

SHELLFISH ADVISORY PANEL
November 20, 2023
Via Zoom

In attendance:

Shellfish Advisory Panel: Daniel McKiernan, Chair (DMF); Alex Hay; Allen Rencurrel, Amy Croteau; Sean Bowen (DAR-Proxy); Bill Doyle; Lisa Rhodes (DEP); Dale Leavitt; Jim Peters; Josh Reitsma; Todd Callaghan (CZM-Proxy); Renee Gagne; Ron Bergstrom; Seth Garfield; Mike DeVasto; and Steve Kirk

Absent: Jim Abbot; Bob Colby; Mike Trupiano; Rebecca Rausch; *Lisa Engler; and Mindy Domb.*

Division of Marine Fisheries: Bob Glenn, Story Reed, Chrissy Petitpas, Jared Silva, Julia Kaplan, Matt Camisa, Gabe Lundgren, Ryan Joyce, Scott Schaffer, Terry O'Neil, Kaley Towns, Holly Williams, Melissa Campbell, Michael Blanco, Brianne Shanks, Flo Cenci, and Margaret Leary

Department of Fish and Game: Sefatia Romeo Theken, Deputy Commissioner

Department of Public Health: Eric Hickey

Members of the Public: Andy Reinhard, Bill Chace, Bradford Morse, Beth, Buddy Wilson, Charles Applegate, Chloe Starr, Dani Ewart, Erika, Jennifer Bender, Jess Katon, Laminaria Jones, James Cullen, Lynne, Margaret Leary, Mark Begley, Mark Howards, Michelle Letts, Paul Wittenstein, Ryan Joyce, Scott Lang, Shaun Wallace, Suzanne Phillips, and Tim Cox

INTRODUCTIONS AND ANNOUNCEMENTS

DMF Director Daniel McKiernan chairs the Shellfish Advisory Panel (SAP) and called the meeting to order. He welcomed everyone to the meeting and stated that there was a Marine Fisheries Advisory Commission meeting last Friday where the Belding Award was awarded posthumously to Mike Hickey. Dan touched on staffing shortages within the shellfish program and stated DMF is working to backfill several positions.

REVIEW OF NOVEMBER 20, 2023 BUSINESS MEETING AGENDA

No changes to the agenda were requested.

REVIEW AND APPROVAL OF APRIL 27, 2023 DRAFT BUSINESS MEETING MINUTES

There were no amendments to the April 27th business meeting minutes.

Chairman McKiernan requested a motion to approve the April 27, 2023 business meeting minutes. Dale Leavitt made a motion to approve the meeting minutes.

Amy Croteau seconded the motion. A roll call vote was taken, and the motion passed 14-0-1 with Bill Doyle abstaining.

Presentation from MEPA on Special Review Procedure for Aquaculture

Tori Kim provided the Shellfish Advisory Panel (SAP) with a presentation regarding the SRP for aquaculture in the state of Massachusetts. She covered various topics which included potential state permits for shellfish aquaculture and when MEPA is required for obtaining permits. The MEPA Special Review Procedure was also discussed, and Tori noted that the SRP was limited in scope and highlighted the projects that were not covered under SRP. Tori went into detail regarding the proposed 2nd Amended SRP under the MEPA SRP. She concluded her presentation by discussing next steps and provided a timeline regarding the SRP. She welcomed questions from the Panel.

Josh Reitsma clarified the types of gear that meet the standards of permanent versus temporary gear. Tori provided clarification regarding gear types and how they are classified.

Dale Leavitt asked for clarification on why MEPA is diverging from the Army Corps requirements. Tori stated there were several factors including cumulative impacts that contributed to the decision.

Dan McKiernan ensured the Panel was aware of how to comment on the proposed amendments to the SRP.

DMF SHELLFISH PROGRAM UPDATES

Constable Training Initiative

Grace Simpkins from WHOI Sea Grant provided the SAP with an update regarding a revamp to the shellfish constable training. She provided a brief history of the course as well as issues encountered with the course prompting the need for a re-vampment. Grace discussed a proposed course that would be hybrid with specific classes being held in-person to cut down on commute times for constables. She highlighted important components of the constable course which included networking opportunities and a repository of resources that constables could continually have access to. Grace welcomed questions from the Panel.

Dan McKiernan expressed strong support for a hybrid option as well as online modules for the constable training and stated he will work to see if there is a funding avenue through legislature. He advocated for less time between training offerings and stated that modules would solve that problem.

FDA Review Update

Matt Camisa provided the Panel with an update regarding FDA review updates. He stated that largest issue that came from the review process was non-compliant shellfish icing container concerns. Matt then provided an overview of 15 growing areas that were

evaluated which resulted in two deficiencies and two emerging concerns in Greater Boston Harbor 1. All of these concerns were addressed prior to the final PEER report and there are no new action items. He added that five past deficiencies were also resolved.

Growing Area Re-definition/Re-classifications

Matt Camisa provided a brief update for the Panel regarding growing area re-definition/re-classifications as well as reassignments of growing areas between offices. The management and monitoring of growing areas CCB39 through CCB47 and MB1 through MB10 will be transferred from staff in the New Bedford office to staff in the Gloucester office starting January 1, 2024. The classification project will be combining existing growing areas to reduce the sampling and report writing burdens where appropriate beginning with the center of Cape Cod Bay and the Center of Nantucket Sound. He also stated that remote status will be reviewed as requested by FDA.

Ron Bergstrom asked for clarification regarding the re-classification of the Monomoy area. There was discussion amongst Chrissy, Dan, Matt, and Ron regarding the change and the reasoning behind the change.

Shellfish Regulatory Updates

Chrissy Petitpas provided the Panel with an update regarding shellfish regulatory updates. First, *Vibrio* regulations at 322 CMR 16.07 need to be updated to be consistent with updates to the state's *Vibrio parahaemolyticus* (Vp) Control Plan. Updates include revised definitions of adequate icing and exempting harvesters from icing requirements if the primary buyer takes on the burden of icing at the landing site and within the time-to-icing window. Also, to eliminate any remaining confusion on the subject of using sanitary sources of ice (no ice rink zamboni ice) for all shellfish handling practices (including overwintering of oysters), DMF intends to amend the regulatory language at 322 CMR 16.00 to make clear that sanitary icing standards apply to all shellstock under all handling circumstances.

Chrissy then discussed the need for more precise identification of the shellfish harvest area on harvester tags and provided background on proposed regulation amendment to bring tagging requirements into compliance with the National Shellfish Sanitation Program Model Ordinance (Chapter VIII. Control of Shellfish Harvesting). Chrissy then moved on to discuss a regulation change codifying a blanket night closure on shellfishing. Current regulations only prohibit night harvest on aquaculture grants and shellfishing with mobile gear. Finally, Chrissy described a regulation amendment to 322 CMR 10 to require moderately contaminated shellfish harvested for depuration to follow DMF's Shellfish Depuration Plant digging schedule. Chrissy welcomed questions from the Panel.

Dale Leavitt expressed concern over the way the regulations will be written regarding icing. There was discussion amongst Chrissy, Eric Hickey, and Dale regarding the regulations and issues that occur with icing. Jared Silva added that these are proposed regulations that will go to public hearings where wordsmithing on the regulations can

take place. Jared stated that regulations can be supplemented with policies that set the precedent as to how DMF envisions the regulations being complied with.

Seth Garfield expressed concern over the costs of icing that shellfishers endure. He also highlighted a much lower level of reported sicknesses. He asked if fishers can use snow on their stored product. Chrissy stated that snow would not be a reliable source as the source needs to be from a potable water source. She expressed concern over snow being scraped up from sidewalks. Eric Hickey further emphasized the importance of icing.

Mike DeVasto discussed different scenarios and the need for consistency amongst the icing rules. He stated he will make this comment during the public comment period as well.

Ron Bergstrom stated that whichever icing method is going to be easiest for the growers but still as effective should be considered. He asked about icing studies and whether the results have shown one method is preferable. Eric provided an in-depth response and reiterated the current regulatory language.

Seth Garfield asked if growers would still be able to use their preprinted their tags. Chrissy provided clarification that the decimal growing area identifier can simply be added to the pre-printed tags

Mike DeVasto asked if growers are required to put their license site on the tags. He wanted clarification regarding the purpose of putting the site on the tag. Chrissy stated it is required in the CMR and clarified that the TOI on the sample tag in the presentation is supposed to be time of icing. Chrissy stated the purpose (in Mike's case) is not significant in his particular area, but DMF wants to know where the product is coming from and it helps when there are issues with tidal and intertidal areas.

Conor Byrne brought up an additional point that he would like to see included in the proposed regulations regarding required truck refrigeration to cool while clams are in transport to the Newburyport plant.

Surf Clam Management Update

Dan McKiernan provided the Panel with an update regarding surf clam management. He provided a background of the application of the Wetlands Protection Act to the commercial dredge fishery. He stated that there was a memo shared with the Panel which was an earnest attempt at describing the current situation as precisely as possible. Dan highlighted current authorities and DMF concerns regarding surf clamming. Dan discussed a study conducted by Center for Coastal Studies and provided the Panel with a background on the study and the subsequent results of the study. Dan discussed the extent of known eel grass beds and how DMF plans to modernize surf clam management. These plans include outfitting fishermen with vessel trackers so managers can figure out where fishing is taking place. Dan wrapped

up his presentation by sharing what DMF's desired outcome is regarding surf clam management.

Story Reed provided the Panel with a more in-depth presentation regarding the vessel tracker pilot program that the surf clam fishers are using. He discussed the proof of concept as well as the functionality of the trackers. Story spoke about georeferencing polygons that DMF staff are working to create based on the tracker data and welcomed questions from the Panel.

Allen Rencurrel asked how many units DMF are planning to pilot. Story stated that two boats are currently using the trackers and six boats have committed to using the trackers.

Alex Hay stated that he appreciated the memo and asked about what the next steps are. Dan McKiernan stated there is a meeting next month between DMF and DEP. DMF plans to continue with the tracker program. Dan also added that legislature may need to get involved to answer next-step questions. There was further discussion amongst Alex, Dan, and Lisa Rhodes (DEP) regarding surf clam management and wetlands as a resource.

PRESENTATION ON UPGRADING BIOTOXIN TESTING METHODS

Chrissy Petitpas provided the Panel with a brief presentation on funding (\$472,424.00) DMF secured from the State Hazard Mitigation and Climate Adaptation Plan (SHMCAP) to purchase *High-Performance Liquid Chromatography* (HPLC) instruments and accessory equipment in order begin transitioning from the mouse bioassay method for PSP to the PCOX method. The new method will allow for more precise quantification of individual PSP toxins and the new equipment will enable DMF to implement NSSP approved methods for other marine biotoxins (e.g., ASP and DSP)

OTHER BUSINESS

Meeting Schedule

Dan McKiernan stated that the next SAP meeting will likely be held in February. It was agreed upon that the first week of February would be preferred for a virtual meeting.

Panel Member Comments

Mike DeVasto would like to have some discussion on nitrogen mitigation plans and whether there is a role for the state to play in the plans. Dan asked Mike to clarify what focus he would like the discussion to be on. Mike would like the focus to be on the impacts to the fisheries and the commercial market. Dan asked Lisa Rhodes if DEP could assist with the discussion or report on nitrogen mitigation plans. Lisa stated there are folks at DEP who could participate.

Dale Leavitt expressed concern over the loss of shellfish pathologists and stated there is a large need for a pathologist which is crucial to do restoration projects, ship product to the EU, and move oysters around. Dale recommended DMF work to institute a shellfish pathology lab. Dan asked for clarification on how these pathologists were typically paid. Dale provided clarification.

Seth Garfield asked when the focus groups will meet and stated he would like to re-visit bulk tagging. He asked if there was a specific list that contains a list of contact information of those who work on aquaculture within different departments. Dan took note of the request.

Ron Bergstrom stated that some buyers have stopped buying quahogs and expressed concern over a decrease in the market price.

Public Comments

Nancy Civetta asked if DMF could start quantifying small quahogs and oysters by the piece instead of by the pound. Story Reed stated that DMF could look into this.

ADJOURN

Chairman McKiernan requested a motion to adjourn the November SAP meeting. **Alex Hay made a motion to adjourn the November SAP meeting. The motion was seconded by Ron Bergstrom. The motion was approved by unanimous consent.**

MEETING DOCUMENTS

- March 18, 2024 SAP Business Meeting Agenda
- November 20, 2023 SAP Draft Business Meeting Minutes
- Shellfish Sanitation, Harvest, Handling, and Management Regulations Memo
- Surf Clam Management Update Memo
- MEPA Special Review Procedure for Aquaculture Presentation
- FDA Review Updates Presentation
- Growing Area Update Presentation
- Updates to Shellfish Sanitation, Harvest, Handling, and Management Regulations/Biotoxin Methods Presentation
- Surf Clam Vessel Tracker Pilot Program Update Presentation

UPCOMING MEETINGS

TBD