

## **MARINE FISHERIES ADVISORY COMMISSION**

**February 20, 2020**

**DFW Headquarters**

**Westborough, MA**

### **In attendance:**

*Marine Fisheries Advisory Commission:* Raymond Kane, Chairman; Michael Pierdinock, Vice-Chairman; William Doyle, Clerk; Arthur “Sooky” Sawyer; Kalil Boghdan; and Charlie Quinn. Absent: Tim Brady and Lou Williams.

*Division of Marine Fisheries:* Daniel McKiernan, Acting Director; Michael Armstrong, Assistant Director; Kevin Creighton, CFO; Bill Hoffman; Jared Silva; Nichola Meserve; Story Reed; Melanie Griffin; Cate O’Keefe; and Wendy Mainardi.

*Department of Fish and Game:* Ron Amidon, Commissioner; Mark Reil, Director of Legislative Affairs.

*Massachusetts Environmental Police:* Major Pat Moran and Lt. Matt Bass.

*Members of the Public:* Peter Kelly, Jack Bosch, Alexander Kalife, and Susanne Altenburger.

## **INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane called the February 20, 2020 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

## **REVIEW AND APPROVAL OF FEBRUARY 20, 2020 BUSINESS MEETING AGENDA**

No changes to the February 20, 2020 MFAC business meeting agenda were proposed.

**Sooky Sawyer made a motion to approve the draft agenda. The motion was seconded by Bill Doyle. The motion was approved unanimously.**

## **REVIEW AND APPROVAL OF DECEMBER 19, 2019 DRAFT BUSINESS MEETING MINUTES**

Chairman Kane asked if there were any amendments to the December 19, 2019 MFAC draft business meeting minutes. No amendments were offered.

**Bill Doyle made a motion to approve draft minutes as provided. Sooky Sawyer seconded the motion. The motion was approved unanimously.**

## **PUBLIC COMMENTS**

Susanne Altenberger addressed fishing vessel design, energy efficiency and fleet sustainability. She stated that fisheries managers have been narrowly focused on stock assessments and catch limits to build sustainable fisheries. However, they have historically failed to acknowledge how the fleet impacts management and sustainability. She noted that New England's fishing fleet is old, energy inefficient, and not sustainable. Moreover, the regulations governing vessel capacity trap the fleet into this paradigm. She encouraged the MFAC to take on the issue of fleet design as part of their regulatory oversight. Susanne then distributed a report prepared by report prepared by Phil Bogler and Friends Boat Builders titled a "A question of Inept Fishing Regulations versus 21<sup>st</sup> Century Fleet."

Peter Kelly spoke of a petition he sent to DMF and the MFAC to allow rod and reel anglers a 100 pound black sea bass bycatch allowance during open commercial fluke fishing days. He argued this would help the rod and reel fleet be more profitable and reduce the regulatory discarding of black sea bass. He also supported opening the commercial striped bass fishery on June 1.

DMF's Acting Director Dan McKiernan stated that commercial black sea bass and striped bass regulations were both being addressed at public hearings in March. He encouraged Pete to submit written comment or speak at the upcoming public hearings. These comments would then be considered when drafting final recommendations to the MFAC for their review and approval at their March 25, 2020 business meeting.

Alexander Califf supported Pete Kelly's comments. Alexander also encouraged DMF to allow the transfer of fluke and black sea bass permit endorsements. Chairman Kane stated that the MFAC previously requested DMF review permit transferability rules and the review and analysis was ongoing.

Alex then expressed his concern regarding the loss of his commercial tautog endorsement. He stated that he fished tautog with his father, but they only sold fish on his father's permit. Accordingly, he did not have landings attributable to his permit and his permit was subsequently not renewed for 2020. Dan asked if Alex had submitted an appeal to DMF. Alex stated that he had. Dan explained that DMF was currently reviewing the appeals received and would respond in writing with a final decision.

## **CHAIRMAN'S COMMENTS**

Chairman Ray Kane discussed the recent joint ASMFC and MAFMC meeting regarding commercial and recreational allocations at Massachusetts Maritime Academy. He noted the meetings were well attended. The ASMFC and MAFMC were still accepting public comment and encouraged MFAC members and the public to comment. Nichola Meserve added that the meeting presentation is available on the MAFMC's website.

## **COMMISSIONER'S COMMENTS**

Commissioner Ron Amidon introduced Mark Reil. Mark was recently hired to work as the Department's Director of Legislative Affairs. Mark previously worked for Senator Ryan Fattman and would bring his knowledge and contacts to DFG.

DFG was in the process of procuring a vendor to update DMF and DFW's recreational fishing and hunting permitting programs. Ron was pleased with the progress to date.

On February 5, DFG and DMF staff met with Representative Viera (R – Bourne/Falmouth/Mashpee). The meeting addressed a number of hunting, fishing, and shellfish related issues. Ron noted that Rep. Viera is the co-chair of the Sportman's Caucus and is trying to make the caucus more active and influential. To elevate the importance of the state's fishing and hunting interests, Rep. Viera suggested one of the upcoming spring MFAC and DFW Board business meetings be held at the State House. If the MFAC supported this, Mark Reil would coordinate it with Jared Silva.

Ron then discussed a series of recent and upcoming events. DMF's Saltwater Fishing Derby Awards were presented at the New England Boat Show on February 15. Ron expressed his appreciation for this event and noted how it influenced young anglers. The North American Seafood Expo was scheduled for March 15 through March 17 at the Boston Convention and Exhibition Center. DMF's Seafood Marketing Program was preparing for a "Mass Ave" event to bring attention to Massachusetts seafood businesses. More information would be provided on this event later in the meeting. DFG's State House Day would be held from 12:30 to 2:30 on March 25 in State House (Room 428). Ron anticipated each of the four divisions would provide presentations on their work. Following the presentations, there would be an opportunity to network with legislators and their staff. He encouraged MFAC members to attend.

On the legislative side, DFG staff were anticipating the House Ways and Means budget being released on March 2. Additionally, House Bill 4610 seeks to move the waterfowl coastal hunting shooting setback from 500 feet to 1,500 feet (the initial draft of this bill proposed moving the buffer back to 1,500 yards). This bill was drafted by Rep. RoseLee Vincent (D-Revere/Chelsea/Saugus) to respond to a local waterfowl hunting issue off Revere Beach. MEP worked successfully to address and resolve the issue and the hunting guide involved subsequently passed away. Despite this, the bill appears to have some legislative traction. This has sportsmen concerned about how waterfowl hunting access may be impacted coastwide. Additionally, there are concerns about how this legislation could minimize the role of DFW's Board in developing hunting regulations. Chairman Kane encouraged MFAC members to speak to their legislators on the topic.

## **DIRECTOR'S COMMENTS**

Acting Director Dan McKiernan recently met with EEA Secretary Theoharides to discuss DMF's current challenges and areas of opportunity. Dan focused on MFAC appointments, internal HR issues, and personnel.

Dan then moved on to brief the MFAC on emerging right whale conservation and management related matters. He noted that while the population had declined in recent years due to continued mortality and low birth rates, ten new calves were born in 2019. DMF was again being sued by Richard Max Strahan. The case against DMF focused on how the state's vertical line requirements for trap gear has resulted in right whale and sea turtle entanglements. DMF was working with DFG legal counsel and the Attorney General's office on this litigation. Strahan also sued a number of other parties - and with the exception of the litigation against DMF - the cases were dismissed by a federal judge.

Dan expressed reservations regarding the development of offshore wind in the Gulf of Maine (GOM). Unlike in Southern New England (SNE), the turbines would be floating rather than fixed and as a result fishing activity would likely be prohibited within the arrays. Dan was concerned about how this would impact fixed gear fisheries, particularly the lobster fishery. Spatial data is not readily available regarding where the federal lobster fishery is conducted, and he felt that without a footprint, lobster fishing access may be unnecessarily restricted.

Mike P. stated that at this juncture there was no information regarding where offshore wind energy development would occur in the GOM. He noted that Jeff Kneebone provided helpful studies to document where recreational fishing occurs in response to wind development proposals in SNE. Mike P. supported similar studies be conducted preemptively, but noted that potential wind energy development areas were not yet cited. Dan stated wind development areas had not yet been proposed, in part because the technology was still experimental and development would likely not occur for about five years. Given this time lag, he thought the various fishing industry sectors would benefit from documenting their footprint.

Mike P. then asked about the status of Massachusetts Clean Energy Center grants. Cate O'Keefe stated that decisions had been made regarding which projects would receive awards, but they had not yet been announced. Mike P. asked if there would be multiple awards. Cate stated that the \$1M in funding would be split between four projects.

Lastly, Dan stated that DMF recently hired a digital technology company, Granicus, to improve its e-mail outreach program. DMF previously communicated advisories and public notices through its general e-mail list serve. These e-mails were often filtered as spam. Granicus provides the agency with the ability to do targeted outreach and the e-mails are less frequently filtered as spam. The new outreach system was very effective and this was evidenced in the responses to recent calls for public comment.

### **LAW ENFORCEMENT COMMENTS**

Major Pat Moran greeted the MFAC. He then informed them that Sean Santos had been appointed Colonel. Sean previously worked for the DEA. Major Moran anticipated that

the Colonel may be able to attend the March 25 MFAC business meeting and introduce himself. Commissioner Amidon added that he has been impressed by the Colonel and his hands-on involvement in MEP issues.

On the personnel side, the Major stated three hires had entered into the police academy and were likely to graduate in August 2020. An additional two hires will be entering into the next academy. MEP were also primed to begin the process to hire six additional officers.

Kalil Boghdan asked if these hires resulted in a net gain of new field officers given attrition. The Major stated that once these new hires entered the field, then the ranks would be just over 85 officers. This would be a net gain compared to recent historic lows of around 70 field officers. Ray Kane asked if the MFAC's most recent letter regarding MEP personnel was submitted to Governor Baker; Commissioner Amidon confirmed this.

Lt. Matt Bass stated that wintertime enforcement efforts were focused on the trap gear closure around Cape Cod. DMF, PCCS and MEP were working to remove abandoned and lost gear. Lt. Bass noted that the amount of gear being abandoned and subject to removal was going down over time.

Sooky Sawyer noted that the right whales arrived in Cape Cod Bay earlier than usual this year and expressed a desire to have unfished gear removed from the water earlier in the year due to concerns that this gear may entangle a whale and impact the lobster fishery more broadly. Lt. Bass stated that MEP were considering a year-round program to identify potentially lost or abandoned gear, tag it, and the remove it was not hauled within 30-days. This would facilitate the removal of lost and abandoned gear prior to the winter period when right whales may migrate into the area.

Dan McKiernan asked about the number of traps removed and how many belonged to recreational fishermen. Lt. Bass stated that 169 traps were removed, as well as 56 vertical lines. While only 23 traps were identified as belonging to recreational fishermen, recreational fishermen were responsible for half of the vertical lines. This is because recreational fishermen tend to set more single traps. Dan suggested exploring a recreational fishing season to ensure that recreational lobster gear is more expediently removed.

Lt. Bass stated that on February 27 DMF and MEP were meeting with ACOE regarding striped bass fishing on the Cape Cod Canal. The meeting was expected to focus on concerns regarding how increased fishing effort in the area is leading to a number of public nuisance concerns and illegal fishing activity. Bill Doyle, Kalil Boghdan, and Mike P. were scheduled to attend on behalf of the MEP.

#### **ACTION ITEM**

#### Temporary Lifting of the April State-Waters Groundfish Closure for 2020

Jared Silva reviewed a series of maps of existing closures that affect groundfish fishing activity in the state-waters portion of the Gulf of Maine during April. This includes gear closures affecting gillnets and dragnets, spawning closures for cod and winter flounder, as well as the conditional commercial groundfish closure between Plymouth and Marblehead. This underscored that a number of areas in the region would remain closed to commercial groundfish fishing even if the conditional commercial groundfish closure were to be lifted.

Dan McKiernan then reviewed how the state-groundfish management system exists within the larger federal management system. He noted that the New England states are allocated small quota sub-components (“set-asides”). These set-asides are based on prior landings history for those commercial fishermen who do not have federal groundfish permits. Additionally, these set-asides are not treated as hard quotas. Overages do not result in paybacks directly from the state-only fishery and may be buffered by the underutilization of federal catch limits. As overall catch limits (for the federal and state fisheries) have decreased in recent years, the state-only fishery has come under greater scrutiny. This is because if the state-only fishery exceeds its set-aside - and if that results in overall catch limits being exceeded - then the payback will come at the expense of federal permit holders.

In response to concerns by federally permitted fishermen, DMF adopted a conditional April commercial groundfish closure between Plymouth and Marblehead in 2019. The regulation provides DMF with the authority to lift the closure if an analysis of state-waters landings for the current fishing year (May 1 – April 30) demonstrate that opening the area will not result in exceeding state set-asides or jeopardizing federal conservation objectives (e.g., exceeding overall catch limits).

DMF’s analysis for the current fishing year indicated that the April closure could be lifted. DMF did not anticipate an April opening would result in exceeding the set-aside for GOM cod - the stock of greatest concern. Additionally, while DMF expected the GOM winter flounder set-aside may be exceeded and the haddock set-aside had already been exceeded, the federal catch limits were sufficiently underutilized to ensure overall annual catch limits would not be exceeded.

Sooky Sawyer asked if there would be any changes to the commercial trip limits. Dan indicated that the trip limits would remain status quo.

Mike P. tasked a series of questions regarding the gears targeting groundfish in April, cod catch and discards, and spawning protections.

Dan stated that the primary gears targeting groundfish in state-waters are trawls and gillnets. Bill Hoffman opined that gear restrictions and fishable bottom limited those areas where gillnets and trawls may be fished in MA Bay. With a 6.5” minimum mesh size gillnetters cannot target haddock and will likely fish tiedown gillnets for flounders. Trawlers are quite spatially limited given mobile gear closures and towable bottom and

are likely to fish areas by the state-federal boundary where the bottom is suitable to catch haddock and some flounder.

Regarding cod, Bill stated that cod typically do not begin to migrate into state-waters until the second half of April when the spring spawning cohort begins to aggregate. Dan stated cod would not likely be a target species given the low 200-pound trip limit. Any cod caught in excess of the 200-pound limit would have to be discarded. DMF typically does not sample the state-waters groundfish boats, however, Bill's staff would likely sample trips this April to better understand catch composition in both the gillnet and trawl fisheries.

On the topic of spawning protections, Dan stated that the winter flounder spawning closure and cod spawning closure would remain in effect. This would prohibit fishing on known spawning grounds. However, the adjacent waters would be open, so fish could be caught as they migrate in and out. Bill added that those cod in state-waters in April are likely moving into state-waters to take part in the spring spawning event.

Mike P. then asked about landings monitoring in the state-waters groundfish fishery. Dan noted that this was complicated because of the reporting and permitting system and that the state-waters set-aside is not a hard quota. Based on prior performance, Dan did not anticipate the fishery would exceed its set-aside for cod. However, he thought it was likely the set-aside for GOM winter flounder would be exceeded and the set-aside for GOM haddock was already exceeded. Dan expressed a level of comfort with overutilizing the haddock set-aside given the substantial underutilization of federal ACLs. Dan felt similarly about winter flounder, but added that if an overage occurred it would likely be small (about 10,000 pounds, which is less than 10% of the 130,000 pound set-aside).

Mike P. then asked DMF to further explain the interplay between the overall ACL and state-waters set-aside. Cate O'Keefe explained that NOAA Fisheries sets an ACL for an entire stock. The NEFMC's Multi-Species Groundfish FMP then recognizes that there are state-only fisheries and a small portion of the overall ACL for certain stocks are allocated to them. If the states exceed a set-aside for any stock, but the overall ACL is not exceeded, then it is not considered to be biologically significant for the entire stock. However, if the ACL is exceeded, it impacts the conservation of the stock and the FMP requires a payback from federal catch limits.

Mike P. expressed several points of concern with DMF's recommendation. First, he did not think DMF and the MFAC should vote to knowingly allow the state-waters fishery to exceed its set-aside. Second, he was concerned that our mild winter may lead to early spring cod spawning and an April opening would produce high cod catch and discard rates. Lastly, he was concerned that the April opening and potential exceedance of the winter flounder set-aside in these areas will negatively impact recreational anglers or the ability for recreational anglers to catch winter flounder nearshore in Boston Harbor, Cape Cod Bay, and other areas where recreational fishing may occur. He also felt that the removal of winter flounder in these areas negatively impacts select recreational

anglers who may not have the ability to safely transit beyond nearshore grounds to fish further offshore.

No further comments were made. The Chairman called for a motion. **Bill Doyle made a motion to adopt DMF's recommendation to suspend the conditional April commercial groundfish closure between 42°00'N and 42°30'N west of 70°30'W for 2020. The motion was seconded by Charlie Quinn. The motion was approved 4-1 with Mike Pierdinock voting against the motion.**

#### In-Season Increase to Period I Summer Flounder Trip Limits

Dan McKiernan explained that the Period I summer flounder fishery is allocated 30% of the annual quota. To date, the accrual of landings had been slow and only 18% of the seasonal allocation had been landed. Accordingly, DMF was proposing to increase the trip limit from 1,000 to 2,000 pounds. This would enhance the supply of seafood reaching the market. Additionally, it would mirror the limit in neighboring Rhode Island. Dan did not anticipate that this change would result in the fishery exceeding its seasonal quota allocation. He noted that the trip limit is reduced to 100 pounds once 25% of the annual quota is caught, which should sufficiently constrain landings. Additionally, dealer reporting in this fishery occurs nightly, so the quota is monitored in near real-time.

Ray Kane asked if this would enhance the landing of fluke in Massachusetts. Jared Silva stated that he expected it would. Jared noted that he spoke with dealers and they indicated the price was currently lower than normal, and the dealer anticipated that given this low price, increasing the weight of fluke that may be landed may incentivize fishermen to target them.

Kalil Boghdan asked about the performance of the Period I fishery to date and if low landings were driven by poor stock conditions. Jared Silva stated that the stock assessment shows the stock to be in good condition. Jared opined that low landings are likely driven by market conditions. Additionally, participation in recent years had been reduced because those vessels previously belonging to Carlos Rafael were not actively fishing.

Sooky Sawyer and Mike Pierdinock expressed some concern about this change impacting the quota available to the summer fishery. Dan reiterated that he did not anticipate that the Period I fishery would exceed its seasonal quota allocation given the safeguards provided by the trip limit trigger and nightly dealer reporting.

No further comments were made. The Chairman called for a motion. **Bill Doyle made a motion to adopt DMF's recommendation to increase the Period I summer flounder trip limits from 1,000 to 2,000 pounds. The motion was seconded by Sooky Sawyer. The motion was approved unanimously.**

### **DISCUSSION ITEMS**

#### Review of Recent Interstate and Federal Fishery Management Meetings



Dan McKiernan stated that much of the review of recent interstate and federal fishery management meetings would also address 2020 recreational fishing regulations. Accordingly, agenda items 4A and 4B would be addressed together.

### *Striped Bass*

Dan stated that the ASMFC's Striped Bass Board reviewed state conservation equivalency (CE) proposals at the February 2020 meeting. He informed the commission that most coastal states were expected to move forward the 28" to 35" slot limit and not pursue state-specific CEs. However, RI had several CE options approved that would allow for a higher maximum size limit and were taking public comment on these rules. Dan expressed strong concern about potential enforcement and compliance issues that may occur if RI were to adopt a different size limit, as fishermen from MA, CT, NY and RI all fish off Block Island. In turn, this may diminish the likelihood mortality reduction target is hit.

Mike P. stated that the abundance of large fish off Block Island was driving this CE measure and he understood why RI fishermen, particularly their for-hire fleet, would support it. However, he shared Dan's concern regarding enforcement and compliance.

Mike P. then asked how the other northeast states felt about RI's CE proposal. Dan stated that CT did not support it. CT also urged NY to not pursue a CE because it would impact CT's management, as they share the waters of Long Island Sound. Dan noted NY's CE proposal were ultimately voted down by the Board.

Lt. Matt Bass stated that the Block Island fishery presented a commercial striped bass enforcement challenge in MA. In recent years, there were incidents and allegations related to large fish caught recreationally off Block Island being landed and sold in Massachusetts. If RI were to adopt the coastwide slot limit and MA were to increase its minimum size to 35" some of these enforcement challenges would be mitigated. Mike P., Dan and Matt Bass then discussed the differences between the MA and RI commercial minimum sizes.

Nichola Meserve stated that RI was currently taking public hearings on their CE proposals. She listened into a public hearing and opinion was split. Private anglers tended to strongly support the coastwide slot limit, whereas the for-hire fleet supported the CE measures.

With RI currently taking public comment on their CE measures, Dan stated that DMF drafted a comment letter expressing concerns regarding their CE proposal and encouraging them to adopt the coastwide slot limit. This letter was provided to the MFAC for their review. Dan then gauged the MFAC's interest in co-signing the letter with DMF.

The Chairman asked if there were any objections to him co-signing the letter on behalf of the MFAC. No objections were raised. The Chairman then called for a motion in support of the letter. **Sooky Sawyer made a motion to support and co-sign DMF's**

**comment letter to RI DEM encouraging them to adopt the coastwide recreational striped bass slot limit of at least 28” up to 35”. The motion was seconded by Bill Doyle. The motion was approved unanimously.**

Mike P. asked DMF to cc the MFAC on the letter when it was submitted to RI DEM.

Nichola Meserve added that NJ also had a CE proposal approved that would allow for them to continue their “bonus” program. Dan stated that he was less concerned about the impact of this CE proposal on conservation, enforcement and compliance.

Kalil Boghdan asked if DMF had considered requiring its commercial striped bass program be conducted at point of harvest. Dan stated that all other states with commercial fisheries requiring tagging at point of harvest and noted that these states were able to do this because they have limited entry or IFQ fisheries. Massachusetts fishery is open entry. In recent years, about 5,000 permits are issued and about 1,000 permits are fished. This produces a substantial administrative challenge with regards to issuing tags directly to fishermen. Accordingly, as there are far fewer primary buyers of striped bass, DMF opted to have its tagging program conducted at point of sale.

Kalil asked if DMF would entertain further discussion regarding limiting entry into the striped bass fishery and moving the tagging program to point of harvest. Dan stated that former DMF Director Phil Coates had petitioned DMF to adopt a new control date for use in limiting entry into the commercial striped bass fishery. Dan noted that DMF did not intend to take any action on the petition until a formal Director’s appointment was made. This was because state law provides the DMF Director with discretion over permitting. This petition and other permitting issues will likely be reviewed by a sub-committee of the MFAC this spring or summer, and the full MFAC will be briefed later in the year.

Dan then reviewed the typical procedure for handling a petition. Under normal circumstances, the Director and DMF staff review and analyze a petition. The Director may then determine whether to adopt the petition in part or in whole, modify it, or dismiss it. The MFAC will be provided with the Director’s response to the petition. If the Director determines to proceed with a petition, normal rule making commences. The MFAC will be provided a briefing on the proposed regulation and DMF will take it to public hearing. If the petition deals with the regulation times, sizes, places and manner of taking fish a final recommendation of the Director will be provided to the MFAC for a final vote. If the petition deals with permitting, the Director will brief the MFAC on the final action, but no vote is required.

### *Bluefish*

Nichola Meserve reviewed DMF’s memorandum on 2020 recreational bluefish limits. The AMSFC and MAFMC approved coastwide measures to establish a 3-fish bag limit for private anglers and 5-fish bag limit for anglers onboard for-hire trips for 2020. This was adopted to meet the mandatory 28.56% reduction in coastwide harvest this year. The FMP allows for state-specific CE proposals. However, GA ended up being the only

state to move forward with CE measures. All other states adopted the coastwide. While MA (and other states) considered potentially developing CEs, there was limited support for such alternative management measures given concerns about the status of the bluefish stock, rebuilding, and future constraints to RHLs. DMF was currently taking comment on implementing the coastwide recreational bluefish measures and this would be an item discussed at the upcoming March 2020 public hearings.

Nichola noted how the coastwide measures established disparate bluefish bag limits across the recreational for-hire and private angler fisheries and that this highlighted increasing interest in development of mode-specific regulations in our recreational fisheries. To address this, the ASMFC was beginning to develop a white paper that would identify when it was most appropriate to consider such measures. DMF was also weighing this issue and would prepare a memo for the MFAC's consideration at future meetings.

#### *Menhaden*

Nichola stated that the Menhaden Board continued to move towards eco-system based management that would take into account menhaden's role in the ecosystem as a critical forage species. The preferred model merges the single species assessment and the assessment for a small number of other species (e.g., bluefish, striped bass, weakfish and sea herring). This allows the abundance of other bait species and predator species to be considered when assessing menhaden exploitation. A working group was currently reviewing the model and she was hopeful that the Board would be in a position to adopt ecological-based reference points at the May 2020 meeting.

Nichola added that the ASMFC took a conservative approach to menhaden management. The single species reference points used in the current assessment are similar to those reference points developed by the preferred ecosystem-based model.

Mike Pierdinock asked if other models included more robust predation (e.g., pelagic finfish, seals). Nichola stated that the ASMFC reviewed these models. However, they found the results were similar to the preferred model and the preferred model was easy to manipulate. Nichola stated she would forward Mike P. the ASMFC's primer on menhaden ecosystem-based management.

Sooky Sawyer opined that if ecosystem based management is going to be moved forward, it should also consider the impact forage species have on larvae and plankton.

#### *Gulf of Maine Cod and Haddock*

Dan McKiernan stated that the recreational Gulf of Maine cod and haddock rules would remain status quo for 2020. However, NMFS was considering adjusting the haddock and cod seasons for April 2021. Mike P. expressed his support for the expected April 2021 recreational groundfish fishing opportunities.

#### Pending Federal Right Whale Conservation Measures

Dan McKiernan provided a brief summary of the recent (February 18 and February 19) public meetings on pending federal right whale conservation measures. The proposed measures affecting MA commercial lobstermen would focus on buoy line breaking strength, a closure south of Nantucket and minimum trawl lengths for the offshore fishery. Dan expected that NMFS would proceed to public hearing this summer and promulgate final rules by next spring. DMF would then move to enact complementary regulations.

Dan and Sooky Sawyer credited Bob Glenn and Erin Burke for their work on this matter, particularly ensuring MA received conservation credit for the existing Large Whale Season Trap Gear Closure and state rules that allow the closure to be extended into May if the whales remain in state-waters.

Bill Doyle asked whether the new weak rope would break under tidal pressure or wave action. Sooky Sawyer stated that this may occur. However, a number of options to achieve 1,700-pound breaking strength were being reviewed and he was optimistic that fishermen could continue to work with this new requirement.

Dan stated that ropeless trap fishing (i.e., remote buoy release to the surface) was being more frequently discussed as a tool to help conserve right whales. He opined this would inevitably lead to ocean zoning and that ocean zoning efforts would result in substantial reductions in the lobster fishery. This would occur due to a reduced spatial footprint, subsequent cuts to the amount of gear being fishing, and gear conflicts between mobile and fixed gear fishermen.

#### Commercial Lobster Vessel Tracking Pilot Program

In order for the state of ME to meet interstate commercial lobster reporting mandates, the state was reviewing the feasibility of using cellular devices. Given this, and potential challenges posed by offshore wind energy development and right whale conservation, a pilot program was developed by the ASMFC, ME and MA to review the use of cellular devices for tracking and catch monitoring. Story Reed then provided a brief overview of the program.

Cellular-based tracking devices were being vetted. These devices would collect the data and then transmit it once the device was within cellular service. As data does not need to be transmitted in real-time, satellite technology is not necessary. This makes the devices more affordable and less power intensive than the satellite-based VMS models. Unit costs typically run between \$200 - \$400 with service fees between \$100 - \$600 per year. Story expected the price would be cheaper if purchased fleetwide. He also noted that some devices are solar powered, but the Gulf of Maine was on the northern most range of this capability (especially during the winter) and results have been mixed.

Story then showed how the data can be manipulated into heat maps. One key element that the program is being used for is to determine what ping rates are sufficient to demonstrate when gear is being set and hauled. He noted that if speed data can parse

fishing activity from steaming activity, it could be coded as such and this would allow the heat maps to show where fishing activity is occurring.

Dan felt strongly that the lobster fishery needed to better identify their spatial footprint to meet these future challenges. At present, the spatial understanding of the lobster industry is at the statistical reporting area level. This did not provide sufficiently granular spatial data for managers and industry to address emerging issues that may require surgical spatial management. Dan noted that VMS heat maps were useful for the mobile gear fleet to address wind farm development in Southern New England and monument designations. Similar data would be useful to the lobster fishery to get out ahead of protected species management and wind energy development in the Gulf of Maine.

Sooky Sawyer noted that many federal lobstermen already have VMS on their vessels because they have federal groundfish permits. Accordingly, new device requirements would be redundant for these fishermen. Sooky then added that lobstermen were reluctant to support the installation of these devices because it may attract new effort into areas that are otherwise not fished heavily. This led to some discussion about whether individual trawl lines could be shown given data confidentiality laws.

Mike P. expressed concerns that the spatial data would eventually be used to pigeon-hole certain fishing activities into certain areas. Given the various environmental, ecological, and biological factors that influence the spatial abundance and availability of fish, he was concerned that fishermen would eventually be limited in their ability to fish outside of prescribed zones that were developed based on a historic snapshot. Ray Kane generally agreed with Mike P.'s concerns. However, he felt that fishermen would benefit more from being data rich even if the use of the data was imperfect. Both Mike and Ray agreed that long-term data sets and regulatory flexibility were needed in spatial management.

#### Seafood Marketing Program Update and Seafood Expo North America

Wendy Mainardi, DMF's Seafood Marketing Program coordinator, provided the MFAC with an update on the program and events at the upcoming Seafood Expo North America.

The Seafood Marketing Steering Committee met back on October 10, 2019 at the State House. This meeting focused on DMF's seafood marketing grant program and the facilitation of a seafood buyers meeting. This meeting also immediately preceded Seafood Day at the State House. This event grew from last year and was held in the Hall of Flags. It was well attended and provided the seafood industry with an opportunity to network with state legislators.

On the topic of the seafood marketing grant program, Wendy indicated that in 2019 DMF funded a small number of longer-term projects and most of which was still on going. At present, DMF was accepting 2020 grant applications related to seafood industry advocacy. The application process was ongoing and the review process would

begin in late-March. In response to public requests for additional transparency, this review process will be open to the public.

DMF would also be participating in the Eating with the Ecosystem program. This will involve DMF working with local chefs at farmer's market to make local seafood more accessible to the public.

Seafood Expo North America was scheduled for the middle of March at the Boston Exhibition and Convention Center. Wendy noted the show's footprint was being consolidated in response to COVID-19 (the show was later cancelled). DMF was working to promote the "Mass Ave" event, which is a cluster of eight local seafood business. Additionally, DMF was facilitating a buyer's meeting and breakfast for Monday, March 16 at Legal's Harborside. Following the buyer's meeting, there would be a walking tour of the Boston Fish Pier. After the walking tour, the group would proceed to the Mass Ave ribbon cutting event at the Expo where the buyers could network with MA seafood businesses. Dan McKiernan indicated that if MFAC wanted to attend the Expo, DMF would cover the costs.

Bill Doyle asked who the buyer's meeting and breakfast would be open to. Wendy indicated that it would be focused on the seafood buyers. She expected the buyers would then network with the MA seafood dealers at the Expo and that those businesses involved in the Mass Ave event would be setting up during the breakfast meeting.

#### Update on Massachusetts Shellfish Initiative (MSI)

Dan McKiernan provided a brief organization overview. The MSI was designed to provide overarching guidelines, goals, and a strategic plan for the state to maximize the economic, environmental, and social benefits of MA's shellfish resources. Dan serves as the MSI Task Force Chairman.

Over the fall of 2019, four public hearings and a public comment period were held to inform the MSI's objectives. This information was used to develop the recently completed MSI Scoping Committee Report. This report synthesized public comment received and outlined specific action items to be considered in the development of a MSI Strategic Plan. The MSI was also working on an Assessment Committee Report to provide an overview of shellfish resource management in Massachusetts. Dan noted that with personnel losses to the shellfish program over the winter, Jared Silva was now working to facilitate the completion of the Committee Reports and will assist in the drafting of the Strategic Plan.

Mike Pierdinock stated that shellfish industry representatives previously spoke with him regarding the transfer of aquaculture permits and the market impacts of harvest municipally propagated shellfish for commercial purposes. He was curious if these two issues were identified by the MSI. Jared Silva stated that those two issues were identified in the Scoping Committee Report. Dan added that those two issues also need more immediate attention.

Bill Doyle commented that while DMF is involved in the MSI, it is not a regulatory or oversight body and does not replace existing entities like the MFAC and SAP.

#### Upcoming Public Hearing Docket and Schedule

Jared Silva stated that DMF would be hosting three public hearings in mid-March. The first hearing is scheduled for 6PM on March 10 at Coolidge Middle School in Reading. Then two hearings are scheduled for March 12. The first hearing will begin at 9:30AM at the Tisbury Town Hall and the second hearing will begin at 6PM at the MA Maritime Academy. Jared then quickly reviewed the docket, which included recreational bluefish limits; recreational striped bass limits; commercial striped bass, black sea bass, summer flounder, menhaden, sea herring and horseshoe crab rules; sand lance possession limits; edible crab rules; and permitting clarifications.

Chairman Kane encouraged MFAC members to attend. Dan McKiernan added that the March MFAC business meeting would likely be dominated by final recommendations on these public hearing proposals.

#### **OTHER BUSINESS**

Commissioner Amidon suggested that the MFAC support moving a spring business meeting to the State House. Ron and Ray both felt this would help build rapport with legislators and keep marine fisheries issues on their radar. There was some discussion about a potential meeting date. Mark Reil and Jared Silva were tasked with scheduling.

Dan McKiernan indicated that he intended to look into purchasing tablets for the MFAC. He felt this would help better organize MFAC meetings and reduce paper usage.

#### **COMMISSION MEMBER COMMENTS**

Bill Doyle asked that future agendas feature an “ongoing deliverables” topic whereby DMF and Commission members could keep the MFAC up-to-date with progress reports on certain initiatives and areas of interest.

Bill noted that he continued his personal investigation into compliance with and enforcement of No Discharge Zones (NDZs). He stated that many whale watch boats discharge their holding tanks when they reach federal waters along Stellwagen Bank. He suggested the MFAC write a letter to the Sanctuary encouraging them to become a NDZ. Dan McKiernan noted that there was a sliver of water between the state-federal boundary outer MA Bay and Stellwagen Bank and vessels could still discharge in the event that discharge was prohibited on the bank. Bill recognized this but felt that it was important to send a message on holding tank discharges. No formal position was taken by the MFAC.

Bill then discussed municipal involvement in aquaculture permitting and regulation. He felt strongly that the state should take a more active role in setting baseline standards

because management disparities between municipalities were too significant and were negatively impacting industry. Bill then made a motion that, “a summary be prepared from an analysis that documents municipal rules, procedures, terms, fees, and responsible municipal management authorities associated with shellfish aquaculture licensing by Massachusetts municipalities...that the topic of municipal rules, procedures, terms, fees, and responsible management authorities associated with shellfish aquaculture licensing be placed on the next MFAC agenda and subsequent agendas until such at time as a vote deciding the direction to be taken.”

Dan McKiernan felt that this was a worthwhile issue for DMF to analyze. He noted that it was also an issue being reviewed and considered by the MSI. However, given other commitments and shellfish personnel deficiencies, he did not think that DMF could reasonably develop such an analysis until the late-spring or early-summer. Bill stated that he could provide an analysis for the next meeting.

Sooky Sawyer asked about Bill’s end goal. Bill stated that he would like to have shellfish aquaculture uniformly regulated and permitted by the state and he’d like to change state law to facilitate this.

The Chairman asked if there was a second for Bill Doyle’s motion. **The motion was seconded by Charlie Quinn. The motion carried unanimously.**

### **ADJOURNMENT**

The Chairman requested a motion to adjourn. **Sooky Sawyer motioned to adjourn the February 20, 2020 MFAC business meeting. The motion was seconded Bill Doyle. The motion was approved unanimously and the meeting was adjourned.**



## **MEETING DOCUMENTS**

- February 20, 2020 MFAC Business Meeting Agenda
- December 19, 2019 MFAC Business Meeting Draft Minutes
- Recommendation to Temporarily Lift April Groundfish Closure in MA Bay for 2020
- Recommendation to Make In-Season Adjustment to Increase Period I Trip Limits for 2020
- Winter 2020 ASMFC Meeting Summary
- MAFMC Scup, Summer Flounder and Black Sea Bass Commercial/Recreational Allocation Amendment Public Information Document
- MAFMC Bluefish Allocation and Rebuilding Amendment Public Information Document
- 2020 Recreational Bluefish Public Hearing Proposal
- Approved Proposals for Striped Bass Management Under Addendum VI
- Letter from NEFMC to GARFO on Gulf of Maine Cod and Haddock Recreational Fishing Measures for Fishing Year 2020
- MSI Scoping Committee Report
- Winter 2020 DMF Public Hearing Notice

## **FUTURE MEETINGS**

**9AM  
April 1, 2019  
Virtual Meeting**

**9AM  
May 21, 2019  
DFW Field Headquarters  
Westborough, MA**

**9AM  
June 18, 2019  
DFW Field Headquarters  
Westborough, MA**