



**MARINE FISHERIES ADVISORY COMMISSION  
BUSINESS MEETING AGENDA**

**8:00AM**

**January 21, 2022**

**Via Zoom**

**Link: <https://bit.ly/3ggSP7C>**

**Dial-In: 1-312-626-6799**

**Webinar ID: 857 9701 4777**

1. Introductions and Announcements (8:00 – 8:15)
  - a. Review and Approval of the January 21, 2022 Business Meeting Agenda
  - b. Review and Approval of the December 2, 2021 Draft Business Meeting Minutes
2. Comments (8:15 – 8:30)
  - a. Chairman
  - b. Commissioner
  - c. Law Enforcement
  - d. Director
3. Action Items (8:30 – 10:00)
  - a. New Trap Gear Buoy Line Requirements
  - b. Gillnet Closure to Protect Right Whales
  - c. Commercial Groundfish Trip Limits and Spatiotemporal Closures
  - d. Recommendation on Small Mesh Squid Trawl Season Adjustment
  - e. Recommendation on Winter Period Scup Limits
4. Items for Future Public Hearing (10:00 – 10:30)
  - a. Commercial Spiny Dogfish Trip Limits for 2022
  - b. Commercial Bluefish Minimum Size for 2022
  - c. Recreational Georges Bank Cod Limits
5. Discussion Items (10:30 – 11:45)
  - a. Protected Species Update
  - b. Atlantic Mackerel Management
  - c. Updates from the Atlantic States Marine Fisheries Commission
  - d. Updates from the New England Fishery Management Council
6. Other Business (11:45 – 12:00)
  - a. Commission Member Comments
  - b. Public Comment
7. Adjourn (12:00)

**Future Meeting Dates**

**March 10, 2022  
Location TBD**

**April 7, 2022  
Location TBD**

**May 12, 2022  
Location TBD**

**June 9, 2022  
Location TBD**

All times provided are approximate and the meeting agenda is subject to change. The MFAC may amend the agenda at the start of the business meeting.

## **MARINE FISHERIES ADVISORY COMMISSION**

**December 2, 2021**

**Held Virtually via Zoom**

### **In attendance:**

*Marine Fisheries Advisory Commission:* Raymond Kane, Chairman; Michael Pierdinock, Vice-Chairman; Bill Doyle, Clerk; Kalil Boghdan; Bill Amaru; Shelley Edmundson; Arthur “Sooky” Sawyer; Lou Williams; and Tim Brady

*Division of Marine Fisheries:* Daniel McKiernan, Director; Michael Armstrong, Assistant Director; Kevin Creighton, CFO; Story Reed; Jared Silva; Julia Kaplan; Nichola Meserve; Jeff Kennedy; Kelly Whitmore; Maren Budrow; Stephanie Cunningham; Tracy Pugh; Steve Wilcox; Scott Schaffer and Anna Webb

*Department of Fish and Game:* Mark Reil

*Massachusetts Environmental Police:* Lt. Col. Moran; Capt. Clayton; and Lt. Matt Bass

*Members of the Public:* Katie Almeida; Lizzie Roche; Andrew Kolek; Craig P; Emerson Hasbrouck; and Manuela Barrett

## **INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane called the December 2, 2021 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

## **REVIEW AND APPROVAL OF DECEMBER 2, 2021 BUSINESS MEETING AGENDA**

Dan McKiernan recommended amending the December 2, 2021 MFAC draft business meeting agenda to have items 3a and 3b switched. There were no other amendments made to the agenda.

**Chairman Kane asked for a motion to approve the amended draft December 2, 2021 business meeting agenda. Mike Pierdinock made a motion to approve the amended draft agenda. The motion was seconded by Bill Doyle. The amended December 2, 2021 MFAC business meeting agenda was approved by unanimous consent.**

## **REVIEW AND APPROVAL OF November 10, 2021 DRAFT BUSINESS MEETING MINUTES**

Kalil pointed out a typo at the end of page 3 on the meeting minutes. Jared Silva stated he would correct this type. There were no other amendments made to the November Draft Business Meeting Minutes.

**Chairman Kane asked for a motion to approve the November 10, 2021 MFAC business meeting minutes. Tim Brady made motion to approve the November 10, 2021 business meeting minutes with his amendments. Shelley Edmundson seconded the motion. The motion was approved by unanimous consent.**

#### **CHAIRMAN'S COMMENTS**

Chairman Kane thanked the commission for their continued attendance and wished everyone happy holidays.

#### **COMMISSIONER'S COMMENTS**

Commissioner Amidon was absent from the meeting.

#### **LAW ENFORCEMENT COMMENTS**

Lt. Matt Bass handled the comments for the Massachusetts Environmental Police (MEP). He stated MEP has been identifying and removing abandoned recreational lobster gear. Lt. Bass expressed concern over the lack of a uniform size limit on lobsters coming from the Outer Cape between the state and federal waters component of the Lobster Management Area. He then discussed MEP staffing and stated there are nine in command staff, 14 in bureau safety, and 75 uniformed officers in the field—36 of which are assigned to the coast.

Ray Kane asked if the MEP are trying to add new officers. Lt. Bass stated there is an active civil service list. He stated he is only aware of one position they are trying to fill.

Sooky Sawyer asked for an update regarding lobster-related enforcement incidents on the North Shore. Lt. Bass stated he was uncertain which case Sooky was referring to, but noted a recent favorable court decision in a North Shore lobster case.

Kalil Boghdan asked about how the MEP schedule shifts. Lt. Bass stated the scheduling is flexible and the schedules are usually put out two weeks in advance. Lt. Bass also stated officers will work into the night as well.

#### **DIRECTOR'S COMMENTS**

Director McKiernan welcomed everyone to the meeting. Dan started his comments by discussing DMF's new recreational permitting system, which went live on December 1.

Dan briefly discussed several recent meetings. This included the MFAC sub-committee meetings on Law Enforcement and Atlantic Mackerel. DMF's Conservation Engineering Program also arranged a call with colleagues from Pacific state fishery agencies regarding protected species issues germane to the removal and hauling of abandoned fixed gear. Several states use a "finders-keepers" method whereby abandoned gear becomes the property of the finder and it may be sold back to the original owner. Dan

was uncertain about this approach in Massachusetts. However, he was looking to discuss the issue with the lobster industry with the ultimate goal of developing a statutory amendment to allow for a direct approach to the issue.

Director McKiernan then went on to discuss the final decision in the endangered species litigation. While the court is no longer requiring DMF apply to NOAA Fisheries for an Incidental Take Permit, given the most recent Biological Opinion and the content of the judge's decision, DMF was continuing the ITP application process.

On behalf of the Massachusetts Lobstermen's Association, Sooky Sawyer thanked DMF for all the effort expended on the litigation and the ITP application. Sooky then asked about the number of catastrophic gear loss claims DMF has received as a result of the recent Nor'easter. Dan stated he will get back to Sooky regarding the specific number claims. Sooky and Dan then discussed the potential for economic support given the scale of gear loss.

### **ACTION ITEMS**

#### 2022 Winter I Scup Trip Limit

Jared Silva discussed the Winter I Scup Trip Limit. The Director recommended establishing a 50,000-pound trip limit for the 2022 Winter I (January 1 – April 30) period. This limit is consistent with federal catch limit and would allow vessels fishing in federal waters to land scup in state ports. Jared welcomed any questions and discussion.

Bill Amaru stated this will benefit the crew and captains even though the trip limit may not necessarily be met every trip.

**Chairman Kane asked for a motion to approve the recommendation from the Director. Bill Amaru made a motion to approve the recommendation from the Director. Tim Brady seconded the motion. A roll call vote was taken, and the motion was passed unanimously 8-0.**

#### Declaration to Increase Period I Summer Flounder Trip Limit for 2022

Director McKiernan and Jared Silva provided a brief overview of the stock status for summer flounder. Jared then went on to discuss the summer flounder quota and utilization and background information on the state's summer flounder management system.

The Director's recommendation was to increase the Period I (January 1 – April 22) summer flounder trip limit from 1,000-pounds to 2,500-pounds for 2022. Jared then went on to discuss the rationale. The summer flounder quota is increasing to 1.39mlbs, a 37% increase from 2021. This is the second consecutive year of substantial increases, as the quota increased by 28% from 2020 to 2021. Additionally, the annual quota was underutilized the past three years (2019-2021). The Period I fishery has a demonstrated ability to harvest its quota allocation provided the trip limit is set sufficiently high.

Mike Pierdinock asked if the quota has also been increased for vessels fishing in federal waters. Nichola stated the coastwide quota for the fishery has increased, which resulted in most states seeing an increase. Dan added there are no federal trip limits, the fishery is managed on a state-to-state basis with state possession limits dictating the level of fishing effort occurring in federal waters. Jared explained how the coastwide quota is distributed amongst the states and how the quota increase effects each state's quota.

Kalil Boghdan expressed concern over the increase in coastwide quota due to the underutilization in previous years. Jared explained how socioeconomic and environmental factors, as well as management, have constrained the fishery's ability to harvest its quota.

Bill Amaru stated this is a good opportunity for fishermen to utilize quota. He pointed out that it's a wintertime fishery and most of the fishermen will deal with harsh conditions that sometimes prevent them from fishing. He concluded his comment by stating he supports the recommendation.

Ray Kane asked if there are fish houses from North Carolina buying fish from Massachusetts ports. Dan stated all fish landed in in state get counted against the state's quota, regardless of whether the primary buyer is headquartered elsewhere.

**Chairman Kane asked for a motion to approve the recommendation from the Director. Sooky Sawyer made motion to approve the recommendation from the Director. Shelley Edmundson seconded the motion. A roll call vote was taken, and the motion was passed 7-0 with Kalil Boghdan abstaining.**

## **ITEMS FOR FUTURE PUBLIC HEARING**

### Adjustments to Commercial Summer Flounder Limits for 2022

Director McKiernan and Jared Silva gave an overview of summer flounder public hearing proposals. Jared then went into detail on each proposal for the summer flounder fishery.

With regards to Period I, DMF was proposing to increase its share of the annual quota from 30% up to 50%; increase the trip limit from 1,000lbs to at least 2,500lbs; maintain a trip limit reduction trigger based on new quota allocation; and codify multi-state pilot program as regulation. With the quota increase, providing additional wintertime access to the resource would better enable the utilization of the available resource.

Kalil Boghdan asked about the trip limit trigger which reduces the trip limit to 100-pounds once a certain amount of the Period I quota allocation is taken. Jared explains this is done to ensure the Period I fishery does not exceed its allocation while allowing them to continue to maintain a bycatch thereby preventing regulatory discarding.

Bill Amaru and Ray Kane expected there will be pushback from the inshore fleet against increasing the Period I allocation. Jared noted that based on recent performance the Period II fishery is underperforming its quota allocation and with the quota increase in 2022, DMF expects the summer flounder quota will be substantially underutilized if status quo measures stay in place. Director McKiernan also explained the 50-50 split represents the most extensive re-allocation that may occur and any reallocation may be tied to the magnitude of the quota.

Mike Pierdinock stated he would reluctantly support the proposal and is curious to see how fishery performance may change. He stated there is more to be done at the federal level to determine changes in spatial distribution of fish stocks resulting from environmental changes and how it affects quota management.

Jared then moved on to discuss proposals affecting Period II fishery. DMF is proposing to decrease Period II quota allocation from 70% to no less than 50%; adjust timing of the directed fishery to start as early as April 23, rather than June 10; increase trip limits; and eliminate closed fishing days during the directed fishery.

With regards to trip limits, options include increasing trip limits from 400 to 500-pounds for trawlers and 250 to 300-pounds for hook and line gear. During the period overlapping with state's small mesh trawl squid fishery the trip limit for trawlers would remain at 100-pounds if in possession of squid. DMF is also proposing to establish a built in-season trip limit increase on dates certain based on quota utilization (e.g. September 1 increase to 800lbs for all gears should > 75% of the quota remain). Then after the recreational fishery closes on October 9, DMF was proposing to increase the trip limit to accommodate the offshore fleet. This would be done by increasing the limit to 1,500lbs for all gear types in <15% of quota or 2,500lbs if >15% of quota remains.

With regards to fishing days, options could include starting the season with no closed days, one closed fishing day or phasing in additional open days based on quota availability at dates certain.

Lastly, on the subject of the fishing season, starting the season earlier would provide trawls with flexibility to target another species should the squid run be late or poor. It also gives hook and line fishermen a profitable spring fishery option, which has been sought since the black sea bass quota was moved to summer in 2013. For open days, DMF wanted to provide fishermen with more flexibility to pick good weather days, particularly given potential safety issues if vessels are travelling further offshore to fish. Finally, it may result in increasing number of overall trips to compensate for loss of active permits.

Kalil Boghdan asked if DMF has statistics on daily efforts and an average of how many fishermen are actively fishing during the winter fishery. Jared did not have the data regarding daily effort on hand. However, he estimated about 25 vessels participate in the Period I fishery.

Kalil asked if the decline in effort and decrease in permits held is due to aging out or poor fishing. Jared stated the reasons are likely multi-faceted and complicated. A segment of the population is retiring out, but there are also other factors a variety of socioeconomic and environmental factors that may be causing attrition in participation (e.g., lower near-shore abundance; seasonal dockage and overhead costs; profitability in other fisheries).

Bill Amaru stated his support for DMF to take comment on these proposals.

#### Adjustments to Commercial Black Sea Bass Limits for 2022

Dan McKiernan and Nichola Meserve discussed the black sea bass quota and quota utilization. With an anticipated quota increase in 2022 and given fishery performance in 2021, DMF was proposing several adjustments to the commercial black sea bass rules to ensure the quota is utilized.

DMF was proposing to: move the season start date from July 8 to July 1; add Mondays and Wednesdays as open fishing days, allowing fishing Sunday – Thursday from July 1 – September 30; on October 1 eliminate closed fishing days allowing commercial fishing seven days per week; increase the possession and landing limit by 25% from 400 to 500-pounds for pots and from 200 to 250-pounds for other non-trawl gears (mostly hook and line); and if more than 10% of quota remains on October 1, increase trip limits to 600-pounds for pots and 300-pounds for hook and line. Finally, in regards to trawler bycatch limits, should changes be made to the summer flounder season and open fishing days, trawler rules for black sea bass should be adjusted accordingly to allow for retention of bycatch and reduce regulatory discarding.

Kalil asked for information regarding the commercial sea bass permit holders. Nichola stated that data was not pulled for this memo. However, that data could be pulled when this proposal goes to public hearing.

#### Establishing a Commercial Menhaden Season for 2022

Nichola Meserve discussed a proposal to establish a June 1 menhaden season start date. Weirs would be exempted from this start date given the opportunistic nature of this fishery. DMF was also considering a similar exemption for the small-scale and incidental catch fishery.

Nichola explained the 2021 fishery began in earnest in late-May. In turn this increased reliance on EESA and state quota transfers during the summer to keep the fishery open when local bait demand was high. A June 1 start would better align the fishery with local bait demand and aligned with the opening of the inshore net areas to purse seining. Nichola noted Maine established a June 14 start date in 2021 for similar bait availability reasons. Regarding the weir fishery exemption, this gear is opportunistic and seasonal, and it is warranted to allow them to retain menhaden if encountered.

Director McKiernan and Mike Pierdinock discussed conflict in the Boston Harbor fishery last year. At Pierdinock's request, the Director agreed to take public comment on the

inshore net permit conditions allowing fishing on Fridays in Boston Harbor. Dan also noted he was going to directly deal with the single permit holder who was causing user group conflicts in the area and was considering conditioning his permit to prevent him from fishing in Boston Harbor in 2022.

## **DISCUSSION ITEMS**

### *Shellfish Advisory Panel Meeting*

Dan McKiernan provided background information regarding the Shellfish Advisory Panel (SAP). This body was initially formed in 2014 by DMF on an ad-hoc basis. The following the recommendations of the Massachusetts Shellfish Initiative, the Legislature codified it as a formal advisory body in the Acts of 2021. DMF reviewed the enabling statute and described the purpose and composition.

The newly constituted SAP met for the first time on November 18, 2021 in Plymouth. The meeting was largely informational with DMF providing an overview of the public body and why it was formed and briefing them on ongoing issues DMF's Shellfish Program has been working on. Lastly, the DMF appointed members discussed their priority issues they would like the SAP to address. DMF anticipates the next meeting will be in February 2022.

Bill Doyle stated he found the meeting very informative and powerful having all stakeholders together in one room working together towards a common goal. He believes a lot of good will come from the Panel. He thanked Dan for the opportunity to serve on the Panel.

### *Law Enforcement Sub-Committee Meeting*

Jared Silva provided the MFAC with a brief summary of the recent Law Enforcement Sub-Committee meeting held on November 17, 2021. Jared briefed the full MFAC on the various items discussed, which ranged from ongoing enforcement challenges to potential regulatory adjustments to enhance enforcement and compliance, and the emerging need to develop enhanced protocol for the hauling, seizing, and storing of non-compliant or abandoned gear. Jared noted it would provide a more substantive memorandum in early 2022 to cover potential regulatory amendments supported by the Sub-Committee.

### *Review of Atlantic Mackerel Sub-Committee Meeting*

Dan McKiernan provided the MFAC with an overview of the emerging issues regarding Atlantic mackerel. The MFAC's Atlantic Mackerel Sub-Committee met on December 1. The purpose of the meeting was to begin to discuss anticipated management challenges emerging out of the MAFMC's development of a mackerel rebuilding plan. This included the potential need to develop recreational fishery management measures in New England (e.g., harvest limits), including within state waters. DMF was working on an extensive memo on the subject, which the Sub-Committee reviewed, and this memo would be shared with the full MFAC in early 2022. Additionally, the Massachusetts, Maine and New Hampshire were expected to sign a joint letter to the MAFMC



expressing concerns shared among the states. Sub-Committee members also expressed concerns about the quantitative basis for taking a management action, including the use of MRIP data to estimate recreational catch; the seeming lack of tools to account for and managing the shifting geographic distribution of stocks based on climatic shifts; unprecedented levels of local availability contrary to the overall assessment of the coastwide stock; and the MAFMC's rapid time for implementation and the lack of outreach to stakeholders including formal engagement with the NEFMC and New England states. Dan asked those MFAC members who serve on the sub-committee for additional thoughts.

Bill Amaru stated Kelly Whitmore did a great job at preparing the list of concerns to be included in the letter to MAFMC. Bill then discussed the memo sent out and stated it lacked data regarding the midwater trawl fishery. He was also curious regarding how the resource was managed in Canada.

Kelly Whitmore stated the memo was still in a draft form and staff intended to update it with information regarding the mid-water trawl. She also stated the Canadian fishery had a 10.5 inch minimum size which was informed by the data in the last stock assessment.

Kalil Boghdan found the meeting very informative and went on to discuss his concerns regarding observed declines in spawning stock biomass.

Mike Pierdinock was pleased with the draft letter to the MAFMC and was glad the three states would co-sign it.

#### *Updates from the Atlantic States Marine Fisheries Commission*

Dan McKiernan stated ASMFC was trying to figure out how to manage a hybrid in-person and virtual meeting for January. Dan also addressed the draft addendum requiring federal lobster permit holders to have cellular phone trackers on board their vessel to obtain more refined spatial data.

## **PRESENTATIONS**

#### *Seafood Value Trends by Species*

Story Reed provided the MFAC with a presentation on ex-vessel value trends by species. Story stated the value of the state's fisheries not only rebounded from 2020, it set an all-time high. The presentation focused on sea scallops, lobsters, and oysters.

Kalil Boghdan asked about where to find the graphs from a September 18<sup>th</sup> MFAC meeting that contain the top 10 ex-vessel value by species. Story stated that those graphs can be found within the annual report.

#### *New Cat Cove Laboratory and Facility*

Mike Armstrong provided the MFAC with a virtual tour of DMF's new Cat Cove Marine Laboratory in Salem. He provided some historic background on the facility and DMF's

use of it, as well as some of the highlights of the facility including the Smith pool an extensive wet lab. DMF plans to build out offices to house employees who work on stock assessments and management. He also discussed future work opportunities such as a winter flounder hatchery, eelgrass seed grow out, striped bass studies in the Smith Pool, and a possible shellfish hatchery.

Shelley Edmundson expressed excitement about the lab and thanked Mike for the presentation. Shelley asked if the in-flow pipes to the hatchery are taking water from the pool or elsewhere. Mike stated the pipes come from the pool.

Tim Brady asked if the pond is salt or brackish. Mike stated it is a salt water pool fed by Salem Harbor.

Bill Amaru hoped some of the money from the newly passed infrastructure bill could be used by the state for the facilities repairs.

Dan discussed the old lobster hatchery that was used by DMF in Oak Bluffs. DMF got permission to create a lease so the MV Shellfish Group can use the facility at almost no cost for 15 years. While DMF still owns the building, MV Shellfish Group can maintain and use the building as they see fit. Dan stated the hatchery is named after John T. Hughes who sadly passed earlier this week.

## **OTHER BUSINESS**

### *Business Meeting Schedule for 2022*

Jared stated that Jan 20<sup>th</sup>, March 3<sup>rd</sup> or March 10, April 7, May 12 or 19, and June 9 or 16 are possible future meeting dates for 2022. Jared will circulate an email to get feedback on the suggested dates. He expected the January meeting to be in-person, and then DMF and the MFAC will consider going to every other month for in-person and virtual meetings thereafter.

### *Commission Member Comments*

Sooky Sawyer would like to Dan to pass along his thanks to the Attorney General's office for their work on the recent endangered species litigation.

Mike Pierdinock discussed an outfall pipe from the nuclear power plant in Plymouth possibly releasing radioactive water being discharged into CCB. DMF will consult with DEP on the subject and report back at the next MFAC when more details are known. Mike closed his comments by highlighting the upcoming NEFMC meeting.

Shelley Edmundson stated she was grateful to DMF for figuring out how to lease the facility to the MV Shellfish Group. She also paid respects to John T. Hughes.

Bill Doyle was alarmed that Wareham was in the process of creating a sewage discharge pipe. He was excited certain quotas were being increased and thought DMF

could share this information in a press release. hopes that this information could be shared in a press release.

Mike Pierdinock added to Bill's comment and expressed concern regarding the Wareham project and potential impacts on the Canal. Jeff Kennedy explained the Canal is deep and has a lot of mixing water, so it may be a better location for an outfall.

Kalil asked about reconvening the Striped Bass Sub-Committee. Story stated DMF continued to work on the analysis requested at the last meeting and anticipated meeting this winter.

Tim Brady echoed what Mike Pierdinock stated regarding the radioactive discharge.

Bill Amaru was looking forward to the return of in-person meetings.

Ray Kane thanked the Commission and commended the leadership of Dan McKiernan. He wished everyone happy holidays.

#### **PUBLIC COMMENTS**

Ed Barrett stated the proposals for summer flounder are fairly significant and was hopeful DMF would do additional outreach to industry and suggested full date meetings in advance of the public hearing.

Beth Casoni thanked DMF and the Attorney General's Office for their work on the recent endangered species litigation. With regards to the radioactive discharged, MLA was seeking a meeting with EOEEA.

#### **ADJOURNMENT**

Chairman Ray Kane requested a motion to adjourn the November MFAC business meeting. **Bill Doyle made a motion to adjourn the meeting. The motion was seconded by Sooky Sawyer. The motion was approved by unanimous consent.**

## **MEETING DOCUMENTS**

- December 2, 2021 MFAC Business Meeting Agenda
- November 10, 2021 MFAC Draft Business Meeting Minutes
- 2022 Period I Summer Flounder Recommendation
- 2022 Winter I Scup Recommendation
- Commercial Summer Flounder Public Hearing Proposal
- Commercial Black Sea Bass Public Hearing Proposal
- Commercial Menhaden Public Hearing Proposal
- Presentation on Public Hearing Proposals
- Shellfish Advisory Panel Presentation
- November 2021 Draft Shellfish Advisory Panel Meeting Minutes
- Law Enforcement Sub-Committee Meeting Summary
- Atlantic Mackerel Sub-Committee Presentation
- Seafood Value Trends Presentation
- Cat Cove Virtual Tour Presentation

## **UPCOMING MEETINGS**

**January 21, 2022**  
**Zoon**

**March 10, 2022**  
**Location TBD**

**April 7, 2022**  
**Location TBD**

**May 12, 2022**  
**Location TBD**

**June 9, 2022**  
**Location TBD**



# The Commonwealth of Massachusetts

## Division of Marine Fisheries

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Secretary

RONALD S. AMIDON  
Commissioner

DANIEL J. MCKIERNAN  
Director

### MEMORANDUM

TO: Marine Fisheries Advisory Commission  
FROM: Daniel McKiernan, Director   
DATE: January 14, 2022  
SUBJECT: **Proposal to Increase the Spiny Dogfish Trip Limit**

#### Proposal

DMF intends to go to public hearing this winter with a proposal to increase the state's spiny dogfish trip limit from 6,000 pounds to 7,500 pounds. This is contingent upon the Atlantic States Marine Fisheries Commission (ASMFC) adopting a 7,500-pound trip limit for the Northern Region, which is anticipated to occur at its Winter Meeting in late January. Final adoption may also be contingent upon NOAA Fisheries implementing a 7,500-pound trip limit for federal waters as recommended by the regional management councils late last year. If adopted, this rule change would most likely go into effect for the start of the 2022 fishing year on May 1, 2022.

#### Background

Spiny dogfish is a jointly managed species, by the Councils (both New England and Mid-Atlantic) in federal waters and the ASMFC in state waters. Management measures include a coastwide commercial quota, which is allocated 58% to the Northern Region of Maine–Connecticut and in individual state shares for the states of New York through North Carolina.<sup>1</sup> NOAA Fisheries sets a federal waters trip limit based on the recommendations of the two Councils; the ASMFC sets a Northern Region trip limit (typically in alignment with the federal waters limit) which serves as an upper bound for those states' implementation; and the southern states implement state waters trip limits of their own choosing.<sup>2</sup>

Since the stock was declared restored in 2008, the trip limit (federal waters and Northern Region state waters) has been gradually increased: 3,000 pounds for FY2008–2012; 4,000 pounds for FY2013; 5,000 pounds for FY2014–2015; and 6,000 pounds for FY2016–2021. Under these trip limits, the coastwide landings kept pace with quota increases through FY2011, but then plateaued around 20 million pounds through FY2018 despite considerably larger coastwide quotas (Figure 1). (A DMF-commissioned economic analysis found that the size of the market was constrained by the local processing capacity and the total maximum global demand,

<sup>1</sup> NY: 2.707%, NJ: 7.644%, DE: 0.896%, MD: 5.920%, VA: 10.795%, NC: 14.036%.

<sup>2</sup> The trip limits implemented by the southern states in FY2020 ranged between 1,000 and 20,000 pounds.

estimated at approximately 20 million pounds.<sup>3</sup>) The FY2019 coastwide quota was sharply reduced back to about 20 million pounds based on a decline in biomass observed in the 2018 stock assessment. Since then, the coastwide quota has increased again yet in 2020 and 2021 the landings have declined (Figure 2 shows partial year FY2021 landings tracking behind FY2020 landings). The FY2020 coastwide landings of roughly 12.7 million pounds were 55% of the 23.2-million-pound coastwide quota. If the FY2021 coastwide landings follow a similar trajectory, they will amount to about one-third of the 29.5-million-pound coastwide quota. Massachusetts' landings for FY21 show a similar lagging trend compared to FY20 (Figure 3); Massachusetts typically leads the coast in landings (e.g., 52% in FY2020).

Concerns from industry about the quota underutilization and a possible permanent loss of market prompted the Mid-Atlantic Council's Monitoring Committee (MC) to discuss a trip limit increase. Analyses indicated that the current trip limit was likely a constraining factor on some landings (for example, 62% of coastwide landings in FY2019–2020 were in the 5,000 to 6,000-pound range; Figure 4), and that the two prior trip limit increases (4,000 to 5,000 pounds in 2014 and 5,000 to 6,000 pounds in 2016) had not had an appreciable negative impact on price paid to harvesters. Industry reported that distribution shifts and an erosion of participants (due to higher costs and more lucrative fishing opportunities elsewhere) were behind the decline in dogfish landings.

The MC considered these factors as well as prior split opinions about the benefit and risk of trip limit increases from the industry standpoint, the timeline for the 2022 research track assessment that may revise our understanding of stock status, implications of possible increases in gear in the water, and administrative process issues for implementing an increase. For the latter, NOAA Fisheries staff advised that another incremental increase, similar in scale to the prior two increases, could likely be channeled through an expedited NEPA review process in order to take effect by May 1, 2022, whereas larger increases would likely trigger a more comprehensive evaluation and delay implementation.

The MC also considered whether a trip limit increase should occur via the annual specifications process or a framework; a framework would provide more public notice and comment opportunity but delay implementation. Public comment made during the MC meeting as well as input from the Advisory Panel reflected the prior range of comments, specifically aversion to large increases from dayboat fishermen concerned about a decline in value versus interest from offshore fishermen and some processors to greatly increase landings to spur more market demand. Ultimately, the MC favored an incremental increase through the specifications process, recommending a 25% trip limit increase from 6,000 pounds to 7,500 pounds, and future consideration of additional trip limit changes through a framework after the 2022 research track assessment.

Both Councils subsequently reviewed the MC recommendations and voted in favor of a 7,500-pound trip limit, with the understanding that NOAA Fisheries would implement it as soon as possible but most likely just in time for the FY2022 season start on May 1. For its part, the ASMFC decided to wait until both Councils had taken action prior to determining the Northern Region state waters trip limit. With both Councils' recommendations in alignment, it is

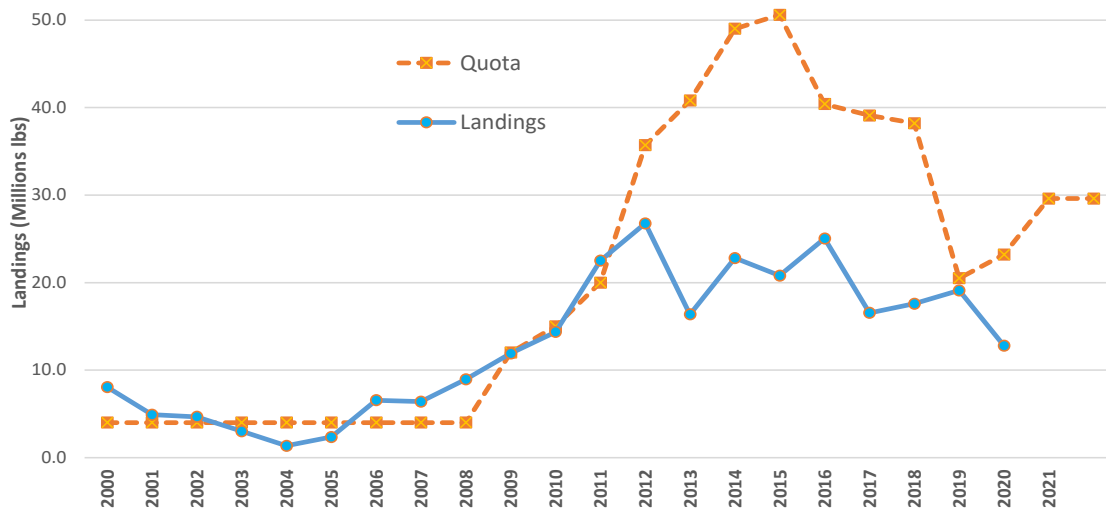
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<sup>3</sup> Report available at: <https://www.mass.gov/doc/an-economic-analysis-of-spiny-dogfish>

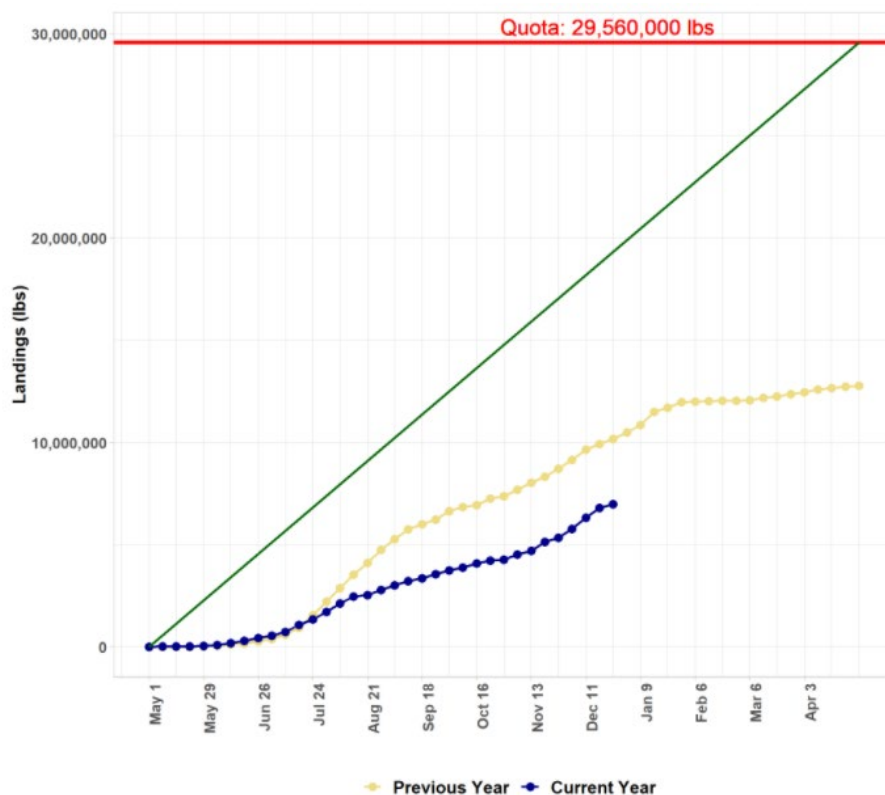
anticipated that the ASMFC will also vote in favor of a 7,500-pound trip limit for the Northern Region state waters when the Spiny Dogfish Management Board meets on January 25. This limit serves as an upper bound for what the states of Maine through Connecticut can implement due to the regional nature of their shared quota.

#### Anticipated Rule Making Timeline

I anticipate this regulatory adjustment will go out to public hearing in February 2022. I will then provide the MFAC a final recommendation at their March business meeting. Approved measures would then be promulgated for implementation in late-April or early-May 2022, to be timed with NOAA Fisheries' expected implementation of the federal waters trip limit increase.

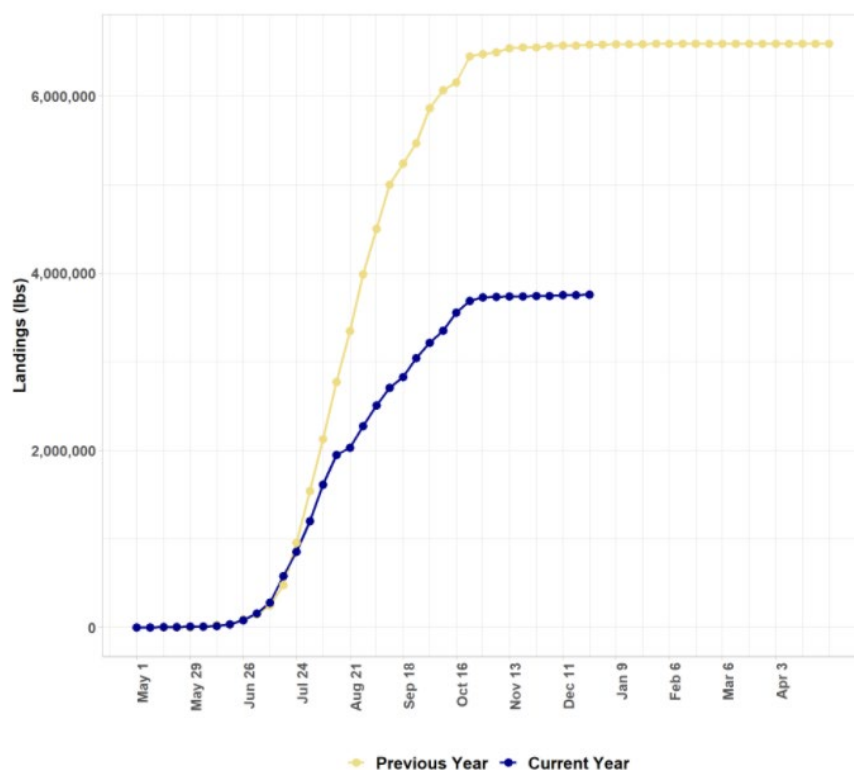


**Figure 1. Coastwide commercial spiny dogfish FY landings and quotas since 2000**  
 Courtesy of MAFMC staff presentation on October 6 ([www.mafmc.org/briefing/october-2021](http://www.mafmc.org/briefing/october-2021))

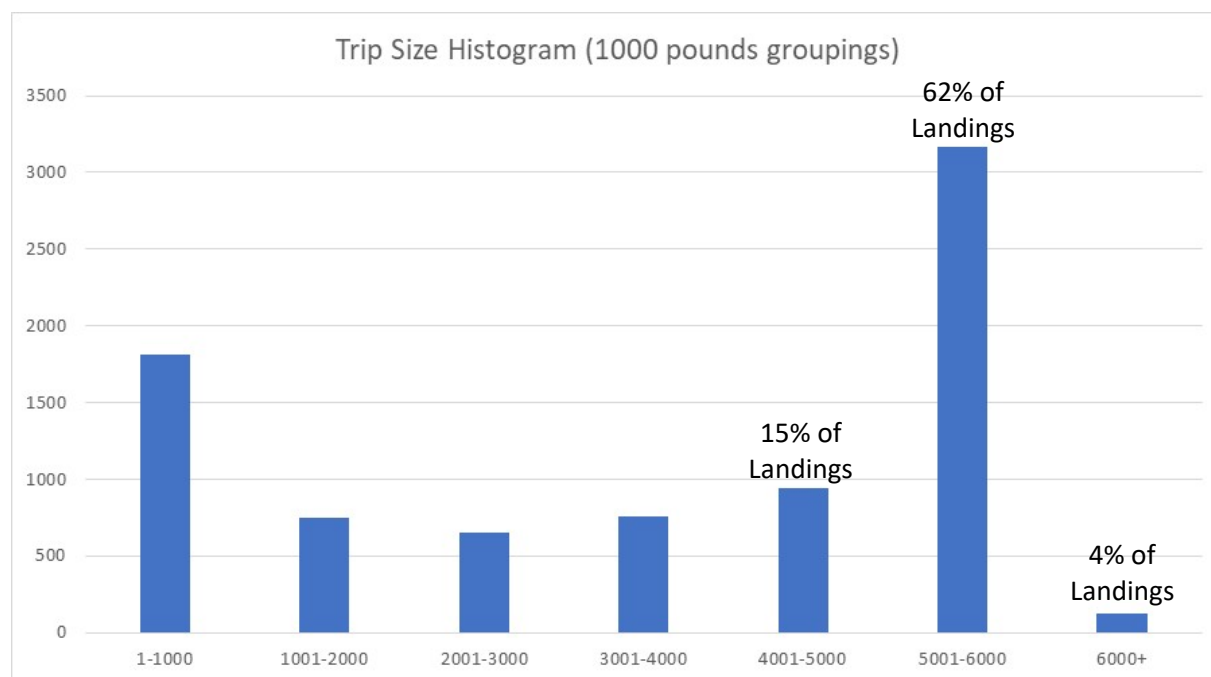


**Figure 2. NOAA Fisheries' quota monitoring display for FY2021 spiny dogfish landings coastwide**  
 Available at: [www.greateratlantic.fisheries.noaa.gov/ro/fso/reports/h/dog/dog\\_coast\\_qm.html](http://www.greateratlantic.fisheries.noaa.gov/ro/fso/reports/h/dog/dog_coast_qm.html)





**Figure 3. NOAA Fisheries' quota monitoring display for FY2021 Massachusetts spiny dogfish landings**  
 Available at: [https://www.greateratlantic.fisheries.noaa.gov/ro/fso/reports/h/dog/dog\\_ma\\_qm.html](https://www.greateratlantic.fisheries.noaa.gov/ro/fso/reports/h/dog/dog_ma_qm.html)



**Figure 4. Distribution of dogfish landings by trip size as collected from 8,215 trips with a federal permit, FY2019-2020**

Courtesy of MAFMC staff presentation on October 6 ([www.mafmc.org/briefing/october-2021](http://www.mafmc.org/briefing/october-2021))



# The Commonwealth of Massachusetts

## Division of Marine Fisheries

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KARYN E. POLITO  
Lt. Governor

KATHLEEN A. THEOHARIDES  
Secretary

RONALD S. AMIDON  
Commissioner

DANIEL J. MCKIERNAN  
Director

### MEMORANDUM

TO: Marine Fisheries Advisory Commission  
FROM: Daniel McKiernan, Director   
DATE: January 14, 2022  
SUBJECT: **Proposal to Adopt a Bluefish Commercial Minimum Size Limit**

#### Proposal

DMF intends to go to public hearing this winter with a proposal to adopt an 18" commercial minimum size limit for bluefish. This is intended to discourage recreational anglers from obtaining a commercial permit in order to retain bluefish in excess of the recreational possession limit. If adopted, this rule change would most likely go into effect on or around May 1, 2022.

#### Background

The state's commercial and recreational bluefish fisheries are subject to the requirements of the interstate management plan. This includes commercial and for-hire vessel permitting requirements, an annual commercial quota<sup>1</sup>, and recreational possession limits. DMF has in place a 5,000-lb commercial trip limit to manage the quota, but no other restrictions other than limited entry permits for certain gear types (i.e., bluefish gillnet, trawl, and sink gillnet). Commercial landings are predominantly by bluefish gillnet and hook and line, with some trawl and sink gillnet bycatch. The recreational possession limits include a 5-fish bag limit for anglers aboard for-hire vessels and a 3-fish bag limit for all other anglers. Both the commercial and recreational fisheries are open year-round (subject to commercial quota closure) with no minimum size limit.

The current recreational bag limits were adopted in 2020 in response to ASMFC and MAFMC action to avoid a recreational harvest limit overage. Prior to this, a 10-fish limit was in place across all recreational modes. Harvest in the recreational fishery falls into two general categories: harvest of smaller "snapper" blues or larger sized fish (Figure 1). The reduced bag limits primarily impacted harvest of snapper bluefish, which tended to be taken in larger quantities than larger bluefish.

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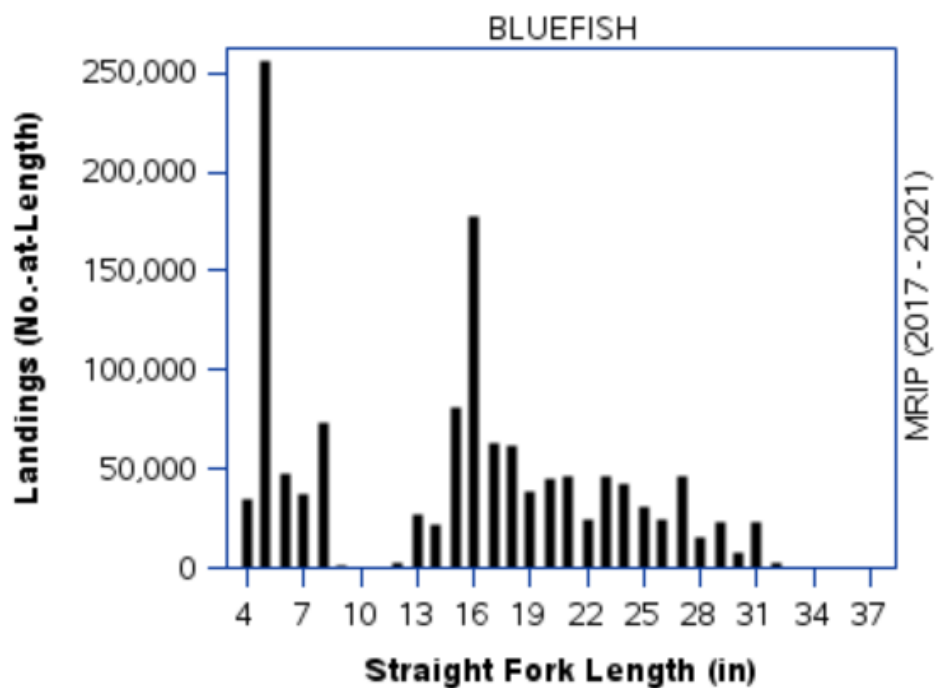
<sup>1</sup> The state-by-state shares of the coastwide commercial quota are established through the joint interstate and federal management plans. Under the Bluefish Allocation and Rebuilding Amendment adopted in 2021, Massachusetts's share is increasing from its original value of 6.72% in 2021 to a final value of 10.12% in 2028, in 0.49% increments per year. MA's 2022 share is hence 7.20%

DMF has heard numerous reports of recreational anglers obtaining a commercial fishing permit in order to continue harvesting bluefish at higher limits than the recreational regulations now allow and these reports were confirmed by the Massachusetts Environmental Police. Rod & reel permits are open entry and very affordable (\$35 for resident; \$100 for non-resident), and the 5,000-pound commercial limit more than covers harvest for personal consumption or bait use. This makes obtaining the commercial permit an easy and attractive loophole to the recreational bag limit. This “commercial fishing” activity likely runs afoul of other DMF regulations, particularly the “mixing trips” prohibition if this “commercial” bluefish catch is being retained on the same trip when recreational fishing occurs. Additionally, as the fish is not being sold it is not being counted against the commercial quota and it is likely the harvest is not being reported as commercial harvest for personal use on Trip Level Reports or accounted for in MRIP sampling. This activity is recreational in everything but name and thus subverts the intention of the recreational regulations to avoid overfishing.

DMF is thus proposing to adopt a commercial bluefish minimum size to discourage recreational anglers from obtaining a commercial fishing permit in order to retain bluefish in excess of the recreational possession limit. This option is less onerous than other possible avenues to prevent this activity (such as a limited entry bluefish permit endorsement). Specifically, we are proposing an 18” commercial minimum size limit. I anticipate this will have a negligible impact on the commercial fishery, given the available (albeit limited) port sampling data for MA bluefish gillnet landings and our understanding of the market’s size preference. Rhode Island also has an 18” commercial minimum size limit, while several states farther south have 8-12” minimum size limits for the commercial fishery (some complimenting a recreational minimum size limit).

#### Anticipated Rule Making Timeline

I anticipate this regulatory adjustment will go out to public hearing in early March. I will then provide the MFAC a final recommendation at their March 10 business meeting. Approved measures would then be promulgated for implementation in late-April or early-May 2022.



**Figure 1. MRIP length frequency of Massachusetts recreational bluefish harvest, 2017-2021 combined, in centerline length, all modes and areas. Source: Personal communication, NMFS Fisheries Statistics Division, January 13, 2022.**



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Director

### MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)  
FROM: Daniel J. McKiernan, Director   
DATE: January 14, 2022  
SUBJECT: Proposal for Rule Making to Adjust Recreational Georges Bank Cod Limits

#### Proposal Overview

Recreational measures for Georges Bank (GB) cod are set to become more restrictive for Fishing Year (FY) 2022 & FY 2023 (May 1, 2022 – April 30, 2024). Proposed rule changes are a consequence of the overall decline in the GB cod resource, catch limits and specifically the recreational catch target. Previously, the recreational catch target for GB cod had been set at 304,238 pounds (138 mt) and this has been cut nearly in half to 164,347 pounds (75mt) for FYs 2022 and 2023.

In December 2021, the New England Fishery Management Council approved recreational GB cod measures and a reduced catch target as part of [Northeast Multispecies Framework 63](#), as follows:

- A slot limit from 22 inches to 28 inches, meaning the recreational fishery will not be able to keep fish smaller than 22 inches or larger than 28 inches;
- A five-fish per-angler per-day limit; and
- A closed season from May 1 through July 31, which covers Wave 3 and the first half of Wave 4 under the Marine Recreational Information Program (MRIP) data collection system.

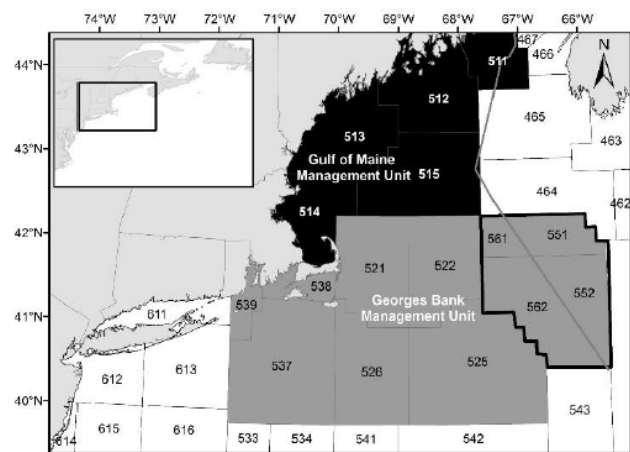
NOAA Fisheries is now reviewing that action for eventual implementation. Given the expected timing of the federal final rule – not likely until late Spring, early Summer – I plan to implement complementary rules changes via emergency action upon notification of federal approval. DMF will then take public comment before enacting these rules as final. This will likely be moved forward with adjustments to recreational fishing limits anticipated for other species (e.g., scup and black sea bass).

### Additional Background

#### A 2021 management track assessment

concluded that the stock status for GB cod remains overfished (last assessed in 2019) with overfishing status being unknown. While the stock continues to show a truncated age structure, there are several scientific uncertainties and assessment shortcomings that have raised concern with the ensuing catch reductions. The current (full) Georges Bank stock assessment is utilizing a “Plan B Smooth” approach because low fishery and survey catch currently make the data model resistant to statistical catch at age modeling approaches. The Plan B Smooth approach relies heavily on a survey index, that remains below the mean of the time series. As noted in the recent management track assessment, the GB cod assessment could be improved with additional studies on natural mortality, the potential for missing catch, and other possible sources of retrospective patterns in analytical assessments. An additional area of concern is the differences in modeling approaches between the full Georges Bank cod assessment (reported here) and the Transboundary Resource Assessment Committee (TRAC) cod assessment of eastern Georges Bank (a portion of the whole bank).

**Figure 1. Existing cod stock structure comprised of two stocks: Gulf of Maine and Georges Bank.**



After extensive discussion of the assessment, the NEFMC’s Science & Statistical Committee “recommended a 1.7 mlb (754 mt) Georges Bank cod Acceptable Biological Catch (ABC) for each of the 2022, 2023, and 2024 fishing years. The SSC: (1) accepted “the continued use of the Plan B smooth approach for setting the ABC for Georges Bank cod”; (2) recognized that application of this approach resulted in a large reduction in the ABC; but (3) anticipated that this would likely “increase the probability of stock rebuilding.” The SSC’s report included a minority opinion by three of the 15 members who supported a different approach that resulted in ABCs of 2.3 mlb (1,053 mt), 2 mlb (904 mt), and 1.7 mlb (754 mt) respectively for 2022, 2023, and 2024. Here is the SSC’s [full report](#) containing recommendations for all reviewed stocks” (12/10/2021 NEFMC Press Release).

All this is to say that GB cod catch limits (ABCs) remain an immediate topic before the New England Fishery Management Council. The Council approved only an FY2022 ABC for GB cod, leaving the SSC to revisit ABCs for FY2023 and FY2024 and any newly available information. The FY2022 ABC of 1.7 mlb (754 mt) is a 57% reduction from the 3.9 mlb (1,752mt )ABC for FY2021.

Total FY2020 catch utilized nearly 60% of the total ACL for GB cod. Click link for further [FY2020 catch details](#).