

MARINE FISHERIES ADVISORY COMMISSION

March 21, 2023

Via Zoom

In attendance:

Marine Fisheries Advisory Commission: Raymond Kane, Chairman; Michael Pierdinock, Vice-Chairman; Kalil Boghdan; Shelley Edmundson; Bill Amaru; Bill Doyle; Arthur “Sooky” Sawyer; Tim Brady; and Lou Williams.

Division of Marine Fisheries: Daniel McKiernan, Director; Mike Armstrong, Deputy Director; Bob Glenn, Deputy Director; Kevin Creighton, Assistant Director; Story Reed, Assistant Director; Jared Silva; Julia Kaplan; Nichola Meserve; Melanie Griffin; Stephanie Cunningham; Anna Webb; Kelly Whitmore; Wendy Mainardi; Matt Ayer; Sam Truesdell; Kristen Thiebault; and Derek Perry.

Department of Fish and Game: Ronald Amidon, Commissioner

Massachusetts Environmental Police: Major Chris Baker; Lt. Matt Bass

Members of the Public: Beckie Finn, Gerry O’Neill, Phil Coates, Bill Sargent, Eric Morrow, Dan Smith, Sharl Heller, Lizzie Roche, and Keith.

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Ray Kane called the March 21, 2023 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

REVIEW OF MARCH 21, 2023 BUSINESS MEETING AGENDA

Ray Kane stated he would like to amend the agenda to handle all discussion items prior to upcoming emergency rule making measures for recreational fisheries. **Mike Pierdinock made a motion to amend the agenda accordingly. Bill Amaru seconded the motion. A roll call vote was taken and the motion passed unanimously.**

REVIEW AND APPROVAL OF FEBRUARY 13, 2023 DRAFT BUSINESS MEETING MINUTES

Chairman Kane asked for a motion to approve the February 13, 2023 draft business meeting minutes. **Sooky Sawyer made the motion to approve the December 20, 2022 business meeting minutes. Shelley Edmundson seconded the motion. A roll call vote was taken and the motion passed unanimously.**

CHAIRMAN'S COMMENTS

Chairman Ray Kane thanked everyone for their attendance. Ray also mentioned the upcoming Massachusetts Lobstermen's Association's (MLA) Annual Weekend and Tradeshow ("Annual Weekend") on March 25 and March 26 in Hyannis. Ray encouraged MFAC members to attend. He then turned the floor over to the Commissioner Amidon.

COMMISSIONER'S COMMENTS

Commissioner Ron Amidon thanked Wendy Mainardi and Story Reed for their work on at Seafood Expo North American, a seafood show held annually at the Boston Convention and Exhibition Center. Ron noted he planned to attend the MLA Annual Weekend.

LAW ENFORCEMENT COMMENTS

Lt. Matt Bass handled the comments for the Massachusetts Environmental Police (MEP). He stated they are in the process of hiring fourteen officers and are currently conducting interviews. Additionally, MEP has finished gear removal work to protect right whales and was now monitoring activity around them in state waters.

Kalil Boghdan asked about MEP staffing levels once the 14 new officers are onboarded. Lt. Bass stated this would bring the ranks up to about 90 officers.

Ray Kane commended fixed gear fishers for removing the gear from state waters in advance of the closure.

DIRECTOR'S COMMENTS

Director Dan McKiernan mentioned that DMF is looking forward to the MLA Annual Weekend and stated that DMF staff will be conducting a roundtable discussion with industry and MEP. The Atlantic States Marine Fisheries Commission (ASMFC) was currently conducting a public comment period on a draft addendum to the fishery management plan (FMP) that sought to introduce management measures to enhance stock resiliency. He anticipated this would be a point of discussion and contention with industry at the trade show.

Dan discussed DMF's Derelict Gear Task Force. The Task Force was convened last summer to develop a white paper analyzing how to improve the state's framework for the management and removal of derelict fishing gear. The task force is comprised of DMF and DFG staff; industry representatives, including MFAC members; and the conservation community. The task force completed its draft white paper and it was currently under review internal executive branch review.

Sooky commended DMF staff for their work on the white paper and thanked Dan for adding an in-person public hearing in Quincy regarding the ASFMC's lobster resiliency addendum. Lou Williams expressed concern over a potential gauge increase proposed in the addendum.

DISCUSSION ITEMS

Federal Fisheries Management Update

Melanie Griffin briefed the MFAC on recent happenings at the New England Fishery Management Council (NEFMC). The briefing focused on: (1) continued efforts to address sea scallop access to the Northern Edge habitat management area on Georges Bank; (2) the NEFMC risk policy working group; (3) science and statistical committee meetings on Amendment 23 to the Northeast Multispecies FMP and ecosystem based management; (4) an Enforcement Committee meeting to review on-demand fishing gear research by the Northeast Fisheries Science Center, (5) the draft Atlantic salmon aquaculture framework, gillnet interactions with protected species, and law enforcement priorities; and (6) the Loper Bright v. US Secretary of Commerce case likely proceeding to the Supreme Court.

Sooky Sawyer expressed concern regarding the opening of the Northern Management Area and the potential for gear conflicts between trap fishers and scallopers. Melanie stated this was an issue being considered by the NEFMC. Chairman Kane and Melanie discussed prior agreements between user groups regarding access and gear conflicts, and Melanie indicated she would provide the relevant information to the MFAC.

Mike Pierdinock briefly discussed NEFMC meetings he attended regarding climate change and geographic shifts in stock distribution. Mike P. asked if DMF were aware of whether guidance documents would be provided at the Northeast Region Coordination Council (NRCC) meeting in May. Nichola indicated NOAA Fisheries would be providing such documents.

Dan McKiernan concluded the NEFMC discussion by stating that John Pappalardo and Jackie Odell were the primary candidates recommended to fill the open NEFMC seats.

Protected Species Management Update

Bob Glenn provided the MFAC with an update on protected species management issues. In February 2023, DMF submitted to NOAA Fisheries a draft Habitat Conservation Plan (HCP) for reducing impacts to right whales, leatherback turtles, and loggerhead turtles in the Massachusetts' mixed species trap/pot fishery. The federal review process will require a National Environmental Protection Act (NEPA) analysis and may take up to one-year. Once finalized, the HCP will serve as the basis for DMF's Incidental Take Permit application.

Bob Glenn then discussed DMF's gear retrieval program within the seasonal fixed gear closure to protect right whales. He provided the number of buoy lines and traps retrieved this year compared to last year, as well as maps that compared gear density.

In summary, there was far less gear left in the closure this year as compared to last year and it was comprised mostly of single trap gear. Bob Glenn concluded his comments by thanking MEP and the contracted fishermen who help DMF with the work.

DMF submitted a petition to the Division of Fisheries and Wildlife's Natural Heritage and Endangered Species Program (NHESP) to delist humpback whales under the Massachusetts Endangered Species Act (MESA). This follows a 2016 federal action by the Obama Administration to federally delist humpback whales, as the population was not found to be at risk of extinction, mortalities continue to be below potential biological removal, the stock continues to grow, and high abundance has provided resilience to anthropogenic mortality. Review of this request by NHESP is pending.

The Southeastern Massachusetts Pine Barrens Alliance also petitioned NHESP to list horseshoe crabs as a species of special concern under MESA. He briefly discussed the petition and added that DMF was conducting an internal analysis of it and would consult with NHESP on the subject.

Kalil Boghdan stated he is glad DMF is reviewing the MESA petition for horseshoe crabs and expressed the importance of hearing concerns from stakeholders.

Update on Grant Programs for Gear Marking, Vessel Trackers, Resiliency, and Atlantic Herring Disaster Relief

Gear Marking Grant Program

Dan McKiernan briefly discussed gear marking grant programs and asked Kevin Creighton to speak to the issue. Kevin stated applications were mailed out in February for grants to help cover second sets of buoy lines for fishers who fish in state and federal waters. The application period closes April 1.

Vessel Trackers

Dan then discussed vessel trackers, which are now required for all federal lobster trap fishers. VMS are not sufficient to meet this requirement, as the trackers must have a higher ping rate. Many of the devices use cellular technology allowing them to be more affordable than satellite technologies, including VMS. DMF is administering a grant program to assist in the acquisition of these devices. \$1,500 will be earmarked per eligible fisher to cover the cost of the unit and several years of service.

Lou Williams asked if he will need a vessel tracker where he has VMS already installed. Dan McKiernan stated he will need to have the vessel tracker given the ping rate requirements for the lobster fishery. Lou then asked if it would require power like VMS. Story Reed stated DMF will follow-up with the power specs, but he believed it runs directly off the battery, does not need to be turned off and on, and requires little power.

Sooky Sawyer asked if the device vendors are able to keep up with demand. Story Reed stated that they currently have enough units. Story noted that Massachusetts

rolled out this program in advance of other states (e.g., Maine) to manage potential supply issues.

Environmental Resiliency Grants

Story Reed discussed environmental resiliency grants and proposals were currently under final DMF review. He expected a wide variety of projects would be approved.

Atlantic Herring Disaster Relief

Several years ago, New England governors—including Governor Baker—requested the federal government issue a disaster declaration for the sea herring fishery. This disaster request was issued and Congress appropriated relief funding. States are currently implementing a disaster relief program. Dan expected payouts would occur later this spring or summer to commercial fishers and dealers.

Shellfish Advisory Panel Meeting Summary

Dan McKiernan described the origin and the makeup of the Shellfish Advisory Panel. He then gave a summary of the of the topics discussed at the virtual March 2, 2023 business meeting.

DMF determined not to pursue a pilot program to expand bulk tagging opportunities for shellfish aquaculturists this year given concerns this would just shift enforcement and compliance burdens from the harvester to the dealer. Certain SAP members objected to this action and DMF agreed to continue discussions on the subject. DMF met with the Department of Environmental Protection to continue discussions regarding challenges state regulated commercial fisheries are facing related to the use of the Wetlands Protection Act to restrict and permit certain fishing activities (e.g., hydraulic surf clam and ocean quahog dredging) in wetlands resource areas. DMF will convene a sub-committee of SAP members to analyze municipal aquaculture permit transfer rules with the goal of potentially recommending best practices. DMF and DPH discussed proposals submitted to the Interstate Shellfish Sanitation Conference for review at their upcoming biennial meeting. Lastly, SAP members expressed concerns regarding perceived shortages of seed shellfish; DMF intended to work with the SAP to investigate this issue more thoroughly.

Anticipated Public Hearing and MFAC Meeting Schedule

Jared Silva recalled the draft regulatory proposals discussed at the February MFAC meeting. Initially, Jared anticipated public hearings would have occurred in March, however, due to unforeseen delays in the rule making process, the public hearings are likely to occur in late-April. DMF was moving to adjust the MFAC meeting schedule in response. The April MFAC business meeting would be cancelled and DMF would instead convene the permitting sub-committee. The May meeting would feature votes on DMF's recommendations regarding the upcoming public hearing proposals. To accommodate public interest, the meeting was being moved from the Vineyard to a mainland location. The June meeting would then be held on the Vineyard.

UPCOMING EMERGENCY RULE MAKING FOR RECREATIONAL FISHERIES

Dan McKiernan described why DMF has to rely on its emergency rule making authority to implement annual recreational fishing limits for certain species and how this process differs from normal rule making. Dan then went on to discuss a survey that was distributed by DMF staff to recreational anglers that provided great feedback which contributed to decision making on black sea bass limits.

Scup and Sea Bass

Nichola stated that coastwide states are required to cut recreational black sea bass and scup harvest by 10% coastwide compared to 2022. This is occurring despite robust stock conditions and cuts would have been more substantial if not for the harvest control rule. This is because harvest under status quo management is projected to exceed the recreational harvest limit for these species.

For black sea bass, Massachusetts is achieving this mandatory cut using a state-specific approach. Following a public comment period, DMF prefers increasing the minimum size limit by ½” to 16.5”, which would also allow DMF to open the season on the third Saturday of May and add several days to the season in early September. The bag limit will remain at four fish per angler.

For scup, the mandatory cut is being achieved through a regional approach, whereby the states of Massachusetts, Rhode Island, Connecticut, and New York are all implementing the same measures. This regional approach will remove January – April from the open season, increase the minimum size by ½” to 10.5” for vessel-based anglers, and decrease the for-hire bonus season possession limit from 50 fish to 40 fish. Additionally, it will allow states to reduce the shore-based minimum size by ½” to 9.5” to address environmental justice issues, as shore-based anglers tend to have more limited access to larger sized fish.

Table 1. DMF recommended options for recreational scup and black sea bass management in 2023.

SCUP				BLACK SEA BASS			
Mode	Season	Bag	Size	Mode	Season	Bag	Size
Private Vessels	Jan 1 – Dec 31 May 1 – Dec 31	30 fish*	10” min 10.5” min	Private Vessels, Shore, & For-hire Vessels	May 21 – Sep 4 May 20 – Sep 7	4 fish	16” 16.5”
Shore	Jan 1 – Dec 31 May 1 – Dec 31	30 fish	10” min 9.5” min				
For-hire Vessels	Jan 1 – Apr 30	30 fish	10” min 10.5” min				
	May 1 – Jun 30	50 fish 40 fish					
	Jul 1 – Dec 31	30 fish					

* 150 fish/vessel maximum

Nichola welcomed questions from the Commission.

Kalil Boghdan asked about the processes in decision-making at ASMFC. Nichola and Dan elaborated on the processes as well as bonus seasons.

Mike Pierdinock expressed disappointment over the mandatory harvest reduction for both scup and black sea bass given stock conditions. Mike P. stated that the commercial scup fishery only catches about 40% of their quota, and he recommended DMF petition ASMFC and MAFMC for flexibility regarding transfers of catch allocation between the commercial and recreational fisheries. Nichola recommended a letter be written to the Mid-Atlantic Fishery Management Council requesting the change. Dan stated that DMF will write a letter. He was interested in pursuing this action given the commercial scup quota will likely stay under-utilized at its current elevated level due to market conditions and management.

With regards to black sea bass, Mike Pierdinock expressed concerns regarding the impact DMF's preferred option would have on the for-hire fleet. He stated the for-hire fleet strongly favored a split-mode approach, particularly so-called "Option 6" presented during public scoping. Tim Brady and Bill Amaru supported split-mode management given they make income off the resource and higher limits make their services more marketable.

There was then some discussion among Chairman Kane, Mike P., and DMF staff regarding climatic conditions shifting stock distribution and how this is impacting resource availability and management.

Kalil Boghdan asked about what options other states were considering. Nichola then presented tables with options being presented in other northern region states—Rhode Island, Connecticut, and New York.

Dan asked if there were any objections to DMF moving the proposals to emergency action. Mike P. reluctantly agreed to support Option 1 and hopes that his earlier comments will be taken into consideration for next year. Overall, the MFAC ultimately supported DMF's proposed measures.

Cod and Haddock

Melanie provided a brief background surrounding federal rulemaking for Gulf of Maine (GOM) cod and haddock and Georges Bank (GB) cod. The NEFMC recommended NOAA Fisheries adopt the fishing limits described in the table below for the upcoming May 1, 2023 – April 30, 2024 fishing year. NOAA Fisheries was currently reviewing the recommendation and was expected to publish draft rules for comment shortly. DMF intended to match federal rules once they were announced.

Stock	Mode	Season	Bag Limit	Size Limit
Gulf of Maine Cod	All Anglers	September 1 – October 31 April 1 – April 14 September 1 – October 7	1 fish	22"
Georges Bank Cod	All Anglers	May 1 – May 31 September 1 – April 30 August 1 – August 30	5 fish	23" 22" to <= 28"
Gulf of Maine Haddock	All Anglers	May 1 – February 28 April 1 – April 30	15 fish 20 fish	18" 17"

Mike P. was interested in catch estimates for GB cod and how they compared to prior years. He had heard catch of cod was diminished this past year given season, bag limit, and size limit adjustments. Melanie stated she would look at the data and follow up with Mike.

Mike P. was also concerned about federal rule making timelines given the substantial delays in implementation that occurred in 2022. Melanie stated that DMF would likely comment on proposed federal rules and would underscore the importance for timely rule making. However, she did not anticipate similar substantial implementation delays this year.

PRESENTATION ON DMF CIRCLE HOOK STUDY

Deputy Director, Dr. Mike Armstrong provided the MFAC with a presentation regarding DMF's striped bass release mortality study, a striped bass citizen science program, and an update on 2022 recreational striped bass harvest.

Mike Pierdinock asked for the information on the citizen scientist program so he could help get the word out.

Mike P. Mike A. and Chairman Kane discussed striped bass harvest and catch, how 2022 data compared to prior years, and the accuracy of MRIP estimates.

Kalil Boghdan expressed concern over the status of the striped bass stock and poor recruitment in recent years. He asked what management practices would need to be put in place to preserve the species. Mike A. stated recreational management cannot account for participation and can only control for harvest. This limits management tools to seasons, bag limits and size limits. Mike A. also expressed concerns regarding recent poor recruitment. However, he could not predict how this may impact management moving forward. Kalil advocated for a proactive management approach.

Chairman Kane recommended the recreational striped bass fishery suggest solutions to the ASMFC's Striped Bass Management Board.

OTHER BUSINESS

Commission Member Comments

Tim Brady thanked everyone and stated he is happy to be back attending Commission meetings.

Kalil Boghdan appreciated how everyone conducted themselves today.

Mike Pierdinock highlighted public comment periods regarding restricted fishing days (RFDs) for commercial bluefin tuna.

PUBLIC COMMENTS

Eric Morrow stated he is a for-hire fisherman and was concerned about the state's management of the recreational scup and black sea bass fisheries. He expressed various concerns regarding public scoping meetings held via Zoom; survey distribution techniques; the region-wide approach to scup management; DMF's preferred management option for black sea bass; and a general lack of understanding of the for-hire industry by DMF.

ADJOURNMENT

Chairman Ray Kane requested a motion to adjourn the March MFAC business meeting. **Sooky Sawyer made a motion to adjourn the meeting. The motion was seconded by Tim Brady. The motion was approved by unanimous consent.**

MEETING DOCUMENTS

- March 2023 MFAC Agenda
- February 2023 Draft MFAC Meeting Minutes
- Emergency Scup and Sea Bass Regulations Presentation and Proposal
- Scoping Comments for Black Sea Bass and Scup
- Summary of Testimony from Public Scoping Meeting
- Summary of DMF Black Sea Bass Survey Results
- Emergency Cod and Haddock Regulations Presentation and Proposal
- NEFMC Update Presentation
- Protected Species Update Presentation
- March 2023 Shellfish Advisory Panel Meeting Summary

UPCOMING MEETINGS

May 16th, 2023
9AM
DMF's South Coast Field Station
836 S. Rodney French Blvd
New Bedford, MA

June 13th, 2023
9AM
Katharine Cornell Theatre
51 Spring St
Vineyard Haven, MA

