, poor; Southeast, good) remained unchanged from 2019.

Kalil Boghdan, Bill Amaru, and Derek Perry discussed biomedical mortality. Derek explained that the assessment assumes a 15% mortality rate for all crabs that are bled and adds onto this any crabs that are observed dead during the biomedical process. Therefore, the final mortality figure for any year is generally just above 15% of harvest. Bill Amaru opined that the 15% mortality rate far exceeds what he observes when returning crabs to the water post bleeding. Derek explained that the mortality rate figure also includes data from studies that document crabs dying days after they are returned to the water, which would not be observed at release. However, Derek agreed that the assumed 15% mortality rate is likely higher than actual post-bleeding mortality. Dan noted that DMF has put together a design for a mark and recapture study to better assesses post-bleeding mortality and is hopeful there will be funding to begin this study next year. Derek added that DMF does have figures for mortality observed up until release based on sampling conducted on harvest vessels, at the biomedical laboratories, and on the release vessels.

Kalil and Derek then discussed the spawning beach survey. Derek explained that it is largely a volunteer-based survey that counts the number of crabs observed using quadrat during lunar tides periods in the spring.

Shelley Edmundson and Derek discussed the assessment design and why certain survey data are not being used.

Director McKiernan stated there is going to be a horseshoe crab summit this year in the Delaware Bay region. DMF intends to monitor the discussion and deliverables from this meeting as the challenges affecting horseshoe crab management are similar coastwide.

OTHER BUSINESS

Mike Pierdinock spoke about ongoing DNA collection efforts and studies for Atlantic bluefin tuna and the Recreational Biological Sampling Program for Atlantic cod and Gulf of Maine winter flounder. Chirs McGuire stated his strong support for these efforts.

Bill Doyle stated that a challenge related to addressing recreational striped bass fishing mortality is the lack of effort controls. He argued that there is need to consider management strategies to address effort.

Shelley Edmundson discussed efforts being made by the Whelk Research Fleet Project to collect sex ratio data.

Bill Amaru stated that inshore scallop fishing and squid fishing along Cape Cod has been slow going this spring. He was hopeful the turn in the weather would produce a run of large squid.

Chairman Kane thanked MFAC members, DMF staff, and MEP for their engagement.

PUBLIC COMMENTS

Phil Coates raised his longstanding concerns regarding the status of the striped bass resource and the management of the commercial fishery in Massachusetts. He noted that DMF has not taken any action on a petition that he previously submitted to limit entry into the commercial striped bass fishery and he was hopeful DMF and the MFAC would consider it.

ADJOURNMENT

Chairman Ray Kane requested a motion to adjourn the May 21, 2024 MFAC business meeting. **Kalil Boghdan made a motion to adjourn the meeting. The motion was seconded by Bill Doyle. The motion was approved by unanimous consent.**

MEETING DOCUMENTS

- May 21, 2024 MFAC Agenda
- April 23, 2024 Draft MFAC Minutes
- Recommendation on Recreational Black Sea Bass, Scup, and Summer Flounder Limits
- Recommendation on Striped Bass Filleting
- Recommendation on Recreational Gulf of Maine Cod and Haddock Limits
- Future Public Hearing to Prohibit Retention of Oceanic Whitetip Sharks
- Presentation on Spring 2024 ASMFC Meeting
- Spring 2024 ASMFC Meeting Summary
- Winter Flounder Conservation Equivalency Request to ASMFC
- Smooth Dogfish Consecutive Daily Trip Limit Request to ASMFC
- Recent Adjudicatory Hearing Presentation
- Horseshoe Crab Stock Assessment Presentation

UPCOMING MEETINGS

11AM
June 18, 2024
Cat Cove Marine Lab
92 Fort Street
Salem, MA