

## **MARINE FISHERIES ADVISORY COMMISSION**

**December 14, 2017**

**DFW Field Headquarters**

**Westborough, MA**

### **In attendance:**

*Marine Fisheries Advisory Commission:* Raymond Kane, Chairman; Michael Pierdinock, Vice-Chairman; Kalil Boghdan; William Doyle, Lou Williams and Charles Quinn. Absent: Andrew Walsh and Sooky Sawyer.

*Division of Marine Fisheries:* David Pierce, Director; Daniel McKiernan, Deputy Director; Michael Armstrong, Assistant Director; Kevin Creighton, CFO; Robert Glenn, Senior Biologist; Story Reed, Permitting and Statistics; Catherine O'Keefe, Policy Analyst; Nichola Meserve, Policy Analyst; and Jared Silva, Policy Analyst.

*Department of Fish and Game:* Ron Amidon, Commissioner.

*Massachusetts Environmental Police:* Major Pat Moran and Lt. Matt Bass.

*Members of the Public:* Beth Casoni, Ron Borjenson, John Verissimo, Kevin Slattery, Keith Baker, and Eric Morrow.

## **INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane welcomed everyone to the December 2017 MFAC business meeting.

## **CHAIRMAN'S COMMENTS**

Chairman Kane held a moment of silence for the fishermen lost on the F/V Misty Blue.

## **REVIEW AND APPROVAL OF DECEMBER 14, 2017 BUSINESS MEETING AGENDA**

No comments were made.

**Bill Doyle made a motion to approve the December 14, 2017 business meeting agenda. Michael Pierdinock seconded the motion. The agenda was approved unanimously.**

## **REVIEW AND APPROVAL OF NOVEMBER 1, 2017 DRAFT BUSINESS MEETING MINUTES**

Mike Pierdinock asked for DMF to review the November minutes to make sure it was clear whether Mike Pierdinock or Mike Armstrong were making certain comments.

No further comments were made.

**Lou Williams made a motion to approve the November 1, 2017 MFAC business meeting minutes. Kalil Boghdan seconded the motion. The minutes were approved unanimously with Bill Doyle abstaining.**

### **COMMISSIONER'S COMMENTS**

Commissioner Ron Amidon attended DMF's annual staff meeting. He was impressed by the presentations provided by staff and thanked Director Pierce for holding the meeting.

DFG received an award from the Administration for its participation in energy efficiency projects. This included work done at DMF's Newburyport Shellfish Depuration Plant, where geo-thermal pumps were installed.

The Commissioner stated that he greatly benefited from getting out in the field with DMF staff over the past year and was interested in also doing so with MFAC members and the Massachusetts Environmental Police, to better understand the challenges they face.

### **DIRECTOR'S COMMENTS**

Director David Pierce also began his comments by briefly discussing the DMF annual staff meeting. He remains impressed with the staff's work.

The Director then shifted to discuss federal fisheries management. The December MAFMC meeting was ongoing. Included among the agenda items was a review of a potential framework to establish buffer zones in the squid trawl fishery south of Martha's Vineyard and Nantucket. David reported that the MAFMC voted against moving this framework forward, a decision DMF supported.

While DMF did not support the buffer zone concept in the squid fishery, DMF did support the concept in the management of the midwater trawl herring fishery. At a recent NEFMC meeting, David made a motion for to adopt a 12-mile buffer zone along the back side of Cape Cod as a preferred alternative for public hearing. However, the NEFMC did not support adopting a preferred alternative. Instead, they favored taking all alternatives out for public hearing without a preferred option. David thought this was unnecessary and could be confusing. The NEFMC had taken substantial public comment in initial drafting phase and at this point should be looking to simplify the potential alternatives for public hearing.

There were also growing concerns at the NEFMC regarding state-waters groundfish fisheries. This had been an issue with Maine's halibut fishery for a number of years, but it was emerging as an issue for Massachusetts. Massachusetts' state-waters multi-species groundfish fishery had exceeded the state-waters sub-component for a number of stocks in FY16 and expectations were that the state would exceed the set-asides again in FY17.

While the state-waters fishery had exceeded certain set-asides in the past, it was not as problematic because federal catch allowances were underutilized, which provided a buffer. As federal allowances are now being taken, accountability measures may be triggered as a result of exceeding the state-waters sub-component. This will impact federal permit holders, who are held to hard quotas, and this is a major reason why the state-waters fishery is now generating concern at the NEFMC.

David expected this would result in DMF having to adjust how it manages the state-waters groundfish fishery. However, he was uncertain what changes would be made, as staff was still analyzing the harvest data. DMF would brief the MFAC on this as soon as the analysis was complete.

Lou Williams stated that he has seen obvious issues with data provided by NMFS. Of particular concern were the state-waters landings for grey sole and pollock. This made him skeptical about the accuracy of the other data.

David stated that staff was working to audit this data. They had caught an error in the grey sole landings and were working to determine if there were other errors or anomalies in the data.

Mike Pierdinock shared Lou's skepticism about the pollock landings. Mike P. stated that based on his experience as a recreational fisherman, pollock were typically found in federal waters along the eastern edge of Stellwagen Bank. They were generally not abundant in state-waters, except for a spring-time run off Provincetown.

Chairman Kane thanked the MFAC members for their comments and stated that DMF would report back on this issue.

Director Pierce closed his comments by stating that DMF's Seafood Marketing Program was currently accepting micro-grant proposals to promote Massachusetts seafood. The focus of the grant program this year was support for under-utilized and undervalued species.

### **LAW ENFORCEMENT COMMENTS**

Major Moran handled the comments concerning law enforcement. He stated FDA was currently in the final stages of reviewing the management and enforcement of Massachusetts' shellfish fishery. The FDA review of MEP was focused on ability to patrol areas closed to shellfish fishing and to enforce the Vp Control Plan.

Arrests had been made regarding the headless tuna found in the woods off Lanesville in Gloucester. The charges were focused on the illegal disposal of the fish. It was anticipated that NMFS would also pursue fishery charges, as the fish was taken after the commercial fishery had closed.

Major Moran informed the MFAC of a substantial lobster case in New Bedford, which involved a lobsterman who was also a seafood dealer. There were numerous violations in this case. MEP currently were considering a request for adjudicatory hearing to implement permit sanctions for this fisherman/dealer.

Lt. Bass also provided DMF with 15 incident reports for a variety of violations which occurred throughout 2017. DMF would be reviewing these reports and potentially pursuing permit sanctions.

Lastly, the Mashpee Wampanoag Tribe had expressed interest to the MEP regarding holding a seat on the MFAC.

### **ACTION ITEMS**

#### Winter I Scup Limits

Jared Silva reviewed the Director's recommendation to adopt a 50,000 pound scup trip limit for the Winter I (January 1 – April 30) period. This will complement the federal possession limit for this period and allow vessels to lawfully land scup taken from the federal zone in Massachusetts.

Mike Pierdinock asked if there were issues with the trip limits being set so high. Jared Silva stated that in recent years vessels landing in MA typically did not land more than 50,000 – 100,000 pounds of scup for the entire period.

Kalil Boghdan asked how many vessels land in Massachusetts. Major Moran stated that about 3-vessels may land large amounts of scup, typically in New Bedford. Most vessels that take large amounts of scup land in Rhode Island.

Kalil then asked if vessels fished on the 1,000 pound bycatch limit once the quota was taken. Jared stated that the quota has not been taken in recent years, so he was uncertain. However, given the price of scup, he did not anticipate that vessels would target scup offshore at such low levels.

No further comments were made.

**Lou Williams made a motion to adopt the Director's recommendation to set the 2018 Winter I possession and landing limit for scup at 50,000 pounds. Bill Doyle seconded the motion. The motion was approved unanimously.**

### **DISCUSSION OF RECENT MAFMC AND ASMFC MEETINGS**

#### Menhaden

Nichola Meserve reviewed the ASMFC's recent vote on Amendment 3 to the Menhaden Plan. This Amendment does not change the single-species biological reference points for determining the stock's status at this time. Instead, the coastal states opted to wait

for development of menhaden-specific ecological reference points that will take into consideration their important role as a forage fish.

Amendment 3's most notable action was to change the allocation of the coast-wide commercial quota. It provides all states with a base allocation of 0.5%, before distributing the remaining quota based on average 2009-2011 landings. States may choose to give up any part of their allocation for redistribution to the other states. The fixed minimum approach was primarily accomplished by reducing Virginia's overall quota allocation. However, as the menhaden quota was increased (8%), the total poundage allocated to Virginia remained the same.

For 2018, Massachusetts' commercial quota will increase from 3.7 million pounds to more than 6 million pounds. DMF will hold a scoping meeting to discuss this quota increase and the current management of this fishery. DMF does not anticipate significant rule changes for 2018.

Other aspects of the Amendment include: the retention of the 6,000-pound incidental catch limit (not applicable to vessels using large purse seines) and the 1% episodic event quota set-aside for ME-NY; quota cannot be rolled over to the next year; quota transfers remain allowed; and the Chesapeake Bay cap was cut from 87 metric tons (mt) to 51 mt.

Kalil, Nichola and Ray discussed the make-up of the ASMFC and the influence that Chesapeake Bay jurisdictions have, especially the role of the Potomac River Fisheries Commission.

Chairman Kane stated that a lot was accomplished through this Amendment and that it balanced the competing interests along the coast while protecting juvenile fish. He noted that everyone compromised and no one went home too happy. He thanked Nichola for her work.

Mike Pierdinock agreed with Ray's assessment. He was hopeful that the ASMFC would move forward with Ecosystem Based Management in the future. However, Mike P. did express some concerns regarding the quota increase and how it may impact forage available to bass and tuna.

Nichola stated that the quota increase from 200,000 mt to 216,000 mt was considerably smaller than what could have been allowed if the ASMFC chose to manage this fishery to the single species target. So, consideration was given to potential impacts on menhaden's predators in the setting of the coast-wide quota.

Mike P. asked if DMF would consider managing to its old quota allocation (0.84%) rather than its new quota allocation (1.27%).

David Pierce stated that this could be discussed at this winter's scoping meeting.

Ray Kane stated that if DMF does not change its management system, it is possible that the quota is not taken. This may address some of Mike P.'s forage concerns.

Major Moran asked how many vessels participate in the state's menhaden fishery. Story stated that more than 90% of the harvest comes from less than a handful of purse seiners.

### Recreational Black Sea Bass

The black sea bass total allowable catch was being decreased by 15% in 2018 due to the large 2011 year class aging out of the fishery. In the recreational fishery, the projected 2017 landings (based on MRIP data through August) are 3.5% below the 2018 recreational harvest limit (RHL), leading the ASMFC and Mid-Atlantic Council to support no coast-wide harvest reduction being needed for next year.

The ASMFC approved Draft Addendum XXX for public comment. This draft addendum will be used as the framework to set recreational measures for 2018 with the goal of addressing equity between the states. The potential measures would allocate the RHL to management regions along the coast based on the resource's regional biomass (from the stock assessment) and/or the fishery's regional harvest (based on MRIP data).

Options for Massachusetts include being with RI only, with RI-NY, or with RI-NJ. Once allocations are set, states within regions will either have to adopt uniform fishing limits, or may be allowed slight conservation equivalent adjustments from baseline rules. Lastly, the addendum deals with how fishery performance is evaluated in order to create more stability in regulations from year to year. Further details are available in DMF's presentation and ASMFC's Draft Addendum XXX.

Nichola reported that addendum's timeline includes the ASMFC Board voting to approve a final addendum at their February meeting. Then the regions would have to develop potential limits for evaluation by the technical committee (TC). DMF would then hold public scoping meetings to discuss potential limit options prior to promulgating the preferred option via emergency regulation. DMF anticipates holding scoping meetings during the late winter.

Director Pierce stated that last year's (2016) Wave 6 harvest estimate for New York was unrealistically high. He was curious about how this would impact management moving forward.

Nichola stated that the Board recognized that this estimate was too high and for this reason did not include 2016 data in the harvest-based allocation options. The TC was currently looking to smooth this data point, so that 2016 data could be used in future management.

Mike Pierdinock asked if Nichola could speculate on what limits would look like if Massachusetts and Rhode Island were to form a region. Nichola stated that the TC was

running these queries for public hearing and an example would be included in the document.

Major Moran and Lt. Bass stated their preference to see uniformity of regulations within regions.

Chairman Kane asked Nichola about changes to how MRIP data are calculated. Nichola stated that a mail survey is replacing a telephone survey for effort calculation. MRIP data will then be recalibrated based on this change. This new data will not be publically available until late 2018.

Chairman Kane then brought up the Wave 1 pilot fishery that was recently approved by the MAFMC and ASMFC. While he did not support this fishery, he was glad to see that New York was choosing not to participate.

Nichola stated that New York's decision to not opt in may have been influenced by how it may potentially impact its access to the fishery during other periods of the year.

Mike Pierdinock asked several questions regarding the Wave 1 fishery: (1) can vessels fish in state-waters; (2) can vessels fish in the federal waters adjacent to Massachusetts; and (3) can Massachusetts vessels participate?

Nichola and Director Pierce answered these questions: (1) vessels can fish in the state-waters of states that have opted into the fishery; (2) there are no restrictions governing where in federal waters fishing activity can occur; and (3) Massachusetts vessels can participate provided they are lawfully permitted in a state that has opted into that fishery and they land the fish in that state – they cannot fish out of a Massachusetts port.

David and Nichola also explained that DMF did not support this pilot program for several reasons: (1) there was not sufficient recent data to determine if the 100,000 pounds allocated to this fishery was realistic; (2) there were not adequate controls and accountability measures implemented if this 100,000 pound allocation was exceeded; and (3) there was no MRIP sampling in February, except in North Carolina, so harvest would be estimated almost entirely on VTR data from for-hire boats.

Chairman Kane allowed comments from the public.

Kevin Slattery asked if there was an option to have state-by-state allocations of the recreational harvest limit.

Nichola stated that this was initially considered but was not included in the draft addendum for two reasons: 1) it would result in a lack of any uniformity among states; and 2) concern about greater inter-annual variability of MRIP data at the state level causing more regulatory changes every year.

Kevin then asked about accountability if a regional allocation is exceeded. Nichola responded that one downside of regional management is that all states are held accountable for the harvest by the states within the region. But instead of each state in a region taking the same percent cut and adopting state-specific regions, new regional measures will be adopted, and the regions will likely be different than they have been.

Lastly, Kevin stated that the current regional management scheme had serious adverse impacts on the charter boat fleet and this needed to be fixed moving forward.

Chairman Kane stated that DMF worked hard to develop this addendum, which was designed in part to address the issues that have been affecting the state. He felt this was a very aggressive approach and it would go a long way to resolving both inequity among states and the yo-yoing of rules from year-to-year.

#### MAFMC Fluke Amendment

The MAFMC was in the process of developing an amendment to the fluke FMP that would address permitting and quota reallocation. Nichola projected that hearings would be held during the summer of 2018 and a final action would be implemented for 2019, barring unforeseen delays in the schedule.

The quota reallocation issue was most pertinent to Massachusetts. The amendment sets forth three options for potential reallocation.

Option 1 would be based on a geographic shift in exploitable biomass from the south to the north. Depending on what sub-option is chosen MA's quota allocation could increase from 6.82% to 8.11% or 9.55%. Nichola suspected that a potential issue with adopting this option is where the break in the north and south occurs (notably NJ's placement in the south).

Option 2 takes into consideration that the quota is at a historic low, which makes reallocation politically difficult. Under this option, the stock would have to be rebuilt to a certain level to trigger reallocation of the quota beyond a certain level (either 8.40 or 10.71 mlbs). Quota below the trigger level would be distributed based on the status quo approach and quota above the trigger level would be distributed in equal shares of 12.75% to most states (all except ME, NH and DE which would share 1%).

Option 3 would adopt a scup like approach by establishing two federally managed winter periods and one state managed summer period. This would allow vessels fishing during the winter to land in any state, with the catch counting against a coast-wide quota. There is some concern that this would lead to derby fishing.

Ray Kane was glad to see that MAFMC and ASMFC membership were becoming more agreeable to reallocation based on the understanding of the impacts of climate change.



Mike Armstrong stated that the ASMFC Policy Board received a white paper on climate change and reallocation and the various management boards are working to incorporate these findings into management.

Mike Pierdinock asked if reallocations would also occur for the recreational fluke fishery.

Nichola stated that the recreational fluke fishery was no longer managed by state shares, in part because of changes to the stock's distribution and abundance.

## **DICSUSSION OF FUTURE PUBLIC HEARING ITEMS**

### Shellfish Regulatory Proposals

Deputy Director Dan McKiernan reviewed DMF's omnibus shellfish regulatory proposals. These proposals were being developed to resolve several issues. DMF was working to make information regarding shellfish fishing more available to the public. This included a re-write of its regulations and the development of several new webpages geared towards information and education. The focus of this effort was to enhance the visibility of information and rules affecting shellfish handling, sanitation and growing area classification. Next, as aquaculture has grown dramatically in the state, DMF was moving to codify its baseline aquaculture permit conditions as regulations. Lastly, regulations describing the shellfish relay program are necessary as legislation was recently passed requiring fees be paid by municipalities receiving shellfish from the relay to municipalities where the shellfish are being taken from.

Kalil, Mike P. and Dan discussed the shellfish relay program.

Bill Doyle stated that he was generally supportive of DMF's regulatory proposal and that this seemed to be the consensus opinion of DMF's Shellfish Advisory Panel as well.

Dan stated that a grant had been awarded to DMF, the Cape Cod Fisherman's Alliance, and the Nature Conservancy to develop a Massachusetts Shellfish Initiative. The initiative would address a variety of shellfish issues throughout Massachusetts. It would also provide a forum for shellfish issues to be discussed and the infrastructure to fund proposals and pursue legislative and regulatory changes.

### 2018 Fishing Limits

Jared Silva provided a review of this agenda item. He noted that the memorandum was long and detailed. However, there was a short outline of a draft public hearing notice describing the various regulatory proposals at the back of the memorandum. Jared stated that he would review each individual proposal, as outlined in the document, and take questions from the MFAC before moving on to the next issue.

### *Recreational Tautog Management*

Jared reviewed the limits approved by the ASMFC, as part of Amendment 1 to the FMP that would be implemented for 2018.

### **Approved MA/RI Recreational Tautog Limits for 2018**

<b>Season</b>	<b>Bag Limit</b>	<b>Minimum Size</b>
April 1 – May 31	3-fish per angler	16”
June 1 – July 31	1-fish per angler in MA	16”
	Closed in RI	N/A
August 1 – October 14	3-fish per angler	16”
October 15 – December 31	5-fish per angler	16”
January 1 – March 31	Closed	N/A

Mike Pierdinock thanked DMF for their hard work to work to have DMF regulations match Rhode Island’s, particularly during the fall period. This was a long standing request of the for-hire fleet. However, a number of individuals had raised concerns regarding the 1-fish limit in the summer, as they have evolved their business plans to offer targeted tautog trips during this period.

Dan McKiernan stated that while tautog is not overfished and overfishing is not occurring in Massachusetts and Rhode Island the region was approaching the fishing mortality target. The next assessment may show that overfishing is occurring, which would prompt conservation measures. Accordingly, he did not think that Rhode Island would agree to and the ASMFC would allow additional liberalizations.

Dan noted that Rhode Island’s fishery is actually closed during this period/ Massachusetts kept the fishery open at only 1-fish to address enforcement and compliance issues with having a recreational closure during the peak summer period. This was not implemented to encourage a directed fishery during this period. Dan added that he received no comments stating this concern when the amendment went to public hearing.

The Chairman agreed with Dan. He thanked DMF for their work on addressing the recreational tautog fishery in a manner consistent with the interests of Massachusetts’ recreational fishermen.

### *Commercial Black Sea Bass Limits*

Jared described the three proposals affecting the 2018 commercial black sea bass fishery: (1) adjust the number and sequencing of the commercial fishing days in the directed summertime fishery; (2) potentially increase the summertime fishery trip limits, particularly if the number open fishing days per week are decreased from 3-days to 2-days; and (3) adopt a 50 pound bycatch allowance for the small mesh trawl squid fishery and cap the overall landings for this bycatch fishery at no more than 75,000 pounds (~15% of the overall quota).

Mike Pierdinock stated that the need for this bycatch allowance for the squid fishery demonstrates that the squid fishery is not as clean as its proponent’s claim it is.

Jared stated that black sea bass are detected as bycatch in federal observer data for the squid fishery occurring in and adjacent to Massachusetts waters. This bycatch allowance is designed so that some of the mortality associated with this bycatch to become harvestable fish, rather than discards.

Ray Kane, Bill Doyle and Dan McKiernan briefly discussed Friday as a commercial fishing day in the black sea bass fishery. Historically, this was considered a weak market day, but there seemed to be a changing opinion among primary buyers. Dan was hopeful this could be teased out better in public comment.

#### *Commercial Striped Bass Fishing on Summer Holidays*

Jared stated that this past year the commercial fishery was open on Monday, July 3<sup>rd</sup>. As this was a holiday weekend for many, having the commercial fishery open on this day created a number of conflicts at boat ramps and among boaters. DMF was forecasting that similar conflicts may occur over Labor Day weekend, but the fishery closed prior to that. In response, DMF heard from harbor masters and other stakeholders requesting DMF close the striped bass fishery over holiday weekends.

This seemed to be a sensible management approach to reduce user group conflicts. Accordingly, DMF was proposing to amend the striped bass regulations close commercial fishing for striped bass during the period of July 3 – July 5 and on Labor Day. DMF was not anticipating that this new rule would be controversial.

#### *Surf Clam Dredge Bar Spacing*

Jared explained that in 2017 there were several enforcement incidents regarding the surf clam minimum size. In response to this, a surf clam dredge operator who serves on DMF's Shellfish Advisory Panel suggested that DMF adopt a minimum bar spacing requirement to encourage improved size selectivity. While there was little scientific literature on bar spacing and size selectivity, the thought was that it may improve minimum size compliance in this high volume fishery.

Major Pat Moran noted that these non-compliance incidents involved vessels fishing off Westport, where there is a large abundance of undersized surf clams. There were some discussions about whether or not the surf clams in this area were a different sub-species and would not reach the state's 5" minimum size.

Deputy Director McKiernan noted that DMF was studying this issue and if it was determined to be a sub-species, there would be management implications. He noted the increased challenge of having different minimum sizes for certain geographic regions.

#### *Commercial Scup Fishery*

Jared stated DMF was proposing these measures to comply with the FMP. The proposal is two-fold: (1) adjust the quota management periods so October is part of the federal Winter II fishery, rather than the state managed summertime fishery; and (2) adopt a 200 pound scup limit for any vessel fishing with less than 5" mesh.

Jared explained that DMF recently adopted a 10,000 pound weekly limit for trawlers. This was modeled after Rhode Island's program and was done to accommodate occasional large bycatch incidents in small mesh fisheries, particularly the squid fishery. However, DMF was unaware that this would not comply with a longstanding provision of the Scup FMP.

In order to comply with the rule, DMF would have to amend its regulations. Concurrent with this DMF also intended to work with federal and interstate partners to consider changing the existing 200 pound scup limit in small mesh fisheries to accommodate higher levels of bycatch. DMF expected there may be support for this considering that scup is underutilized.

#### *Carrier Boats in the Menhaden Fishery*

Story Reed provided some background information on the menhaden fishery in Ipswich Bay in 2017. Two seiners – one large and one small - were utilizing a carrier vessel to transport fish to shore. Other stakeholders expressed concerns regarding this activity, specifically trip limit compliance and quota utilization.

Jared Silva explained that DMF initially intended to take out to public hearing a proposal to explicitly allow the use of carrier vessels in the menhaden fishery. However, after further discussions with the fleet, it was determined that this was premature. DMF now intended to remove this issue from the public hearing docket and instead discuss this issue and quota management issues at a public scoping meeting this winter.

Mike Pierdinock voiced his concerns about the utilization of the menhaden quota and its impacts on forage. He was particularly worried that the use of carrier vessels may encourage active fishermen to fish harder and for latent effort to become active.

There was then some discussion regarding how the menhaden fishery is permitted and managed with activity being generally characterized.

#### *Use of Bleach in Shellfish Fisheries*

Jared reminded the MFAC of a recent civil case against a Rowley shellfish fisherman, who was also the town shellfish warden, using bleach to harvest razor clams. The fisherman was charged for violating a variety of state laws. However, the AG requested that DMF consider adopting a clear regulation that prohibits this activity. Accordingly, DMF was moving to pursue a regulation that would prohibit the use of bleach when fishing for razor clams and soft shelled clams.

Bill Doyle stated that such a rule must be very specific to the clam harvesting activity. He noted that bleach is only a useful harvest mechanism for clams and shellfish fishermen keep bleach or bleach solutions on their vessels for sanitation.

Deputy Director McKiernan concurred and stated the proposed rule was written very narrowly to address these concerns.

## **OTHER DISCUSSION ITEMS**

### Period 1 Fluke Fishery Decisions

Director Pierce reviewed his memorandum regarding. This memorandum outlined his decision to discontinue the Wintertime Fluke Pilot program, which had allowed participating vessels to land 1,000 pounds of fluke per week rather than 500 pounds per day. It also discussed how he would not allow vessels fishing in the wintertime fluke fishery to possess multiple state limits while transiting or landing in Massachusetts. Instead, he preferred addressing the underlying issues that prompted this request through the MAFMC and the fluke amendment previously discussed.

There was some conversation between Major Moran, Director Pierce and Deputy Director McKiernan regarding Sector 9, which represents Carlos Rafael's fleet, and their ability to fish for fluke.

### Mobile Gear Fishing Areas

Jared Silva stated that DMF would continue to accept comment on codifying the coordinates of the mobile gear closure boundaries through January 22<sup>nd</sup>. A recommendation for public hearing would then likely be provided to the MFAC at their January 25 meeting.

However, in advance of this DMF would take comment on a pilot program proposed by Lou Williams. This pilot program would potentially allow CAP permit holders to fish with sea scallop dredges in a small area north of Boston within the year round mobile gear closure during February and March. Jared stated comment would be accepted through mid-January and DMF would provide the MFAC with a final recommendation at their January meeting.

Lou Williams stated that after meeting with several local lobstermen he wanted to further refine the proposed area. Jared stated that he would get the new coordinates from Lou before publishing a notification seeking comments on the pilot program.

Major Moran asked how many vessels would participate in the pilot program. Jared stated that all 140 CAP permit holders would be eligible to participate. Lou Williams added only a handful of boats would likely take advantage of the opportunity.

There was then some discussion regarding the agency's ability to limit entry into certain fisheries based on state of residency or homeport. The longstanding legal advice to DMF was that they could not restrict access based on such criteria, as it would violate certain clauses of the US Constitution (e.g., commerce clause and equal protection clause).

### Surf Clam Fishery Management

Deputy Director McKiernan stated that DMF would hold a meeting with surf clam dredge permit holders, federal fishery managers and law enforcement on January 8, 2018 at

the new SMAST facility. The purpose of this meeting was to begin to make traction on a number of surf clam management issues and to better understand how state and federal fisheries interact. DMF would provide the MFAC with a review of this surf clam meeting and any deliverables derived from it at a future MFAC business meeting.

#### International Commission for the Conservation of Atlantic Tunas (ICCAT) Meeting

Mike Pierdinock provided a review of the recent ICCAT meeting in Morocco. As a result of an international treaty ICCAT decisions are binding and are required to be implemented by the U.S. via NOAA Atlantic HMS Division associated with highly migratory species in the United States waters. He reviewed the stock assessment information and management decisions for Atlantic bluefin tuna, shortfin mako, yellowfin tuna and big eye tuna.

For bluefin tuna, based on the western Atlantic bluefin tuna stock assessment the western Atlantic quota will be increased 214 mt total allowable catch for all US fishery sectors in 2018.

The shortfin tuna assessment demonstrated the stock was overfished with overfishing occurring. The assessment is data poor at an international level and there are issues with reporting. The minimum size will go up to 71" fork length for males, which reflects size at maturity, and there will be mandatory reporting for the international commercial fleet and likely the recreational fishery. These measures helped avoid zero retention.

Yellowfin tuna are considered overfished and bigeye tuna are overfished with overfishing occurring. Most of the fishing activity is occurring off the coast of Africa that are juvenile breeding grounds for these species that migrate to our waters and elsewhere with landings by the international fleet by purse seiners and long-liners utilizing Fish Aggregation Devices (FADS).

Mike P. stated that the US needed to become more involved in the stock assessment process for both yellowfin and big eye moving forward. He was concerned that international conservation management for both species may disproportionately impact the US. He noted that South Africa presented a strong plan to address bigeye tuna, yellowfin tuna and skipjack off the coast of Africa but it was not moved forward. In 2019 there will be an ICCAT bigeye stock assessment and evaluation of FADS being utilized off the coast of Africa. He expected the bigeye management as well as yellowfin tuna, skipjack and FADS will be front and center at the 2019 meeting.

Bill Doyle asked if swordfish were addressed.

Mike P. stated the TAC slightly went down but the US would be maintaining its quota. However, there are issues between how the US and Canadian fleets are managed, which negatively impact the US.

Bill stated that the fishery is no longer economically viable in the US and the fleet has been diminished.

Bill asked if swordfish was a regulated fishery in Massachusetts. Director Pierce stated that it was not. It was managed by NMFS Highly Migratory Species (HMS) program.

Deputy Director McKiernan reminded the MFAC of the petition the received from Mike Abdow regarding the management of the federal bluefin tuna quota. Dan spoke to Brad McHale at NMFS HMS program and suggested that the MFAC write to Brad requesting local meetings to discuss quota management.

Mike P. stated that he also met with the HMS program to discuss this issue. The biggest issue from his perspective is in-season flexibility to reflect where the fishery is occurring. Last year, the bait was inshore, so the quota was taken quickly under the limits. However, if the fishery is offshore, then those higher limits are necessary to ensure profitability.

Dan asked Ray if the MFAC should weigh in. Chairman Kane stated that he supported the MFAC weighing in on the issue and NMFS holding more hearings in New England to discuss how to improve management.

#### **COMMISSION MEMBER COMMENTS**

Mike Pierdinock stated that he had a conflict with the March 2018 business meeting date. There was some discussion regarding how best to reschedule. Jared Silva stated he would coordinate with the various parties involved to determine if an alternative date is possible.

Lou Williams asked to look over state-waters groundfish data with staff. Story Reed stated that an analysis was ongoing. Once completed, DMF staff could meet with Lou to discuss the findings. Additionally, DMF would present this data to the MFAC.

#### **COMMENTS FROM THE PUBLIC**

Beth Casoni, Executive Director of the Massachusetts' Lobsterman's Association (MLA), thanked DMF and MEP staff for attending their delegates meeting to discuss mobile gear closures and gear loss forms. She stated that MLA was concerned about the proposed pilot program to allow winter-time sea scalloping north of Boston.

Eric Morrow stated his disappointment with DMF's proposed recreational tautog limits. He stated that he and others had built up a clientele to target tautog during the summer months and reducing the limit to 1-fish would impact their businesses.

Mike Pierdinock asked if there was any flexibility to address the issue raised by Eric.

Dan McKiernan explained this was necessary to increase the limits during the late-fall and early-winter and have complementary rules to Rhode Island. He did not think it would be possible to accommodate a higher bag limit in the summer without having to cut the bag limit or the season elsewhere, which would complicate regional management with Rhode Island.

Eric Morrow also stated that he was concerned about the black sea bass limits and requested DMF consider separating out the for-hire fleet. Eric Morrow, Keith Baker and Mike Pierdinock discussed how this had been allowed in the cod and haddock fishery.

Director Pierce stated that DMF had reviewed separating out the black sea bass for-hire fleet in past years. Historically, this was not supported by for-hire fishermen and private anglers for a variety of reasons. However, he would be willing to consider it again.

There was some additional conversation among Ray Kane, Mike Pierdinock, Eric Morrow, Keith Baker, Director Pierce and Nichola Meserve regarding the timing of setting recreational fishing limits and how this impacts the for-hire fleets ability to book trips.

Nichola noted that Addendum XXX could address this, particularly if we end up in a region with only Rhode Island and do not have a Wave 6 fishery. The longer term goal was to move to an f-based management system, which would allow recreational limits on a multi-year basis and then adjustments would be made based on stock assessment updates.

Ron Borjenson stated that Sector 9 had signed a notarized agreement that holds all members of a sector jointly accountable for violations of any vessel. Accordingly, he did not support accommodations being made to any vessel in Sector 9.

Ron also raised concerns regarding out-of-state vessels fishing in Massachusetts and taking landing fish taken from Massachusetts in other states.

Major Moran noted that state law currently prohibited landing fish taken from Massachusetts in another state.

Deputy Director McKiernan cautioned that this was ultimately an area that requires additional legal advice, as there are likely constitution law issues. He also added that any fish taken from Massachusetts waters and landed in another state would count against that state's quota and not Massachusetts'.

John Verissimo asked if the proposed springtime commercial black sea bass bycatch allowance for trawlers applied only to vessels fishing with small mesh. Jared Silva stated that the proposed regulation was to allow a bycatch allowance in the squid fishery and not generally to any trawl vessel fishing during the spring like the flounder bycatch allowance. Jared suggested that John make this comment at public hearing if he was in favor of having the allowance apply more generally.



**Kalil Boghdan made a motion to adjourn the December 14, 2017 MFAC business meeting. Mike Pierdinock seconded the motion. The meeting was adjourned.**

## **MEETING DOCUMENTS**

- **December 14, 2017 MFAC Business Meeting Agenda**
- **November 1, 2017 MFAC Draft Business Meeting Minutes**
- **2018 Winter I Commercial Scup Fishery Limit Recommendation**
- **Memo on Amendment 3 to the ASMFC's Menhaden FMP**
- **Memo on DMF's Omnibus Shellfish Regulatory Proposal**
- **Memo on DMF's 2018 Fishing Limit Adjustment Regulatory Proposals**
- **Memo on Director's Decision on Period 1 Fluke Fishery**
- **Memo Updating MFAC on Progress of Mobile Gear Closure Boundary Project**
- **Memo to Director on Upcoming Surf Clam Dredge Management Meeting**
- **MAFMC Briefing Materials on Framework to Initiate Buffer Zones in Small Mesh Squid Fishery**
- **DMF Comment Letter to MAFMC on Framework to Initiate Buffer Zones in Small Mesh Squid Fishery**

## **NEXT MEETINGS**

**March 15, 2018**

**DFW Field Headquarters  
1 Rabbit Hill Road, Westborough**

**April 8, 2018**

**DFW Field Headquarters  
1 Rabbit Hill Road, Westborough**

**May 10, 2018**

**DFW Field Headquarters  
1 Rabbit Hill Road, Westborough**

**June 14, 2018**

**DFW Field Headquarters  
1 Rabbit Hill Road, Westborough**