

MARINE FISHERIES ADVISORY COMMISSION

December 19, 2019

DFW Headquarters

Westborough, MA

In attendance:

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

Division of Marine Fisheries: Daniel McKiernan, Acting Director; Michael Armstrong, Assistant Director; Kevin Creighton, CFO; Robert Glenn; Jared Silva; Nichola Meserve; Story Reed; Melanie Griffin; Cate O’Keefe; and Greg DeCelles.

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

Massachusetts Environmental Police: Lt. Matt Bass.

Members of the Public: Brian Curry

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Ray Kane called the December 19, 2019 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

REVIEW AND APPROVAL OF DECEMBER 19, 2019 BUSINESS MEETING AGENDA

Acting Director Dan McKiernan asked that the MFAC address recreational striped bass management measures prior to addressing commercial fisheries management issues. Additionally, Dan stated that Story Reed would provide a brief overview of a recent public meeting to discuss an ocean bottom survey along the North Shore to find a corridor to bring a transatlantic fiber optics cable ashore in Lynn.

No objections were made to these adjustments.

Bill Doyle made a motion to approve the draft agenda as modified by the Acting Director. The motion was seconded by Mike Pierdinock. The motion was approved unanimously.

REVIEW AND APPROVAL OF NOVEMBER 14, 2019 DRAFT BUSINESS MEETING MINUTES

Chairman Kane asked if there were any amendments to the November 14, 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.

CHAIRMAN'S COMMENTS

The Chairman did not provide any comments.

COMMISSIONER'S COMMENTS

Commissioner Ron Amidon provided a season's greeting to the MFAC. DMF and DFG staff were scheduled to attend a meeting on December 20th at the MWRA facility on Deer Island to be appraised on the the fishing pier project progress. Additionally, DFG hired Mark Reil to serve as the Department's Director of Legislative Affairs. Mark previously worked as the District Director and Assistant Legislative Director for Senator Ryan Fattman and was a selectman in the town of Mendon.

DIRECTOR'S COMMENTS

Acting Director McKiernan stated that he was moving the March MFAC meeting from the 19th to the 26th to accommodate various DMF meetings and the wintertime public hearing schedule.

He then discussed a recent Gulf of Maine (GOM) wind task force meeting. In New England, offshore wind energy development had been focused in Southern New England and fisheries issues have been related to the continued ability to fish around these fixed arrays. However, there is some growing interest in developing wind arrays in the GOM. The deeper water in this region would necessitate the use of floating platforms and this would prevent most fishing activity from occurring within the arrays. Dan expressed his concerns about how this may displace fisheries and impact how competing fisheries interact.

Mike Pierdinock asked whether or not wind energy areas in the GOM had been defined. Dan stated that they had not. The process began with developers defining where they wanted to build. Then the impacts of building in these areas would be assessed, in turn informing permitting. This process concerned Dan given the poor spatial data available regarding where the commercial lobster fishery is conducted. Cate O'Keefe added that one of the driving factors in determining where to build is where the power can come onshore.

Mike P. then asked if the transmission lines would be buried. Cate confirmed this and noted there was talk about the development of a transmission line corridor.

Lou Williams asked if this technology was being used elsewhere. Dan and Cate stated that it was experimental.

McKiernan then briefly touched on a number of smaller items. First, the Period I summer flounder pilot program Letters of Authorization would be issued before the end of the year. Second, DMF intended to convene a sub-committee of the MFAC to discuss permitting issues in the late-winter or early-spring, once a formal Director's appointment was made and staff were available to conduct relevant analyses. Lastly, there were numerous personnel changes in the agency's Shellfish Program. DMF's Shellfish Program Chief, Mike Hickey, was retiring on January 10; DMF's Aquaculture Specialist, Chris Schillaci, had taken a job at NOAA Fisheries; and several other shellfish biologists had also moved onto other jobs or retired.

LAW ENFORCEMENT COMMENTS

Lt. Bass stated little law enforcement activity occurred over the past month. However, the Massachusetts Environmental Police (MEP) were involved with search and rescue related to the recent sinking of a fishing vessel off Martha's Vineyard. Regarding personnel, MEP still awaited an appointment of a new Colonel and there were no updates on new field officers.

ACTION ITEM

Coastal Sharks

McKiernan reviewed the recommendation memorandum and noted that these proposals were necessary to comply with interstate and federal fishery management plans (FMP).

Jared Silva parsed the recommendation into three issues. First, to address the recent shortfin mako stock assessment (overfished with overfishing occurring), DMF was recommending several measures to comply with recent amendments to federal and interstate FMPs. This included new sex specific recreational minimum sizes for shortfin makos (83" for females and 71" for males), a circle hook mandate when recreationally fishing for sharks with gears other than flies and lures, and a "release alive" provision for shortfin makos caught alive in gillnet and longline gear. Second, in reviewing the state's coastal shark regulations there were several areas where state rules did not precisely conform to overarching federal rules. To address this, DMF was recommending restrictions on the possession and retention of certain shark species when fishing for or in possession of tunas, billfish or swordfish. Lastly, DMF was recommending several technical corrections to its regulations, including new definitions and a clarification that vessels may possess non-conforming sharks taken from federal waters if so authorized by NOAA Fisheries and gear is stowed when vessels are in state-waters.

Mike P. asked if DMF's minimum size rules were a straight fork length rather than a curved fork length. Jared answered affirmatively.

Kalil Boghdan was concerned about how anglers would be able to determine the shark's sex and size at point of retention. Mike Pierdinock stated that sex is readily visible by the presence of claspers on males and size can be measured if it is in a straight line from the fork in the tail fin.

Kalil then asked why the FMP moved forward disparate minimum sizes. Nichola Meserve stated that the initial emergency rule implemented a uniform 83” minimum size. However, this resulted in a greater projected cut in harvest than was necessary. Given that the sharks are sexually dimorphic there was a support to scale down that cut in harvest through adopting sex-specific size limits.

Lou Williams asked if a commercial fisherman could retain a shark commercially in state-waters without a federal permit. DMF staff could not answer this offhand, but would research this and respond to the MFAC.

No further comments were made.

Mike Pierdinock made a motion DMF’s coastal shark recommendation. Tim Brady seconded the motion. The motion was approved unanimously.

2020 Winter I Scup Limits

Dan McKiernan stated that DMF was recommending the MFAC approve a 50,000 pound scup limit for the Winter I period (January 1 – April 30). This was a routine measure for the state to match federal rules for the federally managed winter period to allow vessels to offload scup lawfully caught in federal waters in state ports.

Sooky Sawyer asked DMF to confirm that the purpose of this action was to accommodate the offshore fleet’s ability to land in Massachusetts. Dan confirmed this.

No further comments were made.

Kalil Boghdan made a motion DMF’s coastal shark recommendation. Sooky Sawyer seconded the motion. The motion was approved unanimously.

DISCUSSION ITEMS

Future Public Hearing Items

Dan McKiernan stated that DMF was proposing several items for public hearing. He anticipated public hearings would be held in early-March. DMF then anticipated providing the MFAC with final recommendations at their March 26 business meeting. The MFAC’s feedback at today’s meeting would inform both the public hearing docket and eventual final recommendations.

2020 Changes to the Recreational Striped Bass Fishery

Dan stated that there were two components to DMF’s proposed changes. First, DMF intended to move forward with the 28” to less than 35” slot limit and recreational circle hook mandate as adopted in Addendum VI to the ASMFC’s Striped Bass FMP. Second, DMF was proposing to expand the existing gaffing rule to address concerns previously expressed by the MFAC.

Sooky Sawyer and Ray Kane expressed some confusion regarding the slot limit. They were under the impression that there would be a one-inch gap between the recreational slot limit and the proposed commercial minimum size to segregate commercial and recreational fisheries to aid enforcement. Dan explained that while there would be no gap between the size limits, the lack of an overlap would effectively segregate the fisheries. Lt. Bass stated that the lack of an overlap between these size limits would aid enforcement.

Mike P. asked for DMF to further clarify their circle hook proposal. Jared Silva stated the proposal was to require all recreational anglers (both private and for-hire) to use circle hooks when fishing with any natural bait with no exceptions. This was the strawman proposal being taken to public hearing because Addendum VI did not provide any explicit guidance regarding potential exemptions. At the February ASMFC meeting, the Striped Bass Board was expected to review implementation plans and consider conservation equivalent measures and circle hook exemptions. The Board's decisions would then further inform DMF's March 2020 public hearing proposals.

Mike Armstrong stated that DMF intended to pursue maintaining its existing exemptions for the for-hire fleet and tube and worm fishing. Armstrong opined that these exemptions are justified because they would have negligible impacts on recreational fishing mortality rates. Nichola Meserve noted that 2.5% of recreational striped bass catch in Massachusetts is attributable to the for-hire sector and their rates of retention are substantially higher than the private angler.

Ray Kane asked for DMF to further explain their gaffing proposal. Jared Silva stated the proposal was two-fold. First, following discussion by the MFAC at their November business meeting, DMF would propose to require recreational fishermen to remove striped bass from the water only by non-lethal means. Second, following discussion at the recent MFAC Law Enforcement Sub-Committee meeting, DMF was also considering proposing to prohibit commercial fishermen from gaffing any fish less than 35" and releasing any fish that was gaffed.

Tim Brady and Sooky Sawyer expressed concerns that if a fishermen were to accidentally gaff an undersized fish then they would either have to unlawfully discard the gaffed fish or unlawfully retain a sub-legal sized fish. Jared Silva and Lt. Bass argued that this underscored the conservation ethic that fishermen should not be gaffing fish if they are uncertain of their size or if they are not going to be retained. Dan McKiernan stated that DMF would consider these concerns when finalizing the public hearing docket.

Proposed Adjustments to Commercial Striped Bass Limits

Dan McKiernan stated that DMF held an ad-hoc industry meeting on December 4 to bring in fishermen and dealers together to discuss potential ways to improve quota utilization and fishery performance. Based on the comments received at these meetings, DMF was proposing several amendments to the commercial striped bass limits for 2020. This includes: (1) moving the start of the commercial fishery from June

23 to as early as June 1; (2) maintaining the two-day per week open fishing day schedule but adjust the open fishing days from Mondays and Thursdays to Mondays and Wednesdays; and (3) increase the minimum size from 34" to 35". If the minimum size were increased to 35" and the proposed recreational slot limit were adopted, there would be no overlap in legal-sized fish across both sectors. Accordingly, for-hire operators would no longer be able to sell recreational catch taken during charters, and DMF would rescind the fin-clipping rule. No changes were being proposed to the current commercial trip limits.

Dan noted that most of the discussion at the December 4 meeting focused on the minimum size and how that may impact the quota and impact latent effort from anglers wanting to retain fish outside of the recreational limits. Eventually the 35" minimum size was settled on to segregate the commercial and recreational sectors, particularly if the season started earlier in June. Dan expected there would be some push back on this from recreational anglers concerned about having the commercial fishery target exclusively large, breeder sized fish.

Ray Kane reminded the MFAC that the commercial fishery is closed on July 3, July 4 and Labor Day. There was some discussion regarding DMF adding another open fishing day during those weeks to accommodate the loss of commercial fishing opportunities around the holiday. Dan stated that DMF would take comment on this.

Mike P. asked if DMF would adjust limits after Labor Day if quota remained available. Dan stated that rather than adopt a date certain to make such adjustments, DMF would do this through its existing declaratory process.

There was then a discussion regarding potentially limiting entry into the commercial striped bass fishery, particularly given concerns that commercial permits may be obtained to retain trophy fish and fish in excess of the recreational limit. Dan McKiernan added that the first step in limiting entry would be to adopt a revised control date; the current control date goes back to 2013 and may be outdated. Once a new control date was adopted, DMF could then consider how to limit entry. Mike Armstrong also suggested an analysis of permit trends and landings to characterize fishery performance, how anglers move in and out of the fishery, and if commercial permits are being used to retain fish for personal use. Story Reed indicated that such an analysis could be completed over the winter.

Bill Doyle suggested increasing permit fees could disincentivize fishermen from obtaining commercial permits to retain fish for personal use in excess of recreational fishing limits. Ray Kane suggested further increasing non-resident permit fees as well. Dan stated that both resident and non-resident permit fees are set through the Executive Office of Administration and Finance and is outside of the agency's immediate purview. Jared Silva noted that current non-resident fees are double the resident fees; there was some legal ambiguity regarding to what extent states could charge non-residents more than residents.

Sooky Sawyer stated some North Shore fishermen were concerned that an earlier start date would limit their access to the quota. Dan noted that given recent quota underages, this change in the start date was designed to encourage full quota utilization and provide fishermen across the state with access to the quota at times when the fish are available to them. Ray Kane noted that two industry members from the ad-hoc panel were from the North Shore and did not object to the earlier start date. Sooky asked that if the start date could be revisited in 2021 if the fishery were to close early in 2020. Dan stated that DMF would do that.

Sooky, Mike P. and Ray then discussed potential objections from recreational fishermen regarding increasing the commercial minimum size. Mike Armstrong opined that the new suite of recreational and commercial fishing limits would result in fewer large fish being taken. The recreational sector has historically retained about five times the amount of large fish when compared to the commercial sector. With the new slot limit, the only harvest of these large fish will come from the commercial sector, and that harvest will be capped at just over 700,000 pounds.

Proposed Adjustments to Commercial Black Sea Bass Limits

Dan stated that similar to striped bass, DMF also convened an ad hoc industry panel to discuss commercial black sea bass management in 2020, particularly given the anticipated 60% increase in the commercial quota for 2020. The panel's discussion primarily focused on sequencing trip limits and open fishing days to access the available quota. There was little consensus on a preferred approach.

Based on the comments received at these meetings, DMF was making several proposals to amend commercial black sea bass limits for 2020:

- For the directed summertime fishery, increase the daily trip limits by about 30%. For potters the limit would increase from 300 pounds to 400 pounds and for anglers the limit would increase from 150 pounds to 200 pounds. Under this scenario, the existing open fishing day schedule (Sundays/Tuesdays/Thursdays) would be retained. Given the diversity of comment on this topic at the ad hoc panel meeting, DMF would also explicitly take comment two other options. The first option would be to maintain status quo limits. The second option would be to reduce the number of open fishing days per week to two (Tuesdays/Thursdays), but increase the daily trip limits for potters to 450 pounds and anglers to 250 pounds to maintain existing weekly aggregate landing limits.
- Increase the weir set-aside from 15,000 pounds to 24,000 pounds commensurate with the anticipated 60% increase in the black sea bass quota in 2020. Any set-aside remaining once the weir fishery concludes in the late spring would be rolled back into the general quota.
- Adjust the trawl bycatch limits. For the springtime squid fishery, increase the bycatch allowance from 50 pounds to 100 pounds with no change to the 50,000 pound harvest cap. For the summertime fishery, allow retention of up to 100 pounds black sea bass five days per week (Sundays – Thursdays) beginning on June 10 to correspond with when the summer flounder fishery is open.

Mike P. noted that the summertime trawl limits for black sea bass would be reduced from 150 pounds to 100 pounds. Dan noted that there was little evidence that the large mesh trawl fishery was retaining and landing more than 100 pounds of black sea bass. Moreover, they would have more opportunities to retain a bycatch of black sea bass under the proposal, given current rules regarding the season and open fishing days. Lou Williams stated he had received positive feedback from members of the trawl fleet regarding this proposed change.

Tim Brady stated that he felt these meetings were constructive, particularly with regards to the feedback received from the dealers regarding ex-vessel value and market saturation.

Ray Kane stated that some Cape Cod fishermen strongly supported a spring fishery with a quota allocation of up to 50%. Dan stated that this position was not supported at the ad hoc panel meeting. DMF also did not support allowing spring fishery. Past experience demonstrated it raised a variety of biological, quota monitoring, fishery performance, and enforcement concerns. Lt. Bass supported DMF's position and stated the use of secondary and tertiary permits to conceal overages was common during past spring fisheries due to the seasonal abundance and nearshore availability of this fish. In addition, Dan and Jared mentioned that about 75% of the black sea bass permits are currently latent, and if a spring fishery were to occur, these permits may be activated in response to the availability of this fish. This new effort may be legitimate, but it may also be to cover overages and to allow anglers to retain black sea bass for personal use in excess of recreational limits. Ray acknowledged DMF and MEP's concerns, but expected this to be a contentious issue at public hearing.

Proposed Adjustments to Commercial Summer Flounder Limits

To discuss recent summer flounder ("fluke") fishery performance and quota utilization, DMF held an open industry meeting on December 4. The focus of the meeting was on the Period II (April 23 – December 31) commercial summer flounder fishery. Dan noted a primary topic of discussion was the low ex-vessel value this past summer. Dealers felt that while the 80% increase in the coastwide quota may have played a role, the smaller size of the fish being harvested (medium grade) in Massachusetts were likely the primary reason for this low ex-vessel value. Accordingly, dealers argued they could move additional fish if trip limits were increased without substantially decreasing the ex-vessel value. This increase in daily landings could offset price issues if the ex-vessel value remained low in 2020 due to the abundance of medium grade fish. There was some discussion about increasing trawl limits to 500 pounds in June to take advantage of high seasonal ex-vessel value, but the sentiment of much of the fleet has been to be conservative and not adjust the limits too dramatically.

Based on this feedback, DMF was proposing several changes to the Period II fluke management for 2020. This included: (1) renewing the Period II pilot program that allows trawlers to retain and land two consecutive daily limits of fluke beginning at the June 10 start of the directed summertime fishery; (2) increasing the trip limits during the

period of June 10 – October 31 from 300 pounds to 400 pounds for trawlers and 200 pounds to 250 pounds for anglers; and (3) eliminating closed fishing days and establishing a 1,000 pound trip limit for all gear types during the November 1 – December 31 period, provided 5% of the quota remains available.

During the industry meeting, there was also some discussion regarding the retention of horseshoe crabs by trawlers. In 2019, the horseshoe crab bait quota was taken for the first time ever, and the fishery was closed in early September. As a result, during the early fall, trawlers were forced to not target crabs and discard any crabs caught. This bait quota closure also impacted the availability of crabs to the Associates of Cape Cod for LAL production.

This raised concerns regarding DMF's management of the horseshoe crab quota, particularly as it pertains to the trawl fleet. DMF allows trawlers with a horseshoe crab endorsement to retain and land up to 300 crabs per day when the quota is available. Some trawlers do not have a horseshoe crab endorsement, and in order to reduce regulatory discarding, DMF issues Letters of Authorization (LOA) to fluke trawlers to retain and land up to 300 crabs per day during open days in the commercial fluke season. The continued issuance of this LOA was the primary issue raised. Based on the feedback received, DMF proposed to no longer issue the LOA and instead establish a 75 crab limit for those trawlers fishing in the summertime fluke fishery who do not hold a limited entry horseshoe crab endorsement. This would allow trawlers without a permit to continue to retain and land their bycatch of crabs and the 75 crab limit was thought to be more commensurate with incidental catch rates. In turn, this could slow the harvest of the quota by keeping non-permit holders from directed fishing on crabs.

Dan noted a major factor facing the summertime fishery was how much fluke the Period I (January 1 – April 22) fishery lands. In 2019, the quota increase came in March and DMF was unable to accommodate additional harvest opportunities. Accordingly, the Period I fishery only took 3% of the overall quota; the seasonal quota allocation target is 30%. For 2020, DMF increased the seasonal trip limit from 500 pounds to 1,000 pounds and has implemented a pilot program to allow vessels fishing offshore to land in multiple states. This was expected to encourage additional seasonal landings this year. DMF should have a handle on 2020 Period I fishery performance by the time public hearings are held in March. This data will provide additional context to the proposed limit adjustments, as well as potential interest in higher than proposed limits for June.

Bill Doyle stated that most fluke is shipped down to the Mid-Atlantic. He opined that to increase ex-vessel value, MA should have its fishery occur when other state's fisheries are closed and supply is low. Dan noted that this was the primary reason for interest in higher limits in June.

Commercial Menhaden Management Proposals

Nichola Meserve reviewed DMF's commercial menhaden public hearing proposal. With regards to quota management, the proposal was designed to better use available quota.

This would be accommodated through scaling back trip limit triggers to maintain the 25,000 pound trip limit until 100% of the quota is taken. Additionally, if the quota is to be harvested, then MA may take advantage of the ASMFC's episodic event set-aside quota (EESA). Accordingly, DMF was proposing rules that would allow for EESA participation and conform to the ASMFC's FMP. Lastly, DMF was proposing to adjust the incidental catch limit allowed after the quota is taken. Currently, this limit is 1,000 pounds not to exceed 5% of the overall catch. The proposal is to increase it to 6,000 pounds (maximum allowed under the FMP) and allow for directed fishery. This will allow for continued small scale commercial fishing activity after the quota is taken. Additionally, given persistent industry-driven concerns regarding the activation of latent effort in the limited entry menhaden fishery in response to strong market demand for bait, DMF was proposing to adopt a May 1, 2020 control date and an owner/operator requirement.

Dan McKiernan noted that menhaden management in Massachusetts is complex, particularly in the inshore net areas where there are a myriad of rules to balance user group conflicts. Accordingly, he was concerned that hired captains running seiners may create problems and exacerbate historic conflicts. Dan argued an owner/operator requirement could help alleviate some of these potential issues.

Sooky Sawyer supported the owner/operator requirement. However, he expressed concerns regarding the control date. He noted that some entities on the North Shore had obtained a permit and were looking to gear up to target menhaden. If a control date were implemented and used in the future, these new participants could be restricted and lose the capital they invested into the operation. Dan stated that he was aware of this and sensitive to it.

Lou Williams understood the industry's concern about the activation of latent effort, but questioned whether it would ever occur given the scarcity of the permits needed to effectively target for menhaden. He noted that while menhaden endorsements may be readily available, many fishermen are unaware that an Inshore Net Permit is required to seine in the harbors and embayments. Very few inshore net permits exist and DMF has been hesitant to issue new permits.

Sooky noted that some of the concern regarding latent effort was driven by the idea that an out-of-state operation could come to Massachusetts, harvest Massachusetts quota, and then truck this out-of-state, bypassing Massachusetts bait markets. Sooky advocated that DMF also consider requiring any bait fish taken in Massachusetts stay in Massachusetts. Dan McKiernan stated that DMF does not have the legal authority to do that; the agency lost a court case in the 1980s trying to take a similar action in the menhaden fishery.

Mike P. questioned DMF's ability to monitor the quota if the 25,000 pound trip limit is allowed to stay in place until 100% of the quota is taken. Nichola explained that DMF requires all limited entry menhaden fishery participants to be bait dealers and report as bait dealers on a nightly basis. Accordingly, DMF can accurately monitor the menhaden

quota in real time. She added that this change will just allow mid and small sized seiners with access to the last 5% of the quota. Plus, if the quota is fully utilized, MA fishermen may be able to access the EESA.

Mike P. asked DMF to further clarify the incidental catch limit. Dan and Nichola explained that when menhaden management regulations were first promulgated, DMF took a conservative approach. The state adopted a bycatch limit of 1,000 pounds not to exceed 5% of the overall catch. This essentially provided the fall mid-water trawl fishery with an allowance to retain small amounts of menhaden if they were encountered when fishing offshore for herring. The state limit is more restrictive than the limit allowed under the FMP, which permits states to allow commercial fishing continue at a 6,000 pound limit once 100% of the quota is taken. This proposed action brings the state in line with what is currently allowed under the FMP.

Commercial Limit on Sand Lance

Dan McKiernan stated DMF was proposing a 200 pound possession and landing limit for sand lance. He noted that this was being proposed to prevent the development of an industrial sand lance bait or reduction fishery in state-waters or adjacent federal waters. While an industrial fishery does not exist currently in New England, there are such fisheries in Europe. Based on a review of SAFIS data, the 200 pound limit would continue to accommodate traditional small scale harvest activity.

Chairman Kane asked if there was a federal rule on the development of new forage fisheries. Mike Armstrong stated that this rule was adopted by the MAFMC, but does not extend into New England waters. The NEFMC has not adopted a similar rule. Melanie Griffin noted that given federal gear restrictions likely prevent the development of such a fishery throughout adjacent federal waters. Mike P. noted that the Stellwagen Bank Sanctuary would likely strongly object to the development of such a fishery off Cape Cod.

Sooky Sawyer recalled that an industrial fishery was attempted in the 1970s.

Regulatory Housekeeping

Jared Silva reviewed the two memos on regulatory housekeeping items. He summarized that DMF was proposing to: (1) consolidate blue crab and cancer crab regulations in a general "edible crab" section; (2) define edible crabs to not include non-native species thereby allowing the harvest and sale of non-native crabs without requiring a lobster permit be held; (3) clarify that a recreational lobster permit is only needed to take edible crabs by five or six sided trap; (4) adjust coastal lobster transfer rules regarding minimum trap allocations to better to conform with ongoing effort control plans; (5) clarify provisions regarding the waiving of the actively fished performance criteria for coastal lobster permit transfers; (6) require commercial fishermen sell only to a primary buyer; (7) clarify that the for-hire permit covers recreational fishing activity of paying customers onboard the named vessel and the private recreational fishing activity of the named permit holder; (8) streamline how the state implements landing controls

adopted by the ASMFC's Sea Herring Section from Management Area 1A; and (9) update the state's sea herring regulatory language to better conform to the FMP.

Review of Recent Law Enforcement Sub-Committee Meeting

Dan McKiernan provided a brief overview of the meeting. The meeting focused on striped bass and shellfish management, lobster gear marking, and permitting issues. The sub-committee's discussion is summarized in the memorandum provided to the MFAC.

Lt. Matt Bass added that most of the discussion focused on striped bass enforcement issues at the Cape Cod Canal. Matt explained that MEP receive consistent reports and complaints regarding illegal fishing activity along the Canal, including violations of possession limit and minimum size limits. He noted that lawful commercial fishing activity is often misconstrued as illegal recreational fishing activity, which further complicates enforcement. Accordingly, there were suggestions to make the Canal a recreational only area. This would ease enforcement because all fishermen would be subject to the same size limit and possession limit rules.

Chairman Kane asked if commercial fishing was already prohibited on the Canal by the Army Corps of Engineers (ACOE). Lt. Bass stated that ACOE prohibits commercial activity on their property, but does not have the capacity to enforce the rule and MEP does not have the authority to enforce ACOE regulations.

Dan McKiernan thought that the suggestion had potential merits. However, he expected it to be highly controversial and thought it needed more deliberate investigation. Additionally, he wanted to see how the 2020 striped bass season played out before giving it formal consideration. This would allow DMF to look at quota utilization; the impact of non-overlapping commercial and recreational size limits on enforcement and compliance; and to what extent commercial permits were obtained to retain fish for personal use. During 2020, DMF could also begin to informally engage stakeholders on the subject.

Kalil Boghdan felt strongly that consideration needed to be given to abutters whose property rights may be infringed upon by fishing activity along the Canal. Lt. Bass noted that MEP worked with the Bourne Police Department on this issue last year. However, it was a persistent problem when fishing conditions were strong and effort along the Canal was high.

Bob Glenn noted that the Canal bite is strong during certain predictable seasonal and oceanographic conditions. He indicated that he could have DMF provide MEP with a calendar of when to expect strong fishing conditions and high levels of fishing effort.

Tim Brady felt this discussion underscored the need for DMF to consider limiting entry into the commercial striped bass fishery and taking action to reduce latent effort.

Mike P. supported Dan's deliberate approach to addressing the issue. He was concerned that opportunities afforded to law abiding shore fishermen would be constrained in response to persistent illegal activity driven by the profit incentive provided by a high ex-vessel value.

Mike P. then asked DMF if they intended to do any angler outreach this season to enhance compliance, particularly given the potential rule changes. Armstrong stated that DMF intended to print and post signage along the Canal with the striped regulations and information regarding how to contact MEP.

Bill Doyle suggested potentially creating a way to visibly distinguish individuals who are commercially shore fishing activity from those who are recreationally shore fishing activity.

Dan stated that another issue addressed by the sub-committee was the use of so-called "go deep buoys" in the lobster fishery. MEP noted the increasing use of these buoys in the GOM, particularly off Cape Ann. MEP officers were concerned that these buoys were not compliant with DMF's gear marking and surface gear regulations.

Sooky Sawyer stated that these buoys were typically being used on the eastern end of trawls as the double buoy. Fishermen favored using this gear because of its low cost and resiliency and ability to bounce off hulls. Sooky acknowledged that these buoys likely did not conform to the letter of DMF's gear marking and surface gear regulations. However, he noted that there was little enforcement of these rules.

Dan stated these rules were developed to prevent gear conflicts and theft. If there were low levels of compliance them, and its not producing these conflicts, then it is likely appropriate to amend the regulation and not require the industry adhere to outdated provisions. Sooky and Lou Williams were responsive to working with DMF to draft regulatory amendments to better conform state rules to industry behavior.

Recent Joint ASMFC – MAFMC Meeting

Nichola Meserve reviewed the recent December 10 and 11 joint meeting of the ASMFC and MAFMC. The meeting primarily addressed the recreational management of black sea bass, scup, fluke and bluefish for 2020.

Nichola expected that NOAA Fisheries would approve the Council and Commission's decisions for status quo measures for recreational black sea bass, scup, and fluke in 2020. Initially, it appeared as though recreational harvest for scup would have to be reduced by at least 50% and black sea bass by about 20-30%. However, the ASMFC and MAFMC are making the argument for status quo limits. This argument was two-fold. First, the cuts were being driven by the incorporation of new MRIP data—the impacts of which the Council and Commission have had limited time to adjust to—and were expected to produce substantial adverse socio-economic impacts. Second, while recreational harvest limits will likely be exceeded in 2020 under status quo rules, the biological impacts would be buffered by the expected underutilization of the scup

commercial quota, black sea bass harvest still falling under the overfishing limit, and the biomass for both stocks being at least two times their target level.

Nichola noted that under this status quo decision, DMF would not be able to adjust its recreational black sea bass season and as a result the default start date for 2020 would be Monday, May 18. This would still provide recreational fishermen with two open weekends in May, which has been a management objective that DMF tries to accommodate. However, DMF is not able to open the season on Saturday, May 16, which will likely be an interest of the for-hire fleet.

For bluefish, the most recent operational stock assessment concluded the stock is overfished but not experiencing overfishing. Due to declining biomass, there will be an 18% cut in the recreational harvest limit and 64% in the commercial quota. This is not expected to impact the commercial fishery in Massachusetts, as our commercial quota is underutilized. However, it will necessitate a 28% reduction in recreational harvest because under status quo rules the recreational sector is projected to land 13.27 million pounds coastwide in 2020 and the 2020 RHL is only 9.48 million pounds.

To achieve this reduction, the MAFMC and ASMFC cut the recreational possession limit to 3 fish for private anglers and 5 fish for anglers aboard for-hire vessels (down from 15 fish, although MA and some other states have been at 10 fish). The lesser reduction to the for-hire limit took into consideration the mode's smaller contribution to total harvest and the business interests of operators. Nichola noted the FMP allows for states to develop conservation equivalent (CE) measures based on their state-specific MRIP data. She anticipated the 3-fish private angler bag limit would adversely impact the state's snapper blue fishery and there may be some interest in developing a CE proposal. However, she cautioned that it may create an untenable position down the road if current stock conditions persist.

Mike P. asked DMF's opinion on what drove the bluefish stock assessment conclusion. Nichola noted it could be an instance where the updated MRIP effort data was influencing stock assessment conclusions. She also noted that recent declines in recreational and commercial landings may be indicative of a reduction in stock size. Bob Glenn added that bluefish are migratory and pelagic and the spatial and temporal presence is influenced by water temperature and bait availability. Accordingly, they are a difficult species to index with a trawl survey resulting in an assessment with a larger amount of uncertainty. Mike P. then questioned if the survey included federal waters. Nichola confirmed that it did.

Mike P. expressed his general frustration with federal recreational fisheries management and how the for-hire fishery north of Cape Cod was being constrained by cuts to striped bass, cod and now bluefish. However, he was encouraged to see for-hire specific bag limits be adopted for bluefish and was hopeful this approach would be extended in the future to black sea bass.

Lou Williams discussed how sewage treatment may be impacting the presence of forage fish and predator species in Massachusetts Bay, as well as differences in water temperature between the inshore GOM and the offshore GOM.

Mike P. asked if local water temperature around Cape Cod Bay and Massachusetts Bay could be influenced by the power plant shutting down and no longer discharging water. Bob Glenn was skeptical that an outfall of that size would impact water temperature regionally. However, DMF has a temperature probe off Rocky Point and he see if there was a corresponding change in temperature over a time-series.

Massachusetts' Clean Energy Center Wind Related Fisheries Research Grants

Cate O'Keefe reviewed the Massachusetts' Clean Energy Center's (CEC) wind energy development related fisheries research grant program. The program is sponsored by CEC, Bureau of Ocean Energy Management and Rhode Island Department of Environmental Management and it's steering committee includes MA DMF, MA Office of Coastal Zone Management, RI Department of Environmental Management, NY Department of Environmental Conservation and NOAA Fisheries. This grant program seeks enhance baseline fisheries data within the designated wind energy development areas in Southern New England by providing \$1 million in funding for three critical areas of study: fisheries resources; seafloor habitat; and technical research.

The CEC has currently received grant applications for 19 proposed studies from government, non-governmental organizations, private industry, and academic institutions. Given the level of funding available, these tend to be smaller scale research projects. Larger scale projects, particularly those addressing migratory corridors, are being addressed by Responsible Offshore Development Alliance and Responsible Offshore Science Alliance. Projects were ranked at the CEC's December meeting and the steering committee is currently in the process of reviewing and selecting proposals. Cate expected awards will be announced in January 2020.

PRESENTATION

GOM Cod Stock Assessment and Update on State-Waters Groundfish Landings

Greg DeCelles provided the MFAC with a presentation that covered both the results of the recent GOM cod stock assessment, as well as an up-to-date summary of state-waters groundfish landings for the 2019 federal fishing year (May 1 – April 30).

The 2019 GOM cod stock assessment was an operational stock assessment; the next benchmark stock assessment not scheduled to be completed until 2023. This operational assessment included data from 1982 – 2019. The inputs used were recreational and commercial catch data and trawl survey data from NOAA Fisheries and DMF. Two assessment models are considered to evaluate stock status; one model assumes a steady rate of natural mortality, whereas the other assumes an increasing rate of natural mortality. Both models conclude that the stock is overfished and overfishing is occurring. Based on the projection results, there is less than a 1% chance

that the stock is rebuilt by its 2024 target even if fishing mortality was eliminated. This is expected to be a substantial management challenge moving forward.

With regards to catch data, Greg noted there were several take-away points. First, there has been a >90% reduction in the harvest of GOM cod since 2010. Second, there has been a truncation in the age structure of the catch in both recreational and commercial sectors, which is indicative of a stock that is facing high rates of mortality. Third, there was a large spike in fishing mortality around 2011, which corresponds with the implementation of the federal sector management system. Lastly, recreational discards represent an increasing proportion of overall fishing mortality, which may be the product of the recalibrated MRIP data demonstrating higher levels of fishing effort than previously estimated.

Greg then discussed the trawl survey inputs. Both the spring and fall federal survey and the state's spring survey have shown a consistent signal of stock decline. The state's spring trawl survey has shown low levels of GOM cod since 2012 and the 2019 NOAA Fisheries' spring survey had the lowest value of cod per tow (kg/tow) on record. The trawl surveys have also been seeing a truncation in age structure, similar to what is observed in the catch data. One potentially positive signal is that DMF's 2019 spring trawl survey observed large quantities of age-0 cod. Greg was interested if these fish would survive and be observed as one-year old cod in the 2020 surveys.

Despite management mandating cuts in harvest in recent years, biomass remains low. Greg stated that this was due at least in part to continued below average recruitment. This is likely driven by environmental factors, as well as fishing activity. The GOM is warming faster than most other oceanic bodies and this has resulted in a loss of thermally supportive habitat and forage. Population productivity may also be affected by changing metabolic rates, a reduction in spawning diversity, and reduced larval survival. As for fishing activity, the current broad scale management approach has overlooked the potential adverse impacts of aggregating commercial fishing activity and how this fishing activity may impact spawning. Due to both environmental and human based factors, the distribution of GOM cod has become spatially truncated and this may be causing a loss of spawning diversity and population resilience.

Lou Williams opined that sector management significantly impacted the health of the GOM cod stock. This management system eliminated necessary management inefficiencies and instead allowed large offshore draggers to come inshore and fish hard on near-shore aggregations of cod. These aggregations could not support this level of fishing effort. Moreover, much of this catch of GOM cod was likely misrepresented as coming from the western Georges Bank cod stock by those offshore draggers fishing around the demarcation line. In turn, this created a derby fishery type attitude and impacted how the day boat fleet that traditionally fished the inshore GOM conducted their fishing activities. Then this led to consolidation as stock conditions worsened and limits became tighter. Lou expressed strong frustration with sector management and was hopeful that moving forward managers recognized the importance of maintaining certain inefficiencies, as they may be critical to managing the resource and the fishery.

Mike Pierdinock asked if GOM cod are migrating south from Stellwagen Bank to Coxes Ledge. Greg stated that tagging data shows movement from Stellwagen Bank south to Nantucket Shoals, but little movement further west towards Coxes Ledge.

Mike P. then asked if DMF anticipated whether the ongoing stock structure working group would change how stocks are managed. Greg stated that the working group has found that the biological and genetic structure of the stock in relation to geography is much different than what is currently used in management. However, he was uncertain how this would be interpolated into management. Dan McKiernan anticipated that this would raise problems with management because of the relationship between stock units and sector catch allocations.

Based on this assessment a 724 mt (1,596,147 lbs) OFL was set for 2020 – 2022. After accounting for scientific uncertainty, the Acceptable Biological Catch (ABC) was set at 552 mt. This ABC is then allocated to various user groups (e.g., sectors, common pool, state-waters, recreational). The state-waters sub-component for 2020 – 2022 is expected to be about 48 mt (105,822 lbs).

In recent years, as the ACL has dropped, state-waters catch has become a more significant component of total removals. MA's state-waters fishery typically fully utilizes the state-waters sub-component available to the New England states. In fact, from 2015 – 2017, MA exceeded this sub-subcomponent. There are no accountability measures (AM) for overages of this sub-component. Instead, it is just accounted for through the federal sub-ACLs. As the federal sub-ACLs were becoming more fully utilized, there were concerns that state-waters catch would trigger AMs for the federal fishery. There has been a decrease in GOM cod landings in the state-water fishery from 2017 to 2019. In 2018, landings were below the sub-component, and for 2019 the state fishery had only landed 21 mt (46,297 lbs) of its 47 mt (103,617 lbs) sub-component.

Winter flounder are another species commonly taken in the commercial state-waters groundfish fishery. For 2019, the state-waters fishery landed 59 mt of its 67 mt sub-ACL for GOM winter flounder. The sub-component for GOM winter flounder is also expected to approximately double from 2019 to 2020. However, haddock were unusually abundant in state-waters in 2019 and the state-waters sub-component for haddock was exceeded. However, this should not be problematic, as the federal haddock sub-ACLs are severely underutilized.

Lou Williams felt that based on the data presented DMF should take action to rescind the April groundfish closure in MA Bay. Dan McKiernan stated that DMF would continue to monitor this data and he would provide a recommendation to the MFAC at their February meeting.

Mike P stated that the recreational sector was below its sub-ACL in 2018 and would likely be below the sub-ACL again for 2019. Accordingly, he advocated for access to GOM cod in 2020. Melanie Griffin stated that the NEFMC's Recreational Advisory Panel

and Groundfish Committee would meet in January 2020 to review MRIP data and begin to develop recommendations for 2020.

Mike P. then asked if MRIP data showed a spike in cod catch due to the late-September open season. Greg stated that the MRIP data for Wave 5 (September – October) was not yet apportioned between GOM and Georges Bank cod stocks, but indicated that approximately 40 mt were harvested in the North Atlantic during Wave 5. This indicated that there was likely not a large spike in catch due to the two-week September opening. Mike P. was not surprised by this, because the weather and sea conditions were poor during that period due to offshore storms.

Lastly, Mike P. asked if the MRIP data showed the recreational fishery was able to avoid cod while fishing for haddock. Greg stated that there was a change in the ratio of cod to haddock among the for-hire fleet, but this was less visible among private recreational anglers. Mike P. recalled Micah Dean's work on cod avoidance and was curious at DMF's ability to get this to rank and file recreational anglers. Greg stated that hard copies are currently available and will be broadly distributed to anglers this winter and spring. There is also a plan to launch a phone application for 2020.

OTHER BUSINESS

Story Reed stated that two meetings were held recently in Gloucester and Lynn regarding the laying of a transatlantic fiberoptic telecommunications cable. The company has selected a route through Massachusetts waters off Cape Ann to bring the cable onshore in Lynn. A survey is expected to be conducted this winter to meet state mandates. These meetings were held to discuss the survey route and timeline with lobstermen to avoid potential complications with fixed gear. A local lobsterman has been hired to mark off the survey route and serve as a liaison between the company and the fishing industry.

Lou Williams asked when DMF expected the cable would be laid. Story indicated that the first step was to conduct the survey. Once this was complete the company would apply for the permits. Once permitted, the company will want to lay the cable as quickly as possible, as it is already coming across the Atlantic from Europe and tying it into Massachusetts is expected to be the last piece. They initially anticipated doing the work in March, but this may not work given MA's permitting requirements.

Dan McKiernan noted that DMF is hopeful the industry liaison will be able to move gear from the survey path. However, it may be necessary to also authorize him to move gear if the owners do not.

COMMENTS

Chairman Kane was encouraged by the Commerce Department's recent decision to uphold ASMFC's determination finding VA's menhaden fishery non-compliant with the

FMP. The state will now be required to implement the Chesapeake Bay cap and Omega Protein will be forced to fish within that cap in the Bay.

Nichola Meserve stated that VA now has 18 months to implement the cap, or the Department of Commerce will implement a moratorium on harvest. She expected the VA will be able to accommodate this timeline, particularly as VA's marine resource agency supported implementing the cap. VA also introduced a bill to move the authority to manage menhaden from their General Assembly to their marine fisheries agency.

Dan McKiernan was also encouraged by this decision. He had concerns that a failure to find VA non-complaint would take the teeth out of ASMFC's authority.

Sooky Sawyer asked about the status of the Director's appointment. Commissioner Amidon stated that Dan McKiernan was appointed Acting Director. However, the formal appointment was still working its way through the administration. Ron was hopeful he would be able to make a recommendation to the MFAC at an early winter meeting.

Tim Brady noted that he would be unavailable during January and February as he would be at sea as faculty for MA Maritime Academy's Sea Term.

ADJOURNMENT

The Chairman requested a motion to adjourn. **Sooky Sawyer motioned to adjourn the December 19, 2019 MFAC business meeting. The motion was seconded Bill Doyle. The motion was approved unanimously and the meeting was adjourned.**

MEETING DOCUMENTS

- December 19, 2019 MFAC Business Meeting Agenda
- November 14, 2019 MFAC Business Meeting Draft Minutes
- Final Recommendation on Coastal Shark Regulations for 2020
- 2020 Winter I Scup Trip Limit Recommendation
- Proposal to Adjust Recreational Striped Bass Limits and Additional Conservation Measures
- Cover Memo Describing Proposed Commercial Fishery Amendments for 2020
- Proposed Adjustments to Commercial Striped Bass Limits
- Proposed Adjustments to Commercial Black Sea Bass Limits
- Proposed Adjustments to Period II Summer Flounder Trawl Fishery
- Commercial Menhaden Management Proposals for Public Hearing
- Sand Lance Trip Limit Proposal
- Regulatory Housekeeping Proposals
- Management of Sea Herring in Area 1A
- Summary of Law Enforcement Sub-Committee Meeting
- Joint ASMFC/MAFMC Meeting Summary
- CEC Pilot Regional Fisheries Studies
- New England Fishery Management Council Meeting Briefing Overview

FUTURE MEETINGS

9AM
February 20, 2019
DFW Field Headquarters
Westborough, MA

9AM
March 25, 2019
DFW Field Headquarters
Westborough, MA

9AM
April 16, 2019
DFW Field Headquarters
Westborough, MA

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

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