

MARINE FISHERIES ADVISORY COMMISSION

February 13, 2023

Via Zoom

In attendance:

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

Division of Marine Fisheries: Daniel McKiernan, Director; Mike Armstrong, Deputy Director; Bob Glenn, Deputy Director; Kevin Creighton, Assistant Director; Story Reed, Assistant Director; Jared Silva; Julia Kaplan; Nichola Meserve; Melanie Griffin; Stephanie Cunningham; Kelly Whitmore; Jeff Kennedy; Dave Martins; Derek Perry; Nick Buchan; Scott Schaffer; Kerry Allard; and Alex Boeri.

Department of Fish and Game: Ronald Amidon, Commissioner.

Massachusetts Environmental Police: Lt. Bass

Members of the Public: Stormy Mayo, Daniel Gibson, Heather Haggerty, Mike Waine, Gerry O’Neill, Matt Belson, David Meservey, Phil Coates, Nora Blair, Beth Casoni, Thomas Novitsky, Sarah Martinez, Sharl Heller, Marissa McMahan, Lizzie Roche, Bill Sargent, Barbara Brennessel, Brad Winn, Brett Hoffmeister, Paul Ward, Mark Faherty, Katie Rodrigue, Eric Lorentzen, Denise Stowell, David Glover, Deborah Cramer, Domenic Santoro, Diane, Jo, Butch, Liz, and Kenny.

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Ray Kane called the February 13, 2023 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

REVIEW OF FEBRUARY 13, 2023 BUSINESS MEETING AGENDA

No changes to the agenda were requested.

REVIEW AND APPROVAL OF DECEMBER 20, 2022 DRAFT BUSINESS MEETING MINUTES

No edits or comments were provided. Chairman Kane asked for a motion to approve the December 20, 2022 draft business meeting minutes. **Shelley Edmundson made the motion to approve the December 20, 2022 business meeting minutes. Bill Amaru seconded the motion. A roll call vote was taken and the motion passed unanimously 6-0 (Sooky Sawyer was absent during this vote).**

CHAIRMAN’S COMMENTS

Chairman Ray Kane thanked everyone for their attendance and turned the floor over to the Commissioner.

COMMISSIONER'S COMMENTS

Commissioner Ron Amidon visited Cat Cove Marine Lab this past month and congratulated Dan McKiernan, Kevin Creighton, and Dr. Mike Armstrong on their efforts restoring the laboratory. Ron was working to find some additional funding to bring the lab to its full potential.

LAW ENFORCEMENT COMMENTS

Lt. Matt Bass handled the comments for the Massachusetts Environmental Police (MEP). MEP was working with DMF to retrieve any gear remaining within the state waters fixed gear closure that began on February 1. He stated that compared to last year (2022), there is a lot less gear in state waters.

DIRECTOR'S COMMENTS

Director Dan McKiernan thanked everyone for their attendance and their flexibility regarding the change in meeting schedule.

He stated the Shellfish Advisory Panel is scheduled to meet at the beginning of March. DMF intended to address its concerns regarding the potential for state regulated commercial fishing activities—particularly hydraulic surf clam dredging—to be constrained by municipal conservation commissions (“ConCom”) under the Wetlands Protection Act. This issue came to the forefront several years ago as a result of Provincetown enforcing local ConCom regulations restricting hydraulic dredging off Herring Cove.

DMF was in the process of putting together a list of nominees for the open at-large seats on the New England Fishery Management Council. The list will be submitted to the Governor’s office on February 15 for review. The Governor is then expected to submit her list on to NOAA Fisheries on March 15. Dan reminded the Commission they should have received an email containing the bios of DMF’s four preferred nominees and a request for their input regarding the candidates.

Dan McKiernan closed his comments by commending Brian Castonguay for his work on the Cat Cove Marine Lab.

ITEMS FOR PUBLIC HEARINGS

Commercial Summer Flounder Limits

Dan McKiernan highlighted various issues regarding reduced participation within the commercial summer flounder fishery. Dan and Jared Silva then explained the public

hearing proposals, which they described as designed to increase participation and landings to more fully utilize the available quota. The proposals are enumerated below:

1. Adjust the so-called “landing window”, so that vessels may offload summer flounder from 6AM to 10PM, rather than 6AM to 8PM.
2. For summertime Period II fishery (April 23–September 30), either:
 - a. adopt a weekly aggregate pilot program for trawlers exempting them from daily limits in favor of a weekly limit; or
 - b. increase the trip limit for trawlers from 500 pounds to 800 pounds with a scheduled increase to 1,000 pounds on September 1 (rather than 800 pounds) if more than 20% of the quota remains.
3. Adjust the bycatch allowance provision for the small mesh squid fishery. Rather than setting it at a 100-pound limit for summer flounder when fishing for small mesh or when in possession of more than 250 pounds of squid, have this limit only apply when fishing with small mesh.
4. For the fall Period II fishery (October 1–December 31), increase the trip limit from 3,000 pounds when more than 5% quota remains and 800 pounds otherwise to 10,000 pounds when more than 5% of the quota remains and 1,000 pounds otherwise.
5. For Period I (January 1 – April 22), increase the regulatorily set limit from 3,000 pounds to 10,000 pounds.

Dan welcomed any questions from the Commission.

Bill Amaru asked for clarification regarding the bycatch allowance provision. Jared Silva provided some history on the provision and noted the state’s rules are currently more restrictive than required by the federal fishery management plan (FMP). Jared then explained this change would align the state rules with the FMP and encourage vessels trip fishing for squid during the spring and summer to land in Massachusetts.

Bill Amaru expected there would be some debate at public hearing on the proposed trip limits adjustments and a weekly aggregate limit program. His initial preference was for a higher daily trip limit and he expressed concern these proposals may change the fleet composition of the summertime fishery.

Commercial Horseshoe Crab Management

Director McKiernan introduced DMF’s commercial horseshoe crab management proposal to the Commission. The proposals are enumerated below:

1. Permitting.
 - a. Establish a new biomedical horseshoe dealer permit.
 - b. Establish a new biomedical processor dealer permit. This permit may be limited in issuance.
2. Conservation.

- a. Adopt a January 1 – May 31 closure to all horseshoe crab harvest and rescind the existing five-day closures around each new and full moon from mid-April through June.
 - b. Establish an annual processor quota for the biomedical fishery of 200,000 horseshoe crabs. This quota will be allocated evenly among biomedical processors.
 - c. Reduce the bait quota by 25,000 horseshoe crabs from 165,000 to 140,000 horseshoe crabs.
3. Bait Fishery Trip Limits
- a. Consider increasing the trip limits for all permitted bait harvesters up to 500 crabs. Current limits are 300 crabs for permitted trawlers and 400 crabs for permitted hand harvesters.
 - b. Consider re-issuing Letters of Authorization to certain mobile gear fishers who do not hold a horseshoe crab permit to land a full trip limit of horseshoe crabs, not the 75-horseshoe crab incidental limit.
4. Reporting. Beginning in 2024, require daily electronic reporting for all bait and biomedical harvesters.
5. Permit Conditions. Adopt certain existing permit conditions affecting biomedical harvesters, biomedical dealers, and biomedical processors in regulation.

Dan then asked Jared Silva to provide further details regarding the items for public hearing proposals.

Jared stated the most recent stock assessment demonstrated the state's horseshoe crab resource was not in poor condition. DMF believes the fishery is sustainable at current levels of exploitation and mortality, as our survey indices have improved over the past ten-years with fairly consistent exploitation. However, DMF was concerned about opportunities for unconstrained growth in the biomedical fishery and how this may impact the long-term sustainability of the resource. This concern prompted DMF to initiate this proposal, take precautionary approach to management, and mortality and exploitation at recent levels.

Dan clarified that the proposed 200,000 horseshoe crab biomedical harvest limit would only apply to horseshoe crabs harvested in Massachusetts biomedical fishery and would not apply to horseshoe crabs obtained and processed from other sources (e.g., horseshoe crabs borrowed from the bait fishery through the "rent-a-crab program" or harvested in another state's biomedical horseshoe crab fishery and imported into Massachusetts for bleeding).

Jared added that the lunar spawning closures would be retained for this year (2023), and if approved, the blanket spawning season closure would go into effect in 2024. He then moved on to discuss the proposal affecting bait fishery trip limits and noted this proposal attempted to balance quota utilization, fishery profitability, and regulatory discarding. Jared concluded his comments by briefly discussing reporting, permit conditions, and permit types. He expressed the need to manage the biomedical fishery in a more publicly transparent manner.

Bill Amaru stated a comprehensive observer program should be implemented for the biomedical fishery to better understand the potential impact on the resource. Dan stated DMF was in the process of reviewing potential options to increase fishery dependent data regarding the biomedical fishery.

Kalil Boghdan echoed Bill Amaru's comments regarding an observer program. Kalil then asked DMF to clarify the mortality rate assumed for the biomedical fishery. Dan asked Derek Perry to speak to this. Derek stated a 15% mortality rate is used, which accounts for post-bleeding mortality and mortality observed by the biomedical firm prior to bleeding.

Shelley Edmundson asked for clarification regarding the harvester permits for horseshoe crabs. Jared Silva stated there is a limited entry bait fishery permit that is transferable and a biomedical harvest permit that is issued to persons who have a working relationship with a biomedical dealer or processor. An individual may not hold an active biomedical and bait harvest permit at the same time. Shelley was also curious as to the number of bait and biomedical harvesters by gear type. Jared stated he did not have that data on hand, but this information could be prepared for the public hearing.

Lou Williams expressed concerns the proposed spawning closure may disproportionately impact hand harvesters and asked about the seasonality of the hand harvest fishery. Derek Perry stated the hand harvest fishery occurs primarily in May and continues into June. Jared Silva stated Lou was correct to assume the proposed spawning closure would substantially limit the hand harvest fishery.

Chairman Kane encouraged Commission members and members of the public concerned about the horseshoe crab resource to reach out to state legislators to help fund DMF research and data collection programs. Ray also supported DMF's efforts to more transparently manage the biomedical fishery.

Commercial Menhaden Management

Nichola Meserve introduced the commercial menhaden proposals for public hearing, which are enumerated below:

1. 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.
2. 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.
3. Revise the limited access fishery's quota use triggers and trip limits, as follows:

- a. 120,000-pound trip limit until 50% quota use.
 - b. 25,000-pound trip limit after 50% quota use and until 85% quota use.
 - c. 6,000-pound trip limit after 85% quota use and until 100% quota use.
4. Establish open fishing days for the use of purse seines in the menhaden fishery (both limited entry and open access):
 - a. Four open days/week, Monday–Thursday, until 50% quota use.
 - b. Five open days/week, Monday–Friday, until 100% quota use.
5. 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.
6. Restrict landings during the EESA fishery 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.
7. Restrict the use of carrier vessels to only limited entry permit holders operating from June 15 until 85% quota use (i.e., at the 120,000-lb and 25,000-lb trip limits only).
8. Require that all vessels used to carry or hold fish in the limited access fishery (i.e., either the catcher vessel or the carrier vessel if used) have their fish hold capacity certified and marked to demonstrate 25,000-lb and 120,000-lb storage levels by an accredited marine surveyor, and have any fish storage capacity over 120,000 pounds rendered unusable.
9. Require that all purse seine nets used in the menhaden fishery subject to net size restrictions 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.
10. Establish in the regulations the following restrictions on the use of purse seines which currently reside in permit conditions:
 - a. State-wide closed days of Saturdays, Sundays, Memorial Day, July 4, and Labor Day
 - b. State-wide, year-round night fishing closure
 - c. Year-round closure of Buzzards Bay
 - d. Friday closed day in Beverly Harbor
 - e. 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)
 - f. The Director may issue permit conditions further affecting the use of purse seines.
11. Establish in regulations the following restrictions on the use of purse seines for menhaden which currently reside in permit conditions:
 - a. Maximum purse seine size of 600’ in length within the Inshore Restricted Waters.
 - b. 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.

12. Establish in the regulations the following restrictions on the use of carrier vessels which currently reside in permit conditions:
 - a. Only limited access permit holders may use a carrier vessel, limited to a single carrier vessel to be named in permit conditions.
 - b. The carrier vessel is restricted to receiving menhaden once a day, only on open purse seining days, restricted to receiving and possession the applicable limited entry trip limit, and may land only once per day.
 - c. Year-round prohibition on the use of carrier vessels in Boston Harbor.
13. Adopt a June 14, 2023 control date for Menhaden permit endorsements and for CAP-Purse Seine permit endorsements.
14. Require the submission of daily electronic harvester reports prior to landing from all limited access permit holders beginning in 2024.

These proposals respond to revisions of the interstate fishery management plan and are designed to improve other aspects of the state's management approach to ensure the quota is fully utilized and remains available throughout the fishing season to meet local bait demand. DMF held two industry scoping meetings (September 2022 and January 2023) that helped inform these draft proposals.

Kalil Boghdan asked about the year-round prohibition on carrier vessels in Boston Harbor. Nichola explained the rule was implemented to resolve user group conflicts with recreational fishers and other vessel traffic.

Lou Williams was concerned about quota utilization and asked whether too much quota was being set aside for the 6,000-pound trip limit. Nichola stated DMF modeled quota utilization under the proposed trip limit scenario and projected that combination of trip limits proposed would result in similar performance to recent years and result in a fishery closure in mid-September. The Director could also change the trip limits in-season to address quota utilization. Dan added that these triggers might still be modified through the public comment process.

Accommodating Federal Maximum Retention and Electronic Monitoring Program

Jared Silva provided background on the proposal for the MFAC. The federal maximum retention and electronic monitoring (MREM) program exempts federal groundfish sector vessels from groundfish minimum sizes and requires maximum retention and electronic monitoring. MREM started as a federal experimental fishery in 2018. It was a pilot project among GMRI, NOAA Fisheries, states to incentivize electronic monitoring and study associated challenges and inform future policy. The MREM program was recently adopted in federal regulations as part of Amendment 23. DMF was now proposing to adopt language in the CMR to accommodate the federal program.

There were no comments from the Commission on this proposal.

DISCUSSION ITEMS

Interstate Fisheries Management Update

Nichola provided the Commission with updates from the winter ASMFC meeting. She started by discussing Draft Addendum XXVII to the American Lobster FMP. The addendum, which considers measures to increase spawning stock protections for the Gulf of Maine/Georges Bank stock, was approved for public comment. Massachusetts will hold a virtual public hearing on March 15. She then discussed the winter flounder benchmark stock assessment and the Management Board's decision to maintain status quo specifications for 2023 and 2024. Nichola stated action was delayed on Draft Addendum I to the Striped Bass FMP until the spring meeting. The addendum considers allowing state-to-state commercial quota transfers. In the interim, the Technical Committee will develop stock projections under the assumption of full commercial quota utilization. Additionally, a new benchmark stock assessment for American eel was completed. The results may lead to more conservative yellow eel management. Nichola moved on to spiny dogfish. The FY23 commercial quota was set at a 59% reduction (but similar to recent years' harvest levels), while the northern region trip limit was maintained at 7500 pounds. Nichola reported on the progress of the research track assessments for spiny dogfish and bluefish, both of which will have management track assessments completed later this year for use in setting 2024 specifications.

Nichola Meserve discussed the process for setting recreational scup and black sea bass measures, both of which are subject to 10% coastwide harvest reductions. Nichola described the timeline regarding the measures and how DMF would need to go through emergency rule-making. The expected schedule would include a March 2 ASMFC meeting to approve the states' range of options, a mid-March DMF public scoping meeting, and MFAC review of DMF's preferred management approach at the March 21 business meeting.

Nichola reviewed the preliminary regional (MA-NY) scup option which includes: a 10.5" size limit for all modes except shore; a 9.5" size limit for shore fishing, a January-April seasonal closure, and reducing the for-hire bonus season bag limit to 40 fish. She noted additional modifications to the season or bag may be needed to achieve the 10% reduction and these analyses and discussions remain ongoing.

For black sea bass, Massachusetts is part of the MA-NY management region. However, unlike scup, regionwide measures are not required allowing each state to adopt independent rules. DMF was analyzing six different options, including split-mode measures, that would achieve the mandatory 10% reduction through differing seasons, size limits and bag limits.

Federal Fisheries Management Update

Melanie Griffin briefed the MFAC on the January 2023 New England Fishery Management Council (NEFMC) meeting. Final actions and regulatory recommendations from that meeting included: (1) recommendations for recreational groundfish measures

(GOM cod, GOM haddock and GB cod); (2) approval of groundfish Framework 65 after correcting Atlantic halibut specifications; (3) monkfish specifications for 2023-2025 (Framework 13); and (4) a recommendation that NOAA Fisheries adopt a control date in the Northern Gulf of Maine scallop fishery. The NEFMC also discussed: (1) the development of an action to allow for possession of aquaculture-reared salmon; (2) planned work on ecosystem-based fishery management for 2023; (3) the development of ropeless trap fishing gear and potential interactions with mobile gear fisheries; and (4) joint action with the Mid-Atlantic Fishery Management Council regarding sturgeon interactions in the monkfish and dogfish gillnet fisheries. The NEFMC presented its annual award of excellence to Ms. Maggie Raymond and is searching for a new Executive Director after Mr. Nies announced retirement (summer 2023).

Ray Kane thanked Melanie for her presentation. Melanie welcomed questions from the Commission.

Kalil Boghdan asked about the increase in trip level for scallops in 2022. Melanie stated there is a background document she will send along that will provide him with insights regarding this topic.

Mike Pierdinock discussed the recommended recreational groundfish measures. He noted closing August to recreational Georges Bank cod fishing will be impactful, but it was necessary to maintain the fishery at other times of the year.

Protected Species Management Update

Director McKiernan provided a brief update regarding protected species. First, he focused on the Letter of Authorization issued by DMF to NOAA Fisheries allowing a series of commercial lobster fishers listed on a federal Scientific Research and Exempted Fishing Permit to fish on-demand (“ropeless”) trap gear within the seasonal trap gear closure this year. Second, DMF discussed NOAA Fisheries closure of the Massachusetts Restricted Area Wedge for this current season and DMF’s advocacy for the closure.

Matt Bass stated that gear loss reports help differentiate certain gear that is found during gear removal efforts.

There was further discussion among MEP, DMF and members of the Commission regarding gear conflicts between on-demand gear and scallopers, as well as the technology being used for on-demand gear and how fishermen would be able to locate where the gear is placed.

Sooky Sawyer asked DMF to send the map of where ropeless fishing research may be occurring in state waters. Dan stated DMF staff will provide this documentation to the MFAC.

Public Petitions

Dartmouth Saltwater Anglers on Fish Pots and Tautog

Jared Silva discussed a recent petition the Dartmouth Saltwater Anglers. The petition sought additional regulation of the black sea bass pot fishery to address concerns regarding the incidental catch and discarding of tautog. DMF did not intend to move forward with this petition and would respond directly in writing to the petitioners.

Kalil Boghdan asked for clarification as to who the petition was coming from as there were only two names listed on the petition. Jared Silva confirmed Dartmouth Saltwater Anglers is a recreational angler group.

Mike Pierdinock was unclear whether the use of the term “trawl” in the petition was designed to affect black sea bass pot gear or mobile gear fishing. Jared Silva stated he spoke with the petitioners and they were referring to black sea bass pot gear.

Request to Start Commercial Striped Bass Season Earlier

Dan McKiernan stated DMF received a request to move the opening day of the commercial striped bass season to June 1. DMF and the MFAC addressed the commercial striped bass season for 2021 and decided not to open the season earlier than June 15. recent recently addressed the season in recent rule making and determined not to open this season DMF would not be revisiting this for 2023. Dan stated his written response was sent to the petitioner, as well as the MFAC.

Mike Pierdinock asked DMF about ongoing striped bass research. Dan suggested staff could present on this at the next MFAC meeting.

OTHER BUSINESS

Commission Member Comments

Sooky Sawyer asked about who will be on the Commission that is being formed for the Fisheries Compensation Fund.

PUBLIC COMMENTS

Eric Lorentzen, a commercial fisherman who seines for menhaden generally supported DMF’s menhaden management proposal and stated he would DMF review the possibility of opening up Buzzards Bay to seining. Director McKiernan stated the area has been closed to mobile gear fishing for over 100-years.

Brett Hoffmeister represented the Associates of Cape Cod, a biomedical processor of horseshoe crabs based out of Cape Cod. He discussed some of the logistical challenges his operation would face if the spawning closures were implemented. He was also concerned about the impact this closure may have on hand harvesters and bait dealers.

ADJOURNMENT

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

MEETING DOCUMENTS

- February 2023 MFAC Agenda
- December 2022 Draft MFAC Meeting Minutes
- Summer Flounder Public Hearing Proposal
- HSC Public Hearing Proposal
- Menhaden Public Hearing Proposal
- MREM Public Hearing Proposal
- Winter 2023 ASMFC Summary
- NEFMC Recommendation to GARFO re: Rec Limits
- December 12, 2022 Letter DMF to GARFO re: Protected Species Issues
- Dartmouth Anglers Petition
- Striped Bass Season Request and Response
- CJFAS Article

UPCOMING MEETINGS

8:30AM
March 21, 2023
via Zoom