

MARINE FISHERIES ADVISORY COMMISSION

January 24, 2019

DFW Headquarters

Westborough, MA

In attendance:

Marine Fisheries Advisory Commission: Raymond Kane, Chairman; Michael Pierdinock, Vice-Chairman; William Doyle, Clerk; Lou Williams; Kalil Boghdan and Arthur Sawyer; and Andrew Walsh. Absent: Tim Brady and Charles Quinn;

Division of Marine Fisheries: David Pierce, Director; Daniel McKiernan, Deputy Director; Kevin Creighton, CFO; Robert Glenn; Jared Silva; Nichola Meserve; Melanie Griffin; Story Reed; and Cate O'Keefe.

Department of Fish and Game: Mary Lee King, Deputy Commissioner.

Massachusetts Environmental Police: Lt. James Cullen.

Members of the Public: Chris Chadwick; Dan Murphy; and Brian Curry.

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Kane wished everyone a happy New Year and welcomed them to the January 2019 MFAC business meeting.

REVIEW AND APPROVAL OF JANUARY 24, 2019 BUSINESS MEETING AGENDA

Chairman Kane indicated that DMF suggested making a few adjustments to the January 24, 2019 MFAC business meeting agenda. Director Pierce needed to take a call on wind energy at 10:30 and during that time DMF staff would cover the presentation on black sea bass, a discussion items regarding DMF's lobster processing report and bait issues in the lobster fishery. Chairman Kane asked if there were any objections.

Mike Pierdinock was concerned that lobstermen may intend to attend today's meeting be involved with discussions on lobster bait and lobster processing. Director Pierce and Deputy Director McKiernan stated that they did not anticipate this. Mike P. noted that if DMF was confident in the assessment then he did not object to the proposed change in the agenda.

Kalil Boghdan stated that DMF should note on the agenda that the times provided are approximate and that the timing of certain agenda items are subject to change. Jared Silva agreed that future agendas would clearly state this stipulation.

No further comments were made. **The MFAC unanimously concurred to adjust the agenda as described by the Chairman.**

REVIEW AND APPROVAL OF DECEMBER 13, 2018 DRAFT BUSINESS MEETING MINUTES

Chairman Kane asked if there were any comments on or corrections to the December 14, 2018 MFAC business meeting minutes.

Mike Pierdinock asked that the phrase “by the international community” be added to the sentence on page 12 regarding leadership at ICCAT. This would underscore that the concerns expressed with ICCAT leadership focused on the international community, not the US delegation. Jared Silva stated this amendment would be made in the final meeting minutes.

There were no further comments. **Bill Doyle made a motion to approve the December 13, 2018 draft business meeting minutes with the amendment suggested by Mike Pierdinock. Mike Pierdinock seconded the motion. The motion was approved unanimously.**

COMMISSIONER’S COMMENTS

Due to another commitment, Commissioner Amidon was unable to attend the January 2019 MFAC business meeting.

DIRECTOR’S COMMENTS

Director Pierce praised Commissioner Amidon for his work assisting DMF on anadromous fishway restoration projects. David highlighted several projects DMF was gearing up to work on this spring that were made possible by the Commissioner’s efforts. David added that the Commissioner’s prior experience in construction was invaluable in this area.

The Massachusetts Lobstermen’s Association held their Annual Weekend and Trade Show the prior weekend. DMF staff participated in several seminars and meetings with industry members and other stakeholder groups. DMF also held public hearings on whelk management and right whale protections. Despite the poor weather conditions, Governor Baker attended the banquet dinner on Saturday night.

DMF remains engaged on offshore wind energy development issues. Recently, King Associates released a report that attempted to project the potential economic impacts of Vineyard Wind on the fishing industry. He noted that he felt the report minimized the potential economic loss and he intended to voice these concerns to Secretary Beaton and his staff during today’s conference call on the topic.

The Environmental Bond Bill required that DMF complete a report on the potential biological, enforcement and economic impacts of making the state’s lobster processing law less restrictive to accommodate additional commerce and processing activity. DMF

completed this report at the end of 2018. It has now been filed with the legislature and published on DMF's website. The report recommended statutory amendments to make the existing law less restrictive in order to accommodate additional commerce and processing opportunities benefiting MA consumers and seafood industry businesses. DMF recently met with key legislators to discuss the report and moving forward potential legislation. The Director was optimistic that the statute would be amended this calendar year to accommodate DMF's recommendations.

LAW ENFORCEMENT COMMENTS

Lt. James Cullen represented Law Enforcement. Lt. Cullen's comments focused on personnel. He thanked the MFAC for their letter to Secretary Beaton requesting the Massachusetts Environmental Police (MEP) receive funding to hire additional field staff. In 2018, MEP were able to hire 12 additional officers, which would raise their numbers from 72 to 84. At present, they have filled 11 of those 12 positions. These new hires were expected to become active field officers by the end of 2019, after their completion of the police academy and the field training. Lt. Cullen noted about half of the hires had already received police academy training and would just need to receive the environmental training and field training. With regards to the final open position, they had to go back to the initial hiring process, which takes about two-plus months to complete.

Deputy Commissioner King asked about minimum requirements as it pertained to the environmental component of the job. Lt. Cullen noted that applicants either needed two years of full time experience in conservation law enforcement or a related field; or 1 year experience in a related field and an Associates Degree in an environmental/related field; or a Bachelors Degree in an environmental/related field. Some MEP officers are hired out of other police forces. Accordingly, they would meet the education and/or experience requirements, and have completed general police academy training and do not need to repeat this component.

Chairman Kane asked if these new hires would just address recent and upcoming attrition or if there was funding to actually increase the ranks. Lt. Cullen stated that it would be ideal if MEP could address attrition while continuing to expand the total number of active officers. However, he was uncertain if there would be consistent funding for this. The Chairman stated that he thought it was critical for MEP to do this and he would address this issue directly with Commissioner Amidon and Secretary Beaton.

ACTION ITEM

State-Waters Multi-Species Groundfish

The Director set forth three final proposals related to the management of the multi-species groundfish fishery in state-waters. He reminded the MFAC that the purpose of this closure was to better align the state-waters only (Groundfish Endorsement - "GE") fishery with the region's state-waters sub-components and thereby avoid triggering

federal accountability measures, particularly for Gulf of Maine (GOM) cod and winter flounder. These proposed final regulations were described in detail in the January 18, 2019 memorandum to the MFAC, and are summarized in the bullets below.

- The month of April would be closed to all commercial groundfish fishing between 42°00' north latitude (Plymouth) and 42°30' north latitude (Marblehead) that are west of 70°30' west longitude. This closure would include a provision that would allow the Director to annually rescind the closure if an annual comparative analysis of year-to-date state-waters groundfish landings in relation to the state-waters groundfish sub-components demonstrated the closure was not necessary to achieve management goals.
- DMF would adopt a December 31, 2018 control date for the state-waters only commercial groundfish endorsement ("GE"). DMF was not yet proposing criteria to use the control date to eliminate latent effort in the fishery. Such criteria would be subject to subsequent rule making.
- DMF would not pursue an owner-operator requirement for the GE.

April Closure

Director Pierce noted that his April closure recommendation was spatially less restrictive than the public hearing proposal, which would have closed all state waters north of 42°00' north latitude. He explained that his decision making was principally influenced by public comment regarding the economic impact of this closure on the GE fleet. David felt the modified closure area would provide some access to underutilized groundfish stocks (e.g., haddock) while still addressing concerns expressed at the NEFMC regarding utilization of the state-waters sub-components.

There were other factors that also influenced his final recommendation. The spatial boundaries of the recommended closure match boundaries of the federal April cod spawning closure. Therefore, the recommended closure would protect critical cod spawning grounds. The Director also referenced a recent letter from the Conservation Law Foundation and the Environmental Defense Fund to NOAA and the NEFMC addressing discarding and misreporting of multispecies groundfish by federal commercial permit holders. He argued that the recent overages of certain state-waters sub-components by the GE had such a nominal effect on overall groundfish mortality when compared to federal discarding and misreporting estimates. Accordingly, he found it difficult to justify closing all state-waters north of Plymouth to groundfish fishing.

Kalil Boghdan asked for clarification as to whether this recommended closure applied to all commercial fishing for groundfish. David stated that it did.

Andrew Walsh expressed his frustration that DMF did not provide an analysis to demonstrate if the revised closure would achieve reductions in GE landings necessary to realign the fishery with the state-waters sub-components for GOM cod or winter flounder. He expected that such an analysis would demonstrate that the revised closure would not achieve these goals. Andrew reminded the MFAC that DMF's initial analysis

demonstrated that the more restrictive closure proposed at public hearing did not even ensure GE catch would remain within respective sub-components.

Melanie Griffin and Andrew Walsh briefly reviewed figures for the initial analysis that Andrew cited. DMF analysis compared recent GE landings (FY13-FY17) to the 2018 sub-component. Based on this, DMF estimated that the GE fishery needed to reduce its GOM cod landings by 26% and GOM winter flounder landings by 45% to limit catch to the FY18 state-waters sub-components for GOM cod and winter flounder. If all things were to remain equal moving forward, the DMF predicated an April closure in all state-waters north of 42°00' north latitude would reduce GOM cod landings by between 12-27% and GOM winter flounder landings by between 10-21%. Melanie noted that GE landings were subject to inter-annual variability based on effort and participation, so extrapolating future landings based on past data was inherently imprecise.

David stated that the modified boundaries were designed to enhance access to other flounder species and haddock, not cod and winter flounder. Based on the geography of the recommended closure, he expected April cod landings would see a substantial reduction, because much of the area where cod aggregate to spawn will be closed. While it may allow for more winter flounder catch than the public hearing proposal, it would not increase GE landings by enough to trigger federal accountability measures given the under-utilization of the Total Annual Catch Limit (Total ACL).

Andrew drew attention to DMF's monthly catch composition data for FY16. He stated that it did not show substantial haddock landings in April. In fact, it showed that nearly all of April's landings were composed of cod and winter flounder.

David stated that haddock catch in state-waters during April varies from year-to-year, but there can be an occasional strong April fishery for haddock in northeastern Cape Cod Bay. By moving the closure boundary west to the 70°30 meridian then fishermen could access this under-utilized resource when it is available.

Mike Pierdinock asked if any considerations were given to winter flounder spawning protections. Director Pierce stated that DMF has long-standing regulations to protect the inshore winter flounder spawning grounds from the Massachusetts-New Hampshire border south and east to Provincetown. However, DMF and others were currently researching the redistribution of winter flounder in response to rising water temperatures and potential offshore spawning grounds. This research could eventually lead to new winter flounder spawning protections.

The Chairman asked if there were any additional questions for DMF. No questions were asked. Chairman Kane then asked if there was a motion to adopt the Director's recommendation so he could open the item up for debate.

Andrew Walsh made a motion to debate the Director's recommendation. Chairman Kane did not accept the motion. He noted the motion would have to be to adopt the

Director's recommendation. If the motion failed Director Pierce would have to determine how to proceed.

Director Pierce indicated that he had no intention to provide the MFAC with an alternative recommendation at the January 2019 meeting if his proposed recommendation failed. Andrew Walsh accused the Director of bullying the MFAC into voting up his proposal.

Kalil Boghdan then made a motion to adopt the Director's recommendation. Mike Pierdinock seconded the motion. Chairman Kane allowed debate.

Andrew Walsh argued the recommendation would not achieve its stated management objectives. He criticized the Director for moving the goal posts to address cod spawning and federal discards, rather than a strict realignment of the state-waters fishery. Lastly, he argued that this measure – if adopted - would continue the ineffective management of the state-waters fishery that already triggered federal accountability measures and cuts to federal quota allocations.

In conclusion, Andrew strongly objected to David's recommendation. He felt that the recommendation was for show only and was not a serious attempt to address the management of the state-waters fishery. He opined that if the MFAC approved it, they would fail in their obligation to manage the state's groundfish fishery. While Andrew had his reservations about supporting any measure that would constrain other fishermen, he argued that continuing to allow the GE fishery to exceed its limits at the expense of federal permit holders was unacceptable.

Director Pierce stated that he took Andrew's concerns seriously, but his final decision was strongly influenced by public comment, as well as other considerations (e.g, cod spawning, and federal discarding and misreporting). He argued that by closing areas to commercial fishing where cod are known to aggregate and spawn this would limit the ability of fishermen to target cod and thereby reduce cod catch. Spatial landings data demonstrated that April cod landings came from the areas that he was proposing to close. As for winter flounder, federal quotas were underutilized and even if the state did not achieve the reductions necessary to realign GE landings with the state-waters sub-component we were not at risk of triggering federal accountability measures.

Andrew disagreed. He stated that fishermen would be unlikely to avoid cod when fishing in open areas adjacent to the closure. He felt that this recommendation lacked seriousness and if DMF were going to make such a proposal they should instead have moved to implement zero possession limits for cod and winter flounder in April, rather than spatial closures. While this would likely result in mortality to cod and winter flounder from discarding, it would at least keep GE landings down to realign the numbers.

Lou Williams also disagreed with the Director's recommendation. Lou noted that the proposal was driven by the GE fleet exceeding its GOM cod set aside by 35,000 pounds

in FY16. He then opined that this problem would likely fix itself given attrition in this fishery. Several gillnetters were retiring and fewer draggers were participating and this should decrease GE landings by more than 35,000 pounds. As a result, he felt the April closure was too onerous and unnecessary.

Director Pierce noted that if the closure were to prove unnecessary, then the recommendation regulation would allow him to rescind it. He noted that staff was finishing an audit of FY18 data. He would present it to the MFAC at their February meeting and would indicate whether the area would be closed in 2019 at that time.

Lou disagreed with Andrew's statement that the GE fleet caused cuts to federal quota allocations. Andrew, Melanie and Lou further discussed this issue. Melanie stated for the record that as ACLs for certain stocks have become more restrictive and federal quotas for these stocks fully utilized, the impacts of the GE fishery landing more than the sub-components became more concerning to federal permit holders. In FY16, the management uncertainty buffer was not enough to limit the impacts of increased federal utilization and overutilization by GE and recreational fisheries for GOM cod and accountability measures were triggered for the federal fishery in FY18.

Mike Pierdinock heard from some participants in the Boston Harbor recreational winter flounder fishery who were concerned that DMF had not adequately addressed inshore commercial groundfish fishing effort. These individuals preferred the more conservative April closure and were encouraging DMF to be even more forceful.

Director Pierce noted that he had heard similar concerns. He felt that his recommendation struck a balance without being too heavy handed towards the GE fishery.

Kalil Boghdan asked the Chairman to call the motion to a vote. There were no objections to debate the issue further. The Chairman called the motion. **The motion passed 4-2 with Lou Williams and Andrew Walsh dissenting.**

Control Date

Director Pierce stated that this was a permitting issue and did not require a formal vote by the MFAC. However, he was asking for the MFAC to support his recommended December 31, 2018 control date for the GE permit. He stated that he has not yet requested staff analyze performance criteria that may be used to address latent permits, but this was something he would likely consider over the next year.

Sooky Sawyer made a motion to support the Director's recommendation for the December 31, 2018 control date. Mike Pierdinock seconded the motion. Chairman Kane allowed debate. No comments were made. The Chairman called for a vote in support. **The motion was supported 4-1-1 with Lou Williams dissenting and Andrew Walsh abstaining.**

Owner-Operator

The Director informed the MFAC that he was not moving forward an owner-operator provision for the GE permit. He noted that there were a number of strong arguments against this recommendation at public hearing and his decision was informed by these comments.

FUTURE PUBLIC HEARING ITEMS

Jared Silva reviewed the January 16, 2019 memorandum on the sequencing of upcoming public hearings and MFAC business meetings.

PRESENTATION ON MAPPING BLACK SEA BASS SPAWNING AGGREGATIONS

DMF Senior Biologist Bob Glenn provided the MFAC with a presentation on DMF's research on spawning black sea bass aggregations. This past spring, DMF took advantage of LightHawk program that provides free air time to any organization conducting conservation activities. Using an aerial survey, DMF staff were able to map where recreational fishing for black sea bass is being conducted to inform where spawning aggregations may be occurring. This information then informed where spawning sampling would occur from late-May to late-June. In total, 455 fish were caught using rod and reel gear during this period. All fish caught were measured and based on a sampling protocol 155 of these fish were sampled for age, sex and maturity.

The fish caught ranged from about 8 inches to about 24 inches. Catch data demonstrated that an increasingly greater proportion of the catch was comprised of large males. Bob noted that this may not be indicative of the composition of the biomass on the spawning grounds, but reflective of male fish becoming more aggressive during the spawning period.

The survey also revealed two interesting data points regarding the large 2011 and 2015 year classes. First, expectations by the ASMFC technical committee that the 2011 year class would begin to age out of the fishery by 2018 and catch rates of larger fish would consequently wane were not observed. Fish from the 2011 year class comprised roughly 70% of the catch in the survey. Second, the 2015 year class also comprised a substantial component of the catch, indicating that this year class was beginning to recruit into the fishery. If this year class is as large as anticipated, it should keep the biomass of legal sized fish at high levels in the coming years.

Bob then identified several areas where additional research is needed. He wanted to assess and map the areas where we know spawning is occurring to help recognize key habitat features. Having this data will be critical to protecting and identifying spawning habitat. Graduate students at UMass Boston and Rutgers were looking into sex hormone signatures of fish in MA compared to other regions to help answer questions about where and when spawning events may be occurring. Also, he was interested in the role of dominant males and subordinate "sneaker" males in the species' reproductive strategy, how ratios vary over time, and what cues changes in these ratios.

Kalil Boghdan asked if the older fish were predominantly female. Bob stated that black sea bass are protogynous hermaphrodites that are females while they are younger and then transition to males as they grow larger.

Mike Pierdinock asked about size structure and maturity. Bob stated that black sea bass first reach size at maturity at four years (as females), they then transition to males over time. There was also a large variation in size at age, particularly among large year classes. This variation was likely due to competition for resources. Bob noted that fish begin to recruit into our recreational fishery (15" minimum size) around age 4 or 5 and by age 7 the fish are typically in the 15" to 24" size range.

Dan McKiernan asked if other southern New England states had similar spawning events, or was southeastern Massachusetts the inshore spawning grounds for the species. Bob stated that similar spawning grounds have not been documented in other states. In a similar vein, Mike P. then asked if spawning could be occurring offshore but we are only observing the inshore component because this is where fishing activity is occurring. Bob noted that this was possible, but opined that spawning was likely predominantly occurring inshore because the inshore embayments serve as good larval retention areas.

Charmain Kane asked if there was any data that could explain why Buzzards Bay was the hot spot for the fishery in 2018 and not Nantucket Sound. Bob stated that he did not have enough data to firmly answer that question, but opined that such changes in local abundance are typically driven by factors such as spawning site fidelity or environmental conditions. Mike P. observed a lot of mung in the Sounds last year and suggested this could have been a contributing factor.

Dan McKiernan asked if young-of-the-year fish are found in trawl surveys. Bob confirmed this and noted that we see a lot of these fish DMF's inshore fall trawl survey south of Cape Cod. Chairman Kane then asked if black sea bass migrate in their first year. Bob stated that they do migrate out to the continental shelf as young-of-the-year. A substantial amount of natural mortality occurs during this migration. Accordingly, the best index for year class strength is Year 1 fish.

Ray expressed concerns regarding the impact laying cable in Nantucket Sound for offshore wind turbines may have on black sea bass spawning grounds. Bob noted that this was why mapping spawning habitat was critical, as it allowed DMF to intelligently comment on where and when marine construction projects should occur. Dan McKiernan noted that historically DMF has advocated that these projects not occur during the spring months to avoid interactions with spawning finfish.

Mike P. noted that recreational anglers in the Mid-Atlantic report that they typically catch smaller female fish. He was curious if there was any data or tagging studies that demonstrate where male and female fish migrate. Nichola Meserve stated that past tagging data used line the last stock assessment indicate that a lot of fish caught in the northern region migrate offshore to the continental shelf rather than south. Bob added

that this was another area that needs further research, particularly as it dovetails with wind farms. Chairman Kane suggested DMF pursue a tagging program through the ASMFC and noted that funding may be available for such an endeavor. Ray then opined that it was important for DMF to continue to be leaders on black sea bass policy and science at the ASMFC, particularly as quota redistribution becomes an issue to address.

Mike P. stated that he would like to see additional research into the impacts black sea bass predation. Bob agreed. Mike P. noted that some lobstermen in Southern New England attribute some of the decline in the lobster stock in the region to the increasing abundance of this fish.

Chairman Kane thanked Bob and DMF for this presentation. Ray asked if members of the MFAC could be invited out to participate in this survey. Bob indicated that he would contact Commission members this spring to notify them of when they would be going out.

DISCUSSION ITEMS

DMF's Report on Lobster Processing

Deputy Director McKiernan stated that he and Jared Silva served as co-authors of this report and he thanked Jared for his work. He then provided some brief history on the subject, and summarized the report. Dan stated that based on this report, DMF was recommending the legislature relax the existing law to allow for the in-state sale and processing of shell-on lobster parts other than tails (e.g., cocktail claws) and to allow authorized processors to move shell-on lobster parts between facilities (in-state and out-of-state) for additional processing activity. DMF met with certain key legislators, and while there were some differences in opinion, Dan and Jared were optimistic that the law would be amended.

Kalil Boghdan asked about the differences of opinion. Deputy Commissioner Mary Lee King stated that certain legislators wanted to see MA develop greater lobster processing infrastructure and were concerned that allowing the importation of shell-on parts for further processing may limit that. There were also concerns regarding how additional processing may impact local lobstermen.

Sooky Sawyer stated that the Massachusetts Lobsterman's Association supported the relaxing of this law to allow for additional processing opportunities. As an organization, they do not share the concerns that this may have a negative impact on local lobstermen.

Bill Doyle supported DMF's recommendation. He argued that allowing the transport and importation of shell-on lobster parts for additional processing made sense from a business perspective for the processors. Moreover, the economics of it would likely allow these processors to then accommodate other streams of lobster processing activity in-state.

Mike P. asked if DMF could predict when legislation would be enacted. Mary Lee King stated that both the House and the Senate were looking to file a bill immediately.

Bill Doyle asked if a letter of support from the MFAC would be beneficial. Mary Lee did not think this was necessary and that continued dialogue between DMF, DFG and the Legislature would be sufficient. Chairman Kane supported Mary Lee's position, but noted that he would be willing to drafting a letter of support from the MFAC in the immediate future if it appeared these differences of opinion could not be resolved.

Bait Needs for the Lobster Fishery

Dan McKiernan stated that given the current status of the Atlantic herring resource and the subsequent cuts to the herring quota, lobster bait availability was becoming a hot button issue. With less herring available, it can be anticipated that lobstermen are going to become increasingly reliant on other bait sources. As a result, there is some concern about the proliferation of non-native and farm raised fish being used as bait and the potential impacts this may have on native fish species. It is already fairly common for MA fishermen to use wild and farm raised salmon skins and racks as bait, because a lot of fish processing occurs in MA and they are available for cheap. However, in ME the use of such baits is prohibited. As a result there was some discussion at ASMFC regarding whether or not state's should be required to regulate what baits can and cannot be used. As a result, the ASMFC put together a working ground to review the issue and potential solutions, if necessary. At this time, Dan was interested in having the MFAC provide comments to advise DMF's position.

Sooky Sawyer stated that he did not see this as an issue. He opined that this was ME trying to dominate how the lobster fishery is conducted and have other states conform to what they do.

Upcoming ASMFC Business Meeting

Director Pierce stated that the Winter Flounder Board would be looking to adopt the specifications approved by the NEFMC. He also intended to raise attention regarding the recently published paper on Southern New England winter flounder that indicated that due to warming water temperatures it was unlikely that the stock will ever be rebuilt to the current targets. He also intended to raise concerns about what warming water temperatures in the GOM may mean for the future viability of the GOM winter flounder stock.

Mike Pierdinock was interested in how the power plant closure in Plymouth may influence local water temperatures in the Cape Cod Bay.

Cate O'Keefe stated that the Atlantic Sea Herring Board initiated an addendum in October to provide some flexibility in setting rules for Management Area 1A (Inshore GOM). This included moving away from the Trimester approach and instead align when quota is available to match demand for lobster bait. Some feel as though this is not

necessary given the current control managers have over the days-out system and their ability to make in-season adjustments.

Sooky asked if this addendum would impact small mesh trawlers. Cate noted that the Amendment allows the Board to address this fleet through days-out regulations, but they have chosen not to. Ray asked Sooky if MA lobstermen have better access to bait when the small mesh fishery is occurring. Sooky stated that they do. Ray asked how DMF could address this to ensure MA lobstermen had access to bait. Cate said that it would have to be done through the management of the days-out rules by the Board. There was then some discussion speculating whether or not NH would support continuing to only regulate "Class A" permits via days out rules and not extend days-out rules to the small mesh fleet.

Mike P. was sensitive to the bait needs of the lobster fishery. However, he wanted to raise his concerns about the impacts of the localized removal of forage fish, like herring, and how this may impact other fisheries. He noted that in the past surges in bait fishing efforts have moved bluefin tuna out of areas, reducing the tuna fleet's access to the fish.

Director Pierce understood Mike's concerns and stated that this was one of the reasons why the herring quotas were reduced to the levels they are at and the buffer zones were approved by the NEFMC.

Nichola Meserve stated that the Summer Flounder, Scup and Black Sea Bass Board would be addressing recreational fishing measures for scup and black sea bass. The development of recreational fluke measures will be delayed due to the federal government shutdown and the impact this has had on the review and approval of the new fluke assessment. The fluke fishery may have to open under status quo rules, and in-season adjustments made if necessary.

For scup, Nichola anticipated that the Northern Region (MA-NY) would be able to liberalize its rules to increase harvest by as much as 27% compared to 2018. She expected the board would likely approve a methodology to accommodate this liberalization in 2019. The states could then collect public input on a number of options developed consistent with this methodology prior to selecting final measures by mid-March. Nichola noted that based on initial conversations the options included increasing the for-hire bonus season bag limit from 45-fish to 50-fish or by adding another wave to the fishery (e.g, Wave 2).

As for black sea bass, preliminary 2018 harvest estimates predict that the recreational fishery would exceed the 2019 RHL by 7% under status quo rules. The Technical Committee recommended making the case to NOAA that since this 7% overage is within the uncertainty buffer around the MRIP harvest estimates that status quo management should continue. NOAA has previously supported this argument and Nichola opined that status quo management would be the likely outcome. She added that there are some guidelines that allow the Board to address inter-regional inequity

when possible; however, she did not expect the Board to view status quo harvest as an circumstance when such inequity should be addressed.

Mike P. advocated for DMF to push the ASMFC to consider variable discarding rates between regions when setting fishing limits. He noted that MA's fishery likely has a much lower discard mortality rate given that it is conducted in shallow inshore waters, as compared to other states who target this fish when they are offshore and in much deeper waters. Yet, despite these obvious differences, all states are subject to the same discard mortality rate.

Mike P. then asked if the new MRIP numbers were used in setting the 2019 limits. Nichola stated that the new MRIP data would not be included until 2020 with the updated stock assessment.

Nichola added that she was also contributing to a working group that was developed to review the potential reallocation of commercial black sea bass quotas. Some preliminary options are under development that consider resource distribution in addition to historical landings, similar to Georges Bank groundfish sharing between the U.S. and Canada. At this point, the Board could initiate the drafting of a new management document although Nichola cautioned that there would be resistance to any quota reallocation from some states.

Dan noted that CT currently has an abundance of fish in their waters and very little quota. So reallocation may not just be a proportional adjustment in quota, but it also may require addressing issues with the current quota allocations.

Mike P. asked if Georges Bank groundfish sharing was negotiated by the US and Canada or through the UN or the World Court. Nichola stated that it was negotiated between the US and Canada. This made Mike P. feel more comfortable about the ASMFC reviewing it as a potential quota sharing model.

Nichola stated that the Striped Bass Board had been expected to review the stock assessment at the upcoming meeting; however, the government shutdown had delayed the completion of its peer review. Preliminary results indicate that the stock is overfished and overfishing is occurring. ASMFC staff put together a summary of anticipated results to help the Board begin to address management measures.

Ray asked if resulting management would treat the Chesapeake Bay states the same as the coastal states. Nichola stated that the assessment model that broke up the stock between the coast and bay was not expected to be accepted. Accordingly, expectations were that all states would have to move in one direction.

Nichola added that the Board was reviewing the effectiveness of Maryland's mandatory use of circle hooks as a conservation equivalency measure to allow a lower size limit for the Chesapeake Bay. This analysis may help inform DMF's final recommendation on circle hooks.

Mike P. asked if the ASMFC preliminary stock assessment summary would be available to the public. Nichola stated that it was in the briefing materials made available online.

Mike P. asked the extent to which year class production influenced these stock assessment results. Nichola stated that while there was good recruitment from the large 2011 and 2015 year classes, there was below average production in other years. So, a decline in recruitment was a major contributing factor to the current assessment. However, regardless of cause, mortality still exceeded the thresholds and the targets, so management action is necessary.

Mike P. then asked about the impact of water quality in the Chesapeake Bay on young-of-the-year production and recruitment. Dan stated either Mike Armstrong or Gary Nelson were expected to present on the striped bass assessment at an upcoming MFAC meeting and questions about stock health and the assessment could be further discussed then.

The Menhaden Board would be dealing with VA's non-compliance with the new (lower) cap on the Chesapeake Bay reduction fishery. The Board had postponed a motion to find VA non-complaint in August to give the VA legislature more time to take action. While VA has indicated that bills have been introduced and are being reviewed at the committee level, legislation has not yet been approved. Nichola anticipated that the Board may continue to give VA a pass given the sense that the Secretary of Commerce would not uphold a non-compliance recommendation. To inform this discussion, the Board will also be provided a synthesis of the importance of menhaden to the Chesapeake Bay ecosystem. Opponents of the cap have been critical about the science used to develop the cap and this synthesis may be instructive to its scientific standing.

Omega protein was also working to obtain Marine Stewardship Council (MSC) certification for its menhaden purse seine fishery. DMF has submitted comments arguing that the certification cannot be considered until VA implements the cap measure and comes into compliance with the FMP.

Bill Doyle criticized MSC certification as being a pay-to-play scheme.

Director Pierce reminded the MFAC that last year Willie Hatch, a Falmouth based charter boat captain and commercial fisherman, proposed that DMF allow the recreational retention of some undersized scup to be used as bait for striped bass. DMF reviewed this proposal and brought it to the MAFMC's Scup Monitoring Committee and ASMFC's Summer Flounder, Scup and Black Sea Bass Board. After these initial discussions, David decided he was not going to move this proposal forward for 2019 due to the enforcement, monitoring and management challenges it presented. He noted that this does not preclude fishermen from using scup that meet the existing 9" minimum as bait. The rationale for this decision was set forth in his January 15, 2019 memorandum to the MFAC.

Mike P. was contacted by a number of fishermen, including Willie Hatch, and there is disappointment with the Director's decision. Mike P. felt that this was an opportunity to promote scup, an underutilized species, as a viable live bait alternative to eels. Moreover, with the ability for the Northern Region to liberalize its recreational scup limits, he thought that this could be accommodated. Mike P. also disagreed that this allowance may encourage the commercial fishery to seek a lower minimum size, noting the existing factors limiting the market for scup.

Recent and Upcoming Council Meetings

Melanie Griffin provided a brief review of the upcoming NEFMC meeting. She stated that the shutdown would limit the number of issues to be addressed and that no final actions would be taken. Melanie noted that the NEFMC and MAFMC continue to try to coordinate EVTR efforts.

Sooky Sawyer asked if there were discussions regarding moving the NGOM boundary line for sea scallops northward. Melanie stated that this had been discussed. Cate O'Keefe added that she anticipated there would be strong opposition to moving the line north, particularly from the Stellwagen Bank Sanctuary.

Lou Williams stated that this was being driven by the LAGC scallop fleet. If this line gets moved northward they would then get greater access to scallop beds on Stellwagen. He noted that the line already moved northward once several years back and the scallop beds off Provincetown that were sustaining the inshore fleet were quickly fished out.

Nichola Meserve reiterated that the February MAFMC meeting was indefinitely postponed due to the shutdown. When the MAFMC reconvenes, she would be focused on commercial fluke management and quota reallocations.

Mike P. advocated for DMF to push the NEFMC to allow recreational anglers to retain 1 cod in the GOM management area. He noted the charter and head boat fleet was very frustrated by the continued closure. Moreover, the data he reviewed back in October indicated that the estimated mortality for cod in the haddock fishery were well below the 2018 sub-ACL for GOM cod. Director Pierce stated that he would like to continue this conversation with Mike P. after the meeting and develop potential proposals to present to the NEFMC.

Mike P. also expressed concern that the VMS requirement coming out of the Gulf Coast Council for the for-hire fleet may inadvertently effect MA fishermen. He noted that when the MAFMC implemented EVTR requirements for the for-hire fleet, MA fishermen who were federally permitted to target these species (e.g., black sea bass) were subject to these new requirements. Mike P. added that a VMS requirement for MA's for-hire fleet would have a substantial detrimental impact on the affected vessels.

Ocean Quahog Trip Limit

Dan McKiernan stated that he had received an e-mail from Allen Rencurrel, a south coast shellfish dredge vessel owner regarding DMF's 26 cage ocean quahog trip limit.

With the NEFMC's recent habitat amendment restricting the surf clam fishery's access to Nantucket Shoals, there are growing concerns regarding the displacement of these vessels and increasing effort in other fisheries. From this e-mail and conversations with Allen he was concerned that this high trip limit may encourage an increase in fishing effort for ocean quahogs that would quickly deplete the available resource. By reducing the limit to 8 cages, Allen suggested that the resource may sustain a small inshore fishery. DMF was reviewing this request with industry members and may come back to the MFAC with a public hearing proposal in the near future.

Adjudicatory Hearings

Dan McKiernan and Jared Silva provided a brief review of those adjudicatory hearings initiated and resolved in 2018. DMF focused on pursuing hearings on recreational and commercial permits for striped bass violations, in response to the high levels of non-compliance observed in the Canal fishery in 2019. DMF also pursued hearings for lobster, black sea bass, whelk and contaminated shellfish violations.

COMMISSION MEMBER COMMENTS

Sooky Sawyer expressed concerns regarding the impact of energy and infrastructure projects on fisheries and fish stocks. He noted that DMF was often active in commenting on project proposals and trying to minimize the impacts of fisheries and fishermen. However, he did not believe there was a similar level of concern at higher levels of government.

David noted that the Secretariat has been actively engaged on these issues and responsive to DMF's concerns. However, there are also good reasons for these projects to be conducted in certain places and at certain times. Decision making at higher levels of government is often influenced by non-fishing related concerns.

Bill Doyle wanted DMF to consider pursuing a discussion about how to encourage more young people to become involved in our fisheries. He thought this could be addressed as an agenda item at a future meeting or through a sub-committee.

Lou Williams had received some comments from fixed gear fishermen regarding gear conflicts with trawl surveys. These fishermen were asking that DMF provide fishermen with Loran lines in addition to GPS locations where tows may be occurring. Many fishermen still set their gear based on Loran lines.

Lou also stated that he spoke with a sector manager in Gloucester regarding the Revolving Loan Fund. Melanie Griffin noted that the Revolving Loan Fund program has changed overtime to increase its utilization. Sector 3 has wanted to use funds from the program to cover administration fees. However, this was denied because it does not align with the program's directive and despite efforts to date DMF has been unable to align their needs with the purpose of the program.

Andrew Walsh announced he was resigning from the MFAC effective immediately. He cited his frustration with the groundfish vote and constraints on his time and ability to participate.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

No further comments were made. The Chairman thanked Commission members for the attendance. **A motion was made by Bill Doyle to adjourn the January 24, 2019 MFAC business meeting. The motion was seconded by Sooky Sawyer. The meeting was adjourned.**

MEETING DOCUMENTS

- December 13, 2018 MFAC Business Meeting Agenda
- November 8, 2018 Draft Business Meeting Minutes
- Recommendation for Final Mobile Gear Regulations
- 2019 Winter I Scup Trip Limit Recommendation
- Public Hearing Proposals for Several Regulatory Clarifications
- Memorandum on Proposed Modifications to For-Hire Compliance Regulations
- Draft Report on MAFMC Law Enforcement/For-Hire Workshop
- Memorandum on Period I Wintertime Fluke Fishery
- Memorandum on Mandatory Electronic Reporting for Seafood Dealers

FUTURE MEETINGS

9AM
January 24, 2018
Division of Fish and Wildlife Field HQ
1 Rabbit Hill Road
Westborough, MA

9AM
February 14, 2018
Division of Fish and Wildlife Field HQ
1 Rabbit Hill Road
Westborough, MA

9AM
March 14, 2018
Division of Fish and Wildlife Field HQ
1 Rabbit Hill Road
Westborough, MA

9AM
April 11, 2018
Division of Fish and Wildlife Field HQ
1 Rabbit Hill Road
Westborough, MA

9AM
May 9, 2018
Division of Fish and Wildlife Field HQ
1 Rabbit Hill Road
Westborough, MA

9AM
June 13, 2018
Division of Fish and Wildlife Field HQ
1 Rabbit Hill Road
Westborough, MA