

MARINE FISHERIES ADVISORY COMMISSION

August 20, 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; and Tim Brady. Absent: Charlie Quinn and Lou Williams

Division of Marine Fisheries: Daniel McKiernan, Director; Michael Armstrong, Assistant Director; Kevin Creighton, CFO; Jared Silva; Nichola Meserve; Melanie Griffin; Story Reed; Julia Kaplan; Bob Glenn; Anna Webb; Kelly Whitmore; Maggie Nazarene; and Jeff Kennedy

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

Massachusetts Environmental Police: Lt. Matt Bass; Capt. Kevin Clayton; and Lt. Col. Moran

INTRODUCTIONS AND ANNOUNCEMENTS

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

REVIEW AND APPROVAL OF AUGUST 20, 2020 BUSINESS MEETING AGENDA

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

Chairman Kane asked for a motion to approve the draft agenda. Bill Doyle made a motion to approve. The motion was seconded by Tim Brady. The motion was approved by unanimous consent.

REVIEW AND APPROVAL OF MAY 21, 2020 AND JUNE 18, 2020 DRAFT BUSINESS MEETING MINUTES

Due to technical issues, a motion to approve the May 21, 2020 MFAC business meeting minutes was not made in the June 18, 2020 business meeting. Accordingly, Chairman Kane asked if there were any amendments to the May 21, 2020 MFAC draft business meeting minutes. No comments were made.

Ray Kane asked for a motion to approve the May 21, 2020 meeting minutes. Sooky made motion to approve the May meeting minutes. Bill Doyle seconded the motion. Motion was approved by unanimous consent.

Mike Pierdinock requested a minor modification to his comment on page 10 regarding recreational fisheries and potential mitigation funding from wind energy development projects. Jared Silva indicated that he would make this edit in the final meeting minutes.

Ray Kane asked for a motion to approve the June 18, 2020 MFAC business meeting minutes, as amended by Mike Pierdinock. Tim Brady made a motion to approve the June 18, 2020 MFAC business meeting minutes. Sooky seconded the motion. The motion was approved by unanimous consent.

CHAIRMAN'S COMMENTS

Chairman Kane hoped that everyone was staying healthy and enjoying their summer.

COMMISSIONER'S COMMENTS

Commissioner Ron Amidon first discussed fishing and boating access. There were several issues brewing related to public boat ramps. Foremost among these issues was that allowing boat ramps to remain was contributing to public health concerns regarding recreational boaters rafting together. This issue was of particular concern in Gloucester. Additionally, there were local parking issues related to the use of boat ramps. In response, there were some calls to close state-run boat ramps. However, this action was not supported and instead a task force was developed to allow boating access sites to operate safely. The Commissioner and Mike Pierdinock were involved in these efforts. With regards to the Deer Island fishing pier, the MWRA and DMF were aiming to host a grand opening event at the end of September or early October; this event was previously delayed due to the pandemic.

The Commissioner then mentioned several other items. First, he congratulated DMF on the rollout of DMF Cares Disaster Relief Program. Additionally, he noted that he had received positive public feedback regarding DMF's action to close the Cape Cod Canal to commercial striped bass fishing and extension of the recreational for-hire black sea bass season.

DIRECTOR'S COMMENTS

Director McKiernan began his comments by noting DMF's Shellfish Program was facing a series of ongoing challenges related to new and emerging federal mandates from FDA. He anticipated discussing these issues with the MFAC at their September business meeting.

Dan then stated that Governor Baker wrote to Secretary of Commerce Wilbur Ross requesting action be taken to issue a federal disaster declaration for the Atlantic sea herring fishery. Maine made a similar request about a month ago, which was focused strictly on the commercial fishery in Management Area 1A. Governor Baker's request focused on the herring fishery in its entirety.

LAW ENFORCEMENT COMMENTS

Lt. Matt Bass handled the comments for MEP. His opening remarks focused on enforcement, noting a couple of arrests on the Cape Cod Canal due to striped bass violations. He then moved on to discuss shellfish violations of the *Vp*. Control Plan on the South Shore, as well as MEP's focus on boating safety issues related to the pandemic. He noted there was an increase in boating accidents this summer, possibly driven by pandemic related increases in boating activity. Lastly, he discussed personnel. MEP had three officers graduate from the police academy, who are now in training, and the agency is in the early stages of hiring seven more officers.

Mike P. asked for clarification on MEP's ability to seize and confiscate gear, vessels, and vehicles involved in marine fishery violations. Lt. Bass noted that this was typically limited to the confiscation of fishing gear. When seizing assets, there were issues related to the agency's storage capacity and the financial impacts of the seizure on the accused. This effectively constrains their ability to seize vessels and vehicles in most cases. Captain Clayton noted that MEP's inability to store large property is a constraining factor in seizing certain items.

Sooky mentioned enforcement issues with the lobster fishery in lower Cape Cod Bay and allegations that a particular lobsterman was violating trawl length and trap limit regulations. Sooky stated that local lobstermen were frustrated with MEP's response to the situation. Lt. Bass indicated that he would follow up with Sooky after the meeting.

Update on Performance of 2020 Quota Monitored Fisheries

Story Reed provided an update on fishery performance in certain 2020 quota monitored fisheries.

- Scup remained underutilized in 2020 with landings down slightly compared to recent years.
- The wintertime Period I fishery took about 25% of the annual summer flounder quota. With summertime landings factored in, about 55% of the quota had been landed. Story noted that there was reduced participation in this year's summertime fishery, likely in response to a number of factors including the pandemic, market, and environmental issues.
- About 70% of the state's horseshoe crab quota had been taken. This appeared to be driven by early summer hand harvest landings. Summertime trawl fishery landings have been slow due to reduced participation in the summer flounder trawl fishery.
- About 35% of the black sea bass quota had been landed. Compared to last year, landings are about 30,000 pounds off to-date. Price was also depressed this year, which could be the result of a pandemic related loss of restaurant markets.
- About 35% of the striped bass quota had been landed. Striped bass catch rates are down compared to recent years, particularly around Cape Cod. However, catch rates have been strong off Boston and the North Shore and most of this year's landings are attributable this geographic area.

- About 42% of the bluefish quota had been taken. This was driven by a recent substantial increase in catch rates. In 2015 and 2016, there were similar trends within the bluefish fishery of a later spike and landings.
- Massachusetts was on track to close its menhaden fishery in July. However, the state received quota transfers that allowed the fishery to remain open through August 6. As of August 7, 100% of the quota was taken. As a considerable abundance of menhaden remained in state-waters, DMF then applied to the ASMFC to participate in the Episodic Event Set-Aside (EESA).

Nichola discussed MA's enrollment into the EESA fishery. Under the ASMFC's Menhaden FMP, 1% of the annual coastwide commercial quota is set aside for the northeast states' use should they utilize their available state-specific quota and unusually high abundances of menhaden remain available in state waters prior to September 1. DMF closed the state's quota managed menhaden fishery effective August 7, having projected that full utilization of the state's (transfer-adjusted) quota would occur then. The agency then applied to the ASMFC to enroll in the EESA program. Effective August 17, DMF re-opened the limited entry fishery under the EESA quota. Roughly 425,000 pounds of the 4.76 million-pound EESA remained available, with only Massachusetts participating in the program at the time. Nichola noted that once 100% of the EESA is taken and the set-aside fishery is closed, DMF may look for additional quota transfers if menhaden remain in state-waters in substantial numbers.

Mike P. asked for clarification regarding the scale of the EESA. Nichola stated the EESA was 1% of the overall coastwide menhaden quota, and for 2020 was set at about 4.76 million pounds. Nichola added that ME enrolled in the EESA program earlier in the summer and utilized most of the available set-aside. The fishery in ME has since waned and about 425,000-pounds of the EESA remained available to northeast states. MA was now fishing on this remaining allocation.

Mike P. asked if the pandemic was having impact on the menhaden market. Nichola noted that there was demand for menhaden. Given the current state of the herring resource and herring fishery, it was likely that lobstermen turned to menhaden for bait. Chairman Kane mentioned menhaden is used throughout the Atlantic coast as bait for trap and rod and reel fisheries.

Mike P. then asked if any other states were taking advantage of the EESA. Nichola noted that ME had earlier in the year, but now MA was the only state actively participating in the program.

Mike P. expressed concerns that continued extraction in MA may cause local forage depletion and impact fall fishing for striped bass and tuna. Nichola stated that the EESA was part of the coastwide quota and this quota was set conservatively and with consideration for menhaden's role as forage. Director McKiernan noted that there were large abundances of menhaden throughout state-waters and only a small amount of the EESA remained available for harvest. He added that DMF was also requiring that vessels participating in this fishery fish at a more restrictive 25,000-pound trip limit

(rather than the 120,000-pound limit allowed by the EESA regulations). This was being done to maximize the number of fishing days afforded to participating small scale purse seiners, facilitate the accurate monitoring of the EESA, and to balance the needs of the commercial bait fishery with menhaden's role as a forage species.

Sooky Sawyer added that recent weather events may have impacted the availability of menhaden. He noted the nor'easter blew in cold water and the menhaden that were available around Gloucester Harbor had become less abundant. Prior to the storm, the purse seiners fishing around Gloucester were taking their 25,000-pound limit inside the harbor.

Capt. Clayton asked if the pandemic's impact on fishery performance would provide conservation benefits. The Director stated it was difficult to project what this would mean for stock conditions over the long term. He noted that for certain commercial fisheries harvest may be down due to low ex-vessel value, but there was also anecdotal evidence to suggest that recreational fishing effort had increased this summer.

ACTION ITEMS

In-Season Adjustments to Commercial Fishing Limits for Quota Managed Species

The Director stated that DMF built into its regulations the ability to make in-season adjustments to commercial fishing limits for quota managed species. This allows fisheries to open the season with more conservative limits that can help prevent market gluts and maintain a steady flow of fish into commerce throughout the summertime season. Then if quota remains available towards the end of the season, limits can be adjusted to provide additional access to the quota before the weather worsens and fish migrate out of our waters.

Several memoranda were provided to the MFAC detailing recommended in-season adjustments to commercial striped bass, black sea bass, and summer flounder limits. These recommendations were developed based on fishery performance as of August 10 and ongoing discussions among staff with dealers and commercial fishermen. Dan reminded the MFAC that he forecasted making such adjustments back in April when the MFAC voted up the 2020 commercial fishing limits for these species. McKiernan added that DMF accepted public comment on these actions and there was a lot of opposition from recreational fishermen to the making any in-season adjustment to the commercial striped bass fishery that would enhance access.

Striped Bass

The Director recommended the MFAC vote in favor of adding two open fishing days – Tuesdays and Thursdays – to the commercial striped bass fishery effective September 1 for the remainder of the 2020 fishing year. This would increase the number of potential fishing days between now and the end of October from 19 to 36. DMF did not recommend going to seven-days per week in October, as proposed in the August 10 advisory, in response to concerns raised in public comment by recreational fishermen.

McKiernan indicated that part of the reason why the commercial fishery failed to achieve its quota in recent years was that the current management system. This system was implemented when there were better fishing and stock conditions, and it was designed to spread the quota out over the season to prevent market gluts. Under current circumstances, these same rules limited the functionality of the commercial fishery.

The Director stated that regardless of the outcome this recommendation, he was interested in a comprehensive review of the management and performance of the commercial striped bass fishery. To this end, he suggested convening a MFAC sub-committee later this year to begin these discussions.

Kalil Boghdan – noting the lack of a commercial striped bass fisherman on the MFAC and the usefulness of past industry working groups – questioned whether outside interests should also participate in the sub-committee. Dan stated his preference was to first work through select members of the MFAC and then work through the public.

The Director recommended having the commission members weigh in individually before moving a motion on the recommendation.

Kalil Boghdan stated that while he generally supported commercial fishing, he could not vote in favor of any recommendation to increase the 2020 commercial striped bass limits. While DMF explained that declining performance was likely the result of a number of factors (e.g., stock conditions, predation, environment, weather, effort, markets), he did not feel like the relative effects of each factor were well understood. Given the results of the most recent stock assessment, he was concerned that poor performance was being driven by stock conditions and increasing access may negatively impact recovery. Comments from fishermen regarding the performance of the fishery around Cape Cod and the availability of larger fish in the area furthered these concerns. Lastly, he was not convinced that the recommended action would have a substantial positive economic impact on commercial fishermen given current performance and therefore the risk became even more difficult to justify.

Tim Brady agreed with Kalil.

Mike P. indicated that he could not vote in favor of DMF's current recommendation. He was in communication with a number of commercial and recreational fishermen regarding the recommendation. The comments he heard from recreational fishermen mirrored the concerns raised by Tim and Kalil. However, even among the commercial fishermen he spoke with, there was little support for increasing access this year.

He noted fishermen from both sectors expressed frustration regarding the fishery's current performance. Reports were that the number of large fish throughout state-waters were down and their presence around Cape Cod were greatly diminished compared to recent years. Some commercial fishermen indicated that it was difficult to target large fish and they were picking through quantities of sub-legal sized fish to catch a keeper. Mike P. highlighted that inshore water temperature may be a critical factor in

this, as larger fish are more sensitive to water temperature and aggregations of large fish were being found in the cooler and deeper waters around Boston and Cape Ann (as well as off Block Island).

Bill Doyle and Sooky Sawyer supported the Director's recommendation.

Chairman Kane stated that he spoke with several commercial fishermen who supported DMF's recommendation.

Ray Kane asked Dr. Mike Armstrong to address some of the concerns expressed in public comment and by MFAC members regarding the status of fishery. Armstrong stated that the stock assessment shows the stock is overfished with overfishing occurring. It also demonstrates that the overall number of larger fish is diminished compared to recent peak years. However, the quota is set with consideration for these factors.

He added that stock condition is also only part of the story regarding fishery performance. Another factor is the impacts of environment on geographic distribution. The presence of large fish off Cape Cod is influenced by a number of environmental factors. Warm waters increase metabolic demands on striped bass, particularly on larger fish. With the inshore waters along Cape Cod Bay and Nantucket Sound exceeding 70°F, it is likely that the fish that typically aggregate in this area are moving offshore to deeper and colder waters. Additionally, the presence of predators like seals and white sharks along Cape Cod is also likely having a disruptive impact on the striped bass fishery in the area.

Armstrong then discussed concerns about the state's commercial striped bass fishery taking large fecund females. He felt this concern was generally overstated given that SSB is factored into setting the quota. Moreover, by going to a recreational slot limit, the harvest of large females has been greatly reduced coastwide. He noted that prior to this year, most of the harvest of these fish was attributable to the recreational sector.

Kalil and Mike P. then asked about permitting. The Director indicated that past analyses show that DMF issues about 4,000 permits a year and about 1,000 land some quantity of striped bass. McKiernan noted that Mike Armstrong and Story Reed were expected to update DMF's running commercial striped bass performance analysis and permitting would be a subject of the sub-committee meeting.

Mike P asked if MA could potentially lose its quota if it were unused. Dan noted that this was possible but unlikely. Any such redistribution would have to occur through a change in the ASMFC's FMP. Ray Kane was more concerned about a potential reallocation. He stated that DE was pushing for additional quota allocation and was concerned that this could come from MA if the state continued to underutilize its quota.

Based on initial feedback, the Director modified his recommendation. Rather than adding Tuesdays and Thursdays, McKiernan recommended adding just Tuesday. He

noted that some commercial fishermen have complained that the current two-day per week schedule does not allow them to fish overnight across two consecutive open fishing days. Instead they have to fish, land, and sell the fish on the same day, which can have a constraining effect on effort. Overnight fishing could be accommodated by adding Tuesdays. Dan speculated that this may allow for more profitable and safer fishing activity. He also noted that it also allowed DMF to explore the idea on an interim basis, as it may deserve consideration in future rule making.

The Chairman asked if there were any additional comments on the Director's modified recommendation.

Mike P. indicated that for the reasons previously stated he would not support adding additional days and would support status quo. However, rather than voting against the measure he would abstain from voting on the modified recommendation.

The Director amended his recommendation so that effective September 1, 2020, Tuesdays will be added to the commercial striped bass week going to three open fishing days per week (Mon-Wed).

Ray Kane asked for a motion to approve the recommendation. Sooky moved to approve the recommendation. Bill Doyle seconded the motion. The motion proceeded to a roll call vote with Sooky Sawyer and Bill Doyle voting in favor of the motion; Kalil Boghdan and Tim Brady voting against the motion; and Mike Pierdinock abstaining. Chairman Kane broke the tie by voting in favor of the motion. The motion passed 3-2-1.

After this vote, Bill Doyle temporarily left the meeting. A quorum remained with Chairman Kane, Mike Pierdinock, Sooky Sawyer, Tim Brady, and Kalil Boghdan remaining.

Summer Flounder

The Director recommended that the MFAC vote in favor of the following in-season adjustments to the 2020 commercial Period II summer flounder limits: (1) an increase in the trawl fishery trip limit from 400 pounds to 600 pounds during the period of August 23 – October 3 at the existing five-days per week (Sundays through Thursdays); and (2) beginning October 4, increase the commercial trip limit to 1,000 pounds and allow commercial fishing seven-days per week (adding Fridays and Saturdays). If approved, those vessels participating in the Period II summer flounder pilot program would be allowed to land up to 1,200 pounds of summer flounder taken in 600-pound increments over a two-consecutive-day trip.

Kalil Boghdan asked for DMF to provide additional information regarding the status of the summer flounder stock. Nichola Meserve responded that the summer flounder stock assessment indicates that the stock is not overfished and overfishing is not occurring, with the biomass about midway between target and threshold levels. SSB has been declining due to poor recruitment. The coastwide commercial quota is set to increase by

8% in 2021 (due to the Council's revised risk policy) and MA is expected to see an additional increase under the new commercial reallocation methodology scheduled for implementation.

Kalil then asked if MA was on target to harvest the quota. DMF's quota monitoring graph indicated that the quota was likely to be taken in late November if catch rates remained status quo. Dan indicated that this action would give greater access to the offshore fleet earlier in the season. He noted that declining performance from the inshore fleet contributed to reduced summertime landings over the past two years; this was likely due to a number of economic and environmental factors, which were outlined in the memorandum.

Lt. Colonel Moran wanted clarification that the fluke landing window would remain in place independent of any potential in-season adjustment. Jared Silva confirmed the fluke landing window would remain intact.

Mike P. asked if DMF could estimate percent landings by gear type. Jared Silva stated that trawl gear has historically been the dominant gear type in this fishery, with seasonal rod and reel landings during the summer. Story stated that DMF cannot yet provide exact figures for this year. Available quota monitoring data relies on SAFIS dealer data, which is often unreliable for gear type. Harvester data, which is more reliable for gear type, is not available in real-time and could not be audited for this year until the middle of 2021. That said, Story and Jared both confirmed that participation in the inshore trawl fishery is down by about 30% based on quota monitoring data and pilot program participation. Based on his interactions with fishery participants and dealers, Jared suspected that current landings were being driven by offshore fishing effort and not the inshore fishery.

Mike Pierdinock wanted clarification that landings are coming from federal waters and counting against our quota. Jared confirmed this.

Mike P. added that he supported the Director's recommendation. However, he was concerned about additional commercial fishing effort in state-waters and how this may impact the inshore recreational summer flounder fishery. To implement such would impact the seasonal availability of the recreational resource in the nearshore waters around the Cape and Islands, where such negative impacts would not be evident if there was no increase in commercial fishing effort.

Ray Kane called for a motion to approve the Director's recommendation. Sooky Sawyer made a motion to approve. Mike P seconded the motion. The motion proceeded to a roll call vote and passed unanimously.

Black Sea Bass

The Director recommended that the MFAC vote in favor of the following in-season adjustments to the 2020 directed commercial black sea bass limits: (1) adding Mondays and Wednesdays as open fishing days beginning on August 31; (2) adding Fridays and

Saturdays as open fishing days beginning October 2; (3) increasing the pot fishery trip limit by 25% from 400 pounds to 500 pounds effective August 31; and (4) increasing the hook and line fishery trip limit by 25% from 200 pounds to 250 pounds effective August 31.

Mike P. noted the market for black sea bass was soft this year. He thought this was likely attributable to the pandemic's impact on certain business sectors (e.g., restaurants). Ray Kane agreed, noting that most of our commercial landings are distributed through New York and the local markets for the product are underdeveloped. That said, Chairman Kane preferred providing commercial fishermen access to the allocation and letting the market dictate effort. Mike P. concurred with Ray Kane.

There were no further comments.

Ray Kane asked for a motion to approve the Director's recommendation. Mike P. made a motion to approve. Tim Brady seconded the motion. The motion proceeded to a roll call vote and passed unanimously.

Final Recommendation to Close the Cape Cod Canal to Commercial Striped Bass Fishing

The Director reminded the MFAC that DMF filed an emergency regulation on June 3, 2020 to close the Cape Cod Canal to commercial striped bass fishing. This included prohibitions on: (1) retaining any striped bass measuring 35" or greater; (2) retaining more than one striped bass; or (3) being in possession of any such fish within 1,000 feet of the Canal's shoreline with exceptions for fish lawfully caught outside the Canal being transported to market. The regulation was set to expire on September 3, 2020 at the conclusion of the 90-day emergency period. At this time, the Director recommended that the MFAC vote in favor of adopting DMF's recent emergency action to close the Cape Cod Canal to commercial striped bass fishing as a final regulation; DMF was not proposing any modifications be made to the final regulation from the emergency action. This would make the current closure a final regulation and if subsequent changes are warranted, they would be subject to future rulemaking.

The Director noted that written public comment and the public comment received at the August 3 hearing were overwhelmingly supportive of the action.

Sooky Sawyer wondered if the commercial striped bass fishery would have performed better this year were it not for this action. Story Reed stated that trip level reports from recent years indicate that only about 5% of the commercial catch is effectively reported as coming from the Canal. Accordingly, the impact of this closure on the performance of the 2020 commercial fishery was likely minimal.

Lt. Colonel Moran stated MEP supported the recommendation.

Mike P. added that many anglers have reached out to him in support of this recommendation. He did not view this as a conservation effort, but rather a measure to

limit certain fishing activities that were causing broader public access issues. He was optimistic that this would quell some of these public access issues and further restrictions would not be placed on Canal fishing activity moving forward.

Ray Kane asked for a motion to approve the final recommendation. Mike Pierdinock made motion to approve. Sooky seconded the motion. The motion proceeded to a roll call vote and passed unanimously.

DISCUSSION ITEMS

Incidental Take Permit Application and Future Rule Making Affecting Fixed Gear

Bob Glenn, a senior DMF biologist, provided the MFAC with a presentation and update on DMF's application for an Incidental Take Permit (ITP) for fixed gear fisheries. By way of background, in 2019, the State (and DMF) were sued by Max Strahan. The claim was that DMF's licensing and regulation of fixed gear and vertical buoy lines violated the Endangered Species Act (ESA, as they cause takes of endangered whales and turtles through buoy line entanglements. In April, a federal court found Mr. Strahan was likely to prevail on his claim and ordered to apply for an ITP under Section 10 of the ESA.

Bob then provided an overview of the ITP application process. He also informed the MFAC of certain regulatory actions the state may have to take to obtain an ITP. This included a seasonal (February 1 – April 30) trap gear closure throughout all state waters; extending existing gillnet closures in Cape Cod Bay; a maximum buoy line diameter of 3/8"; 1,700 pound breaking strength requirement for buoy lines; and limitations of the issuance of season lobster licenses.

Kalil Boghdan thanked Bob Glenn for the presentation. Bob and Kalil then discussed the cause of recent right whale mortalities and the frequency of entanglements.

Mike P. and Bob then discussed how DMF's ITP permit application interfaced with the Atlantic Large Whale Take Reduction Plan and ongoing state-federal conservation efforts. Bob indicated that in response to the federal court decision, DMF had to remove additional risk from its fisheries and further distinguish its conservation program from other jurisdictions.

Mike P. then expressed concern over seasonally closing all state-waters to trap gear if there is no evidence that this gear puts right whales at risk, as they do not frequent these areas. Bob Glenn noted that such actions are likely necessary for DMF to obtain a no injury determination with NOAA Fisheries. This determination could enhance the likelihood of a successful ITP application. Bob also opined that, in comparison to potential alternatives, losing trap fisheries state-wide from February 1 – April 30 would enhance DMF's ability to pursue a successful ITP application with limited economic impact on the lobster fishery.

Kalil Boghdan asked if the ITP application would also address boating activity, as ship strikes are another cause of death to right whales. Bob stated DMF is not planning to

implement additional speed reductions in the Cape Cod Bay during the winter and early spring. The current rules protect these whales when they are aggregated in the Bay.

Update on Issues Related to COVID-19 and Impacts on the Fishing and Seafood Industries

CARES Act Fisheries Relief in MA

Kevin Creighton provided a brief presentation to update the MFAC on DMF's CARES Act relief program. The presentation focused on application and appeal period timelines and timelines for potential payments. The head boat fleet application and appeals period was complete and payments had occurred. The charter boat and aquaculture application and appeals process was ongoing and DMF anticipated payments would be made to these entities in mid-September. The application period for the seafood processing and commercial fishing sectors were forthcoming. DMF anticipated the application period for seafood processors would occur from late-August through mid-September and the period for the commercial fishing sector would occur from mid-September to mid-October.

Kalil asked about minimum activity eligibility criteria for for-hire charter boat operators. Kevin stated they had to take at least 50 for-hire trips in a calendar year from 2017 to 2019 to be considered eligible for relief. Kevin anticipated that only about 200 charter boat would qualify; DMF typically issues more than 800 permits annually. However, applications were sent to all 2020 permit holders.

The Director added that each sector, with input from their sector working groups, established certain activity filters and scalars. The filters were developed to establish minimum eligibility criteria to ensure monies went to active industry members. The scalar is used to determine how much relief will be distributed to eligible permit holders based on the level of their activity.

Mike P. thanked DMF for all the work on the CARES relief efforts. He then asked if DMF anticipated additional federal relief funds were going to be made available. Dan had conversations with Senator Markey's staff on the subject, but he was uncertain if Congress would approve additional funding.

DMF Seafood Marketing Promotion

Story Reed provided a brief presentation to update the MFAC on DMF's Seafood Marketing Program's efforts. DMF was engaged in audio and digital seafood promotions via iHeart Radio, with the ads totaling more than 6 million impressions. DMF also developed an online chef's seafood series, which featured recipes from local chefs. How-to videos for at home cooking are forthcoming. Story then went on to discuss the \$36-million Food Security Infrastructure Grant, which seeks to ensure that farmers, fishermen, and other local food producers are better connected to allow for a more resilient food security system. Three grants have been approved to-date and Story expected three more would be approved in the near future. Story then mentioned the

MDAR online platform - MassGrown Exchange - that matches wholesalers with retailers. DMF will be working with MDAR to promote this platform to seafood dealers.

New Workplace Safety Standards for For-Hire Fleet

Dan highlighted the recently updated workplace safety standards for the for-hire fleet. These new standards constrained certain larger capacity vessels (100+ people). Whereas these vessels could previously work at 50% capacity, they are now constrained to a maximum of 50 persons. Dan noted that he was also made aware of concerns regarding mask wearing on larger passenger vessels.

Extension of For-Hire Black Sea Bass and Gulf of Maine Cod Fisheries

DMF successfully petitioned the ASMFC to accommodate an extension of Massachusetts recreational for-hire black sea bass fishing season. This was proposed in response to the for-hire fleet losing access to the spring fishery based on the Governor's stay-at-home order and subsequent social distancing guidelines limiting the size of gatherings. This extension will allow the for-hire black sea bass fishery to remain open through October 9, which is also the end of the state's recreational fluke season. Dan credited Nichola Meserve's with the success of this proposal.

Dan then stated that NOAA Fisheries extended its Gulf of Maine cod season for for-hire vessels. Rather than the season occurring from September 15 – September 30, it would now occur from September 8 – October 7. The season for all other recreational anglers would remain September 15 – September 30.

Limited Entry Permit Transfer Policy on Active Fishing in 2020

At a recent MFAC meeting, Sooky Sawyer requested DMF review its current limited entry permit transfer policy regarding active fishing. He noted that older fishermen may decide to forgo fishing this year due to the risk posed to them by the pandemic. This personal health decision may then impact their ability to meet the actively fished threshold and could disallow them from transferring their limited entry permit in the future. DMF reviewed and updated this policy. The revised policy allows for 2020 to be omitted when reviewing the "four-out-of-the-past-five-year" lookback period used to determine if a permit transfer meets the actively fished criteria for a transfer.

Sooky thanked the DMF.

Resumption Federal At-Sea Observer Program

NOAA Fisheries recently resumed its At-Sea Observer Program along the Atlantic coast. This decision was controversial. One area of concern was the ability for observers to comply with state-specific quarantine guidelines as they move from state-to-state to observe trips. Under the Governor Baker's order, commercial fishing activities that take place over state lines are exempt from the state's quarantine standards under the business/employment exemption. DMF has requested that observers be similarly exempt, particularly as they are servicing an essential business.

Melanie Griffin added other controversial areas include vessel insurance coverage and the risk of transmission to crew from observers and vice versa. NMFS tried to provide national standards, but ultimately standards were left to the third-party observer programs.

As an aside, Dan noted DMF cancelled its in-shore trawl survey this year. He was hopeful that the fall survey could occur and DMF was working with NOAA Fisheries to develop safety protocols to limit interactions between the state's survey program staff and the federal NOAA Corps vessel operators. However, the burden this placed on the program was untenable and it was decided to wait until the spring. Dan noted his concern regarding the likely one-year gap in survey data for MA and in other affected surveys along the coast.

Federal and Interstate Fisheries Management Updates

NEFMC

Melanie Griffin discussed ongoing issues at the NEFMC, which was scheduled to meet next from September 29 – October 1. It is a weighty agenda comprised of several final actions including: Groundfish Amendment 23 (monitoring), Scallop Amendment 21 (Northern Gulf of Maine management and Limited Access General Category possession limit), and Atlantic herring Framework 8 (2021-2023 specification and incidental catch limits in mackerel fishery).

The Amendment 23 public comment period wraps-up on August 31st and the Scallop Amendment 21 public comment period is underway now through September 4th with two remaining webinars on August 27 and September 4. Additionally, the Council will discuss limited access for skates (Amendment 5) and the Conservation Law Foundation's petition for Secretarial rulemaking to prevent overfishing on and rebuild Atlantic cod.

ASMFC and MAFMC

Nichola Meserve provided some updates from the ASMFC and the MAFMC:

- The ASMFC approved the first-ever ecological reference points (ERPs) for menhaden. These reference points will be used to set the TAC in a manner that accounts for the role menhaden play as forage. Nichola expected the Menhaden Board to select a TAC for 2021-2022 at the ASMFC Annual Meeting in October based on various projections to be provided by the Technical Committee.
- 2021 commercial quotas and recreational harvest limits (RHL) were set for bluefish, scup, summer flounder (fluke), and black sea bass. The actual effect of these RHLs on 2021 recreational fishing limits is dependent on 2020 MRIP estimates; 2020 estimates may be subject to enhanced uncertainty given the pandemic interrupted MRIP sampling efforts in certain states. Compared to 2020 coastwide levels:

- The bluefish commercial quota will remain status quo, but the RHL will be reduced by 12%;
 - The scup commercial quota will be reduced by 8% and the RHL will be reduced by 7%;
 - The summer flounder commercial quota and RHL will both be increased by 8%; and
 - The black sea bass commercial quota and RHL will both be increased by 9%.
- A range of alternatives was approved for the MAMFC's draft Fluke, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment. The draft amendment could be approved for public hearing at the December joint meeting of the ASMFC and MAFMC. Actions regarding for-hire sector separation were removed from this draft amendment and will be addressed through the Recreational Reform Initiative.
 - The MAFMC's draft Black Sea Bass Commercial Reallocation Amendment was approved for public comment. Public hearings are expected to occur virtually this fall. Final action may be delayed in response to finalizing the MAFMC's Commercial/Recreational Allocation Amendment, given the interplay between the two proposed actions.
 - A draft range of alternatives are expected to be reviewed and approved at the December joint meeting of the ASMFC and MAFMC for the draft Bluefish Rebuilding and Allocation Amendment.
 - The MAFMC initiated the Recreational Reform Initiative. This initiative will address a number of ideas to improve the management of certain recreational species, including fluke, scup, sea bass and bluefish. Nichola expected the initiative would provide certain recommendations that would then be formalized into a future addendum or amendment. For-hire sector separation will be explored through this initiative.

Updates from Commission Members

Kalil Boghdan thanked those in DMF who donated in his brother's honor.

Tim Brady thanked everyone involved in the process of expediting CARES Act relief payments to head boats.

Mike P. thanked DMF for their work to extend the recreational for-hire black sea bass and Gulf of Maine cod season extensions.

Ray Kane asked that Melanie Griffin provide more regular NEFMC updates to the MFAC.

PUBLIC COMMENTS

There were no public comments.

ADJOURNMENT

Chairman Ray Kane requested a motion to adjourn the August MFAC business meeting. **Kalil Boghdan made a motion to adjourn the meeting. The motion was seconded by Tim Brady. The motion was approved by unanimous consent.**

MEETING DOCUMENTS

- August 20, 2020 MFAC Business Meeting Agenda
- May 21, 2020 MFAC Business Meeting Draft Minutes
- June 18, 2020 MFAC Business Meeting Draft Minutes
- Menhaden Episodic Event Set Aside
- Recommendation to Close Cape Cod Canal to Commercial Striped Bass Fishing
- Updated Workplace Safety and Reopening Standards for For-Hire Operations
- For-Hire Black Sea Bass Fishery Extension
- GARFO Advisory on 2020 Recreational GOM Cod and Haddock Limits
- Federal Register Notice on 2020 Recreational GOM Cod and Haddock Limits
- DMF LE Permit Transfer Policy on Active Fishing for 2020
- GARFO Bulletin on NEFOP Program
- ASMFC Summer 2020 Meeting Summary
- ASMFC and MAFMC Joint August Meeting Summary

UPCOMING MEETINGS

9AM September 24, 2020 Via Zoom	9AM October 29, 2020 Via Zoom	9AM November 19, 2020 TBD	9AM December 10, 2020 TBD
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