

**SHELLFISH ADVISORY PANEL**  
**March 18, 2024, 4:30PM**  
**Via Zoom**

**In attendance:**

*Shellfish Advisory Panel:* Daniel McKiernan, Chair (DMF); Alex Hay; Amy Croteau; Sean Bowen (DAR-Proxy); Bill Doyle; Lisa Rhodes (DEP-Proxy); Dale Leavitt; Jim Peters; Josh Reitsma; Todd Callaghan (CZM-Proxy); Renee Gagne; Ron Bergstrom; Seth Garfield; Mike DeVasto; Michael Moore (DPH); Steve Kirk (TNC); and Jess Katon (Rep. Schmid Proxy)

*Absent:* Allen Rencurrel; Jim Abbot; Mike Trupiano; and Rebecca Rausch

*Division of Marine Fisheries:* Story Reed, Bob Glenn, Chrissy Petitpas, Anna Webb, Wayne Castonguay, Jared Silva, Alex Boeri, Gabe Lundgren, and Ryan Joyce

*Department of Public Health:* Eric Hickey

*Members of the Public:* Danny Badger, Christopher Flanagan, Chloe Starr, Steve Wolf, Mark Begley, Becca Selden, John Algird, Kurt Bornheim, Andrew Rosenberg, Jordan Halloran, Ben Wigren, Bill McHugh, Laminaria Jones, Beth Gibbons, Liv Woods, Jason, Lara Philips, Dave Ryan, Chris Miller, Amanda Cutler, and Tom Shields

**INTRODUCTIONS AND ANNOUNCEMENTS**

DMF Director Daniel McKiernan chairs the Shellfish Advisory Panel (SAP) and called the meeting to order. He stated there is a new member of the SAP, John Townes, who will be replacing Bob Colby. He provided the Panel with some background on John and welcomed him to the Panel. Chairman McKiernan briefly went over the various sub-committees that have stemmed from the SAP and stated that work on the sub-committees has been paused due to staffing challenges, and ongoing enforcement issues with tagging of shellfish.

**REVIEW OF MARCH 18, 2024 BUSINESS MEETING AGENDA**

No changes to the agenda were requested.

**REVIEW AND APPROVAL OF NOVEMBER 20, 2023 DRAFT BUSINESS MEETING MINUTES**

There were no amendments to the November 20<sup>th</sup> business meeting minutes.

**Chairman McKiernan requested a motion to approve the November 20, 2023 business meeting minutes. Ron Bergstrom made a motion to approve the meeting minutes. Dale Leavitt seconded the motion. A roll call vote was taken, and the motion passed 16-0-1 with Chairman McKiernan abstaining.**

**RE-CLASSIFICATION OF BUZZARDS BAY GROWING AREAS**

Dan McKiernan turned the floor over to Chrissy Petitpas who provided the Panel with a presentation regarding the re-classification of Buzzards Bay Growing Areas. The re-classification of the areas was required to meet the NSSP requirements for a minimal permanently closed (prohibited) safety zone around Wastewater Plant outfalls and other wastewater discharges, regardless of treatment quality to protect against deleterious substances in sewage. The current zone which has been in place is too small. NSSP criteria calls for a minimum 1000:1 dilution zone around all outfalls unless other data can justify a smaller area and that area must be classified as conditional based on plant performance. In no instance can the dilution zone be less than 320:1 which is the EPA minimum mixing zone requirement. This is required for all types of sewage discharges.

DMF has contracted with SMAST to conduct a hydrodynamic modeling of the New Bedford & Fairhaven outfalls and conducted additional sampling to provide sufficient data to satisfy the NSSP requirements to get below the 1000:1 line. Chrissy then showed the new mandatory prohibited zone in Buzzards Bay which is much larger than the prior zone. Fortunately, the new zone is primarily in deeper water areas of the Bay and will affect primarily two wild quahogers. Of more concern perhaps is the much larger conditional area which will require closures following rain due to the outfalls, as well as the many CSO's in the area. The new conditional area will require closure following rainfall-induced CSO and plant disruption discharges that will extend into Apponagansett and Nasketucket Bay's which are areas of significant shellfishing, including aquaculture.

The minimum mandatory closure time in the NSSP for conditional closures due to sewage discharges is 21 days. Fortunately, a new test for human sewage has been approved which can reduce mandatory minimum to as low as 7 days if the shellfish sampling can demonstrate that the shellfish are safe following a sewage discharge. The test is a viral indicator of sewage called male-specific coliphage (MSC) and DMF is investing heavily in getting its New Bedford and Gloucester laboratories certified by the FDA for this new indicator to increase its capacity to reduce the length of these closures. Currently, only one lab in Massachusetts is certified to run this test, DMF's shellfish purification plant lab in Newburyport. DMF will need more staff and funding to increase its capacity to minimize the length and breadth of these closures Statewide as the test and sampling is labor intensive.

This issue has been and will continue to happen at plants and CSO's around the state as all of the buffer zones have been deemed too small. This first happened in Scituate and Marshfield a couple years ago. The Ipswich & Dartmouth plants are currently being modeled which will be followed by additional plants & CSO's. Chrissy estimated that there are approximately 12 wastewater systems that discharge near active shellfishing areas that will need to have their buffer zones increased.

Chrissy Petitpas welcomed questions or comments from the Panel.

Mike DeVasto stated he was surprised the state allows effluent to be released into the water when large storms occur. He expressed concern over the opening and closing of areas due to the discharge of effluent. Chrissy stated the discharge is a violation of their NPDES permit, and added it is not an easy issue to fix but recognized the concern

surrounding the issue. Mike followed up by asking if an outfall pipe would be feasible. Chrissy stated an outfall pipe would just be moving the problem to a different area.

Seth Garfield thanked Chrissy for the presentation and asked what the impact from the Marion, Wareham, and Taylor Point sewage treatment plants will have. Chrissy stated there are likely going to be increased closures around those plants. Chrissy then explained differences between CSOs and sewer outflows.

Dale Leavitt stated some of his concerns. He expressed his concern about the model and requested formal peer review. He added that there are millions of oysters harvested from this area into open markets with no public health issues. He encouraged pushback on FDA regarding generic closures that may not be appropriate for Massachusetts' various systems.

Ron Bergstrom asked if there is an emergency closure how quickly can the areas be re-opened. Chrissy explained required protocols that go into emergency closures and how DMF handles re-opening areas. There was further discussion amongst Seth Garfield and Chrissy regarding protocols for closing and opening areas and dilution based on tidal factors.

## **DMF SHELLFISH PROGRAM UPDATES**

### *Status of Newburyport Depuration Plant*

Dan McKiernan introduced Wayne Castonguay who is the new supervisor for the North Shore Shellfish Program. Wayne stated he is happy to be working with members of the SAP and is looking forward to future collaboration. He then presented a few slides to the Panel regarding the Newburyport Depuration Plant. He described how the plant typically works, and stated that in November of 2023, DMF had to suspend operations when the plant wellheads were inundated and compromised by severe erosion from a coastal storm which exposed electrical apparatus. He stated that due to other coastal storms that have occurred since November, the erosion has gotten worse and one storm even caused ocean water to flood the plant itself. Wayne then discussed the productivity of the plant which has primarily been in decline for several years. He mentioned there are only three master diggers remaining and there has been an 82% decline in subordinate diggers as well. He then went over the fishery value which has rapidly declined over the past several years as well. He then briefly described challenges associated with re-opening the plant which include the location of the plant and replacing the wellheads which are both extremely costly fixes. Wayne described some additional options and went into detail regarding each option. These options included retrofitting the plant, contaminated relay, converting the Cat Cove lab for depuration, and utilizing a different depuration plant. The most favored option would be transitioning depuration to a private depuration plant in Eliot, Maine. He concluded his presentation by discussing next steps which included short and long-term options. These options included relief packages to impacted diggers and continue to subsidize utilization of the private depuration plant in Maine. He welcomed questions from the Panel.

Seth Garfield asked about the decline in the number of harvesters. Wayne Castonguay stated the Boston Harbor fishery has been in decline for many years following a big

neploasia outbreak in the 2010's and has still not come back. DMF is unsure if the fishery will come back since the softshell clam is listed as one of the most at-risk species due to climate change and noted they are in decline region-wide.

Mike DeVasto asked about other diseases that may be affecting softshell clams besides neoplasia. Wayne Castonguay stated that ocean acidification also may be impacting the clam populations. He stated it is an area of active research and he is hoping for more answers soon.

Ron Bergstrom stated the fishery is cyclical and expressed concern over the feasibility of rebuilding the plant.

#### *Inquiry from Hingham/Hull to Upgrade Certain Areas for Harvest*

Wayne Castonguay highlighted two areas that are currently classified as restricted in Hingham and Hull. He stated that DMF was asked to reconsider this classification due to water quality improving. Wayne stated that a lot of the clams that went through the depuration plant in recent years were harvested from Hull and Hingham. Wayne stated that due to improvements in water quality, there is potential that some of these clams could go direct to market. Dan McKiernan stated thanked Wayne for the presentation and welcomed questions from the Panel.

#### *Discussion of Media Coverage of Shellfish Recalls*

Dan stated that the FDA has a communications branch that puts out health-advice/information for consumers. These notifications sometime include minor shellfish recalls which have been picked up by media. The media attention is creating a negative impact to the reputation of Massachusetts seafood and causing some concern from shellfish dealers. Dan clarified that the shellfish recalls get pulled back quickly and are likely out of the market by the time the media picks up the story such that the notifications have no benefit to public health. Dan asked Mike Moore or Eric Hickey to speak to the issue.

Eric Hickey provided the Panel with the background as to how the advisories are posted by the FDA. He stated he advised the concerned dealers to contact the ISSC and noted an upcoming ISSC board meeting where these concerns will be discussed. Dan McKiernan asked if a letter from the Panel and DMF to the ISSC Executive Board would help. Eric stated that a letter would potentially help. Dan stated that he will work with staff to draft a letter.

Alex Hay stated that support from Massachusetts is well warranted, the more support the better.

#### *Shellfish Sanitation Regulatory Updates*

Dan McKiernan highlighted an MFAC meeting occurring tomorrow that will approve or reject these proposed regulatory updates. Jared Silva provided a brief presentation on various shellfish sanitation regulatory updates for the Panel. These regulatory updates included Vp icing, shellfish tagging, shellstock icing, night closures, and primary sale locations. Jared provided an in-depth background for each of the proposed regulatory updates and welcomed questions from the Panel.

### *Emerging Issues of Off-Site Culling at Wholesale Dealers*

Dan stated there is a long-standing regulation that prohibits off-site culling at wholesale dealers, but DMF has been petitioned by some dealers to re-consider the regulation. Chrissy provided the Panel with an overview of the regulations regarding culling at wholesale dealers. Chrissy asked Dave Ryan to speak regarding culling at his facility. He gave an overview of how his plant is set up. He then highlighted various issues that have occurred since noticing discrepancies in some regulations in regard to culling at wholesale dealers. There was further discussion amongst Dave and DMF regarding possible solutions to the emerging issues regarding off site culling. Dan McKiernan stated that he would like to have a further discussion with DPH as it will likely affect the Vp Control Plan. Dan welcomed questions.

Mike DeVasto stated he thinks non-market bound shellfish should be allowed to be returned to the growing area.

Alex Hay asked for clarification on the emerging issues if Dave is a grower and dealer. Chrissy provided clarification for Alex, the issues highlighted were receiving other growers products. Chrissy clarified that this shouldn't be a heavy lift.

There was further discussion amongst Chrissy and Dave regarding icing techniques.

### **PLANTING OYSTER REEFS IN PROHIBITED AREAS**

Dan McKiernan welcomed Steve Kirk to speak to a project he is hoping to proceed with which will involve planting oysters in prohibited areas. Steve spoke to the ecosystem services provided by oysters and explained the potential benefits of planting oysters in prohibited areas. He stated that he would like DMF to review the policy surrounding oysters being planted in prohibited areas to allow for this work to be done. He discussed the workings of the project and described how similar projects were accomplished. He discussed potential concerns such as enforcement issues, but acknowledged the potential issues could be mitigated.

Dan McKiernan clarified that these reefs would be planted in municipalities where there is clear oversight to avoid potential poaching issues. Steve confirmed that is the idea he would like the Panel to consider.

Bill Doyle stated that he would like to find a way to make this project happen as it is a water quality project.

Seth Garfield supported this project idea and stated it would provide water quality improvements.

Mike DeVasto expressed his support for this project as well, he noted concern over public health but stated if they can be addressed through enforcement and management then it would be a worthwhile venture. The benefits outweigh any risks.

John Townes stated he is in favor of oyster reefs.

## **OTHER BUSINESS**

### *Surf Clam Management Update*

Dan McKiernan provided the Panel with a brief update regarding surf clam management. He stated that trackers have been given to certain vessels as a pilot program. He discussed mapping efforts that are designed to protect sensitive areas and stated that the vessel operators will be notified if they get close to the protected areas.

### *Quahog Statistics*

Story Reed presented the Panel with a Quahog Price Update. He presented average ex-vessel price of quahogs from 2019 to 2023. He presented a graph as well that compared the quahog categories and stated he will do a full update at a future meeting that has all species for 2023. Dan welcomed questions from the Panel.

Steve Kirk asked if trends and price looked the same several years ago. Story stated they can dig back into the 2000s as a future meeting update.

### *Meeting Schedule*

Dan stated there usually are no SAP meetings during the summer due to schedules. Dan highlighted some of the work DMF plans to get done over the summer, and noted he plans to meet with the Panel again in October. He welcomed thoughts from the Commission. A consensus was reached that October would work.

Chrissy stated the goal would be to have the sub-committees meet prior to the October meeting. Dan emphasized the need for the seed and aquaculture license transfer sub-committees to meet.

### *Personnel Changes*

Chrissy Petitpas presented a slide on staffing changes and discussed some staffing shortages in the shellfish program. She stated that there will be two new shellfish classification biologists starting soon and Alex Boeri is the new aquaculture coordinator. Dan stated he is working diligently to retain the staff DMF has.

### *Panel Member Comments*

Seth Garfield commended the Panel for their continued work and noted it makes a difference.

Dale Leavitt discussed some homework he has done regarding a shellfish pathologist since the last SAP meeting. He highlighted various pathologists that have been hired in surrounding states. Dan thanked Dale for this insight as he has been trying to figure out what DMF could do as a state agency.

### *Public Comments*

Liv Woods from Mass Oyster Project stated they would like to help in any way they can regarding the oyster reef projects.

## **ADJOURN**

Chairman McKiernan adjourned the meeting and wished everyone well.

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## **MEETING DOCUMENTS**

- March 18, 2024 SAP Business Meeting Agenda
- November 20, 2023 SAP Draft Business Meeting Minutes
- Shellfish Growing Area Reclassification Around New Bedford/ Fairhaven WWTP Outfalls Presentation
- Recommendations on Changes to Shellfish Regulations Memo
- Shellfish Statistics Update Presentation

## **UPCOMING MEETINGS**

TBD

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