

MARINE FISHERIES ADVISORY COMMISSION

April 1, 2020

Held Virtually via Zoom

In attendance:

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

Division of Marine Fisheries: Daniel McKiernan, Acting Director; Michael Armstrong, Assistant Director; Kevin Creighton, CFO; Jared Silva; Nichola Meserve; Story Reed; and Melanie Griffin.

Department of Fish and Game: Ron Amidon, Commissioner; Mary Lee King, Deputy Commissioner; Mark Reil, Director of Legislative Affairs.

Massachusetts Environmental Police: Colonel Sean Santos; Major Pat Moran and Lt. Matt Bass.

INTRODUCTIONS AND ANNOUNCEMENTS

Jared Silva stated that Governor Baker issued a March 12, 2020 Executive Order suspending certain aspects of the Open Meeting Law in response to the ongoing public health crisis related to the COVID-19 pandemic. This order allowed the MFAC to meet virtually via Zoom.

Chairman Ray Kane called the April 1, 2020 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

REVIEW AND APPROVAL OF APRIL 1, 2020 BUSINESS MEETING AGENDA

No changes to the April 1, 2020 MFAC business meeting agenda were proposed.

Tim Brady made a motion to approve the draft agenda. The motion was seconded by Charlie Quinn. The motion was approved unanimously.

REVIEW AND APPROVAL OF FEBRUARY 20, 2020 DRAFT BUSINESS MEETING MINUTES

Chairman Kane asked if there were any amendments to the February 20, 2020 MFAC draft business meeting minutes. No amendments were offered.

Sooky Sawyer made a motion to approve draft minutes as provided. Charlie Quinn seconded the motion. The motion was approved unanimously.

PUBLIC COMMENTS

Public comments were not possible in the “virtual” meeting format as allowed under Governor Baker’s Executive Order on the Open Meeting Law to accommodate the Stay-At-Home advisory.

CHAIRMAN’S COMMENTS

The Chairman did not provide any comments.

COMMISSIONER’S COMMENTS

Commissioner Ron Amidon thanked DMF staff for their work in facilitating this virtual meeting. He also expressed his support for the agency and their work with the seafood industry during the pandemic.

Ron stated that Jack Sheppard had recently passed away. Jack was the former Director of the Officer of Fishing and Boating Access and he had just recently retired from this position.

Sooky Sawyer asked about the status of the DMF Director’s appointment. Ron stated that Dan was scheduled to meet with Governor Baker in mid-March, but the meeting was cancelled due to the pandemic. He was optimistic that the administration would allow him to move the appointment forward in the near future.

Bill Doyle asked if the process for nominating the Director could be amended. Bill was interested in having the MFAC vote on Ron’s recommendation and then having this vote forwarded to the administration. Ron did not think that would be possible.

DIRECTOR’S COMMENTS

Acting Director Dan McKiernan thanked DFG’s technical staff and Jared Silva for facilitating this virtual meeting. Dan then began his comments by focusing on the pandemic.

Much of DMF’s work continued with staff working remotely. Project leaders were trying to determine how to conduct field work and shellfish sampling while adhering to social distancing protocols. NOAA Fisheries cancelled its trawl surveys, and DMF’s spring inshore trawl survey would be cancelled because it was conducted on a NOAA contracted vessel. Additionally, the MRIP survey program was being curtailed and DMF was suspending the hiring of field technicians for the 2020 season.

The seafood industry was reeling due to reduced international trade and the loss of domestic restaurant markets. To promote demand there was an increased focus on enhancing the retail sale of seafood through “buy local” campaigns. To accommodate this, DMF made its retail boat permit available for free. This permit allows commercial fishermen to sell live crabs and lobsters and whole finfish fish directly to the public from the back of their boat. While the sale of shellfish is typically restricted under the

authority of the retail boat permit, DMF and DPH agreed to a pilot program to allow the direct sale of shucked sea scallop adductor meat. There were also industry driven efforts for the curbside sale of seafood. For instance, the Gloucester Fisherman's Wharf held a seafood pop-up event where fresh haddock fillets and day boat scallops were made available to the public through a drive-up operation. This event serviced over 500 customers and received favorable press.

DMF was also working with fishermen, seafood dealers, industry organizations, and the Baker administration to ensure the seafood industry had access to federal PPP funding.

While little fishing activity was occurring due to the pandemic, DMF did take action to extend the local commercial bay scallop fisheries in Eastham and Orleans. State law establishes an open fishing season of October 1 – March 30, but provides DMF with the authority to extend the season upon request of the local municipal government. Dan anticipated Wellfleet may also seek an extension.

Dan then asked Melanie Griffin to provide an overview of the upcoming New England Fishery Management Council (NEFMC) meeting. Melanie stated that the meeting would be held virtually, and the agenda was paired down due to the pandemic. With regards to groundfish, she expected: (1) final action on Amendment 23 (commercial monitoring) would be postponed; (2) MRAG Americas would present its analysis of sector management; and (3) observer requirements would be waived during the pandemic. On scallops, Melanie anticipated Amendment 21 would be approved. This Amendment addressed Limited Access General Category possession limits and Northern Gulf of Maine management requirements. Lastly, there would be some discussion regarding rebuilding whiting and southern red hake.

Mike Pierdinock noted that the market for frozen fish remained stable, but it was soft for fresh fish. He was curious about what efforts were being made to get fresh fish to consumers. Dan stated this was a result of losing the restaurant market. He did not think it would be possible to restore fresh fish markets while restaurants remained closed. However, efforts were being made to increase local demand for fresh seafood and enhance frozen fish inventories.

Mike P. then noted the for-hire industry was experiencing cancellations throughout the spring season in response to the pandemic. He was curious if any considerations were being given to extending recreational fishing seasons into the fall to recoup lost fishing opportunities this spring. Dan stated he was on a national state director's call and this topic was discussed. One of the major challenges is that without the MRIP program functioning this spring it will be difficult to demonstrate loss of participation and catch, particularly as the private angler mode may be rather active in response to the pandemic.

Tim Brady asked if any consideration was being given to considering party boats as essential businesses due to their function of providing food. Ron and Dan were

skeptical that this could occur given state and federal protocols on social distancing and gatherings of 10 or more people.

Mike P. asked if there were any discussions to restrict recreational shellfish harvesting. He noted this was an activity that would provide a healthy food source and could be conducted with social distancing. Dan was unaware of any discussions to restrict this activity.

LAW ENFORCEMENT COMMENTS

Lt. Matt Bass stated that fishing activity was slow. He expected elver poaching would be limited due to lower demand and market loss. However, he was worried about the upcoming recreational fishing season and the ability to maintain social distancing while at boat ramps and fishing from shore.

Bill Doyle asked if there any discussions regarding closing boat ramps. Matt stated he had not received any information that indicated ramps would close, but he speculated that access sites may be forced to implement social distancing protocols. Ron stated that the OFBA ramps remain open, but they have been instructed to suspend permits for fishing tournaments.

ACTION ITEMS

DMF provided the MFAC with a series of memorandums that provide proposed recommendations to amend fishing limits for 2020. Each memorandum sets forth the rationale and background for each action, as well as a summary of public comment. Additionally, DMF forwarded the MFAC ample written public comments received. Dan noted that DMF had recently started using a new outreach tool (Granicus), and this was producing more interaction with the agency on proposed rule changes.

Chairman Kane stated that it was his preference to vote on all motions by unanimous consent and then proceed only to a roll call vote if there were objections to the adopted motion. There were no objections to this approach.

Recreational Bluefish Limits

Dan recommended the MFAC vote to reduce the recreational bluefish limit from 10-fish to 3-fish with an allowance for patrons onboard a for-hire vessel to retain 5-fish. This 5-fish limit would not apply to the captain and crew; they would be subject to the 3-fish limit.

This recommendation was being made in response to a recent joint action by the Atlantic States Marine Fisheries Commission (ASMFC) and Mid-Atlantic Fishery Management Council (MAFMC) to reduce the recreational harvest of bluefish within the 2020 recreational harvest limit. These limits were being adopted on a coastwide basis.

Dan noted that he was concerned about having disparate rules across recreational fishing modes and added that rank and file recreational fishermen have consistently objected to providing the for-hire mode with more access to the resource. He thought the use of “mode splits” as a management tool deserved more scrutiny and wanted ASMFC to better address if and when it should be used. However, as these rules were being implemented on a coastwide basis, he did not want to put Massachusetts for-hire operations at a competitive disadvantage and was not proposing to eliminate the 5-fish for-hire allowance.

The Chairman called for a motion. **Sooky Sawyer made a motion to adopt DMF’s recommendation to establish a 3-fish recreational bag limit for bluefish with a 5-fish allowance for patrons fishing onboard for-hire vessels during a for-hire trip. The motion was seconded by Tim Brady.**

Mike Pierdinock appreciated the split mode approach for bluefish. He noted that bluefish are often used as bait during for-hire trips for sharks and bluefin tuna and this allowance would continue to accommodate that practice. He noted that an unintended consequence of not accommodating this practice could be the need for another burdensome permit to take bluefish by a for-hire vessel for personal bait use.

Dan asked Nichola Meserve if Mike’s recommendation would be consistent with the coastwide approach. Nichola confirmed that it would. Accordingly, Dan expressed a willingness to modify his recommendation to adopt a 3-fish recreational bag limit for bluefish with a 5-fish allowance for all anglers fishing onboard a for-hire vessel during a for-hire trip.

The Chairman called for a substitute motion. **Tim Brady made a motion to adopt DMF’s revised recommendation. The motion was seconded by Bill Doyle.** No further comments were made. **The motion as approved by unanimous consent (7-0)**

Recreational Striped Bass Limits

Dan McKiernan reviewed DMF’s proposed recommendation on recreational striped bass limits to: (1) adopt a slot limit of 28” to less than 35”, replacing the 28” minimum size limit; (2) amend the state’s existing circle hook mandate to remove the exemption for weighted treble hooks; (3) allow the targeting of other species with natural bait on a non-circle hook when a striped bass is already in possession; and (4) prohibit the removal of striped bass from the water by any device that may pierce or puncture the fish.

As an aside, Dan stated that the slot limit was being adopted throughout the northeast, which was important for enforcement and compliance. The joint MFAC/DMF letter to RI DEM influenced their final decision to adopt the slot limit and not move forward conservation equivalent measures and proposed “mode splits”.

Lt. Bass noted that the recommended circle hook language was different than what was proposed at public hearing. The public hearing language would have required the use of

circle hooks when fishing for striped bass or in possession of striped bass; the recommended language would only apply when fishing for striped bass. Matt expressed concern that the recommended language would limit the enforceability of the rule.

Dan explained that the rationale for the change was to not limit the ability for recreational anglers to target other species with non-circle hooks (e.g., black sea bass) once they had retained a striped bass.

Mike Armstrong recognized that this rule would likely be difficult to enforce and opined that the rule was not written to maximize compliance but to educate anglers and facilitate getting this gear into bait shops and tackle boxes. He was comfortable with this tradeoff if it ended up with anglers increasing their use of circle hooks.

Mike then noted that the rule may be subject to change again in 2021, as it will be required coastwide by the ASMFC. States are required to submit their circle hook rules by August for review during the fall of 2020, and the Striped Bass Board may end up requiring states to eliminate certain exemptions or have their rules apply more strictly.

Chairman Kane asked DMF if they intended to amend their recommendation based on comments from the Massachusetts Environmental Police. Dan indicated that he did not intend to amend his recommendation. He agreed with Armstrong's assessment and felt it was important to get the rule on the books, work to educate the tackle shops and the public and then tweak the rule towards compliance over time.

Mike Pierdinock asked if the rule applied to artificial lures. Jared Silva stated that it did not.

No further comments were made. The Chairman called for a motion. **Mike Pierdinock made a motion to adopt DMF's recommendation as provided. The motion was seconded by Bill Doyle. The motion was approved by unanimous consent (7-0).**

Commercial Striped Bass Management

The proposed recommendation on commercial striped bass management was to: (1) increase the commercial minimum size from 34" to 35" total length; (2) rescind the fin-clipping rule for commercial fishermen fishing recreationally on closed commercial days; (3) rescind the allowance for for-hire operators to sell unwanted striped bass taken recreationally by their clients on a charter on open commercial days; and (4) adjust the open commercial fishing days from Mondays and Thursdays to Mondays and Wednesdays.

Dan stated that the minimum size increase was designed to segregate the recreational and commercial fishing sectors based on the size of fish they may retain. This should improve enforcement and compliance and prevent stockpiling on closed commercial fishing days. If the minimum size were to be increased and the fisheries segregated based on size limits, it would also eliminate the need for the fin clipping rule and the allowance to sell certain striped bass taken on a for-hire trip on a commercial fishing

day. Lastly, moving the open fishing days from Mondays and Thursdays to Mondays and Wednesdays was done for market reasons and was supported by dealers. It would also allow commercial fishermen to not have commercial black sea bass and striped bass fishing days overlap, providing increased access to both rod and reel fisheries.

Mike P. and Dan discussed the potential to amend these regulations moving forward if the management plan is adjusted or fishery performance changes.

No further comments were made. The Chairman called for a motion. **Bill Doyle made a motion to adopt DMF's recommendation as provided. The motion was seconded by Kalil Boghdan. The motion was approved by unanimous consent (7-0).**

Commercial Menhaden Management

Dan recommended the MFAC approve: (1) rescinding the limited access fishery's 95% quota trigger, resulting in a 25,000-lb trip limit from 85%–100% of quota use; (2) replacing the 1,000-lb bycatch tolerance allowed after the quota is taken with a 6,000-lb incidental catch and small-scale fishery allowance; and (3) adopting new regulations to allow Massachusetts to potentially opt into the interstate FMP's episodic event quota set-aside (EESA) afforded to states from Maine to New York.

Dan provided some brief background on how the state manages its commercial quota. The limited entry fishery starts with a 125,000 pound trip limit, which is reduced to 25,000 pounds when 85% of the quota is taken, and 6,000 pounds when 95% of the quota is taken. If 100% of the quota is taken, there is a 1,000 pound incidental catch limit subject to certain gear restrictions on purse seine size.

These current rules are more restrictive than what is allowed under the FMP. For instance, the current rules do not allow for participation in the EESA. Under the FMP, 1% of the overall coastwide quota is set-aside to northeast states (ME-NY) for use if they take their allocated commercial quota by September 1. Moreover, DMF's 1,000 pound incidental catch limit is more restrictive than the 6,000 pound small scale fishery limited allowed under the FMP.

DMF's recommendation is designed to better utilize the available quota and bring the state's regulations into line with what is allowed under the FMP. In recent years, the state's 95% trip limit trigger has prevented Massachusetts from taking 100% of its available quota. By eliminating this trip limit trigger and allowing the fishery to remain open at the 25,000 pound limit it is likely that the limited entry fishery will be able to take its available quota.

Also, if the quota is taken before September 1, the recommended rule change would allow MA to potentially participate in the EESA program. If MA does not opt into the EESA program or the EESA quota is exhausted before MA's fishery closes, DMF may seek quota transfers from other states with unutilized quota. This approach was taken in 2019 to keep the fishery open at the 25,000 pound trip limit. The 6,000 pound small scale fishery limit would replace the 1,000 pound incidental catch limit and would apply

once the quota is taken and the EESA and quota transfer options are exhausted. Dan opined that this would constrain directed purse seining effort, but may allow some continued commercial harvest by cast netters and surface gillnetters.

Chairman Kane and Nichola Meserve further discussed the EESA. They noted that ME, RI and NY had participated in this fishery in recent years and that this fishery is accounted for in the commercial quota. The maximum trip limit for this fishery is 120,000 pounds, so it would accommodate large scale purse seine operations.

The discussion then moved onto the 6,000 pound small scale fishery allowance. Nichola noted that in past years the catch under this allowance was estimated to be less than 1% of the coastwide quota. Despite this, Dan thought the ASMFC needed to more closely review this provision.

Mike P. stated that he did not support increasing access to forage fish, particularly if it could impact local abundance. Dan stated that given ME's small quota, they would likely take most of the EESA before MA could apply to access it. Moreover, DMF can always take a cautious approach to pursuing additional quota. This change only provides DMF with the ability to participate in the EESA program if quota remains available.

Lou Williams and Sooky Sawyer expressed their support for DMF's recommendation. Mike P. asked Lou and Sooky if the EESA and small scale fishery programs would supply local bait markets. Lou and Sooky thought it had the potential to meet some of the local demand. Dan noted that DMF does not track where bait landed in MA is sold nor where bait sold in MA was landed.

No further comments were made. The Chairman called for a motion. **Sooky Sawyer made a motion to adopt DMF's recommendation as provided. The motion was seconded by Lou Williams. The motion was approved by unanimous consent (7-0).**

Dan then added that DMF was moving forward with the requirement that the limited entry menhaden permit endorsement be an owner-operator permit. He thought this would help control that activation of latent effort and enhance accountability among active fishermen. He opined that high levels of accountability is important in this fishery given the potential conflict between inshore seiners and other stakeholders.

As a point of order, Jared Silva explained that this final action affects permitting, and does not necessitate a vote by the MFAC. However, DMF was seeking the MFAC's input.

Mike P. asked if this would impact any of the existing inshore seining operations. Dan stated that it would not, as all active fishermen currently run owner-operator operations.

Commercial Black Sea Bass Management

Dan provided the MFAC with his recommendation to: (1) increase the weir set-aside from 15,000 pounds to 24,000 pounds; (2) increase the directed fishery trip limits for

pottery from 300 pounds to 400 pounds and maintain the existing Sunday/Tuesday/Thursday open fishing day schedule; (3) increase the directed fishery trip limit for anglers from 150 pounds to 200 pounds and maintain the existing Sunday/Tuesday/Thursday open fishing day schedule; (4) increase the trawl bycatch limits during the springtime (April 23 – June 9) small mesh trawl squid fishery from 50 pounds to 100 pounds and maintain the existing 50,000 pound seasonal landings cap; and (5) decrease the summertime large mesh trawl bycatch allowance of black sea bass from 150 pounds to 100 pounds but allow vessels to retain and land black sea bass during open summer flounder fishing days within the directed summer flounder season (i.e., Sundays – Thursdays beginning on June 10) rather than only on open black sea bass fishing days during the directed black sea bass fishery (i.e., Sunday/Tuesday/Thursday beginning on July 8).

These changes were being proposed in response to a 59% increase to the commercial quota for 2020. If implemented, DMF expected the fishery would have better access to the available quota and the regulatory discarding of dead saleable fish by the trawl fleet would be reduced. Moreover, this recommendation was consistent with those proposals developed by the ad-hoc industry committee in December 2019.

Dan noted that the pandemic impacted seafood markets and made it difficult to forecast future market conditions. Accordingly, he did not want to manage this fishery based on speculation of what markets will be like this summer. Looking at last year's performance, and this year's quota increase, he felt these changes were justifiable. If market conditions are such that in-season regulatory adjustments are needed, then DMF can propose such actions at a future meeting (e.g., August).

Sooky Sawyer asked if Gloucester weir fishermen would be able to land any black sea bass caught in their gear. Jared Silva and Story Reed indicated that the weir fishery was not managed on a geographic basis, and the ability to retain black sea bass was dependent on whether or not quota remained available and if the operators held a black sea bass permit endorsement.

Mike P. stated that commercial anglers were frustrated by not being provided with a springtime bycatch allowance, particularly as trawlers are provided with such an allowance. Dan noted that the trawler allowance was designed to prevent the discarding of dead black sea bass that may be caught in their nets. While most trips only land 25 pounds, some observer data shows a small number of trips may catch between 50 and 100 pounds of saleable fish. Given gear restrictions and spatial closures, he did not think this would contribute to directed trawl fishing effort. With regards to a bycatch allowance, the rod and reel fishery cannot be compared to the trawl fishery. First, the gear is less lethal, particularly in the spring when the fish are in shallow waters. Second, a similar catch allowance for rod and reel fishermen would result in a directed fishery that would produce high catch rates on spawning fish, potentially activate latent effort, and create enforcement and compliance issues and user group conflicts. These concerns were well documented in the early part of the 2010s and were the rationale for moving the directed hook and line fishery to the summer.

No further comments were made. The Chairman called for a motion. **Bill Doyle made a motion to adopt DMF's recommendation as provided. The motion was seconded by Sooky Sawyer. The motion was approved by unanimous consent (7-0).**

Period II Commercial Summer Flounder Management

Dan provided the MFAC with his recommendation to amend the rules affecting the Period II (April 23 – December 31) commercial summer flounder fishery. For the inshore June 10 – October 31 season, increase the daily trip limits for trawlers from 300 pounds to 400 pounds and for hook and line fishermen from 200 pounds to 250 pounds. Then for the offshore November 1 – December 31 season, eliminate closed fishing days (Fridays and Saturdays) and allow the possession and landing of up to 1,000 pounds of summer flounder per trip if greater than 5% of the annual quota remains available or 500 pounds of summer flounder per trip if 5% or less of the annual quota remains available.

Similar to the commercial black sea bass, there were some concerns regarding the potential impact of the pandemic on summertime markets. However, given the elevated quota and recent performance, Dan argued these recommended changes were justifiable. If market conditions are such that it requires in-season regulatory adjustments, then DMF can propose such actions at an August or September meeting.

Mike Pierdinock stated that there was interest among active fishery participants in maintaining status quo limits. Dan stated that he heard and read similar comments. However, he did not support maintaining status quo limits because recent performance indicates that would leave sizeable amounts of quota on the table at the end of the year, and that was not in the best interest of the seafood industry. Additionally, his recommendation was informed by seafood dealers who indicated that low market prices in 2019 were driven by the size of the fish being caught - not an overall surplus of supply - and the market could absorb more fish without further depressing the ex-vessel value. Dan opined that an increase in the limits could help compensate fishermen for a reduced ex-vessel value if the size class of the commercial catch is again small.

No further comments were made. The Chairman called for a motion. **Kalil Boghdan made a motion to adopt DMF's recommendation as provided. The motion was seconded by Sooky Sawyer. The motion was approved by unanimous consent (7-0).**

Open Access Horseshoe Crab Trip Limit for Trawlers

Dan recommended the MFAC approve a 75 crab commercial horseshoe crab limit for trawlers without a regulated fishery horseshoe crab bait endorsement. This open access limit would replace the LOA program that DMF established in 2012 to accommodate an incidental catch of horseshoe crabs by trawlers fishing in the summer flounder fishery. The LOA program afforded these trawlers a 300-crab limit during open commercial fishing days with the open commercial summer flounder fishery. The limited access limit

for trawlers with a regulated fishery horseshoe crab bait endorsement would remain at 300 crabs.

This change was being made in response to 2019 fishery performance. The commercial horseshoe crab quota was taken on September 1. Accordingly, all trawlers were required to discard crabs caught while fishing for summer flounder in September and October. The lack of supply of fresh crabs also created some concern from the biomedical industry, which has an arrangement with certain bait dealers to bleed crabs before they are sold to the bait market. In response, DMF worked with the biomedical firm and two fishermen to develop biomedical trawl pilot program to help meet some of that demand. By limiting the number of crabs non-permitted fishermen may take, the quota may be extended later into the fall, reducing regulatory discarding and further ensuring biomedical crab demands are met. Based on conversations with industry members, a 75-crab limit was chosen as a reasonable limit for incidental catch.

Mike P. asked if this measure was supported by the biomedical industry. Jared Silva stated that the biomedical firm did not provide a public comment. However, representatives attended the December industry meeting when this was first discussed and did not object to it.

Kalil and Dan discussed the condition of the crabs caught by the trawl fleet. Dan stated that the nets are not heavily compacted when fishing large mesh, so most crabs are in good enough condition for the biomedical firm to borrow from the bait dealer for bleeding.

No further comments were made. The Chairman called for a motion. **Sooky Sawyer made a motion to adopt DMF's recommendation as provided. The motion was seconded by Tim Brady. The motion was approved by unanimous consent (7-0).**

Sand Lance Possession Limits

Dan McKiernan recommended the MFAC vote to adopt a 200 pound sand lance possession and landing limit. Given the ecological importance of this forage species, there is a strong interest in preventing the proliferation of such an industry. While arguments have been made that current gear regulations are sufficient to constrain the development of an industrial fishery, there remains some concern that an industrial fishery could flourish in response to bait (or reduction) demands. Dan opined that the 200 pound limit would eliminate this concern while continuing to accommodate existing artisanal fisheries.

No further comments were made. The Chairman called for a motion. **Kalil Boghdan made a motion to adopt DMF's recommendation as provided. The motion was seconded by Charlie Quinn. The motion was approved by unanimous consent (7-0).**

Sea Herring Management in Area 1A

Dan recommended that the MFAC approve: (1) a 2,000-pound incidental catch and small-scale fishery limit for vessels fishing for herring in Area 1A, which will apply to state-only permit holders and federal category permit holders during closed periods; and (2) update language and terminology regarding the MA/NH Spawning Area Closure to better align to the ASMFC's Atlantic Sea Herring FMP.

Jared Silva provided some additional background information regarding the management of the Area 1A through the ASMFC by landing limits, days out and a fall spawning closure.

Chairman Kane asked for clarification on the so-called "5-day notice" requirement. Jared stated DMF was required to give the fleet 5-days notice regarding the implementation or extension of the spawning MA/NH spawning closure. However, this was no longer required by the FMP and DMF was seeking to rescind it from its regulations.

No further comments were made. The Chairman called for a motion. **Kalil Boghdan made a motion to adopt DMF's recommendation as provided. The motion was seconded by Charlie Quinn. The motion was approved by unanimous consent (7-0).**

Edible Crab Management

Dan recommended the MFAC vote to: (1) consolidate existing cancer crab and blue crab regulations in a single regulatory section; (2) define the term "edible crab" to exclude invasive species (e.g., green crabs); and (3) clarify that a non-commercial lobster and edible crab permit is needed only to take lobsters and edible crabs by five or six sided traps and is not needed to harvest edible crabs by other means (e.g., dip net).

McKiernan noted that this was mostly a housekeeping action aimed at consolidating existing crab regulations. However, there was one interesting aspect of this rule change. State law requires a Coastal Lobster Permit to land and sell lobsters and edible crabs. However, the term "edible crabs" is not defined. It was historically designed to address those native species of cancer crabs commonly caught in lobster traps. However, there is now a growing food market for invasive green crabs, and there is some concern that a lobster permit is needed if you are going to sell these green crabs for consumption. DMF did not want its permitting system to discourage the eradication of this invasive species, so by defining "edible crabs" to mean native species only, individuals can harvest green crabs for food markets without a Coastal Lobster Permit.

No comments were made. The Chairman called for a motion. **Lou Williams made a motion to adopt DMF's recommendation as provided. The motion was seconded by Tim Brady. The motion was approved by unanimous consent (7-0).**

FINAL DECISION ON PERMITTING REGULATION CLARIFICATIONS ITEMS

Story Reed reviewed these final permitting decisions. These final actions will: (1) allow a

minimum trap allocation transfer of 10 traps, rather than the current 50-trap rule for lobster fisheries subject to effort control plans; (2) eliminate the language that requires coastal lobster permits for areas subject to effort control plans to be retired once trap allocations are reduced to less than 50 traps; (3) clarify that for DMF to waive the coastal lobster permit transfer performance criteria in certain circumstances (i.e., death, disability, military duty) the permit must have been “actively” fished (consistent with the regulations) prior to the qualifying circumstance; (4) make explicit that the initial sale of fish from any commercial fisherman must be to a primary buyer; and (5) codify that the for-hire permit converts the recreational fishing activity of paying customers on a for-hire trip and the private recreational fishing activity of the named individual.

As a point of order, Jared Silva explained that as these final actions affect permitting they do not require a vote by the MFAC. However, DMF was seeking the MFAC’s input.

Kalil Bogdhan asked how a dealer becomes a primary buyer. Story stated there are several types of dealer permits – generally the wholesale and retail dealer permits - that may be given primary buyer status and then they are subject to state dealer reporting requirements. DMF publishes a list of all primary buyers on the website that fishermen may easily access.

Kalil then asked if commercial fishermen can become primary buyers to sell their catch directly to the public. Story stated that a retail boat dealer permit allows a commercial fisherman to sell their whole live lobsters and crabs and whole finfish directly to the public. In this instance, the commercial fisherman would be their own primary buyer and would report that catch both as a dealer and as a fishermen. The retail boat permit does not allow them to process (i.e. filet) the catch or purchase and sell catch from another fishermen. Dan McKiernan added that wholesale trucks and wholesale brokers are not authorized to become primary buyers unless they have a brick-and-mortar facility where records are kept.

DISCUSSION OF IMPACTS OF COVID-19 ON SEAFOOD AND FISHING INDUSTRY

Dan stated that he has been in contact with seafood and fishing industry representatives regarding the impact the pandemic and wanted to hear directly from MFAC members regarding how the pandemic has affected their businesses.

Sooky Sawyer stated the lobster industry was very hard hit. Most dealers are closed and not accepting any product. Revenue is primarily occurring through direct sale to the public via the retail boat permit. Local consumer demand was not a large enough market to absorb product as fishing begins to ramp up in the spring. If the restaurant industry remains closed, the economic impact will be severe.

Dan asked if MLA was looking into federal relief programs. Sooky stated that they were trying to get fishermen to participate in the programs, but he did not expect the monies to turnaround quickly.

Bill Doyle stated the aquaculture industry came to an abrupt halt in March. Farming activities continue, but he has had to lay off employees because the product cannot be sold. Bill stated that he is trying to take advantage of federal relief programs.

Dan asked if aquaculture businesses were planning to buy seed for planting this year. Bill stated that he purchased seed last year for this year, so he was not pressured to make this decision. However, he also sells seed and there is no demand at present.

Charlie Quinn stated that only half his boats are fishing. Price for sea scallops was going down in response to demand. While some product goes to frozen markets and retailers, about 70% of scallops are sold to restaurants. Until restaurants are back up and running, the sea scallop market would not recover.

Mike P. stated that along the coast, reservations for for-hire trips were being cancelled. Marinas were also understaffed and boats were not getting worked on. He was also concerned about the impact an economic recession would have on the for-hire industry over the longer term.

Lou Williams stated that he was working on a pilot program with DMF to trap waved whelks. However, he would not be setting any gear because there is no market and the dealer he was working with closed up. He was considering preparing his gillnets to fish groundfish this spring, but is concerned about the ability to market the fish.

OTHER BUSINESS

Dan McKiernan stated that he received Bill Doyle's synopsis on the local control of aquaculture on March 31. He intended to work with staff to review it over April, and he would address it as a formal discussion item at the next meeting. On the topic of shellfish, Dan added that MSI's Scoping Committee Report was completed, the Assessment Committee Report was being finalized and he intended to reconvene the Task Force this summer.

COMMISSION MEMBER COMMENTS

Kalil Boghdan thanked DMF and DFG staff for putting together the virtual meeting and expressed his surprise for how well it worked out.

Bill Doyle asked that MFAC members read over his synopsis on the local control of aquaculture before the next meeting. He stated that he would like to see the MFAC and DMF obtain more control and oversight of how municipalities manage shellfish aquaculture.

Sooky Sawyer stated the MA lobster industry was interested in how the ASMFC would address sea herring decisions in May and how these decisions may restrict access to bait.

Tim Brady stated that the for-hire industry was already struggling in response to low catch limits. Given the seasonality of the industry, he was very concerned the pandemic may eliminate their profitability this year.

Charlie Quinn thanked DMF for setting up the virtual meeting. He was hopeful that everyone could remain positive and healthy.

Lou Williams stated that he would like to see DMF consider a small mesh gillnet pilot program to target haddock in 2021.

Mike P. asked DMF to provide him with any information they had on local attempts to market seafood and support local fishermen. Dan stated he would have Wendy Mainardi reach out to him.

Mike P. then asked if DMF expected the April 28 Recreational Advisory Panel would also be held virtually. Dan state that given the success of this MFAC meeting, he expected it would be.

Ray Kane thanked DMF staff and MFAC members. He addressed the upcoming meeting schedule and stated that the April 16 meeting should be canceled and the May meeting should be rescheduled. Dan and Ron agreed. Jared Silva stated he would cancel the April 16 meeting and work to find a suitable date for a May meeting.

Commissioner Amidon thanked Jared Silva and the MFAC for putting together the meeting.

ADJOURNMENT

The Chairman requested a motion to adjourn. **Bill Doyle made a motion to adjourn. The motion was seconded by Lou Williams. The motion was approved by unanimous consent.**

MEETING DOCUMENTS

- April 1, 2020 MFAC Business Meeting Agenda
- February 20, 2020 MFAC Business Meeting Draft Minutes
- Recreational Bluefish Recommendation
- Recreational Striped Bass Recommendation
- Commercial Striped Bass Recommendation
- Commercial Menhaden Recommendation
- Commercial Black Sea Bass Recommendation
- Commercial Summer Flounder Recommendation
- Commercial Open Access Horseshoe Crab Limit for Trawlers Recommendation
- Sand Lance Possession Limit Recommendation
- Sea Herring Recommendation
- Edible Crab Recommendation
- Permit Housekeeping Recommendation
- Summary of Cape Cod Canal Fishing Issues Meeting with ACOE and MEP
- Summary of COVID-19 Impacts on Seafood Industry
- Synopsis of Shellfish Aquaculture Management (Bill Doyle)
- NEFMC April Meeting Update

FUTURE MEETINGS

9AM
May 21, 2020
Virtual Meeting

9AM
June 18, 2020
DFW Field Headquarters
Westborough, MA