

## **MARINE FISHERIES ADVISORY COMMISSION**

**June 13, 2019**

**DFW Headquarters**

**Westborough, MA**

### **In attendance:**

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

*Division of Marine Fisheries:* David Pierce, Director; Daniel McKiernan, Deputy Director; Michael Armstrong, Assistant Director; Kevin Creighton, CFO; Jared Silva; Nichola Meserve; Story Reed; Derek Perry; Tracy Pugh; Brad Schondelmeier; Tim Briggs; and Rishya Narayanan.

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

*Massachusetts Environmental Police:* Lt. Matt Bass.

*Members of the Public:* David Meserve; and George Peterson.

## **INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Kane called the June 2019 Marine Fisheries Advisory Commission (MFAC) business meeting to order. He thanked commission members for their attendance.

### **REVIEW AND APPROVAL OF JUNE 13, 2019 BUSINESS MEETING AGENDA**

Chairman Kane asked if there were any amendments to the June 13, 2019 MFAC business meeting agenda. No amendments were offered. The Chairman then asked for a motion to approve the agenda.

**Mike Pierdinock made a motion to approve the agenda. The motion was seconded by Sooky Sawyer.** The Chairman called the motion to a vote. **The motion was approved unanimously.**

### **REVIEW AND APPROVAL OF MAY 9, 2019 DRAFT BUSINESS MEETING MINUTES**

Chairman Kane asked if there were any amendments to the May 9, 2019 MFAC draft business meeting minutes. No amendments were offered.

**Sooky Sawyer made a motion to approve draft minutes as provided. Bill Doyle seconded the motion.** The Chairman called the motion to a vote. **The motion was approved unanimously.**

## **PUBLIC HEARING**

DMF held a public hearing on the 2019 proposed recreational fishing limits for black sea bass, scup, cod and haddock. Director Pierce read the legal public hearing language into the record, then reviewed the public hearing proposals. DMF implemented the 2019 recreational fishing limits for black sea bass and scup limits on an emergency basis in April 2019, and was now seeking to adopt these limits as final rules. As for cod and haddock, NMFS proposed limits in mid-May, but had not yet adopted these as final rules. DMF anticipated that the federally proposed limits would eventually be adopted as final rules and sought to adopt complementary state limits.

There were no comments from the public. The Director closed the public hearing.

The Chairman allowed for some brief discussion by Commission members. Ray Kane, Mike Pierdinock, Mike Armstrong and Director Pierce discussed NMFS potentially continuing the moratorium on the recreational harvest of Gulf of Maine cod despite proposing otherwise. Ray also asked about the timing of NMFS proposed recreational Gulf of Maine cod season; Mike Armstrong explained it was related to regulatory discarding.

## **COMMISSIONER'S COMMENTS**

Commissioner Ron Amidon's comments focused on two issues. First, he stated that OCEARCH contacted him regarding obtaining a scientific permit to conduct white shark research. He intended to discuss this with DMF and OCEARCH. He wanted to better understand OCEARCH's research, how it may impact white sharks, and how it interacted with DMF's ongoing research. He expected the MFAC would be briefed on this further at a future meeting. The Commissioner then discussed ongoing fish passage work. He noted that Maine had recently seen a significant return of fish migrating up their rivers, including river herring species, in large part due to improvements in fish passage. This underscored the importance of the work DFG had been engaged in with DMF and DER. Ron noted that he had scheduled a meeting for June 18<sup>th</sup> with the Nature Conservancy to discuss collaborative research on a number of topics, including river herring monitoring and fish passage.

## **DIRECTOR'S COMMENTS**

Director Pierce introduced DMF interns Rishya Narayanan and Tim Briggs to the MFAC. Rishya and Tim were hired to work with DMF as season interns. Rishya is a Rappaport Fellow and Northeastern graduate student. She would be working on DMF's Port Profile Project, as well as a comprehensive review of the Boston's seafood processing industry for the Boston Seafood Festival. Tim graduated from Northeastern with an undergraduate degree in marine biology. He would be contributing to DMF's Seafood Marketing Program and Education and Outreach Program, with a focus on outreach on the striped bass license plate, as well as the development of some new educational videos.

The Director recently travelled to Washington DC to attend Capitol Hill Ocean Week (CHOW) and a conference put on by the National Marine Sanctuary Foundation. At the conference, he sat on a panel regarding climate change resiliency. David highlighted the important work done by NOAA and NEFSC on the impacts of climate change on fisheries management.

David reminded the MFAC Bill Doyle previously raised in interest in DMF developing pathways for young people to begin careers in the fishing industry. DMF was working to schedule a meeting with Bill discuss his ideas on the subject. David noted that this issue was also a focus of discussion at CHOW, and there was a bill in Congress to address this issue at the federal level.

DMF was holding a public meeting on June 19th at its New Bedford facility to discuss the temporary storage and holding of seafood using water from New Bedford harbor. There was some concern from the city and local legislators regarding this activity and they were interested in DMF issuing dealer permit conditions to restrict this.

Director Pierce extended the state-waters small mesh trawl fishery for squid by one week. The fishery would now close on June 16<sup>th</sup>, rather than June 9<sup>th</sup>. Due to the cold spring, squid came into our waters later than normal and fishing conditions were not good until later in the season than is typical. This extension would provide industry with some additional time to purse this valuable resource. Prior to making this decision, the Director and staff reviewed available sea sampling data for state-waters. Based on this analysis David supported the extension. David stated that he had already been asked by some industry members to extend the fishery by another week, but he was not amenable to it.

Mike Pierdinock asked if the squid fishery was on target to fill their quota. Dan stated that the fishery is managed by federal trimester quota periods. The quota for the second trimester (May – August) is not typically reached during the state's inshore small mesh trawl squid season (April 23 – June 9). If the quota is taken during the federal trimester, NMFS reduces the squid trip limit and the state implements complementary trip limits by declaration. Historically, NMFS would reduce the trip limit to 2,500 pounds, however, following the implementation of Squid Capacity Amendment several years back the trip limit is now reduced to 250 pounds to prevent directed fishing after the quota is taken. Chairman Kane stated that as of June 12<sup>th</sup>, the squid fishery had taken about 14% of the trimester quota.

Mike P. followed up and asked about the catch composition in DMF's analysis of observer data, particularly regarding striped bass bycatch. Director Pierce stated that DMF biologist Brad Schondelmeier was responsible for the observer data analysis, and asked Brad to respond. Brad stated that DMF analyzed data from 10 observed trips that occurred in state-waters. On these 10 trips, a total of 190 net hauls occurred and on average each trip had a bycatch of 10 pounds of striped bass. Director Pierce stated that he was comfortable with this level of incidental striped bass bycatch.

Lastly, Mike P. asked for clarification about the “no market” code found in the observer data regarding discarding. Brad stated that there are a number of different disposition codes to explain why certain fish are discarded. In some instances, even if the fish may be legally retained (e.g., of legal size), the fish still may be discarded. This is often because it is not profitable to retain and ice the fish. The disposition code for this is “no market”.

Ray Kane then asked about the size of squid observed. Brad stated that the data showed most of the squid were market sized, but some smaller sized squid did appear.

Deputy Director Dan McKiernan reminded the MFAC that DMF was currently conducting a comprehensive analysis of the inshore springtime squid fishery in response to a recent budget earmark. Brad and Bill Hoffman were the leads on this study. The study would provide a fishery performance report for the past five years. Dan expected it would be completed towards the end of the summer.

Director Pierce stated that Brad or Bill would present the report to the MFAC once it was finished. He added that he would also forward the aggregated observer data analysis used in his decision to extend the squid fishery this year to interested Commission members.

David moved on to discuss offshore wind energy development. He had reviewed Vineyard Wind’s initial fisheries mitigation proposal and did not find it to be adequate. He was working with DFG and EEA to develop a counter offer that featured a more aggressive compensation package. The Vineyard Wind Fisheries Working Group would be involved in reviewing the draft counter offer.

Sooky was interested in the involvement of the Responsible Offshore Development Alliance (RODA) in the Vineyard Wind project. David stated that discussions were ongoing regarding the extent to which RODA, as well as the Responsible Offshore Science Alliance (ROSA), would be involved. David recognized there was likely a need to embrace ROSA and RODA, but there were concerns regarding these groups becoming too influential and narrowly focused on energy issues and interests.

Director Pierce asked that Deputy Director McKiernan and Assistant Director Mike Armstrong appraise the MFAC of several emerging items.

Dan McKiernan stated that DMF was soliciting applications for the new DOT striped bass conservation plate. DOT needs 750 commitments (and the accompanying \$40 check) before they start plate production. DMF was currently about one-third of the way to this threshold following the initial announcement in May. DMF was working on additional outreach strategies to obtain the remaining commitments and a formal marketing campaign was expected to be funded by MET in the coming weeks.

Dan also noted there were emerging concerns about the potential for an industrial sand lance fishery and the impact this would have on forage. Consequently, there was interest in DMF regulating the harvest of sand lance. While the MAFMC does have a forage amendment, which addresses sand lance, its mandates do not effect the New England states. DMF staff reviewed SAFIS data and it showed that maximum commercial landings from beach seiners are currently about 100 pounds. Dan opined that a 200 pound trip limit may be appropriate to accommodate small-scale beach seine activity and prevent industrial exploitation.

On the topic of bait, Mike Armstrong stated that a DMF biologist found a bait and tackle shop selling seaworms imported from China. This raised obvious concerns about invasive species. Mike A. spoke with colleagues in other states, and it did not appear the importation of this product was too widespread. However, he opined this was likely an issue the ASMFC needed to weigh in on and get ahead of. At the state level, he felt DMF could unilaterally prohibit the importation of these worms. Yet, given the current bait shortage, it may be appropriate to address this issue more robustly through the development of an approved bait list.

Tim Brady stated that the tanker industry has spent billions of dollars on ballast water treatment to prevent the spread of invasive species. Accordingly, he felt it was appropriate to prohibit the importation of potentially invasive species.

Bill Doyle agreed and felt that this was something DMF may need to take emergency action to address. He noted that DMF strictly regulates the importation of shellfish seed to prevent the spread of bacteria and parasites and a similar approach should be used with bait.

Director Pierce stated that DMF would investigate this issue further and would keep the MFAC apprised of its status, particularly if DMF intends to take any action prior to the next meeting.

### **LAW ENFORCEMENT COMMENTS**

Lt. Matt Bass provided the monthly Law Enforcement report. He highlighted several recent striped bass and black sea bass non-compliance incidents around Cape Cod and Buzzards Bay. The new fine schedule was used; in one instance, what would have amounted in a \$120 non-criminal citation in 2018, produced a \$708 non-criminal citation this year.

MEP was also recently trained to administer NARCAN and recently had to responded to an incident in New Bedford. MEP, DMF and MEP were working on the ongoing reassessment and revelation of designated shellfish growing area classifications. On the personnel side, the hiring process was still ongoing to fill the remaining open positions.

Chairman Kane asked about whelk enforcement and compliance. Lt. Bass stated that MEP still encounters some whelk gauging issues, but compliance is generally much improved. MEP were also investigating a potentially substantial trap tag violation. Deputy Director McKiernan reminded the MFAC of the substantial undersized whelk case from 2018. He noted that DMF had held a hearing on the permit over the winter and a tentative decision had been issued. Dan expected a final decision would be reached this summer.

Bill Doyle asked about the status of the line item in the Senate budget to increase funding from MEP. Mary Lee King stated that the budget process was ongoing and the House and Senate were currently in conference to resolve differences in their budgets.

Sooky Sawyer asked if Lt. Bass had information regarding a North Shore lobster trap tag case. He stated that there were rumors around the waterfront regarding a violation that may have occurred offshore on Jeffery’s Ledge. Lt. Bass could not confirm this information.

**ACTION ITEM**

2019 Recreational Fishing Limits for Black Sea Bass, Scup, Cod and Haddock

For black sea bass and scup, Director Pierce asked the MFAC approve his recommendation to codify those limits previously implemented on an emergency basis as final regulations (Table 1).

<b>Table 1. Approved Final 2019 Recreational Fishing Limits for Scup and Black Sea Bass</b>			
<b>Fishery</b>	<b>Open Season</b>	<b>Bag Limit</b>	<b>Minimum Size</b>
Scup, Private	January 1 – December 31	30 fish Vessel limit of 150 fish (> 5 anglers on board)	9”
Scup, For-Hire	January 1 – April 30 May 1 – June 30 July 1 – December 31	30 fish 50 fish 30 fish	9”
Black Sea Bass	May 18 – September 8	5 fish	15”

The Chairman asked for a motion. **Sooky Sawyer made a motion to adopt the Director’s recommendation. The motion was seconded by Bill Doyle.** There were no comments or questions. The Chairman called for a vote. **The motion was unanimously approved.**

For cod and haddock, the Director explained that NMFS had announced proposed rules (Table 2), but had yet to file final regulations.

<b>Table 2. Approved 2019 Recreational Fishing Limits for Cod and Haddock (Pending Federal Implementation)</b>
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<b>Fishery</b>	<b>Open Season</b>	<b>Bag Limit</b>	<b>Minimum Size</b>
Gulf of Maine Haddock	May 1 – February 29	15 fish	17”
	April 15 – April 30	15 fish	
Gulf of Maine Cod	September 15 – September 30	1 fish	21”
	April 15 – April 30	1 fish	
Georges Bank Cod	January 1 – December 31	1 fish	21”

David recommended that the MFAC vote to presumptively approve DMF to file final regulations to complement the final federal rule (provided NMFS final regulations match their proposed regulations). If NMFS implements limits that differ from their proposed rule, the Director would file emergency regulations to complement these limits, hold a second public hearing, and come back to the MFAC at a future meeting for a final vote.

The Chairman asked for a motion. **Bill Doyle made a motion to adopt the Director’s recommendation. The motion was seconded by Tim Brady.** There were no comments or questions. The Chairman called for a vote. **The motion was unanimously approved.**

At the conclusion of the vote, Mike Pierdinock asked that DMF investigate the potential to manage the for-hire mode separately from the private angler mode for black sea bass, and to continue to address concerns regarding the management relationship between haddock and cod. Director Pierce stated that he would discuss these issues directly with Mike outside of the MFAC meeting.

### **FUTURE RULE MAKING AND PUBLIC HEARING INITIATIVES**

Chairman Kane asked DMF to forecast the rule-making schedule for the forthcoming proposals. Jared Silva stated that the future public hearing items the MFAC would review today, as well as those reviewed at the May meeting, would be packaged together as a single regulatory package. Jared expected internal review would take approximately six weeks, allowing DMF to go out to public hearing during the late summer. DMF would then return to the MFAC with final recommendations at an early fall meeting in order to promulgate final rules by mid-to-late November. This schedule was critical in order to have permitting related rules implemented prior to the issuance of 2020 permit renewals in late-November 2019.

The Chairman noted that the summertime was busy for fishermen and there were a number of other fishery management meetings during the late summer and early fall. Jared stated that DMF would attempt to work around schedules to the greatest extent practicable. However, the extent of the agency’s flexibility was limited by the internal review processes; the Secretary of State’s regulation filing schedule; and the need to have final permitting rules implemented by mid-November.

#### Methods of Meeting NMFS Mandates to Reduce Vertical Lines and Entanglements

Deputy Director McKiernan reviewed the memo provided by DMF, which documented two pertinent items.

The ASMFC Lobster Board approved an April 29, 2019 control date for the LCMA 1 lobster trap fishery. The control date is designed to notify current and future permit holders that their eligibility to participate in the fishery may be affected by their ability to document prior landings, effort and gear configuration in order to implement potential mandates to reduce vertical lines and entanglement risk. DMF intended to implement complementary state regulation to establish this control date prior to the 2020 commercial permit renewal season in November 2019.

The ALWTRT drafted a series of proposals to reduce the number of vertical lines being fished in the lobster fishery in the northeast US. NMFS was currently reviewing these proposals to determine if they sufficiently reduced the risk of vertical lines entangling right whales as necessary to avoid a jeopardy finding under the Endangered Species Act. If NMFS approves these measures, Dan expected they would hold public hearings on draft regulations this fall. Following final federal rule making, DMF would adopt complementary state rules.

Dan stated that these federal rules would likely include requiring fishermen to fish more traps per trawls, further restrict the use of single traps, and enforce vertical line limits through endline tags or other means. Dan also underscored the need to continue to work through the LCMTs in order to develop universal rules across jurisdictions. He noted how complicated enforcement could become if disparate rules were implemented, particularly in areas of federal waters – like Jeffery’s Ledge - where ME, NH and MA fishermen fish side-by-side.

Dan added that the ASMFC Lobster Board stayed the development of Addendum XXVIII, which addressed vertical line reductions, until NMFS determined if the ALWTRT’s proposals avoid a jeopardy finding.

Sooky agreed with Dan’s assessment and expressed his concern about the outsized influence of ME at the LCMA1 LCMT.

#### Commercial Tautog Tagging

Deputy Director McKiernan covered this agenda item. He noted that tautog is among the most poached fish in MA and along the Atlantic coast. Lt. Bass concurred. In response to this illegal fishing activity, the ASMFC approved Amendment 1 to the Tautog FMP, which requires states implement a commercial point-of-harvest tagging program for 2020.

Dan then reviewed the extensive memo, which outlined how the tagging program would be implemented and administered. In summary: states would order tags through the ASMFC based on a biological metric; tags would be imprinted with the state of harvest, calendar year and a unique tag number; states would annually allocate tags to individual fishermen; the unique tag number would be identifiable back to that fisherman; tags would be non-transferable; fishermen would not be able to possess tags at-sea or tag fish during commercial tautog closures; fishermen would be required to tag



the fish through the operculum at point-of-harvest; fishermen would be prohibited from selling untagged fish; at the end of the season (potentially as soon as two-to-four weeks) fishermen would be required to return unused tags to DMF with a tagging report documenting fish caught, fish sold, tags used, tags returned and lost tags; DMF would then use this data to submit an annual state tagging report to ASMFC; dealers would be prohibited from purchasing untagged fish; dealers would be prohibited from tagging fish or possessing tags; all fish in the possession of dealers would have to be tagged (or a tag accompanying the fish if filleted); and DMF was interested in considering a requirement for dealers to sell all MA tagged fish within a short period of time after the end of the season to enhance accountability.

One administrative challenge DMF faces is that there are approximately 2,000 tautog endorsement holders. While most of them are inactive, DMF cannot feasibly administer the tagging program with that many potential participants. Based on recent commercial tautog activity levels and DMF's experience with the striped bass tagging program, Dan speculated DMF would need to limit the number of future permit holders to about 200 or less. This would be accomplished by establishing the permit as limited entry, and utilizing the August 27, 2017 control date and implementing eligibility criteria to further constrain access.

DMF's preferred eligibility criteria was to require a fisherman held a commercial permit in 2018 or 2019 and landed more than 120 pounds (the approximate equivalent of one 40 fish trip limit) during a calendar year from 2010-2016 or 2014-2016. This would reduce the eligible permit holder population to between 136 (2014-2016) and 185 (2010-2016) permit holders. Once the permit was established as limited entry, it would be transferable if it was actively fished for four out of the past five years.

Dan expected that most active fishermen would be able to retain their permit using this criteria, however, it would create a barrier for new entrants. However, if DMF cannot effectively administer the tagging program, the agency would have to consider moving towards gamefish status for tautog.

Sooky asked if this program needed to be implemented this year. Dan explained that tagging program did not have to be in place until 2020 and would not effect the 2019 fishing season. However, the permitting rules would have to be implemented by mid-November 2019 for the 2020 permit renewal season.

Lt. Bass asked if tags would be applied to live fish. Dan stated that they would. Bill Doyle asked where the fish would be tagged. Dan stated they would be tagged through the operculum. Dan then circulated the tagging tool and sample tags. He added that DMF biologist Bob Glenn had been trying out the tagging equipment with some commercial fishermen and these fishermen were seemingly comfortable using the larger tagging tool.

Ray Kane and Mike Pierdinock expressed concerns about limiting entry to another fishery. Ray stated that limited entry schemes create monetary barrier for new entrants.

Ray then suggested DMF consider capping what permits may be resold for, or establishing some entry level open access permit.

Dan stated that DMF does not track permit sale prices and he felt that these figures could be easily misrepresented if they were reported. Accordingly, DMF was not involved in managing the cost of permit transfers and left this to the market.

With regards to entry level or apprentice level permits, Dan recalled efforts by the legislature to do this in the 1980s with the coastal lobster fishery, and it resulted in a proliferation of new permit holders beyond what the fishery could sustain. Moreover, when states adopt apprentice programs, there are limitations on their effectiveness given what happens when you age out of eligibility and cannot obtain the limited entry permit. DMF experiences this with the student lobster permit.

Sooky expressed concerns about individuals trying to obtain tags to control the market and move this towards and IFQ. Dan noted it was incumbent on the agency to prevent any one individual from obtaining more than a necessary number of tags and to be clear that the intention of this program is not to establish an IFQ fishery.

Mike P. also expressed concerns about the status of the fishery, particularly in eastern Buzzards Bay.

Dan noted that one underreported and potentially substantial source of mortality may be LCMA2 lobstermen using tautog as bait. With longer soak times in the LCMA2 lobster fishery, the likelihood of tautog (and other finfish) bycatch increases. Rather than discarding these alive they may be using them as bait, both due to bait shortages and the fact that tautog are lobster predators. There likely may be a need to prohibit this activity in the future, though it would be difficult to enforce.

#### Options to Increase Period 1 Fluke Landings for 2020

Director Pierce stated that he was proposing to go out to public hearing this fall to increase the Period 1 (February 1 – April 22) fluke trip limit from 500 to 1,000 pounds. This would accommodate the offshore wintertime fishery and give them improved access to the available quota. He noted that he was not proposing to go to a weekly limit because he felt a trip limit was easier to enforce.

David asked Nichola Meserve to review the status of the fluke quota. Nichola explained that with the new assessment was approved during the winter of 2019. It demonstrated that fluke was not overfished and overfishing was not occurring. In response, the quota was increased by more than 80% from 2018 to 2019 and is expected to remain elevated through 2021. Moreover, NMFS was in the process of reviewing the MAFMC approved Commercial Fluke Amendment. This amendment includes a trigger-based reallocation provision. If implemented, and if the quota remains at elevated levels in 2021, then MA is expected to get an additional boost in quota with the state's coast-wide quota share being increased from 6.8% to 7.7%.

### Permitting of Retail Dealers Selling Seafood at Farmer's Markets

Story Reed stated that in recent years there was increasing interest in seafood dealers engaging in the retail sale of fish at farmer's markets. DMF was able to accommodate this activity by issuing Retail Truck permits to applicants. However, the Retail Truck permit was developed to accommodate other activities, but it was an imperfect solution. Due to a lack of specificity, there was confusion among participants and local and county Boards of Health regarding regulation and inspection. Of particular concern is that the current system has produced inconsistent guidance on this activity from municipality to municipality.

Over the past year DMF worked with DPH to resolve this issue. The agencies agreed the first step should be for DMF to develop a Retail Farmer's Market permit type. Following this, DPH could develop permit type specific guidelines and that should ameliorate some of the challenges regarding enforcement and inspection.

The same permit fee, policies and inspection requirements would apply. The only change would be the establishment of a more coherent permit type for this activity.

Chairman Kane stated that on Cape Cod fishermen were trying to direct market fish to end consumers to take advantage of the market for boat-to-throat products. He was interested if this would limit the number of challenges these fishermen face.

Story stated it likely would not. For instance, DPH requires fish be processed at approved seafood dealer facilities for food safety. This new permit type would not change that requirement. However, some fishermen are working with permitted processors to cut and repackage their product. Then, if properly permitted, the fishermen can direct market their product to end consumers at places like a farmer's market.

Bill Doyle stated that the retail sale of fish at a farmer's market was a much different issue than DPH requirements regarding fish processing. He did not support any actions that would potentially circumvent these established DPH HACCP rules, noting that these rules are critical for food safety and consumer confidence.

Dan McKiernan asked Story to explain what entities were likely to obtain this new permit type. Story stated that this would appeal to fishermen looking to sell their own live lobsters and crabs, or their repackaged fish product processed by licensed processor. Local wholesale and retail dealers may also want to engage in this activity.

### Coastal Sharks and ASMFC Compliance Measures

Nichola Meserve reviewed the memorandum. Due to a recent stock assessment for shortfin makos demonstrated they are overfished with overfishing occurring and an ICCAT recommendation on needed harvest reductions, NMFS has adopted several conservation measures for the federal waters fishery. This includes implementing sex-specific shortfin mako recreational minimum sizes (71" for males and 83" for females); mandatory use of circle hooks while recreationally fishing for sharks with bait; and

requiring commercial longliners and gillnetters to release any shortfin makos that are alive at haul back, with a ban on harvest by all other commercial gears. The ASMFC is requiring states adopt consistent recreational minimum size limits by January 1, 2020, and will consider a compatible circle hook rule at its next meeting. DMF plans to accept public comment on revised recreational size limits, a circle hook requirement, and release of all shortfin makos alive at haul back in any commercial gear. In addition, during the Division's review of our shark rules, staff had identified several clarifications that should be made to better conform to the overarching federal regulations.

Mike P., Nichola and Jared discuss when the state's coastal shark regulations were updated. Jared confirms that the last update occurred in 2015 and the dusky sharks were placed on the prohibited list.

Mike P. and Nichola then discussed the interaction between state and federal rules. Nichola confirmed that a fisherman is not required to hold an HMS permit to fish for sharks in waters under the jurisdiction of the Commonwealth, but the catch of sharks is limited in these waters. However, if you are fishing in federal waters then you need to have an HMS permit and if you have an HMS permit you are required to follow federal rules regardless of where you are fishing.

Mike P. then asked if DMF's intention with this proposal was to effectively match HMS shark rules. Nichola answered affirmatively. Mike P. added that in order to obtain an HMS permit, the individual must take and pass a shark test. He thought the state may be interested in a similar requirement.

Ray asked if DMF had been granted de minimus status for shark management. Nichola stated that MA had been given de minimis status for certain coastal sharks species because we do not catch them or land them; however, this status did not extend to shortfin mako.

#### Regulatory Housekeeping

Jared Silva reviewed the four regulatory housekeeping proposals covered in the memo. Three of these items address codifying long-standing declarations and permit conditions as regulation. This includes: (1) closing Pleasant Bay to the bait harvest of horseshoe crabs; (2) adopting the 6,000 pound spiny dogfish trip limit; and (3) establishing a moratorium on the northern shrimp fishery. The last provision is a refinement to create more uniform terminology in the state's lobster regulations regarding Lobster Conservation Management Area abbreviations.

Chairman Kane asked if DMF had been in touch with the Town of Wellfleet regarding the harvest of horseshoe crabs in town waters. Dan had been in touch with Wellfleet Shellfish Department on this issue and he was trying to arrange a meeting with them. Dan invited Ray to join once a meeting was scheduled.

### **PRESENTATION ON RECENT HORSESHOE CRAB STOCK ASSESSMENT**

DMF biologist Derek Perry provided a presentation on the recent horseshoe crab stock assessment. His presentation reviewed: horseshoe crab biology, life history and distribution; concerns regarding the impacts of changing coastal ecology on horseshoe crab populations; the bait and biomedical fisheries, their landings, and attributable fishing mortality; the current management and regulatory regime; survey data used in the assessment; and the assessment's findings.

With regards to the assessment, overfishing and overfished definitions have not been adopted. Instead the stock is assessed based on the percentage of surveys within a geographic region and their probability of being better or worse than a 1998 reference point. Coast-wide the stock was found to be in neutral condition, with 7 of the 13 surveys used showing neutral or good conditions compared to 1998.

The coast-wide stock is divided into four geographical management units: Southeast (NC-FL), Delaware Bay (VA-NJ), New York (NY-CT); and Northeast (RI-ME). The Southeast region was found to be in good condition; the Northeast and Delaware Bay regions were found to be in neutral condition; and the New York region was in poor condition.

While the Northeast Region was made up of RI-ME, the only two surveys accepted for use in the assessment for this region came RI and MA waters south of Cape Cod. The Northeast Region was given a neutral designation, as the RI survey showed a declining trend and the MA survey showed an increasing trend. The MA survey data came from DMF's trawl survey south of Cape Cod. Since 2010, DMF's spring and fall surveys have shown a continuous increase in the number of horseshoe crabs per tow and the number of horseshoe crab encounters. Trawl survey data from north of Cape Cod was not used in the assessment because the low numbers of crabs observed in some years hinders the ability to reliably detect population trends. Spawning beach survey information is also not used because spawning surveys did not meet the Stock Assessment Committee's standards for use in the assessment.

Bill Doyle asked Derek to elaborate on the variables that influence spawning survey data. Derek stated that this could include wind, water temperature and precipitation. For instance, the highest counts Derek has observed have come after thunderstorms.

Bill then asked if the crabs migrate. Derek explained that crabs typically have a limited migration. However, a MA tagged crab was reported being found in South Carolina.

Mike P. asked if horseshoe crabs have natural predators. Derek noted that small crabs have many predators, but predation on adults is mostly limited to sharks and sea turtles.

Director Pierce asked if DMF was involved in the Associate of Cape Cod's efforts to rear horseshoe crabs. Derek stated that he is interested in the project, but due to time constraints he has not been involved.

David then asked if researchers are developing a substitute for limulus amebocyte lysate (LAL). Derek noted that there had been interest fabricating LAL for more than 20 years, but it never seemed to come to pass, likely because of market conditions.

Ray Kane asked about the observed decrease in horseshoe crabs in Wellfleet's spawning beach surveys. Derek noted that commercial horseshoe crab effort and landings in Wellfleet were nominal, and about half of the harbor was closed to commercial harvest due to its National Park Service designation, so he inferred it was not likely due to commercial fishing. However, he was uncertain as to the cause.

Ray Kane asked about the observed decrease in horseshoe crabs in Wellfleet's spawning beach surveys. Derek noted that commercial horseshoe crab effort and landings in Wellfleet were nominal, and about half of the harbor was closed to commercial harvest due to its National Park Service designation, so he inferred it was not likely due to commercial fishing. However, he was uncertain as to the cause.

### **COMMENTS FROM THE PUBLIC**

There were no comments from the public.

### **COMMISSION MEMBER COMMENTS**

Bill Doyle noted the MFAC would not meet again until August 1. He noted that he was willing to host an aquaculture education event for the group at his shellfish grant in Plymouth during July.

Sooky Sawyer expressed concerns regarding a dredging project in the Annisquam River. At present, the dredging company was expected to dump the dredge material outside Gloucester Harbor during the fall. This was very important seasonal lobster habitat for local fishermen and they were concerned about potential impacts to the lobster fishery. Sooky noted that this decision was in part influenced by rules that prohibit dredging during the winter to protect winter flounder spawning. He felt it was inappropriate that winter flounder spawning was given seasonal protections from the impacts of dredging, but the lobster resource was not.

Mike A. stated that DMF staff was looking into this. He felt the current habitat closure is likely a bit more conservative than it needs to be, and there is potential for it to be relaxed.

Mike P. stated that NMFS was currently holding public hearings on Atlantic Bluefin tuna quota management and the written comment period was open through July 31<sup>st</sup>. Local rod and reel fishermen were interested in keeping limits low throughout the season to maintain quota for the fall fishery. In the past, DMF had expressed a willingness to write a letter supporting the interests of these fishermen. Mike P. was interested if DMF would consider writing such a letter this year.

Mike P. and Ray then briefly discussed the difference of opinion on this subject between General Category rod and reel fishermen and harpooners. Because of the economics of the fishery anglers typically prefer lower daily limits, and harpooners prefer higher daily limits. Dan McKiernan suggested that interested MFAC members work with DMF staff to draft a letter and then send it on behalf of the MFAC if there was a consensus opinion. Director Pierce stated he would speak with DMF biologist Greg Skomal and get back to Mike P. after the meeting.

Tim Brady observed an interesting phenomena this year. During the month of May, haddock were very abundant on and around Stellwagen Bank and were being caught further west than was typical. However, by the first week of June the haddock seemed to disperse and were not being found in areas where they are typically abundant, like the deeper waters on the eastern edge of the bank. Bill Doyle relayed that he heard the haddock bite was strong off Wellfleet and in eastern Cape Cod Bay. Mike A. stated that abrupt changes in distribution are typically a sign of changes in bottom temperatures. With ocean warming, oceanographic currents are changing and we will likely see fish behaving differently than they have in the past in response to this.

David stated he will have DMF biologist Micah Dean reach out to Tim.

#### **ADJOURNMENT**

The Chairman recognized how busy Commission members likely are with fishing activities during the summer and thanked everyone for attending the June 2019 MFAC business meeting. He then requested a motion to adjourn. **A motion was made by Tim Brady to adjourn the June 13, 2019 MFAC business meeting. The motion was seconded by Sooky Sawyer. The motion was approved unanimously and the meeting was adjourned.**

## **MEETING DOCUMENTS**

- June 13, 2019 MFAC Business Meeting Agenda
- May 9, 2019 MFAC Business Meeting Draft Minutes
- Recommendation to Adopt the 2019 Recreational Fishing Limits Previously Implemented on an Emergency Basis
- Commercial Tautog Tagging and Permitting
- LCMA1 Control Date and Efforts to Reduce the Risk Posed by Vertical Lines
- Proposal to Increase Commercial Fluke Period I Trip Limit for 2020
- Retail Farmer's Market Permit for 2020
- Future Public Hearing Regarding Coastal Sharks
- Regulatory Housekeeping

## **FUTURE MEETINGS**

**9AM**  
**August 1, 2019**  
**DFW Field HQ**  
**1 Rabbit Hill Road**  
**Westborough, MA**

**9AM**  
**September 5, 2019**  
**DFW Field HQ**  
**1 Rabbit Hill Road**  
**Westborough, MA**

**9AM**  
**October 3, 2019**  
**DFW Field HQ**  
**1 Rabbit Hill Road**  
**Westborough, MA**

**9AM**  
**November 7, 2019**  
**DFW Field HQ**  
**1 Rabbit Hill Road**  
**Westborough, MA**

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