

SHELLFISH ADVISORY PANEL
Meeting Minutes
November 18, 2021 10:00am
Held In-Person at the Hampton Inn, Plymouth

In attendance:

Shellfish Advisory Panel: Sean Bowen; Seth Garfield; Allen Rencurrel; Amy Croteau; Renee Gagne; Ron Bergstrom; Alex Hay; Dale Leavitt; Josh Reitsma; Jim Abbott; Jim Peters; Lisa Rhodes (proxy for DEP Martin Suuberg); Michael Moore; Mike Trupiano; Carolyn Dykema. [see website for member bios and industry segment they represent]

Division of Marine Fisheries: Daniel McKiernan, Director; Kevin Creighton, CFO; Story Reed; Jared Silva; Thomas Shields; Julia Kaplan; Chrissy Petitpas; Greg Bettencourt; Greg Sawyer; Jeff Kennedy; and Mark Rousseau

Members of the Public: Jude Ahearn; Mark Begley (Grower/MAA EB); Scott Soares (MAA); and Peter Prime

INTRODUCTIONS AND ANNOUNCEMENTS

DMF Director Daniel McKiernan called the November 18, 2021 Shellfish Advisory Panel business meeting to order. Dan introduced various DMF staff and provided some background on the formation of the Shellfish Advisory Panel (Panel). Dan then discussed the formation of the Massachusetts Shellfish Initiative, as well as the Assessment Report and Strategic Plan which were products of the work stemming from the Initiative, and how codifying the Panel and its makeup was a major recommendation of the MSI Strategic Plan.

The Director then moved on to discuss the future of the Panel and described what he hopes the Panel will accomplish based on the strategic plan. Dan closed his remarks by thanking the attendees of today's meeting.

Review of the Enabling Statute

Dan then discussed the enabling state statute for the Panel. He went into detail regarding the representation that ultimately makes up the Panel.

INTRODUCTION OF SHELLFISH ADVISORY PANEL MEMBERSHIP

Dan then facilitated discussion from each member of the Panel having them introduce themselves, as well as give a brief overview of their priorities. Many members provided a background of their education and work experience relating to shellfish and added their expectations for the Panel.

Some members of the public were able to introduce themselves as well. Dan then welcomed any questions from Panel members. There were no questions, so he turned the floor over to Jeff Kennedy.

SHELLFISH PROGRAM UPDATES AND EMERGING ISSUES

Shellfish Program Manager Jeff Kennedy provided the Panel with a presentation regarding shellfish program updates and emerging issues. Jeff started his presentation by discussing classification issues within – and adjacent to – designated mooring areas. Jeff provided an overview of what goes into a mooring area assessment. He discussed how the mooring area pollution assessments are conducted and how classification assignments are determined. Jeff then displayed a list of new areas recently reclassified, most of which are closed during boating season due to the new mooring area designation. He stated DMF has not completed the process of identifying and delineating areas and conducting pollution assessments for those areas.

Renee Gagne asked that the list of closed and open areas be posted to the website. Jeff Kennedy stated the list along with the presentation will be posted to the website.

Dan McKiernan asked Jeff to go into further detail about the delineation process. Jeff described how DMF identifies mooring areas based on National Shellfish Sanitation Program (NSSP) model ordinance (MO) criteria and what needs to be present (i.e. pump out boats and pump out data; is the area an EPA No Discharge Zone, patrol/enforcement logs, etc.) to understand whether an area can stay open. Jeff fielded some questions from Panel members regarding the specifications on what would close an area to shellfishing, how the dilution is calculated, and whether an area could remain open if the dilution remains below 14 CFU/100 ml. Jeff closed his comments regarding the mooring area delineating and pollution assessment process by stating it could be an issue of focus for the Panel.

Jeff then moved on to discuss classifications adjacent to wastewater treatment plants. Jeff went into detail regarding the NSSP mandates, guidance, and impacts. Jeff displayed a map of the coast of Massachusetts which showed the different shellfish sanitary classifications across the state. Jeff explained these classifications, as well as the process of depuration for new Panel members.

Jeff discussed the NSSP and why it's crucial the state comply with the NSSP MO criteria. Jeff then discussed the three-bay system (Duxbury, Kingston, & Plymouth), its current classifications along with work to determine the proper classification around wastewater treatment plant outfalls state-wide, including the contract DMF has recently established with Dr. Chen at SMAST/UMass Dartmouth modeling flows around wastewater treatment plant discharges impacting Commonwealth shellfish growing areas.

A member of the public brought up the difficulty concerning shellfish classification area status for recreational harvesters, specifically knowing if an area is open or closed when

in the field. Jeff stated this is something DMF is actively working on – easing the access to know which shellfish areas are safe to harvest. Jeff welcomed questions from the Panel. Panel members asked if the reclassification stems from public health issues or requirements/interpretations from the FDA. Jeff stated that it stems from changes in the NSSP.

MASSACHUSETTS SHELLFISH INITIATIVE STRATEGIC PLAN

Jeff Kennedy provided the Panel with an overview of the of the Massachusetts Shellfish Initiative (MSI). He described purpose and vision of the MSI going into detail about the objectives and recommendations developed in the MSI Strategic Plan.

WORK PRIORITIES & DELIVERABLES FOR NEXT PANEL MEETING

Dan asked Panel members to discuss their priorities and what they would like to address going forward. Below is a brief summary of the priorities of the individual members:

Ron Bergstrom: would like to see a program to market shellfish while maintaining the public health aspect. Wants to keep areas that are currently open to shellfish harvest open and ensure that private aquaculture sites do not take productive shellfish areas away from the wild harvesting public.

Renee Gagne: mooring issues are her number one priority, and would like to get more support for the shellfish officers training course administered by MSOA. For example, she would like to get an outside entity to conduct the constable training program/more professional development.

Amy Croteau: would like to see DMF Shellfish Program not be understaffed, and communication gaps repaired between industry and local and state enforcement authorities.

Mike Trupiano: would like to see the depuration plant be used for other species besides softshell clam, as well as conditioning services such as de-sanding. He was also curious as to where we stand with trade with Europe and asked about commercial access to oysters on the North Shore.

Jim Abbott: expressed concern over accessibility to the resources for recreational fishermen, especially disabled persons, and general education/access to the water as recreational fishermen.

Mike Moore (DPH): boost consumer confidence in regards to seafood safety within Massachusetts.

Lisa Rhodes (DEP): DEP is looking for areas to assist DMF, Director Dan McKiernan connected Lisa to Allen Rencurrel as he would like to go surf clamming north of P-Town

and the town has used the Wetlands Protection Act to prevent commercial surf clamming in municipal waters.

Carolyn Dykema: wants to learn more about the shellfishing industry in Massachusetts as well as the day-to-day challenges the industry faces.

Dale Leavitt: streamline permitting process for aquaculture, would like to expand bulk tagging to harvesters who are not also wholesale dealers.

Allen Rencurrel: would like to see Hatches Harbor in Provincetown open to surf clamming.

Alex Hay: wants the state to continue to be proactive working with the Interstate Shellfish Sanitation Conference (ISSC), he reiterated the importance of growing area classifications and communicating open or closed status with industry. As another priority, he would like dealers to be copied on closure notices and if possible, would like DMF to notify dealers as soon as possible when planning on a weather related pre-cautionary closure.

Seth Garfield: agreed with Dale's bulk tagging opinion, get better handle on value of recreational harvest, and better communications with recreational harvesters. He would also like to see more consistency between towns on local aquaculture regulations and agreed that the issue of aquaculture license transferability should be revisited.

Sean Bowen: ensure regulatory framework for aquaculture that ensures economic efficiency and sustainability; support hatchery and veterinary resources for aquaculture industry.

Josh Reitsma: would like to see sufficient ISSC representation by industry and finding ways to financially support industry presence at ISSC biennial meetings; increasing opportunities for direct sales of shellfish to the public. Emphasized HAB testing as a huge limitation because states do not have capacity to test emerging biotoxins of concern.

Jim Peters: water quality and environmental protection (preventing habitat loss) are his top priorities. Would like to see better communication/relationships between tribe and towns. Dan McKiernan noted there is a desire to clarify native fishing rights in relation to state and local regulations.

Bill Doyle: expressed concern over water quality and invasive species. Home rule standardization to ensure a more balanced playing field between coastal municipalities. Would like to see more equitable/balanced local management of shellfisheries.

Tom Shields, DMF-SAP Liaison, then provided the Panel a presentation which summarized the top priorities submitted by members prior to the meeting. He placed the priorities of the Panel under certain goals of the MSI Strategic Plan.

OTHER BUSINESS & PANEL MEMBER COMMENTS

Dan discussed his priorities, as being bulk tagging, 208 plans (Cape Cod area-wide water quality management plans), and the “Cutler Bill”. Dan then asked Alex Hay to speak to certain videos he found helpful training his employees. Alex stated having a training resource widely available for growers and dealers to view would be very valuable. Chrissy Petitpas, DMF Aquaculture Coordinator, discussed a possible video module tool that could be provided by DMF. The idea would be to have an interactive video module which growers or harvesters could complete online, that once completed a DMF certification would be issued verifying the permit holder had successfully completed all training. A testing component in the training module would help DMF identify areas where additional education and outreach are needed.

Renee Gagne stated she would like to have a virtual meeting to discuss the ramifications of amendments to the law governing transfers of license sites by growers (Cutler Bill) to maximize attendance and input from the public.

Dan would like to have a white paper drafted examining issues relating to the transfer of aquaculture sites and how each town handle it – to determine if there is variability among municipalities. Bill Doyle suggested when DMF starts the process to produce a white paper, DMF should send a letter to stakeholders notifying them of the process.

Dan then moved on to ask the panel about harvest data collection challenges within the recreational fishery. Amy Croteau discussed the system that her town of Barnstable uses to collect data for the recreational fishery. Ron Bergstrom stated the recreational shellfish economic value is difficult to capture. Renee Gagne emphasized the importance of understanding the abundance of recreational shellfishing.

Tom Shields and Renee Gagne discussed possibility of surveying the MSOA membership regarding how individual municipalities collect and track recreational harvest data. Josh Reitsma discussed a project funded by Sea Grant which will have a report on the recreational harvest data in Barnstable County and possibly Plymouth/Duxbury. He expects the data to be available sometime in the Spring.

Dan and Jeff suggested that DMF take some time to figure out what to tackle and then invite some members of the Panel to be on a sub-committee to add guidance on other details to be included within the white paper. Josh Reitsma suggested the document be referred to as “a review” rather than white paper.

There was discussion amongst Panel members about automated rain gauges, and closure notices. Members requested the closure notices be sent to dealers. Seth Garfield requested that a rain gauge be set up in Cuttyhunk. There was continued discussion among the Panel as to when the next meeting will be. Dan opined the next two meetings will be in February and May.

Renee Gagne requested that the list of towns and shellfish growing areas slated for the upcoming FDA growing area evaluations be provided to the Panel.

PUBLIC COMMENT

Scott Soares thanked DMF staff for their work. Scott then briefly discussed the issue concerning transfers of municipal site licenses, and concurred with Alex Hay's comment that in order to maintain objectivity in public sentiment we should assess the primary issues surrounding the legislation regarding municipal site license transfers without continuing to make reference to the legislation's sponsor from three years ago.

MEETING DOCUMENTS

- November 18, 2021 SAP Business Meeting Agenda
- DMF Updates & Emerging Issues Presentation
- MSI Assessment Committee & Strategic Plan Presentation
- Shellfish Advisory Panel Priorities Presentation

UPCOMING MEETINGS

- To be determined at a later date

APPENDIX
SAP Member Priorities
Shellfish Advisory Panel Meeting
November 18, 2021

Prior to the November 18th meeting in Plymouth, twelve SAP members emailed their three priorities that they think SAP should address. Their listed priorities are provided below.

Joshua Reitsma

Below are 3 of the priority items I had some industry reach out about (not necessarily in order of importance):

1. SAP, DMF, DPH to work with shellfish stakeholders to collectively evaluate possible solutions for direct to consumer sales, with a focus on lessons learned from other states, and/or modifying the dealer definition to make it easier for shellfishermen to safely sell their product. Incentivize opportunity to do so with expanded training and permitting options.
2. DMF and municipalities collaborate to identify ways to bolster closure notification procedures outlined in municipal contaminated area management plans, with consideration for: - Review of systems like Barnstable's "One-Call" for phone and text alerts - Expedited notifications while respecting municipal-specific closures - Mandatory training for municipal staff/constables to support broad implementation of shellfish closure notification
3. Increase state capacity for the in-state testing of shellfish human health hazards: - prioritize funding toward the utilization of existing resources with sister agencies and state universities. Conduct an evaluation of laboratory capacity across state agencies and state universities to determine how existing resources may be leveraged to meet both research and regulatory needs, including: - Evaluate the need for fee-for-service or ISA agreements to utilize resources across agencies/institutions for varied needs. - Evaluate staffing and training needs to certify existing laboratory staff/facilities and maintain NSSP proficiencies of laboratory staff.

Michael DeVasto

Top 3 Priorities

- Evaluate and recommend potential changes to regulations/ guidelines for direct-to-consumer sales opportunities in coordination with NSSP, with expanded training and permitting.
- Prioritize shellfish disease research/monitoring. (neoplasia in hard shell clams)
- Strengthen regulation and/or enforcement in labeling shellfish sales that may allow the use of emerging technology at point of retail sale and use of emerging tagging technology at point of harvest improve traceability

Allen Rencurrel

The three things I would like the SAP to focus on are:

1. Hatches Harbor in Provincetown, MA;
2. Small surf clams at Horseneck Beach in Westport, MA; and
3. Ocean acidification in southeastern MA

Ronald Bergstrom

Priorities

Keeping Massachusetts waters open to shellfishing to the maximum extent possible.

Limiting the appropriation of viable shellfish habitat for private aquaculture.

Prioritizing the marketing of fresh, locally grown and harvested shellfish

Amy Croteau

Top priorities: help move objectives identified in the MSI- specifically those pertaining to DMF to start, more formal participation with ISSC items, help bridge communication gaps between fisheries enforcement and those actively engaged in the fisheries.

Adjust as needed to suit what goes to print.

Alex Hay

My top three priorities:

- Communication/relationship/strategy between MA DMF/Industry and the ISSC (and related FDA, MA DPH)
- Growing area/harvest area classification status – looking forward
- Communication with industry needs – looking forward

Dale Leavitt

As for priority areas, I have two that immediately come to mind and will work to come up with a third, once I review more of the material.

Priority 1 (a long term effort): After having to submit somewhere on the order of 12 separate but highly similar applications to permit my Mattapoisett farm site, I can see there is a dire need for **permit streamlining**, starting at the town level and working its way to the federal level. Everyone wants the same information but most require it in their own format. That is extremely cumbersome and often confusing for the applicant. Honestly, I can't imagine someone with no prior knowledge of the regulatory/permitting environment actually making

their way through the process without external assistance, i.e. a consultant. That is a heavy burden on someone starting out in the shellfish world.

Priority 2 (a short term effort): The pilot bulk tagging program for harvester/dealer's has been successful (I assume) and it is now time to **extend the bulk tagging allowance** into the rank and file harvester's who are selling large (or small) quantities to one buyer. We need to develop a means for all commercial shellfish aquaculture producers to bulk tag product coming off the farm, where it is appropriate to allow it to happen.

Will work on the third but may not get it reasoned out until after COB today.

Bill Doyle

Priorities

To develop a balance between Commonwealth regulations and local regulations that creates parity across municipalities.

To identify short-term and long-term opportunities for water quality improvements and to support these efforts in conjunction with the Legislature and all responsible Commonwealth government branches.

To identify increasing invasive species that pose a threat to the industry and track their migration. To provide a course of action to minimize risk.

To clearly define and adopt the charge of the panel and the steps to be taken.

Stephen Kirk

Top Three Priorities for SAP:

1. Dig in on 208 issues/concerns (MSI Strategic Plan 6.1)
 - a. Develop nutrient trading markets for restoration and aquaculture to improve water quality while supporting industry.
 - b. Need detailed economic analysis and working group of appropriate agencies and stakeholders
2. Create the conditions for shellfish restoration to be a viable tool for municipalities to improve their coastal ecological conditions (MSI Strategic Plan 6.2)
 - a. Allow planting in NSSP classification areas below approved.
 - b. Decouple municipal propagation authority for stock enhancement as mechanism for planting for habitat/ecosystem restoration
3. Funding (MSI Strategic Plan 3.1)
 - a. To DMF and broader shellfish community to effectively manage existing and emerging challenges.

Michael Trupiano

Here are a few priorities/questions as requested.

1. Better understanding and utilization of the depuration plant. There have upgrades to system in lieu of use for multiple species. Not sure where it's all at.
2. Strengthening of soft shell clam resource. Landings have been week for many years now. How do we address?
3. Oyster north of Boston. Is there a natural resource that could be utilized commercially. They may not be priorities but more questions that I think would be interesting to investigate.

Renee Gagne

Top 3 priorities for SAP

1. ISSC/NSSP Issues
 - Increase the State's capacity and commitment to regularly communicate with coastal municipalities about ongoing ISSC/NSSP issues pertaining to classification of shellfish growing areas and aquaculture/Vibrio management.
 - There needs to be better communication between DMF/DPH and the towns about changes to the NSSP Model Ordinance well before they occur. Ideally, towns should be included in state deliberations pertaining to submission of proposals to the ISSC.
 - The recent implementation of seasonal closures of mooring areas has the potential to become a major disruption to commercial and recreational shellfishing on Cape Cod and South Coast communities which could have a devastating impact on local economies.
2. Town Shellfish Constables and water quality specialists should have the opportunity to meet with FDA Shellfish Specialists while conducting Growing Area PEER evaluations.
3. The State should provide funding for the MSOA training course which is mandated under MGL Chapter 130 Section 98. Dedicated funds are needed for planning and facilitation of the two week course which is offered every 2-3 years.

Jim Abbott (communicated by phone)

Increase or at least maintain recreational shellfishermen's accessibility to the waterfront.