

## **MARINE FISHERIES ADVISORY COMMISSION**

**August 16, 2023**

**Via Zoom**

### **In attendance:**

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

*Department of Fish and Game:* Commissioner Tom O’Shea; Deputy Commissioner Sefatia Romeo Theken; and Bob Greco, Chief of Staff

*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; Justin Bopp; Tracy Pugh; Kerry Allard; Nichola Meserve; Anna Webb; Scott Schaffer; Tara Dolan; Gabe Lundgren; and Chrissy Petitpas.

*Massachusetts Environmental Police:* Lt. Matt Bass

*Members of the Public:* Lizzie Roche, Jamie Bassett, Phil Michaud, and Phil Coates

## **INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane thanked everyone for their attendance and called the August 16, 2023 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

## **REVIEW OF AUGUST 16, 2023 BUSINESS MEETING AGENDA**

Chairman Kane asked if there were any amendments to the August 16, 2023 MFAC business meeting agenda. No amendments were proposed.

## **REVIEW AND APPROVAL OF JULY 10, 2023 DRAFT BUSINESS MEETING MINUTES**

Chairman Kane asked if there were any amendments to the July 10, 2023 draft business meeting minutes. No amendments were sought.

The Chairman then requested a motion be made to approve the minutes. **Shelley Edmundson made the motion to approve the July 10, 2023 business meeting minutes. Kalil Boghdan seconded the motion. A roll-call vote was taken and the motion passed unanimously 4-0-2 with Chairman Kane and Mike Pierdinock abstaining.**

## **CHAIRMAN’S COMMENTS**

Chairman Ray Kane welcomed everyone and turned the floor over to the Massachusetts Environmental Police (MEP) for their comments.

## **LAW ENFORCEMENT COMMENTS**

Lt. Matt Bass handled the comments for MEP. He discussed the commercial striped bass fishery and described some of the violations observed this summer. However, he noted that prohibiting commercial striped bass fishing along the Cape Cod Canal has helped to significantly curtail non-compliance.

MEP officers were receiving disentanglement training for whales and turtles through NOAA. With regards to personal, four officers started field training and six more have entered the police academy. An additional four officers will likely be hired by the end of the year. Chairman Kane advocated for additional hiring of officers.

Lt. Bass then welcomed questions from the MFAC.

Sooky Sawyer asked if the striped bass violations were criminal violations or non-criminal tickets. Lt. Bass stated one violation resulted in a criminal complaint. Jared Silva also expected DMF would pursue an adjudicatory hearing in at least one instance.

Mike Pierdinock and Lt. Bass discussed interactions between whales and the tuna fleet on Stellwagen Bank.

## **COMMISSIONER'S COMMENTS**

Commissioner O'Shea started his comments by echoing Chairman Kane's interest in increasing MEP's ranks. The Commissioner stated it was an honor for DMF to receive the Partner in Spotlight award from NOAA. He then commended DMF staff for their work on the Reel Fishing Day at Castle Island in Boston. He also enjoyed attending the Meet the Fleet event in Menemsha.

DFG was working to develop a strategic plan and he would provide updates as the process moves forward. He was hopeful the document would be finalized by January 2024.

## **DIRECTOR'S COMMENTS**

Director Dan McKiernan stated NOAA Fisheries recently released their recreational haddock and cod regulations for the current fishing year. DMF was now moving to enact complementary emergency regulations. He expressed frustrations NOAA Fisheries rule making process, including the delays in implementation and the lack of timely notification to the states regarding implementation. Additionally, Dan noted that DMF did not support the split mode rules that NOAA Fisheries implemented for the Gulf of Maine haddock fishery.

Regarding federal fisheries management, DMF submitted correspondence to NOAA Fisheries requesting the enact a trap gear closure to the so-called Massachusetts Restricted Area Wedge and do so in a timely manner so that fishers can get their gear out of the area before February 1.

The Director then updated the MFAC on two petitions filed with the state's Natural Heritage and Endangered Species Program (NHESP). The first petition was filed by the Southeastern Massachusetts' Pine Barrens Alliance to list horseshoe crabs as a species of special concern. This petition was not supported by NHESP. The second was submitted by DMF to de-list humpbacks whales consistent with federal action taken by the Obama Administration. NHESP only partially supported this petition, instead preferring to begin rule making to downgrade the listing for humpbacks to a species of special concern.

The Director then discussed DMF personnel. The Shellfish Program was seeing some substantial turnover. There were several retirements, including Jeff Kennedy, the program leader, as well as senior bacteriologist Diane Regan and policy analyst Tom Shields. Simone Wright, a classification biologist was also moving on to a new employment opportunity. in the Shellfish Program is moving on to a new job. Finally, Dr. Justin Bopp has been onboarded as DMF's new offshore wind specialist.

He then discussed various DMF outreach events. DMF staff attended the Gloucester 400 and would be present at the Boston Seafood Festival on September 10 and Marshfield Lobster Fest on September 16.

Sooky Sawyer asked about the reporting requirements for those who were trying on-demand fishing in the Massachusetts Bay restricted area. Dan asked Bob Glenn to speak to this issue. Bob Glenn stated that DMF received a report from NOAA, staff are currently reviewing the report, and DMF will be able to speak to it at an upcoming meeting.

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

#### Wildlife Compact Rules

Dan McKiernan and Jared Silva described the Interstate Wildlife Violator Compact. Massachusetts entered into this compact in 2022 with Governor Baker signing Chapter 145 of the Acts of 2022 into law. DMF will file implementing regulations to provide the agency with the ability to reciprocally sanction a resident's recreational or commercial fishing permit if they are a convicted of a violation in another state or not issue a recreational or commercial fishing permit to a non-resident convicted of a violation in another state.

Mike Pierdinock asked if these rules would apply to violations in federal waters. Jared Silva stated that there is typically a state landing permit involved with federal fisheries and DMF can currently take an action on the state landing permit should state violations

occur. However, he was uncertain how the Interstate Wildlife Violator Compact would interface with state-federal interactions.

Mike then asked for further clarification regarding how outcomes of adjudicatory hearings interface with the compact. Jared Silva anticipated the final decisions in adjudicatory proceedings would be considered a legal action under the Compact.

### Lobster Addendum XXVII

Jared Silva discussed Addendum XXVII to the American Lobster Fishery Management Plan (FMP). The addendum was approved by the ASMFC Lobster Board in May 2023 for implementation in 2024. It is designed to proactively address anticipated decreases in spawning stock biomass for the Gulf of Maine/Georges Bank lobster stock.

For 2024, the addendum requires that all states: (1) establish a maximum size of 6 ¾” for state waters portion of OCCLCMA, consistent with the federal portion of OCCLCMA and LCMA3; (2) reduce the v-notch standard from a ¼” sharp sided notch to a 1/8” notch with or without setal hairs for the state waters portion of the OCCLCMA, consistent with the federal portion of OCCLCMA and LCMA3; and (3) limit the issuance of trap tags in LMCA1 and LMCA 3 to the permit holders trap allocation, thereby eliminating the additional 10% issued for anticipated gear loss.

In future years, should the stock decline below 35% the 2016 – 2018 reference period, a series of additional conservation actions are triggered to occur over the subsequent five-year period. This includes increasing the minimum gauge size and escape panel rules for LMCA 1 and further decreasing the maximum gauge size for OCCLCMA and LCMA 3. Jared described the state rule making timeline with the intention of DMF holding public hearings in the Fall and return to the Commission with a final proposal at the end of 2023 or early 2024 for a vote. Jared then discussed future rule making at length for the Commission.

Sooky Sawyer asked if ASMFC is using the data from the ventless trap survey data. Dan McKiernan stated that both trawl survey and ventless survey data are used in these indices.

Chairman Kane and Director McKiernan discussed how the changes for 2024 may impact state-only OCCLCMA lobster fishers. It is notable that some fishers previously dropped their federal lobster permits thereby restricting their fishing activity to state waters but allowing them to retain larger lobsters and lobsters with a less restrictive v-notch standard. With uniform rules in place for 2024, the benefit of being a state-only fisher no longer exists and there is some interest in re-obtaining federal permits.

## **DISCUSSION ITEMS**

### Federal and Interstate Fisheries Management *Joint ASMFC – MAFMC Issues*

Nichola Meserve provided an overview of the August meetings of the Atlantic States Marine Fisheries Commission (ASMFC) and Mid-Atlantic Fishery Management Council (MAFMC). The MAFMC update focused on the specifications for 2024/2025 catch limits and resulting anticipated recreational harvest limits and commercial quotas for summer flounder, scup, black sea bass, and bluefish; the further development of the Harvest Control Rule used to set recreational harvest limits; and climate change planning. Regarding the ASMFC, Nichola discussed the Striped Bass Board's decision to delay the approval of Draft Addendum II to the Striped Bass FMP to consider additional management options. The Board will review the Addendum again at its October meeting. If approved, the timeline for state implementation is uncertain. Nichola welcomed questions from the Commission.

Dan McKiernan asked Nichola to reiterate proposed timelines for Addendum II to the ASMFC's Striped Bass FMP. Nichola stated she will have a better idea of timelines following the fall ASMFC meeting, however, some states are concerned about their ability to implement adjustments for the 2024 season.

Mike P. and Nichola discussed the MAFMC's position regarding the ability for states to accommodate the transfer of fish between sectors.

Bill Amaru expressed disappointment over the pending decrease in the commercial summer flounder quota and concern over the ability for Massachusetts to maintain a profitable inshore fishery.

#### Effort Estimation in the Marine Recreational Information Program

Mike Armstrong provided some background information into NOAA's Marine Recreational Information Program (MRIP) and a recent pilot study by MRIP staff into potential biases in how MRIP calculates fishing effort. The draft results of the study show NOAA may be overestimating recreational fishing effort estimates due to a recall bias related to the order the survey questions are asked—overall estimates of effort were about 30% lower when the 12-month recall questions proceeded the two-month recall questions. Given high variability among waves, modes, and states, it is difficult to draw specific conclusions from this draft study. However, NOAA will conduct a larger, more thorough study in 2024.

Tim Brady and Mike Pierdinock both expressed concerns regarding the effects of overestimating recreational fisheries effort, particularly economic impacts on the for-hire industry. Tim stated this underscored the for-hire industry's calls for sector separation in management given for-hire operators are required to submit trip reports. Mike Armstrong stated these trip reports are not yet used to calculate effort.

#### Performance of 2023 Quota Managed Fisheries and Future Management Outlook

Anna Webb provided the MFAC with an update on the performance of quota managed fisheries in 2023.

- Black sea bass: The quota is expected to be utilized at some point in early-September.
- Bluefish: The quota is being utilized steadily and will likely be fully utilized.
- Striped Bass: The commercial fishery was closed on August 11.
- Fluke: The quota is tracking similar to 2022 and an underutilization is expected.
- Horseshoe Crab: The commercial bait fishery was closed on August 6. Possession limits were dropped earlier in July to extend the quota deeper into the summer. DMF cannot report on the biomedical quota due to confidentiality issues.
- Menhaden: Two million pounds have been caught thus far and the quota likely to be taken.

Director McKiernan, Assistant Director Reed, Jared Silva, Chairman Kane and Bill Amaru discussed the potential need for management changes next year in response to performance this year and quota outlooks.

Mike Pierdinock asked why DMF did not present on the scup quota. Story and Anna indicated the scup quota remains high and continues to be highly underutilized—Massachusetts' state had only utilized about 30% of the summertime quota. DMF would include scup in its September presentation.

Mike P. then asked what was driving low landings in the menhaden fishery. Story opined that the fish were not available locally this year. It appears they migrated through or past Massachusetts during the spring prior to the commercial fishery opening on June 15.

Mike P. asked about the location of the striped bass fishery. Based on preliminary data, Anna speculated landings were primarily coming into the North Shore. However, this cannot be confirmed until next spring once harvester data is QA/QC.

#### *Convening MFAC Commercial Striped Bass Focus Group*

Director McKiernan and Jared Silva stated that DMF would move to convene the MFAC's Striped Bass Focus Group to consider potential adjustments to commercial management issues related to protecting the 2015 year class and a potential quota reduction.

#### Offshore Wind Energy Development Update

Dr. Justin Bopp provided the Commission with an update on offshore wind energy development. The update focused on the status of the various ongoing projects in Southern New England. Additionally, he discussed the development of a Wind Energy Area in the Gulf of Maine for which leasing is expected to begin in 2024 or 2025.

Mike Pierdinock requests that future charts and details include nautical charts. Dr. Bopp stated he can accommodate this.

Bill Amaru asked if mobile gear fishing will be allowed within the wind areas. Dr. Bopp stated that he believes fishing will be allowed in Southern New England areas according to discussions DMF has had with BOEM.

#### MFAC Permitting Focus Group

Story Reed provided the MFAC with an update regarding the Permitting Focus Group. He highlighted the statement of the problem which is to address barriers to entry and portfolio diversification as well as aging of the fleet. Story discussed steps to enhance permit availability which include expanding the existing bundling policy for coastal lobster permits; transfer of latent endorsements to immediate family; and adjust endorsement specific activity standards for transfers. Story closed his update by stating additional ideas from the Focus Group and the potential challenges that would be encountered. Some additional ideas include creating a permitting program for young fishermen such as an apprentice program; permit sharing – potentially allow a single limited entry permit/endorsement to be fished by multiple individuals on different days; and a revolving loan fund to help with upfront costs.

Bill Amaru asked for further clarification regarding the obstacles of permit sharing.

Shelley Edmundson stated that this Focus Group has been very helpful and believes the bundling policy will be a great help to young fishermen trying to enter into the fishery.

### **OTHER BUSINESS**

#### *Commission Member Comments*

Shelley Edmundson stated there were complaints about the five-day landing window for black sea bass. She suggested a Focus Group be convened for black sea bass.

Sooky Sawyer asked about the process for NOAA Fisheries to approve the new weak rope with a Massachusetts' specific tracer. Bob Glenn stated that DMF received samples and will be testing the samples with NOAA Fisheries this week, and if it met the breaking strength requirements, DMF could begin rule-making to accommodate the use of the rope for 2024.

Tim Brady stated he was happy to see the NEMFC and MAFMC addressing managing the for-hire fleet and the recreational fishery as separate sectors.

### **PUBLIC COMMENTS**

No public comments were made.

### **ADJOURNMENT**

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

#### **MEETING DOCUMENTS**

- August 16, 2023 MFAC Business Meeting Agenda
- July 10, 2023 Draft MFAC Business Meeting Minutes
- Wildlife Compact Regulatory Proposal
- Lobster Addendum XXVII Proposal
- ASMFC Summer 2023 Meeting Summary
- Presentation on ASMFC and MAFMC Management Matters
- Presentation on MRIP
- Presentation on Quota Managed Species
- Presentation on Offshore Wind Energy Development
- Horseshoe Crab Conservation Association Letter to MFAC
- Federal Register Notice for Recreational Groundfish Rules

#### **UPCOMING MEETINGS**

September 19, 2023  
1 Rabbit Hill Road  
Westborough, MA