



***Marine Fisheries* Shellfish Advisory Panel Meeting Summary**

October 16, 2014

Otto Fehlow Room, Plymouth Public Library, Plymouth, MA

Attendance

Panel Members: Paul Bagnall, Skip Bennett, Dave Sargent, Chris Southwood, Allen Rencurrel, Alex Hay, Diane Murphy, Richard Kraus, Mike Trupiano, Jonathan Johnsen and Jon Kachmar. Absent: Ron Bergstrom, Monte Rome, Bob Stanley, and Bob Wallace.

Marine Fisheries Staff: Paul Diodati, Daniel McKiernan, Michael Hickey, Jeff Kennedy, Tom Shields, Kevin Creighton, Tom Hoopes, Story Reed, Diane Regan, Greg Sawyer, Neil Churchill, Chris Schillaci and Jared Silva.

Other: Tara Riley (Town of Nantucket).

Call to Order and Introductions

Director Paul Diodati called the meeting to order. He introduced himself and initiated introductions for those members of the Shellfish Advisory Panel and *Marine Fisheries* staff in attendance. He noted the primary purpose of the last meeting was to serve as a primer on *Marine Fisheries*' Shellfish Program and the various projects they are engaged in. However, he envisioned the Panel's future role would be to provide advice to *Marine Fisheries* on shellfish related issues and how to better serve and support the shellfish industry. The Director expected this meeting and future meetings would reflect this mission. The Director then turned the meeting over to Deputy Director Dan McKiernan. Dan added that the Panel will provide a forum for open discussions that lead to balanced resolutions on issues where competing interests exist.

Dan then moved on to review the agenda. He noted the meeting would be divided into three parts. The first part would consist of a series of presentations on shellfish related to projects *Marine Fisheries* was involved in; the second part would review deliverables from the August meeting; and the last part would serve to solicit comments from the Panel on future deliverables.

Marine Fisheries Presentations

Vibrio Management

Chris Schillaci provided *Marine Fisheries*' first presentation. The presentation covered the development and implementation of the 2014 Vibrio Management Plan (Plan) and regulations; investments in personnel and technology to improve monitoring and compliance; intra-agency cooperation; training

and outreach with industry; instances of *Vibrio* related illness and the schedule for developing the 2015 Plan.

Paul Bagnall, the Edgartown Shellfish Constable, encouraged *Marine Fisheries* to more expediently involve local shellfish constables and health agents when *Vibrio* related illnesses were traced back to a municipality. Mike Hickey noted that the shellfish constable is the first person *Marine Fisheries* notifies once a determination is made that an illness is related to the consumption of oysters from a certain municipality's shellfish growing areas, but recognized the relay of this information to the municipality may be delayed because the Department of Public Health must first make the determination and then relays the information to *Marine Fisheries*.

Mike also stated he would like to involve the Massachusetts Shellfish Officers Association (MSOA) more in the development and rollout of the 2015 Plan. Paul Bagnall was curious if DMF would be able to address this at the next MSOA meeting in December. Chris Schillaci was uncertain if *Marine Fisheries* would be in a position to provide a draft copy of the 2015 Plan at this point. Dan McKiernan suggested this would provide a good opportunity for the MSOA to provide feedback about both the 2014 Plan and implementing regulations.

Dick Kraus and Alex Hay both suggested it would be beneficial for industry to be involved in the drafting of the Plan and the regulations. Chris Schillaci responded that DMF would be holding industry listening sessions and draft Plan rollout sessions throughout the winter and prior to going to public hearing on the regulations; industry would be able to provide input at these times. Mike Hickey stated that his goal was to have the regulations drafted concurrently with the development of the Plan, so industry would be able to comment on the implementing regulations prior to public hearing.

Alex added he would like to see industry at the table when the regulations were being drafted. Director Diodati did not support this due to concerns about maintaining objectivity in drafting regulations. However, he did favor a more transparent regulatory process than what occurred in 2014.

Shellfish Employee Transaction Card

Story Reed provided an overview of the 2014 Pilot Program for shellfish employee transaction cards. These cards are used to link the harvester to a grant site if the harvester is not the aquaculture permit holder and the captain of a shellfish vessel if the captain is not the operator. This linkage improves chain of custody documentation and enhances recall events. He noted that *Marine Fisheries* was going to continue with this program in 2015, but was looking for feedback in the next few weeks on how to improve the program.

Dick Kraus was concerned that this new system was going to complicate his business, as he or his employees often harvest off other grants at the request of the grant holder. Story stated this should not affect current operation, except that for each grant Dick expects to harvest, he and his employees will need their own unique shellfish transaction card for that grant. Dick expressed his concern that this was becoming too complicated.

Mike Hickey stated the Department of Public Health is concerned about not having harvester safeguards obscured by issuing wholesale dealers harvester permits and about strengthening the chain of custody to improve illness trace-back. Mike noted this card assists in both instances. Additionally, the card should improve harvest and income data, which are critical components in any economic analysis (e.g., lost income analysis for red tide event). Chris Schillaci added that these data were necessary to move

towards a risk assessment model for *Vibrio* and noted this card would protect the aquaculture grant permit holder because only employees certified by the grant holder would be able to sell product harvested from that grant.

Dick Kraus asked how quickly *Marine Fisheries* could produce an employee shellfish transaction card. Story Reed stated a card could be turned around in two days. Dick then asked how long a card was valid for. Dan McKiernan stated it would be valid through the calendar year.

Alex Hay had two concerns. First, he was concerned how this would affect shellfish tagging and whether or not the harvester's name or the business name should be on the card. Second, he was concerned this would affect payouts because payouts may be made to the wrong entity (e.g., harvester rather than grant holder or vice-versa). There was then extensive conversation regarding the proper shellfish tagging protocol, particularly as it relates to harvesters who are not the permit holder. Dan suggested that this topic be further discussed with Massachusetts Aquaculture Association (MAA) and MSOA this fall and *Marine Fisheries* would then draft a Shellfish Tagging Guidelines document for the Panel's review.

Martha's Vineyard Shellfish Hatchery

Tom Shields provided an overview of *Marine Fisheries*' development and renovation of the John Hughes Martha's Vineyard Shellfish Hatchery with the Martha's Vineyard Shellfish Group (MVSG). He noted the principal function of the hatchery was to serve as a nursery grow out for quahogs and bay scallops, but there were experiments to culture oysters and mussels. The production of all species grew from 2013 to 2014. Tom added that the hatchery also served as a support base for Law Enforcement and was being used as a research station for shellfish function and ecological services, whelk tagging and recapture, and bioremediation projects.

Mike Trupiano asked if *Marine Fisheries* or the MVSG planned to grow softshell clams at the hatchery. Tom stated they did not due to lack of interest, labor and manpower. Paul Bagnall added that Edgartown has its own hatchery, and despite using a variety of culturing techniques, they have been unsuccessful at growing softshell clams to legal sizes and there appears to be die off during the winter months. Mr. Bagnall was uncertain as to the cause, but speculated it may be disease related. *Marine Fisheries* biologist Greg Sawyer asked if they were finding empty shells on the shellfish beds. Mr. Bagnall stated that softshell clam shells dissolve quickly, so if he arrived early enough after the die off he would find shells.

Deliverables from April 2014 Shellfish Advisory Panel Meeting

Revised Shellfish Planting Guidelines

Municipalities are authorized to close certain shellfish beds for a period of up to three years, per their authority at G.L. c. 130 s. 52. However, *Marine Fisheries* recently received inquiries from the Town of Wellfleet regarding the best way to extend the allowable closure period. After a legal review, *Marine Fisheries* determined an alternative pathway for municipalities to close shellfish beds beyond three years. This new pathway would require the municipality to petition *Marine Fisheries* to codify a closure in the CMR, which in turn would require public hearings of the agency and approval by the Marine Fisheries Advisory Commission (MFC). Dan stated this manner of closing an area was laid out on page 11 of the revised Shellfish Planting Guidelines.

Jon Kachmar asked Dan if he could describe the protocol for filing a petition with *Marine Fisheries* to close shellfish beds beyond three years. Dan stated this is in the CMR and Jon or someone else at the

Nature Conservancy should contact the agency and they will provide them with the details of the protocol.

Wet Storage of Recreationally Caught Shellfish

The wet storage of recreationally caught shellfish recently became a contentious issue in Tisbury and was consequently brought to the attention of *Marine Fisheries*. Mike Hickey stated this activity primarily occurs to stockpile or de-sand shellfish by residents with coastal property, a dock or a mooring. *Marine Fisheries* does have concerns about this activity in relation to the introduction and spread of shellfish diseases.

While Public Health regulates wet storage in the commercial shellfish fishery, they have not regulated this activity in the recreational fishery due to the product's lack of interaction with commerce and the general public. Some municipalities have attempted to regulate this activity and have either allowed it in certain approved Shellfish Growing Areas or have prohibited it. However, due to concerns related to shellfish disease, Mike indicated that the most reasonable approach would be for *Marine Fisheries* to prohibit this activity state-wide. Dan McKiernan added that *Marine Fisheries* was willing and prepared to bring this issue to the attention of the MFC at a winter business meeting and begin the rule making process.

Dave Sargent asked if it would be appropriate for municipalities to act similarly. Mike stated it was best to have *Marine Fisheries* promulgate a state-wide regulation and then municipalities to implement complementary town regulations if it improved enforcement. Paul Bagnall noted that while this is not a big issue in the Town of Edgartown, he recognizes the disease issues and would support a prohibition by *Marine Fisheries*.

Surf Clam Dredge Width Reduction

Dan stated that at the last Panel meeting Allen Rencurrel requested *Marine Fisheries* review the 100" surf clam dredge width maximum size for Nantucket Sound and consider reducing the maximum dredge width for this area to 48". This would create one state-wide surf clam dredge width maximum size. Allen Rencurrel added inshore surf clam vessels typically use a 48" dredge and rely on targeting discrete abundances of surf clams. He was concerned that if there was a good set of surf clams south of Cape Cod, a boat using a 100" dredge could deplete a set of surf clams quickly, which would reduce the amount of resource available to the inshore fishery.

Dan reminded the Panel that *Marine Fisheries* last regulated this issue in the early 1990s in anticipation of changes in fishing behavior due to the adoption of a federal IFQ program. He indicated that the 100" dredge width was adopted at this time to accommodate a small number of federally permitted boats who were also fishing in state waters south of Cape Cod for surf clams and ocean quahogs. Mike Hickey stated that fishing behavior has changed in the past twenty-five years and the larger surf clam dredge boats that were fishing in state waters with larger dredges were likely now fishing primarily in federal waters, where there were larger abundances of surf clams. Dan stated that *Marine Fisheries* was willing to bring this dredge width reduction proposal to the attention of the MFC at a winter business meeting and begin the rule making process.

Efforts to Deplete Green Crabs

Marine Fisheries biologist Bob Glenn provided an overview of the agency's efforts to work with municipalities to deplete populations of invasive green crabs, a known shellfish predator. Over the

summer, the state legislature – through Representative Hill and Senator Tarr – provided earmark funding to deplete green crabs in the Great Marsh.

The green crab removal program for the Great Marsh was modeled after an existing program in Ipswich. *Marine Fisheries* would enter into contracts with the municipalities of Ipswich, Essex, Rowley, Gloucester and Newbury to remove green crabs with standardized equipment and the crabs would either be marketed or properly disposed of; crabs would not be returned to the water. Additional funding would also be provided for research into gear improvements including trap efficiency and means to target female crabs. At present the program in Ipswich was ongoing, the program in Essex was about to get off the ground and the programs in Gloucester, Rowley and Newbury were still in development.

Diane Murphy asked if there was any data collection. Bob stated that *Marine Fisheries* was requiring fishermen submit catch reports so the agency could monitor catch per unit effort to determine the success of the program as it advances. Diane followed up and asked if any sub-sampling was being conducted to determine sex ratios and carapace size. Bob stated that *Marine Fisheries* was doing some sub-sampling of this catch. Diane suggested the fishermen be educated on how to measure and sex crabs and they could be required to do this sub-sampling as part of the project.

Electronic Swipe Card Pilot Program

Tom Hoopes provided a presentation on a cooperative ACCSP-*Marine Fisheries*' pilot program to implement a swipe card transaction card for shellfish dealers and harvesters in Massachusetts. The swipe card would be used in place of the existing transaction card to carry out the transaction between the harvester and the dealer. The agency was currently looking to contract a developer to design software that would enable the transaction and allow reporting into SAFIS. Once a developer was chosen, *Marine Fisheries* would be looking to work with about 10 state-only shellfish dealers as part of this pilot program in 2015.

The goal of this project is to enhance the accuracy and timeliness of shellfish reporting. If the program is successful it may be expanded to other fisheries and may eliminate the need for harvester reporting in certain shellfish fisheries. Additionally, the states of Maine and Rhode Island were looking to this pilot program and considering partnering with Massachusetts.

Alex Hay questioned how the data would interface with state and federal data collection systems. Tom stated the scope of the pilot program will extend only to state-only dealers to minimize potential compatibility issues by streamlining the software format to meet only the state's specifications for data collection. He added that if this program was expanded to federal fisheries, then the partners would have to work with NMFS and creating compatibility may become more complicated.

Alex stated that Mac's Oysters was interested in being a potential partner in this pilot program, but was also concerned about software compatibility between the swipe card software and the software Mac's used for their record keeping. Tom and Alex discussed how these issues could potentially be resolved by working with the software developer.

Dave Sargent stated that Maine had implemented a swipe card program for their elver fishery. He asked *Marine Fisheries* if they knew how successful this program was. Tom Hoopes and Dan McKiernan stated the swipe card program proved useful in enforcement and management.

Dave then asked how changes to the transaction card would affect the swipe card pilot program. Tom stated that the swipe card would take the place of the transaction card, but rather than having all the information imprinted on the transaction card it would help in the swipe card's magnetic strip.

Panel Discussion

Dick Kraus stated the current shellfish tagging requirements are onerous and he requested DMF consider moving towards a "lot" tagging program. Mike Hickey noted it was important to differentiate the tagging requirements for seed and the tagging requirements for shellfish harvested for commerce. The tagging requirements for seed were established in permit conditions to the aquaculture propagation permit. Mike added that *Marine Fisheries* has always been open to allowing lot tagging of seed and would be willing to sit down with the Massachusetts Aquaculture Association and Law Enforcement to figure out how to allow this practice. However, allowing lot tagging for shellfish entering commerce is more complicated because it would require Public Health concurrence and Public Health has been hesitant to allow this activity. Mike added that *Marine Fisheries* is currently in discussions with Public Health on this issue. The major stumbling block is how to define a container and maintain the identity of all shellfish within that container's sub-units as dealers are breaking down lots. Dan McKiernan reiterated that *Marine Fisheries* would prepare a Shellfish Tagging Guidelines document. This document would explicitly state what the tagging requirements are in order to facilitate a discussion about possible amendments to these requirements.

Skip Bennett stated he had some concerns regarding the Vibrio "time of icing" regulations. Mike Hickey stated he was aware of these issues. *Marine Fisheries*, Public Health and Law Enforcement would meet to discuss all Vibrio related issues in the next month and would tackle them with industry during meetings in November.

Allen Rencurrel stated the Town of Provincetown passed a bylaw that treats shellfish dredge vessels like bottom dredge vessels and requires these fishermen to hold a Chapter 91 permit to conduct shellfish dredge activity within Provincetown waters. Allen opposed this town bylaw and was curious if *Marine Fisheries* could address this. Paul Diodati stated that *Marine Fisheries* has opposed this town bylaw since it was adopted. However, the agency has limited options for recourse.

Diane Murphy stated that the Town of Wellfleet was interested in taking the fresh culch from the Wellfleet Oyster Festival and depositing it back into the waters of Wellfleet. She has urged those involved with the festival to not pursue this activity due to concerns about the spread of shellfish disease. Mike concurred with Diane's assessment, but noted DMF does allow this activity in some instances where the culch is being deposited in the waters it came from, because in these instances the risk of introducing and spreading shellfish disease is negligible. Alex and Dick extended their opinions and there was some conversation between Diane, Alex, Dick and Mike regarding *Marine Fisheries* position on this issue as it relates to shellfish disease. Alex Hay asked *Marine Fisheries* to adopt a more formal protocol regarding the circumstances whereby this activity is authorized and prohibited. Mike Hickey stated this was one issue under an overarching shellfish disease control protocol and suggested prioritizing the larger issue rather than focusing on one timely aspect of it.

Jon Kachmar stated the Nature Conservancy was involved in two grant projects to develop rock reefs. He was unclear about how *Marine Fisheries* would respond to this type of work. Dan McKiernan stated he would have *Marine Fisheries*' Habitat Project members Mark Rousseau and Katherine Ford contact Jon and weigh in on these projects.

Paul Bagnall stated that *Marine Fisheries* provides municipalities with a 3-day waiver process to the time of year restrictions affecting municipal hydraulic dredge projects. He stated the period when these projects were allowed was too short, even with the 3-day waiver, to accommodate municipal projects. The MSOA supported *Marine Fisheries* relaxing these restrictions to provide an extended waiver period.

Alex Hay stated the shellfish industry is regulated by both *Marine Fisheries* and Public Health, and often times there is a lack of a coherent message coming from these agencies, which is problematic.

Closing of Meeting

Director Diodati stated that *Marine Fisheries* would review this meeting and develop deliverables for a winter meeting. Additionally, he encouraged Panel members to reach out to Jared Silva if they had any issues they wanted to see the agency address.