

MARINE FISHERIES ADVISORY COMMISSION

March 15, 2018

DFW Field Headquarters

Westborough, MA

In attendance:

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

Division of Marine Fisheries: David Pierce, Director; Daniel McKiernan, Deputy Director; Michael Armstrong, Assistant Director; Kevin Creighton, CFO; Story Reed, Permitting and Statistics; Nichola Meserve, Policy Analyst; Melanie Griffin, Policy Analyst; and Jared Silva, Policy Analyst.

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

Massachusetts Environmental Police: Officer Scott Opie.

Members of the Public: Pete Kelly, John Verissimo, Beth Casoni, Willie Hatch, Keith Baker, Ron Borjenson, Nathan Davis, James Bergstrom and Sherman Butler.

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Ray Kane welcomed everyone to the March 2018 MFAC business meeting. He thanked the MFAC members for attending despite the recent nor'easter that resulted in many local and regional power outages.

Ray introduced new MFAC member, Tim Brady.

Tim has a long history of experience working in the for-hire sector. He runs a family owned charter/headboat business out of Plymouth, which targets cod and haddock. He is also a professor at the MA Maritime Academy.

REVIEW AND APPROVAL OF MARCH 15, 2018 BUSINESS MEETING AGENDA

No comments were made.

Sooky Sawyer made a motion to approve the March 15, 2018 business meeting agenda. Andrew Walsh seconded the motion. The agenda was approved unanimously.

REVIEW AND APPROVAL OF JANUARY 25, 2018 DRAFT BUSINESS MEETING MINUTES

No comments were made.

Sooky Sawyer made a motion to approve the January 25, 2018 MFAC business meeting minutes. Michael Pierdinock seconded the motion. The minutes were approved unanimously.

COMMISSIONER'S COMMENTS

Commissioner Ron Amidon stated that DFG had been working on budget issues, including the Environmental Bond Bill (Bond Bill), which he Gov. Baker expected to file this week. The Bond Bill is expected to include funding for boat ramp construction and maintenance, as well as fish passage work.

The Commissioner was also continuing to work to broker private-public partnerships to enhance outdoor education and outreach. As a result, Otis Airforce Base was looking to host an event similar to the Big MOE Outdoor Expo in Sturbridge.

Commissioner Amidon and Director Pierce were heading to Charlestown, SC for the annual state director's meeting hosted by NOAA. Ron would be focusing his efforts on advocating the federal government delegate more management authority to states.

Chairman Kane asked the Commissioner for an update on the proposed amendments to marine fisheries fines and penalties. Deputy Commissioner Mary-Lee King stated that it was expected to be included as an outside section to the Bond Bill.

Ray followed up and asked about the process for the Bond Bill to become law. Mary-Lee stated once filed it would be heard by the Capitol Bond Committee. The Bond Bill would then go to the House, and from there to the Senate, before going back to the Governor's desk to be signed into law. She anticipated the Bond Bill could be signed into law by the early summer. However, it may be modified in the interim, as it makes its way through the legislature back to the Governor. She could not anticipate whether the outside section that included the fines and penalties would be passed as filed, amended or rescinded.

Ray asked if there was a favorable disposition towards the Bond Bill. Commissioner Amidon stated that there was support for the legislation. He noted that he would work to make sure the fines and penalties language remained in the bill as filed. The Commissioner would provide updates to the MFAC at future meetings.

DIRECTOR'S COMMENTS

Director David Pierce began his comments by discussing DMF facilities. He noted that his south coast staff had recently moved into the new facility in New Bedford. The facility would be occupied by both DMF staff and SMAST professors and students. He was enthusiastic about the move, the resources available to staff and the potential for

collaboration with SMAST. He noted that a future MFAC meeting would be held at this facility.

The Director was recently in a meeting with the Commissioner and other state departments regarding the development of artificial reefs. The focus was on ensuring that good, cost efficient materials are readily available. There was also interest in the permitting process, which would be addressed moving forward.

DMF was actively engaged in reviewing pending offshore wind energy development projects and analyzing the impacts these projects may have on fisheries resources and fishermen. David was optimistic that this work would help energy developers address issues regarding environmental impacts, access and safety.

Mike Pierdinock commended DMF for proactively engaging fishermen on wind energy development issues. Mike P. was skeptical that the impacts of deploying several hundred turbines cannot be studied in a laboratory. Accordingly, he was also concerned that the turbine fields will be built without a full understanding of the risks they pose until they occurred. He favored small pilot programs to study potential impacts on cod spawning grounds, migration patterns, benthic habitats and other resource issues.

David also touched on the upcoming NOAA Director's meeting. He stated that he would be focused on the reauthorization of the Magnuson-Stevens Act, interactions between fisheries and protected species, improving stock assessments and having fisheries management be more responsive to changes in the geographic distribution of resources.

The NEFMC was currently conducting a performance review. At this point, the Council was seeking feedback from stakeholders regarding operational improvements.

The Director and his staff were analyzing the state-waters groundfish fishery. He noted the state-waters fishery was at or over the state-waters set asides for certain stocks including Gulf of Maine cod and winter flounder. This may trigger accountability measures and impact fish available to the federal fishery. In response, DMF would set forth recommendations to address the state-waters fishery at an upcoming MFAC meeting.

Lou Williams asked if DMF worked with NOAA to address and reconcile discrepancies in state-waters groundfish statistics. Melanie Griffin stated they had worked with NOAA to improve their methodology for querying and projecting this data. As a result, the state-waters landings for Gulf of Maine cod, which were initially projected to be 90 metric tons, were revised at 72 metric tons.

Lou asked if this included the 77,000 pounds from the recreational sector. Melanie stated that it did not. The analysis was specific to commercial state-waters harvest.

DMF had received several petitions from the MA Fisherman's Mobile Gear Alliance. This included a recent petition to implement squid trip limits. He noted that these petitions are multi-faceted and complicated. Staff was in the process of evaluating them. Considering the timing, he likely could not amend rules for 2018. However, he expected he would review the petitions and DMF's analysis of them with the MFAC at an upcoming meeting.

In February 2018, the ASMFC approved Addendum XXX to the Black Sea Bass Plan. This addendum addressed recreational fishing measures and was designed to make limits more equitable between states and to address changes in geographic distribution. The approved addendum included a hybrid option to address geographic shifts in distribution, which was not included in the addendum. The states of MA, RI, CT and NY were appealing the addendum to the ASMFC Policy Board on the basis that the use of this hybrid option is contrary to the purpose of the addendum.

Chairman Kane asked the Director to further clarify the appeal process. David stated he expected the appeal would be heard by the Policy Board at the May ASMFC meeting. All jurisdictions at the ASMFC have a vote on the Policy Board, not just the states on the Black Sea Bass, Scup and Fluke Board. David was optimistic that the appeal would prevail. If the Policy Board approves the appeal, then MA will likely be able to make in-season adjustments to its 2018 black sea bass limits. He expected this would most likely result in being able to extend the season in the fall.

LAW ENFORCEMENT COMMENTS

Officer Scott Opie stated that Major Moran and Lt. Bass were unable to attend this month's MFAC meeting due to other commitments. Accordingly, he was representing the MEP. The primary marine fishery enforcement focus this winter has been on patrolling Cape Cod Bay for fixed gear that may entangle right whales. MEP and DMF worked to haul approximately 125 lobster pots from the Bay. 70 of these pots belonged to one individual fisherman and his gear had other violations, including a lack of weak links. This individual was currently facing criminal citations and MEP would also be pursuing permit sanctions.

Kalil Boghdan asked if there was good compliance with the fixed gear closure in Cape Cod Bay. Officer Opie stated that there was.

Bill Doyle asked how many right whales had been observed in the Bay. Officer Opie stated that last he heard 60 whales had been sighted. Sooky Sawyer stated the most recent aerial survey identified 30 whales. Deputy Director Dan McKiernan added that aerial surveys are not always good indicators of abundance, particularly during the winter months. This is because of lack of visibility, sea surface conditions and that the whales may not be at the surface. Historical trends are that whales are typically most abundant in the Bay in April before they migrate out.

Director Pierce asked about the status of the Joint Enforcement Agreement with NOAA fisheries. Officer Opie stated that the contract is annual and it expires on July 1. Captain Belanger is attending a meeting in DC to meet with NOAA and other state law enforcement agencies to extend contracts into the future.

ACTION ITEMS

Chairman Kane stated that for each item DMF would present its recommendation and rationale. Then before the MFAC would debate the recommendation, he would allow up to two brief comments from the public.

Recreational Tautog Limits

Deputy Director Dan McKiernan provided the background and rationale for the recommendation. He noted that the ASMFC approved Amendment 1 to the Tautog Fishery Management Plan in late 2017. This required MA and RI (MA/RI) to regionally manage their recreational fisheries. As the stock assessment demonstrates that the stock in the MA/RI region is closer to the threshold than the target. Accordingly, the states were not in a position to increase harvest and instead cooperated to blend their regulations and develop a conservation neutral MA/RI approach. This provided an opportunity for MA to match RI's fall tautog regulations, which was something the for-hire industry had long advocated for.

DMF was recommending the limits described in the table below.

Recommended Seasonal Recreational Tautog Limits for 2018

Season	Bag Limit	Minimum Size
January 1 – March 1	0 fish	N/A
April 1 – May 31	3 fish*	16"
June 1 – July 31	1 fish*	16"
August 1 – October 14	3 fish*	16"
October 15 – December 31	5 fish*	16"

* 10-fish vessel limit for private anglers during any period when the fishery is open

MA's limits are slightly different from RI, in that MA is allowing a 1-fish bag limit during June and July, while RI's fishery will be closed during this period. MA did not support closing a recreational fishery during the peak recreational fishing period, as it may lead to enforcement and compliance issues. Considering tautog are more difficult to catch during the summertime, Dan did not expect this would substantially increase mortality.

Dan added that tautog is not subject to a federal management plan. As a result, DMF will not have to make annual adjustments to keep estimated harvest within annual harvest limits, like is commonly done with black sea bass, scup and fluke. Instead, these limits will be set and then revisited in several years following the next stock assessment, like what is commonly done for striped bass.

There were no comments from the public. Chairman Kane opened this recommendation up for debate among the MFAC.

Mike Pierdinock stated that he would have liked to see the 5-fish bag limit period begin in September rather than mid-October. Dan stated that this would increase estimated harvest, so in order to be conservation neutral harvest would then have to be reduced during another period.

Mike P. also raised questions about the 10-fish vessel limit. Dan McKiernan and Jared Silva explained that this was a maximum vessel limit and would only apply if the aggregate bag limit for the number of anglers onboard a vessel exceeded 10-fish.

Mike P. stated that RI preferred higher bag limits later in the season. This is because they still have access to the resource at that time of year, whereas MA anglers have less access to the resource and would likely prefer a higher bag limit a little bit earlier in the fall. He suggested that these issues underscored the problems that exist with regional management.

Dan stated that DMF did not receive public comment to this effect. Additionally, he disagreed with Mike's assertion RI has better access to the resource later in the season than MA. He noted that most tautog fishing in MA occurs from Falmouth west, and the weather and water temperatures in this area are more or less identical to those in RI.

Andrew Walsh stated that he supported DMF working with neighboring states to come up with complementary rules. He advocated DMF take a similar management approach in other fisheries, particularly in the commercial sector.

No further comments were made.

Bill Doyle made a motion to adopt the Director's recommendation to adjust the recreational tautog limits. Sooky Sawyer seconded the motion. The motion was approved unanimously (7-0).

Commercial Striped Bass Closed Fishing Days

Deputy Director Dan McKiernan stated that in 2017 the 4th of July long weekend coincided with a Monday open fishing day in the commercial striped bass fishery. This created a lot of congestion on the water and at boat ramps resulting in safety and public access concerns. Several Cape Cod harbormasters brought these issues to the attention of DMF and requested a rule change to prohibit commercial striped bass fishing around summertime holiday weekends.

DMF was recommending the fishery be closed from July 3 – July 5 and on Labor Day. He did not anticipate that this would constrain commercial fishermen's access to the 4th of July holiday market because the fish making it into the holiday market would be caught on the prior open fishing day. DMF did not receive any written comments from dealers but a prominent buyer informally told DMF that they did not object to it.

There were no comments from the public. Chairman Kane opened this recommendation up for debate among the MFAC.

Mike Pierdinock asked what harbormasters requested DMF take this action. Dan stated that the recommendation was supported by the Cape and Islands Harbormaster's Association. However, the initial requests came from the Sandwich and Chatham harbormasters.

Mike P. stated that a number of commercial striped bass fishermen objected to this as they saw it as a loss of access to the fishery. Dan noted that this is a quota managed fishery, so adjusting the fishing days doesn't result in a loss of access just a delay in access.

Mike P., Ray Kane, Lou Williams and Bill Doyle discussed potential market issues. They noted that the 4th of July is a strong market for striped bass, so these are important harvest days. However, dealers may prefer not sending their trucks out to the Cape over holiday weekends.

Andrew Walsh suggested that the MFAC should not be addressing public access conflicts. He thought it was outside of the scope of the Commission's jurisdiction.

Jared Silva noted that historically the striped bass fishery did not open until mid-July, largely to avoid such conflicts around the 4th of July. So there was strong precedent for the MFAC managing the striped bass fishery in this manner.

Dan stated that the issue was not just public access, but also boating safety. Ray Kane concurred. Ray highlighted that there is also an impact on local law enforcement.

Officer Scott Opie added that boating safety is a huge issue over the 4th of July. Having the additional inshore boating activity from the commercial bass fishery makes addressing public safety even more difficult.

Bill Doyle also added that many of the boat ramps are state properties. Accordingly, he felt it was well within the purview of the MFAC to work to ensure that the limits they set do not create conflicts at access points that are maintained and constructed with tax dollars.

No further comments were made.

Bill Doyle made a motion to adopt the Director's recommendation to prohibit commercial striped bass fishing from July 3 – July 5 and on Labor Day. Sooky Sawyer seconded the motion. The motion failed 3-4.

Director Pierce expressed his surprise that the motion failed. He asked the MFAC to further articulate their objections so that he could properly explain it to the petitioners.

Andrew Walsh and Tim Brady felt that the MFAC was not the right forum for addressing public safety and public access issues.

Lou Williams stated that he had concerns regarding loss of market access.

Mike P. agreed with Lou, Tim and Andrew. He stated that he would be more comfortable with DMF opening the fishery after the 4th of July.

Sooky Sawyer stated that he spoke with North Shore striped bass fishermen. They felt that the 3rd and 4th of July were difficult commercial fishing days. There is a lot of water congestion at marines, ramps and on the water, and finding dealers to buy the fish could be difficult.

Kalil Boghdan then asked if there would be support among the MFAC to close the commercial striped bass fishery on just July 3rd and 4th (and Labor Day). There was seeming support for this refined approach.

Director Pierce modified his recommendation to close the commercial striped bass fishery on July 3rd, July 4th and Labor Day.

No further comments were made.

Kalil Bodghdan made a motion to adopt the Director's adjusted recommendation to prohibit commercial striped bass fishing on July 3rd, July 4th and on Labor Day. Mike Pierdinock seconded the motion. The motion passed 6-1.

Commercial Black Sea Bass Fishing Days

Dan McKiernan stated that the directed black sea bass fishery currently opens during the 2nd week of July with open fishing days on Sundays, Tuesdays and Wednesdays. Over the past few years, DMF has been approached by some pot fishermen suggesting DMF alter the open fishing day schedule to accommodate non-sequential fishing days. They argued this would improve market conditions and allow for them to more efficiently target black sea bass. Dan noted that MA's commercial black sea bass quota was largely based on landings by pot fishermen.

DMF took several options to public hearing and received a diversity of opinion in the public comment. While there was some consensus for non-sequential fishing days, there was very little consensus on what those days should be. Accordingly, DMF was recommending a minor modification that would eliminate Wednesdays but add Thursdays as an open fishing day.

Dan added that this could be done on a trial basis. If Thursdays proved to be a problematic day, DMF was willing to reconsider Wednesday as an open day.

Chairman Kane took comment from the public.

Peter Kelly opposed this recommendation. He stated that the status quo open fishing day schedule are supported by rod and reel fishermen. As rod and reel fishermen are the majority gear type in the fishery, they should be given preference.

There were no further comments from the public.

The Chairman opened this recommendation up for debate among the MFAC.

Mike Pierdinock stated that he supported the three day fishing week.

Andrew Walsh stated that in years prior the open fishing days had been Sundays, Tuesdays and Thursdays. He was curious why DMF had changed this schedule to Sundays, Tuesdays and Wednesdays.

Jared Silva stated that it was likely due to feedback received from a Cape Cod seafood dealer regarding their preference for open fishing days. Dan McKiernan agreed.

Ray Kane noted that this dealer was no longer a primary buyer and that the active buyers supported a Thursday open fishing day. Dan McKiernan noted that DMF did not receive any written public comment from dealers to confirm their preference for open fishing days. However, he opined that if they objected to the proposal, they likely would have contacted DMF.

No further comments were made.

Bill Doyle made a motion to adopt the Director's recommendation to establish Sundays, Tuesdays and Thursdays as open commercial black sea bass fishing days during the directed summertime fishery. Sooky Sawyer seconded the motion. The motion passed unanimously.

Commercial Black Sea Bass Bycatch Allowance for Trawlers during Spring Small Mesh Trawl Squid Fishery.

Dan McKiernan stated DMF was recommending trawlers fishing during the April 23 – June 9 state-waters small mesh trawl squid fishery be allowed to retain a 50-pound daily bycatch landing limit. Total trawler landings during this fishery would be capped at 50,000 pounds.

Several years back, DMF moved the directed sea bass fishery from the spring to the summer. This was done to address a number of issues from quota management, to enforcement and compliance, and to constrain directed commercial fishing effort on pre-spawning and spawning fish. As a result of this decision, the trawler fleet essentially lost access to the black sea bass quota. Trawlers could no longer retain and land black sea bass caught in their nets during the spring squid fishery and these vessels do not often catch quantities of black sea bass in the large mesh used during the summer period.

While DMF did not want to encourage regulatory discarding, the quota was at such low levels at the time that preference was given to the directed fishery.

The quota has since increased and is now approximately double what it was when these commercial black sea bass season adjustments were made. Accordingly, DMF was proposing to accommodate a small bycatch allowance for draggers working during the squid fishery.

Chairman Kane took comment from the public.

Willie Hatch opposed DMF's recommendation. He noted that he would like to see all gears get access to the resource during the spring. He did not think the MFAC should grant access to this quota to a non-directed fishery at a time when directed fishery participants may not target them. Additionally, he was concerned that if squid fishing was poor, trawlers would target black sea bass.

Ron Borjenson supported giving trawlers a bycatch, but did not think DMF's recommendation went far enough. Instead he supported a 100 pound bycatch allowance and a higher overall cap on landings.

Kalil Boghdan asked if trawlers were currently required to discard black sea bass. Director Pierce stated that the inshore squid fishery occurs during a period of time when the black sea bass season is closed. So any black sea bass caught by trawlers when towing for squid would have to be discarded. DMF supported allowing these draggers to retain some bycatch rather than force 100% discarding.

Kalil and Sooky Sawyer asked if there was bycatch and discard data available to determine what is commonly caught by these squid trawlers. Jared Silva stated that federal observer data is available. However, this data does not lend itself to be analyzed to help determine suitable bycatch limits. This is because it is difficult to parse out where tows occur (e.g., state or federal waters) and why the black sea bass caught were discarded (e.g., size limit, closed fishery, no permit).

Andrew Walsh supported the recommendation. He asked about RI's commercial fishing limits. Jared stated that RI typically allows a 50 pound commercial landing limit for all gears during the late spring and early summer. Moreover, unlike MA, RI does not have a directed sea bass fishery.

Sooky Sawyer and Andrew Walsh were interested in DMF potentially allowing other gears access to the quota in the spring. Dan and Jared stated that DMF moved the directed fishery to the summer for a number of valid reasons. DMF was not interested in revisiting a directed spring fishery. This recommendation was not to create a directed sea bass trawl fishery but to reduce regulatory discarding in the squid fishery.

Sooky asked if the squid draggers could land black sea bass seven days per week. Dan stated that the squid fishery is open seven days per week, so they would be allowed to

land black sea bass on these days as well. However, their total landings would be capped at 50,000 pounds.

Mike Pierdinock stated that he could not support this recommendation.

Tim Brady stated that he did not like the idea of fixing a bycatch problem through increasing a specific gear's access to the quota at the expense of directed fishery. Jared Silva explained that when DMF moved the fishery to the summer period they effectively allocated quota away from the trawlers. Nichola Meserve added that overall quota coast-wide quotas were being reduced due to discarding. So, if states improve their discard rates then this will change stock assessment inputs and could result in enhanced quotas for all commercial fishermen.

Ray Kane asked if our neighboring states had similar bycatch allowances. Nichola stated that RI had a 50 pound limit for all gears during May and June. She suspected the other states may be similarly addressing the issue due to the increased attention being paid to discards and its negative impact on available quota.

Ray asked if DMF would be addressing discard mortality and regulatory discarding through the ASMFC. Director Pierce stated that DMF was interested in reducing discarding and converting discards into landings. He believed that this would lower discard estimates and increase quotas over the long run.

No further comments were made.

Andrew Walsh made a motion to adopt the Director's recommendation to allow a 50 pound black sea bass landing limit during the state-waters small mesh trawl squid fishery and to cap overall trawl landings during this period at 50,000 pounds. Bill Doyle seconded the motion. The motion passed 5-2.

Commercial Scup Seasons

Jared Silva stated that the MAFMC and the ASMFC recently adjusted their FMPs for scup. This included moving the month of October from the summertime state managed quota allocation period to the Winter II federally managed quota allocation period. This was done to increase the utilization of the federal quota, as larger trip limits are allowed during the wintertime federal fisheries. The scup quota is underutilized and increasing access to this quota may help develop a market for the fish.

Jared added that DMF did not anticipate that this would impact near shore fish. Scup typically migrate out of our waters in October, so they become less available inshore. Additionally, trawlers are limited to fishing with 6" mesh while in our waters and this gear is not conducive to catching large quantities of scup.

Director Pierce stated his support for this federal management approach.

Chairman Kane opened the topic up to the public. There were no comments for the public. The Chairman then opened the item up for MFAC debate.

Tim Brady asked why the market for scup was depressed. Dan McKiernan stated that tilapia took over the market. Andrew Walsh agreed. He added that tilapia came onto the market about the time that scup was being rebuilt and catch levels were low. As a result, the market preferred tilapia as it was consistently available in large volumes. Since tilapia began to dominate the market, scup has been rebuilt and quotas have increased, but the market share remains lost.

Mike Pierdinock asked about the uses for scup. Andrew stated that scup are still being sold as food. However, the price for the fish is very low. Bill Doyle added that scup is a very good eating fish. However, there is little uniformity in market size. This makes it difficult to market the fish to restaurants. Bill opined that if scup were to be better marketed, it would likely gain a foothold in ethnic markets and other whole fish markets.

No further comments were made.

Kalil Boghdan made a motion to adopt the Director's recommendation to move the month of October from the state managed summertime quota period to the federally managed Winter II quota period. Sooky Sawyer seconded the motion. The motion passed unanimously.

Commercial Scup Bycatch Limits for Trawlers

Dan McKiernan explained that in an attempt to minimize discards and maximize retention of fish in mixed trawl fisheries, DMF adopted a 10,000 pound weekly landing limit for scup. However, a remnant provision of the scup FMP – that dates back to when the scup resource was being rebuilt – establishes low bycatch limits for scup. This was done to give preference to the directed fishery.

DMF is going to work with the ASMFC and MAMFC to amend the FMP and enhance bycatch retention. However, in the interim, DMF must adopt regulations to comply with the FMP. Accordingly, DMF was recommending: (1) to prohibit the possession of more than 200 pounds of scup when vessels are fishing with trawls with net mesh less than 5" diamond during the period of May 1 – September 30; and (2) to prohibit the possession of more than 1,000 pounds of scup when vessels are fishing with trawls with net mesh less than 5" diamond during the period of October 1 – April 30.

Andrew Walsh asked if DMF was amending any of the weekly aggregate language. Dan stated DMF was not. Instead they would just be adding additional language to match the FMP.

No further comments were made.

Tim Brady made a motion to adopt the Director's recommendation to (1) to prohibit the possession of more than 200 pounds of scup when vessels are fishing with trawls with net mesh less than 5" diamond during the period of May 1 – September 30; and (2) to prohibit the possession of more than 1,000 pounds of

scup when vessels are fishing with trawls with net mesh less than 5” diamond during the period of October 1 – April 30. Andrew Walsh seconded the motion. The motion passed unanimously.

Surf Clam and Ocean Quahog Dredge Closure in Southwest Cape Cod Bay

Deputy Director McKiernan stated that DMF was recommending adopt a closure of those waters in southwest Cape Cod Bay off Plymouth and Sandwich south of 41° 55’ N latitude and west of 70° 29’ W longitude to surf clam dredge fishing from May 15th to October 15th. This closed area was being proposed to address the impacts this gear may be having on soft shell lobsters and reduce gear conflicts with the lobster fishery in this area.

As the clams are sessile, they would be available to harvest by dredge fishermen during the open period (October 16 – May 14). This open fishing period does not coincide with the lobster molt, or when gear is aggregated close to shore and on sand bottom.

DMF initially proposed enacting this closure occur from May 1 – October 31. However, this final recommendation would provide a shorter closed period. The management challenges pertaining to this dredge gear and the lobster molt and gear conflicts are not as pronounced in early May and late October.

Chairman Kane took comment from the public.

John Verissimo spoke in opposition to the recommended closure. His opposition focused on several points.

First, he did not think DMF and the MFAC should be the arbiters of gear conflicts and that such conflicts should be resolved among fishermen. He thought this set a precedent to give the lobster fishery too much influence over where mobile gear fishermen can fish. This was particularly problematic because if this closure were to go into effect then dredge fishing effort would likely consolidate in other areas (e.g., Humarock) resulting in gear conflicts with lobstermen in that area. MLA would then be emboldened to petition DMF to close that area.

Second, the surf clam dredge fishery had already lost important bottom off Provincetown. Additionally, they were facing federal time-to-temperature control issues that could constrain where and when they could fish. These losses were chipping away at the ability of these vessels to make a living.

Lastly, he argued there was no scientific basis for the closure. Lobsters are not commonly caught in surf clam dredges. Moreover, all claims about impacts on habitat were contradicted by federal studies produced for the Omnibus Habitat Amendment.

Beth Casoni spoke in favor of the recommendation. She stated that the Massachusetts Lobstermen’s Association strongly supported this action, as it was deemed necessary to remedy gear conflicts and to protecting vulnerable soft shell lobsters. She noted that

dredge gear does not effectively catch lobsters; however, it is common sense that this gear would cause injury and mortality to newly molted lobsters who utilize the sandy bottom habitat where dredge fishermen fish.

Beth added that the lobster industry is the largest state-waters commercial fishery in terms of participants and value. Moreover, lobstermen have been actively engaged in lobster conservation management efforts for decades. Their efforts have directly contributed to a healthy resource and viable commercial fishery in the Gulf of Maine. For these reasons, management should prioritize the lobster fishery over emerging seasonal fisheries.

Kalil Boghdan asked if there were statistics available to compare and contrast the scope of the lobster fishery and the surf clam dredge fishery.

Jared Silva stated that there are about 800 active coastal lobster permits in Massachusetts, compared to about 12 active surf clam dredge permits. In 2017, there were 2 surf clam dredge boats working this area of Cape Cod Bay. He was uncertain about how many of these lobster permits are fished near this area of Cape Cod Bay. However, Sandwich and Plymouth were consistently top 10 ranked lobster ports in Massachusetts and the inshore lobster fishery tends to occur in close proximity to the homeport.

Chairman Kane let Beth Casoni further address Kalil's question. Beth stated that in 2016 there were 27 active commercial lobstermen in Sandwich and these fishermen landed more than 500,000 pounds of lobster. For Plymouth, in 2016, there were 58 commercial lobstermen who landed more than 1 million pounds.

Sooky Sawyer argued that fishermen were not being closed out from this area. They were losing seasonal access. The clams would remain in the area to be harvested from mid-October through mid-May. Andrew Walsh disagreed. He stated there are a number of issues that limit surf clam dredge fishing during that period, including night fishing restrictions and weather.

Andrew then opposed the recommendation. He stated that this was being proposed to resolve a gear conflict that should be resolved by the fishermen and not the state. He also stated that approving this recommendation would establish a poor precedent whereby the MFAC is tasked with resolving gear conflicts.

Bill Doyle noted that he came into the meeting expecting to vote in favor of the recommendation. However, he was swayed by the public comment and debate. He favored tabling this motion until the April meeting. Andrew supported this motion.

Bill Doyle made a motion to table this recommendation until the April 2018 business meeting. Andrew Walsh seconded the motion.

Chairman Kane opened the motion up for debate.

Andrew Walsh stated that he would like to see DMF provide a more detailed scientific analysis regarding the impacts of this gear and the need for a closure.

Director Pierce stated that he was uncertain what additional analysis Andrew is looking for. He stated that lobsters molt throughout the spring and summer. Newly molted lobsters have soft shells and are vulnerable while in this condition. Newly molted lobsters also utilize sand habitat. This is the same sand habitat where surf clam dredging occurs. Accordingly, allowing this dredging activity in these areas at this time would lead to an additional source of mortality.

Andrew stated that he would like to see DMF further review the proposal to see if the closed area could be more surgical in order to allow some dredge fishing access in this area.

David was skeptical such an analysis could be completed for the April meeting, as it would require looking at habitat, where lobster gear is set and where surf clam beds exist. He was also skeptical it would change the recommendation. However, he was willing to table this recommendation if it was the will of the MFAC.

Sooky agreed with David. He noted that the recommendation was not based on habitat, but rather impacts on newly molted lobsters and DMF provided scientific evidence to that effect.

The Chairman called the motion to table to a vote. **The motion to table failed 2-4.**

No further comments were made. The Chairman moved for a motion to be made to vote on the recommendation

Sooky Sawyer made a motion to adopt the Director's recommendation to close all waters of Cape Cod Bay south of 41° 55' N latitude and west of 70° 29 W longitude to surf clam dredge fishing from May 15th to October 15th. Mike Pierdinock seconded the motion. The motion was approved 5 -2.

Andrew Walsh stated that this vote set a poor precedent moving forward. He also expected this would open up a can of worms regarding the setting of lobster gear in groundfish and cod spawning closures.

Surf Clam Dredge Bar Spacing

Dan McKiernan stated that DMF was tabling a recommendation on a bar spacing rule until a further meeting to further investigate alleged impacts this would have on the ability of small scale inshore shellfish dredge boats to move between various shellfish dredge fisheries.

Mehaden Bycatch Limits

Dan McKiernan noted that this was a compliance measure. The ASMFC's FMP for menhaden allows vessels to retain a bycatch of menhaden once the state's quota is taken. However, large scale purse seine vessels are prohibited from taking this bycatch. DMF's regulations allow for the bycatch allowance but do not address the gears. So this new rule would bring state regulations into compliance with the FMP. He did not expect this would have any impact on the state's fishery given the management scheme.

Sooky Sawyer asked if DMF regulates purse seine size. Dan stated DMF regulates this through conditions to the inshore net permits. These conditions only apply within the regulated inshore net areas (e.g., harbors and embayments), but do not apply throughout all other state-waters.

Chairman Kane opened the topic up for public comment. There were no comments. The Chairman then opened it up for MFAC debate. There was no debate. The Chairman moved for a motion to be made.

Kalil Boghdan made a motion to adopt the Director's recommendation to prohibit large scale purse seine vessels from fishing under the menhaden bycatch allowance. Large scale purse seine vessels are defined as those vessels using a seine more than 150 fathoms long or 8 fathoms deep. Mike Pierdinock seconded the motion. The motion was approved unanimously.

Use of Bleach in Soft Shell Clam and Razor Clam Fisheries

Dan McKiernan explained that bleach or bleach solutions can be sprayed into clam holes, which forces the clams to the surface. This provides an effective means for harvest. Saline solutions are also commonly used to the same effect, but the salt crystalizes in the sprayers at colder temperatures, whereas bleach does not. However, the use of bleach poses numerous environmental issues and it is prohibited under certain DMF and DEP statutes.

In recent years, a former Rowley Shellfish Constable was cited for using bleach to harvest razor clams. The Attorney General's office took a civil enforcement action against the constable. The Attorney General settled the case and strongly encouraged DMF to amend its regulations to expressly prohibit the use of bleach in shellfish harvest.

Chairman Kane opened the topic up for public comment. There were no comments. The Chairman then opened it up for MFAC debate. There was no debate. The Chairman moved for a motion to be made.

Bill Doyle made a motion to adopt the Director's recommendation to prohibit the use of bleach in the harvest of soft shell and razor clams. Tim Brady seconded the motion. The motion was approved unanimously.

DISCUSSION OF UPCOMING EMERGENCY RULE MAKING

2018 Recreational Fishing Limits

Recreational Gulf of Maine Cod

Director Pierce reviewed the memorandum provided to the MFAC on this topic. In summary, the NEFMC provided DMF with two options:

- DMF could retain its provision that allowed private anglers fishing exclusively in state-waters to retain 1-cod year round measuring at least 19". However, this would require the Gulf of Maine haddock fishery be closed to private anglers during May and to have the for-hire bag per angler bag limit reduced 12-haddock to 10-haddock for May.
- DMF could rescind its provision that allowed private anglers fishing exclusively in state-waters to retain 1-cod year round measuring at least 19". If this were to be done, then Gulf of Maine haddock limits could stay status quo.

DMF held a public scoping period regarding these options and public comment was split. Ultimately, Director Pierce determined it was necessary to move forward with the second option and rescind the 1-cod limit for private anglers in state-waters.

The Director expressed his frustration with being forced to make this decision and with NMFS public policy determination to prohibit the retention of Gulf of Maine cod by recreational fishermen while the commercial fishery remained opened and issues regarding discards remained unaddressed.

Despite these objections, Director Pierce found this decision necessary for several reasons. First, May is an important month for haddock fishery. Second, there were concerns about limiting access to a robust haddock resource in order to allow private anglers access to cod. Lastly, DMF's allowance may be encouraging non-compliance by creating a means for private anglers to land cod illegally taken from the federal zone.

Mike Pierdinock and Tim Brady thanked DMF for making this determination. They also shared the Director's frustration with the NEFMC.

Lou Williams thought the NEFMC was shameful in forcing DMF to eliminate its private angler allowance for GOM cod. However, he supported David's difficult decision.

Kalil Boghdan asked about cod and haddock discard mortality. Dr. Mike Armstrong stated that NOAA uses a 50% discard mortality rate for haddock and the rate for cod was between 20-30%.

Georges Bank Cod

Director Pierce stated he would be filing emergency regulations to increase the recreational minimum size from 22" to 24". This action was consistent with pending changes to the federal rule. This would allow for uniform enforcement and compliance and was appropriate given that nearly all of the recreational Georges Bank cod landed in MA was retained outside of state-waters.

Melanie Griffin noted that DMF was waiting for NOAA to make final decisions on both Gulf of Maine and Georges Bank cod recreational measures. She anticipated that there may be some adjustments to the Georges Bank measures based on Wave 6 data.

Mike Pierdinock expressed his frustrations with federal management of cod stocks. He noted that the Georges Bank and Gulf of Maine cod stocks mix. Yet the fishery north of Cape Cod is closed, while the fishery south of Cape Cod remains open with a 10-fish bag limit.

Director Pierce stated that there is a need for additional research into the mixing of these stocks and the data from this research should be incorporated into future management. He noted that DMF was involved in a workshop hosted by NOAA, the NEFMC and GMRI which would address this issue.

Mike P. also expressed a desire to see spawning cod protections off Coxes Ledge and reiterated his concerns about the impacts of wind energy development on cod spawning grounds.

Black Sea Bass, Scup and Fluke

Nichola Meserve stated that DMF was at a juncture where they could propose recreational fishing adjustments for each of these species. In anticipation of these potential changes, DMF would be conducting public scoping during the end of March and into early April. Then DMF would file emergency regulations in mid-to-late April to implement these adjustments for 2018.

Nichola reminded the MFAC that she reviewed potential adjustments to the recreational fluke and scup limits at the January 25, 2018 MFAC business meeting. For fluke, DMF could increase the bag limit from 4-fish to 5-fish and extend the fishing season past Columbus Day in October. For scup, states from MA-NJ agreed to decrease the minimum size by 1" from 10" to 9".

Nichola then moved on to discuss black sea bass. Following the approval of Addendum XXX, the states of MA, RI, CT and NY held several conference calls to discuss the development of a regional management baseline, from which states could adjust their rules based on a conservation equivalency.

The 2018 recreational harvest limit for the region is 2.2 million pounds. This represents an 11% reduction compared to 2017. This reduction is a result of large year classes aging out of the fishery. However, other large year classes are expected to age into the fishery in upcoming years.

Unlike in recent years, states do not all have to reduce harvest by 11%. The new addendum changed this approach. As a result, MA can increase its harvest by 4.6%. All the other states within the region will have to make cuts, with the states of NY and CT having to take fairly substantial reductions.

DMF has modeled several options for MA's 2018 limits (see table).

BLACK SEA BASS	Open Season	Bag Limit	Minimum Size
2017	May 20–August 29 (102 days)	5 fish	15”
Proposed 2018	May 19–September 1 (106 days)	5 fish	15”
	May 19–September 8 (113 days)	4 fish	15”
	May 19–June 30	5 fish	15”
	July 1–September 8 (113 days)	3 fish	
	May 19–June 30	4 fish	15”
	July 1–September 24 (129 days)	2 fish	
	May 19–August 31	4 fish	15”
September 1–September 10 (115 days)	2 fish		
May 19–August 31	4 fish	15”	
September 1–September 16 (121 days)	1 fish		

The options set forth a variety of seasons that differ based on bag limits. DMF has publically committed to opening the fishery on May 19th. This is consistent with past season start dates. The third weekend of May matches when these fish begin to become abundant in our waters. Additionally, it will provide for-hire fishermen with the ability to pre-book trips.

DMF will not consider increasing the size limit to extend the season or increase the bag limit. Technical staff determined that increases to the size limit at this point are not effective at reducing harvest. This is principally because of the preponderance of large fish in our waters. Additionally, any further minimum size increases would result in a male only fishery. This may have impacts on future year class productivity, particularly given this species complicated life history. It may also result in increased discard mortality, particularly later in the season when these fish move into deeper waters.

Mike Pierdincok stated that there is interest in extending the season later into the fall. However, he preferred an increase to the season come through a minimum size increase rather than changes to the bag limit. He then asked if a minimum size increase would extend the season.

Nichola stated that on paper a minimum size increase would likely demonstrate a reduction in harvest which could allow the state to extend the season. However, she suspected this would be on paper only, due to the amount of large fish in our waters. She noted that DMF used a minimum size increase several years back to reduce harvest and it was ineffective. It was thought to be very risk prone and would likely result in MA having to cut harvest in 2019.

Mike P. stated that there were concerns that RI's fishery would be open during the fall with higher bag limits than MA. This would put the MA for-hire fishery at a competitive disadvantage.

Nichola stated that this is possible. However, RI would likely not open in May or June, which gave the MA for-hire fleet an advantage in the spring. If MA were willing to give up its spring fishery, then they could have higher bag limits in the fall too.

Chairman Kane suggested that MA's for-hire fleet move away from advertising single species trips and instead offer mixed species charters during the fall. Ray noted that there are numerous popular recreational fishing species available south of Cape Cod during the early fall.

Tim Brady noted that fish are starting to appear in large numbers north of Cape Cod, particularly later in the summer into the early fall. Accordingly, there may be a new group of stakeholders interested in targeting this species.

Mike P. concurred. He noted that the development of artificial reefs in Cape Cod Bay may also lead to additional directed fishing effort on black sea bass.

Nichola stated that this change in species distribution was the driving factor an Addendum XXX and was the basis for the state's appeal of the hybrid option approved in the addendum.

Seasonal Vessel Speed Restrictions in Cape Cod Bay

Deputy Director Dan McKiernan stated that DMF was considering an emergency regulation that would implement a 10 knot speed limit within the waters of Cape Cod Bay from February 1 – May 15. This speed limit would apply to vessels measuring less than 65'; vessels greater than 65' are already subject to a similar federal rule. The regulation would give DMF the authority to rescind the speed limit if whales migrate out of the area before May 15.

The purpose of the rule was to reduce the risk of the endangered right whale being subject to ship strikes. Research in this area has demonstrated that the risk of a ship strike at 10 knots is greatly reduced. Moreover, ship strikes at 10 knots or above tend to be lethal. There were two lethal ship strikes in Cape Cod Bay in the past two years.

Prior to enacting this emergency rule, DMF was holding two public meetings to discuss its implementation with the public. Dan noted that this rule would be implemented under the Director's authority at G.L. c. 130 §17(10), which did not require approval of the MFAC. However, DMF wanted to brief the MFAC on this pending rule.

Both Tim Brady and Mike Pierdinock objected to the rule. They noted that this would have a substantial impact on the springtime recreational fishery for haddock on Stellwagen, as it would substantially increase the steaming time to fishing grounds for vessels fishing out of Cape Cod Bay ports. They favored either an educational program or a higher vessel speed limit (e.g., 15 knots).

Dan appreciated these comments and requested that fishing interests with these concerns submit written comment to DMF.

DISCUSSION ITEMS

Petitions from MA Fisherman's Mobile Gear Fishing Alliance

Director Pierce stated that the MFAC that DMF had received numerous petitions from the MA Fisherman's Mobile Gear Fishing Alliance regarding mobile gear fishing access. The two most recent and comprehensive petitions were in the March MFAC business meeting materials. DMF would be analyzing these petitions and David expected he may be in a position to provide recommendations on these petitions at an upcoming MFAC business meeting. Additionally, DMF had received a petition from this group regarding the squid fishery. DMF had not yet begun to analyze this petition. Considering the timing, he did not anticipate that any regulatory changes resulting from these petitions could be implemented for the summer of 2018.

Andrew Walsh asked the Director if he had any sense of whether DMF viewed these petitions favorably or not. David stated that he did not. Jared Silva stated that if DMF were to recommend certain actions, the earliest a public hearing could be held would be mid-summer.

OTHER BUSINESS

Jared Silva stated that DMF was interested in reconvening the MFAC Sub-Committee on Law Enforcement this spring. He noted that since the last meeting Bill Adler had left the MFAC and his seat on the sub-committee was open.

Chairman Kane asked if any MFAC members were interested in joining him and Kalil Boghdan on this sub-committee. Bill Doyle and Tim Brady volunteered.

Jared Silva stated that he would reach out to the Sub-Committee and the Environmental Police regarding a potential meeting date and agenda.

MFAC COMMENTS

Bill Doyle expressed a desire to see a greater presence of Massachusetts seafood at the New England Seafood show.

Dan McKiernan stated that this was discussed by the MA Seafood Marketing Committee, but they could not budget funding for this in 2018.

Story Reed added that he attended the Seafood Show with Wendy Mainardi from DMF's Seafood Marketing Program and Commissioner Amidon and they were also disappointed with the presence of MA seafood at the show. As a result, they began to brainstorm how to have a greater presence.

Sooky Sawyer asked if DMF would be addressing the issue of carrier vessels in the menhaden fishery.

Dan McKiernan stated that DMF met with menhaden fishery interests in February and this issue came up. DMF determined not to include this on the already busy March

MFAC agenda. However, he expected DMF would discuss potential recommendations at the April meeting. As there are so few boats in the fishery, DMF can address this issue through permit conditions.

Lou Williams stated he was conflicted about the surf clam dredge fishery closure in southwestern Cape Cod bay. He expressed his desire to see fishermen resolve gear conflicts among themselves. He did not want the MFAC to become the arbiter of these issues.

Mike Pierdinock discussed a variety of issues germane to recreational fishing. This included improving MRIP, upcoming recreational fishing meetings and an update on highly migratory species issues.

Andrew Walsh asked DMF if any traction had been made on addressing federal fluke management issues, such as wintertime coast-wide or regional trip limits. Andrew stated that the current fluke quota management system forced vessels to steam from Georges Bank to places as far south as North Carolina to land fish. This created substantial fisherman safety issues.

Nichola Meserve stated that the MAFMC had introduced an amendment to address state quota allocations and an option for a federally managed winter fishery. A Public Information Document was being developed, which was the first step in the federal management process.

Director Pierce noted that he was advocating for a scup-like quota management model for fluke. However, he sensed there was opposition to this among states to our south, who feared this would prompt a derby fishery.

Andrew also asked if DMF thought there would be support among other states to change scup bycatch limits in small mesh fisheries.

Nichola and David were optimistic. Nichola speculated that the trip limit could be changed through the less formal annual specification process. This process is set to begin this fall for the 2019 fishery. However, a more comprehensive change to the rule would have to be addressed through the amendment process.

COMMENTS FROM THE PUBLIC

Commercial fisherman Nathan Davis objected to how MFAC business meetings are conducted. Specifically, he felt that the meeting format did not allow for sufficient public comment on items being discussed.

Chairman Kane stated that business meetings are for the MFAC to debate recommendations set forth by the DMF Director and to discuss other marine fishery issues. They were not the forum for extensive public input, particularly action items which have already been subject to public comment. The process allowed for the public

to provide their input and be heard by the MFAC at the public hearings or through written comment.

Ray noted that past Chairmen allowed for more extensive public comment during business meetings. As a result, he had witnessed business meetings turn into de facto public hearings. In his opinion, this made it difficult to conduct normal business, undermined the existing process and provided an incentive for advocates of a certain position to stack the room to influence final decision making.

Ron Borjenson stated that he recently became aware of a new tautog endorsement. He stated that he saw this as an additional tax being passed onto fishermen who were already struggling financially.

Dan McKiernan stated that this endorsement was taken to public hearing during the summer of 2017. It was being implemented to allow DMF to administer a tagging program that will go into effect in 2019. DMF noted that DMF was also anticipating utilizing the August 31, 2017 control date and limiting entry into this fishery.

Dan explained to Ron that this was not a source of revenue funding by DMF. He noted that DMF does not receive its own permit revenues and these funds go into the general account.

Ron then stated that in fisheries management fishermen get punished with a continuing barrage of fees, rules and paperwork. He stated that the state should be paying fishermen for the information they provide.

Willie Hatch stated that scup is very valuable to the charter boat fishery. Accordingly, if the commercial quota was so underutilized, this fish should be given to the recreational fishery.

Wille also stated he would like to see DMF consider adjusting the recreational scup bag limit and minimum size to account for its use as bait in the striped bass fishery. Willie argued that an additional 10-fish creel limit per angler and 6" minimum size for these fish would be helpful to striped bass fishermen south of Cape Cod. He added he would support the mandatory use of circle hooks while using scup as bait.

Deputy Director McKiernan asked if Willie thought this would be supported in other states. Willie thought it would. He noted that some Montauk fishermen were importing croaker to fill this bait need. Dan stated staff could raise this at ASMFC with other states and push for a possible allowance in the future.

John Verissimo notified the MFAC that a bill had been introduced to the legislature that would restrict mobile gear fishing in Nantucket town waters. He noted that the MA Fisherman's Mobile Gear Fishing Alliance was keeping track of this bill and working to prevent its passage.

Pete Kelly advocated that DMF allow the retention of a recreational trophy fish by commercial fishermen.

Beth Casoni thanked the MFAC for their continuing support for the conservation of the lobster resource. She noted that there are not closures to protect spawning and new shell lobsters, so protecting the habitat these lobsters seasonally occupy is critical.

Beth added that MLA objected to the two petitions from the MA Fisherman's Mobile Gear Fishing Alliance that DMF provided to the MFAC.

On the topic of the Seafood Show, Beth noted she would like to see a greater presence of MA wild harvest fisheries at this show.

Lastly, Beth stated that work had been done to characterize the bycatch and discard mortality of groundfish in the lobster fishery. She noted that it was negligible and suggested DMF could provide this data to the MFAC.

Sooky Sawyer made a motion to adjourn the March 15, 2018 MFAC business meeting. Tim Brady seconded the motion. The meeting was adjourned.

MEETING DOCUMENTS

- **March 15, 2018 MFAC Business Meeting Agenda**
- **January 25, 2018 MFAC Draft Business Meeting Minutes**
- **Recommendations for 2018 Fishing Limit Adjustments**
- **Recreational Gulf of Maine Cod and Haddock Limits**
- **Recreational Georges Bank Cod Limits**
- **2018 Recreational Fishing Limit Update for Black Sea Bass, Scup and Fluke**
- **Cape Cod Bay Vessel Speed Limit to Protect Right Whales**
- **MA Fisherman's Mobile Gear Alliance Petitions on Surf Clam Dredge and Mobile Gear Management**

NEXT MEETINGS

**April 12, 2018
DFW Field Headquarters
1 Rabbit Hill Road, Westborough**

**May 10, 2018
DFW Field Headquarters
1 Rabbit Hill Road, Westborough**

**June 14, 2018
SMAST East
836 S Rodney French, New Bedford**