

MARINE FISHERIES ADVISORY COMMISSION

October 17, 2019

DFW Headquarters

Westborough, MA

In attendance:

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

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

Department of Fish and Game: Ron Amidon, Commissioner.

Massachusetts Environmental Police: Major Pat Moran and Captain Kevin Clayton.

Members of the Public: Susanne Altenberger

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Kane called the October 17, 2019 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

REVIEW AND APPROVAL OF OCTOBER 17, 2019 BUSINESS MEETING AGENDA

Chairman Ray Kane indicated that there were no proposed adjustments to the October 17, 2019 Marine Fisheries Advisory Commission (MFAC) business meeting agenda and moved for a motion. **Sooky Sawyer made a motion to approve the draft agenda as provided. The motion was seconded by Bill Doyle. The motion was approved unanimously.**

REVIEW AND APPROVAL OF SEPTEMBER 19, 2019 DRAFT BUSINESS MEETING MINUTES

Chairman Kane asked if there were any amendments to the September 19, 2019 MFAC draft business meeting minutes. No amendments were offered. The Chairman moved for a motion. **Bill Doyle made a motion to approve draft minutes as provided. Charles Quinn seconded the motion. The motion was approved unanimously.**

PUBLIC COMMENT

Susanne Altenberger addressed the MFAC regarding the inefficiency of New England’s fishing fleet and the regulatory schemes that lock fishermen into aging carbon intensive

vessels. She distributed a document that highlighted these concerns and her efforts to address it.

Chairman Kane indicated that Director Pierce is set retire on November 1, 2019. Accordingly, he would not be able to review and respond to her document. However, the Chairman would ask the next Director - once appointed - to review it and respond in coordination with the MFAC.

CHAIRMAN'S COMMENTS

Chairman Kane noted that this would be Director Pierce's final MFAC business meeting as Director. He congratulated him and wished him well in retirement. Ray then thanked the MFAC members for their attendance despite the inclement weather.

COMMISSIONER'S COMMENTS

Commissioner Ron Amidon began his comments by discussing the continued evolution of DMF's partnership with the Nature Conservancy to enhance funding for the state's diadromous fish restoration projects. The Commissioner was very pleased with this private-public partnership and thanked Dr. Mike Armstrong for his work.

The Commissioner then reviewed DMF's recent Seafood Marketing Steering Committee meeting. He was enthusiastic about the discussion regarding how to better promote local catch and the interest in working with chefs and restaurants to use a wider array of local seafood. Following the meeting, the State House held its annual Seafood Day, which provides the legislature with an opportunity to engage the seafood industry.

Ron congratulated Director Pierce on his retirement. Ron stated that he was currently reviewing applicants to be the next Director. He had convened an interview panel, which included Chairman Kane and Bill Doyle. Interviews would be held on October 25. Ron expected to provide the MFAC with his recommendation for the next Director in November.

Lastly, Commissioner Amidon discussed the Mass FISH/HUNT application. Mass FISH/HUNT is the application used by DMF and DFW to issue hunting and fishing permits. This application is serviced through a 3rd party vendor, Active Outdoors. The state's contract with Active Outdoors was expiring and DFG was soliciting new vendors.

DIRECTOR'S COMMENTS

Regarding his retirement, Director Pierce noted he had likely attended more than 400 MFAC business meetings, including 40 as Director throughout his career. He enjoyed his work with the MFAC and expressed his gratitude for their active engagement on fisheries issues and their ability to keep DMF focused on critical tasks. The Director then noted his great respect for his staff.

The Director then discussed the recent anoxic zone and fish kill in southwest Cape Cod Bay. A detailed memorandum was provided to the MFAC on the subject. He thanked DMF staff members, particularly Bob Glenn and Tracy Pugh, for their work to describe the issue. David stated it was reasonable to expect this will occur again with warming water temperatures and DMF would monitor environmental conditions accordingly.

David attended Seafood Day at the State House and strongly supported the event. He stated that the MA Fisherman's Partnership honored him at the event for his career's work in fishery management.

An updated stock assessment for Gulf of Maine cod was just released. Staff was currently involved in a thorough review. However, the findings were not positive. The stock remains overfished with overfishing occurring, it is at 10% of its biomass target, and it is unlikely to meet the 10-year federal deadline for rebuilding. He expected this will substantially impact the management of the multi-species groundfish fishery in state and federal waters. Chairman Kane asked DMF to provide an overview of the stock assessment at an upcoming business meeting.

Lastly, DMF would be dedicating a boat ramp in Wareham on Friday, October 18. If MFAC members were interested in the event, he requested they reach out to Ross Kessler, DMF's public access coordinator.

LAW ENFORCEMENT COMMENTS

Major Pat Moran congratulated Director Pierce on his retirement and thanked him for his long-standing support for the Massachusetts Environmental Police (MEP). The Major added that he had long admired David's willingness and ability to work with a multitude of stakeholders.

Captain Kevin Clayton reminded the MFAC of a 2018 incident involving Jeffery Britt, a Cape Cod conch pot fisherman. In August 2018, Mr. Britt was issued a citation for the possession of more than 1,000 undersized whelks during a routine inspection. Then several weeks later he was again cited for possession of undersized whelks, this time more than 100 undersized whelks were observed. MEP worked with DMF to facilitate an adjudicatory hearing and Director Pierce recently revoked the permit. After the revocation was issued, MEP found Mr. Britt engaging in commercial conch pot fishing activity. Mr. Britt claimed he did not receive the Director's decision and was unaware that his permit was revoked. At this time, he also did not have his commercial permit in possession and was cited for failure to display. MEP is working to have Mr. Britt turn over his commercial fishing permit and transaction card, and remove his gear from the water.

Director Pierce thanked MEP for their continued work with DMF on adjudicatory proceedings.

Chairman Kane asked if MEP were posting the results of these adjudicatory proceedings on their Facebook page, as discussed with Lt. Bass at the September MFAC business meeting. Major Moran stated that this was now standard practice.

Sooky Sawyer opined that adjudicatory proceedings took too long and he felt it was unfair that fishermen subject to a hearing were able to continue to fish. Dan McKiernan explained that due process limited DMF's ability to immediately suspend a permit prior to an adjudicatory hearing. As a result, the process typically take six months to a year to resolve. However, Dan felt that for very egregious cases the extensive process was worth the result, as permit suspensions and revocations were often more serious penalties than the criminal and non-criminal penalties.

Captain Clayton also stated that Officer Matthew Simmons was working on lobster violations along the Outer Cape involving the forced removal of eggs. DMF biologists Bob Glenn and Tracy Pugh provided technical assistance and confirmed that the lobsters were likely scrubbed. As a result, MEP filed charges against the fishermen. This incident highlighted the need for DMF and MEP to coordinate a course to detect forced egg removals prior to next year's egg bearing season. Captain Clayton stated that it may be helpful to coordinate these events with neighboring jurisdictions. He'd like for these courses to be held at local technical and agriculture schools to help MEP do outreach to students that may be interested in a future career in environmental law enforcement.

Chairman Kane asked if arrests were made for these lobster incidents. Captain Clayton confirmed that criminal charges were filed against the two fishermen.

Captain Clayton discussed personnel. Recently hired officers completed their field training and were being assigned to field districts later in the day. Additionally, Gus Lunedei was promoted to the Lieutenant for the Outer Cape district.

Sooky Sawyer asked if any of the new field officers would be assigned to the north shore. Major Moran stated that eight of the nine new field officers would be assigned to the coastal district to fill existing vacancies. The specific district assignments were forthcoming.

ACTION ITEM

Lobster Processing Regulations

Deputy Director Dan McKiernan reviewed the recommendation memorandum. In 2018, DMF filed a report with the legislature that suggested amendments to state law allowing for additional opportunities for commerce in added value shell-on lobster parts. At the time, state law only allowed the processing and sale of cooked meat and frozen shell-on lobster tails weighing three ounces or greater. DMF supported liberalizing the law to allow the processing and sale of all shell-on lobster parts (including tails weighing greater than three ounces) and for the importation of all lawful shell-on lobster parts for sale and processing. The law was amended accordingly in August 2019. DMF

subsequently filed emergency regulations to bring state regulations into phase with the amended statute. Now, DMF was seeking to codify the emergency regulations as final regulations.

No comments were made.

Chairman Kane asked for a motion. **Sooky Sawyers made a motion to adopt the Director's lobster processing recommendation as provided in the memorandum, the motion was seconded by Bill Doyle.** No further comments were made. **The motion passed unanimously.**

Letter from MFAC Regarding Enhancing Enforcement

Jared Silva reviewed the letter drafted for the MFAC regarding increasing the number of MEP officers back to at least historic levels to enhance marine fisheries enforcement.

Chairman Kane thanked Jared for drafting the letter on his behalf. Ray felt it was more forcefully worded than the prior letter sent to Secretary Beaton and he appreciated that.

Major Moran thanked Jared and the MFAC. He noted that the prior letter had helped facilitate the hiring of several new officers. Additionally, Senator Moore sponsored legislation to allow them to hire 10 additional officers. Yet, with attrition and disability, this barely increased the total number of active officers. However, MEP's ability to bring on additional officers was not only limited by its budget, but also a cap on full-time employees. Major Moran stated this cap needed to be increased to allow them to grow their ranks back to historic levels. Commissioner Amidon agreed and noted that cap was set by the Executive Office of Administration and Finance.

Chairman Kane stated that the letter should explicitly ask for the cap to be set at level that would accommodate a sufficient police force. Commissioner Amidon and Major Moran agreed that at least 150 sustained officers were needed.

Chairman Kane requested that a new letter to be drafted to address these concerns. Jared Silva asked if it was appropriate to provide a revised letter for the MFAC's review at the next business meeting, or if a more expedient timeline needed to be considered. There were no objections to addressing the revised letter at the next meeting.

Winter II Scup Limits

Jared Silva reviewed the recommendation memorandum provided by Director Pierce. He noted that based on the federal quota available to the Winter II (October 1 - December 31) scup fishery, NOAA fisheries had set its Winter II scup possession limit at 27,000 pounds. DMF was recommending the MFAC vote to adopt this as the state's possession and landing limit. This would allow vessels fishing lawfully in federal waters to land their scup in Massachusetts ports.

Ray Kane asked if much scup was landed in Massachusetts. Director Pierce stated that the lion's share of the winter scup quota is landed in Rhode Island. However, some vessels do choose to land in Massachusetts.

No further comments were made.

The Chairman asked for a motion. **Sooky Sawyer made a motion to adopt the Director's recommendation to set the Winter II scup limits at 27,000 pounds and the motion was seconded by Bill Doyle.** No further comments were made. **The motion passed unanimously.**

DISCUSSION ITEMS

Review of Joint ASMFC/MAFMC Meeting

On October 8-9, the MAFMC held a meeting with the ASMFC's Summer Flounder, Scup, Black Sea Bass, and Bluefish Boards. The meeting's purpose was to review the operational assessments and set the 2020 commercial and recreational limits for these species. Nichola Meserve provided the MFAC with a memorandum summarizing the results of the meeting.

Nichola noted that the memorandum included 2019 MRIP data through Wave 3 (May – June). She had hoped to include Wave 4 (July – August) MRIP data in the memorandum, but the data had not yet been released. Nichola anticipated the Wave 4 data would be available later in the day and she would revise the memorandum with the Wave 4 data as soon as possible.

Bluefish

The coastwide commercial bluefish quota will be reduced from 7.71 million pounds in 2019 to 2.77 million pounds in 2020 (-64%). Despite this substantial reduction, Nichola did not anticipate it would have a substantial effect on the current commercial fishery given the fishery's 2018 landings of 2.2 million pounds and a rough projection of 2.7 million pounds for 2019.

On the recreational side, the 2020 recreational harvest limit (RHL) will be reduced from 11.62 million pounds in 2019 to 9.48 million pounds in 2020 (-18%). In comparison, MRIP harvest estimates for 2018 were 13.27 million pounds, and 2019 landings are tracking higher (up 17% through Wave 3 and up 49% through Wave 4). Accordingly, states are expected to have to implement more restrictive recreational fishing limits in 2020. More information will be available after the next joint meeting in mid-December.

NOAA fisheries will soon declare the bluefish stock overfished. This will require the MAFMC and ASMFC to pass an amendment to the FMP within the next two years. Per federal requirements, the amendment will have to set forth a plan to rebuild the stock back to its target level within 10-years of implementation. This is worrisome because the updated stock assessment shows the stock has not been at its target level in more than

30-years. The amendment may also consider changes to the existing recreational/commercial allocation and state-by-state quotas.

Summer Flounder

For summer flounder, the ASMFC and MAFMC previously set three year (2019-2021) constant catch limits, hence the coastwide quota will remain at 11.53 million pounds and the RHL will remain at 7.69 million pounds. The commercial fishery will likely have more room for growth to achieve the 2020 quota. Estimated recreational harvest for 2018 was 7.6 million pounds. If harvest is similar in 2019, then it is likely recreational fishing limits will remain status quo for 2020. However, if recreational harvest is substantially lower in 2019 than 2018, there may be an opportunity to liberalize the fishing limits for 2020. Through Wave 3, recreational harvest was off 29% compared to the same period in 2018, but when incorporating Wave 4 data, harvest has only been 8% lower in 2019.

Scup

The commercial scup quota is being reduced from 23.98 million pounds in 2019 to 22.23 million pounds in 2020 (-7%). The commercial scup quota has been largely underutilized in recent years. In 2018, only 13.37 million pounds of scup were landed and landings are on pace for similar results in 2019. Accordingly, the pending quota cut in 2020 will not negatively impact commercial fishery performance.

The RHL will be reduced from 7.37 million pounds in 2019 to 6.51 million pounds in 2020 (-12%). The MRIP harvest estimate for 2018 was 12.98 million pounds. In 2019, the MRIP harvest estimate is up 7% through Wave 3, and up 11% through Wave 4. This situation would mean additional fishery restrictions are likely for 2020; however, there are concerns at the federal and interstate level that there is a problematic disjoint between the management of the commercial and recreational scup fisheries. At present, the commercial fishery receives 72% of the annual catch limit, whereas the recreational fishery receives 28%. This split was developed based on harvest in the 1980s when the commercial fishery was far more active. Moreover, it does not incorporate the newly revised MRIP data, which shows greater recreational landings in the reference period. Considering this, and the fact that the commercial quota is largely underutilized, there is substantial interest at the MAFMC and ASMFC to work with NOAA Fisheries to adopt status quo recreational scup fishing limits for 2020. More information will be available on this at the mid-December joint ASMFC/MAFMC meeting.

Black Sea Bass

The 2020 black sea bass annual catch limit will be increased from 2019 levels. As a result, the commercial quota will be increased from 3.52 million pounds to 5.58 million pounds (+59%) and the RHL will be similarly increased from 3.66 million pounds to 5.81 million pounds. While these overall limits are being raised, only the commercial fishery is likely to see a real benefit. MRIP harvest estimates for 2018 were 7.92 million pounds. Through Wave 3, the 2019 MRIP harvest estimates were down a favorable 33%, but once Wave 4 is included, are down just 8%. If 2019 harvest trends continue for Waves 5 and 6 then it is likely that the 2019 recreational harvest will exceed the 2020 RHL.

Similar to scup, there is interest at the federal and interstate level to address the management disjoint between the commercial and recreational fisheries. Nichola noted that potential management options to maintain status quo limits were being reviewed and more details would follow the December meeting. However, this may be more complicated for black sea bass than for scup because the commercial black sea bass quota is not substantially underutilized and the existing commercial/recreational splits (51% to 49%) are not as disparate.

Commercial/Recreational Allocation Amendment

The newly revised MRIP estimates are being used in stock assessments and are impacting the stock assessment results for a number of species. While these data are being used to assess and manage scup, black sea bass, and fluke, they are not incorporated into the historical catch used to establish the commercial/recreational sector allocations. The ASMFC and MAFMC have initiated an amendment to reconsider these allocations either through updating the data during the reference periods or to revise them based on other metrics such as current fishery performance. Given the situations for scup and black sea bass there is interest in expediting these efforts. Additionally, for black sea bass, an addendum was initiated by the ASMFC to reconsider the state-by-state commercial quotas to address changes in stock distribution. The MAFMC is providing input from the sideline at this point, but may get more involved in the future, which would slow down the addendum's potential adoption.

Director Pierce and Nichola discussed changes to the how the Council's SSC uses the coefficient of variation during its evaluation of scientific uncertainty in the setting of annual catch limits.

Chairman Kane asked if there was a potential opportunity to implement less restrictive summer flounder limits in 2020. Nichola stated that based on data through Wave 3, this was possible, but ultimately it depended on how the fishery performed over the remainder of the calendar year. If the 2019 harvest estimates end up considerably lower than the 2020 RHL and the ASMFC allows a liberalization, DMF would be able to consider alternative season, bag limit or minimum size.

Deputy Director McKiernan asked if there was an opportunity to allow for recreational black sea bass fishing in the fall. Nichola stated that at present the best Massachusetts should hope for is status quo management in 2020. Accordingly, to extend the season into the fall would require less fishing opportunity at the start of the season.

Upcoming ASMFC Annual Meeting and Striped Bass Addendum VI

Dr. Mike Armstrong provided the MFAC with an overview of Addendum VI to the ASMFC's Striped Bass Fishery Management Plan (FMP). The addendum was developed in response to the recent benchmark assessment that demonstrated striped bass are overfished with overfishing occurring. There are three components to the addendum: (1) how to cut fishing mortality by 18%; (2) what the recreational limits will

be for the Atlantic coast and the Chesapeake Bay; and (3) what action should be taken to address discard mortality by enhancing the use of circle hooks.

The first component had two options. An 18% reduction in fishing mortality could be applied directly to both the recreational and commercial sectors. The second option was to cut fishing mortality by sector proportional to their contribution to overall fishing mortality. This would be accomplished by reducing recreational harvest by 20% and commercial harvest by 1.8%.

Mike A. stated DMF favored an 18% reduction across both sectors and expected the option would be supported by the ASMFC's Striped Bass Board. While this would result in an 18% cut to the commercial quota for 2020, it may have little impact on overall landings in Massachusetts based on the fishery's recent performance. Moreover, as discard mortality is a major contributor to overall mortality, this scenario aims to reduce recreational harvest mortality by 50% to achieve an overall reduction in mortality of 18%.

Deputy Director McKiernan stated striped bass is the most important recreational fishery in Massachusetts and a proportional option would be difficult to explain to recreational fishermen. Moreover, given the posture of some segments of the recreational fishery to the commercial fishery, Dan anticipated that the proportional option may heighten the demand to make striped bass a gamefish.

Sooky Sawyer recalled prior discussion regarding DMF taking action to reduce the commercial quota by 18% in 2019. Mike Armstrong stated that this was discussed as an option if DMF were to add commercial fishing days to the 2019 season, as it would address the concerns raised by some recreational fishermen about increasing access to the quota and impacts on overall mortality.

Sooky then asked if DMF anticipated the cut to the quota would impact the commercial fishery. Mike A. stated that if an 18% cut is applied to the state's current quota (869,813 pounds) the revised quota would be about 713,000 pounds. In 2019, the state landed just under 600,000 pounds of striped bass. Accordingly, if the future performance of the commercial fishery resembles performance this past year, the impact of the quota cut will be negligible. However, if the fish become more available in our waters or rules are relaxed to provide greater access to the available quota, then they will be capped at a quota of about 713,000 pounds.

Mike A. then moved on to discuss the second component of the addendum, recreational fishing limits. Presuming the Board approves an 18% cut in fishing mortality across both sectors, a number of options were modeled to achieve the 18% cut in recreational fishing mortality. All options focused on changing the size limits (the bag limit is already 1-fish). Based on the public comment, Mike A. expected the decision would come down either a 35" minimum size or a slot limit between 28" and 35".

DMF preferred the aforementioned slot limit. He opined that based on stock structure, going up to a 35" size limit effectively makes the fishery a catch-and-release fishery and the biomass was not in a condition that required a moratorium on harvest. A slot limit would allow for some continued harvest and this would benefit those who want to keep fish and the for-hire industry. It would also provide protection to the large fecund females. If a slot limit were approved, Mike A. expected there may be some interest in a trophy fish allowance. However, for a number of reasons, he did not think the Board would support such a measure.

While DMF preferred the slot limit, he expected the 35" minimum size option would be supported by a number of other states, possibly NH and ME. The preference for the 35" minimum size is typically that the large minimum size was focal point of the management system that is credited for rebuilding the stock in the 1980s and 90s. However, Mike A. argued that the history of rebuilding striped bass was more complicated, as it also involved rebuilding cleaning up the Chesapeake Bay and prohibiting gillnetting there as well.

If a coast-wide 35" minimum size were implemented, DMF may consider developing conservation equivalent measures for a slot limit. However, the FMP required that conservation equivalent measures be based on state-specific data. Accordingly, a preliminary analysis suggests a potential conservation equivalent slot limit for MA would be more restrictive at 28" – 30".

Tim Brady also stated that the for-hire industry strongly supported the slot limit, as it would be difficult to book a charter if you cannot offer the patrons an opportunity to bring a fish home. Ray Kane asked if Tim would continue to support the 28" – 30" slot limit allowed under a conservation equivalency. Tim stated he preferred it to a 35" limit. Ray was sympathetic to the charter boat industry and encouraged DMF to pursue a conservation equivalency if the 35" minimum size is adopted for the coast. Dan McKiernan opined that this new limit will likely be in place for a number of years, so adopting a narrow slot limit like 28" – 30" may be problematic in the future as lesser year classes move through the fishery. Mike A. was unsure there would be public support for such a narrow slot limit. Additionally, he was concerned about how it may impact stock structure as year classes moving through the fishery.

Dan McKiernan asked if the addendum allowed for a state to adopt a conservation equivalent higher minimum size if a slot limit was adopted. Mike A. stated it did and it would have to be based on state-specific data. For states like NH and ME, this would mean they would have to adopt a minimum size around 38" rather than 35".

The last component of Addendum VI was enhancing the use of circle hooks. There were three options: (1) ask the state's to promote the use of circle hooks; (2) mandate the states have to establish plans to promote circle hooks; and (3) require the mandatory use of circle hooks by recreational fishermen while fishing with natural baits.

DMF was already requiring private recreational anglers to use circle hooks when fishing with natural baits with exceptions for tube and worm and snag and drop. Accordingly, DMF would likely comply with whatever measure was chosen. However, if option three was approved, DMF may have to adjust its exceptions and potentially include for-hire vessels.

Mike A. stated that DMF supported the second option. However, the third option could be supported as well, depending on how stringently it was worded. He did not want the ASMFC to come in, supersede the decision made by the MFAC last year, and determine for the state that it was appropriate to apply its circle hook mandate to the for-hire sector.

Tim Brady agreed with DMF's position. The for-hire fleet wanted the ability to continue to fish other hooks in certain specific circumstances. As they are experienced fishermen they are also far less likely to allow a fish to swallow a bait. Additionally, many already use circle hooks when appropriate and would continue to do so without a mandate.

Chairman Kane then pushed for DMF to consider either banning gaffing or mandating the use of non-lethal devices in 2020. Ray stated the continued use of gaffs when other non-lethal tools were available could not be justified and most young fishermen were already using these non-lethal tools. Bill Doyle supported the Chairman's suggested and added the MFAC could benefit from having this be a dedicated discussion item at an upcoming meeting.

Tim Brady stated that gaffs are becoming less and less common in the striped bass fishery. Most fishermen now use telescoping dipnets to remove striped bass from the water. However, Tim did not support a broad prohibition to ban the possession of gaffs. He noted that gaffs are useful to remove other large fish (e.g., halibut) from the water and well as picking up moorings and trash (e.g., mylar balloons).

Lou Williams did not think a regulation was necessary. He argued this was part of a larger problem regarding educating anglers on how to handle fish to maximize survival. He advocated for enhanced angler education. Dan McKiernan and Mike Armstrong discussed potential efforts through the agency's angler education program, recreational fishing guide, videos, outreach, and partnerships.

Director Pierce and Jared Silva noted that DMF brought this out to public hearing in 2019 and the MFAC approved a regulation to prohibit the gaffing of undersized striped bass. The Chairman felt the current rule approved was inadequate and unenforceable. Director Pierce stated that DMF would produce a memorandum for the next meeting that reviewed prior decision making on this subject.

Period I Fluke Pilot Program to Accommodate Possession of Multiple State Limits

Dan McKiernan and Jared Silva reviewed the ongoing development of a pilot program to accommodate the possession of multiple state trip limits of fluke during the winter fishery. This would make the offshore fleet more efficient, by allowing vessels fishing in

the federal zone to harvest the limits for the states where they are permitted and then land a lawful state limit in each of those states.

DMF had previously balked at such a program because the fluke quota was greatly reduced and it raised potential enforcement challenges and quota monitoring concerns. However, CT and RI were committed to accommodating this activity and Representative Cabral (New Bedford) requested DMF consider doing something similar. DMF and MEP reviewed the conditions set forth by CT and RI and they sufficiently address enforcement concerns.

Considering this, and the elevated 2020 commercial fluke quota, DMF was now amenable to pursuing this program. A preliminary LOA has been drafted and circulated to MEP and the MFAC for review. Next, DMF intended to discuss the final details with partner states and industry in order to fine-tune the LOA. Following that, DMF would announce the pilot program in late November for implementation on January 1.

Dan McKiernan stated he expected there would be some push back from the Period II summertime day-boat fishery due to previously stated concerns regarding quota availability and market price. However, he thought these concerns were generally unfounded. DMF was able to monitor the quota sufficiently to prevent quota allocation overages. Moreover, providing markets with a sustained supply of fluke may produce an improved ex-vessel value throughout the year.

No objections were raised by the MFAC.

Chairman Kane, Lou Williams, Dan McKiernan and Jared Silva then briefly discussed the ongoing Period II pilot program. Jared Silva stated that about 25 vessels were issued an LOA to participate and the feedback was generally positive. Lou spoke with some of the fleet and they were appreciative of DMF's responsiveness in developing and implementing the pilot program, as well as adding an extra fishing day for the end of September and October.

Review of Quota Monitored Species Performance and 2020 Industry Meetings

Deputy Director McKiernan stated that during the earlier part of this decade former Director Paul Diodati convened an ad hoc advisory panel to assist in developing a recommendation to revamp commercial striped bass management. This was done to address a number of pervasive performance and market issues. The product of this approach was the current management system, which was broadly supported.

Given recent fishery performance and anticipated commercial quotas moving forward, he anticipated the existing management approaches may need to be amended. Accordingly, DMF was interested in assembling similar fishery specific ad hoc advisory panels in December 2019 for at least black sea bass and striped bass. Based on the feedback provided, DMF would then draft regulatory proposals for MFAC review at an early winter meeting. This would allow DMF to hold public hearings over the winter and implement any final regulatory amendments by the start of the 2020 fishing season.

This approach was generally supported by the MFAC. Jared Silva stated that DMF would update the MFAC at their November meeting and would share Advisory Panel membership once assembled.

Story Reed the provided a review of quota managed fishery performance in 2019.

For striped bass, the fishery landed under 600,000 pounds to date, which accounted for about 65% of the available 2019 quota. DMF expected the commercial quota would be reduced by 18% in 2020, resulting in an approximate quota of 713,000. If the fishery performed similarly, then the quota would likely be underutilized again.

Dan noted that while the low landings may be driven by environmental factors influencing fish availability, the most recent changes to the commercial management system implemented substantial constraints on the commercial fishery aimed at extending the season and reducing market gluts. Accordingly, it may be appropriate to consider relaxing some of these constraints moving forward. Additionally, there may be a need to adjust the 34" minimum size in response to potential changes to the recreational minimum size.

Ray Kane asked how this year's performance compared to 2018. Story stated that landings were lower this year than last year. Ray then asked about the spike in landings in September. Story stated this was not unusual; larger fish typically run back through our waters at this time of year as waters cool and this would be reflected in effort and landings. Lou Williams agreed. Story noted that the bump in 2018 was larger than the bump in 2019 because DMF and MFAC added an extra open commercial fishing day in 2018 but did not this year.

With regards to fluke, there was an 80% increase in quota from 2018 to 2019. However, due to the timing of this quota increase, DMF was unable to provide the Period I (winter) fishery with more access. For the Period II (summer) fishery, DMF implemented the multi-day pilot program in late August and added an extra open fishing day in late September to enable greater utilization of the quota. To date, DMF projected the fishery would take about 65-70% of the quota would be taken by the end of October. On November 1, the trip limit will be increased to 1,000 pounds and closed fishing days eliminated to encourage the harvest of the remaining quota before the end of the calendar year.

Dan noted the winter fishery would have more access to their seasonal quota allocation (30% overall) in 2020. The trip limit will be increased from 500 to 1,000 and DMF was considering the multi-state limit pilot program. If the winter fishery takes its allocation, then the summer fishery will likely be able to fish under existing rules and take most of the remaining quota before the fish move offshore in October. Accordingly, DMF may just want to maintain status quo rules and consider running the multi-day pilot program again.

The 2019 commercial black sea bass fishery ran through early September. Catch rates are fairly predictable in this fishery because landings are dominated by pot fishermen and most limit out on each open day.

Dan stated we are expecting a 56% increase to the commercial quota for 2020. Accordingly, limits may need to be adjusted to harvest this additional quota. Some rod and reel fishermen have also requested DMF reconsider the open fishing days (at least for rod and reel fishermen) to eliminate any overlap with the striped bass fishery. Currently both fisheries are open on Thursdays and this effectively forces fishermen to choose what fisheries they want to target. There are also several permitting issues, including the transferability of rod and reel permits that should be addressed.

For menhaden, MA had an initial quota of about six million pounds. However, over the course of the season the state obtained quota transfers from other states. This allowed the fishery to remain open at a 25,000 pound trip limit to accommodate harvest by the small-to-medium scale purse seiners. At present the fishery landed 6.7 million pounds and fishermen are reporting that the menhaden have migrated out of our waters.

Dan noted that with these quota transfers our landings are now under our revised quota. He asked Nichola if the leftover quota could then be transferred to states to our south who may need quota at the end of the year. Nichola stated that the FMP allowed it.

Story noted there was some interest from the fleet to adjust the trip limit triggers to provide greater access to the quota. Additionally, with low herring quotas there have been persistent rumors of latent effort becoming active in the commercial menhaden fishery. This was raising some concerns from long-standing industry members. However, DMF has not seen this materialize; the cost of acquiring a permit and gearing up may be prohibitive given how episodic the fishery can be from year-to-year.

Nichola and Ray then briefly discussed the Chesapeake Bay cap, concerns about Omega Protein exceeding the cap and continuing to fish, and VA's compliance with the FMP.

The horseshoe crab quota was taken in early September. Dan stated this was the first time this happened and suggested it could be a product of increased abundance. However, as a result of the closure, ACC faced a shortage of crabs for bleeding and LAL production. DMF worked with ACC and some dragnets to develop a biomedical trawl fishery implemented through LOA. The LOA established stringent conditions that mirrored the best management practices outlined in the FMP.

Lou Williams noted that DMF issues LOAs to mobile gear fishermen who hold fluke endorsements but not horseshoe crab endorsements. The LOA allows them to retain and land horseshoe crabs and is designed to prevent regulatory discarding. The quota closure this year prompted some fishermen who hold both the fluke and horseshoe crab permits to question how the LOA fishery is conducted. Lou reported there was some interest in shutting down the LOA fishery once a certain percentage of the quota was

taken, or allowing them to keep a more nominal trip limit of crabs (e.g., 200 crabs as opposed to 300 crabs). Dan stated that DMF intended to look into this.

COMMISSION MEMBER COMMENTS

Bill Doyle attended DMF's recent Seafood Marketing Steering Committee Meeting. He stated that much of the conversation focused on getting more local seafood into local markets. He noted that retailers were focused on the fish with the best price margins and not the source. He felt that enhancing branding efforts could drive consumer demand and effect change at the retail level. Bill then discussed an ongoing dredging project in Plymouth Harbor. He stated there had been some discussion regarding shutting down a state boat ramp to de-water dredge materials. He did not think a state boat ramp should be used for this activity and suggested the MFAC and DMF become involved if necessary.

Sooky Sawyer asked whether DMF would continue to issue 10% extra trap tags in 2020. Dan McKiernan stated that the rule was initially implemented in the 1990s when more fishermen fished single traps and gear loss is more common with single traps than trawls. As trawls are now more commonly fished, it makes sense to reconsider this additional allocation. However, DMF would have to amend its regulations to make this change and there is no time to do this for 2020. Dan added that eliminating this allocation was seen as a way to potentially reduce the overall number of endlines and as a result it got tied into federal right whale conservation measures. Federal rule making on this issue has become protracted. Sooky then asked if DMF had received any gear loss reports due to the recent nor'easter. Dan stated that DMF had not.

Lou Williams stated he had heard waterfront rumors of a counterfeit trap tag company. Lou then spoke about the recent GOM cod assessment. He asked DMF to provide a brief to the MFAC on how it may impact the state-waters groundfish fishery. Melanie Griffin stated that it will be discussed at the December MFAC meeting and DMF would follow up with the MFAC after that.

Tim Brady stated that due to weather he was only able to fish about one-third of the days during the September 15 – September 30 open season for recreational GOM cod. However, he was able to get his patrons onto some keeper-sized cod. He expressed his disappointment in the recent stock assessment results and noted that it raised questions about recruitment and rebuilding targets given low effort in both the recreational and commercial sectors.

ADJOURNMENT

The Chairman requested a motion to adjourn. **Tim Brady motioned to adjourn the October 17, 2019 MFAC business meeting. The motion was seconded by Lou Williams. The motion was approved unanimously and the meeting was adjourned.**

MEETING DOCUMENTS

- October 17, 2019 MFAC Business Meeting Agenda
- September 19, 2019 MFAC Business Meeting Draft Minutes
- Recommendation on Lobster Processing
- Recommendation to Adopt Winter II Scup Limits
- ASMFC's Striped Bass Addendum VI Public Hearing Presentation
- 2019 ASMFC Annual Meeting Agenda
- Overview of Potential Period I Summer Flounder Pilot Program to Accommodate Possession of Multiple State Limits
- Review of Joint MAFMC/ASMFC Fall 2019 Meeting (MRIP Data through Wave 3)
- Revised Review of Joint MAFMC/ASMFC Fall 2019 Meeting (MRIP Data through Wave 4)
- Lobster and Fish Mortality Event

FUTURE MEETINGS

9AM
November 14, 2019
DFW Field HQ
1 Rabbit Hill Road
Westborough, MA

9AM
December 19, 2019
DFW Field HQ
1 Rabbit Hill Road
Westborough, MA