

MARINE FISHERIES ADVISORY COMMISSION

November 22, 2022

Via Zoom

In attendance:

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

Division of Marine Fisheries: Daniel McKiernan, Director; Mike Armstrong, Deputy Director; Bob Glenn, Deputy Director; Kevin Creighton, Assistant Director; Story Reed, Assistant Director; Jared Silva; Julia Kaplan; Nichola Meserve; Kelly Whitmore; Brad Chase; Jeff Kennedy; Anna Webb; Stephanie Cunningham; Nick Buchan; David Chosid, Dave Martins; Wendy Mainardi; Matt Ayer; Gary Nelson; Scott Schaffer; and Kristen Thiebault.

Department of Fish and Game: Ron Amidon, Commissioner

Massachusetts Environmental Police: Lt. Col. Pat Moran; Major Chris Baker; and Lt. Matt Bass

Members of the Public: Beth Casoni, Phil Coates, Jamie Bassett, Robert Florio, Emerson Hasbrouck, Dan Murphy, Gerry O’Neill, Andrew Santapaola, Lizzie Roche, and Steve Volpe

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Ray Kane called the November 22, 2022 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

REVIEW OF NOVEMBER 22, 2022 DRAFT BUSINESS AGENDA

No changes to the agenda were requested.

REVIEW AND APPROVAL OF OCTOBER 18, 2022 DRAFT BUSINESS MEETING MINUTES

Chairman Kane asked for a motion to approve the October 18, 2022 draft business meeting minutes. **Sooky Sawyer made the motion to approve the October 18, 2022 business meeting minutes. Kalil Boghdan seconded the motion. A roll call vote was taken and the motion passed 6-0-1 with Shelley Edmundson abstaining.**

CHAIRMAN’S COMMENTS

Chairman Kane noted the length of the meeting agenda and asked that questions and comments be pertinent to the topics being covered.

COMMISSIONER'S COMMENTS

Commissioner Amidon noted the Department of Fish and Game was working on providing proposals to the Governor's office for consideration in the forthcoming Economic Development Bill. Ron commended DMF for their work in providing pertinent information.

The Commissioner then requested the MFAC send letters to the outgoing Baker Administration and incoming Healey Administration documented the marine fisheries work accomplished and challenges ahead. Chairman Kane agreed that this was a good idea. Draft letters will be presented for the Commission's review and approval at next business meeting.

LAW ENFORCEMENT COMMENTS

Lt. Matthew Bass provided comments for the Massachusetts Environmental Police (MEP). He stated most of their ongoing cases were moving along through the court system. He highlighted joint training they've done with NOAA Fisheries involving new technology to help enforcement protected species regulations and vessel speed limit rules.

DIRECTOR'S COMMENTS

Director Dan McKiernan started his comments by thanking the MFAC for being flexible with shifting to a virtual format for the November meeting out of concern for not spreading COVID before the Thanksgiving holiday. Dan highlighted recent meetings he attended, which included the San Diego Director's meeting and the annual ASMFC meeting in New Jersey. He then commended DMF staff for conducting public hearings while he was away.

He then moved on to discuss a StoryMap produced by Micah Dean highlighting the results of the IBS cod research.

Dan then discussed the recent Shellfish Advisory Panel meeting. One of the primary deliverables for next year was to develop a pilot program to expand bulk tagging to all shellfish aquaculturists.

Director McKiernan then moved on to provide an update regarding the hydraulic dredging of surf clams off the coast of Provincetown. A surf clam dredge business submitted a Notice of Intent to conduct dredging in Provincetown waters. As a result, DMF reengaged the Secretariat on this matter, as it will require coordination with DEP and MEPA. Looking towards the future, Dan was interested in a potential legislative fix so that fishing gear regulated by DMF was not also subject to the Wetlands Protection Act. He also wanted to engage with the surf clam fishery to modernize spatial management using geo-fencing tools in order to more clearly protect sensitive habitats (e.g., eel grass).

Dan provided an update regarding offshore wind development issues. The transmission cable for Vineyard Wind I will be laid through Muskeget Channel later this month. Vessels will need to avoid the area while the cable is being laid and the states are now looking for a standardized relief method for affected fishers. DMF is in the process of hiring a new staff member to focus exclusively on offshore wind energy development issues.

ACTION ITEMS

Review of Final Recommendations

Atlantic Mackerel Management

Director McKiernan stated DMF was moving to establish a new commercial regulated fishery permit endorsement for Atlantic mackerel. This permit will allow for the differentiation of commercial and recreational mackerel fishing activities. The endorsement will be open entry and may be added to any commercial fishing permit. The endorsement fee will be \$30 for a resident and \$60 for a non-resident.

Permitted commercial fishers may retain, possess, and mackerel in excess of the recreational limit when commercially fishing for mackerel or other using mackerel as bait to commercially target other species (e.g., striped bass). Dan noted that commercial anglers may not mix commercial and recreational trip, meaning they may only exceed the recreational limit when commercially fishing.

Jared stated that this does not require a motion and welcomed any comments or concerns from the MFAC.

Mike Pierdinock asked about fishermen targeting bluefin tuna when a properly permitted vessel has the ability to fish recreationally or commercially. Jared Silva clarified that if you're fishing recreationally and a giant bluefin tuna is caught, a properly permitted vessel may retain the tuna and sell it. Under such a scenario, a properly permitted vessel will be able to fish under the recreational mackerel limit and retain a commercial grade tuna. Additionally, if a commercial tuna is retained then all other catch onboard the vessel need not conform to commercial fishing rules.

There was discussion between the Chairman, Mike Pierdinock, and DMF staff regarding hypothetical situations and how the permitting requirements would work depending on if someone was fishing commercially or recreationally.

Chairman Kane asked if there were any objections. There were no objections from the Commission. Dan stated that he will enact the permitting changes.

Atlantic Mackerel Recreational Catch Limit

Dan recommended the MFAC vote to approve a 20-fish recreational limit for Atlantic mackerel. This limit shall apply as a daily per angler harvest limit and a per angler possession limit while fishing. Recreational anglers will not be subject to this limit when

holding mackerel in a freezer, fish car, or shore-based bait well or a holding car tied off a dock. He noted that this recommendation does not differ from the proposal set forth at public hearing.

Chairman Kane asked for a motion to approve the recommendation. **Bill Doyle made a motion to approve the recommendation. Bill Amaru seconded the motion. The motion was passed unanimously 7-0.**

Recreational Tautog Slot Limit and Trophy Fish

Dan explained that for 2022 Rhode Island adopted a recreational tautog slot limit of 16” to 21” with an allowance for a recreational angler to retain one trophy fish exceeding 21” per calendar day. DMF was contacted its counterparts in Rhode Island requesting Massachusetts consider adopting a complementary rule. Due to regulatory timelines, DMF could not accommodate this action for 2022, but expressed a willingness to consider it for 2023.

In support of adopting a complementary rule, Dan explained that Massachusetts and Rhode Islands comprise a stock management unit, and an FMP objective is to have consistent rules across states within a single stock management unit. Moreover, this may restrict the eastward movement of anglers into Massachusetts waters to target large tautog. Lastly, it may contribute to conservation by protecting those larger, fecund fish in population over time.

In conclusion, Director McKiernan recommended the Commission vote to approve recreational tautog slot limit of 16” to 21” with an allowance for a recreational angler to retain one trophy fish exceeding 21” per calendar day. This rule would go into effect for the 2023 recreational fishing season.

Bill Amaru stated he was happy to read the comments from fishery participants who were in favor of this action. He added that he is also in favor of this recommendation.

Mike Pierdinock stated he would support this recommendation. He then referenced MRIP numbers that showed an increase in the number of tautog caught.

Chairman Kane asked for a motion to approve the recommendation. **Kalil Boghdan made a motion to approve the recommendation. Shelley Edmundson seconded the motion. The motion was passed unanimously 7-0.**

Electronic Trackers in Commercial Lobster and Crab Trap Fishery

Director McKiernan stated the ASMFC recently approved FMP addenda to require electronic trackers in the federal commercial lobster and Jonah crab trap fisheries by 2024. The purpose of this requirement is to improve spatial data collection in the federal lobster and Jonah crab trap fishery to address marine spatial planning, development of habitat conservation and marine protected areas, protected species risk analyses, and stock assessment and delineation of catch to stock area. Accordingly, DMF intended to require all commercial Offshore Lobster Permit holders and Coastal Lobster Permit

holders with a federal lobster trap permit to install and have operational an electronic tracking device onboard the vessel named on the federal and state lobster permit by May 1, 2023. This recommendation does not differ from the proposal set forth at public hearing.

Dan stated Massachusetts (and the other affected states) received a federal earmark to subsidize cost of this requirement. For Massachusetts, Dan anticipated the subsidy would cover the purchase and installation of the device, as well as the first three years of service fees. The ASMFC is currently reviewing RFRs for potential tracking device vendors and was expected to produce an approved list in early 2023.

For a number of reasons, Dan supported implementing this requirement in Massachusetts for May 1, 2023, rather than January 1, 2024, as required by the FMP. First, Massachusetts could begin to collect this important spatial data earlier allowing the state to have better data to address a variety of ongoing challenges. Second, by being first in line to get the devices and doing this on a timeline separate from Maine, Massachusetts' fishers may avoid potential supply issues. Dan expected industry will be able to purchase the trackers at upcoming industry trade shows

Bob Glenn added that these trackers will be critical in expanding the data available for where trap fishermen fish. He emphasized it's a vital piece to capture the footprint of the fishery which will help ensure that the fishery is well represented.

Jared Silva stated that this does not require a motion and vote by the MFAC. Chairman Kane welcomed questions and comments from the commission.

Sooky Sawyer asked if the trackers will be able to store ten days of data since offshore lobster trips typically last ten days. DMF staffer, Nick Buchan, expected at least four devices will be approved by ASMFC and he stated each device can hold at least 14 days of data and some can hold up to six months of data.

Sooky Sawyer expressed concern over the cost of the trackers and the potential for having to front the money and get reimbursed later. He also expressed concern over the short turnaround between now and May. Director McKiernan stated DMF is working to ensure that the money will be fronted and the trackers will be available this winter, including at the March Massachusetts Lobstermen's Association trade show. If it became apparent that it was impossible to comply with the May 1 implementation date, DMF could delay implementation and enforcement. Nick added that installation is fairly quick and easy. He expected that if fishers were able to obtain the device this winter there should be no issue having them installed prior to the season.

Sooky closed his comments by stating DMF may need to do more outreach to mobile gear fishermen who also fish fixed gear as some do not believe they need the trackers since they already have VMS installed.

Chairman Kane asked if the trackers that hold more data are more costly. Nick Buchan stated that is the case. Chairman Kane asked Nick to ensure that the vendor has a hotline in place for the fisher to call if they run into issues on the water. Nick stated each of the vendors have a number in place and most have 24/7 assistance.

Bill Amaru stated he is in favor of this motion and is hopeful the transition will be smooth.

Chairman Kane asked if there were any objections. There were no objections from the Commission.

Whelk Gauge Size Schedule

Director McKiernan provided the Commission with some background regarding whelk management. DMF's stock assessment for channeled whelk in Nantucket Sound (primary harvest area) demonstrates the resource is overfished and overfishing is occurring. Additionally, DMF size-at-maturity studies show female channeled whelks in Nantucket Sound do not reach 50% size-at-maturity until 3 7/8" shell width, which corresponds to a 3 5/8" gauge width using the any orientation method of measurement. To enhance whelk conservation, in 2019, DMF and the MFAC implemented a 10-year schedule to biennially increase the gauge width by 1/8" biennial resulting in a terminal gauge width of 3 5/8" in 2029. Whelks are slow growing animals and the gradual gauge increase schedule was designed to offset economic impacts.

However, industry petitioned DMF to slow the gauge increase schedule so it occurs every third year rather than every other year. This was done out of concerns about declines in whelk fishing effort and landings and potential loss of shore-side infrastructure. DMF adopted the petition and took it out to public hearing. While the petition will delay milestones for spawning stock protections, it will balance this against long-term viability of the industry in Massachusetts.

Following public hearing and public comment, Dan recommended the MFAC vote to approve an amended whelk gauge increase schedule whereby the gauge width is increased by 1/8" every third year (instead of every other year), achieving the terminal width of 3 5/8" in 2033. In doing so, the pending increase from 3 1/8" to 3 1/4" will occur in 2024, rather than 2023. This recommendation was consistent with industry's petition.

Shelley Edmundson stated there are a number of conflicting views regarding the status of the resource and how to best enhance conservation and regulate the fishery. She hoped this recommendation would allow for additional studies into the resource and the fishery to determine the best course of action moving forward. Shelley was specifically concerned about how the gauge increases may skew sex ratios by having harvest focus almost exclusively on female whelks, as they grow to larger sizes.

Chairman Kane asked the Director to keep the Commission informed on any new research developments going forward.

Bill Amaru reiterated Ray's point regarding the need for updated information and offered to be a resource for fisher contacts when the time comes for additional studies. He closed his comments by stating he is in favor of the recommendation.

Chairman Kane asked for a motion to approve the recommendation. **Bill Amaru made a motion to approve the recommendation. Tim Brady seconded the motion. The motion was passed unanimously 7-0.**

Protected Species Management - Recreational Trap Gear Closure

Director McKiernan stated that under existing regulations, DMF may extend or shorten the duration of commercial fixed gear closures to protect right whales on a dynamic basis in response to the presence/absence of right whales. This allows DMF to extend the closure past May 15 if right whales remain in state waters or rescind the closure after May 1 if they have migrated out of state waters. A similar authority does not currently exist for the recreational trap fishery. At present, buoyed trap gear may be set on May 16 regardless of whether right whales remain present and may not be set prior to even if right whales depart. This recommendation would treat the commercial and recreational fisheries similarly with regards to the seasonal opening of the fishery.

Dan recommended the MFAC vote to provide the DMF Director with the authority to annually amend the opening of the May 16 – October 31 buoyed recreational trap fishery on a dynamic basis in response to the presence/absence of right whales. This recommendation does not differ from the proposal set forth at public hearing.

Chairman Kane asked for a motion to approve the recommendation. **Sooky Sawyer made a motion to approve the recommendation. Kalil Boghdan seconded the motion. The motion was passed unanimously 7-0.**

Protected Species Management - Weak Link at the Buoy

Bob Glenn provided the MFAC with background information regarding the requirement for a weak link at the buoy. He noted that for 2022, NOAA Fisheries' Atlantic Large Whale Take Reduction Plan ("Plan") regulations were amended and the weak link requirement was rescinded from the Plan. The rationale for this amendment was that the entanglement record shows little evidence the gear modification works as intended. Accordingly, the gear modification ultimately does not contribute to risk reduction. For various reasons, DMF was unable to take a complementary action for 2022, which allowed for state and federal rules to become out of phase whereby state rules required the weak link but federal rules did not and dual permit holders subject to the state rule when fishing in state waters.

At present, DMF was recommending the MFAC vote to approve complementary regulations that would rescind the weak link requirement for commercial trap fishers. Bob Glenn then discussed some of the comments received. He noted some trap fishers will likely continue to use the weak links because it enhances the functionality of the

gear ways unrelated to protected species risk reduction. Jared Silva added the recommendation would retain the weak link requirement for the recreational fishery, which did not differ from the proposal set forth at public hearing.

Sooky Sawyer agreed with Bob's comment and added that most commercial fishermen will continue to use the swivel-style weak link.

Lt. Bass and Shelley Edmundson questioned why DMF would continue to require a weak link in the recreational sector if the gear modification was proven to have no impact on risk reduction. Bob stated it was proposed in this manner because the recreational fishery is not subject to any of the weak rope requirements governing the commercial fishery. However, given the efficacy of the weak link in risk reduction, it was not necessary to retain the requirement for the recreational fishery. Director McKiernan stated his willingness to amend the recommendation to rescind the weak link requirement in all trap fisheries. Dan then welcomed debate by the Commission. There was a general consensus that the weak link requirement should also be rescinded for the recreational fishery. Accordingly, Director McKiernan revised his recommendation and sought the MFAC to vote in favor or rescinding the weak link requirement for both recreational and commercial trap gear fisheries.

Chairman Kane asked for a motion to approve the amended recommendation. **Kalil Boghdan made a motion to approve the amended recommendation. Shelley Edmundson seconded the motion. The motion was passed unanimously 7-0.**

Protected Species Management – Buoy line definition

Bob Glenn stated that when DMF was inspecting buoy lines this past season, it became apparent the current buoy line definition was too nebulous, and as a result, in some cases it became difficult to determine the precise location where the buoy line terminates along the ocean floor and therefore enforce a variety of buoy line rules. This was particularly true if the buoy line was not being removed from the gear and seized. Accordingly, DMF sought public comment to enhance the definition of the term buoy line to allow for more effective enforcement of the state's buoy line regulations.

The recommended definition describes a buoy line as that segment of line connecting fishing gear in the water to a buoy at the surface. For trap gear, the connection to the fishing gear in the water shall be where it connects to a trap, trap bridle, or groundline in front of the terminal trap at that end of the trawl. If the buoy line is connected to the groundline but that connection is not readily apparent or visible, then the end of the buoy line shall occur 12' in front of the connection to the terminal trap at that end of the trawl.

DMF welcomed any comments from Commission members. Sooky Sawyer stated he supported the recommended language.

Chairman Kane asked for a motion to approve the recommendation. **Sooky Sawyer made a motion to approve the recommendation. Bill Amaru seconded the motion. The motion was passed unanimously 7-0.**

Extended Area 1A Winter Mobile Gear Fishery

Jared Silva described the rationale for the extended area 1A Winter mobile gear fishery. He stated that Area 1A—off Gloucester and Rockport—is currently open to mobile gear fishing from February 1 – March 31 and June 15 – September 30. This past season, Lou Williams requested DMF extend the wintertime fishery past March 31 to provide additional inshore access to sea scallops. DMF analyzed the request and supported extending this opening through May 15. If DMF's recommendation was approved, any Coastal Access Permit holder further endorsed for North Shore Mobile Gear would be allowed to fish in this area with mobile gear from February 1 – May 15. Given the February 1 – May 15 seasonal fixed gear closure to protect right whales, DMF did not anticipate the extension would produce gear conflicts with fixed gear fishers.

Jared added that DMF does not anticipate this change will result in increased interactions with groundfish species. This fishery would be occurring in a time and space where seasonal groundfish availability is low, the use of trawl gear and the retention of groundfish will be limited by overarching groundfish closures, and sea scallop dredges are rigged in a manner to reduce groundfish bycatch. Moreover, there should be additional federal observer coverage on future Northern Gulf of Maine (NGOM) sea scallop trips, which will better inform discussions regarding potential groundfish bycatch in the region.

Jared stated that DMF recommends the MFAC vote to approve extending the Area 1A wintertime opening from February 1 – March 31 to February 1 – May 15.

Sooky Sawyer stated that the closure of the mobile gear fishery in May should coincide with the opening of the lobster fishery. Dan agreed with this assessment and stated he will amend the recommendation. Bill Amaru was interested if such a change would fit with Lou William's expectations. Jared Silva recalled that Lou stated he would support such an amendment at a prior MFAC meeting where the proposal was preliminary discussed.

Director McKiernan amended his recommendation. He now recommended the MFAC vote to approve extending the Area 1A wintertime opening from February 1 – March 31 to February 1 – May 15, unless sooner closed by the Director in response to opening the trap gear fishery.

Chairman Kane asked for a motion to approve the amended recommendation. **Sooky Sawyer made a motion to approve the amended recommendation. Bill Doyle seconded the motion. The motion was passed unanimously 7-0.**

Prohibition on Retention and Landing of Shortfin Mako

Director McKiernan stated that ICCAT recently determined all member nations needed to reduce shortfin mako fishing mortality to accelerate the recovery of the stock. In response, NOAA Fisheries adopted a federal prohibition on shortfin mako retention with an allowance to authorize harvest should it be allowed by ICCAT and the ASMFC's Coastal Sharks Management Board took action to require zero retention in state waters. Accordingly, the Director recommended the MFAC vote to approve a prohibition on the retention, possession, and landing of shortfin mako taken from the waters under the jurisdiction of the Commonwealth and allow for DMF to exempt fish lawfully caught in federal waters should NOAA Fisheries provide an allowance for harvest in the federal zone in the future.

Chairman Kane asked for a motion to approve the recommendation. **Shelley Edmundson made a motion to approve the recommendation. Mike Pierdinock seconded the motion. The motion was passed unanimously 7-0.**

Housekeeping

Jared Silva briefly discussed various housekeeping proposals and recommended the MFAC vote to:

- (1) eliminate the term "grandfather" from the regulatory code;
- (2) adopt gender neutral terms in the sections of 322 CMR currently being amended (e.g., fisher replaces fisherman);
- (3) rescind 322 CMR 8.08 thereby eliminating redundant provisions;
- (4) correct typographical errors in language defining black sea bass pots and mobile gear exemption areas;
- (5) move buoy line marking rules from 322 CMR 4.13 to 322 CMR 12.00; and
- (6) amend organization of 322 CMR 12.00 and update its purpose section to better reflect the current status of protected species management.

Chairman Kane asked for a motion to approve the recommendation. **Bill Amaru made a motion to approve the recommendation. Tim Brady seconded the motion. The motion was passed unanimously 7-0.**

DISCUSSION ITEMS

Interstate Fisheries Management Update

Staff provided the Commission with an interstate fisheries management update. This update covered key outcomes from the ASMFC Annual Meeting in November as well as a preview of a joint ASMFC/Mid-Atlantic Council meeting in December.

Striped Bass. Dr. Michael Armstrong discussed the results of the 2022 stock assessment update for striped bass. The assessment found overfishing is no longer occurring, the stock is still overfished, and the stock biomass is projected to rebuild by the 2029 deadline if fishing mortality remains static. Accordingly, no additional reductions were required by the Management Board for 2023.

Dr. Armstrong cautioned that there is a minor retrospective pattern of underestimating fishing mortality in the assessment and there is still poor recruitment coming out of the Chesapeake Bay. He was concerned poor recruitment in the Chesapeake may be a signal of a paradigm shift related to climate change, however, the Hudson River and Delaware Bay did not show similar trends in low recruitment.

Dr. Armstrong and Kalil Boghdan discussed fishing mortality rates and the need to keep fishing mortality low in the coming years to meet rebuilding targets. Kalil also expressed concern about the future of the stock once the large 2015 year class moves through the fishery and it is replaced by several years of terrible recruitment. Dr. Armstrong stated fish enter the spawning stock biomass at about seven years old. Accordingly, the large 2015 year class was just entering the spawning biomass and he was hopeful that if the right environmental conditions exist it will produce strong year classes as it matures. Similarly, we will not see the effects of recent poor year classes on SSB until around 2027.

Nichola Meserve then discussed Draft Addendum I, which considers allowing transfers of coastal commercial quota. The ASMFC would be holding public hearings in December, with a hearing for Massachusetts tentative scheduled for December 19. The Board was expected to vote on the addendum at the 2023 winter meeting.

Kalil Boghdan asked if there were states that did not utilize their commercial striped bass quota this year. Nichola stated that was true of several states, notably North Carolina who has a large quota but limited access given the prohibition on fishing in the EEZ. Dan stated this addendum was being pushed by Delaware. However, Massachusetts has taken advantage of quota transfers for other species where it is allowed. If the Addendum passed, the MFAC may want to weigh in to DMF on how the state should involve itself in quota transfers.

Mike Pierdinock asked how differences in size limits among states would influence quota transfers. Nichola stated this was a point of discussion amongst the Plan Development Team and potential options were reviewed. For simplicity, the addendum would allow transfers on a pound-for-pound basis and not consider that Massachusetts harvests fewer fish at a larger size, whereas other states may take more fish at a smaller size. Mike P. also expressed his opinion on how commercial quota transfers may locally have a negative impact on recreational fishing activity.

Menhaden. Nichola reviewed the two major actions taken by the Menhaden Board—setting the 2023-2025 TAC and approving Addendum I. The 2023-2025 TAC was set at 233,550 MT, a 20% increase from the two prior years but still with a less than 40% probability of causing the Ecological Reference Point fishing mortality target to be exceeded. Addendum I established new state allocations that better reflect recent landings (using a three-tier minimum and 2018/2019/2021 landings as the basis); maintained the EESA at 1% of the TAC; prohibited the use of purse seines and other

directed gears during the Incidental Catch/Small Scale Fishery (IC/SSF) allowance and IC/SSF landings; and if a TAC overage occurs Board must change trip limit or gears allowed and may do so by Board action.

Nichola then discussed the changes that will impact Massachusetts' menhaden fishery. As a result of the increased TAC and the change in the state shares, Massachusetts' 2023 quota is expected to be set at about 10.8 mlb. This is similar to 2021/22 landings, which were made possible by numerous quota transfers and opting into the EESA. Additionally, DMF would have to amend its regulations to address the use of directed gears in the IC/SSF. This provided an opportunity for DMF to consider other regulatory changes to address quota management, performance, compliance, and gear conflicts. An additional industry scoping meeting is being scheduled for early 2023 and DMF would follow up with formal rule-making after that, with the goal of implementing new rules for June 1, 2023. Director McKiernan highlighted DMF may reconsider some of its previous quota management techniques during this process.

Ray Kane commended Nichola for her work at Commission.

American Lobster. Director McKiernan discussed the ongoing development of Draft Addendum XXVII which will propose management triggers and responses to increase spawning stock protection of the GOM/GBK stock. This was an issue initially raised by Maine in light of early signs of waning record high biomass there but was tabled due to protected species management issues. Dan expected the draft addendum would be approved for public comment at the winter 2023 ASMFC meeting.

River Herring and Shad. Nichola reported that the sustainable fishery management plans for limited recreational harvest of river herring in the Nemasket River and Herring River were approved by the ASMFC. Additionally, the Board approved the state's updated Shad Habitat Plan which included the new Taunton River five-year stocking project.

Horseshoe crab. Nichola stated that the Adaptive Framework Model for setting DE-Bay harvest specifications was updated based on the best available science, but no female crab harvest was authorized for 2023 in recognition of public concerns about migratory bird forage needs. More relevant to Massachusetts, a working group was established which will be reviewing Best Management Practices for biomedical handling, with recommendations expected in spring of 2023.

Bill Amaru asked whether the biomedical firms and fishermen will be included in the ASMFC's development of best management practices for biomedical harvesting. Nichola indicated that the working group that had been formed included industry members to ensure firsthand knowledge. Dan noted both of the local biomedical firms are included in on the work group. He added that historically the group was focused on

handling by biomedical firms, but now the discussion will likely be expanded to the harvesters.

Fluke/Scup/Black Sea Bass. Nichola closed her comments by discussing the upcoming MAFMC/ASMFC joint meeting on December 13. This will address the setting of 2023 recreational measures for these three species using the newly approved “percent change” approach. This approach takes into consideration MRIP harvest estimate uncertainty and stock status in determining liberalizations or reductions each year. The adoption of this approach as well as changes to the recreational/commercial allocations and the management measures adopted in 2022 had enabled a waiving of accountability measures triggered for black sea bass and scup. Nonetheless, the preliminary outcomes included a 10% reduction for black sea bass, status quo measures for scup, and a 10% liberalization for fluke. Regional or state-specific approaches for achieving these changes likely would not be finalized until early next year though. Nichola also noted that the management bodies would be resuming prior discussions about an amendment addressing recreational sector separation and recreational catch accounting. She welcomed any questions.

Federal Fisheries Management Update

Melanie Griffin was unable to attend this business meeting and instead provided Jared with a brief written update that he shared with the MFAC and made available in the December 2022 MFAC business meeting materials.

Protected Species Management Update

Bob Glenn provided the Commission with a brief protected species update. As a result of the recent federal court decision in the Center for Biological Diversity v. NOAA Fisheries, the federal government must develop new amendments to the Atlantic Large Whale Take Reduction Plan that reduce the risk of right whale entanglement by 90% in all regulated fisheries coastwide. Moreover, NOAA Fisheries will have to develop a new Biological Opinion for right whales. The agency has until the end of 2024 to complete both tasks.

NOAA Fisheries had been holding a number of stakeholder meetings along the coast to begin to develop proposals to achieve the necessary entanglement risk reduction measures. Early indications are that Massachusetts would not be credited for the Massachusetts Restricted Area closure as it was implemented in 2015, prior to the 2017 baseline being used by NOAA Fisheries for risk reduction. However, DMF continued to advocate for this. Additionally, DMF was also advocating that NOAA Fisheries update the risk reduction model to include mortality data from more recent years. Commissioner Amidon will be drafting a letter of support and DMF is hopeful that more support will be coming down the pipeline.

Lastly, the Atlantic Large Whale Take Reduction Team met last week. Bob Glenn commended Erin Burke for her work at the TRT. DMF had worked to develop a straw

man that would achieve 87.8% risk reduction for LMA1 and there were a number of different measures that could be taken to achieve 90%.

Sooky Sawyer expressed concern over the management of risk in federal waters of LMA1 where vessels from Maine, New Hampshire, and Massachusetts may be fishing side-by-side each subject to different state-specific risk reduction programs.

MFAC Sub-Committee Update

Permitting Sub-Committee

Story Reed provided the Commission with a summary of the October 20 MFAC Permitting Sub-Committee (PSC) meeting. DMF left the meeting with a variety of deliverables and analyses it hoped to conduct during the winter. His intention was to reconvene the sub-committee in early 2023 and then begin to move towards an industry scoping process.

Ray Kane was frustrated DMF did not engage the PSC in defining what a commercial fisherman is. He asked that this be discussed at the next meeting. Story stated it could be added to the agenda.

Law Enforcement Sub-Committee

Jared provided the Commission with a summary of the October 26 MFAC Law Enforcement Sub-Committee (LESC) meeting. The LESL on non-compliance issues in certain quota managed fisheries, particularly menhaden and striped bass. These discussions would inform rule making for 2023 and beyond.

Director McKiernan and Lt. Col. Moran discussed the measuring of striped bass under the new slot limit and how the tail may be manipulated to enhance the retention of fish. Dan stated there may be a benefit to standardize the method of measurement among coastal states. Lt. Col. Moran stated he would reach out to other states and see how they define the method of measurement.

OTHER BUSINESS

Commission Member Comments

Tim Brady thanked everyone for their work.

Sooky Sawyer would like a status update regarding ongoing adjudicatory hearings. Jared stated that there has been one settlement agreement reached thus far and the others are still pending.

Bill Amaru, Bill Doyle, and Kalil Boghdan wished everyone a happy Thanksgiving.

Ray Kane thanked the DMF staff and wished everyone a happy Thanksgiving. He praised the Commission for their continued attendance and involvement at public hearings.

Next Business Meeting and Industry Meetings

Director McKiernan and Chairman Kane discussed the potential need for a brief meeting on December 20 to address a small number of time sensitive issues. There were no objections to a short virtual meeting on this date. Jared Silva indicated the meeting would be held on Zoom from 10AM to Noon.

Jared highlighted upcoming summer flounder and horseshoe crab stakeholder meetings scheduled for DMF's SMAST East facility on the evening of December 13.

PUBLIC COMMENTS

Beth Casoni asked that DMF send out reminders to fishermen regarding upcoming virtual protected species meetings next week. Bob Glenn stated that a notice will be sent out this Friday, November 25th. Beth Casoni thanked Erin Burke for her work on the TRT and wished everyone a happy Thanksgiving.

Phil Coates commended Commissioner Amidon for his work during his tenure and he hopes it will continue with the new administration. Additionally, he commended Mike Armstrong for his work on striped bass issues. He closed his comments by bringing up a petition filed several years ago regarding the implementation of a limited entry program for the commercial striped bass fishery.

Jamie Bassett wished everyone a happy Thanksgiving.

ADJOURNMENT

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

MEETING DOCUMENTS

- November 2022 MFAC Agenda
- October 2022 Draft MFAC Meeting Minutes
- 2022 Fall Omnibus Recommendations and Presentation
- ASMFC November Meeting Summary and Presentation
- NEFMC Update
- MFAC Permitting Sub-Committee Meeting Summary
- MFAC Law Enforcement Sub-Committee Meeting Summary

UPCOMING MEETINGS

December 20th
10 AM via Zoom