

**MARINE FISHERIES ADVISORY COMMISSION**  
**May 16, 2023**  
**DMF's South Coast Field Station at SMAST East**  
**836 S. Rodney French Blvd**  
**New Bedford, MA**

**In attendance:**

*Marine Fisheries Advisory Commission:* Raymond Kane, Chairman; Michael Pierdinock, Vice-Chairman; Kalil Boghdan; Shelley Edmundson; Bill Amaru; Bill Doyle; Arthur “Sooky” Sawyer; Lou Williams. Note Tim Brady arrived at the beginning of the discussion on menhaden management and Sooky Sawyer departed following the horseshoe crab quota discussion.

*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; Anna Webb; Tracy Pugh; Jacob Dorothy; Alex Boeri; and Derek Perry.

*Massachusetts Environmental Police:* Lt. Matt Bass and Ofc. Eammon Mullaly.

*Members of the Public:* Phil Coates, Jeffery Coates, Justin Pascarelli, David Tahtinen, Joe Weinberg, John Preti, Deb Cramer, Charl Heller, Brett Hoffmeister, Connor McManus, and Heather Haggerty.

**INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane thanked everyone for their attendance. He then called the May 16, 2023 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

**REVIEW OF MAY 16, 2023 BUSINESS MEETING AGENDA**

Chairman Kane stated his preference to move DMF's horseshoe crab recommendation from the first action item to the last action item. This would allow for the MFAC to address more routine business before addressing the more controversial horseshoe crab management agenda item. **Kalil Boghdan made a motion to approve the agenda with the amendment recommended by the Chair. Bill Amaru seconded the motion. The Chairman called the motion to a vote. The motion passed by unanimous consent.**

**REVIEW AND APPROVAL OF MARCH 21, 2023 DRAFT BUSINESS MEETING MINUTES**

Mike Pierdinock and Kalil Boghdan requested several grammatical edits to the draft March 21, 2023 MFAC business meeting minutes.

Chairman Kane sought a motion to approve the March 21, 2023 business meeting minutes. **Bill Doyle made the motion to approve March 21, 2023 business meeting minutes as amended by Mike Pierdinock and Kalil Boghdan. Sooky Sawyer seconded the motion. The motion passed by unanimous consent.**

### **CHAIRMAN'S COMMENTS**

Chairman Ray Kane thanked MFAC members for their attendance. He stated Tim Brady was running late due to teaching commitments and would be arriving around 10:30AM.

Ray stated Ron Amidon was no longer the Commissioner of the Department of Fish and Game, as Governor Healey appointed Tom O'Shea to be the new Commissioner. Ray suggested the MFAC send a letter to former Commissioner Amidon recognizing his contributions to marine fisheries management in Massachusetts.

### **LAW ENFORCEMENT COMMENTS**

Lt. Matt Bass handled the comments for the Massachusetts Environmental Police (MEP). Lt. Bass began his comments by discussing ongoing court cases involving lobster violations, as well as a menhaden overage case from last year. Jared Silva noted DMF took administrative action on the menhaden permit involved in the incident and recently reached an agreement requiring the permit holder to leave the fishery but allowing the permit to be transferred. Lt. Bass then discussed this year's right whale season, their recent migration out of state waters, and the opening of fixed gear fisheries. He noted the recreation fishing season had begun and MEP was observing some routine striped bass violations. With the start of the recreational fishing and boating season, MEP also had to respond to boating safety calls, including several fatalities.

Lt. Bass concluded his comments by discussing personnel. One additional officer recently started in the field and they were working to hire 14 more officers. These new hires would maintain personnel levels.

Mike Pierdinock asked if the menhaden that was illegally caught was counted against the quota. Story Reed stated that the illegal landings occurred in-season last year and DMF and MEP were able to document the total number of fish caught. Accordingly, it was counted against the 2022 quota.

### **DIRECTOR'S COMMENTS**

Director Dan McKiernan announced that the Healey Administration appointed Tom O'Shea to be the new Commissioner of the Department of Fish and Game. Tom began his career as a wildlife biologist and manager at the Division of Fisheries and Wildlife before moving on to the Trustees of Reservations and with this appointment he is now coming back to state service. Dan looked forward to working with Tom and noted the unique perspective he will likely bring given his prior experience in state government.

Dan also expressed his thanks to former Commissioner Ron Amidon and highlighted some of Ron's numerous contributions.

Dan concluded his comments by discussing DMF's winter flounder spawning and eDNA research. He noted the MFAC were provided a detailed memo from Deputy Director Mike Armstrong on the subject and encouraged MFAC members to reach out to Mike directly on the subject.

## **ACTION ITEMS**

### Summer Flounder Management

Director McKiernan provided background on his recommendations regarding commercial summer flounder management. The recommendations enumerated below were designed to enhance the utilization of the state's available summer flounder quota.

1. Increase the January 1 – April 22 (Period I) trip limit from 3,000 pounds to 10,000 pounds.
2. Increase the summertime (April 23 – August 31) trip limit for net fishers from 500 pounds to 600 pounds.
3. Increase the summertime (April 23 – August 31) trip limit for hook and line fishers from 300 pounds to 400 pounds.
4. From September 1 – September 30, increase the trip limit from 800 pounds to 1,500-pound trip limit for all gear types if more than 20% of the quota remains; if less than 20% of the quota remains the trip limits for the April 23 – August 31 period will apply.
5. From October 1 – December 31, increase the trip limit from 3,000 pounds to 10,000 pounds provided more than 5% of the quota remains; if less than 5% of the quota remains the trip limits from the September 1 – September 30 period will apply.
6. Revise the bycatch allowance rule to match the federal fishery management plan (FMP) and prohibit any vessel fishing with mesh smaller than 5.5" diamond or 6" square from retaining, possessing, or landing more than 100 pounds of summer flounder.
7. Adjust the summer flounder landing window to allow vessels to land summer flounder between 6AM and 10PM.

Chairman Kane opened the floor for initial discussion and questions on DMF's recommendations.

Sooky Sawyer asked about what would occur if the Period I (January 1 – April 22) fishery exceeded its quota allocation (30% overall). Jared Silva stated that once the winter fishery achieves its allocation the trip limit is automatically reduced to 100 pounds. This effectively limits the extent to which the allocation can be exceeded to ensure the Period II fishery has access to their quota share.

Mike Pierdinock asked if these recommendations would apply differently to state and federal permit holders. Director McKiernan and Jared Silva explained how summer flounder is permitted and managed at the state and federal levels. A federal permit is needed to fish for summer flounder in federal waters and a state permit is needed to fish for, possess, and land summer flounder in Massachusetts. The federal government does not establish a federal waters trip limit. Therefore, vessels are constrained by the limits set by the state (or states) where they will land the fish. The wintertime and fall fisheries generally occur in federal waters and are managed accommodate offshore fishing activity. The summertime fishery, while occurring in both state and federal waters, is managed with primary consideration given to the state waters fishery.

Bill Amaru stated his general support for DMF's recommendations.

After this brief discussion, Chairman Kane brought forward each recommendation. DMF's first recommendation sought to establish a 10,000-pound summer flounder trip limit during the period of January 1 – April 22. Chairman Kane welcomed additional discussion, but there were no comments or questions.

Chairman Kane sought a motion. **Sooky Sawyer made a motion to approve the Director's recommendation. Bill Doyle seconded the motion. The motion was passed unanimously 7-0-1, with Chairman Kane abstaining.**

DMF's second recommendation sought to establish a 600-pound summer flounder trip limit for vessels using net gear during the period of April 23 – August 31. Chairman Kane welcomed discussion.

Mike Pierdinock stated he could not support the recommended trip limit increase. He noted this season occurs during the recreational fishing season and the trip limit increase could increase inshore fishing activity and negatively impact local availability. Jared Silva responded that he did not expect cumulative inshore landings to approach levels that occurred even five-years ago because of the significant attrition in the trawl fishery. This action was being recommended to keep the fishery profitable for the remaining participants and avoid further attrition.

Mike Pierdinock then asked about the minimum net mesh size and how the increase in trip limit would impact bycatch. Mike P. was particularly concerned about how increase commercial fishing activity may impact recreational fisheries, particularly given the lack of larger, legal sized summer flounder available inshore. DMF staff did not expect the trip limit increase would result in a measurable increase in bycatch and discarding given the large mesh (6.5") required of this fishery and that scup are among the most common bycatch species and the scup quota is very underutilized.

Bill Amaru opined the additional 100 pounds makes the fishery more profitable. Bill suggested DMF could address Mike Pierdinock's concerns through changes to the recreational fishing regulations. In particular, he thought DMF should consider a change to the recreational minimum size so anglers could have better access to the smaller fish

that are generally available inshore. Director McKiernan stated he is concerned about the disparate minimum sizes between the commercial (14”) and recreational (16.5”) sectors and how a high recreational minimum size may be negatively impacting the recreational fishery. However, he stated that the recreational rules along the coast are status quo for this year. Moreover, unless liberalizations in harvest are allowed in future years, any change to the minimum size would have to be balanced against season length and bag limit.

Chairman Kane sought a motion. **Bill Amaru made a motion to approve the Director’s recommendation. Lou Williams seconded the motion. The motion was passed 6-1-1, with Mike Pierdinock voting against the motion and Chairman Kane abstaining.**

DMF’s third recommendation sought to establish a 400-pound summer flounder trip limit for hook and line fishers during the period of April 23 – August 31. Chairman Kane welcomed discussion.

Mike Pierdinock stated that while he did not support the prior recommendation, he did support this recommendation. Mike P. noted hook and line gear was more benign and did not potentially pose the same bycatch and discard concerns as net gear.

Chairman Kane sought a motion. **Sooky Sawyer made a motion to approve the Director’s recommendation. Shelley Edmundson seconded the motion. The motion was passed unanimously 7-0-1, with Chairman Kane abstaining.**

DMF’s fourth recommendation sought to establish a 1,500-pound summer flounder trip limit for all gear types during the period of September 1 – September 30, provided more than 20% of the quota remains available on September 1; if less than 20% of the quota is available on September 1, the summertime trip limits remain in effect. Chairman Kane welcomed discussion.

Mike Pierdinock stated he could not support the motion for the same reasons he did not support the increase to the summertime trip limit for net fishers.

Bill Amaru stated he did not support the recommended motion either. He felt such a substantial trip limit could negatively impact inshore fishing conditions, particularly if it invites larger offshore vessels into inshore areas.

Bill Doyle noted the limited support for the recommendation among the MFAC members representing both commercial and recreational fishing interests. He asked how the MFAC could refrain from acting on this recommendation. Jared Silva suggested they could not move the motion or vote a motion down. Alternatively, Director McKiernan withdrew his recommendation.

DMF’s fifth recommendation sought to establish a 10,000-pound summer flounder trip limit during the period of October 1 – December 31 period, provided more than 5% of

the quota remains available on October 1; if less than 5% of the quota is available on October 1, the September trip limits remain in effect. Chairman Kane welcomed discussion, but there were no comments or questions.

Chairman Kane sought a motion. **Sooky Sawyer made a motion to approve the Director's recommendation. Lou Williams seconded the motion. The motion was passed unanimously 7-0-1, with Chairman Kane abstaining.**

DMF's sixth recommendation sought to adjust the landing window to allow the commercial possession and landing of summer flounder in Massachusetts between 6AM and 10PM year-round. Chairman Kane welcomed discussion.

Mike Pierdinock asked about the timing of the current landing window. Jared Silva stated the window is currently 6AM to 8PM. This measure was adopted years ago when the fishery was more quota limited to enhance trip limit enforcement. Jared noted that given current conditions in this fishery, adding two hours in the evening would afford greater flexibility to fishers and dealers to offload fish. Of particular concern was dealing with congestion on Cape Cod during the summer, particularly given the lack of shoreside processing infrastructure and fewer trucks are being sent to service the various ports.

Chairman Kane sought a motion. **Sooky Sawyer made a motion to approve the Director's recommendation. Bill Doyle seconded the motion. The motion was passed unanimously 7-0-1, with Chairman Kane abstaining.**

DMF's seventh recommendation sought to refine the bycatch allowance rule to match the federal fishery management plan and prohibit any vessel fishing with mesh smaller than 5.5" diamond or 6" square from retaining, possessing, or landing more than 100 pounds of summer flounder in Massachusetts. This rescinds the requirement that this 100-pound limit apply if a vessel is in possession of more than 250 pounds of longfin squid. Chairman Kane welcomed discussion, but there were no comments or questions.

Chairman Kane sought a motion. **Kalil Boghdan made a motion to approve the Director's recommendation. Bill Amaru seconded the motion. The motion was passed unanimously 7-0-1, with Chairman Kane abstaining.**

#### Menhaden Management

Director McKiernan briefed the MFAC on his menhaden recommendations. DMF held two separate public scoping meetings and a public hearing to discuss the management of this fishery and develop these recommendations. Dan asked Nichola Meserve to speak to each recommendation, which are described in further detail below.

Chairman Kane opened the recommendation up for initial discussion and questions.

Kalil Boghdan asked how many fishers are generally active. Nichola stated that there are about two to three carrier vessels and about 12 full-time harvesters.

Lt. Bass asked for clarification regarding the carrier vessel restrictions. Story Reed spoke to the issue and discussed how their use is driven by operational scale.

Ray Kane asked who from DMF would annually inspect purse seines. Jared Silva stated this would be done by DMF's Fisheries Dependent Investigations program. The inspections will occur annually (prior to the fishing season) or in-season should the net size be altered. New inspections would not be required if the net is repaired provided dimensions are not altered.

Tim Brady asked for clarification on whether the harvesters can sell over the rail. Nichola Meserve and Jared Silva confirmed this is allowed provided they fisher also holds a bait dealer permit.

Mike Pierdinock asked for clarification on the hand hauling rules for Boston Harbor. Dan, Nichola, and Jared explained the history of the rule and noted the primary Boston Harbor seiner requested it be eliminated to allow him to fish more efficiently. Given the various harvest restrictions and the carrier vessel prohibition, DMF did not anticipate this change would enhance user group conflicts.

Lou Williams expressed concern over the recommended June 14 control date for the menhaden endorsement and Coastal Access Permit (CAP) for Purse Seines. He noted the control date could be used in a manner that would exclude fishers who made investments to participate in the fishery this season. He suggested that this control date be moved to a date certain this summer to be inclusive of new entrants this year. There was discussion among Lou Williams, Ray Kane, Director McKiernan, and Jared Silva about how the control date could be used.

After this brief discussion, Chairman Kane brought forward each recommendation.

DMF's first recommendation addressed the incidental catch and small-scale fishery rules. DMF sought to:

- Define the following gear groupings for the harvest of menhaden:
  - a. Small-scale directed gear: cast nets, traps (excluding floating fish traps), pots, haul seines, hook and line, bag nets, hoop nets, hand lines, and bait nets.
  - b. Non-directed gear: pound nets, anchored/stake gillnets, trammel nets, drift gill net, trawls, fishing weirs, fyke nets, and floating fish traps.
- Restrict landings after the quota is taken to small-scale directed and non-directed gears only (i.e., no purse seines) at a 6,000-pound limit harvested from state waters.
- Restrict landings during the Episodic Event Set Aside (EESA) fishery—in the event this additional in-season quota is available to Massachusetts—to a 6,000-lb trip limit (both limited access and open access) harvested from state waters;

the limited access trip limit may be modified by the Director to a maximum of 120,000 pounds.

Chairman Kane welcomed additional discussion on this recommendation, but there were no questions or comments.

Chairman Kane sought a motion. **Sooky Sawyer made a motion to approve the Director's recommended. Lou Williams seconded the motion. The motion was passed unanimously 8-0-1, with Chairman Kane abstaining.**

DMF's second recommendation addressed fishery limits for the quota managed fishery. DMF sought to:

- Adopt a June 15 menhaden fishery season start date and restrict landings prior to this date to small-scale directed and non-directed gears only (i.e., no purse seines) at a 6,000-pound limit harvested from state waters, with an exception for limited access weir fishers to land at a 120,000-pound limit.
- Revise the limited access fishery's quota use triggers and trip limits, as follows:
  - 120,000-pound trip limit until 50% quota use
  - 25,000-pound trip limit from 50% quota use until 90% quota use, rather than 85% as proposed for public comment.
  - 6,000-pound trip limit from 90% quota use until 100% quota use, unless the 90% trigger is tripped after August 31, in which case the trip limit shall remain 25,000 pounds until 100% quota use.
- Beginning in 2024, require that all vessels used to carry or hold fish in the limited access fishery (i.e., harvester or carrier vessel) have their fish hold capacity certified and marked to demonstrate 25,000-lb and 120,000-lb storage levels by an accredited marine surveyor.
- Restrict landings during the EESA fishery to a 6,000-pound trip limit harvested from state waters; the limited access trip limit may be modified by the Director to a maximum of 120,000 pounds.

Chairman Kane welcomed additional discussion on this recommendation.

Bill Amaru asked about the cost of fish hold surveys. Story Reed stated the expected cost was approximately \$800, which was based on feedback from fishers who have been required to do in other states.

Chairman Kane sought a motion. **Sooky Sawyer made a motion to approve the Director's recommendation. Tim Brady seconded the motion. The motion was passed unanimously 8-0-1, with Chairman Kane abstaining.**

DMF's third recommendation addressed purse seining restrictions. This included adopting new rules and codifying certain long-standing permit conditions. DMF sought to:



- Open fishing days of Monday–Thursday until 50% quota use, thereafter Monday–Friday until 100% quota use.
- State-wide closed days of Saturdays, Sundays, Memorial Day, July 4, and Labor Day.
- State-wide, year-round night fishing closure.
- Year-round closure of Buzzards Bay.
- Friday closed day in Beverly Harbor.
- Year-round closures in certain Boston Harbor areas (i.e., Charles River, Mystic River, Chelsea River, Dorchester Bay, Neponset River, Marina Bay, Weir River, and Winthrop Harbor, all upstream of established landmarks, and “A Anchorage Areas” with an exception for off Merrymount in Quincy).
- A maximum purse seine size of 600’ in length within the Inshore Restricted Waters. This action eliminates the hand haul and 400’ x 60’ maximum net size requirements for the areas of Hingham Bay, Winthrop Bay, and Quincy Bay within Boston Harbor, thus enabling mechanical hauling of a 600’ length net consistent with other open Inshore Restricted Waters.
- All purse seine nets subject to net size restrictions must be annually inspected and tagged by DMF prior to fishing for compliance with these restrictions. After its certification, any net that is altered with regards to the net size restrictions must be re-inspected prior to its use. An exemption will be granted for nets certified (with documentation) in other states under a comparable program.
- The Director may issue permit conditions further affecting the use of purse seines.

Chairman Kane welcomed additional discussion, but there were no comments or questions.

Chairman Kane sought a motion. **Sooky Sawyer made a motion to approve the Director’s recommendation. Tim Brady seconded the motion. The motion was passed unanimously 8-0-1, with Chairman Kane abstaining.**

DMF’s fourth recommendation addressed carrier vessel restrictions. This included adopting new rules and codifying certain long-standing permit conditions. DMF sought to:

- Allow only limited entry permit holders to use carrier vessels and only when commercial trip limits are at 120,000-lb and 25,000-lb (i.e., from June 15 until 90% quota use).
- Allow a harvester vessel to offload to one or more carrier vessels per day, provided the applicable limited entry trip limit is not exceeded in the aggregate. The public hearing proposal erroneously indicated that a harvester vessel would be limited to using a single carrier vessel, which is counter to the current allowance that DMF did not intend to change.
- Restrict a carrier vessel from receiving menhaden from only a single harvester vessel per day and only per day on any day open to purse seining.

- Restrict a carrier vessel from receiving, possessing, and landing more than the applicable limited entry trip limit during any calendar day and offloading more than once per day.
- Prohibit year round the use of carrier vessels in Boston Harbor.

Chairman Kane welcomed discussion, but there were no comments or questions.

Chairman Kane sought a motion. **Tim Brady made a motion to approve the Director's recommendation. Shelley Edmundson seconded the motion. The motion was passed unanimously 8-0-1, with Chairman Kane abstaining.**

DMF was also moving forward with a series of new permitting and reporting measures. Under state law, these new rules do not require MFAC approval. However, the Director requested the MFAC's feedback. For reporting, DMF sought to require daily electronic harvester reports prior to landing from all limited access permit holders beginning in 2024. On permitting, DMF sought to adopt a June 14, 2023 control date for Menhaden permit endorsements and for CAP-Purse Seine permit endorsements. The use of the control date would be subject to future rule making.

Lou Williams reiterated his objections to the control date not being inclusive of individuals who invested to fish this season. Lou recognized that DMF was not currently moving to use the control date, and when and if this does occur, criteria could be developed to be inclusive of these fishers. However, he suggested DMF provide these fishers with certainty now. Sooky Sawyer agreed with Lou William's position and suggested an August 1 control date. He noted this would allow new entrants time to establish landings history this season. Director McKiernan stated he was amenable to this change. There was a consensus among MFAC members for an August 1 control date and Dan agreed to adopt it.

#### Groundfish Maximum Retention and Electronic Monitoring Exemption

Jared Silva discussed the background and rationale regarding the recommended exemption to groundfish minimum sizes for vessels participating the federal groundfish maximum retention and electronic monitoring (MREM) program.

Dan McKiernan recommended the MFAC vote in favor of adopting regulatory language to allow (1) authorized commercial fishers to possess, land, and sell and (2) authorized dealers to acquire and possess groundfish that do not conform to the state's minimum size standards provided they were lawfully caught in federal waters by sector vessels participating in the federal MREM program.

Chairman Kane welcomed discussion, but there were no questions or comments. Chairman Kane sought a motion. **Tim Brady made a motion to approve the Director's recommendation, Shelley Edmundson seconded the motion. The motion was passed unanimously 8-0-1, with Chairman Kane abstaining.**

### Horseshoe Crab Management

Director McKiernan briefed the MFAC on DMF's recommended horseshoe crab management measures, which are described below.

The first recommendation was to adopt an April 1 – May 31 closure to protect spawning horseshoe crabs. During this closure, the retention, possession, and landing of horseshoe crabs by any person will be prohibited. Exempt from this are pot fishers in possession of horseshoe crabs as bait who can document the lawful source of the crab. This will replace the existing five-day lunar closures around each new and full moon between April 16 and June 30. If approved this would go into effect in 2024.

The second recommendation was to adopt a biomedical horseshoe crab quota of 200,000 crabs to be allocated equally among all permitted biomedical processors and also reduce the bait fishery quota from 165,000 horseshoe crabs to 140,000 horseshoe crabs.

The third recommendation was to establish a 100-crab limit from January 1 – March 31 and a 400 crab limit from June 1 – December 31 (or quota) for all regulated fishery endorsement holders. This recommendation was contingent on the approval of the first recommendation adopting an April 1 – May 31 spawning closure.

The fourth recommendation was to adopt those best management practices for biomedical dealers and processors currently established by permit condition as regulation. This included: (1) handling, transporting, and storing horseshoe crabs in containers that are no more than 2/3 full; (2) keeping horseshoe crabs in containers where they can be kept moist and segregated by source (i.e., state biomedical hand harvest, state biomedical trawl harvest, out-of-state biomedical, rent-a-crab) and area of harvest (e.g., DSGA); (3) maintaining temperature-controlled environments where ambient air temperature can be held between 50°F and 60°F in transit and 70°F at the processor facility; (4) marking all bled crabs with a distinct mark annually established by DMF; (5) returning all bled horseshoe crabs to the sea with hand harvested animals returned to the shellfish growing area where they were harvested and trawl caught animals returned to an adjacent body of water—this activity may be contracted out to a third party; and (6) not keeping horseshoe crabs out of seawater for periods of time longer than 36 consecutive hours.

The fifth recommendation was to adopt those best management practices for biomedical harvesters currently established by permit condition as regulation. This included: (1) requiring the sale of biomedical crabs only to a licensed biomedical processor or dealer; (2) restricting a harvester from concurrently participating in the bait and biomedical fishery; (3) prohibiting a harvester from retaining, possessing, or landing horseshoe crabs that have the current year's mark on them; and (4) requiring horseshoe crabs be stored in containers no more than two-thirds full, except if actively fed by seawater.

Chairman Kane opened the floor for initial discussion and questions regarding these recommendations.

Shelley Edmundson suggested moving the spawning closure start date from April 1 to April 16 in order to potentially enhance conch pot bait availability for the spring fishery.

Sooky Sawyer asked for Shelley to elaborate on the mid-April closure start date. Shelley stated that the extra two weeks may allow for some additional harvest to meet springtime bait and biomedical demand. This could help assuage some concerns from the conch pot fishery regarding bait availability and also make crabs available to the biomedical processors early in the season through the rent-a-crab program.

Shelley then advocated for the MFAC to support DMF's spawning closure recommendation. She was concerned how harvest of this animal during the spawning period may impact this resource over the long-term.

Bill Amaru stated he intended to abstain from voting on DMF's horseshoe crab recommendations. However, he spoke to the general robust health of horseshoe crab populations on Cape Cod and to actions taken by Cape Cod municipalities to enhance shoreline habitat. He voiced his support for status quo management until additional scientific studies are conducted and demonstrate further conservation is warranted.

Bill then asked about the timing of horseshoe crab spawning activity. Director McKiernan stated spawning beach survey data shows spawning activity typically begins around May 1. The majority of this spawning activity occurs throughout May but continues until the end of June. During the spawning period, activity typically peaks around new and full moon tides, but the scientific literature and fishery dependent data demonstrate spawning and staging are occurring outside of these lunar events during the spring. While the existing spawning closures protect the animals from harvest during peak spawning activity, they do not fully protect the animals from harvest during this vulnerable life stage. The Director strongly advocated for additional spawning protections.

Kalil Boghdan acknowledged horseshoe crab management was complicated and controversial with little common ground among stakeholders. He also stated he generally opposed the harvest of any species when aggregated to spawn. Kalil commended DMF for their thoughtful recommendations, which he felt attempted to balance the varied interests, and stated he would support the recommended spawning closure.

Tim Brady asked if horseshoe crabs are overfished. Dan and Bob Glenn discussed the horseshoe crab stock assessment. At present, biological reference points for overfished and overfishing have not been adopted, a product of the localized nature of the species. Rather, the stock assessment compares surveys within a region to a 1998 baseline to determine if stock conditions have improved, declined, or remained neutral. Massachusetts is part of the Northeast Region and the 2019 stock assessment found

the region's population had improved from poor condition to neutral condition. Massachusetts population survey trends were generally positive and drove this improved assessment. Tim noted the proposed spawning closures would have a severe negative economic impact on hand harvesters and he expressed concerns about adopting such measures absent scientific evidence the population was overfished or otherwise declining.

Lou Williams agreed with Bill Amaru and Tim Brady.

Dan and Bob Glenn acknowledged current horseshoe crab surveys show positive trends. However, they do not begin to observe animals until they are three to four years old. Given the life history of this animal, there are no existing surveys that can reliably project recruitment. Absent such an early warning system, DMF and the MFAC can only react once we observe population declines. Given the importance of this resource to the various stakeholders, and to public health generally, DMF was recommending a precautionary management approach be adopted. This was of particular given recent increases in harvest driven by the biomedical fishery. Dan also clarified that were his recommendation adopted, hand harvesters could fish during June, a period when crabs are still accessible to these fishers.

Mike Pierdinock asked about the recommended spawning closure dates and how it may impact landings. Dan stated that prior to May 1, horseshoe crab harvest tends to be limited and primarily from mobile gear fishers (e.g., shellfish dredges) who take these crabs as bycatch. Then during May and early June, landings are dominated by the hand harvest fishery. By mid-June, hand harvest wanes with spawning activity and effort shifts over to the mobile gear fishery (e.g., Nantucket Sound trawl fishery). Given the hand harvest fishery targets horseshoe crabs during their spawning period, and most spawning activity occurs in May, the economic impacts of a spawning closure on these fishers are disproportionate to other gear types. As spawning typically does not begin until early May, Dan also stated he was comfortable moving the start of spawning closure back later into April, provided that would address some of the MFAC's concerns regarding bait and biomedical markets.

Mike Pierdinock then asked for DMF to elaborate on the stock assessment for horseshoe crabs. Dan and Bob Glenn explained the stock assessments methods. Bob stated the state's population indices are based both on spawning beach surveys and DMF's trawl survey. These surveys have generally demonstrated the population has expanded over the past decade in Massachusetts. However, harvest increased dramatically in 2022 and DMF anticipates harvest will remain elevated given market demand. This raises substantial concerns about the long-term health of this population, particularly absent early-life stage surveys that can accurately predict recruitment.

Kalil Boghdan asked if spawning occurred from during the summer and fall. Bob Glenn stated spawning peaks in May but continues to occur into June. Spawning horseshoe crabs are not frequently observed on beaches after late-June. Kalil stated he would

support a spawning closure that began later in April if such an amendment was necessary for the recommendation to pass.

Bill Doyle stated his support for a May spawning closure. However, as a compromise measure, he floated the idea of a truncated May 1 – May 25 closure. This would result in the same total number of closed days as the existing lunar closures, but the closures would instead occur during peak spawning season rather than around peak spawning tides.

Mike Pierdinock asked how a May closure would impact bait and biomedical markets. Director McKiernan and Jared Silva discussed the public comments received on this subject. Ray Kane welcomed members of the public to speak to this issue.

Brett Hoffmeister from the Associates of Cape Cod spoke to the impacts it would have on their ability to train staff and begin processing horseshoe crabs. He also expressed concerns about how the closure would negatively impact the fishers he worked with over the years. Brett suggested DMF consider instead a springtime sub-quota coupled with reduced harvest limits.

Heather Haggerty, from Big G Seafood, stated that 65% of the bait crabs they purchase are provided by beach harvesters. A spawning closure would severely reduce the crabs seasonally available to the whelk pot fishery, would effectively eliminate beach harvest, and would make the bait market almost entirely reliant on dragger caught crabs.

Bill Amaru and Lou Williams raised a question regarding the benefit of protecting spawning animals. Bob Glenn stated that in a vacuum there is no difference between taking a mature animal during the spawning season, as opposed to outside the spawning season. However, some life history traits make animals exceptionally vulnerable to harvest during their spawning periods and fishing activity during these periods may disrupt and negatively impact spawning. This is the case with horseshoe crabs as they predictably come up into the intertidal zone to stage and spawn.

Based on MFAC discussion, Dan McKiernan amended his spawning closure recommendation. His amended recommendation was to adopt an April 21 – May 31 spawning closure. With this amendment, he also altered his trip limit recommendation. Provided the spawning closure were adopted, the 100-crab limit would then apply from January 1 – April 20.

Bill Doyle sought clarification that this would allow commercial horseshoe crab fishing during June. Director McKiernan affirmed this.

Chairman Kane sought to move on from general discussion. He then welcomed discussion on DMF's recommended April 21 – May 31 spawning closure. There were no additional comments or questions. The chair then allowed for brief public comment (one in favor; one in opposition).

John Preti spoke on behalf of the hand harvesters. He objected to DMF's spawning closure recommendation. He stated the proposals would end the hand harvest fishery. He advocated for more science before such a decision is made.

No comments were made in favor of the recommended spawning closure.

Chairman Kane sought a motion. **Bill Doyle made a motion to approve the Director's recommendation. Shelley Edmundson seconded the motion. The Motion failed 3-4-2. Bill Doyle, Kalil Boghdan, and Shelley Edmundson voted in favor; Sooky Sawyer, Lou Williams, Mike Pierdinock, and Tim Brady voted against; Chairman Kane and Bill Amaru abstained.**

Dan McKiernan clarified that because this recommendation failed, he was withdrawing his trip limit recommendation.

Chairman Kane then welcomed further discussion regarding DMF's recommendation on horseshoe crab quota. The first aspect of this recommendation was to adopt a biomedical horseshoe crab quota of 200,000 crabs to be allocated equally among all permitted biomedical processors. The second aspect was to reduce the bait fishery quota from 165,000 horseshoe crabs to 140,000 horseshoe crabs. If approved these quota adjustments would go into effect this season.

Kalil Boghdan argued for a lower biomedical quota of 175,000 crabs. He noted this would be consistent with harvest in 2022.

Tim Brady asked about the presumed mortality rates in the biomedical fishery. DMF's horseshoe crab biologist, Derek Perry, spoke to the issue. Scientific literature shows mortality rates range from 3-30%. The assessment uses a 15% mortality, thereby assuming 85% survivability. However, this mortality rate does not consider potential mortality that may occur during harvest and if penned. Moreover, there is a lack of data on the sub-lethal impacts of bleeding on fitness and spawning.

Bill Amaru noted less than 40% of the horseshoe crab's blood is taken during biomedical processing.

Mike Pierdinock asked if the recommendation took biomedical mortality into account. Jared Silva stated the quota figures were developed to control total mortality, which considered anticipated biomedical mortality.

Bill Doyle asked for clarification about the confidentiality rules that restricted DMF's ability to discuss biomedical harvest. Dan and Jared provided clarification regarding how G.L. c. 130, §21 applies.

Tim Brady, Bill Doyle, Bill Amaru, and Mike Pierdinock stated their support for the recommended motion.

Mike Pierdinock requested Chairman Kane to allow the public to speak to the potential impacts the reduced bait quota may have on the bait market. Chairman Kane recognized Heather Haggerty from Big G seafoods. Heather stated the reduced quota would negatively impact bait availability.

Chairman Kane sought a motion. **Bill Doyle made a motion to approve the Director's recommendation. Tim Brady seconded the motion. The motion was passed 6-1-2, with Kalil Boghdan voting against the motion and Chairman Kane and Bill Amaru abstaining.**

Chairman Kane then welcomed further discussion regarding DMF's recommendation regarding adopting the best management practices for biomedical dealers and biomedical processors.

Jared Silva briefly explained how this recommendation differs from the initial public hearing proposal and why. This is described in detail in DMF's memo.

There were no additional questions or comments.

Chairman Kane sought a motion. **Bill Amaru made a motion to approve the Director's recommendation. Lou Williams seconded the motion. The motion was passed 6-0-2, with Chairman Kane and Bill Amaru abstaining.**

Chairman Kane then welcomed further discussion regarding DMF's recommendation regarding adopting the best management practices for biomedical harvesters.

Jared Silva briefly explained how this recommendation differs from the initial public hearing proposal and why. This is described in detail in DMF's memo.

There were no additional questions or comments.

Chairman Kane sought a motion. **Bill Doyle made a motion to approve the Director's recommendation. Tim Brady seconded the motion. The motion was passed 6-0-2, with Chairman Kane and Bill Amaru abstaining.**

Director McKiernan stated that DMF was also moving forward with a series of new permitting and reporting measures for 2024. Under state law, these new rules do not require MFAC approval. However, the Director sought the MFAC's feedback.

With regards to permitting, DMF sought to: (1) establish a new wholesale dealer biomedical processor permit for any entity processing horseshoe crabs for blood, which may be endorsed for the primary purchase of horseshoe crabs directly from biomedical harvesters; (2) adopt a May 16, 2023 control date to limit the future issuance of biomedical processor permits; (3) establish a new wholesale dealer biomedical dealer permit for any entity conducting the primary purchase of horseshoe crabs from a biomedical harvester for sale to a biomedical processor; and (4) limiting the issuance of



biomedical harvester permits to only those individuals who have been endorsed by a biomedical dealer or processor.

On reporting, DMF sought to require bait and biomedical fishers electronically report all trips electronically on a daily basis. This reporting requirement would be to the permit and therefore apply to all their commercial fishing activity, not just horseshoe crabs. Additionally, DMF would codify existing permit conditions requiring biomedical processors report mortality at all stages.

Bill Doyle expressed concern over how the biomedical permitting system limits competition.

Mike Pierdinock supported the permitting actions.

Bill Amaru expressed concern over reporting requirements. Story Reed and Anna Webb elaborated on what would be required and how the trips would be reported. The purpose of the requirement would be to obtain more real-time information regarding where horseshoe crabs are being harvested from. The data can be inputted into a smart phone application even if outside of cell service and then would upload once in service range.

Chairman Kane welcomed comments from a member of the public.

Justin Pascarelli objected to the permitting proposals. Specifically, he opposed restricting biomedical harvest to only those persons endorsed by a biomedical processor or dealer and using a control date to restrict the issuance of biomedical processor permits. He felt this would limit the ability for new entrants into this fishery and advocated for DMF to issue biomedical harvester permits to any commercial fishery with prior history in the horseshoe crab bait fishery.

Kalil Boghdan and Brett Hoffmeister discussed the ongoing development of a synthetic alternative to extracting horseshoe crab blood for limulus amebocyte lysate production and how the development of such alternatives may impact demand for horseshoe crabs.

## **DISCUSSION ITEMS**

### Interstate Fisheries Management Update

#### *Emergency Action on Striped Bass*

Deputy Director, Dr. Mike Armstrong, provided a presentation on the emergency action by the Atlantic States Marine Fisheries Commission (ASMFC) Striped Bass Management Board (Board) to implement a 31" maximum recreational size limit. This adjusted the ocean fishery's slot limit from 28" to less than 35" to 28" to less than 31". Mike noted the ASMFC will host five virtual public hearings on this emergency action.

Director McKiernan was hopeful DMF would be able to implement emergency rules by Memorial Day, along with the other New England states.

The ASMFC's emergency action responded to the doubling in recreational harvest from 2021 to 2022. This increase in harvest greatly reduced the probability of rebuilding the striped bass stock by 2029. The new slot limit is expected to reduce harvest in 2023 by protecting more than half of the dominant 2015 year-class. This year class began to age into the slot last year and drove the harvest increase. The 2015 year-class is important to the future of striped bass because it is one of the few large year-classes produced over the past 20-years.

Then, Mike A. discussed the ASMFC's development of Addendum II to the interstate fishery management plan. This addendum will be drafted this summer for implementation in 2024. It will investigate a range of commercial and recreational fishery management options to have the stock stay on track to rebuild by 2029.

Ray Kane noted New Jersey did not support the emergency action and there is some chatter about them not implemented compliant measures. He asked how the ASMFC would address non-compliance. Nichola and Dan explained the Board would have to vote up a non-compliance finding. Then the Secretary of Commerce could impose a moratorium on their fishery (both commercial and recreational). There was some additional speculation about the timeline for such actions.

Mike P. sought clarification on whether the upcoming ASMFC public hearings will just address the emergency action or will also address Addendum II. Mike A. confirmed they would narrowly deal with the emergency action. Mike P. requested DMF keep the MFAC updated on the development of Addendum II.

Tim Brady asked why recreational catch and harvest increased last year and why a similar increase was not observed in the commercial fishery. Mike A. stated the increase in recreational catch and harvest was driven by nearshore availability of fish and the robust 2015-year class aging into the harvestable slot limit. The commercial fishery, unlike the recreational fishery, is hard capped by a quota and fishing activity is restricted once the quota is taken. However, the 2022 commercial quota was utilized more expediently than it had been in recent years reflecting strong fishing conditions. Mike P. added there was abundant forage nearshore last year, which made fishing conditions particularly strong and likely contributed to elevated catch and effort.

Mike P. expressed frustrations from the for-hire fishery regarding the emergency action. Certain for-hire operations informed him their booked trips were now being cancelled. Given these economic impacts, he supported an exemption for the for-hire fishery. Locally, the economic impacts are heightened this year given mandatory reductions in harvest for scup and black sea bass and continued limited access to cod. Mike P. then argued in favor managing the for-hire fishery separately from the recreational fishery because there are diverging interests and the business interests of the for-hire industry are being negatively impacted.

### *Review of May ASMFC Meeting*

Dan McKiernan provided the MFAC with an update on the recent May 2023 ASMFC meeting.

The American Lobster Management Board passed Addendum XXVII. This addendum establishes triggers to implement management measures (i.e., gauge size and escape vent adjustments) to make the Gulf of Maine/Georges Bank spawning stock biomass more resilient to a changing environment. Additionally, it will amend existing measures to enhance consistency across Lobster Conservation Areas 1, 3, and Outer Cape, which fish on the Gulf of Maine/Georges Bank stock. DMF will need to implement regulatory amendments to comply with this addendum and anticipates the public hearings will occur later this year for implementation in 2024.

There has been persistent public interest, particularly in New England, for the development of a minimum size for Atlantic bonito. This is due to the increasing prevalence of juvenile fish in the Gulf of Maine and the use these juvenile fish as bait. The ASMFC's Policy Board considered possible paths for the management of Atlantic bonito at the interstate level, however, it is unlikely the ASMFC will develop a FMP for this species (or false albacore). Mike Pierdinock and Dan then discussed the management of Atlantic bonito at the ICCAT and NOAA's Highly Migratory Species office.

Dan McKiernan stated DMF intends to pursue changes to its smooth dogfish commercial trip limit to better utilize the available quota and reduce regulatory discarding. Such changes must be reviewed and approved by the Coastal Shark Management Board. Jared Silva stated DMF was informed this could likely be done through an email ballot, potentially allowing for an in-season adjustment this year.

### Update on Ongoing Rule Making and Future Public Hearings

Jared Silva stated DMF will host a virtual public hearing on its recreational black sea bass and scup limits on the evening of June 5 (6PM). These limits were enacted on an emergency basis on April 28. A final recommendation will be brought to the MFAC at their June business meeting. DMF anticipates enacting the emergency recreational striped bass slot limit adjustment by Memorial Day. This will likely proceed to public hearing during the summer and then to MFAC approval in July or August. Lastly, NOAA Fisheries is expected to finalize recreational cod and haddock limits in June 2023. DMF will adopt complementary limits on an emergency basis. The timing of the public hearing and final recommendation schedule will be similar to that affecting striped bass. As a result of this timeline, Jared anticipated the MFAC may need to hold brief meetings in both July and August.

### Federal Fisheries Management Update

This discussion item was delayed until the MFAC's June business meeting.

## **OTHER BUSINESS**

### *Commission Member Comments*

Bill Amaru thanked everyone for their hard work and commended the MFAC for a productive meeting.

Mike Pierdinock discussed a bluefin tuna study that involves cooperative community research. Dan stated that DMF's outreach staff would help promote this effort.

Ray Kane thanked the MFAC, the public, and DMF staff for their professional and conscientious approach to today's meeting.

## **PUBLIC COMMENTS**

Phil Coates read a statement from the former MFAC Chair, Elizabeth Stromeyer, regarding the striped bass slot limit and management.

## **ADJOURNMENT**

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

## **MEETING DOCUMENTS**

- May 16, 2023 MFAC Agenda
- March 21, 2023 Draft MFAC Meeting Minutes
- Horseshoe Crab Management Recommendation Memo
- Summer Flounder Recommendation Memo
- Menhaden Management Recommendation Memo
- MREM Recommendation Memo
- Emergency Striped Bass Rule Making Memo and Presentation
- May ASMFC Meeting Summary
- Atlantic Bonito Minimum Size Proposal
- Smooth Dogfish Trip Limits Memo
- DMF Comment on Recreational Haddock Measures
- DMF Comment on Federal Scup Closure
- Winter Flounder Spawning Research Update

## **UPCOMING MEETINGS**

9AM  
June 13, 2023  
via Zoom