



David E. Pierce  
Acting Director

# Commonwealth of Massachusetts

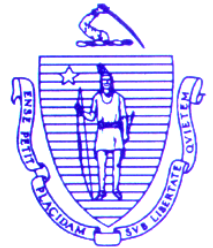
## Division of Marine Fisheries

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Charles D. Baker  
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Mary-Lee King  
Deputy Commissioner

### MEMORANDUM

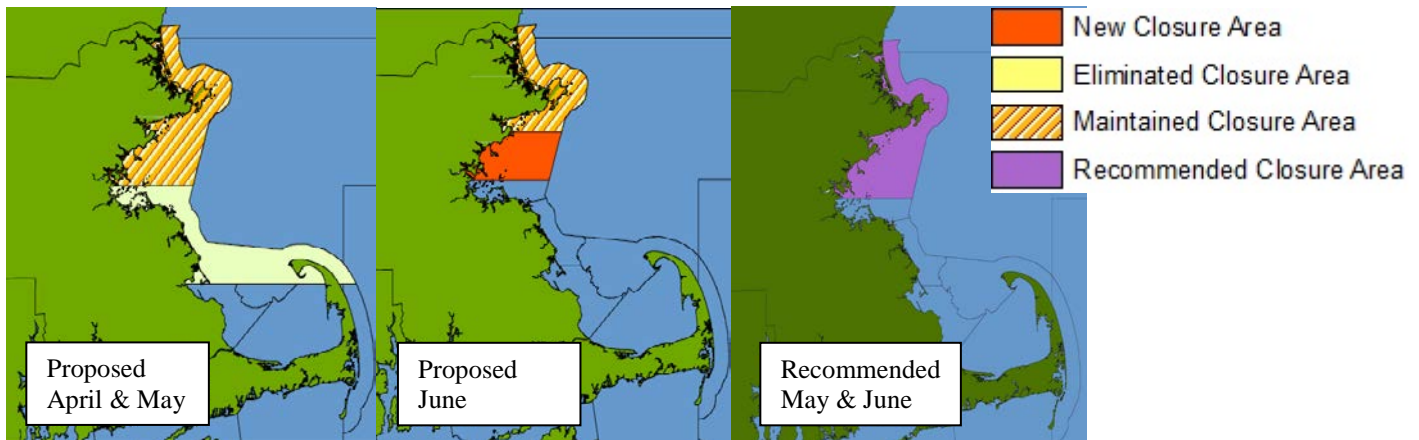
TO: Marine Fisheries Advisory Commission  
FROM: David Pierce, Acting Director   
DATE: July 27, 2015  
SUBJECT: Final Rule Recommendations: Commercial and Recreational Groundfish

After consideration of public comments and recommendations from DMF staff, I provide this memorandum with my proposed actions for your consideration and support. Also provided is the presentation I gave at the DMF/MFAC May 28 public hearing to take comments on draft and emergency regulations affecting commercial groundfish closures, commercial Gulf of Maine (GOM) cod trip limits, and recreational limits for GOM cod and haddock. Our purpose is to improve spawning protections for and reduce fishing mortality on GOM cod in response to the most recent stock assessment revealing that the GOM cod stock is severely depleted with spawning stock biomass at 3-4% of its target.

#### Commercial Groundfish Closures (Hearing Proposals)

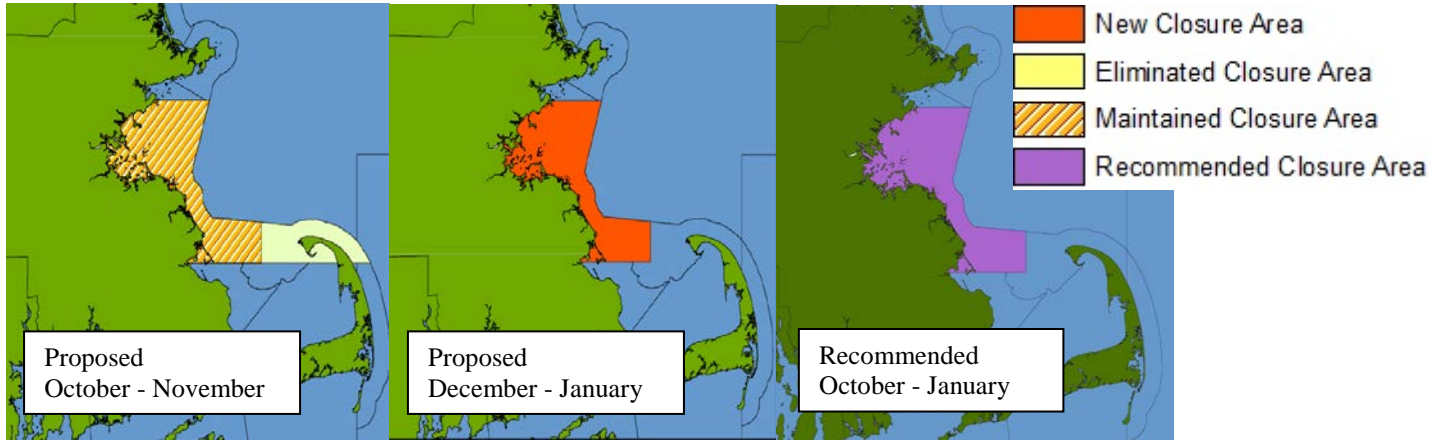
These closures would apply to any gear capable of catching groundfish except: hook and lines for the purpose of catching dogfish, bluefish, striped bass, Atlantic bluefin tuna, and mackerel; pots and traps; shellfish dredges; cast nets, purse seines, and surface gillnets; and seasonal (October – November) use of raised footrope trawls for whiting.

- (1) Spring/Summer: During the period of May 1 through June 30 all state-waters north of latitude 42°20' to the MA/NH border closed to commercial groundfish fishing.



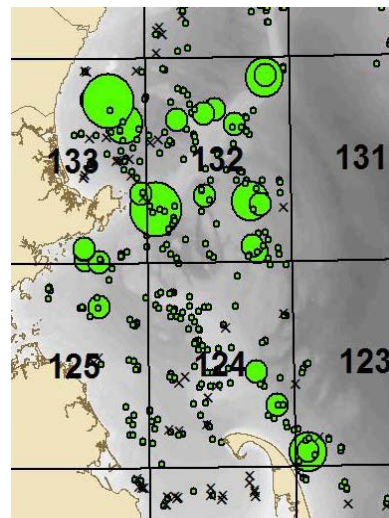
Outcomes: Fishermen get April back everywhere (latitude 42°00' to MA/NH border); they regain May south of latitude 42°20' (Boston) to 42°00'; and they lose June between latitudes 42°30' and 42°20'. Note that all federal waters adjacent to the recommended state waters time/area closure are closed with the exception of latitude 42°30' to the MA/NH border during June.

- (2) Fall/Winter: During the period of October 1 through January 31 all state waters between latitudes 42°00' and 42°30' west of longitude 70°24' closed to commercial groundfish fishing.



Outcomes: This decision will: (1) repeal the existing closures for all state waters east of longitude 70°24' to commercial groundfish fishing in October and November; and (2) add new December and January closures between latitudes 42°00' and 42°30', west of longitude 70°24'.

- (3) No April (or mid-April) Closure: At its June meeting and at the urging of GARFO's Regional Administrator John Bullard, the NEFMC voted (as part of its Omnibus Habitat Amendment with spawning closure provisions) to include an *April 15-30 closure in Area 125 (for GOM groundfish spawning protection)*. This federal closure might be in place in 2016 affecting federal permit holders wherever they fish, including state waters. A bit more than 1/2 of Area 125 is in state waters. We do not propose an April 15-30 closure of Area 125 at this time because it's not implemented by NOAA Fisheries, and may not be in time for April 2016.



Green circles represent DMF GOM cod Industry-Based Survey 2004-2007 results for cod spawning locations in April.

Public Comment: There was consensus among active Gloucester-based state waters only permit holders (“GE fishermen”) to allow some access to the state waters off Cape Ann during June. This would allow fishermen to target groundfish (primarily flounder species, but also cod). To this point, there was some support for opening up all waters north of latitude 42°30', to match the federal Framework 53 closures. There was also some interest in maintaining the current closure system and keeping those state waters south of latitude 42°30' open in June.

Several GE fishermen in attendance spoke against having any closures, stating that trip limits were sufficient to control mortality. Conversely, public comment received from non-GE fishermen (primarily recreational anglers), specifically via written comment, expressed a desire to see the commercial cod fishery further constrained considering the status of the stock and the recreational closure.

There were no objections or requests from industry during the public comment period to increase access during the proposed October – January closure.

Rationale for DMF spring-summer recommendation: As pointed out in public comment and during the Framework 53 NEFMC debates, inshore spring-time access to groundfish is an important economic consideration. However, I do not recommend providing access to any portion of state waters north of 42°20' north latitude during the month of *June* to groundfish fishing due to our continuing concern about protecting spawning aggregations of cod.

- *May and June* represent the peak spring cod spawning months, centered around June 1.
- State waters north of latitude 42°30' have historically been closed in June and closing some waters south of this area during June will protect the Eagles Ridge spawning aggregation off Nahant.
- Considering the status of the GOM cod stock, it is not prudent to scale back protection during a critical spawning period.

Additional rationale for area closure recommendation – state waters catches versus set-asides: In addition to spawning protections, we must also consider the impact of adjusting these closures on our state-waters catch of GOM cod in comparison to the state-waters set-aside. Bear in mind that the state-waters set-asides for GOM species/stocks are shared by the state-waters fisheries in Maine, New Hampshire, and Massachusetts. While Massachusetts has historically been responsible for the lion’s share of harvest, these groundfish are still a shared resource.

- The GOM cod set-aside has been reduced from 227,076 pounds in fishing year (FY) 2014 to 57,319 pounds in FY 2015.
- From May 1 – December 31, 2014, our GE fleet landed 86,064 lbs of GOM cod, of which 55,275 pounds was harvested in June (Table 1).
- Accordingly, our June 2014 GOM cod landings, which were presumably harvested in the waters south of latitude 42°30' (given our existing closures) nearly match the entire FY 2015 GOM cod state-waters set-aside.
- If as suggested at public hearing, we open up those state waters north of latitude 42°30' – including productive, spawning areas off Cape Ann in June – we substantially risk exceeding the GOM cod state-waters set-aside for 2015 (even if the recommended closure between latitudes 42°20' and 42°30' and reduced trip limit are in place).
- This clearly conflicts with our goal of improving spawning protection and reducing fishing mortality on GOM cod.

**Table 1: Monthly MA GE GOM Cod Landings (live lbs), CY2010-CY2014**

Month	CY2010	CY2011	CY2012	CY2013	CY2014
January	24,306	42,040	11,754	1,587	0
February	15,326	241	5,605	*(minimal)	*(minimal)
March	47,212	91	2,113	649	*(minimal)
April	3,811	3,842	0	0	0
May	3,668	278,110	541	778	*(minimal)
June	117,726	112,934	49,022	44,469	55,275
July	65,206	43,462	28,512	10,083	10,776
August	24,300	21,767	9,080	5,751	8,514
September	20,534	12,852	6,596	4,358	4,302
October	5,846	2,777	2,846	4,248	2,244
November	86,359	30,579	11,496	4,775	1,654
December	103,079	86,672	9,298	5,125	3,298
<b>Grand Total</b>	<b>517,373</b>	<b>635,367</b>	<b>136,862</b>	<b>81,823</b>	<b>86,064</b>
SOURCE: MA Trip-Level and NMFS Vessel Trip Reports					
*Confidential Data					
CY = Calendar Year					

The impact of adjusting groundfish closures on our state-waters landings in comparison to the state-waters set-asides is also an issue for flounder species.

- While the state-waters-only fleet has been able to stay within the state-waters set-aside for GOM winter flounder, from FY 2010-2014 the fleet’s landings of witch flounder and CC/GOM yellowtail flounder have exceeded the state-waters set-aside in all but one instance (witch flounder in FY 2012) (Table 2).
- The “overage” is typically about 30-40% per fishing year, particularly in more recent years, but in some years (e.g., FY 2011) these overages exceeded the set-aside by more than 400%.
- With these set-asides staying relatively similar in FY 2015 and the CC/GOM yellowtail flounder set-aside potentially being lowered in response to the most recent stock assessment, it’s likely this trend may continue and worsen under status quo rules.
- In most years, June represents about 30-50% of the catch during any FY for witch and CC/GOM yellowtail flounder. Considering our existing closures, these landings presumably came from waters south of latitude 42°30'. Opening those state waters north of latitude 42°30' likely will exacerbate these overages, even if those state waters between latitudes 42°20' and 42°30' are closed.

Liberalizing our state-waters-only fishery in a manner that will result in Massachusetts fishermen exceeding the state-waters set-aside is problematic. Our GE fleet has benefitted from the fact that the state-waters set-asides, unlike federal sector and common pool allocations, are not managed as hard quotas; that is, the NEFMC/NMFS does not prescribe nor require the states to adopt accountability measures, such as quota closures and overage paybacks, if the state-waters set-asides are exceeded. Instead overages of the state-waters set-asides are factored into the overall management of the fishery, which negatively impacts available catch for federally permitted fishermen. This is an issue that the NEFMC has raised with Massachusetts in past years, citing

the state’s legal responsibility under the Magnuson-Stevens Act to manage its state-waters-only fishery in a manner that does not undermine federal conservation and management goals.

**Table 2: Comparison of State Waters Landings (live pounds) to State-Waters Set Aside (lbs) for 2010-2015 for CC/GOM Yellowtail, GOM Winter Flounder and Witch Flounder**

Stock	FY2010	FY2010	FY2011	FY2011	FY2012	FY2012	FY2013	FY2013	FY2014	FY2014*
	Set Aside	Landings	Set Aside	Landings	Set Aside	Landings	Set Aside	Landings	Set Aside	Landings
CC/GOM Yellowtail Flounder	19,814	79,189	22,046	113,813	77,162	82,966	72,753	103,230	72,753	101,034
Witch Flounder	19,841	33,491	30,864	60,771	108,027	73,330	50,706	56,833	50,706	83,075
GOM Winter Flounder	132,276	100,687	359,354	86,385	599,657	153,682	599,657	133,151	599,657	192,300
SOURCE: MA Trip-Level, NMFS Vessel Trip Reports and Frameworks 44, 45, 47, 50, and 51										
*Incomplete Data Entry										
FY = Fishing Year										
Exceeded Statewater ACL Subcomponent										

To provide some respite for GE vessels and allow some inshore groundfish fishing opportunities in Massachusetts Bay, I recommend eliminating the *April* closure. This will allow vessels access to some cod and potentially some flounder. Additionally, they will have access to the rebuilt GOM haddock stock while they are in state waters – something they have previously requested.

NOTE: I considered allowing a tie-down gillnet experimental fishery in June in the closed area to provide some access to flounders (as requested at public hearing). However, we have no data to demonstrate to what extent this gear reduces cod bycatch. Rather, we have concerns about negative interactions between the gear and spawning cod (based on known disruptive effect of stand-up gillnets on spawning activity) and the state-waters fleet continuing to exceed the state-waters set-aside for witch and CC/GOM yellowtail flounder.

**Commercial State-Waters GOM Cod Trip Limits**

**Limited-access fishermen (Emergency Action)**

I do not recommend adopting the 200-pound trip limit for GE fishermen and federal permit holders fishing in state-waters. Instead, I recommend a state-waters daily trip limit of 400 pounds.

- This action represents a 200-pound increase to the emergency trip limit and a 400-pound decrease from the former 800-pound trip limit.
- As GE permit holders stated at the public hearing, the major limiting factor for state-waters cod fishing is not the trip limit, but the groundfish closures that constrain access of commercial fishermen to cod when they are seasonally abundant inshore.
- The lion’s share of GOM cod is historically caught by the state-waters vessels from June – August and from November – December (Table 1).
- Accordingly, maintaining a 200-pound trip limit will be too conservative, unduly limit access to the state-waters set aside, and likely promote large amounts of regulatory discarding.

To determine a more appropriate limit, staff compared the CY 2014 GE vessels’ landings of 86,064 lbs and the FY 2015 state waters’ set-aside of 57,319 pounds (all states, not just Commonwealth). Assuming all other factors remain stable, an approximate 34% reduction in GE cod landings results with a 400-pound limit.



Considering the proposed closures and the limited seasonal availability of cod, we have an opportunity to be more liberal and provide some economic relief while also reducing regulatory discards. Therefore, I recommend the 400-pound trip limit. NOTE: This limit was proposed by several GE permit holders in public comment.

#### Open-access fishermen (Hearing Proposal)

I recommend adopting a 25-lb mixed groundfish open-access trip limit. The open-access state waters limit historically complements the federal Handgear B open-access limit. A reduction to 25 lbs would continue this symmetry. Historically, this open-access limit has applied to cod only. In 2014, Commission member Chuck Casella requested DMF consider future rule-making to extend this limit to other groundfish species.

- Commissioner Casella was specifically interested in allowing the sale of winter flounder, pollock and haddock, and he indicated this would allow small-boat rod-and-reel fishermen to provide more diverse seafood to local markets.
- This appears to be the appropriate time to make this adjustment because I'm proposing to open Massachusetts Bay in April to commercial groundfish fishing, and catch of GOM haddock by commercial fishermen should increase.
- Moreover, providing additional alternatives may limit recreational and commercial effort on cod thereby underscoring our management goals of protecting spawning GOM cod and reducing GOM cod fishing mortality.

#### **Recreational GOM Cod Limits (Emergency Action)**

I do not recommend adopting a zero-possession limit for recreationally caught GOM cod, but instead recommend adoption of a year-round 1-fish per angler limit for private anglers only.

NOTE: Our emergency regulation for a GOM cod 21" minimum size recently expired; we did not extend it for another 90 days. Therefore, our minimum is back to 19" – a reasonable size at one fish per private angler.

#### Rationale:

1. It is an unprecedented and difficult-to-defend policy to prohibit private citizens from accessing a public resource while continuing to allow commercial enterprises access to the same resource; this sentiment was also strongly iterated in public comment.
2. The biological rationale proposed by the NEFMC and NMFS is that under all bag limit scenarios, including zero-possession, GOM cod mortality will exceed the recreational fishing mortality threshold. While this may be true, it is reasonable to move some of this discard mortality across the ledger and allow private recreational fishermen to take a small quantity of cod (likely caught as bycatch) for personal use, provided the limits are nominal enough to deter directed fishing effort.
3. We do not want recreational fishermen obtaining a commercial fishing permit to fish for cod under the open-access limit. By allowing some recreational harvest and reducing the open-access trip limit (as proposed above), there should be sufficient disincentives to curb this activity.

NOTE: This 1-fish per angler possession limit would not apply to the for-hire fishery because:

1. Most for-hire operators fishing for GOM cod are also federal permit holders and will be bound by the most restrictive rule (i.e., zero possession); therefore, there likely will be little interest among the for-hire fleet in pursuing this small limit, and

2. There will be limited incentive for a for-hire vessel to obtain a commercial permit and take out charters under the proposed open access groundfish limit, especially given other restrictions such as closures that will apply to any such commercial groundfishing activity.

### **Recreational GOM Haddock Limits (Hearing Proposal)**

I recommend adoption of the recreational haddock limits as proposed: a 17-inch minimum size and 3-fish bag limit. This will reduce the regulatory burden currently imposed by the most-restrictive-rule policy as a result of conflicting state and federal rules (3 fish at 21"). This likely has caused haddock between 17 and 21 inches to be filleted at sea.

Attachments:

Written Public Comment

Final Strikethrough Regulations

**From:** [Davis, Shannon \(FWE\)](#)  
**To:** [Silva, Jared \(FWE\)](#)  
**Subject:** FW: Gulf of Maine Cod & Haddock and Recreational Black Sea Bass proposed regulations  
**Date:** Wednesday, April 29, 2015 11:54:57 AM

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-----Original Message-----

From: Rip Cunningham [<mailto:ripcham@gmail.com>]  
Sent: Wednesday, April 29, 2015 8:01 AM  
To: Fish, Marine (FWE)  
Subject: Gulf of Maine Cod & Haddock and Recreational Black Sea Bass proposed regulations

To Acting Director David Pierce

Below are my comments on the proposed regulations:

Sec 1 a. I support the concept that the State of MA adopt similar regulations as those implemented by the Federal regulators. However, I do seriously question why the recreational users are being singled out to carry 100% of the necessary cod catch reductions.

Sec 1 b. I support the proposed reduction in daily catch with the same question as above.

Sec 1 c. I strongly support the spawning closures and hope that the State will continue to protect spawning aggregations of cod. The State is to be commended for the work they have already done.

Sec 2 a. I understand the necessity to drastically reduce the catch of cod, but feel that the recreational user is being unfairly singled out to carry the vast majority of this reduction.

Sec 2 b. I support matching the federal regulations.

Sec 3 a. I support the proposed sea bass regulations.

Thank you for allowing me to comment.

C. M. "Rip" Cunningham Jr.  
75 Wilsondale St.  
Dover, MA 02030



**From:** [Davis, Shannon \(FWE\)](#)  
**To:** [Silva, Jared \(FWE\)](#)  
**Subject:** FW: cod fish closure  
**Date:** Wednesday, April 29, 2015 11:55:54 AM

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**From:** Bradford Burns [mailto:[bigbass@maine.rr.com](mailto:bigbass@maine.rr.com)]  
**Sent:** Monday, April 27, 2015 6:39 PM  
**To:** Fish, Marine (FWE)  
**Cc:** Pat Keliher  
**Subject:** cod fish closure

Dr. Pierce – I have no problem with proposed conservation measures for cod and haddock. There probably shouldn't be any fishing for them by anybody until they recover, if they ever do. I think, though, that it is an unthinkable concept to prohibit private citizens from keeping even one or two cod fish while still allowing any commercial harvest. If they can't fish for something else without catching codfish then stay out of the zone all together. The commercial fishermen have no more right to these fish than the rest of us. The ability to keep a fish or two for personal use is the most fundamental of all harvests. If anything I have ever heard makes me think the current management system is broken this is it!

Brad Burs  
18 Merrill Rd.  
Falmouth, ME 04105

**From:** [Davis, Shannon \(FWE\)](#)  
**To:** [Silva, Jared \(FWE\)](#)  
**Subject:** FW: Commercial Gulf of Maine Groundfish Management comments  
**Date:** Thursday, April 30, 2015 8:10:44 AM

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**From:** Mike Delzingo [mailto:ff\_boston@yahoo.com]  
**Sent:** Wednesday, April 29, 2015 4:06 PM  
**To:** Fish, Marine (FWE)  
**Subject:** Commercial Gulf of Maine Groundfish Management comments

" DMF will accept comments on the following:

b. DMF proposal to amend the provision that allows commercial fishermen without a state-waters groundfish permit endorsement or proper federal permit to retain and land up to 75 pounds of cod per day, by reducing that limit to 25 pounds of cod per day."

I ask that if the decision is reached to lower this cod limit from 75 pounds to 25 pounds per day, that you either issue a control date, a specific cod only endorsement, or apply it to next years regulations and not this years.

I purchased my permit with this specific historical exception in mind and even called Kerry Allard at the dmf for conformation of the continuation of this allowed catch. Which I was told indeed the rule has not changed.

I have emailed Story Reed for additional conformation, and again was told the rule has not changed. Now I believe this entire amendment, a week later, is a direct result of these recent calls and emails from Me.

My reasoning behind asking for the continued exception is that many people do not even know about this 75 pounds, therefore it is not widely known and there are only a handful of boats who have the proper

commercial permit to land these fish. The knowledge the 75 pound exemption even exists and the catch history.

Thank you for your time and consideration

Mike Delzingo  
Arlington, Ma.

**From:** [Davis, Shannon \(FWE\)](#)  
**To:** [Silva, Jared \(FWE\)](#)  
**Subject:** FW: hearing  
**Date:** Tuesday, May 05, 2015 11:04:45 AM

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**From:** johnfab7@aol.com [mailto:johnfab7@aol.com]  
**Sent:** Monday, May 04, 2015 8:56 AM  
**To:** Fish, Marine (FWE)  
**Subject:** hearing

To whom it may concern to speak in behalf of sportsmen at your public hearing scheduled for May 28th. My name is John Fabroski and I am the President of the Plymouth County League of Sportsmen, over 18000 strong. After discussion at our last meeting it was requested that if the DMF would consider the allowance of one fish ( cod ) for the recreational fishermen. Their thinking was that this would minimize the effect of the total catch effecting the reproduction. The PCL supports the efforts of the DMF and have attended local meetings but Gloucester mid week would be difficult, so would you please present this request to those conducting the meeting on the 28th. Thank you

John Fabroski

Dear Director Pierce:

My name is Patrick Ceruolo, I am a Recreational Fisherman, I share my catch with family and friends, PLEASE REDUCE THE SIZE LIMIT ON HADDOCK!! IT IS ABOUT all the recreational day fisherman has left!! - The Northeast Fisheries Science Center shows stock assessment for Haddock concludes that overfishing for Haddock is not occurring and the stock is fully rebuilt to healthy levels, so NOAA reduced the FEDERAL recreational size limit to 17 inches. THE STATES OF MAINE AND NEW HAMPSHIRE HAVE ALSO DONE THIS, SO WHY DO WE HAVE TO BE SO OUT OF STEP WITH THESE STATES AND THE FEDERAL GOVT??

Please give us Recreational Fisherman a break and reduce the size limit from 21 to 17 inches. Please remember, we bring a great deal of money into Massachusetts from tackle sales, lodging, restaurant meals, boat charters, party boat passengers, fuel etc -

They can easily switch to N.H. or Maine where they have more liberal rules. Already I understand some party boat and six pack captains are quitting for the season or are selling out. - PLEASE REDUCE THE HADDOCK SIZE LIMIT!!

RESPECTFULLY, PATRICK CERUOLO  
15 BELLMORE RD FRAMINGHAM 508 875 7672

**From:** [Davis, Shannon \(FWE\)](#)  
**To:** [Silva, Jared \(FWE\)](#)  
**Subject:** FW: Save the Ground Fishing North of Cape Cod  
**Date:** Wednesday, May 27, 2015 8:20:34 AM

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**From:** adtrifon@comcast.net [mailto:adtrifon@comcast.net]  
**Sent:** Tuesday, May 26, 2015 3:58 PM  
**To:** Fish, Marine (FWE)  
**Subject:** Save the Ground Fishing North of Cape Cod

Hi,

I have been a Salt Water fisherman for over 40 years. It's time to give it a break. The fatality rate to the Cod Fish will continue as long as there is Haddock fishing. Please consider closing it all down !! We have Pacific Cod for the time being.

Al Trifone Jr.  
Saugus, Ma  
[adtrifon@comcast.net](mailto:adtrifon@comcast.net)

**From:** [Davis, Shannon \(FWE\)](#)  
**To:** [Silva, Jared \(FWE\)](#)  
**Subject:** comments  
**Date:** Wednesday, June 03, 2015 9:50:24 AM

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**From:** Pete Parisi [mailto:fishparisi@gmail.com]  
**Sent:** Tuesday, June 02, 2015 3:17 PM  
**To:** Fish, Marine (FWE)  
**Subject:**

I was at a meeting on Friday the 29 in Gloucester ma on closing area 5and6 in june for cod fish when federal fishing boats can fish north of 42.30.00 I find this let's federal boats have more rights then state boats .wolf fish are on the endangered spices list and you don't close any areas for them .yellow tails flounder limit is 250 lbs.and areas are not closed for them .why is it only being closed for cod.

Letting one man work and not another is not right, no rolling closer for area 5and6 those areas are closed most of the year as it is of dragging, leave things alone, things are hard enough  
Peter Parisi

**From:** [Charles Johnson](#)  
**To:** [Reed, Story \(FWE\)](#)  
**Cc:** [Silva, Jared \(FWE\)](#)  
**Subject:** GOM Cod Regulations  
**Date:** Thursday, June 18, 2015 12:56:44 PM

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Dear Mr. Reed.

I know if Mr. Diodati was still running things there would be no delays in pushing for stronger cod protection measures. Nothing positive with respect to resource status could result from delaying more restrictive action being implemented. What does "due to continuing interest..." really mean? Please relay to the Acting Director that delaying action is a sign of a weak and struggling leadership. There seems to be mounting evidence that supports GOM cod are in trouble; I know of nothing that suggests otherwise.

Please move these measures forward immediately.

Yours Truly,

Chance Johnson

June 17, 2015  
*Marine Fisheries Advisory*

**Proposed Commercial Gulf of Maine Groundfish Closures  
Written Public Comment Deadline Extended to July 3**

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The Division of Marine Fisheries (*Marine Fisheries*) held a [public hearing](#) on May 28, 2015 to take comment on commercial and recreational fishing measures aimed to protect spawning cod aggregations and reduce fishing mortality on Gulf of Maine cod. Among the proposed measures were draft regulations to adjust the existing commercial groundfish closures in the Gulf of Maine. These proposed closure adjustments were described in detail in a May 27, 2015 [Marine Fisheries Advisory](#). As details of this proposal were announced just prior to the public hearing date, the written public comment period relative to these closures was initially extended through Wednesday, June 17, 2015. Due to continued interest in this proposal, *Marine Fisheries* is again extending the written public comment period; the new deadline is July 3, 2015.

**Instructions for Written Public Comment**

For the purpose of taking written public comment on these proposed closures the deadline will be extended through Friday, July 3, 2015 at 5:00 PM. Please address all comments to Acting Director David Pierce. Comments can be sent by e-mail to [marine.fish@state.ma.us](mailto:marine.fish@state.ma.us) or by mail to 251 Causeway Street, Suite 400, Boston, MA 02114.

For more information regarding the public comment period or regulatory proposals, contact Jared Silva by phone ([617-626-1534](tel:617-626-1534)) or through e-mail ([jared.silva@state.ma.us](mailto:jared.silva@state.ma.us)).





**From:** [Davis, Shannon \(FWE\)](#)  
**To:** [Silva, Jared \(FWE\)](#)  
**Subject:** FW: comments regarding mass bay cod closures  
**Date:** Friday, June 19, 2015 10:08:55 AM

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**From:** hollyandchris@comcast.net [mailto:hollyandchris@comcast.net]  
**Sent:** Tuesday, June 16, 2015 5:00 PM  
**To:** Fish, Marine (FWE)  
**Subject:** comments regarding mass bay cod closures

### Mass Bay Spring/Summer Closure April 1 - June 30

There is no need for area closures. You can achieve the same goal of protection of cod by regulating **April, May & June** with tie down nets **ONLY**.

With a 200 lb. cod limit this year, 2015, almost all commercial fisherman are staying away from the cod. The environmental police were checking fishing boats around June 10, 2015. With no area closures all fisherman were under the cod limits as far as I know.

In closing, I am trying to stress the fact that there is no need for area closures to achieve cod protection. With regulation of gear, cod limits and enforcement you can achieve your goal.

Thank you.

Chris Chadwick

**From:** [Davis, Shannon \(FWE\)](#)  
**To:** [Silva, Jared \(FWE\)](#)  
**Subject:** FW: new closures  
**Date:** Tuesday, June 23, 2015 11:56:21 AM

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**From:** lwill582@aol.com [mailto:lwill582@aol.com]  
**Sent:** Monday, June 22, 2015 4:53 PM  
**To:** Fish, Marine (FWE)  
**Subject:** new closures

regarding new closures the division of marine fisheries is going against governor bakers executive order number 562. The order states very clearly that any state regulations do not exceed federal regulations. THE CLOSURE IN JUNE NORTH OF 42 30 INTO IPSWICH BAY WILL BE OPEN IN JUNE TO ALL FEDERAL PERMIT HOLDERS INCLUDING THE COMMON POOL. The division always states that they are mirroring the federal regs but always seem to pile more on us .This has to end Also the executive order also states that agencies must go through ther regs and change ones that are more excessive than the federal regs . Let me start with no gillnet permit transfers/night dragging/no lobsters on trawlers/and of course all the closures in state waters. These regs all exceed the federal regs.I would suggest we meet again and discuss these closures so other actions by industry do not need to be taken best regards Lou Williams 617 548 9280

**Proposed Final Strikethrough Language as Compared to Regulatory Language in Place Prior to Emergency Action**

322 CMR 6.03 Regulated Multi-Species Groundfish

(1) Definitions. For the purpose of 322 CMR 6.00 only, the following words shall have the following meanings:

American Plaice means that species known as *Hippoglossoides platessoides*, and common referred to as dab or American dab.

Cod means that species of fish known as *Gadus morhua*.

~~Dab means American dab or that species of fish commonly known as *Hippoglossoides platessoides*.~~

For-Hire Vessel means a vessel issued a permit pursuant to 322 CMR 7.10(5)(a) to carry paying customers for the purpose of recreational fishing.

Gonads means sex glands commonly known as ovaries or testes or any portions thereof removed from fish and retained for purposes of sale.

Gulf of Maine Groundfish Management Area means those waters under the jurisdiction of the Commonwealth north of 42° 00' including waters of Cape Cod Bay and the Cape Cod Canal that is bounded to the west by a line drawn from the Massachusetts Maritime Academy to the Bell's Neck Rd./Tidal Flats Recreation Area. The GOM Area also includes all estuaries and salt ponds that drain to these waters.

Haddock means that species of fish known as *Melanogrammus aegleinus*.

Halibut means that species of fish known as *Hippoglossus hippoglossus*.

Land means to transfer or offload any cod, haddock, pollock or yellowtail flounder onto any vessel, boat, watercraft, land, dock, pier, wharf or other artificial structure used for the purpose of receiving fish.

Monkfish means the species of fish known as *Lophius americanus*.

Monkfish tail means the section between the first, short, slender spine of the dorsal fin (fourth cephalic spine) and the end of the tail (caudal fin).

Monkfish whole weight means tail weight multiplied by ~~3.32~~ 2.91 conversion factor.

Ocean pout means the species of fish known as *Macrozoarces americanus*.

Pollock means that species of fish known as *Pollachius virens*.

Recreational fishing means fishing with hand-held gear other than nets for a purpose or use other than sale, exchange or barter.

Redfish means that species of fish known as *Sebastes fasciatus*.

Regulated Groundfish Species means, inclusively, American plaice, cod, haddock, halibut, monkfish, ocean pout, pollock, redfish, windowpane flounder, winter flounder, witch flounder, wolfish and yellowtail flounder.

Southern New England Groundfish Management Area means those waters under the jurisdiction of the Commonwealth south of 42° 00' ~~[degrees]~~ excluding waters of Cape Cod Bay but including Pleasant Bay and Nauset Harbor and all connecting embayments in the County of Barnstable as well as all estuaries and salt ponds that drain to these waters.

Total Length means the greatest straight line length as measured on a fish with its mouth closed from the anterior most tip of the jaw or snout to the farthest end of the tail. For fish with forked tails the upper and lower fork may be squeezed together to measure the tail extremity.

Trip means the time period that begins when a fishing vessel departs from a dock, berth, beach, seawall, ramp or port to carry out commercial fishing operations and that terminates with a return to a dock, berth, seawall, ramp or port.

Windowpane Flounder means that species of fish known as *Scophthalmus aquosus*.

Winter Flounder means that species of fish known commonly as blackback or *Pseudopleuronectes americanus*.

Witch Flounder means gray sole or that species of fish known as *Glyptocephalus cynoglossus*.

Wolffish means that species of fish known as *Anarchichas lupus*.

Yellowtail flounder means that species of fish known as *Limanda ferruginea*.

(2) Minimum Sizes. It is unlawful to land or possess multispecies groundfish of a total length less than the following:

(a) Commercial Fishing.

1. Cod: 19 inches;
2. Dabs: 12 inches;
3. Haddock: 16 inches;
4. Pollock: 19 inches;
5. Yellowtail flounder: 12 inches.;
6. Halibut: 41 inches;
7. Monkfish: 17 inches in total length or monkfish tails less than 11 inches in total length;
8. Windowpane Flounder: 12 inches;
9. Winter Flounder: 12 inches;
10. Witch Flounder: 13 inches;
11. Redfish: 7 inches.

(b) Recreational Fishing.

1. Cod:
  - i. 19 inches in the Gulf of Maine Groundfish Management Area;
  - ii. 22 inches in the Southern New England Groundfish Management Area;
2. Dabs: 14 inches;
3. Haddock:
  - i. 17 24 inches in the Gulf of Maine Groundfish Management Area;
  - ii. 18 inches in the Southern New England Groundfish Management Area;
4. Yellowtail flounder: 13 inches;
5. Halibut: 41 inches;
6. Windowpane Flounder: 12 inches;
7. Winter Flounder: 12 inches;

**Comment [js1]:** Initial emergency regulation increased minimum size to 21 inches. When recreational GOM cod emergency regulation was extended the 21" minimum size was not extended as part of this. The minimum size reverted back to 19", which is a reasonable size for a 1-fish bag limit.

**Comment [js2]:** This proposed minimum size will match the federal minimum size for haddock.

(3) Method of Measurement.

(a) Minimum Size. The minimum sizes established in 322 CMR 6.03(2) shall be determined by the greatest straight line length in inches as measured on a fish with its mouth closed from the anterior most tip of the jaw or snout to the farthest extremity of the tail. For fish with forked tails, the upper and lower fork may be squeezed together to measure the tail extremity.

(b) Exceptions for Possession of Cod Parts. For purposes of determining weights for trip limits as established by 322 CMR 6.03(b), the weight of fillets will be multiplied by three, and the weight of headless whole-gutted cod will be multiplied by 1.25. The weights of cheeks removed from cod heads and cod gonads consistent with 322 CMR 6.03(3)(b) shall be exempt from the possession limits.

(c) Prohibition. It shall be unlawful for a commercial fisherman to mutilate any cod in such a way as to interfere with or affect a proper or adequate measurement of the fish.

(4) Recreational Fishery Cod Limit.

(a) Gulf of Maine Groundfish Management Area:

i. Private Anglers. It is unlawful for any recreational fisherman to possess or land more than 1 cod per calendar day.

ii. For-Hire. It is unlawful for any person onboard a for-hire vessel to possess or land any cod.

~~1. April 16<sup>th</sup> through October 31<sup>st</sup>: It is unlawful for any recreational fisherman to possess more than nine cod per person per day during April 16<sup>th</sup> through October;~~

~~2. November 1<sup>st</sup> through April 15<sup>th</sup>:~~

~~i. For hire: It is unlawful for customers aboard for hire vessels to land or possess cod harvested from the Gulf of Maine Groundfish Management Area during November through April 15<sup>th</sup>.~~

~~ii. Private Anglers: It is unlawful for anglers aboard private vessels or fishing from shore to possess more than two cod per person per day, not to exceed 75 pounds per vessel during November through April 15<sup>th</sup>.~~

(b) Southern New England Groundfish Management Area: It is unlawful for recreational fishermen to possess more than ten cod per person, per day.

(c) Exceptions: Customers aboard ~~head boats for-hire vessels, which are permitted pursuant to 322 CMR 7.10(5), and~~ fishing in federal waters may possess cod in compliance with federal regulations.

(5) Commercial Fishery Cod Trip Limits. The trip limits established in 322 CMR 6.03(5) shall be determined by the weight of whole, whole-gutted, or gilled fish and shall apply to any trip or 24-hour period, whichever period is longer. It is unlawful for a vessel fishing in:

(a) Gulf of Maine Groundfish Management Area to possess on board or land more than ~~800~~ 400 pounds of cod.

(b) Southern New England Groundfish Management Area to possess on board or land more than 1,000 pounds of cod.

(6) Gonad Restrictions.

(a) Possession Limit. It is unlawful for fishermen to possess any quantity of gonads that in aggregate weighs in excess of 10% of the weight of Atlantic cod aboard the vessel.

(b) Prohibition. It is unlawful for fishermen to remove gonads from any fish that measures below the minimum size or from any legal-sized fish released due to state or federal possession limits.

**Comment [js3]**: The emergency regulation, and subsequent extension, established zero tolerance for GOM cod for all recreational anglers in the GOM Management Area. Zero-tolerance was also the proposed limit at public hearing.

**Comment [js4]**: Emergency regulation established a 200 pound trip limit. 200 pounds was also the proposed limit at public hearing.

(7) Seasonal Commercial Fishery Limits for Yellowtail Flounder. It is unlawful for any vessel fishing within waters under the jurisdiction of the Commonwealth to possess on board or land more than 250 pounds of yellowtail flounder during a trip or 24-hour period, whichever period is longer.

(8) Witch Flounder Commercial Possession Limit. It is unlawful for any vessel fishing within waters under the jurisdiction of the Commonwealth to possess on board or land more than 1,000 pounds of witch flounder during a trip or 24-hour period, whichever period is longer.

(9) Halibut Fishery Possession Limit. It is unlawful for:

- (a) Commercial fishermen to possess on board or land more than one halibut per vessel per trip or 24-hour period, whichever period is longer.
- (b) Recreational fishermen to possess on board or land more than one halibut per person per day.

(10) Commercial Fishery Monkfish Limit.

- (a) It is unlawful for any vessel fishing within waters under the jurisdiction of the Commonwealth to possess on board or land more than 536 pounds of monkfish tails or 1,560 pounds whole weight, per trip or 24-hour period, whichever period is longer.
- (b) Limitation on Possessing or Landing Monkfish Livers. During any trip it shall be unlawful for any vessel fishing in the waters of the Commonwealth to possess or land monkfish livers in excess of:
  - 1. 25 percent the total weight of the monkfish tail;
  - 2. 10 percent the total weight of the whole monkfish;

(11) Winter Flounder Fishery Limits.

- (a) Commercial Fishery.
  - 1. Possession Limits. It is unlawful for commercial fishermen to possess on board or land:
    - a. more than 500-lbs of winter flounder taken from the Gulf of Maine Groundfish Management Area per trip or 24-hour period, whichever period is longer; or
    - b. more than 50-lbs of winter flounder taken from Southern New England Groundfish Management Area per trip or 24-hour period, whichever period is longer.
- (b) Recreational Fishery.
  - 1. Gulf of Maine Groundfish Management Area. From January 1<sup>st</sup> through December 31<sup>st</sup>, it shall be unlawful for recreational fishermen fishing in the Gulf of Maine Groundfish Management Area to possess more than eight winter flounder per day;
  - 2. Southern New England Groundfish Management Area.
    - a. January 1<sup>st</sup> through the last day of February. It shall be unlawful for recreational fishermen fishing in the Southern New England Groundfish Management Area to possess any winter flounder; and



b. March 1<sup>st</sup> through December 31<sup>st</sup>. It shall be unlawful for recreational fishermen fishing in the Southern New England Groundfish Management Area to possess more than two winter flounder per day.

**(12) Haddock Fishery Limits**

**(a) Recreational Fishery.**

**1. Gulf of Maine Groundfish Management Area.** It is unlawful for any recreational fisherman to possess or land more than 3 haddock per calendar day.

Comment [js5]: This haddock bag limit will match the federal haddock possession limit. It was previously an unlimited bag limit.

~~(13) (12) Exceptions to Possession Limits for Federal Permit Holders. Vessels with federal permits allowing the taking of multi-species groundfish from federal waters may possess and land more than the state possession limits prescribed in this section, provided said fish were lawfully taken from federal waters. It shall be unlawful for any vessel with federal permits allowing the taking of multispecies groundfish to possess in excess of the state possession limits at 322 CMR 6.03 while actively fishing in state waters.~~

(a) **Federal Permit Holders.** Vessels with federal permits allowing the taking of regulated groundfish species from federal waters may possess and land more than the state possession limits prescribed in this section, provided said fish were lawfully taken from federal waters. It shall be unlawful for any vessel with federal permits allowing the taking of multispecies groundfish to possess in excess of the state possession limits at 322 CMR 6.03 while actively fishing in state waters.

(b) **Open Access State-Waters Regulated Groundfishs.** Those commercial fishermen, permitted in accordance with 322 CMR 7.01(2), who do not hold a regulated groundfish permit endorsement, issued pursuant to 322 CMR 7.01(4)(a), may possess, land and sell up to 25 pounds, in aggregate, of regulated groundfish species taken from the waters under the jurisdiction of the Commonwealth. This limit shall apply to the vessel per calendar day, regardless of the number of commercial fishing permits carried on board the vessel.

Comment [js6]: DMF has a 75-pound open access cod limit. At public hearing, DMF proposed draft regulations to reduce this limit to 25 pounds to match the federal Open Access Hand Gear B limit and extend the limit to include all regulated groundfish species. Additionally, rather than have this limit stated within the permitting section at 322 CMR 7.01(4)(a), the limit is being moved to the regulated groundfish section at 322 CMR 6.03.

**(14) (13) Prohibitions.**

(a) **Commercial.** It shall be unlawful for any commercial vessel to retain or land:

1. Ocean pout;
2. Windowpane flounder;
3. Wolffish.

(b) **Recreational.** It shall be unlawful for ~~any~~ recreational fishermen ~~vessel to retain to possess~~ or land:

1. Wolffish;
2. Ocean pout;
3. Windowpane flounder; and
4. Cod caught aboard any for-hire vessel on a for-hire trip in the Gulf of Maine Groundfish Management Area.

(c) It shall be unlawful for recreational fishermen to land filets of groundfish species without two inches or more of skin on each fillet and in any quantity that more than two ~~fillet~~ times the possession limit per recreational fisherman or vessel, whichever is less.

(4) Special Permits. The following special permits may be issued by the Director for the following activities:

(a) Regulated Fishery. Authorizes the named individual and/or a commercial fishing vessel to engage in the harvest, possession and landing of Fish or shellfish from a fishery regulated pursuant to M.G.L. c. 130, § 17A, to be issued in addition to those permits required pursuant to 322 CMR 7.01(2).

1. State Waters Multispecies Groundfish Endorsement. Authorizes only the named individual and/or vessel to harvest and possess for commercial purposes from waters under the jurisdiction of the Commonwealth **any regulated groundfish species, as defined at 322 CMR 6.03(1). ~~the following species: cod, haddock, pollock, redfish, white hake, yellowtail flounder, winter flounder, windowpane flounder, American plaice, witch flounder, monkfish, ocean pout and wolffish.~~**

a. State Waters Multispecies Groundfish Endorsement Eligibility. The Director may issue a single State Waters Multispecies Groundfish Endorsement to permit holders who held a state-issued commercial permit on November 4, 2004, renewed their permit in 2005, and are not authorized by a federal permit to take Multispecies Groundfish or monkfish. The Multispecies Groundfish Endorsement may only be issued as an endorsement on the state-issued commercial boat and lobster permits, but not the seasonal lobster permit.

b. Exceptions.

i. Limited Harvest of Multispecies Groundfish in State Waters. Notwithstanding permit prohibitions on the take of finfish described in 322 CMR, any state permitted commercial fisherman who does not hold a State Waters Multispecies Groundfish Endorsement may take, possess and sell **regulated groundfish species, as defined at 322 CMR 6.03(1), in accordance with 322 CMR 6.03(13)(b). ~~up to 75 pounds of cod per vessel per 24-hour day harvested from waters under the jurisdiction of the Commonwealth.~~**

ii. Eligibility for Permit Holders Who Have Surrendered Their Federal Permits. Notwithstanding permit prohibitions on eligibility described in 322 CMR 7.01(4)(a), the Director may issue a single State Waters Multispecies Groundfish Endorsement to a state-issued commercial permit holder for a vessel that has been authorized by a federal permit to take Multispecies groundfish or monkfish if the permit holder has surrendered said federal permit to NOAA Fisheries.

c. Renewals. In 2007 and beyond, the Director may issue a State Waters Multispecies Groundfish Endorsement only to those commercial fishermen who received a State Waters Multispecies Groundfish Endorsement in 2006 and renew their permits in accordance with 322 CMR 7.00.

8.12: Groundfish Closures in the Gulf of Maine

(1) Definition.

Regulated Groundfish Species means those regulated groundfish species defined at 322 CMR 6.03(1), which include: American plaice, cod, haddock, halibut, monkfish, ocean pout, pollock, redfish, windowpane flounder, winter flounder, witch flounder, wolfish and yellowtail flounder. ~~finfish regulated under the federal Northeast Multispecies Fishery Management Plan and at 322 CMR 6.03, this includes, but is not limited to: Atlantic cod, windowpane flounder, witch flounder, American plaice, yellowtail flounder, haddock, pollock, winter flounder, white hake, and redfish.~~

(2) May through June in Massachusetts Bay from Boston to the New Hampshire Border. Except as provided at 322 CMR 8.12(7), from May 1<sup>st</sup> through June 30<sup>th</sup>, it is unlawful for commercial fishermen to fish for, possess or land regulated groundfish species taken within the waters under the jurisdiction of the Commonwealth north of latitude 42°20' north to the Massachusetts/New Hampshire border.

Comment [js7]: The public hearing proposal was to close all waters from 42°20' to the MA/NH border from April 1 – June 30.

~~April through May and October through February Cape Cod Bay and Massachusetts Bay Closure from Plymouth North to Marblehead. Except as exempted in 322 CMR 8.12(7) during April 1<sup>st</sup> through May 31<sup>st</sup> and October 1<sup>st</sup> through the last day of February, it is unlawful for commercial fishermen to possess or fish for regulated groundfish species taken from an area within the waters under the jurisdiction of the Commonwealth north of the 42° line and south of the 42°30' line.~~

(3) October through January Closure in Massachusetts Bay and Upper Cape Cod Bay. Except as provided at 322 CMR 8.12(7), from October 1<sup>st</sup> through January 31<sup>st</sup>, it is unlawful for commercial fishermen to fish for, possess or land regulated groundfish species within the waters under the jurisdiction of the Commonwealth north of latitude 42°00' north, south of latitude 42°30' north and west of longitude 70°24' west.

Comment [js8]: This matches the public hearing proposal.

~~March through June Closure in Upper Massachusetts Bay and Ipswich Bay from Marblehead to the New Hampshire Border. During March 1<sup>st</sup> through June 30<sup>th</sup>, it is unlawful for commercial fishermen to possess or fish for regulated groundfish species within the waters under the jurisdiction of the Commonwealth north of the 42°30' line to the Massachusetts/New Hampshire border.~~

(4) May Closure East of Cape Cod. Except as provided at 322 CMR 8.12(7), ~~D~~during May 1<sup>st</sup> through May 31<sup>st</sup>, it is unlawful for commercial fishermen to **retain**, possess or fish for **any** regulated groundfish species within the waters under the jurisdiction of the Commonwealth east of Cape Cod south of latitude 42°00' north and east of longitude 70°00' west.

(5) Gear Types. Except as provided at 322 CMR 8.12(7), these closures apply to any gear capable of catching groundfish, including but not limited to, the use of sink gillnets, otter trawls, line trawls, and hook and line. ~~Unless exempt at 322 CMR 8.12(7), these closures~~

~~apply, but are not limited to, the use of sink gillnets, otter trawls, line trawls, and hook and line.~~

(6) Experimental Fishery. The Director, under the authority at M.G.L. c. 130 § 80 and 322 CMR 7.01(7), may **at his discretion** authorize experimental fishery activities for fishing for **regulated** species with certain gear types in the aforementioned closed areas and times to investigate catch by-catch composition to ascertain the need for potential future exemptions.

(7) Exemptions.

(a) ~~These~~ closures **at 322 CMR 8.12(2), (3) and (4)** do not apply to the lawful use of hook and lines for the purpose of catching dogfish, bluefish, striped bass, Atlantic bluefin tuna and mackerel; mid-water trawls; pots and traps; **sea scallop**, ocean quahog and surf clam dredges; **and** cast nets **surface gillnets and purse seines.** ~~;~~ **surface gillnets; purse seines and sea scallop dredges.**

(b) A vessel may fish with a small-mesh raised footrope trawl in a portion of upper Cape Cod Bay during October and November subject to the rules in 322 CMR 8.07(2) and 322 CMR 8.14.

~~(c) A vessel may fish during the month of January with rod and reel, handlines, or longlines provided the vessel operator has applied to DMF and obtained written authorization from the Director. The Director may further limit gear types and may limit participation to those fishermen with prior documented groundfishing history in this area and season.~~

(c) A vessel in possession of groundfish may transit through the closures at 322 CMR 8.12(2), (3) and (4), provided that the groundfish was lawfully caught outside of the closure area and the vessel is not engaged in any fishing activity while inside the groundfish closures.