

## **MARINE FISHERIES ADVISORY COMMISSION**

**November 14, 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 Charles Quinn. Absent: Lou Williams.

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

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

*Massachusetts Environmental Police:* Lt. Matt Bass.

*Members of the Public:* Phil Coates and Beth Casoni.

## **INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane called the November 14, 2019 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

## **REVIEW AND APPROVAL OF NOVEMBER 14, 2019 BUSINESS MEETING AGENDA**

The Chairman asked if there were any modifications to the November 14, 2019 Marine Fisheries Advisory Commission (MFAC) business meeting agenda. Deputy Director Dan McKiernan indicated that under “Discussion Items” he would like to handle “Preview of Winter 2020 Rule Making Initiatives” prior to “Addressing Appropriate Devices to Remove Fish from the Water.” No objections were made to this proposed change.

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

## **REVIEW AND APPROVAL OF OCTOBER 17, 2019 DRAFT BUSINESS MEETING MINUTES**

Chairman Kane asked if there were any amendments to the October 17, 2019 MFAC draft business meeting minutes. No amendments were offered.

**Sooky Sawyer made a motion to approve draft minutes as provided. Bill Doyle seconded the motion. The motion was approved 6-0-1, with Mike Pierdinock abstaining.**

### **COMMISSIONER'S UPDATE ON DMF DIRECTOR APPOINTMENT**

Commissioner Ron Amidon stated he had assembled a panel to interview candidates for the Director's position. The interview panel included himself, Department of Fish and Game (DFG) staff, and Commission members Ray Kane and Bill Doyle and interviews were held in late October. While the Commissioner initially expected to make his appointment recommendation at this meeting, it will have to be delayed until a future meeting for administrative reasons. He may convene a special MFAC before the next scheduled MFAC meeting on December 19 to address the Director's appointment. In the interim, Deputy Director Dan McKiernan would serve as Acting Director. Brief discussion followed regarding scheduling and the potential for remote participation.

### **PUBLIC COMMENT**

Beth Casoni spoke about a December 12 meeting regarding the development of offshore wind energy in the Gulf of Maine. The Massachusetts Lobsterman's Association had reached out to members of the state legislature regarding House Bill 833, which raised concerns about waterfront access.

### **CHAIRMAN'S COMMENTS**

The Chairman did not provide any comments.

### **COMMISSIONER'S COMMENTS**

Commissioner Amidon discussed the Mass FISH/HUNT application. This application is used by Division of Marine Fisheries (DMF) and the Division of Fish and Wildlife (DFW) to issue hunting and fishing permits. This application is serviced through a 3<sup>rd</sup> party vendor, Active Outdoors. The state's contract with Active Outdoors was expiring and DFG was in the process of finding a new vendor. Prospective vendors met with staff on October 28. Ron was impressed with the advancements in the application services, particularly with regards to data collection and accessibility.

The fisheries working group that convenes to discuss wind energy development meets on November 22 at DMF's New Bedford office to discuss mitigation to the fishing industry. Secretary Theohardies, of the Executive Office of Energy and Environment (EEA), is expected to attend.

### **DIRECTOR'S COMMENTS**

Acting Director McKiernan did not provide any comments.

### **LAW ENFORCEMENT COMMENTS**

Lt. Bass began his comments by discussing recent marine fishery incidents. He focused on an egregious whelk minimum size violation whereby a fisherman was found in possession of several thousand undersized whelks. The case was presently moving its way through the courts and Lt. Bass expected a request adjudicatory hearing would be forthcoming.

Regarding personnel, the nine recent new hires were assigned their districts. Eight of these officers ended up in the Coastal Bureau. Half of these officers had entered the field while the other half were finishing their field training. Additionally, three new officers were scheduled to enter the academy this winter.

Sooky Sawyer asked how many officers were being assigned to the North Shore. Lt. Bass stated that three new officers were assigned to the district. Of these three officers two were already in the field and one was finishing training.

Lt. Bass thanked DMF for scheduling a December 16 MFAC Law Enforcement Sub-Committee meeting.

Commissioner Amidon noted that MEP were conducting their waterfowl training at the DFW Westborough Field Headquarters. Ron then discussed House Bill 3926, which seeks to setback the unlawful firearm discharge zone for waterfowl hunting from 500 feet to 1500 yards along Revere and Point of Pines Beach. Ron expressed concerns about this bill and the impacts it would have on hunters and guiding businesses.

Mike Pierdinock asked about the status of the bill. Ron stated it was in committee. Kalil Boghdan asked who filed the bill. Ron stated that Roselee Vincent presented the bill and is the district's state representative. The district's state senator is Brendan Creighton.

### **ACTION ITEM**

#### Approval of Letter Regarding Enhanced Enforcement

Chairman Kane welcomed discussion on the letter. He thought it addressed the concerns stated at the prior meeting and clearly articulated the need to increase MEP's full-time employee cap and annual budget to restore their ranks to about 150 officers. This would be comparable to the ranks in the 1990s and sufficient to meet current enforcement needs.

**Tim Brady made a motion to approve draft minutes as provided. Charlie Quinn seconded the motion. The motion was approved unanimously.**

Lt. Bass stated the Massachusetts Environmental Police (MEP) were grateful for the support received by the MFAC. Commissioner Amidon stated he would share the letter with DFW's Fish and Wildlife Board. Ron also suggested that fishermen and fishery organizations reach out to the administration and express their support for the letter.

## **DISCUSSION ITEMS**

Review of October Atlantic States Marine Fisheries Commission (ASMFC) Meeting  
Acting Director McKiernan applauded DMF's Eelgrass Program. The program was presented with an award from the ASMFC recognizing their work in eelgrass restoration. He then went on to summarize relevant management board meetings.

### *Spiny Dogfish*

The Spiny Dogfish Board unanimously approved Addendum VI to the Spiny Dogfish Fishery Management Plan (FMP). This addendum will allow quota to be transferred among all regions to enhance the utilization of the overall coastwide quota. Dan noted this will benefit the New Bedford based processors who are responsible for the processing all of the US's spiny dogfish.

### *Menhaden*

Nichola Meserve covered the Menhaden Board meeting. The Commission unanimously voted to find the Commonwealth of Virginia out of compliance with the FMP. This was due to the state's failure to implement and enforce the Chesapeake Bay reduction fishery harvest cap; the mandatory cap was exceeded in September 2019. Nichola stated it was notable that the vote was unanimous because the Virginia delegation voted for non-compliance.

Dan McKiernan explained that under Virginia state law the management of menhaden falls under the purview of the legislature, not the Virginia Marine Resources Commission (VMRC). The state's legislature was unwilling to pass the cap, despite support from the Governor and the VMRC. Nichola noted that both chambers of the Virginia legislature had recently swung Democrat, which could improve the chances of getting the cap implemented or moving the management authority for menhaden to the VMRC.

Ray Kane asked Nichola to explain the ASMFC's non-compliance process. Nichola stated a non-compliance referral would be sent from the ASMFC to the US Secretary of Commerce (Commerce) within 10 days of the non-compliance vote. Commerce then has 30 days to determine if: (1) the state failed to implement mandatory rules; and (2) if said rules are necessary for the conservation of the resource. If Commerce concurs and issues a non-compliance determination, then the state may have up to six months to come into compliance or face a complete harvest and possession moratorium on menhaden in Virginia.

The ASMFC's referral focuses on how menhaden are a critical forage species and the cap is an appropriate precautionary approach to managing menhaden in the Chesapeake Bay to prevent localized depletion until ecosystem based reference points are adopted. This is noteworthy because it provides biological justification for the cap and Omega Protein has argued the cap is arbitrary and not scientifically justified given the status of the stock.

Chairman Kane stated the ASMFC had until November 15 to submit the referral to Commerce and submission would start the 30-day timeline for Commerce to respond. During the 30-day period, the federal government would allow for public comment. He stated that DMF, the MFAC and the state's ASMFC delegation should submit a joint letter in support of the non-compliance finding. Acting Director McKiernan suggested Commissioner Amidon raise it to the Secretariat and determine if a comment letter from Secretary Theoharides or Governor Baker would be more appropriate.

Mike Pierdinock asked if the ASMFC's non-compliance finding was focused solely on 2019. Nichola stated that it was. The reason for this was that 2019 was the first year when the state's commercial harvest in the Bay exceeded the cap. While the state did not have a compliant rule on the books in 2018, the reduction industry took more of its quota outside the Bay and did not exceed the cap.

Mike P. then asked about the punishment for non-compliance. Nichola stated that if Commerce issues a non-compliance determination and Virginia does not implement conforming rules within the time limit determined by Commerce the state would be subject to a federally imposed moratorium on all harvest (recreational and commercial) throughout all state-waters (coastal and the Bay). Mike P. asked if fines could be levied. Nichola stated there is no mechanism for fining non-compliant states.

Mike P. then asked if NGOs were likely to sue Virginia or Omega Protein. Nichola was unaware of any law suits at this time. She expected that NGOs would wait for the process to play out at Commerce before seeking potential legal recourse. Nichola noted that Virginia could move to implement the cap, even if Commerce does not concur, given political changes.

Dan and Nichola then discussed past non-compliance findings. Nichola stated that the ASMFC has rendered approximately 20 non-compliance findings. Commerce had concurred with all but one and all states found non-compliant by Commerce had come into compliance before a moratorium was enacted.

Ray Kane applauded Nichola for her work as Chair for the Menhaden Board.

### *River Herring*

Dr. Mike Armstrong reported on two issues relevant to the management of river herring.

First, the FMP mandates that for a state to allow the harvest of river herring from any river system then the state must monitor the river system. However, a recent River Herring Technical Committee report demonstrated some states were allowing harvest from unmonitored rivers. The Board approved a measure requiring these states develop a written plan within six months documenting how monitoring will occur or else implement harvest moratorium. Mike Armstrong added that monitoring was a challenge for some states, particularly in the south, because their rivers are much wider making it more difficult to monitor fish passage.

Second, the Board approved a proposal by the Maine delegation to open three additional rivers to harvest under Maine's Sustainable Management Plan. Mike noted that while information regarding herring passage on these rivers was data poor, the proposal was approved because Maine was working to restore the rivers and the state made the argument that allowing harvest – with oversight by local officials - would encourage stewardship. Mike Armstrong found this argument compelling given his experience in Massachusetts. He noted stewardship has become an issue since the state-wide moratorium was enacted in the early 2000s. Mike P. agreed that harvest would encourage stewardship and advocated for more runs to open in Massachusetts.

Armstrong pivoted and stated the Town of Pembroke was petitioning DMF to allow the harvest of river herring from its run. The run had grown in recent years from about 30,000 fish to 600,000 fish in 2019. He was generally supportive of the idea the proposal, but felt a few additional years of data may be needed. He added that DMF worked with the town to improve fish passage. Former MFAC Chair Mark Amorello - a Pembroke resident - is the town's Herring Superintendent and was instrumental in the project.

Ray Kane noted that the Harwich run passed over 1 million fish in 2019. Kalil Boghdan followed up and asked if there was a reason why we were seeing such high fish passage numbers this year. Mike A. stated that a lot of work had been done to improve fish passage and habitat. Additionally, the 2015 year class was very strong in Massachusetts. As these fish typically run back up river as 4-year olds, these passage numbers are influenced by this large year class.

Kalil then asked if anyone was studying if there was a correlation between strong river herring year class strength and year class strength of other species. Armstrong was unaware of any such study. River herring year class strength was linked to survival in the first year, which is influenced by autumnal water flow. Accordingly, there may be an environmental links influencing year class strength of other anadromous species.

Mike Pierdinock recalled that the Middleborough and Lakeville Herring Commission petitioned DMF to open the Nemasket River herring run to harvest. He was uncertain as to the status of the request. Armstrong stated DMF brought their plan to the ASMFC and it was approved. However, the towns ultimately decided to maintain the moratorium because of concerns about enforcement and administration given they would be the only run open in the state. Dan McKiernan noted the 2018 fines and penalties legislation substantially enhanced the fine for poaching river herring. Jared Silva stated confirmed this and stated the non-criminal fine was elevated to \$400 with a \$10 additional fine for each non-conforming fish.

Sooky Sawyer asked if anyone was tracking the predation of river herring by cormorants. Mike A. stated such studies were not being conducted. However, ladders back fish up making them more vulnerable to bird predation.

### *Striped Bass*

Dr. Armstrong provided a summary of Addendum VI, which was passed by the Striped Bass Board at the October meeting. The addendum seeks to end overfishing beginning in 2020 by reducing harvest mortality by 18% in both the commercial and recreational fisheries. This results in an 18% cut to the coastwide commercial quota. As a result, Massachusetts' quota will be reduced from about 869,000 pounds to 713,000 pounds. On the recreational side, to achieve the 18% cut, a one fish bag limit and a slot limit of 28" to 35" was adopted for coastal states, and a one fish bag limit and 18" minimum size was adopted for the Chesapeake Bay. States may use state-specific MRIP data to develop conservation equivalent (CE) measures in lieu of adopting the overarching regional recreational measures. Additionally, to address discard mortality, the ASMFC mandated the coastwide use of circle hooks by recreational fishermen fishing with natural baits beginning in 2021. Mike A. stated there was some gray area regarding exemptions that needed to be further fleshed out.

Armstrong anticipated Maryland and New Jersey may pursue CEs. He expected Maryland's CE proposal would attempt to justify increasing the bag limit to two fish based on actions taken to reduce dead discards. However, it is difficult to quantify the effect of handling and terminal tackle measures on discard mortality. Accordingly, he expected their arguments would be nebulous and questioned whether their CE proposal would be approved by the Board. A number of the larger angler groups have lobbied the Maryland Governor and legislature to not move forward with a CE. Commissioner added that he had first-hand information that the Maryland marine fisheries agency did not support moving a CE forward.

With regards to New Jersey, Armstrong explained the state may be disproportionately affected by the slot limit. While the aggregate estimated coastwide reduction in harvest mortality attributable to the approved slot limit is about 18%, New Jersey's expected reduction in harvest mortality is closer to 40%. Accordingly, their CE proposal may aim to reduce their harvest mortality closer to the overall 18% target. If they do so, much of the conservation gained coastwide by the slot limit will be lost and it is unlikely coast will meet the 18% target.

Dan McKiernan asked about the process for CE proposals. Armstrong stated they are to be submitted to the Board by December 1. Then the Technical Committee will review them and provide an analysis to the Board in mid-to-late December. The last step is a Board vote in February.

Dan expressed his support for the coastwide adoption of the minimum size. Additionally, he felt it was necessary for the New England states to have the same limits given jurisdictional boundaries and that fishermen often fish in different states. Armstrong felt certain that at least Maine through Connecticut would adopt the slot limit and added that a new study - currently under peer review - shows that among a variety of recreational fishing options the most beneficial to maintain spawning stock biomass and accommodate fishing activity was a 28" to 35" slot limit. This study was not made public

before the Board meeting, but it supported where the ASMFC ended up and may encourage states to not pursue CEs.

Dan then stated New York, New Jersey, and Connecticut all polled their permit holders regarding the recreational management options in the addendum. The responses overwhelmingly favored the slot limit. This was contrary to the comment received at public hearing and in the ASMFC's written public comment. Dan suggested this could be evidence of diverging opinions between rank and file anglers who responded to the poll and die-hard anglers and club members who responded directly to the ASMFC. Kalil agreed with Dan's assertion and noted the Board was presented with a slide demonstrating the public comment received by ASMFC was dominated by form letters from clubs and organizations.

Sooky Sawyer asked how the addendum impacts the state's commercial fishery. Mike stated that the addendum cuts the commercial quota by 18%. Any changes to how the fishery is managed would be discretionary. Given the new slot limit and recent fishery performance, DMF intended to meet with industry members to discuss how to manage the commercial fishery in 2020 and beyond.

Mike P. and Ray Kane thanked DMF staff for their leadership on the striped bass addendum.

#### Preview of Early 2020 Rule Making

Dan McKiernan and Jared Silva reviewed the memorandum provided to the MFAC. Jared stated that DMF would be hosting a series of industry meetings on December 4 at the Hanover Public Library. The meetings would run from about 2PM to 8PM.

The first meeting was a public scoping meeting to take comment on potential management changes to the Period II (April 23 - December 31) summer flounder fishery in 2020. Specifically, DMF was seeking comment on: (1) whether the multi-day limit pilot program should be revisited, and if so when should it begin; (2) should an extra open fishing day be added or an increase to the trip limit occur at a date certain in the early fall if a set percentage of the quota remains unused; and (3) should the trawler trip limit for horseshoe crabs taken under a Letter of Authorization be limited.

Dan McKiernan stated that just under 70% of this elevated 2019 summer flounder quota was landed. The Period I (January 1 - April 22) fishery is allocated 30% of the quota, but only landed 3% of the quota in 2019. This was because DMF was unable to timely respond to the late breaking quota increase and liberalize Period I limits to provide the fleet with greater access to available quota. However, for 2020, DMF increased the Period I trip limit from 500 to 1,000 pounds and is establishing a pilot program to accommodate the possession of trip limits for multiple states. This should improve the fishery's performance. If the Period I fishery is able to take more of its allocated quota, then substantial tweaks to the Period II limits are likely unnecessary to facilitate taking the quota.



The second meeting is an ad hoc advisory panel meeting on the commercial black sea bass fishery. For 2020, Massachusetts' black sea bass quota is being increased by nearly 20%. If the fishery performs similarly in 2020 as it did in 2019, the quota would likely be underutilized unless adjustments are made to increase access to the quota. Accordingly, DMF wanted to discuss changing trip limits, fishing days and seasons. Additionally, there was some interest from rod and reel fishermen in not having striped bass and black sea bass open fishing days overlap.

The last meeting is an ad hoc advisory panel meeting on the commercial striped bass fishery. Jared stated that the striped bass quota was underutilized in 2018 and 2019. This may be in part the result of the very constraining regulations put in place in 2014 to extend the season and reduce market gluts. Accordingly, DMF wanted to consider changes to the commercial fishing season and open fishing days and trip limits. Additionally, pending changes to the recreational minimum size may result in interest in similarly changing the commercial minimum size.

Mike Armstrong added that the anticipated commercial striped bass quota for 2020 is 713,000 pounds. The ASMFC based the quota on states adopting a 28" minimum size. However, Massachusetts maintained a larger 34" minimum size. Accordingly, if the state were to adopt a slot limit for the commercial fishery, further cutting the quota to account for taking smaller fish could be considered based on ASMFC's Technical Committee (TC) and Board reviews. Armstrong noted that if Massachusetts reduced its minimum size and the Board insisted on adjusting the commercial quota to compensate for taking more fish (by number), then the resulting revised quota could be about 600,000 pounds (depending on TC review).

Ray Kane stated if Massachusetts were to adopt a slot limit then a weight based trip limit should be considered. For instance, if the average commercial striped bass has weighed about 20 pounds and the trip limit is 15 fish, then the weight based limit would be 300 pounds. Ray was concerned that the fishery would be less profitable at a fifteen fish trip limit if smaller fish were being landed. Dan McKiernan noted this was the type of feedback DMF was hoping to receive during the industry meetings.

Jared Silva stated DMF invited commercial fishermen, dealers, and MFAC members Ray Kane, Bill Doyle and Mike Pierdinock to the ad hoc advisory panel meetings. The advice provided by the ad hoc panels and at the industry meeting on summer flounder would help DMF draft regulatory proposals. DMF would bring these proposals to the MFAC at their December business meeting. Based on this timeline, DMF could hold public hearings in late-February, bring final recommendations to the MFAC for their March business meeting and promulgate final regulations by May 1.

Nichola Meserve discussed DMF's commercial menhaden management program. She explained that DMF adopted its current commercial menhaden management system when the quota was first adopted. A precautionary management approach was implemented to allow the fishery to continue throughout the year and to prevent against quota overages. At this time, there is interest from the industry to: (1) adjust the trip limit

triggers to allow the fishery to take 100% of the quota allowing Massachusetts to potentially access episodic event quota; and (2) adjust the bycatch limit to have it apply as a small-scale fishery limit, as allowed under the FMP. Industry members have also expressed concerns about latent effort, so DMF is investigating a control date and an owner-operator rule.

Sooky Sawyer asked about the timing of state-to-state quota transfers. Nichola stated DMF obtained quota transfers after certain trip limit triggers were hit in 2019. However, DMF could be more proactive next year and obtain the quota transfer before the trigger is reached and trip limit reduced. Sooky then asked how much of the transferred quota was caught. Nichola stated DMF received 750,000 pounds of quota transfers, but did not take all of it. Dan asked if our underage could be transferred. Nichola stated that it could, but a transfer request has not been made.

Ray Kane and Nichola then discussed the incidental catch limit. Nichola explained that the FMP allows a state to keep its fishery open at an incidental level of 6,000 pounds per trip after 100% of the quota is taken. Fish taken under this incidental limit are not counted against the quota, but are reported and factor into the stock assessment. Massachusetts' rules do not accommodate this 6,000 pound incidental limit. Instead, DMF establishes a strict bycatch limit of 1,000 pounds not to exceed 5% of overall catch. Ray stated Massachusetts should adjust its rules to adopt the incidental limit, particularly as Maine afforded its fishermen similar opportunities. Sooky agreed but stated had been little interest from the fleet to fish under the 6,000 pound limit.

The Chairman accepted comment from the public. Beth Casoni asked if the ASFMC could deny requests for episodic event quota. Nichola stated that there are guidelines governing how episodic event quota may be obtained and the ASFMC has not yet denied a request.

Cate O'Keefe and Jared Silva described potential changes to the sea herring rules for Management Area 1A. Cate stated the low quotas made the management of sea herring complicated and cumbersome. For instance, states are required to have their permit holders declare into the fishery, then based on permit type, permit conditions are issued to manage the open fishing days, landing days and landing limits approved by the ASFMC. These limits are then adjusted based on quota availability during two-month quota management periods requiring permit conditions to be reissued. Jared Silva noted this had become administratively burdensome and DMF was seeking to draft regulations to streamline management.

Cate noted that for 2020, ASFMC was moving away from the two-month quota management period approach and back to a trimester approach. This may result in fewer in-season adjustments. Additionally, the ASFMC's Sea Herring Board has initiated an addendum to consider other management tools.

Sooky Sawyer asked if the 2019 Area 1A quota had been caught. Cate stated the quota had not yet been landed. The fishery was in its last two-month quota period. She

expected the quota would be quickly utilized once the Maine spawning closure area opened.

Dan McKiernan discussed sand lance management. He noted that given bait shortages and other economic factors there were concerns about the development of a large scale industrial fishery for sand lance and its potential impact on forage. Accordingly, DMF was considering proposing a 200 pound commercial limit. This would accommodate current small-scale commercial fishing activity while constraining the development of an industrial fleet.

Lastly, Jared Silva noted DMF intended to pursue a number of housekeeping measures this winter to close regulatory loopholes. He expected additional similar items would be brought up at the upcoming MFAC Law Enforcement Sub-Committee meeting.

#### Devices to Remove Fish from the Water

Chairman Kane stated this was a follow-up on last month's discussion and DMF had provided a brief memorandum on the subject.

Jared Silva reviewed the existing regulatory prohibition on gaffing striped bass smaller than the recreational or commercial minimum sizes. This rule had to be changed in 2020 to address the recreational slot limit and potential changes to the commercial minimum size. Accordingly, the door was open to consider a new regulatory approach.

Bill Doyle stated he did not support banning fishermen from having gaffs on the vessels. He recognized their importance as a safety tool. However, he did not support their continued use to remove fish from the water. Rather than focusing on gaffs, however, Bill suggested mandating the use of non-lethal devices (e.g., dipnets) to remove striped bass from the water.

Chairman Kane supported this suggestion and expressed his concerns regarding striped bass discard mortality. He noted Maine already mandates the use of dipnets in their recreational striped bass and bluefish fisheries. He was also informed by the Commissioner of Maine's DMR that the state intended to pursue a coastwide requirement for certain recreational fisheries through the ASMFC.

Mike P. objected to having a state-wide mandate to use dipnets in all recreational fisheries. He noted there are recreational fisheries for halibut, cod, and tuna. These are large fish that can be too big to remove from the water with a dip net. Instead, gaffs are used and the fish are almost always retained. Tim Brady agreed. Ray Kane noted Bill Doyle's proposed rule would only apply to striped bass. Mike P. recognized that and stated he was speaking to the potential coastwide ASMFC mandate.

Mike P. then discussed different fishing behaviors in different areas and how a de facto ban on gaffing striped bass may impact fishing activity. He pointed to the Cape Cod Canal as one example. Ray Kane accepted public comment from Phil Coates. Phil stated that he does not see often see fishermen using gaffs in the Canal; it is more

common for fish to be brought up onto the rocks to remove the hook before release. Phil encouraged DMF to propose a rule that would accommodate other non-lethal tools like boga grips.

Mike P. also expressed concerns the proposed rule was arbitrary. It would restrict a single fish handling practice (gaffing) without data to demonstrate how the activity contributes to discard mortality and how banning the activity will reduce it.

Dan McKiernan stated that because the current gaffing rule needs to be amended this winter, DMF would draft a proposal to potentially mandate recreational fishermen to use of non-lethal tools to remove striped bass from the water. Bill Doyle asked if this would be prepared for the December meeting. Jared stated it had to be in order to get out on the February public hearing docket.

#### Upcoming MFAC Meeting Dates

Jared Silva informed the MFAC of the tentative meetings dates for the first half of 2020. These dates are January 23, February 20, March 19, April 23, May 21 and June 18. All meetings are scheduled to be held in Westborough. If there were no substantial objections, he would publish these dates following the meeting. No objections were made.

### **COMMISSION MEMBER COMMENTS**

Mike P. asked DMF if they could provide a review of the recent New England Fishery Management Council's (NEFMC) Recreational Advisory Panel (RAP) meeting. Melanie Griffin provided a brief overview. The discussion focused on Framework 59 to the New England Multi-Species Groundfish FMP. The NEFMC is scheduled to finalize the framework at their December 2019 meeting and the percent splits of the annual catch limit (ACL) allocated to the commercial and recreational fisheries for Gulf of Maine (GOM) cod and haddock and Georges Bank (GB) cod may be adjusted based on the updated MRIP data.

For GOM cod, it was likely the recreational sector's ACL allocation would increase from 34% to 38% and for GOM haddock it would increase from 28% to 34%. The scenario for GB cod was more complicated. The Groundfish Committee (CTE) did not support adjusting the recreational sector's ACL allocation for 2020 due to concerns regarding the precision of MRIP data in the offshore fishery and providing the recreational sector with an excessive allocation that would go unharvested. Accordingly, the CTE recommended the recreational sub-ACL be set at 132 mt. The RAP recommended updating the recreational sub-ACL and setting the sub-ACL at about 288 mt. While MRIP data indicated the sub-ACL could be as high as 400+ mt, that was deemed to be excessive and the proposed ACL was consistent with the declining acceptable biological catch (ABC).

Tim, Mike P., and Ray asked if Melanie could anticipate the recreational GOM cod limits for 2020. Melanie could not because the annual ACL had not been set by NOAA

Fisheries and the MRIP data for GOM cod and haddock was not final and could not yet be plugged into the bio-economic model to develop regulations. She noted that while the sub-ACL for the recreational fishery was likely to increase as a percent share of overall ACL, the overall ACL was expected to be cut in response to the most recent stock assessment.

Bill and Tim were both grateful for the opportunity to retain cod this year and both noted that their effort was curtailed by sea conditions and weather. Bill noted he could only get out on three of the 15 open days. Tim stated he got out on only four days but got keeper sized cod on each trip.

Mike P. asked if Melanie would continue to serve as the Director's proxy at the NEFMC. Dan McKiernan stated that would be at the discretion of the next Director.

Bill Doyle restated his interest in exploring changes to DMF's limited entry permitting schemes to facilitate the involvement of younger fishermen. He noted Director Pierce told him that the average age for a permit holder was over 60. Chairman Kane asked how best to move this forward.

Dan McKiernan cautioned there was an important difference between average permit holder age and the average age of active fishermen. He noted that DMF sees active permits being transferred from older retiring fishermen to younger fishermen. This indicates the system works and allows for some influx of younger fishermen into the industry. Additionally, the average permit holder age may be elevated because older fishermen continue to renew their permits despite not fishing them and these permits will eventually be retired achieving the desired attrition in overall permit holder numbers. However, Dan was sensitive to Bill's overarching concern regarding providing opportunities for young fishermen to become commercial fishermen. He added that there were a number of opportunities for this to occur, including potentially accommodating the transfer of rod-and-reel black sea bass and fluke permits, which are currently non-transferable. Jared Silva and Dan McKiernan suggested bringing this up to the next Director and developing a sub-committee on permitting to tease out certain viable ideas.

Many of the older fishermen may renew their permits but they are not active and cannot transfer them. This is part of the system designed to achieve attrition. Bill also stated that with the changing demographics in the US there was a new domestic market for more diverse seafood products. This presented an opportunity for the seafood and fishing industries.

Charlie Quinn stated he was involved with a marine trades initiative sponsored by the Baker Administration. He noted that there was a shortage of tradesmen in the marine industry. Accordingly, he was working with New Bedford Vocational High School to help train young tradesmen to be fishermen, mechanics, and boat operators. Mike P. noted the lack of experienced marine tradesmen was an issue facing many marinas along the coast.

Kalil Boghdan asked if DMF would be amendable to having its staff present to the MFAC more on various scientific projects the agency is engaged on. Dan indicated this would be possible.

### **ADJOURNMENT**

The Chairman requested a motion to adjourn. **Kalil Boghdan motioned to adjourn the November 14, 2019 MFAC business meeting. The motion was seconded Tim Brady. The motion was approved unanimously and the meeting was adjourned.**

### **MEETING DOCUMENTS**

- November 14, 2019 MFAC Business Meeting Agenda
- October 17, 2019 MFAC Business Meeting Draft Minutes
- Letter from MFAC Regarding Increasing the Ranks of the Massachusetts Environmental Police
- October 2019 ASMFC Meeting Summary
- Preview of Early 2020 Rule Making
- Addressing Appropriate Devices to Remove Fish from the Water

### **FUTURE MEETINGS**

**December 19, 2019  
DFW Field Headquarters  
Westborough, MA**

**9AM  
January 23, 2019  
DFW Field Headquarters  
Westborough, MA**

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

**9AM  
March 26, 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**