

## **MARINE FISHERIES ADVISORY COMMISSION**

**Tuesday, September 19, 2023**

**DFW Field Headquarters**

**1 Rabbit Hill Road**

**Westborough, MA 01581**

### **In attendance:**

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

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

*Division of Marine Fisheries:* Daniel McKiernan, Director; Bob Glenn, Deputy Director; Kevin Creighton, Assistant Director; Jared Silva; Julia Kaplan; Justin Bopp; Nichola Meserve; Melanie Griffin; and Anna Webb.

*Members of the Public:* Phil Michaud, Domenic Santoro, and Jamie Bassett

## **INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane thanked everyone for their attendance and called the September 19, 2023 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

### **REVIEW OF SEPTEMBER 19, 2023 BUSINESS MEETING AGENDA**

Chairman Kane asked if there were any amendments to the September 19, 2023 MFAC business meeting agenda. No amendments were proposed.

### **REVIEW AND APPROVAL OF AUGUST 16, 2023 DRAFT BUSINESS MEETING MINUTES**

Chairman Kane asked if there were any amendments to the August 16, 2023 draft business meeting minutes. No amendments were sought.

The Chairman then requested a motion be made to approve the minutes. **Sooky Sawyer made the motion to approve the August 16, 2023 business meeting minutes. Mike Pierdinock seconded the motion. The motion passed unanimously 6-0-1 with Chairman Kane abstaining.**

## **CHAIRMAN’S COMMENTS**

Chairman Ray Kane welcomed everyone and thanked the Commission for their continued attendance. He then turned the floor over to Commissioner O’Shea.

## **COMMISSIONER'S COMMENTS**

Commissioner O'Shea started his comments by stating he appreciated everyone travelling to Westborough for today's meeting.

He then discussed the Healey Administration's executive order on biodiversity, which would be formally announced at DFW's Westborough facility on September 21. DFG is developing a strategic plan that to implement the Governor's biodiversity goals.

Tom reported that he has received numerous comments from the conservation community regarding the horseshoe crab fishery. Accordingly, he has asked Director McKiernan to revisit the management of the horseshoe crab fishery at a future MFAC business meeting.

The Commissioner attended two recent events with DMF. First, was the Meet the Fleet event hosted in Menemsha by the Martha's Vineyard Fishermen's Preservation Trust. The next was a retirement party for Jeff Kennedy and Diane Regan, two long-time employees of DMF's Shellfish Program.

## **DIRECTOR'S COMMENTS**

Director Dan McKiernan started his comments by providing the MFAC with an update on right whale conservation and management. NOAA announced a grant program to enhance right whale protection efforts through which DMF will receive about \$4.2 million each year for the next several years. These funds will be in part used to enhance right whale surveillance programs. NOAA is also proceeding with rulemaking to seasonally close the so-called "Massachusetts Bay Wedge"—an area of federal waters east of Boston between DMF's state waters closure and the federal Massachusetts Restricted Area. Director McKiernan supported this action and sent a letter to NOAA urging them to enact the closure for 2024.

DMF's Seafood Marketing Program is finalizing on a promotional video to promote Massachusetts lobster fishery and recognize the industry's work and sacrifices to protect right whales. Dan was hopeful this would help counteract some negative press from the red listing of lobster by the Monterey Bay Aquarium.

With regards to offshore wind, he had the opportunity to tour the south fork wind array and discussed the distances between the turbines. He also provided an update on Gulf of Maine wind projects (which will be using floating platforms), as well as some impact mitigation programs being implemented to assist displaced fishers. Several states are looking into an MOU that would allow for various mitigation monies to be placed into a regional common pool.

The Director welcomed questions from the MFAC.

Sooky Sawyer expressed his disappointment that DMF advocated for the federal wedge closure. He also argued DMF should more strongly advocate for the interests of LMA2 lobster trap fishers who are subject to substantial federal time-area closures south of the islands to protect right whales during their peak fishing season.

Dan McKiernan and Bob Glenn explained that DMF advocated that NOAA Fisheries adopt a smaller closure area south of Nantucket. However, despite DMF's objections, NOAA moved forward to implement the larger closure area favored by conservation organizations.

Ray Kane asked who is overseeing the budget for right whale surveillance and monitoring. Bob Glenn stated this would fall under his purview. Ray Kane hoped this data, combined with federal lobster tracker data, would be used to make closures more surgical in the future.

Bill Amaru asked several clarifying questions regarding right whales, data that will come from tracking right whales, and how the data will be used once accumulated. Bob Glenn provided clarification on each topic.

Mike Pierdinock asked about the AI being utilized within the whale tracking technology. Bob Glenn stated that the AI is designed to differentiate between whale sounds and can detect cod and other species as well.

Ray Kane asked when DMF intended to begin to deploy acoustic monitoring technology. Bob stated this would be likely be done this winter.

### **FISHERY PERFORMANCE AND QUOTA MANAGED SPECIES UPDATE**

Anna Webb provided the MFAC with a current year-to-date performance of its commercial quota managed fisheries for black sea bass, bluefish, summer flounder, scup, spiny dogfish, tautog, and menhaden. DMF will re-evaluate the management of some of these commercial fisheries this fall given performance this year and quota changes anticipated for 2024. Anna Webb stated that quota for menhaden is tracking much lower compared to previous years. Anna then discussed ex-vessel value and landings across all species. She noted that landings have been lower and therefore ex-vessel value is lower. Anna welcomed questions from the Commission.

Bill Amaru asked about where the data source for quota monitoring. Anna stated it tracks the primary purchase, meaning that fish being sold by commercial fishers to seafood dealers.

Ray Kane asked if the seafood marketing program is doing outreach for scup and other underutilized species. Dan stated that Wendy Mainardi is working to advertise underutilized species.

Mike Pierdinock asked about gear types being factored into quota utilization as well as size of fish being caught. Anna Webb provided an in-depth clarification for Mike regarding gear-types.

### **ACTION ON COMMERCIAL MENHADEN IN-SEASON ADJUSTMENT**

Nichola Meserve presented on DMF's proposed commercial menhaden in-season adjustment. By way of background, the 2023 menhaden quota has been largely underutilized due to lack of inshore availability, with less than 25% of the quota being landed. While it is unlikely that the fish will show up in large quantities during the fall season, there may be opportunities for vessels fishing offshore to encounter large quantities of menhaden and land this fish in Massachusetts. To wit, Nichola recommended the MFAC approve an in-season adjustment to: (1) suspend the trip limit trigger that would reduce the trip limit from 120,000 pounds to 25,000 pounds once 50% of the quota is taken and instead allow commercial fishers to land up to 120,000 pounds until 90% of the quota is taken; and (2) maintain the Friday closure to purse seining during any period when the trip limit is at 120,000 pounds. Nichola concluded her comments by summarizing some public comments received.

Kalil Boghdan asked clarifying questions regarding the quota and some user group conflicts between the commercial and recreational fishers. Nichola Meserve and Jared Silva responded to Kalil.

Shelley Edmundson asked about the differences in catch between Massachusetts and Maine landings. Dan and Nichola reported there were some fish available along Downeast Maine. However, it appeared the large biomass of fish bypassed our inshore waters this year. It was speculated that this may have been environmentally driven (e.g., vernal rainfall). Additionally, in the northeast, the menhaden fishery tends to be episodic and local abundances of menhaden may dramatically vary from year to year.

Kalil asked about fishermen in Maine coming to fish in Massachusetts. Dan stated that he doesn't believe there will be a large influx of Maine fishers in response to this in-season adjustment. However, Massachusetts would welcome lawfully permitted carrier vessels to land fish taken offshore in Massachusetts ports. .

Ray Kane asked about menhaden's geographic range. Micah Dean clarified the stock ranges primarily from North Carolina to Maine but have been observed in Canadian waters. Kalil Boghdan asked about the health of the menhaden stocks in other states. Micah explained that the recent stock assessment demonstrates the stock condition is strong. There are a large number of adult fish in the population, as evidenced by the fish being observed in New England and Canada in recent years, as older fish migrate further.

Mike Pierdinock suggested a prohibition on Friday seining in Boston Harbor to reduce user group conflicts. Dan stated he would consider including this in a public hearing proposal for 2024, but it was not part of the in-season adjustment recommendation.

Kalil Boghdan asked DMF to confirm the recommendation would only be in effect for the remainder of 2023. DMF confirmed this. Kalil then asked about the timeline for rule making for next year's regulations. Dan stated DMF will commence rule making this winter to implement changes prior to the 2024 season. This would be discussed in more detail under the next agenda item.

The Chairman requested a motion be made to approve the menhaden in-season adjustment. **Sooky Sawyer made a motion to approve the menhaden in-season adjustment, Shelley Edmundson seconded the motion. The motion passed unanimously 6-0-1 with Chairman Kane abstaining.**

### **ITEMS FOR FUTURE PUBLIC HEARING**

#### Commercial Fishing Rules for Quota Managed Species

##### *Menhaden*

Nichola discussed DMF's proposed draft regulatory amendments affecting menhaden fishery beginning in 2024. The rationale behind these proposals is to add more flexibility for fishery to achieve quota under wider range of resource availability conditions.

The proposals include: (1) moving the start date of the purse seine fishery back from June 15 to June 1; (2) if adopted, establish a conditional date of July 1 to start the fishery at 25,000lb trip limit if the fishery reaches the trip limit trigger to reduce the trip limit to 25,000 pounds prior to June 30; (3) clarify that the Friday closed fishing days remains in place so long as a 120,000 pound trip limit is in place; and (4) adopt a conditional date of September 1, whereby if 50% of the quota is not taken then the 120,000 trip limit remains in effect throughout the remainder of the year.

Mike Pierdinock asked the ages of the fish that are being caught and what the mesh size is. Micah confirmed that the menhaden that are caught are primarily 2-4 years old. Jared Silva stated DMF does not have a minimum mesh size for purse seines. Mike Pierdinock requested DMF consider a Friday closure in Boston Harbor as part of this public hearing proposal.

Chairman Kane suggested DMF consider an earlier season opening to ensure the quota is taken if the fish arrive early and depart as they did this year. Sooky Sawyer explained the local bait market and noted an earlier start date could exhaust the quota early resulting in bait issues for the lobster fleet.

Bill Doyle suggested DMF provide a presentation on bait fisheries and bait fish usage in Massachusetts.

Ray Kane asked about the future public hearing schedule. Jared Silva stated DMF would likely host a series of public hearings in February and March to facilitate rule making prior to May 1.

### *Summer Flounder*

Jared Silva discussed DMF's proposed draft regulatory amendments affecting the commercial summer flounder fishery for 2024. These proposals respond to an anticipated 60% cut in the annual commercial fishing quota for 2024 and 2025 and consider recent fishery performance.

Jared stated that despite this large quota cut, the quota was underutilized in recent years, and drastic management adjustments are likely not warranted. Accordingly, DMF was proposing to reduce the April 23 – August 31 trip limit by 100 pounds for all gear types and the September trip limit by 200 pounds for all gear types. Ultimately, the choice is whether or not industry prefers to maintain higher daily limits and potentially close the fishery during the summer or take a slight cut to daily fishing limits in hopes of maintaining the fishery into September.

Jared noted that the September 14 memorandum to the MFAC indicated DMF did not intend to take action to amend the limits during Period I (January 1 – April 22). However, following conversations with industry and neighboring states, DMF anticipates proposing to reduce the Period I trip limit from 10,000 pounds to 5,000 pounds. While regulatory amendments cannot be implemented in time for the 2024 season, DMF would consider using its in-season adjustment authority to facilitate such a change for next year.

Kalil Boghdan asked why the quota was not been reached in several years. Jared Silva explained the various environmental and economic factors affecting the inshore summer flounder fishery, which DMF previously documented in a variety of presentations and memorandum. Nichola Meserve also added that the prior stock assessments likely overestimated biomass and inflated quotas. This is evidenced by the fact the most recent stock assessment shows summer flounder experienced overfishing in 2022 despite coastwide quota underages.

Sooky Sawyer asked when a majority of the quota is caught. Jared stated DMF has historically allocated 30% of the quota to the Period I fishery and remaining quota to the Period II fishery. However, in recent years, the Period I fishery has been taking most of its allocation, while the Period II fishery has been underperforming its allocation and the split in landings between the two periods is more 50-50.

Bill Amaru expressed concern over the quota cut and stated that he believes a lack of boats and effort plays a role in the quota not being met. Bill Amaru added that the horseshoe crab fishery takes place simultaneously with the summer flounder fishery. Jared Silva reassured Bill that despite the quota cut, substantial changes in management are not likely necessary and added that part of DMF's goal is to keep the summer flounder and horseshoe crab fisheries open at the same time.

Shelley Edmundson asked about the schedule for summer flounder stock assessments. Nichola stated that research track assessments are typically every two years.

### Buoy Line Marking and New Rope with Tracer

Bob Glenn discussed a proposed regulatory exemption to allow commercial trap fishers to meet buoy line marking and weak rope rules if fishing fully formed weak rope that is red or red and white (candy cane) with a “MASS LOBSTER” tracer visible to the naked eye throughout. Bob Glenn commended the Massachusetts Lobstermen’s Association and Beth Casoni for their efforts on developing this buoy line.

Kalil Boghdan asked who is responsible for the costs of this rope. Bob Glenn stated that there is a portion of an annual appropriation dedicated to getting gear (weak rope and gear marking tools) to pot fishers.

Sooky Sawyer thanked DMF and the Protected Species Program for their efforts on this issue. He stated that the gear giveaways from DMF helps compliance with the weak rope regulations.

Bill Doyle asked if there was a length of vertical lines that was exempt from the weak rope rules. Bob stated that compliance with the weak rope rules is across the board and there are no exemptions based on buoy line length. determined based on rope length.

### Permitting

Dan McKiernan discussed two proposals related to permitting. First, DMF is seeking to allow the electronic display of its commercial fishing permit. At present, DMF requires a hard copy of the permit be in possession, but with the new permitting system in place fishers can hold their permit electronically. Second, DMF is looking to allow latent limited entry permit endorsements to be transferred to immediate family members. This would make DMF’s transfer program for limited entry endorsements consistent with the program for Coastal Lobster Permit transfers.

Bill Doyle suggested a sub-focus group of the permitting sub-committee that focuses on getting younger fishers into the fishery. Bill Amaru echoed Bill’s sentiment and expressed concern over the aging fleet. Bill Doyle suggested alternative fisheries as being an option to get new fishers into the fishery. Shelley Edmundson suggested a revolving loan fund as an incentive to getting into the fishery.

## **DISCUSSION ITEMS**

### New England Fishery Management Council Update

Melanie Griffin provided the MFAC with an update regarding the New England Fishery Management Council. The presentation focused on federal trawl survey issues; climate change planning; management issues pertaining to scallops, red crab, groundfish, skate, and herring; and protected species management. Of particular interest to the MFAC and state-waters fisheries management was potential specifications for Gulf of Maine haddock for 2024 and 2025, which may result in DMF having to make some regulatory adjustments for the upcoming fishing season. Melanie added that former DMF employee, Dr. Cate O’Keefe is now the executive director of NEFMC.

### Review of Commercial Surf Clam Industry Meeting

Dan McKiernan provided the MFAC with brief history of surf clam management and an overview of the issues the industry currently faces. He then provided three updates relevant to surf clam management. First, the agency met with industry representatives and has initiated a pilot program to test the efficacy of electronic vessel monitors in spatial-temporal management. This may help DMF modernize its approach to spatial surf clam management and better protect sensitive habitats. Second, DMF was provided an informal review of the Center for Coastal Studies' preliminary results into the marine ecology and geology at Herring Cove Beach and the potential impacts hydraulic surf clam dredging may have on this area's marine ecology and geology. While most of the hypotheses tested, particularly regarding fishery impacts were inconclusive, the study found that Herring Cove was not a high energy area and past dredge tracks were more persistent than expected. The final report is expected to be released soon and it may further inform DMF on how to best manage the fishery. Lastly, DMF continues to have discussions with DEP regarding jurisdictional issues and the application of the Wetlands Protection Act to commercial fishing activities.

### Whelk Fishery Management

Dan McKiernan discussed whelk fishery management and stated that DMF studies have shown the channeled whelk resource is overfished and overfishing is occurring and the current size-at-harvest does not provide any protection to female spawning stock biomass. Several years back, DMF and the MFAC enacted a series of incremental gauge increases to raise the size-at-harvest to 50% size-at-maturity. The current gauge schedule increases the minimum size by 1/8" every three years and reaches the terminal gauge size in 2033.

Concerns have been expressed that this management approach is having severe negative economic impacts on the industry and will result in a female only fishery at the terminal gauge size. Accordingly, there is interest in developing potential alternative management approaches to reduce fishing mortality and enhance spawning stock biomass. To this point, DMF met with State Representative Cabral and SMAST researchers about obtaining funding for a PhD student to develop a management strategy evaluation to explore a range of potential management options for the channeled whelk resource and conch pot fishery.

Shelley Edmundson stated she believes it's a great step forward and reiterated her long standing concern that the gauge changes would result in an all-female fishery.

Ray Kane suggested a slot limit to allow for the commercial fishery to remain profitable while protecting larger spawning sized females.

Kalil Boghdan expressed concern over the status of the fishery being overfished and depleted. Bob Glenn provided an in-depth explanation of the status of the fishery and the reasons behind why the resource is vulnerable to overfishing. There was further discussion amongst Kalil Boghdan, Dan McKiernan, and Ray Kane regarding the



possible management practices to support commercial fishermen while preserving the stock.

## **PRESENTATION ON STRIPED BASS CITIZEN SCIENCE PROGRAM**

Micah Dean provided the MFAC with a presentation on DMFs striped bass citizen science program to improve release mortality data.

Commissioner O'Shea commended DMF for their work on this project.

Chairman Kane was hopeful similar program could be emulated in other states to enhance the collection of this data on a coastwide basis and educate anglers on proper handling methods.

Mike Pierdinock commended DMF for this project. Mike P. was very happy to see the use of partnerships to help spread the message of striped bass conservation.

Kalil Boghdan was hopeful that this program will help reduce the tension between recreational and commercial fishers and help recreational fishers realize that most of the mortality in this fishery is occurring in their sector and is driven by a variety of fishing techniques and handling practices.

Ray Kane asked Micah about handling time and the vitality of the fish. Micah stated that the optimal handling time is less than 2 minutes. Ray Kane then followed up by asking about the mucus membrane surrounding the fish and what happens when the membrane is impacted. Micah stated that striped bass are hardy for the most part and the membrane is not necessarily the biggest issue.

Bill Amaru thanked Micah for the presentation and commended him for the work.

## **OTHER BUSINESS**

### *Next MFAC Business Meeting and Location*

Jared stated that the October meeting will be moved to November 17<sup>th</sup> in person in New Bedford and the December meeting will be held virtually on December 19<sup>th</sup>.

### *Commission Member Comments*

Bill Doyle provided anecdotal evidence regarding water quality. He spoke to the biofouling on his aquaculture gear, as well as the variety of species of marine algae observed this year and the presence of blue crabs in the Three Bays system. Bill added that he is interested in any work DMF may be doing to better qualify biomedical horseshoe crab release mortality.

Bill Amaru stated he prefers in-person meetings and hopes that more meetings can be in-person. Ray Kane echoed Bill Amaru's comments and thanked everyone for their attendance.

## **PUBLIC COMMENTS**

Domenic Santoro explained that commercial fishers need access to a variety of fisheries, often at the same time, to be profitable. He explained how mobile gear fishers in Nantucket Sound rely on targeting both horseshoe crabs and summer flounder during the same trip. He then highlighted how closing one fishery early negatively impacts the businesses making it more difficult to be profitable and tie fishing seasons together.

Phil Michaud sent a letter to the MFAC after the August meeting and hoped they were able to consider his concerns regarding the horseshoe crab fishery. Phil explained that the inshore dragger fleet has diminished compared to ten years ago, as profits have not increased with expenses. He appreciated DMF's working to keep the summer flounder limits high enough to make trips profitable, but he was concerned about the direction horseshoe crab management was moving in. He was hopeful that could consider increasing the biomedical quota to accommodate a longer season, particularly if the fishery could demonstrate its mortality is close to 0%.

Jamie Bassett stated that he would be willing to present to the MFAC on the biomedical horseshoe crab fishery and what he has observed during his experience handling these animals.

## **ADJOURNMENT**

Chairman Ray Kane requested a motion to adjourn the September 19<sup>th</sup> MFAC business meeting. **Bill Amaru made a motion to adjourn the meeting. The motion was seconded by Kalil Boghdan. The motion was approved by unanimous consent.**

## **MEETING DOCUMENTS**

- September 19, 2023, MFAC Business Meeting Agenda
- August 16, 2023, Draft MFAC Business Meeting Minutes
- Quota Managed Species Presentation
- In-Season Adjustment for Menhaden Memo
- Menhaden In-Season Adjustment Presentation
- Menhaden Public Hearing Proposal
- Summer Flounder Public Hearing Proposal
- Buoy Line Marking Public Hearing Proposal
- Buoy Line Proposal
- Permitting Public Hearing Proposal
- Surf Clam Management Update Presentation
- Striped Bass Citizen Science Presentation
- New England Fishery Management Council Update

**UPCOMING MEETINGS**

**November 17, 2023  
10:30AM  
836 S Rodney French Blvd  
New Bedford, MA 02744**

**December 19, 2023  
9AM  
Via Zoom**