

## **MARINE FISHERIES ADVISORY COMMISSION**

### **Draft Business Meeting Minutes**

**October 29, 2024**

**DFW Field Headquarters**

**1 Rabbit Hill Road**

**Westborough, MA 01581**

#### **In attendance:**

*Marine Fisheries Advisory Commission:* Raymond Kane, Chairman; Kalil Boghdan; Shelley Edmundson; Chris McGuire; Tim Brady; Bill Amaru; Arthur “Sooky” Sawyer and Bill Doyle.

*Division of Marine Fisheries:* Daniel McKiernan, Director; Bob Glenn, Deputy Director; Kevin Creighton, Assistant Director; Story Reed, Deputy Director; Anna Webb, Acting Assistant Director; Jared Silva; Nichola Meserve; and Kelly Whitmore.

*Department of Fish and Game:* Tom O’Shea, Commissioner.

*Massachusetts Environmental Police:* Col. Christopher Mason; Lt. Colonel Chris Baker; and Lt. Matthew Bass.

## **INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane called the October 29, 2024 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

## **REVIEW OF OCTOBER 29, 2024 BUSINESS MEETING AGENDA**

Chairman Kane asked if there were any amendments to the October 29, 2024 MFAC business meeting agenda. No amendments were sought or made. Note that later in the meeting, the presentation on DMF’s online permitting system was postponed to November 2024 business meeting in the interest of time.

## **REVIEW AND APPROVAL OF SEPTEMBER 17, 2024 DRAFT MEETING MINUTES**

Chairman Kane asked if there were any amendments to the September 17, 2024 draft MFAC business meeting minutes. No amendments were sought or made.

The Chairman requested a motion to approve the September 17, 2024 MFAC business meeting minutes. **Chris McGuire made the motion to approve the September 17, 2024 business meeting minutes as amended. Shelley Edmundson seconded the motion. The motion was approved 7-0-1 with Chairman Kane abstaining.**

## **CHAIRMAN'S COMMENTS**

Chairman Kane recognized that the Vice-Chair seat was now open with Mike Pierdinock concluding his tenure with the MFAC. While elections are typically held at the May business meeting, he felt it was appropriate to have the MFAC vote up an interim-Vice Chair. He asked the MFAC if they wished to proceed with an election at this business meeting or consider this action over the next month and address it at the November business meeting. Bill Amaru stated his preference for holding off on a vote until November which became the consensus position of the other Commission members.

## **LAW ENFORCEMENT COMMENTS**

Colonel Chris Mason introduced himself to the MFAC. Mason is serving as the interim Colonel over the next six months while the agency seeks to find a more permanent replacement. During his tenure, he intends to develop a report that describes the needs and issues facing the agency for the next Colonel to consider.

Sooky Sawyer asked Col. Mason about his background. Mason obtained a BS in Environmental Science and then worked as a game warden on Cape Cod. He sought employment with the Massachusetts Environmental Police (MEP), but ultimately ended up with the Massachusetts State Police. At the State Police he worked on homicide, anti-terrorism, and oversaw investigative services before serving as Colonel for the last three years. He had retired from service before being asked to serve as Interim Colonel with MEP. He jumped at the opportunity given his long standing interest in the field and working with the agency.

Chairman Kane welcomed Colonel Mason. Chairman Kane stated the MFAC has long been a strong supporter of MEP and has advocated for growing their capacity, particularly within the Coastal Bureau.

Kalil touched on MEP's personnel issues as he understood them and his concerns that the agency should be expanding its ranks while it is struggling to maintain status quo levels of employment.

Bill Amaru and Col. Mason discussed his work history as a Game Warden on Cape Cod. Chairman Kane and Bill Amaru stated their interest in MEP having an enhanced on-the-water presence along the Outer Cape during the summertime period given the high level of fishing activity that occurs in this area.

## **COMMISSIONER'S COMMENTS**

Commissioner Tom O'Shea welcomed Col. Mason.

Tom then shifted to discussing personnel. The statewide hiring pause was being lifted. He recognized the strain this pause placed on agencies by requiring they do more with

less, particularly given constraints on backfilling vacated positions. He thanked DMF for their continued hard work and staff's willingness to embrace the additional workload. He was hopeful the agency would now be able to begin hire and backfill key positions.

The Legislature is expected to take up the Environmental Bond Bill in 2025. The Department seeks to leverage the prominence of the Governor's Executive Order on Biodiversity to increase capital funding for its agencies, particularly regarding public access and habitat restoration projects.

O'Shea then discussed three hot-button marine fisheries issues had been engaged on:

- Horseshoe crab management remains a prominent issue within the conservation community. He—along with Director McKiernan, Deputy Directors Story Reed and Bob Glenn, and Jared Silva—visited the Associates of Cape Cod's (ACC) facility in Falmouth. ACC is a longstanding biomedical processor of horseshoe crabs in Massachusetts. The visit included a meeting with ACC senior staff to discuss biomedical demand and expectations moving forward, as well as a facility tour to see how the product is extracted and manufactured. He stated that this meeting really helped him to better understand the biomedical industry and their short and long-term expectations regarding demand for horseshoe crabs.
- Groundfish industry representatives from Gloucester have reached out to Governor Healey with their concerns about the federal government's work to redesignate cod stock areas and the expected setting of low catch limits for cod. DMF and DFG have been meeting with the fishing industry to help clarify certain issues around the stock redesignation work and develop strategies to mitigate potential economic impacts of low catch limits.
- A capital investment study of DMF's Newburyport Depuration Plant was commissioned and completed. The plant became inoperable last November due to coastal flooding and erosion that rendered its seawater wells exposed and inoperable. The study found that new seawater wells could be drilled close to the facility and the facility could be updated for under \$1M. However, the expectation is that this area of Plum Island is going to continue to experience significant flooding and erosion which may result in continued and expensive maintenance. Additionally, moderately contaminated softshell clam throughput from the plant has been decreased dramatically over the past 20-years. This is in part due to the loss of the softshell clam resource affected by disease and changing environment. The resource is expected to continue to diminish; NOAA Fisheries considers this species to have very high vulnerability to climate change. Moreover, the depuration fishery only occurs in waters that are classified as moderately contaminated and thereby subject to state control, rather than open to direct consumption and subject to municipal control. Over the past 20-years, coastal communities have invested in sewage treatment infrastructure in turn improving coastal water quality. As a result, fewer coastal

waters are classified as being moderately contaminated thereby limiting the geographic extent of the depuration fishery. At present, a large majority of the depuration fishery occurs in two areas of Boston Harbor. These areas now have water quality sufficient to reclassify the as open to direct harvest for consumption and return control over of the resource to the municipality. The Healey Administration is reviewing the tradeoffs regarding investing in the Plant and have briefed legislators with impacted constituencies. Next, DMF will meet with fishery participants to describe the study and expectations for the fishery moving forward. O'Shea was hopeful that a final decision regarding the fate of the Plant would be reached by the end of the year.

Bill Amaru discussed the processes underway to investigate the Vineyard Wind blade malfunctions. Tom supported the effort to systematically review defects to retrofit products and prevent similar failures moving forward. Director McKiernan noted the developer would continue to construct turbines but would not turn the array back on until the Bureau of Safety and Environmental Enforcement (BSSE) concludes their engineering and safety review. Amaru was hopeful this failure would result in safer production moving forward, particularly given the intent to build larger floating structures offshore in the Gulf of Maine.

Bill Doyle expressed an interest in potentially using the Depuration Plant as a relay to treat aquaculture reared oysters affected by intermittent rainfall related closures. Of particular interest are those oyster grant sites in Buzzards Bay that are frequently closed due to rainfall triggering discharge by the combined sewage overflows (CSO) for the New Bedford wastewater treatment plant (WWTP). Deputy Director Bob Glenn explained that there is no existing framework with the National Shellfish Sanitation Program's Model Ordinance to accommodate this activity. Director Dan McKiernan agreed with Bob and also noted that updating and maintaining the Depuration Plant for any purpose is challenging given it will continue to be impacted by erosion and flooding. Doyle recognized these constraints; however, given US Food and Drug Administration's increasingly conservative and risk adverse positions regarding shellfish harvest around wastewater treatment plants, DMF needs to evaluate all opportunities and be willing to think outside the box to make sure shellfish harvest can continue. Dan stated that DMF has met with affected Buzzards Bay aquaculturists and local legislators to discuss what potential pathways to reduce the spatial extent and length of CSO-related closures and to raise awareness of how to potentially invest to improve the New Bedford's sewage infrastructure to reduce the impacts of CSO effluent on shellfish harvest.

#### **DIRECTOR'S COMMENTS**

Director McKiernan began his comments by stating that the Shellfish Advisory Panel will meet on November 6 to discuss a variety of shellfish and aquaculture related issues, including these CSO related issues. Staff would report back to the MFAC at their November meeting.

Dan then addressed personnel. The agency received federal funding through the Consolidated Appropriations Act to increase its right whale monitoring program. As

these positions are federally funded, they were exempt from the hiring pause, and DMF was in the process of onboarding a spatial analyst and would be moving to fill the other positions. Given all the issues surrounding offshore wind development, the agency was also able to get a waiver to post DMF's wind specialist position during the hiring pause. The agency was accepting applications and would begin the interview process shortly. With the imminent lifting of the hiring pause, DMF would also be able to backfill other positions, including the policy analyst position that would help DMF facilitate its public body work. With Mike Armstrong's retirement, his duties were reassigned to Story Reed and Bob Glenn. Story was also moved from an Assistant Director role to a Deputy Director Role, and Anna Webb was tapped as Acting Assistant Director for Permitting and Statistics. DMF was now looking at a more long-term strategy to address senior leadership.

Seafood Day at the State House was held on October 16 and hosted by the Massachusetts' Fisherman's Partnership and the Gloucester Fisherman's Wives Association. Dan stated that this was a popular and successful annual event to raise awareness among legislators regarding the work and challenges facing the seafood industry. This year's program was focused heavily on federal groundfish issues, particularly as they affect Gloucester.

DMF's Seafood Marketing Steering Committee was scheduled to meet virtually on October 30. Staff would provide the Committee with an update on the work being funded.

DMF staff was also hosting a series of industry meetings to discuss fishery performance in 2024 and potential management changes in 2025. On October 16, DMF met with the menhaden industry. The focus of the meeting was to address end-of-season trip limit triggers to ensure quota utilization, potential access to the Episodic Event Set-Aside, and quota transfers from out of state. Additionally, industry expressed concern about the activation of latent effort in response to diminished herring and mackerel fishing limits. Similarly, DMF would meet with the inshore summer flounder commercial fishery next week discuss quota use, season length, and the multi-day program. DMF will review these issues and develop public hearing proposals for the MFAC to review at upcoming meetings. DMF also met with the Town of Provincetown and surf clam fishing interests to discuss the agency's efforts to modernize its surf clam management program.

Dan anticipated that Deputy Director Glenn would provide a more thorough protected species update at the November meeting, however, he informed the MFAC that NOAA's 2024 population update for right whales shows an increase by 16 animals.

Bill Amaru asked Dan to speak to the passing of former DMF Director Phil Coates. Dan stated that Phil passed quickly after finding out he had late-stage terminal lung cancer. Phil was Director from 1979-2000; a mentor to many at DMF, including Dan; and an integral element of the DMF work culture that persists to this day. He remained involved and interested in the agency and striped bass management well after his retirement and right up to his death. Phil was well respected by his peers and industry

alike and was recognized at the recent ASMFC annual meeting. In Phil's memory, Dan intended to have staff work to analyze how the agency permits the commercial striped bass fishery.

Amaru stated that he began serving on the NEFMC in 1996 and Coates mentored him on all aspects of the Council process. Bill appreciated that Phil deeply understood the seriousness of his work and responsibility of being a public servant. He felt that this sense of public service helped create the DMF work culture that Dan spoke to. He also noted Phil's keen sense of humor and relayed a humorous anecdote regarding the cartoons Phil would draw to capture the debates at Council meetings.

With regards to personnel, Chris McGuire reminded Dan that DMF is also in the process of hiring a restoration specialist. Dan noted that The Nature Conservancy (TNC) has long championed oyster reef restoration projects to enhance habitat and improve water quality. This interest has historically been at odds with DMF's shellfish sanitation work as the agency sought to remove fish from polluted areas to safeguard public health. However, TNC and DMF have evolved cooperatively on this issue and DMF adopted restoration as one of its biodiversity goals in DFG's Biodiversity Plan. Additionally, federal funding was made available for DMF to hire a restoration specialist to facilitate this work. Bob Glenn noted that the position has been listed, DMF hopes to bring someone on by the end of the year, and the goal of this work is to build five reefs in five-years.

Chairman Kane asked if the focus would just be on oyster reef development. Bob stated that the initial focus would be on oyster reefs given benefits to water quality and ecological function. However, if the program is successful there may be opportunity for other restoration efforts in the future. Dan noted that regulations may be required to control the harvest of shellfish around restoration reefs, and this would be done under the purview of the MFAC.

Bill Amaru stated that the Towns of Orleans and Chatham are on the cusp of developing eelgrass restoration programs for Pleasant Bay and the Nauset system.

Bill Doyle asked if these reefs are being built in contaminated areas. Bob stated that DMF and TNC are seeking to build these initial reefs in areas classified as Approved or Conditionally Approved, to avoid the public health concerns related to propagating shellfish in contaminated waters. However, the biggest water quality benefit could be to contaminated waters and this is something DMF and TNC will continue to discuss to try and assess and balance restoration with public health risks. Chris McGuire thought gaining capacity for this work was a strong and early return from Governor Healey's Biodiversity Executive Order and the Department's work to administer it. He also commended DMF's leadership in addressing the need to build habitat to regain ecosystem function.

## **ACTION ITEMS**

### **Implementation Deadline for Lobster Addendum XXVII Biological Measures**

Director McKiernan provided background on Addenda XXVII and XXXII to the Interstate Fishery Management Plan (FMP) for American Lobster. Addendum XXVII was developed to increase protections for Gulf of Maine/Georges Bank spawning stock. The primary action was to establish a trigger to adjust gauge size and vent size rules should the recruitment abundance index decline by 35% from the three-year average of 2016 – 2018. Additionally, it created common maximum size and v-notch measures for state and federal permit holders in the Outer Cape Cod Lobster Conservation Management Area (LCMA) and restricted the issuance of extra trap tags to commercial trap fishers in LCMA1 and LCMA3. The addendum was approved in May 2023. Then in October 2023, it was reported that the recruitment abundance trigger had been hit thereby requiring management action for June 1, 2024. Due to concerns about gauge production and trade implications with Canada, the Lobster Board agreed to delay implementation until January 1, 2025.

DMF went out to public hearing to implement Addendum XXVII during the winter of 2024 and the MFAC approved DMF's final recommendation in April 2024. However, DMF did not immediately promulgate final regulations anticipating there may be further implementation delays to address international trade issues. During the spring of 2024, the New England states began to hold conversations with the Canadian Department of Fisheries and Oceans and Canadian industry representatives regarding the potential for the Gulf of Maine fishery in the Canadian Maritime Provinces to match the minimum size standard for the LCMA 1 fishery. There was seeming interest, but Canada could not meet the January 1, 2025 implementation date given the timing and their process.

In response, at its May 2024 meeting, the Lobster Board developed Addendum XXXII which delayed the implementation of the biological measures in Addendum XXVII until July 1, 2025, but allowed the trap tag measures to be implemented for January 1, 2025. The Board approved Addendum XXVII at their October measure. Now, DMF was coming back to the MFAC to adopt a complementary implementation schedule. DMF is not reconsidering the Addendum XXVII measures as part of this vote, and should the vote fail, DMF would move forward with the January 1, 2025 implementation date.

Dan noted that he did not expect this delay would negatively impact conservation, as lobster harvest in LCMA1 does not begin in earnest until the late spring and early summer and landings are limited during the first part of the year both because of lobster availability and catchability, as well as trap gear closures to protect right whales.

Charman Kane asked Sooky Sawyer, the President of the Massachusetts Lobstermen's Association, if he had any questions or comments. Sooky did not.

Bill Amaru explained that he voted against the implementation of Addendum XXVII back in April 2024 because he did not think the benefits of standardizing the v-notch and gauge size rules in the OCCLCMA warranted the potential economic impacts to the state-only fleet. While his concerns remain, he would not vote against this recommendation but would instead abstain from voting.

Chairman Kane asked Dan if he anticipated the Board would further delay implementation

if Canada opts not to move forward with a standard minimum size. Dan did not anticipate further delays. Rather, he noted the purpose of Addendum XXXII was to give Canada time to match US rules to reduce the potential burden on Canadian dealers to double gauge lobsters, should Canada opt not to adopt a complementary size limit, then they would be de facto expressing their preference to double gauge.

Chairman Kane and Sooky Sawyer questioned whether Canada would be able to continue to import lobsters between the existing US minimum size of 3 ¼" and the larger minimum size established through Addendum XXVII (i.e., 3 5/16" from July 1, 2025 through June 30, 2027 and 3 3/8" thereafter). Dan stated that they would not, as the ASMFC passed Addendum XXX in August 2024, which increased the national minimum size standard for lobster commensurate with Addendum XXVII.

No further comments or questions were made. Chairman Kane called for a motion on the recommendation. **Shelley Edmundson made a motion to adopt the recommendation as set forth by the Director. Sooky Sawyer seconded the motion. The Chairman called the vote. The motion passed 6-0-2 with Bill Amaru and Chairman Kane abstaining.**

### **UPCOMING PUBLIC HEARING ITEMS**

#### Use and Sale of Non-Endemic Seaworms

Jared Silva spoke to DMF's public hearing proposal. At the August 2024 MFAC business meeting, DMF raised biosecurity concerns related to the reported importation and use of the Pacific lugworm as bait and the complexities related to managing for biosecurity concerns related to non-native baits generally. Director McKiernan established an internal DMF agency working group to address the Pacific lugworm issue, as well as the broader management concerns. This working group included Story Reed (Deputy Director), Jared Silva (Policy Analyst), Tracy Pugh (Invertebrate Fisheries Project Leader), Kelly Whitmore (Policy Analyst), and Matt Ayer (Senior Recreational Fisheries Biologist).

This working group decided to triage this assignment. First, it developed a straightforward proposal to prohibit the sale and possession of Pacific lugworms by bait dealers and fishers. This was based on the findings of a Maine Department of Marine Resources (DMR) report that outlined the biosecurity concerns related to this species. While the risk of the species becoming naturalized in our waters may be limited given its ecology, there is a risk of pathogen transmission. The pathogens of concern include White Spot Syndrome Virus, which affects crustaceans and could impact lobster populations, and Convert Mortality Nodavirus, which may affect a variety of shellfish, crustacean, and finfish species. Second, DMF will continue to review how the agency should address biosecurity concerns related to the importation and use of non-native baits. This second aspect is complicated by DMF's capacity to address a broader management program, as well as the extent to which the agency has the authority to manage non-native species in Massachusetts.

Bill Amaru noted two potential issues with the DMR report. First, it states the Pacific lugworm is indigenous to the northwestern Pacific and the Indian Ocean. He thought this



could be misstated given these a geographically and environmentally discrete areas. Second, the report states the animal is used as bait in shrimp fisheries and he was unaware of any baited shrimp fishery. Jared Silva did not have enough information on the ecology of this species to speak to the first concern. With regards to Bill's second concern, he noted this was likely a reference this Pacific lugworm being cultured for shrimp aquaculture feed.

Commission O'Shea, Chairman Kane, Kalil Boghdan, Bob Glenn, and Jared Silva discussed the extent to which this bait is currently begin used in Massachusetts. Jared Silva stated it is likely an emerging issue as staff found less than a handful of bait shops were selling the product. Accordingly, DMF did not anticipate substantial pushback on its proposal to prohibit its sale by bait dealers and use as bait. However, it can be purchased on the internet through a dealer in New York and shipped to a residence, so managing this prohibition is going to require education and outreach. Boghdan and Glenn then discussed reasons for the emerging marketplace for this bait. Bob opined that bait dealers and fishers are likely looking for a cheaper and more consistently available alternative to the native blood worm.

Chris McGuire asked if these biosecurity issues are being addressed at the interstate level. Dan stated that it is being informally discussed at ASMFC and that he became aware of the issue through conversations at the ASMFC with DMR's Commission, Pat Kelliher. However, formally addressing bait issues through the ASMFC has been challenging given the diverse management challenges it poses (e.g., authorities, capacity, affected fisheries, biosecurity concerns). Dan recalled that the ASMFC established a lobster bait working group, but for these reasons an interstate approach was never developed.

McGuire then raised the issue of Massachusetts adopting a more robust management approach similar to Maine. Director McKiernan explained that historically Massachusetts has taken a piecemeal approach prohibiting certain non-native baits as discrete biosecurity issues arise. Taking a more robust approach is an option but it would require greater capacity than the agency currently has.

Bill Amaru, Bill Doyle, and Tim Brady supported DMF taking a precautionary approach to the Pacific lugworm issue, but also the development of a more robust management approach. Doyle noted concerns about online sales and social media facilitating the introduction of non-natives as bait. With regards to pathogens, Doyle was concerned about the introduction of sea lice from use of farmed Atlantic salmon waste as local lobster bait. Brady described his experience in the shipping industry with zebra mussels and noted that it is critical to preemptively control whatever you can because it is exceptionally time consuming, costly, and destructive to respond to a biosecurity issue once it has taken root.

Bob Glenn agreed that Massachusetts likely needs to adopt a more robust and thorough approach. In the near term, DMF could potentially address some bio-invasive concerns by prohibiting the use and sale of any live non-native or non-naturalized species as bait. However, DMF cannot regulate beyond fishing activity and permit holders. Further, it is

even more complicated to address pathogens. DMF needs to more fully flush out how to respond to these biosecurity issues and from there can discuss what type additional capacity may be needed.

Piggybacking on Bob's comments, Jared Silva explained that Massachusetts is a seafood processing hub that processes native and non-native species. The lobster industry has historically used a variety of fish waste as bait. While we are not certain what the biosecurity risks are, taking a robust precautionary management approach could constrain this historic practice at a time when bait is in short supply. Shelley Edmundson then spoke to the research being conducted into alternative whelk baits to reduce demand for horseshoe crabs. She noted Canadian propeller clams are a promising bait and restricting the use of this processed product as bait would constrain this research and limit the ability to reduce horseshoe crab demand.

Commissioner O'Shea stated that this discussion is consistent with the Governor's Biodiversity Executive Order and the Department's pending Biodiversity Plan. He felt these tools could be leveraged to help DMF flush out management issues, address statewide management authority issues, and potentially build capacity. Chairman Kane appreciated the O'Shea's willingness to support potential capacity building efforts.

## **DISCUSSION ITEMS**

### 2024 Quota Management Update

Anna Webb provided the MFAC with an update on 2024 quota managed fishery performance. The presentation focused on those fisheries that closed between the September and October MFAC business meetings and those that remain open.

- The summertime scup fishery underperformed its quota with just under 50% being landed for the season. This is typical for this fishery.
- The tautog fishery closed on October 6 after being open for 35-days. This year had the earliest closure ever driven by high daily catch rates. There was an overage of about 10%, which is not uncommon given small quota, high catch rates that typically increase in the early fall, and the practice of carrying fish. The overage will be paid back off next year's quota.
- The black sea bass fishery closed on October 12. On September 15, DMF increased the trip limits and eliminated close fishing days consistent with the regulations. There was a slight quota overage of about 2%. The overage will only be paid back in the coastwide fishery is at or exceeds its quota.
- The bait fishery for horseshoe crabs closed on October 21. With the spawning closure this year, DMF anticipated landings were dominated by the mobile gear sector. With this in mind, catch rates slowed at the end of August when the summer flounder fishery closed. Additionally, the fishery hit 80% of its quota on August 23, resulting in an automatic trip limit reduction from 300 crabs to 200 crabs per day. DMF worked closely with the harvesters and ended up closing the fishery with an overage of only 100 horseshoe crabs.
- DMF received three quota transfers of menhaden from other states allowing the fishery to remain open at the 25,000-pound trip limit into October. DMF was

uncertain if the transfer-adjusted quota would be taken this year; while about 250,000 pounds remained available, catch rates had waned consistent with the fish seasonally migrating out of Massachusetts' waters.

- Massachusetts took about 65% of its bluefish quota. While quota remains, fishing activity ceased in mid-September. DMF intends to transfer some quo out of state to North Carolina.

Bill Amaru spoke to the reporting compliance in the horseshoe crab fishery and stated it demonstrates industry's commitment to the management of the resource.

Sooky thanked DMF for their work to get menhaden transfers and keep the fishery open throughout the end of August and September.

Story Reed discussed DMF's October 16 menhaden industry meeting. Story indicated there were two items of particular interest. First, industry provided DMF with a lot of feedback regarding how to best manage the end of the quota. At present, the trip limit is reduced from 25,000 pounds to 6,000 pounds if 90% of the quota is taken by September 1. This is intended to allow purse seining to continue at a low level throughout the season to make bait locally available. However, the 10% set-aside for the 6,000 pound trip limit fishery is likely too large given the current scale of our quota (~10-million pounds). There was some interest in reducing or eliminating the 90% quota trigger and instead going to 100% and entering the Episodic Event Set Aside (EESA) or obtaining transfers from other states or adopting a higher trigger in the range of 95-98%. Second, there is substantial concern among the active fleet regarding the activation of latent effort in 2025 given the anticipated low quotas for sea herring and mackerel and there was some interest in DMF using the control date for this fishery to constrain access.

Director McKiernan explained some of the thinking around how to manage the end of the menhaden quota. One is to manage to slow landings down to allow for continued bait harvest throughout the season and not hit 100% or hit 100% very late in the season. This is currently the strategy DMF employs. However, some would prefer we adopt a system to manage to 100% and then rely on the EESA and transfers from other states to keep the fishery open throughout the season. The issue with the latter strategy is that if these mechanisms for obtaining additional fish are not available to the state the fishery will effectively close for the year because directed purse seining will be prohibited.

Sooky asked two questions. First, he was curious if the EESA was fully utilized in 2024. Nichola Meserve stated that Maine was the only state to enter into the EESA and she had not been informed that Maine exhausted the set-aside. Sooky then asked if any active boats would be affected by the control date. Story explained that DMF had not yet run the analysis, but he expected that any boats that were active this year or last year would not be excluded. The concern is that there are about 40 latent permits that could be activated.

#### Federal Fisheries Management Update

Kelly Whitmore briefed the MFAC on recent happenings at the New England Fishery Management Council (NEFMC). This included a review of the NEFMC's September 2024

meeting and a synopsis of anticipated issues to be discussed at the NEFMC's December 2024 meeting. The briefing focused on: (1) recent Council elections, including Massachusetts delegates—John Pappalardo and Melanie Griffin—being named to the Executive Committee; (2) Atlantic herring specifications involving an 85% reduction in the Annual Catch Limit (ACL) from 2024 resulting in the lowest ACL in the history of the FMP; (3) actions to incorporate four new stock units for codfish and the initiation of the transition plan to implement these new stock units in the management program; (4) development of groundfish specifications for cod, haddock, plaice, witch flounder, pollock, halibut and yellowtail flounder and concerns regarding the low cod ACLs; (5) declines in sea scallop abundance in Georges Bank and the Mid-Atlantic and the development of a management framework to address access areas, trip limits, seasons, and recruitment closures; and (6) an update on monkfish management and research set aside projects.

Commissioner O'Shea asked about the cause of poor Atlantic herring recruitment. Kelly explained that it has been difficult to identify a reason for the poor recruitment. Dan noted that a prevailing hypothesis is predation of herring eggs by the recently abundant haddock resource.

Chris McGuire, Kalil Boghdan, and Ray Kane then discussed interactions between the sea herring fishery and river herring and shad resources. Kelly noted that the NEFMC is developing Amendment 10 to the FMP to address these issues.

Bill Amaru, Tim Brady, and Chairman Kane speculated that declining trends in the commercial fishery for spiny dogfish may be resulting in increased predation on Atlantic herring and that this could become a more significant factor should the local spiny dogfish processing infrastructure further erode.

Director McKiernan spoke to Gloucester-based concerns regarding codfish in the Gulf of Maine. He explained that the cod stock redefinition issue became politically charged because it was inappropriately linked to the reduction in catch limits. The Director and Commissioner O'Shea met with the Governor's office, Cape Ann legislators, and industry members to clarify these issues. DMF is also working with the industry to consider modifying seasonal closures to protect spawning cod, so as to provide additional access to other groundfish species.

Chris McGuire expressed concerns about modifying cod spawning closures. Chris noted that broadscale closures were initially adopted to buffer incomplete knowledge of where cod spawning may be occurring. Dan noted that the broad scale closures were also adopted for compliance purposes, but these are now minimized with VMS and 100% observer coverage. McGuire noted that observers are not to collect data on cod spawning condition and this should be part of the data being collected, particularly if the size of the cod spawning closures are going to be decreased.

Bill Amaru was surprised that the Gloucester-based industry would want access to cod spawning areas. He thought it was a risky strategy to access areas where cod may be caught in large numbers to try and catch what may amount to a small quantity of low value flounders.

McKiernan and O'Shea noted that current conversations were focused on designing a more surgical spatial management approach to provide the fleet with access to flatfish species. However, federal disaster relief was also being discussed but such programs take several years to administer.

Sooky Sawyer raised concerns regarding effort moving into the state waters sea scallop fishery in the Northern Gulf of Maine area. He noted that a number of new boats were showing up in the fishery and were causing gear and user group conflicts. Story Reed indicated DMF continues to monitor this concern and will be looking into this past year's data. Jared Silva reviewed the sea scallop management rules and opined that some of the fishing effort Sooky observed is likely unlawful. Lt. Col. Baker concurred with Silva and indicated that MEP issued several citations for closed area violations this past season. Story Reed reminded the MFAC that DMF put together a policy document in early 2024 describing how the state waters sea scallop fishery is managed and DMF could circulate this document with the fleet this winter.

#### Interstate Fisheries Management Update

Director McKiernan noted that with Sarah Peake retiring from the Legislature, she has stepped down as legislative appointee to the Massachusetts delegation at ASMFC. She has been replaced by Jennifer Armini, the State Representative from Marblehead. The recent October ASMFC meeting was Armini's first meeting and Dan was happy to have her as part of the delegation.

Nichola Meserve briefed the MFAC on happenings at the recent October 2024 meeting of the ASMFC. This included a discussion of final actions to: (1) approve Addendum XXXI to the American Lobster FMP (see above); (2) set Atlantic herring specifications for 2025 – 2027 and the 2025 seasonal allocation for Management Area 1A—Inshore Gulf of Maine; (3) revise the 2024 spiny dogfish quota to account for a 2023 ACL overage; (4) reapprove several states' Shad and River Herring Sustainable Fishery Management Plans, including Massachusetts' shad plan that allows limited recreational harvest; and (5) approve a joint interstate-federal management action on the Summer Flounder FMP to expand the Small Mesh Exemption Program area, broaden the Flynet Exemption gear definition, and modernize the annual monitoring approaches for these mesh size exemptions. The ASMFC also finalized draft addenda for public hearing this winter, including a joint interstate-federal action to address the setting of recreational fishing measures for black sea bass, scup, summer flounder, and bluefish, and an addendum to complement federal action to reduce Atlantic sturgeon bycatch in the gillnet fisheries for spiny dogfish.

Meserve also presented on the recent striped bass stock assessment update and responsive management actions. The assessment indicates the stock remains overfished but was not experiencing overfishing in 2023. Projections vary based on assumptions, but under the "most likely" scenario there is a 43% chance of rebuilding the stock by 2029. Because this is less than a 50% probability, the FMP allows the ASMFC to revise measures on an expedited basis to achieve this probability of rebuilding. Of specific concern is that, while 2024 harvest appears to be low enough, this may be driven by a year class effect and harvest may increase in 2025 as the sizable 2018-year class

matures into the slot limit. The Striped Bass Board scheduled a meeting in December to consider management changes for 2025, and in the interim, tasked the technical committee with several analyses to inform management decisions, particularly related to the recreational fishery.

Director McKiernan stated he was uncertain whether or not the Board would move to take an action for 2025 at the December Board meeting. Moreover, even if an action were taken, the Mid-Atlantic states have indicated that they cannot make changes to their commercial fishing quotas or rules for 2025 given this late timing. Chairman Kane expressed his frustration with their inability to timely respond.

Kalil and Nichola discussed the level of certainty around the projections for rebuilding the striped bass stock.

Kalil expressed substantial concern regarding the future of this species given continued poor recruitment and he was dissatisfied with managing for mortality as a proxy to bolster recruitment when declines in recruitment were not due to spawning stock biomass but environmental factors. Chairman Kane stated that management tools are limited and insufficient to address environmental impacts on recruitment. Chris McGuire added that mortality management and recruitment intersect when it comes to protecting strong year classes to sustain spawning stock biomass should environmental conditions for good recruitment occur. However, with six consecutive years of poor recruitment, McGuire opined that we are likely experiencing a regime shift towards lower productivity. Director McKiernan agreed and noted that lower productivity will result in the ASMFC having to manage a vastly diminished stock that cannot support the current level of recreational fishing effort.

Commission O'Shea was concerned that the recreational angling public was not sufficiently aware of the status of the striped bass resource and will likely be very upset by a diminished fishery for this species. He advocated for more aggressive outreach and education. Director McKiernan felt that there was a lot of information and discussion about these issues among the online recreational fishing community. However, with the loss of local sportsmen's clubs, it has become challenging to disseminate information to the recreational fishing community. Bob Glenn stated that controlling the narrative on social media is difficult and there is a segment of the angling public who is convinced that the striped bass resource is in fine shape given their continued ability to catch fish from the large 2015 and 2018 year classes.

Bill Amaru and Nichola discuss release mortality versus harvest mortality. Nichola explained that about 50% of all recreational fishing mortality is now mortality attributed to catch and release fishing. McKiernan and Glenn discuss the challenges related to managing for release mortality. Dan explained that DMF's Recreational Fisheries Project has conducted research into what angling techniques are most harmful and they are now looking to determine what angling techniques are commonly used. The hope is that this will inform both management and behavioral shifts with the goal of having the recreational fishery become more benign.

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### Efforts to Modernize Management of Surf Clam Fishery

Jared Silva presented on DMF's continued efforts to modernize surf clam management. DMF's goal is to amend the spatial management program for the surf clam fishery through the use of cellular vessel tracking technology and geofencing. This will move management away from contour line management to a fixed series of points that can create a geofence, provide access to the resource, protect critical inshore habitat (e.g., eelgrass), and address local concerns and user group conflicts. DMF will be meeting with communities where surf clam dredging is allowed to review this work and discuss local issues. DMF held the first of these meetings recently with the Town of Provincetown.

Bill Amaru applauded DMF's work to modernize the spatial management program. However, he expressed concerns about some of the discussions regarding potentially allowing nighttime fishing and how this relates to fishing safety issues. Dan explained that at present some vessels are operating throughout the night jogging back and forth because they do not think they can lay on the dredge. With cellular trackers, Dan felt they could accommodate night fishing during the winter in Cape Cod Bay when the lobster trap closure is in effect and allow these boats to be more efficient. Silva also explained that these vessels face unique time-to-temperature challenges given the distance they have to steam to land the product. Dan noted he would

### **OTHER BUSINESS**

Sooky Sawyer raised the issue of draggers targeting lobsters in the federal zone and landing their catch in Massachusetts and that this fishing activity may be occurring in violation of state possession limits and resulting in substantial discarding. Dan noted that staff are working on this issue and have been in consultation with NOAA Fisheries. DMF would likely be able to present to the MFAC on this at an upcoming meeting and will be prepared to speak to it at the 2025 Annual Meeting for the Massachusetts Lobstermen's Association. Dan also spoke to the disconnect between the regulation, which sets the limits in count of lobsters, and the SAFIS data which deals with poundage, and his efforts at the interstate level to discuss evolving the coastwide baseline rule to address bycatch in poundage. Bill Amaru stated that lobster catch has become an increasingly important part of a profitable dragger catch given declining access to groundfish and low groundfish prices. Amaru also added that this fishing activity is occurring primarily east of the Cape with lobster landings occurring in Provincetown and suggested MEP focus enforcement efforts in this area this winter.

Tim Brady asked about the stock assessment update for North Atlantic right whales. Dan explained that the stock assessment was just updated and the population was revised upwards from 356 to 372. Dan also noted that the letter from the Office of Coastal Zone Management to NOAA Fisheries—which DMF contributed to—regarding the proposed vessel speed rule south of Cape Cod was included in this month's MFAC business meeting materials. Tim also stated that he observed less recreational striped bass fishing effort in Cape Cod Bay this summer likely due to the reduced availability of slot limit sized fish.

Shelley Edmundson expressed her support for Seafood Day at the State House and



encouraged MFAC members to attend next year.

Chris McGuire expressed his appreciation for having these recent MFAC business meetings in person meetings, noting the next handful of meetings will be held virtually.

Chairman Kane thanked the MFAC for their time and work and again welcomed Col. Mason from MEP.

### **PUBLIC COMMENTS**

There was no public comment.

### **ADJOURNMENT**

Chairman Ray Kane requested a motion to adjourn the September 17, 2024 MFAC business meeting. **Bill Amaru made a motion to adjourn the meeting. The motion was seconded by Sooky Sawyer. No objections were made to the motion.**

### **MEETING DOCUMENTS**

- October 29, 2024 MFAC Business Meeting Agenda
- September 17, 2024 MFAC Draft Business Meeting Minutes
- Recommendation for Implementation of Addendum XXVII Lobster Rules
- Proposal to Prohibit Possession and Sale of Pacific Lugworms
- Quota Managed Species Update
- Fall 2024 New England Fishery Management Council Update
- October 2024 Atlantic Sates Marine Fisheries Commission Update
- Surf Clam Geofencing Maps
- CZM Letter to NOAA Fisheries on Proposed Speed Limit
- DMF letter to MSOA Regarding Shellfish Warden Responsibilities.

### **UPCOMING MEETINGS**

9AM  
November 19, 2024  
via Zoom

9AM  
December 17, 2024  
via Zoom