

## **MARINE FISHERIES ADVISORY COMMISSION**

**June 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; Lou Williams; and Tim Brady.

*Department of Fish and Game:* Commissioner Thomas O’Shea; Deputy Commissioner Sefatia Romeo Theken

*Division of Marine Fisheries:* Daniel McKiernan, Director; Mike Armstrong, Deputy Director; Bob Glenn, Deputy Director; Kevin Creighton, Assistant Director; Story Reed, Assistant Director; Jared Silva; Julia Kaplan; Nichola Meserve; Melanie Griffin; Anna Webb; Nick Buchan; Gary Nelson; Tracy Pugh; David Chosid; Steve Wilcox; and Derek Perry.

*Massachusetts Environmental Police:* Lt. Matt Bass

*Members of the Public:* Phil Coates, Emerson Hasbrouck, Jamie Bassett, Matthew Belson, and Theodore.

## **INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane thanked everyone for their attendance and called the June 13, 2023 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

## **REVIEW OF JUNE 13, 2023 BUSINESS MEETING AGENDA**

Chairman Kane asked if there were any amendments to the June 13, 2023 MFAC business meeting agenda. No amendments were proposed.

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

Chairman Kane asked if there were any amendments to the May 16, 2023 MFAC draft business meeting minutes. No amendments were sought. The Chairman then requested a motion be made to approve the minutes.

**Bill Amaru made a motion to approve the May 16, 2023 business meeting minutes as provided. Shelley Edmundson seconded the motion. A roll-call vote was taken and the motion passed unanimously 8-0-1 with Chairman Kane abstaining.**

## **CHAIRMAN'S COMMENTS**

Chairman Ray Kane welcomed everyone to the meeting and turned the floor over to Commissioner O'Shea.

## **COMMISSIONER'S COMMENTS**

Commissioner O'Shea stated he was happy to be onboard as the new Commissioner for the Department of Fish and Game (DFG). He provided the MFAC with a brief summary of his professional background and goals as Commissioner. Director McKiernan has provided him with tours of some of DMF's facilities and arranged meetings with senior staff. Tom looked forward to meeting MFAC members and working with DMF and the MFAC on marine fishery conservation and management issues.

## **LAW ENFORCEMENT COMMENTS**

Lt. Matt Bass handled the comments for the Massachusetts Environmental Police (MEP). With the start of the recreational fishing season, MEP had observed various routine recreational fishery violations. Responding back to the comments he made at the May MFAC business meeting, Lt. Bass clarified the MEP Trust Fund is used to bridge the gap at the end of the fiscal year to cover operational duties.

Sooky Sawyer expressed his disappointment with a district court's ruling in a matter involving lobster violations and several Beverly-area homeported commercial fishers.

Chairman Kane asked about MEP's staffing levels. Lt. Bass stated one officer recently graduated from the police academy and entered field training. Additionally, MEP was looking to enroll 14 new the new hires into the police academy in August. Chairman Kane indicated the MFAC would draft a letter to the Healey Administration expressing the need for continued budgetary support for MEP so that they can expand their ranks back to adequate levels.

## **DIRECTOR'S COMMENTS**

Director Dan McKiernan commended DMF staff for their work in drafting the May 2023 MFAC business meeting minutes. He noted the minutes did a good job clearly summarizing the complex and contentious issues discussed. He then moved on to congratulate Commissioner O'Shea on his appointment. DMF was working closely with the Commissioner's office to bring him up to speed on various marine fisheries conservation and management issues.

Dan discussed the federal grant programs DMF was working on. This included funding for state and federally permitted lobster fishers to comply with buoy line and vessel tracking requirements, as well as sea herring disaster relief funding.

Dan suggested the MFAC consider issuing the Belding Award in 2023. He expressed interest in potentially recommending former DMF biologist and shellfish program chief,

Mike Hickey, who passed away this spring. However, he noted MFAC members should submit other potential nominees to him for potential consideration.

On the subject of DMF's shellfish program, Dan stated the current program chief, Jeff Kennedy, would be retiring in July.

DMF's Derelict Gear Task Force just published a white paper on how to enhance efforts to remove and clean up abandoned, lost, and derelict fishing gear. Director McKiernan commended the Task Force for their important work on this issue. The Task Force included Bob Glenn, Jared Silva, David Chosid and Julia Kaplan from DMF; Deputy General Counsel, Tori LaBate from DFG; Major Chris Baker from MEP; Ray Kane and Sooky Sawyer from the MFAC; Beth Casoni the Executive Director of the Massachusetts Lobstermen's Association; and Laura Ludwig from the Provincetown Center for Coastal Studies. Dan noted Bob Glenn would present on the white paper in greater detail later in the meeting.

Kalil Boghdan asked for an update on the horseshoe crab fishery. The regulations approved by the MFAC were submitted to the administration for their review and would go into effect shortly. Director McKiernan and Bob Glenn explained that horseshoe crab landings were elevated compared to this time last year and discussed reports of dead horseshoe crabs along Harding's Beach in Chatham.

Bill Amaru opined that the threat of the closure in the month of May could have contributed to the increase in effort. He expressed concern over the large number of dead horseshoe crabs found on Harding's Beach.

Ray Kane commended Derek Perry for pushing the ASMFC to complete the track stock assessment in 2024.

### **MFAC ANNUAL ELECTIONS**

Jared Silva stated there are three MFAC positions up for annual election: Chair, Vice Chair, and Clerk. He instructed MFAC members to make motion to appoint (or re-appoint) a member to each of these positions and then vote the motion up or down.

**Bill Amaru made a motion to elect Ray Kane as Chairman. Bill Doyle seconded the motion. A roll call vote was taken, and the motion passed unanimously 8-0-1 with Chairman Kane abstaining.**

**Bill Doyle made a motion to elect Mike Pierdinock as Vice Chairman. Lou Williams seconded the motion to elect Mike Pierdinock. A roll call vote was taken, and the motion passed unanimously 7-0-2 with Chairman Kane and Mike Pierdinock abstaining.**

**Kalil Boghdan made a motion to elect Bill Doyle as Clerk. Bill Amaru seconded the motion to elect Bill Doyle. A roll call vote was taken, and the motion passed unanimously 7-0-2 with Chairman Kane and Bill Doyle abstaining.**

**ACTION ITEMS**

Recreational Scup and Black Sea Bass Limits

Nichola Meserve discussed DMF’s recommendation to finalize the 2023 recreational scup and sea bass limits (Table 1), which were initially enacted on an emergency basis in late-April. If approved today, the rules would remain in effect for the rest of the season allowing Massachusetts to remain compliant with federal law.

**Table 1. Recommended 2023 Recreational Black Sea Bass and Scup Limits**

Species	Mode	Season	Bag	Minimum Size
Scup	Private Vessels	May 1 – Dec 31	30 fish (vessel cap of 150 fish)	10.5"
	Shore	May 1 – Dec 31	30 fish	9.5"
	For-hire Vessels	May 1 – Jun 30	40 fish	10.5"
		Jul 1 – Dec 31	30 fish	
Black Sea Bass	All Modes	May 20 – Sep 7	4 fish	16.5"

Nichola then explained the 10% reduction in harvest was needed for both species compared to 2022. She also noted how the changes from the 2022 rules achieved this. Ray Kane sought comments or questions regarding DMF’s recommendation.

Mike Pierdinock reported the for-hire fleet experienced a reduction in bookings and cancellations due to these changes coupled with poor spring weather and restrictive limits on other recreational fisheries. However, he stated we would reluctantly support DMF’s recommendation because it was necessary to ensure compliance with federal law.

Bill Amaru expressed a desire to see a longer recreational fishing season for black sea bass. Kalil Boghdan asked for the reasoning behind the season length from May 20 through September 7. Nichola stated season length is balanced against the bag limit and the minimum size to achieve a recreational harvest that does not exceed the annual harvest limit. To extend the season later into the fall, Massachusetts would likely need to further reduce the bag limit and increase the minimum size. DMF presented options that would achieve a longer season during this year’s public scoping, but they were not supported, as anglers preferred maintaining a bag limit of at least 4-fish.

Director McKiernan and Nichola also discussed the management approaches other coastal states took to achieve the 10% reduction in harvest in 2023 for black sea bass.

Mike Pierdinock and Nichola Meserve discussed the timeline for the MAFMC and ASMFC to review potential actions regarding scup management and allocations.

Chairman Kane sought a motion to approve the recommendation. **Kalil Boghdan made a motion to approve the recommendation. Sooky Sawyer seconded the motion. A roll call vote was taken, and the motion was passed unanimously 8-0-1, with Chairman Kane abstaining.**

#### Letter to Former DFG Commissioner Amidon

Jared Silva asked the MFAC if they had any questions, comments, or amendments to the draft letter thanking former DFG Commissioner Amidon for his work and support on marine fisheries issues.

Kalil Boghdan stated he thought the letter was well written. There were no requested amendments.

Chairman Kane sought a motion to approve the letter. **Kalil Boghdan made a motion to approve the recommendation. Shelley Edmundson seconded the motion. There were no objections and the MFAC consented to send the letter to former Commissioner Amidon.**

### **DISCUSSION ITEMS**

#### Federal Fisheries Management Update

Melanie Griffin provided the MFAC with a briefing on happenings at the New England Fishery Management Council (NEFMC). This included a review of the April meeting and a preview of the June meeting. The NEFMC's Habitat Committee was working on northern edge scallop access and Atlantic salmon aquaculture. The Groundfish Committee dealt with a request for emergency rules to address the utilization of the FY 2023 Gulf of Maine haddock annual catch limit and worked on the development of transition plan for the management of cod from the current two management unit approach to up to five management units. The Herring Committee explored ways to address user group conflicts, ecosystem-based management, and inshore spatio-temporal closures in the Atlantic herring fishery. There was a research set-aside work group for monkfish and the Joint Monkfish and Dogfish Committee grappled with Atlantic sturgeon bycatch in gillnet gear fisheries. The NEFMC also established a working group to assess and address conflicts related to the development on-demand ("ropeless") trap fishing gear; continued their risk policy development; and issued a white paper on thorny skate rebuilding. Lastly, former DMF employee, Dr. Cate O'Keefe was hired as the NEFMC's Executive Director and will replace Tom Nies who is retiring later this summer after the June NEFMC meeting.

Melanie also discussed several other items relevant to federal fisheries management. This included the Loper Bright Enterprises v Raimondo case going in front of the US Supreme Court. This case challenges NOAA Fisheries' authority to require industry pay for increased monitoring coverage in the Atlantic herring fishery and brings into question

the deference historically provided to administrative agencies with regards to interpreting their statutory authority. NOAA Fisheries also faced significant challenges regarding its ability to continue and complete long-standing federal surveys and there was an interest in developing more industry-based surveys. Lastly, Melanie briefed the MFAC on the Biden Administration's American the Beautiful initiative. This initiative seeks to conserve 30% of US lands and oceans by 2030 and the evaluation of potential conservation areas in the EEZ began in May 2023.

Bill Amaru thanked Melanie for her report. Bill expressed concern over the federal survey program. Lou Williams agreed and expressed frustration over how this may have contributed to the dead scallops found in the Del-Mar-Va closed area.

Mike Pierdinock asked if privatizing the NOAA vessels and having NOAA staff work on the vessels for surveys was under consideration. Melanie stated she doesn't have any insight on this issue currently.

#### Permitting Focus Group Update

Story Reed provided a summary of the April 11 meeting of the MFAC's focus group on permitting. Story then highlighted four items that were discussed at the meeting.

First, DMF discussed expanding its permit bundling policy to accommodate the transfer of certain latent permits if transferred with an active permit. Second, DMF discussed allowing the transfer of latent endorsements to immediate family. Third, DMF discussed developing a process whereby the agency would routinely review endorsement-specific activity standards for transfers. Lastly, DMF wanted to clean up its regulatory language on Coastal Lobster Permit transfers to improve its clarity and have it better conform to existing practices.

Shelley Edmundson thought these items were a good start and they would help new create more robust opportunities for new entrants.

Bill Amaru wanted the focus group to review potential means of encouraging new entrants into commercial fishing, including apprenticeship programs.

Bill Doyle shared Bill Amaru's sentiments and also wanted DMF to consider age-restricted permits to encourage young people to enter commercial fisheries.

Ray Kane supported the comments made by Bill Amaru and Bill Doyle and expressed his concerns that the current system created significant barriers to entry, particularly related to the cost associated with permit to obtain a permit. Ray then asked when the focus group will meet next, Story intended to convene the group over the summer.

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

Jared Silva stated there will be a public hearing on the emergency action to amend the recreational striped bass slot limit on June 21. DMF would then convene a mid-July MFAC business meeting focused on finalizing the slot limit rule. Jared also stated he is

anticipating that NOAA Fisheries will adopt recreational cod and haddock limits by the end of the month necessitating another round of state rule making.

### **PRESENTATION ON DMF'S DERELICT GEAR REMOVAL WHITE PAPER**

Bob Glenn provided the MFAC with a presentation on the Derelict Gear Removal Task Force and its white paper titled "Managing Derelict Fishing Gear in Massachusetts". The Task Force was formed in July of 2022 to study the issue of abandoned, lost, and derelict fishing gear (ALDFG) in Massachusetts and to develop solutions to enhance the removal of such gear.

The scale of the fixed gear fishing has increased over the years creating more gear in the water. Additionally, traps are no longer made of biodegradable materials (e.g., wood), but rather synthetic materials that persist longer in the environment. The accumulation of ALDFG in marine waters presents a number of problems and these problems are cumulative given the persistent design of modern fishing gear. Issues related to ALDFG include entanglement risk to protected species, ecosystem impacts, ghost fishing, navigation hazards, and gear conflicts. It also becomes a public nuisance and safety issue when it washes ashore.

There are two statutes in Massachusetts that govern the handling of ALDFG (MGL Chapter 130, Sections 31 and 32). These statutes were developed in the mid-20<sup>th</sup> century, when there was less gear, ALDFG found was more suitable for rehab, and the gear that persisted was more readily degradable. Accordingly, the laws focus on property rights afforded to fishers to retrieve ALDFG, rather than on the removal and clean up of ALDFG.

The Task Force recommended legislative and regulatory amendments to develop a comprehensive strategy for ALDFG that balances property rights with the need to efficiently remove it from our waters and shoreline. Specifically, the Task Force proposed amending G.L. c. 130, §31 to maintain property rights for fishing gear but allow DMF and the MFAC to regulate how ALDFG is handled and rescinding G.L. c. 130, §32 in its entirety. Bob then discussed the benefits of managing ALDFG through a regulatory framework and how it can be used to develop suitable standards for the various types of ALDFG that may be encountered.

Dan McKiernan stated the proposed statutes are well refined given input from industry and DFG legal counsel. He also noted DMF was working to provide this presentation to the Legislature's Coastal Caucus.

Kalil Boghdan commended the Task Force for their thorough work on the subject. He then asked who currently incurs the cost of the cleanup. Bob stated that at-sea clean-ups efforts are state funded, but when gear washes ashore, the landowner may remove the gear and has to incur the cost. Frequently, public beach clean-up efforts are facilitated by municipalities or NGOs.

Sooky Sawyer stated the disposal of ALDFG will remain problematic, even under a new legal framework. Bob stated the Task Force will likely need to research how other states manage the issue and advocate to implement or enhance mechanisms for disposal. Bill Amaru mentioned Net Your Problem as a potential partner for disposal of gear. Chairman Kane suggested the disposal issue be brought to the attention of the Coastal Caucus when DMF presents on the white paper.

## **OTHER BUSINESS**

### *Commission Member Comments*

Lou Williams asked if a rule prohibiting the use of spotter planes before 8AM in the menhaden fishery was new this year. Director McKiernan stated this was historical permit condition and is not new for 2023.

Sooky Sawyer provided an anecdote of a porbeagle biting off striped bass from lines and stated that people should be aware of sharks in the area sooner than expected.

Bill Doyle suggested reviewing the shark data retrieved from receivers at a future MFAC meeting. Bill Doyle also asked for DMF to present on what work is being done on how climate is affecting fisheries.

Kalil Boghdan requested DMF to provide the MFAC with a primer on how trawl fishing is conducted in state waters.

Tim Brady appreciates the work being done on the derelict gear.

Chairman Kane thanked everyone for their attendance and DMF staff for their continued work.

## **PUBLIC COMMENTS**

Emerson Hasbrouck, of the Cornell Marine Program, commended DMF for their work on addressing the issue of derelict gear. He stated the pots retrieved by the Cornell Marine Program go to an incinerator and they utilize a modified grappling system to help retrieve gear. He stated they would be happy to share those details with DMF staff.

## **ADJOURNMENT**

Chairman Ray Kane requested a motion to adjourn the June MFAC business meeting. **Bill Amaru made a motion to adjourn the meeting. The motion was seconded by Lou Williams. The motion was approved by unanimous consent.**



## **MEETING DOCUMENTS**

- June 13, 2023 MFAC Business Meeting Agenda
- May 16, 2023 Draft MFAC Business Meeting Minutes
- Recreational Black Sea Bass and Scup Recommendations
- Letter to Former Commissioner Amidon
- Permitting Sub-Committee Memorandum and Presentation
- Derelict Gear Task Force White Paper and Presentation
- DMF Comment to NOAA Fisheries on Amendment 23 to Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan

## **UPCOMING MEETINGS**

9AM  
July 10, 2023  
Via Zoom

9AM  
August 16, 2023  
Via Zoom

9AM  
September 19, 2023  
Location TBD