



**MARINE FISHERIES ADVISORY COMMISSION  
BUSINESS MEETING AGENDA**

**9:00 AM**

**Wednesday, August 16, 2023**

**Via Zoom**

**Login: <https://us02web.zoom.us/j/82024324839>**

**Call In: 1-929-436-2866**

**Webinar ID: 820-2432-4839**

1. Introductions, Announcements and Review of August 2023 Agenda (9:00 – 9:05)
2. Review and Approval of July 2023 Draft Business Meeting Minutes (9:05 – 9:15)
3. Comments (9:15 – 9:30)
  - a. Chairman
  - b. Law Enforcement
  - c. Commissioner
  - d. Director
4. Items for Future Public Hearings (9:30 – 10:00)
  - a. Wildlife Compact Rules
  - b. Lobster Addendum XXVII
5. Discussion Items (10:00 – 11:30)
  - a. Federal and Interstate Fisheries Management
    - i. Joint ASMFC – MAFMC Issues
    - ii. Review of August ASMFC Meeting
  - b. Effort Estimation and MRIP
  - c. Performance of 2023 Quota Managed Fisheries and Future Management Outlook
    - i. Convening MFAC Commercial Striped Bass Focus Group
  - d. Offshore Wind Energy Development Update
  - e. MFAC Permitting Focus Group
6. Other Business (11:30-11:45)
  - a. Commission Member Comments
  - b. Public Comment
7. Adjourn (11:30)

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.

**Future Meeting Dates**

**9:30 AM**

**September 19, 2023**

**DFW Field HQ**

**1 Rabbit Hill Road**

**Westborough, MA**

## MARINE FISHERIES ADVISORY COMMISSION

July 10, 2023

Via Zoom

### In attendance:

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

*Department of Fish and Game:* Deputy Commissioner Sefatia Romeo Theken; and Bob Greco, Chief of Staff

*Division of Marine Fisheries:* Daniel McKiernan, Director; Mike Armstrong, Deputy Director; Bob Glenn, Deputy Director; Kevin Creighton, Assistant Director; Story Reed, Assistant Director; Jeff Kennedy; Jared Silva; Kerry Allard; Nichola Meserve; Melanie Griffin; Anna Webb; Tracy Pugh; Steve Wilcox; Vincent Manfredi; and Derek Perry.

*Massachusetts Environmental Police:* Major Chris Baker

*Members of the Public:* Phil Coates, Maureen Ward, Beth Casoni, Brett Hoffmeister, and Lizzie Roche

## INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Ray Kane thanked everyone for their attendance and called the July 10, 2023 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

## REVIEW OF JULY 10, 2023 BUSINESS MEETING AGENDA

Chairman Kane asked if there were any amendments to the July 10, 2023 MFAC business meeting agenda. No amendments were proposed.

## REVIEW AND APPROVAL OF JUNE 13, 2023 DRAFT BUSINESS MEETING MINUTES

Chairman Kane asked if there were any amendments to the June 13, 2023 MFAC draft business meeting minutes. No amendments were sought. The Chairman then requested a motion be made to approve the minutes. **Bill Amaru made the motion to approve the June 13, 2023 business meeting minutes. Shelley Edmundson seconded the motion. A roll-call vote was taken and the motion passed unanimously 5-0-1 with Chairman Kane abstaining.**

## CHAIRMAN’S COMMENTS

Chairman Ray Kane welcomed everyone to the meeting and turned the floor over to the Director.

## **DIRECTOR'S COMMENTS**

Director Dan McKiernan stated DMF was in the process of promulgating final regulations affecting commercial fisheries for summer flounder, menhaden, horseshoe crabs, and groundfish, which were approved by the MFAC at their May business meeting.

DMF's bi-annual newsletter was published last week. Two newly completed grant programs (Massachusetts Lobster Gear Relief Program for Dual Permit Holders and Electronic Tracking Device Assistance Program for federal vessels) were highlighted within the newsletter. He then gave a brief overview of each of the programs. He also noted that DMF had distributed federal sea herring disaster relief payments to affected fishers and dealers.

There was a menhaden fish kill in Salem Harbor. The kill likely resulted from the release of fish by a commercial harvester due to a gear malfunction. On the subject of the menhaden fishery, Dan stated menhaden have been scarce this year compared to recent years, but this fishery has a long history of being episodic.

DMF intended to reconvene the MFAC's Permitting Focus Group in August. Story Reed will be reaching out to the focus group members to schedule a meeting.

Towards the end of the month, DMF intends to meet with the legislature's Coastal Caucus to present on the Derelict Gear Task Force's white paper to enhance efforts to remove lost, abandoned, and derelict gear from our waters and coastline.

NOAA Fisheries is giving its Partner in the Spotlight Award to DMF for the agency's conservation efforts regarding the endangered North Atlantic right whale. The award will be provided to DMF at an event on July 25<sup>th</sup> at the Massachusetts State House. This award is presented biennially to an outstanding partner who has expanded and enhanced recovery of our most imperiled marine species. Dan encouraged Commission members to attend.

## **ACTION ITEMS**

### Recreational Striped Bass Slot Limit

Director McKiernan recommended the MFAC vote in favor of finalizing the 28" to 31" recreational striped bass slot limit previously implemented by DMF through an emergency regulation on May 26. The emergency rule would expire after 90-days (August 25) unless a final regulation was filed.

Dan welcomed Dr. Mike Armstrong to provide additional commentary. Mike stated this action was broadly supported by recreational anglers with push back primarily coming from the for-hire industry. He added that the ASMFC projects moving the maximum size limit from 35" to 31" will protect about 55% of the 2015 year-class from harvest. Mike welcomed any questions from the Commission.

Bill Amaru heard anecdotal reports and concerns that release mortality is likely increasing because of higher-than-normal pressure to catch a slot-sized fish for retention.

Chairman Kane sought a motion to approve the recommendation. **Kalil Boghdan made a motion to approve the recommendation. Bill Doyle seconded the motion. A roll call vote was taken, and the motion was passed unanimously 6-0-1, with Chairman Kane abstaining.**

#### In-Season Adjustment

##### *Horseshoe Crab Trip Limits*

Director McKiernan recommend the MFAC vote in favor of an in-season adjustment to reduce the horseshoe crab trip limit for the 2023 bait fishery using mobile gear. For permit holders with a limited entry endorsement, the trip limit would be reduced from 300 crabs to 200 crabs, while the trip limit for the open access bycatch fishery will be similarly reduced 75 crabs to 50 crabs. No action was recommended to adjust the trip limits for hand harvesters, as the hand harvest season functionally concludes in late June as the horseshoe crabs move off spawning beaches.

Kalil Boghdan asked how many hand-harvesters and trawlers are in the industry. Dan stated that there are many limited entry permit holders, however, most permits are inactive. Jared Silva stated there are generally 20-25 active hand harvesters and about 15 trawlers who land horseshoe crabs. Kalil then asked about the value of bait crabs. Dan stated primary buyers typically pay harvesters about \$2.50-\$3 per crab. Kalil raised the issue of the recent die off of horseshoe crabs observed on Harding's Beach in Chatham. Dan explained that decaying horseshoe crabs are not used as bait. Given the high cost of cold storage space and above average harvest this spring, there was likely a market glut resulting in primary buyers holding horseshoe crabs for extended periods of time. This probably contributed to mortality during holding and produced an unusually high number of unmarketable crabs that a bait dealer released back to the sea. As crabs decay, they omit gasses that cause them to float to the surface and prevailing winds likely washed them ashore. Kalil expressed his continued concern regarding springtime harvest of horseshoe crabs, the bait fishery in general, his desire to see the whelk fishery switch to alternative baits, and his interest in the development of a synthetic alternative to the use of horseshoe crab blood in the medical industry.

Chairman Kane sought a motion to approve the recommendation. **Bill Doyle made a motion to approve the recommendation. Kalil Boghdan seconded the motion. A roll call vote was taken, and the motion was passed unanimously 5-0-2, with Bill Amaru and Chairman Kane abstaining.**

##### *Smooth Dogfish Trip Limits*

Director McKiernan recommended the MFAC vote in favor of an in-season adjustment to increase the smooth dogfish trip limit from 100 pounds to 300 pounds. This proposal was developed in response to a request from industry to enhance the utilization of the

state's available quota, was approved by the ASMFC, and was generally supported in the public comment received.

Bill Amaru stated he was happy to see the proposed trip-limit increase and encouraged his fellow Commission members to vote in favor of the proposal.

Chairman Kane sought a motion to approve the recommendation. **Bill Amaru made a motion to approve the recommendation. Shelley Edmundson seconded the motion. A roll call vote was taken, and the motion was passed unanimously 6-0-1, with Chairman Kane abstaining.**

#### *Summer Flounder Trip Limits*

Director McKiernan recommended the MFAC vote in favor of an in-season adjustment to increase the commercial summer flounder trip limits for the remainder of the summertime period (i.e., through August 31) from 500 pounds to 600 pounds for nets and from 300 pounds to 400 pounds for hook and line. This recommended action was consistent with the motion approved by the MFAC at their May 16 business meeting for implementation this year. However, due to administrative delays in the rule making process, the final regulations were not yet promulgated. Therefore, the in-season adjustment would allow the previously approved trip limit increase to go into effect in a more-timely fashion (July 11) and provide a stop-gap until the regulations are implemented.

Bill Amaru commended DMF for this recommendation.

Chairman Kane sought a motion to approve the recommendation. **Bill Amaru made a motion to approve the recommendation. Shelley Edmundson seconded the motion. A roll call vote was taken, and the motion was passed unanimously 6-0-1, with Chairman Kane abstaining.**

#### 2023 Belding Award

DMF's current Shellfish Program Manager, Jeff Kennedy, provided Director McKiernan with a nomination to posthumously give the 2023 Belding Award to John Michael Hickey ("Mike"). Mike was the long-time Shellfish Program Manager for DMF, retiring in 2020 after a near 52-year career, during which he was integral in the development of DMF's Shellfish Program, as well as the founding of the Interstate Shellfish Sanitation Conference.

Kalil Boghdan expressed his support for the nomination based on the detail provided in Jeff's nomination recommendation.

Chairman Kane sought a motion to approve the recommendation to name Mike Hickey as the 2023 Belding Award recipient and provide the award to his family at an upcoming MFAC business meeting. **Kalil Boghdan made a motion to approve the recommendation. Bill Amaru seconded the motion. A roll call vote was taken, and the motion was passed unanimously 6-0-1, with Chairman Kane abstaining.**

### MFAC Letter to Secretary Tepper on Law Enforcement

At a prior MFAC business meeting, Chairman Kane requested a letter be drafted on behalf of the MFAC to the Healey Administration to advocate for additional funding for the Massachusetts Environmental Police to increase their ranks to levels sufficient to meet their mission and thereby enhance marine fisheries enforcement. DMF provided the MFAC with a draft letter to Rebecca Tepper, Secretary of the Executive Office of Energy and Environmental Affairs. Chairman Kane sought the MFAC's unanimous consent to approve the letter. No objections were raised. Jared Silva stated he would finalize the letter and work with the Commissioner's office to send it to Secretary Tepper.

### **OTHER BUSINESS**

#### *Commission Member Comments*

Shelley Edmundson stated Martha's Vineyard Fisherman's Preservation Trust was hosting a meet-the-fleet event at Menemsha Harbor on August 3. She welcomed the MFAC and DMF to attend.

Bill Amaru asked when the in-season adjustments approved by the MFAC today would go into effect. Jared Silva anticipated notices would go out later today allowing for the changes to be made effective tomorrow (July 11).

### **PUBLIC COMMENTS**

Brett Hoffmeister thanked the Commission for their hard work. Brett reminded the Commission that synthetic alternatives to horseshoe crab blood are currently available and used in the medical industry. There are complicated biomedical and public health reasons why the use of synthetics are not more widespread and horseshoe crab blood is preferred. He strongly advocated that the MFAC not take any position on the biomedical application of horseshoe crab blood or synthetic alternatives.

Beth Casoni stated the fourth annual Marshfield Lobster Fest will be held on September 16. She requested DMF staff the event given growing public interest. Jared Silva asked Beth to send him the information.

Beth asked if DMF had looked into the potential state regulatory impacts of the federal courts ruling on NOAA's Biological Opinion for Right Whales. Dan stated the agency was reviewing the court decision with its attorneys. However, the state rules currently in place are unaffected by the court's decision and they would remain in place.

### **ADJOURNMENT**

Chairman Ray Kane requested a motion to adjourn the July MFAC business meeting. **Kalil Boghdan made a motion to adjourn the meeting. The motion was seconded by Tim Brady. The motion was approved by unanimous consent.**

## **MEETING DOCUMENTS**

- July 10, 2023 MFAC Business Meeting Agenda
- June 13, 2023 Draft MFAC Business Meeting Minutes
- Striped Bass Slot Limit Recommendation Memo
- Horseshoe Crab Trip Limit Recommendation Memo
- Smooth Dogfish Trip Limit Recommendation Memo
- Summer Flounder Trip Limit Increase Recommendation Memo
- 2023 Belding Award Nomination Memo
- MFAC Letter to Secretary Tepper Regarding MEP Funding

## **UPCOMING MEETINGS**

**August 16, 2023**  
**Via Zoom**  
**9AM**

**September 19, 2023**  
**DFW Field HQ**  
**Westborough, MA**  
**9:30 AM**



# The Commonwealth of Massachusetts

## Division of Marine Fisheries

(617) 626-1520 | [www.mass.gov/marinefisheries](http://www.mass.gov/marinefisheries)



MAURA T. HEALEY  
Governor

KIMBERLEY DRISCOLL  
Lt. Governor

REBECCA L. TEPPER  
Secretary

THOMAS O'SHEA  
Commissioner

DANIEL J. MCKIERNAN  
Director

### MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director

DATE: August 11, 2023

SUBJECT: **Wildlife Compact**

The Interstate Wildlife Violator Compact (IWVC) is an agreement among participating states that creates reciprocity whereby if a resident of a member state commits a wildlife violation in another member state a resident's home state may sanction the individual's hunting and fishing privileges in their home state. Moreover, if a violator either fails to comply with the terms of a citation or is convicted in another member state, then they will be entered into the compact's database their home state shall suspend that individual's hunting and fishing privileges or treat the conviction as though it occurred in the violator's home state, should the violation also have been a violation of law in the violator's home state. In summary, the IWVC is designed to reduce poaching by allowing states to hold violators accountable in numerous jurisdictions.

In late 2022, former Governor Baker signed into law Chapter 145 of the Acts of 2022. The act establishes the IWVC at [G.L. c. 131B](#). Section 7 of Chapter 145 of the Acts of 2022 requires the state to develop implementing regulations. The Department of Fish and Game is currently working to develop such draft regulations for both the Division of Marine Fisheries (DMF) and the Division of Fish and Wildlife (DFW). I anticipate the draft regulations will be completed later this year for final implementation in 2024. Accordingly, DMF will likely hold public hearings this upcoming winter. I will keep the MFAC briefed on the progress of this rule making initiative.

For DMF, this will allow Massachusetts to sanction a resident's recreational and commercial fishing permits for similar violations in another member state. For instance, if an individual is convicted of poaching striped bass in Rhode Island, then Massachusetts could deny this individual access to fishing permits in Massachusetts based on this conviction.





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Director

### MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director 

DATE: August 11, 2023

SUBJECT: **Addendum XXVII and New Gauge Size and V-Notch Rules for State Waters Outer Cape Cod Lobster Fishery**

#### Proposal

At its May 2023 meeting, the Atlantic States Marine Fisheries Commission (ASMFC) approved Addendum XXVII to Amendment 3 to the Interstate Fishery Management Plan for American Lobster. The addendum requires states implement the changes described below before the 2024 season, which affect those fisheries occurring in Lobster Conservation Management Areas (LCMAs) that fish on the Gulf of Maine/Georges Bank (GOM/GBK) stock. This includes LCMA 1 (Inshore Gulf of Maine), LCMA 3 (Offshore Gulf of Maine and Georges Bank), and OCCLCMA (Outer Cape Cod).

At 322 CMR 6.02, DMF will establish a uniform maximum gauge size of 6 3/4" maximum gauge size and a v-notch definition of an indentation at least 1/8" deep with or without setal hairs for the OCCLCMA fishery. At present, these are the existing rules for the federal OCCLMCA fishery (dual permit holders), but state-only permit holders currently have no maximum gauge size and the v-notch definition is 1/4" deep tapering to a sharp point without setal hairs. This change will result in all OCCLCMA fishers having the same gauge standards and v-notch rules (Table 1). Additionally, the OCCLMCA will have the same maximum size and v-notch rules as adjacent Lobster Conservation Management Area 3 (LCMA3).

**Table 1. Comparison of Gauge Size and VNotch Rules for State and Federal Waters Fisheries Within OCCLCMA**

Fishery	Minimum Gauge	Maximum Gauge	V-Notch Definition
Federal OCCLCMA	3 3/8"	6 3/4"	Any indentation 1/8" deep with or without setal hairs.
State OCCLCMA	3 3/8"	<del>No Max</del> 6 3/4"	<del>1/4" sharp v without setal hairs.</del> Any indentation 1/8" deep with or without setal hairs.

Note this change only impacts state-only permit holders, as dual state-federal permit holders are already subject to the more restrictive federal waters rules. There are 46 state-only permit holders authorized to fish traps in OCCLCMA. These state-only permit holders represent the lion share of trap fishers in the area; only 12 of the 58 permit holders are dual state-federal permit holders.

Additionally, at 322 CMR 6.31, DMF will amend its trap tag regulations to limit the issuance of trap tags in LMCA 1 and LCMA 3 to the trap allocation for the permit holder. This will end the practice of issuing permit holders an additional 10% to cover trap loss. Rather, should trap loss occur, permit holders will be required to document the trap loss prior to obtaining replacement trap tags.

### Background

Since 2012, settlement indices throughout the Gulf of Maine have generally been below time series averages and declines in recruitment have been observed in more recent years in the ventless trap survey and trawl surveys. This portends an eventual decline in the Gulf of Maine/Georges Bank (GOM/GBK) stock and commercial landings from this fishery. The commercial fisheries that prosecute this stock are those occurring within LCMA1 (Gulf of Maine) OCCLCMA (Outer Cape Cod), and LCMA3 (Offshore Gulf of Maine and Georges Bank). Accordingly, the ASMFC initiated Addendum XXVII as a proactive measure to increase protection of the spawning stock, which will affect the lobster fisheries within these LCMAAs.

In the first year (2024), the Addendum seeks to resolve regulatory discrepancies between state and federal permit holders within a single LCMA and close a longstanding loophole that effectively allows permit holders fishing traps in excess of their trap allocation.

In future years, states may have to take additional actions affecting minimum and maximum legal sizes if recruit abundance for the GOM/GBK stock declines by 35% from the reference level (three-year average from 2016-2018<sup>1</sup>). These potential changes are described in Table 2 below.

<b>Table 2. Timeline for Additional Management Changes for LCMA 1, LCMA 3, and OCCLCMA Under Addendum XXVII</b>			
<b>Implementation</b>	<b>LCMA 1</b>	<b>LCMA 3</b>	<b>OCCLCMA</b>
Year following 35% decline in trigger index	Minimum size gauge increase from 3 1/4" to 3 5/16"	N/A	N/A
Year 3	Minimum size gauge increase from 3 5/16" to 3 3/8"	N/A	N/A
Year 4	Escape vent size change from 1 15/16" by 5 3/4" rectangular or 2 7/16" diameter to 2" by 5 3/4" rectangular to 2 5/8" diameter.	N/A	N/A
Year 5	N/A	Maximum gauge size decrease from 6 3/4" to 6 1/2".	Maximum gauge size decrease from 6 3/4" to 6 1/2".

### Anticipated Public Process

The addendum requires states implement these changes by January 1, 2024. Accordingly, I intend to proceed to draft rule making this fall to implement these adjustments for the upcoming fishing year. We will likely host a virtual public hearing, as well as an in-person meeting to accommodate interests on Cape Cod, where these changes are most controversial (as evidenced by public comment on the addendum).

<sup>1</sup> 2016 – 2018 are the last three years of data used in the 2020 stock assessment. Therefore, this trigger is intended to represent changes in stock abundance since the previous assessment. These are also the three years with the highest abundance in the index.

**Attachments**

May 2, 2023 ASMFC Press Release on Addendum XXVII



# ***Atlantic States Marine Fisheries Commission***

## **NEWS RELEASE**

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*Sustainable and Cooperative Management of Atlantic Coastal Fisheries*

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FOR IMMEDIATE RELEASE  
May 2, 2023

PRESS CONTACT: Tina Berger  
703.842.0749

### ***American Lobster Board Approves Addendum XXVII Addendum Establishes Measures to Increase Protection of Spawning Stock Biomass of the Gulf of Maine/Georges Bank Stock***

Arlington, VA – The Commission’s American Lobster Management Board approved Addendum XXVII to Amendment 3 to the Interstate Fishery Management Plan for American Lobster. The Addendum establishes a trigger mechanism to implement management measures – specifically gauge and escape vent sizes – to provide additional protection of the Gulf of Maine/Georges Bank (GOM/GBK) spawning stock biomass (SSB). It also implements changes to management measures for Lobster Conservation Management Areas (LCMAs) 1, 3, and Outer Cape Cod (OCC) to improve the consistency of measures across the GOM/GBK stock.

The Board initiated the Addendum as a proactive measure to improve the resiliency of the GOM/GBK stock. Since the early 2000s, landings in the GOM/GBK stock have rapidly increased. In Maine alone, landings have increased from 57 million pounds in 2000 to a record high of 132.6 million pounds in 2016. Maine landings have declined slightly but were still high at 97.9 million and 108.9 million in 2020 and 2021, respectively. However, since 2012, lobster settlement surveys throughout the GOM have generally been below the time series averages in all areas. These surveys, which measure trends in the abundance of juvenile lobsters, can be used to track populations and potentially forecast future landings. Persistent low settlement could foreshadow declines in recruitment and landings. In the most recent years of the time series, declines in recruitment indices have also been observed.

In response to these trends, Addendum XXVII establishes a mechanism where changes to the current gauge and escape vent sizes in LCMAs 1, 3 and OCC will be implemented automatically based on observed changes in recruit abundance indices. If the index of recruit abundance declines by 35% from the reference level (equal to the three-year average from 2016-2018), a series of gradual changes to gauge and vent size will be initiated in the following fishing year. These include two increases to the minimum gauge size in LCMA 1 (Gulf of Maine) and a single decrease to the maximum gauge size in LCMA 3 (offshore federal waters) and OCC. The gauge and escape vent size changes are intended to increase the proportion of the population that is able to reproduce before being harvested, and to enhance stock resiliency by protecting larger lobsters of both sexes.

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The Atlantic States Marine Fisheries Commission was formed by the 15 Atlantic coastal states in 1942 for the promotion and protection of coastal fishery resources. The Commission serves as a deliberative body of the Atlantic coastal states, coordinating the conservation and management of nearshore fishery resources, including marine, shell and diadromous species.

Additionally, Addendum XXVII implements measures that resolve discrepancies between the regulations for state and federal permit-holders, provide a more consistent conservation strategy, and simplify interstate commerce and enforcement across management areas. Specifically, the Addendum implements a standard v-notch definition of 1/8" with or without setal hairs in LCMA 3 and OCC, and a standard maximum gauge size of 6 3/4" for LCMA 3 and state and federal permit holders in OCC. It also modifies the management program such that for LCMA 1 and 3 permit holders, states must limit the issuance of trap tags to equal the harvester trap tag allocations unless trap losses are documented. The implementation date for these changes is January 1, 2024.

The following table specifies the timing of management changes for each of the three LCMA's addressed under Addendum XXVII.

When change(s) will be implemented	What change will be implemented		
	<i>LCMA 1</i>	<i>LCMA 3</i>	<i>Outer Cape Cod</i>
<i>January 1, 2024</i>	Trap tags issuance limited to harvester allocation		v-notch definition: 1/8" with or without setal hairs; Maximum gauge size: 6 3/4"
<i>Fishing year following an observed 35% decline in the trigger index (Year 1)</i>	Minimum gauge size: 3 5/16"		
<i>Year 3</i>	Minimum gauge size: 3 3/8"		
<i>Year 4</i>	Escape vent size: 2 x 5 3/4" rectangular; 2 5/8" circular		
<i>Year 5</i>		Maximum gauge size: 6 1/2"	Maximum gauge size: 6 1/2"

For more information, please contact Caitlin Starks, Senior Fishery Management Plan Coordinator, at [cstarks@asmfc.org](mailto:cstarks@asmfc.org) or 703.842.0740.

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# Atlantic States Marine Fisheries Commission

## 2023 Summer Meeting Summary

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*Sustainable and Cooperative Management of Atlantic Coastal Fisheries*

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2023 Summer Meeting  
August 1 – 3, 2023

For more information, please  
contact Toni Kerns, ISFMP,  
Tina Berger, Communications  
or the identified individual at  
703.842.0740

### Meeting Summaries, Press Releases and Motions

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## **SHAD & RIVER HERRING MANAGEMENT BOARD (AUGUST 1, 2023)**

### ***Meeting Summary***

The Shad and River Herring Management Board met to consider an update to the Potomac River Fisheries Commission (PRFC) American Shad Sustainable Fishery Management Plan (SFMP), receive an update on expanding collection efforts for the U.S. Geological Survey (USGS) alosine genetic repository, and receive a progress update on the River Herring Benchmark Stock Assessment.

The Board considered an update to the PRFC SFMP for American shad. SFMPs are required for all states and jurisdictions with a commercial fishery and are reviewed by the Technical Committee every five years. The plan update proposed continuing their limited commercial bycatch allowance under the same sustainability metrics, which is based on the geometric mean of pound net catch per unit effort (CPUE) and has been above its restoration target since 2011. PRFC will also explore including additional sustainability metrics in future updates. The Board approved the presented SFMP.

The Board received an update from the Technical Committee and USGS staff on expanding collection efforts for the alosine genetic repository. As anadromous fishes, alosines spend much of their life in estuarine and marine environments, where they may form mixed stock aggregations and where they are sometimes captured as bycatch in other fisheries. There is a critical need to be able to distinguish among populations or management units when individuals are encountered away from natal areas. An enhanced understanding of stock composition will provide critical information on the status and trends of specific populations and offer much needed insight into how fisheries bycatch may be impacting recovery efforts. The alosine genetic repository is intended to address this issue.

In response to a Board request, USGS staff presented to the Technical Committee to assist in identifying data gaps and improving future sample collections. After reviewing the spatial and temporal data needs, several states offered to help fill the data gaps by providing biological samples with collection kits provided by USGS.

The Board received an update on the river herring benchmark stock assessment. The Assessment Workshop is scheduled for August 21-25, 2023, with the peer review anticipated for the fall, and final presentation of the assessment and peer review report to the Board planned for the 2024 Winter Meeting in February.

For more information contact James Boyle, Fishery Management Plan Coordinator at [jboyle@asmfc.org](mailto:jboyle@asmfc.org).

### ***Motions***

**Move to approve the Shad Sustainable Fishery Management Plan from Potomac River Fisheries Commission, as presented today.**

Motion made by Dr. Davis and seconded by Dr. Rhodes. Motion carries without opposition.



***Press Release***

**ASMFC American Eel Board Accepts Benchmark Assessment & Peer Review Report for Management Use**

***Two Addenda Initiated for Yellow Eel and Maine Glass Eel Fisheries***

Arlington, VA – The Commission’s American Eel Management Board has accepted the American Eel Benchmark Stock Assessment and Peer Review Report for management use. The Report indicates the stock is at or near historically low levels due to a combination of historical overfishing, habitat loss, food web alterations, predation, turbine mortality, environmental changes, and toxins, contaminants, and disease. Since completion of the first Commission American eel stock assessment in 2005, available data have not allowed overfishing or overfished determinations to be made. Based on several trend analyses, the stock is considered depleted, consistent with the findings of the 2012 and 2017 assessments.

In response to the assessment findings, the Board initiated an addendum to consider changes to the coastwide yellow eel harvest cap. Historically, the coastwide cap of 916,473 pounds was set based on the average landings from 1998 to 2010. The benchmark assessment proposes a new tool for setting the coastwide cap based on abundance indices and catch. The addendum will consider using this tool to recommend a range of coastwide caps and management options.

The Board also initiated an addendum to address the quota for Maine’s glass eel fishery. Maine’s glass eel quota has been set at 9,688 pounds since 2015. However, a new addendum is needed to establish a quota for the 2025 fishing year and beyond.

The Plan Development Team will begin work on both documents, with a progress update provided to the Board in October and Draft Addenda presented for Board consideration in February 2024. The Benchmark Stock Assessment and Peer Review Report will be available on the Commission website at <https://asmfc.org/species/american-eel> (under stock assessment reports) by mid-August. An overview of the assessment will be can be found at [https://asmfc.org/uploads/file/64caa25eAmericanEelStockAssessmentOverview\\_August2023.pdf](https://asmfc.org/uploads/file/64caa25eAmericanEelStockAssessmentOverview_August2023.pdf). For more information, please contact Caitlin Starks, Senior Fishery Management Plan Coordinator, at [cstarks@asmfc.org](mailto:cstarks@asmfc.org).

###

PR23-19

***Meeting Summary***

In addition to accepting the 2023 Benchmark Stock Assessment and Peer Review Reports and initiating two addenda, the American Eel Management Board (Board) also considered an update on Maine’s life cycle survey, and Maine’s 2024 aquaculture plan. Maine has been conducting fishery-independent surveys for all three American eel life stages since 2018. The Board approved Maine’s 2024 aquaculture plan, which requests 200 pounds of glass eel harvest for domestic aquaculture.

For more information on the stock assessment, please contact Dr. Kristen Anstead, Stock Assessment Scientist, at [kanstead@asmfc.org](mailto:kanstead@asmfc.org); and for more information on management, please contact Caitlin Starks, Senior FMP Coordinator, at [cstarks@asmfc.org](mailto:cstarks@asmfc.org).

### ***Motions***

**Move to accept the 2023 Benchmark Stock Assessment and Peer Review Report for management use.**

Motion made by Ms. Madsen and seconded by Dr. Jacobson. Motion approved by Board consent.

### **Main Motion**

**Move to form a Plan Development Team to draft an addendum to consider using  $I_{TARGET}$  to recommend various catch caps, using the supplemental report as presented today as a starting point.**

Motion made by Ms. Madsen and seconded by Mr. Maniscalco.

### **Motion to Amend**

**Move to amend to add “but not use  $I_{TARGET}$  to set biological reference points or stock status” after catch caps.**

Motion made by Ms. Fegley and seconded by Mr. Clark. Motion passes (16 in favor, 2 opposed).

### **Main Motion as Amended**

**Move to form a Plan Development Team to draft an addendum to consider using  $I_{TARGET}$  to recommend various catch caps, but not use  $I_{TARGET}$  to set biological reference points or stock status, using the supplemental report as presented today as a starting point.**

Motion approved by Board consent.

**Move to initiate an addendum to address the Maine glass eel quota.**

Motion made by Ms. Ware and seconded by Mr. McKiernan. Motion approved by Board consent.

**Move to approve the Maine Aquaculture Plan for 2024.**

Motion made by Ms. Ware and seconded by Mr. Clark. Motion is approved by Board consent.

## **COASTAL SHARKS MANAGEMENT BOARD (AUGUST 1, 2023)**

### ***Meeting Summary***

The Coastal Sharks Management Board met to consider an update from NOAA Fisheries on Amendment 16 to the Highly Migratory Species (HMS) Fishery Management Plan (FMP), and the FMP Review for the 2021 Fishing Year.

NOAA Fisheries is currently scoping for Amendment 16 to the HMS FMP. The scoping document considers a broad range of issues and potential options. Amendment 16 could implement substantial changes to the commercial and recreational shark fishery, including commercial and recreational shark quotas, shark management groups, shark retention or bag limits, and shark minimum size limits. NOAA Fisheries will accept public comment on this proposed rule through August 18, 2023.

NOAA Fisheries Staff also informed the Board of the recent publication of a proposed rule for the 2024 and future fishing years of the Atlantic shark commercial fishery. The proposed rule considers options to 1) modify the regulations to allow the Atlantic shark commercial fishery to automatically open on January 1 each year under base quotas and default retention limits, 2) increase the default commercial retention limit for shark-directed permit holders from 45 to 55 large coastal sharks, and 3) adjust the 2024 quota levels for the various shark stocks and management groups based on underharvests from the 2023 fishing year.

The Board approved the FMP Review for the 2021 Fishing Year, state compliance reports, and *de minimis* status for the Commonwealth of Massachusetts.

For more information, please contact Caitlin Starks, Senior Fishery Management Plan Coordinator, at [cstarks@asmfc.org](mailto:cstarks@asmfc.org).

### ***Motions***

**Move to approve *de minimis* request from Massachusetts, state compliance reports, and the Coastal Sharks FMP Review for the 2021 fishing year.**

Motion made by Dr. Davis and seconded by Mr. Miller. Motion approved by unanimous consent.

### **ATLANTIC STRIPED BASS MANAGEMENT BOARD (AUGUST 1, 2023)**

#### ***Press Release***

## **ASMFC Atlantic Striped Bass Board Extends Emergency Action through October 28, 2024 & Continues Development of Additional Measures to Aid Rebuilding**

Arlington, VA – The Commission’s Atlantic Striped Bass Management Board extended the current emergency action through October 28, 2024 or until the implementation of Addendum II to Amendment 7 of the Interstate Fishery Management Plan. In May, the Board approved a 31-inch maximum size limit for the 2023 recreational fishery to reduce harvest of the strong 2015-year class. The 31-inch maximum size limit applies to all existing recreational fishery regulations where a higher (or no) maximum size applies, excluding the May Chesapeake Bay trophy fisheries which already prohibit harvest of fish less than 35 inches. All bag limits, seasons, and gear restrictions remain the same. All states and jurisdictions implemented the required measure by July 2, 2023.

The emergency action responds to the unprecedented magnitude of 2022 recreational harvest, which is nearly double that of 2021, and new stock rebuilding projections, which estimate the probability of the spawning stock rebuilding to its biomass target by 2029 drops from 97% under the lower 2021 fishing mortality rate to 15% if the higher 2022 fishing mortality rate continues each year.

The extension of the emergency action provides the Board time to develop and finalize Draft Addendum II, which will consider 2024 management measures designed to reduce fishing mortality to the target. Specifically, the Draft Addendum will propose options for the ocean recreational fishery, including modifications to the slot limit with harvest season closures as a secondary non-preferred option. It will also propose options for the Chesapeake Bay recreational fisheries, as well as all commercial fisheries, including maximum size limits.

The Board made changes to the Draft Addendum’s options and sought additional analyses on the impacts of those revised options to the rebuilding of the resource. The Board will review a revised Draft Addendum and consider its approval for public comment in October at the Commission’s Annual Meeting. If approved, the document will be made available for public comment and the states/jurisdictions will conduct public hearings to solicit public comment throughout the fall/early

winter. It's anticipated that the Board will consider public comment and take final action in January at the Commission's Winter Meeting. For more information, please contact Toni Kerns, Fisheries Policy Director, at [tkerns@asmfc.org](mailto:tkerns@asmfc.org).

###

PR23-20

### **Motions**

#### **Move to approve the 2022 Fishing Year FMP Review and state compliance report.**

Motion made by Mr. Hasbrouck and seconded by Mr. Clark. Motion passes by unanimous consent.

#### **Move to extend the Board's May 2, 2023 emergency action of 31" maximum recreational size limit for one year or until the implementation of Addendum II, whichever comes first, effective October 28, 2023.**

Motion made by Dr. Armstrong and seconded by Mr. Sikorski. Motion passes (14 in favor, 2 opposed).

#### **Move to add under 3.1.1 and under 3.1.2, an option that states that any recreational season closure implemented through this addendum would be a no harvest closure and an option that states any recreational season closure implemented through this addendum would be a no targeting closure**

Motion made by Mr. Hasbrouck and seconded by Mr. Luisi. Motion passes (10 in favor, 4 opposed, 2 abstentions).

### **Main Motion**

#### **Move to amend Chesapeake Bay Recreational Options B and D to include maximum size limit options ranging from 23" to 26" in 1" increments and remove all other options.**

Motion made by Dr. Armstrong and seconded by Dr. Davis. Motion amended.

### **Motion to Amend**

#### **Move to amend to add "H" after "D."**

Motion made by Mr. Sikorski and seconded by Mr. Clark. Motion passes unanimously.

### **Main Motion as Amended**

#### **Move to amend Chesapeake Bay Recreational Options B, D and H to include maximum size limit options ranging from 23" to 26" in 1" increments and remove all other options.**

Motion passes by unanimous consent.

#### **Move to add new options to section 3.1.1 and 3.1.2 to Draft Addendum II that allow for mode splitting. These are options B, C, and D as defined in the PDT memo to the board dated July 17, 2023 for section 3.1.1 and options H as defined in the PDT memo to the board dated July 17, 2023 for section 3.1.2.**

Motion made by Dr. McNamee and seconded by Mr. Hasbrouk. Motion passes (11 in favor, 3 opposed, 2 abstentions).

#### **Move to replace Ocean Recreational Option B with the slot limit of 28" to 31" with no seasonal harvest closures and remove Option C and D.**

Motions made by Dr. Armstrong and seconded by Ms. Patterson. Motion passes (8 in favor, 6 opposed, 1 abstention, 1 null).

#### **Main Motion**

**Move to remove Options sets B and C from Section 3.2.1 (Options for Implementing a Commercial Maximum Size Limit) from Draft Addendum II. Task the PDT with conducting spawning potential analysis to determine quota reductions, using 2022 as the starting point, associated with each Option in Option sets D (Ocean Commercial Maximum Size Limits) and E (Chesapeake Bay Commercial Maximum Size Limits). Add a new Option Set to Section 3.2.1 containing the following options for reductions to commercial quotas:**

**Option A. Status Quo. All commercial fisheries maintain 2017 size limits and (or Addendum VI approved CE plans) and Amendment 7 quotas (and Addendum VI approved CE-adjusted quotas).**

**Option B. Commercial Quota Reductions. Quotas for all commercial fisheries will be reduced by 14.5% from 2022 commercial quotas (including quotas adjusted through approved Addendum VI CE plans).**

Motion made by Dr. Davis and seconded by Dr. Armstrong.

#### **Motion to Substitute**

**Move to substitute to remove Option B2 from Section 3.2.1.**

Motion made by Mr. Hasbrouk and seconded by Mr. Pugh. Motion fails (3 in favor, 12 opposed, 1 abstention).

#### **Main Motion**

**Move to remove Options sets B and C from Section 3.2.1 (Options for Implementing a Commercial Maximum Size Limit) from Draft Addendum II. Task the PDT with conducting spawning potential analysis to determine quota reductions, using 2022 as the starting point, associated with each Option in Option sets D (Ocean Commercial Maximum Size Limits) and E (Chesapeake Bay Commercial Maximum Size Limits). Add a new Option Set to Section 3.2.1 containing the following options for reductions to commercial quotas:**

**Option A. Status Quo. All commercial fisheries maintain 2017 size limits and (or Addendum VI approved CE plans) and Amendment 7 quotas (and Addendum VI approved CE-adjusted quotas).**

**Option B. Commercial Quota Reductions. Quotas for all commercial fisheries will be reduced by 14.5% from 2022 commercial quotas (including quotas adjusted through approved Addendum VI CE plans).**

Motion made by Dr. Davis and seconded by Dr. Armstrong.

#### **Motion to Amend**

**Move to amend to add an option to require maximum mesh sizes for gillnets and exempt them from maximum size limits.**

Motion made by Mr. Clark and seconded by Mr. Abbott. Motion passes (12 in favor, 3 opposed, 1 abstention).

**Main Motion as Amended**

**Move to remove Options sets B and C from Section 3.2.1 (Options for Implementing a Commercial Maximum Size Limit) from Draft Addendum II. Task the PDT with conducting spawning potential analysis to determine quota reductions, using 2022 as the starting point, associated with each Option in Option sets D (Ocean Commercial Maximum Size Limits) and E (Chesapeake Bay Commercial Maximum Size Limits). Add an option to require maximum mesh sizes for gillnets and exempt them from maximum size limits. Add a new Option Set to Section 3.2.1 containing the following options for reductions to commercial quotas:**

**Option A. Status Quo. All commercial fisheries maintain 2017 size limits and (or Addendum VI approved CE plans) and Amendment 7 quotas (and Addendum VI approved CE-adjusted quotas).**

**Option B. Commercial Quota Reductions. Quotas for all commercial fisheries will be reduced up to 14.5% from 2022 commercial quotas (including quotas adjusted through approved Addendum VI CE plans).**

**Motion to Amend**

**Move to amend to replace “by” with “up to” in Option B.**

Motion made by Mr. Geer and seconded by Mr. Kane. Motion passes (15 in favor, 1 abstention).

**Main Motion as Amended**

**Move to remove Options sets B and C from Section 3.2.1 (Options for Implementing a Commercial Maximum Size Limit) from Draft Addendum II. Task the PDT with conducting spawning potential analysis to determine quota reductions, using 2022 as the starting point, associated with each Option in Option sets D (Ocean Commercial Maximum Size Limits) and E (Chesapeake Bay Commercial Maximum Size Limits). Add an option to require maximum mesh sizes for gillnets and exempt them from maximum size limits. Add a new Option Set to Section 3.2.1 containing the following options for reductions to commercial quotas:**

**Option A. Status Quo. All commercial fisheries maintain 2017 size limits and (or Addendum VI approved CE plans) and Amendment 7 quotas (and Addendum VI approved CE-adjusted quotas).**

**Option B. Commercial Quota Reductions. Quotas for all commercial fisheries will be reduced up to 14.5% from 2022 commercial quotas (including quotas adjusted through approved Addendum VI CE plans).**

**Motion to Amend**

**Move to amend to add Option C that would reduce commercial landings up to 14.5% from 2022 commercial landings.**

Motion made by Mr. Sikorski and seconded by Dr. Armstrong. Motion fails (3 in favor, 10 opposed, 3 abstentions).

### **Main Motion as Amended**

**Move to remove Options sets B and C from Section 3.2.1 (Options for Implementing a Commercial Maximum Size Limit) from Draft Addendum II. Task the PDT with conducting spawning potential analysis to determine quota reductions, using 2022 as the starting point, associated with each Option in Option sets D (Ocean Commercial Maximum Size Limits) and E (Chesapeake Bay Commercial Maximum Size Limits). Add an option to require maximum mesh sizes for gillnets and exempt them from maximum size limits. Add a new Option Set to Section 3.2.1 containing the following options for reductions to commercial quotas:**

**Option A. Status Quo. All commercial fisheries maintain 2017 size limits and (or Addendum VI approved CE plans) and Amendment 7 quotas (and Addendum VI approved CE-adjusted quotas).**

**Option B. Commercial Quota Reductions. Quotas for all commercial fisheries will be reduced up to 14.5% from 2022 commercial quotas (including quotas adjusted through approved Addendum VI CE plans).**

Motion passes (14 in favor, 1 opposed, 1 abstention).

**Move to add the at-sea filleting options from the PDT memo.**

Motion made by Dr. Davis and seconded by Dr. Armstrong. Motion passes by consent.

**Move to add an option to the addendum that prevents the alteration of the length of a striped bass prior to landing at the dock.**

Motion made by Mr. Miller and second by Mr. Abbott. Motion fails (3 in favor, 13 opposed, 3 abstentions).

### **EXECUTIVE COMMITTEE (AUGUST 2, 2023)**

#### ***Meeting Summary***

The Executive Committee (EC) met to discuss several issues, including CARES and Consolidated Appropriations Act (CAA) Updates; the Legislative and Governors' Appointees (LGA) members stipend survey results; the potential for an increase in per diem rates; and a Legislative Committee update. The following action items resulted from the Committee's discussions:

- Staff gave an update on the CARES and CAA activities. The CARES program is complete and there is the possibility for the need to return \$159.93 to the U.S. Treasury. CAA has a projected completion of July 31, 2024, and currently \$91,041,387 has been disbursed to the states, with \$13,418,965 remaining to be disbursed.
- Staff presented the results of the LGA members stipend potential survey. Fourteen Commissioners responded; 10 said they were eligible to receive a stipend and six said they would be amenable to receiving one. No action was taken based on these results.
- Staff presented on three bills that the Executive Committee should be aware of per the recommendation of the Legislative Committee. These included: the [National Oceanic and Atmospheric Administration Act of 2023](#) (H.R. 3980), the [Supporting the Health of Aquatic](#)

[systems through Research Knowledge and Enhanced Dialogue Act](#) (or SHARKED Act, H.R. 4051), and the [Fishery Improvement to Streamline untimely regulatory Hurdles post Emergency Situation Act](#) (or FISHER Act). Further discussion of these issue will occur at the ISFMP Policy Board later this week.

- Staff presented a report on the potential for an increase in per diem rates for Commission meetings. The increase would be from Commission, not federal funds. The Committee requested a detailed analysis to determine the projected cost to the Commission of roughly a 30% increase in meal per diem.

For more information, please contact Laura Leach, Director of Finance & Administration, at [lleach@asmfc.org](mailto:lleach@asmfc.org) or 703.842.0740.

### ***Motions***

No motions were made.

## **COASTAL PELAGICS MANAGEMENT BOARD (AUGUST 3, 2023)**

### ***Press Release***

## **ASMFC Coastal Pelagics Board Sets Atlantic Cobia Total Harvest Quota for 2024-2026 Fishing Seasons**

Arlington, VA – The Commission’s Coastal Pelagics Management Board approved a total harvest quota for the Atlantic migratory group of cobia of 80,112 fish for the 2024-2026 fishing seasons. This total quota results in a coastwide recreational quota of 76,908 fish and commercial quota of 73,116 pounds.

The total quota level was first approved in February 2020 for the 2020-2022 fishing seasons. In 2021, the Board changed the cobia quota timeframe from 2020-2022 to 2021-2023. Based on the recommendation from the Technical Committee and in the absence of a new stock assessment, the Board has set the 2024-2026 total harvest quota equal to the 2023 total harvest quota of 80,112 fish.

A new stock assessment for Atlantic migratory group of cobia is scheduled for 2025, with the potential to inform 2026 or later total harvest quotas. The Board will meet in October 2023 to consider new recreational management measures for some states. For more information, please contact Chelsea Tuohy, Fishery Management Plan Coordinator, at [ctuohy@asmfc.org](mailto:ctuohy@asmfc.org).

###

PR23-21

### ***Meeting Summary***

The Coastal Pelagics Board met to set the 2024-2026 total harvest quota for Atlantic cobia (see above press release), consider the Atlantic Cobia Fishery Management Plan (FMP) Review for the 2022 fishing year, consider timelines for reviewing the state recreational allocation of cobia, and received an update from the South Atlantic Fishery Management Council (SAFMC) on the 2022 stock



assessment for Spanish mackerel (SEDAR 78) and upcoming Spanish and king mackerel port meetings.

The Board reviewed state compliance and the Atlantic Cobia FMP Review for the 2022 fishing year. All states' regulations were consistent with the FMP, and the Board approved *de minimis* requests from Rhode Island, New Jersey, Delaware, Maryland, Georgia, and Florida. The Cobia Plan Review Team (PRT) noted that multiple states could exceed *de minimis* thresholds in upcoming years, which would trigger management changes including in-season monitoring for the commercial fishery and revising state recreational harvest targets for the recreational fishery. Reallocation of recreational harvest targets will require a change in the FMP. The current recreational allocation is calculated using landings data through 2015. In addition, the PRT recommended New York declare an interest in the cobia fishery due to recent trends in New York's commercial landings. New York has indicated their commercial regulations for Atlantic Cobia are consistent with FMP requirements. New York is in the process of updating the state's recreational regulations to be consistent with the FMP requirements and is preparing regulations to establish closure authority in the commercial cobia fishery.

After the FMP Review, the Board received a presentation on current state recreational allocations for cobia and potential timelines for reviewing these allocations. Recreational harvest targets are assigned on a state-by-state basis to non-*de minimis* states, with a 1% set aside for *de minimis* states. Commission staff recommended two timelines for reviewing and revising these allocations through the addendum process. Both timelines align with the upcoming 2025 cobia stock assessment and include implementation dates of 2025 or 2026. The Board identified 2025 as the preferred implementation timeline and directed the Atlantic Cobia Technical Committee (TC) to characterize state and regional harvest trends to inform future allocation options for review at the Commission's Annual Meeting or Winter Meeting. The Board noted that future allocation of recreational harvest targets should consider the dynamic nature of the fishery and be flexible as the stock shifts and/or range expansion continues to be examined.

The final cobia discussion considered the need for ongoing changes to state cobia recreational regulations, given the timing of the potential new addendum and the upcoming 2025 stock assessment. Due to a total harvest quota being set for cobia this year, the TC will need to review state landings against soft harvest targets and recommend changes to state measures for the Board's consideration at the Commission's Annual Meeting in October. To inform the October discussion, the Board tasked the TC with reviewing the impact status quo measures would have on the fishery in addition to recommending changes to recreational management measures.

Lastly, the Board received updates on the 2022 stock assessment for Spanish mackerel (SEDAR 78) and the SAFMC's plans for upcoming Spanish and king mackerel port meetings. The Spanish mackerel stock assessment found the stock to be not overfished and not experiencing overfishing. Following the completion of the assessment, the SAFMC initiated a Framework Addendum to adopt the new ABC recommendation of 8,024,000 pounds. The SAFMC delayed the initiation of a Plan Amendment until the port meetings are completed in 2024. Port meetings are intended to gather stakeholder input to help improve management efforts and update the goals of the Coastal Migratory Pelagics (CMP) FMP. The Board discussed the importance of the port meetings in

informing changes to the Federal and Interstate FMPs and agreed that state staff should attend local port meetings if schedules allow.

The Board also discussed the differences between the Interstate and Federal FMPs and supported their previous decision to hold off on potential management action for state waters until the Council initiates a Plan Amendment for Federal waters. Differences between the Interstate and Federal FMPs exist in terms of commercial management zones, commercial trip limits and closures, allowable gears, recreational season, and recreational accountability measures. While the Board decided to hold off on taking management action to address FMP differences, the Board tasked the newly formed Spanish Mackerel TC to develop a paper that characterizes the recreational and commercial fisheries along the Atlantic Coast. This paper may be informed by the fishery profile questionnaire that will accompany state compliance reports due in October. Outcomes of the port meetings and TC paper will inform Board action in the future.

For more information, please contact Chelsea Tuohy, Fishery Management Plan Coordinator, at [CTuohy@asmfc.org](mailto:CTuohy@asmfc.org).

### ***Motions***

**Move to approve the Atlantic Cobia FMP Review for the 2022 fishing year, state compliance reports, and *de minimis* requests for Rhode Island, New Jersey, Delaware, Maryland, Georgia, and Florida.**

Motion made by Dr. Rhodes and seconded by Ms. Fegley. Motion carries by unanimous consent.

**Move to set the 2024-2026 total harvest quota at the status quo level of 80,112 fish. This results in a recreational quota of 76,908 fish and a commercial quota of 73,116 lbs.**

Motion made by Mr. Haymans and seconded by Ms. Fegley. Motion passes by unanimous consent.

**Move to task the Cobia Technical Committee to develop a fishery review that characterizes recent trends in state and regional landings compared to their harvest targets, including *de minimis* landings. The results of this review will inform a future addendum to be implemented for 2025 that considers recreational allocations, *de minimis*, and any other issues the Board identifies. It is the intent to initiate this addendum either at the Commission's Annual Meeting or the 2024 Winter Meeting.**

Motion made by Ms. Madsen and seconded by Mr. Bell. Motion passes by unanimous consent.

**Move to task the Cobia Technical Committee with determining the impacts of status quo coastwide recreational management measures for the 2024 fishing year.**

Motion made by Ms. Madsen and seconded by Ms. Fegley. Motion carries by unanimous consent.

### **Main Motion**

**Move to direct the Spanish Mackerel Technical Committee to develop a paper that characterizes the recreational and commercial Spanish mackerel fisheries along the Atlantic Coast. The timing and content of the paper are intended to help the Coastal Pelagics Management Board address state waters management issues.**

Motion made by Mr. Batsavage and seconded by Ms. Madsen.

## **Motion to Amend**

**Move to amend to strike “address state water management issues” and replace “help” with “inform.”**

Motion made by Ms. Burgess and seconded by Mr. Haymans. Motion fails (5 in favor, 5 opposed, 2 abstentions).

**Move to direct the Spanish Mackerel Technical Committee to develop a paper that characterizes the recreational and commercial Spanish mackerel fisheries along the Atlantic Coast. The timing and content of the paper are intended to help the Coastal Pelagics Management Board address state waters management issues.**

Motion made by Mr. Batsavage and seconded by Ms. Madsen. Motion carries (9 in favor, 1 opposed, 2 abstentions).

## **EAST COAST CLIMATE CHANGE SCENARIO PLANNING INITIATIVE (AUGUST 2, 2023)**

### ***Meeting Summary***

Over the past two years, marine fishery management organizations along the U.S. East Coast have been exploring governance and management issues related to climate change and fishery stock distributions. This effort recognizes the profound impact that climate change is having on our ocean ecosystems and coastlines and the need to plan for how fishery management organizations and coastal communities can best adapt to these changes in a thoughtful and deliberate way. The last phase of the initiative with the Commission includes the Scenario Planning Summit, held in February 2023, which brought together representatives from the three East Coast Regional Fishery Management Councils, the Atlantic States Marine Fisheries Commission, and NOAA Fisheries. During the Summit, participants used the scenarios as a platform from which to develop a set of potential governance and management actions that could help prepare fishery management organizations for future challenges related to climate change.

The main themes and potential actions that emerged during the initiative are summarized in two documents which: the [Summit Report](#) and a [Potential Action Menu](#). The Summit Report summarizes the discussions that occurred at the Summit, while the Potential Action Menu builds upon the Summit Report by suggesting possible next steps for the management organizations to consider as they plan for the future. Staff presented the Potential Action Menu to the Commission. The menu is organized around three overarching themes and prioritized, with high priority given to those that could be quickly or easily implemented or that the fishery management organizations viewed as important issues to address in the near-term. The table below provides a summary of high priority potential actions under each theme. The Potential Action Menu is intended to be an evolving document, used as a planning tool to guide development of priorities and a place to capture future issues and ideas. Over the next several months, fishery management organizations will meet individually and collectively to discuss how best to integrate the high priority items into actions. The Commissioners agreed the issues identified in the Potential Action Menu are important to consider when planning for the future. While it may seem like an overwhelming list of tasks they are essential for successful fisheries management in the face of a changing climate and will strive to incorporate at least two to four actions into the Commission’s Action Plan each year. The Commission also suggested to hold a similar meeting to the Summit every couple of years.

## Overarching Themes and High Priority Potential Actions

Theme	High Priority Potential Actions
<b>Cross-Jurisdictional Governance</b> Refers to ways in which governance structures and processes may need to be modified to address changes in species distribution.	<ul style="list-style-type: none"> <li>• Evaluate Council committee structure, use, and decision-making</li> <li>• Evaluate Advisory Panel representation</li> <li>• Develop joint management agreements to clarify roles and increase efficiency</li> <li>• Improve coordination across NOAA offices and regions</li> </ul>
<b>Managing Under Increased Uncertainty</b> Environmental changes may mean that historical conditions can no longer be used to predict the future, increasing uncertainty in management.	<ul style="list-style-type: none"> <li>• Identify ecosystem-level contextual information that can be considered in management to incorporate climate information into decisions</li> <li>• Streamline fishery management plan documentation and rulemaking</li> </ul>
<b>Data Sources and Partnerships</b> Coordination of accurate and timely data between all stakeholders and partners will play a large role as we adapt to changing conditions.	<ul style="list-style-type: none"> <li>• Expand study fleet, include recreational fisheries, and ensure data are used</li> <li>• Use survey mitigation around offshore wind to transition to industry-based surveys or other survey platforms</li> <li>• Improve the use of existing data</li> </ul>

Additional information about the East Coast Climate Change Scenario Planning Initiative, including contact information for current core team members, is available at <https://www.mafmc.org/climate-change-scenario-planning>.

### **TAUTOG MANAGEMENT BOARD (AUGUST 2, 2023)**

#### ***Meeting Summary***

The Tautog Management Board met to consider the Fishery Management Plan (FMP) Review for the 2022 fishing year, consider reports from the Technical and Law Enforcement Committees about the commercial tagging program and potential changes to the program, receive a progress report on the next stock assessment update, consider approval of an Advisory Panel (AP) nomination, and elect a Vice-Chair.

The Board was presented with the FMP Review for the 2022 fishing season. Coastwide harvest declined from 2021 to 2022 due to a 33% decrease in recreational harvest, while commercial landings increased by 28%. Massachusetts and Rhode Island exceeded their state quotas and have adjusted their 2023 state quotas to account for those overages. The Plan Review Team noted a considerable decrease in commercial tags that were unaccounted for in 2022 compared to 2021, but continued to recommend that states work to reduce this value. The Board approved the FMP Review, state compliance, and de minimis requests from Delaware and Maryland.

The Board was presented reports from the Technical Committee (TC) and the Law Enforcement Committee (LEC) on reported issues with the commercial tagging program. The TC distributed a survey to harvesters and dealers in each state within the management unit to study live market fish quality and mortality that is presumed to be associated with the commercial tagging program. The TC noted the results showed that these reported issues were occurring in every state and that New York continues to receive the most complaints. Additionally, the TC presented the findings of a study conducted by New York to evaluate potential new tags and tag locations to reduce damage to the fish. Based on the negative results of that study, the TC recommended the Board task the TC to evaluate other alternative tag types. The LEC met in July 2023 to discuss the impact of the commercial tagging program on illegal harvest and evaluating compliance. The LEC indicated that the program has reduced illegal harvest and that there is generally good compliance due to the reduced number of fish in the market that is associated with a reduction in illegal fish from the recreational sector. To address the concerns about the health of the fish, the Board tasked the TC with evaluating the smaller version of the current tag, as well as tags that have not previously been tested.

The Board reviewed a TC recommendation to schedule the next stock assessment update for 2025 and the next benchmark assessment for 2028 to accommodate staffing needs and allow for certain surveys to acquire the necessary amount of data to evaluate potential new models. The Board approved the revised schedule.

The Board considered and approved the nomination of Nicholas Marchetti of New York to the Tautog AP. Additionally, the Board elected Justin Davis of Connecticut to the role of Vice-Chair of the Management Board.

For more information, please contact James Boyle, Fishery Management Plan Coordinator, [jboyle@asmfc.org](mailto:jboyle@asmfc.org).

### ***Motions***

**Move to approve the Fishery Management Plan Review, state compliance reports, and *de minimis* requests for DE and MD for the 2022 fishing year.**

Motion made by Mr. Hasbrouck and seconded by Mr. Clark. Motion carries by unanimous consent.

**Move to task the Technical Committee with evaluating the feasibility of using the smaller tag and any tag that has not been previously tested that may meet the goals and objectives of the tagging program.**

Motion made by Mr. Hornstein and seconded by Mr. Clark. Motion carries by unanimous consent.

**Move to approve Nicholas Marchetti of NY to the Tautog Advisory Panel.**

Motion made by Mr. Hornstein and seconded by Dr. McNamee. Motion passes by unanimous consent.

## **SPINY DOGFISH MANAGEMENT BOARD (AUGUST 3, 2023)**

### ***Meeting Summary***

The Spiny Dogfish Management Board met to receive an update on the joint action of the Mid-Atlantic and New England Fishery Management Councils (Councils) to reduce sturgeon bycatch in the monkfish and spiny dogfish fisheries and to consider the Fishery Management Plan (FMP) Review for the 2021-2022 fishing year.

The Board reviewed an update on the joint action of the Councils to develop a range of alternatives to reduce sturgeon bycatch in the monkfish and spiny dogfish fisheries. Due to the exceedance of the Incidental take allowance delineated in the 2021 Biological Opinion, which formed the basis for the joint action, a new Biological Opinion is likely to be initiated. To include updated information from the new Biological Opinion, final action on the alternatives is planned for the Council meetings in April 2024. Accordingly, the Board will plan to review the final action and consider complementary action for state waters at the Spring Meeting in May 2024.

The Board was presented the FMP Review for the 2021-2022 fishing year. Commercial landings decreased by 23% from 2020-2021 and was approximately 33% of the coastwide quota. Recreational harvest and dead discards increased by 79% and 52%, respectively, from calendar year 2020 to 2021. The Board approved the FMP Review, state compliance, and *de minimis* requests from New York and Delaware.

For more information, please contact James Boyle, Fishery Management Plan Coordinator, [jboyle@asmfc.org](mailto:jboyle@asmfc.org).

### ***Motions***

**Move to approve the Fishery Management Plan Review, state compliance reports, and *de minimis* requests for DE and NY for the 2021-2022 fishing year.**

Motion made by Mr. Clark and seconded by Mr. Kane. Motion carries by unanimous consent.

## **INTERSTATE FISHERY MANAGEMENT PROGRAM (ISFMP) POLICY BOARD (AUGUST 3, 2023)**

### ***Meeting Summary***

The ISFMP Policy Board met to receive an update from Executive Committee; consider changes to the Conservation Equivalency Policy and Technical Guidance Document; receive an update on the Risk and Uncertainty Policy Development; receive updates from the Atlantic Coastal Fish Habitat Partnership (ACFHP) and Legislative Committee; discuss an update on the timeline for the Recreational Sector Separation and Catch Accounting Amendment; and receive a request from the Spot and Atlantic Croaker Stock Assessment Committee.

The Commission Chair, Spud Woodard, presented the Executive Committee Report to the Policy Board (see Executive Committee meeting summary earlier in this document).



### **Conservation Equivalency**

The Commission has been working to update the Conservation Equivalency (CE) Policy and Technical Guidance Document to reflect current use of CE and have the policy include more requirements versus suggestions. Some of the proposed changes include requiring CE programs to be described and evaluated in the annual compliance review, setting a timeframe for CE programs to be in place, considering stock status to determine if CE is allowed, and not allowing measures that cannot be quantified in CE programs if their sole purpose is credit for a reduction. The Policy Board reviewed the proposed changes and, after some discussion, decided to postpone making changes to the document until the next meeting.

### **Risk and Uncertainty**

Jason McNamee presented an updated on the risk and uncertainty tool. After a review of the tool and the last use of the tool on tautog, red drum was proposed as the next species to test this tool. The Policy Board had no objections on this approach.

### **ACFHP**

The ACFHP Steering Committee met in July 2023 where it finalized the next 5-year strategic plan (2022 – 2026) and 2-year action plan (2023 – 2024). A recipient for the 2023 Melissa Laser Habitat Conservation Award was selected. Alex Atkinson from NOAA Fisheries Office of Habitat Conservation provided an update on Beyond the Pond fundraising and the process for seeking Congressional Designation (ACE Act requirement – Sec 204(g)). ACFHP must work with the National Fish Habitat Partnership (NFHP) to develop an application and apply for Congressional Designation by June 2024 to continue to receive funds through the U.S. Fish and Wildlife Service after 2025. The Partnership also agreed to pursue a NOAA Climate Resilience Regional Challenge Grant and is currently working with its partners to develop a Letter of Interest. Staff reviewed two ACFHP projects for FY24 that were approved by NFHP; a dam removal project on the Pequett River, NJ that will reconnect 3 miles of fish spawning and foraging habitat; and a multi-phase Maryland Coastal Bays salt marsh Restoration project where 39 acres of saltmarsh will be restored on the Delmarva Peninsula, MD. As such, ACFHP estimates \$300,000 in NFHP funding for FY24. The annual RFP for FY25 is currently being developed and will be released this Fall.

### **Legislative Committee**

Alexander Law reviewed the Legislative Committee's draft letter in opposition to Rep. Lucas's National Oceanic and Atmospheric Administration Act of 2023 (H.R. 3980). The Act would establish NOAA as an independent agency, removing it from under the Department of Commerce. The Policy Board agreed with the Legislative Committee's concerns about the focus of the bill, fisheries funding instability and regulatory issues that would arise should the bill pass. The Policy Board agreed to send the letter to the relevant House committees and coastal district offices. In addition, the Policy Board received an overview of the FISHERIES Act, which address the Office of Management and Budget's delays in the Fisheries Disaster Assistance approval process. The Policy Board agreed to send a letter to the House Natural Resources Committee and coastal district offices in support of the Act.

### **Recreational Sector Separation and Catch Accounting Amendment**

The Mid-Atlantic Fishery Management Council is proposing a change in the timeline of the Recreational Sector Separation and Catch Accounting Amendment due to staff workload. The

approval of a scoping document would move from December 2023 to Spring 2024 and shifting scoping hearings from January/February 2024 to Spring/Summer 2024. This would shift the timeline back by a few months for each subsequent step. The Policy Board did not have any concerns with the timeline change.

### **Other Business**

One of the lead modelers from the Spot and Atlantic Croaker Stock Assessment Committee has taken a new position and can no longer work on the assessment. The committee asked the Policy Board if any state has an assessment scientist with experience in stock synthesis that could join the committee. If a new lead modeler cannot be added there will be delays in the completion of the assessments.

Lastly, the Policy Board approved a motion that directs Commission leadership to work with the three Atlantic Coast Councils to discuss diminished data collection and stock assessment capacity. The discussion will explore options for developing an inventory of data collection deficiencies and impacts to the effective fisheries management.

For more information, please contact Toni Kerns, Fisheries Policy Director, at [tkerns@asmfc.org](mailto:tkerns@asmfc.org).

### **Motions**

#### **Main Motion**

**Move to approve Option 4 board discretion for allowing Conservation Equivalency.**

Motion made by Mr. Clark and seconded by Ms. Burgess. Motion postponed until next meeting of the ISFMP Policy Board.

#### **Motion to Substitute**

**Motion to substitute to adopt Option 1 with an allowance for 2/3 majority to override.**

Motion made by Mr. McKiernan and seconded by Ms. Patterson.

#### **Motion to Postpone**

**Move to postpone decision on Conservation Equivalency until the next meeting of the Policy Board.**

Motion made by Ms. Fegley and seconded by Mr. Gary. Motion passes with one null vote.

**Move that the Commission leadership reach out to the three Atlantic Coast Councils and schedule a meeting to discuss diminished data collection and stock assessment capacity. The discussion will explore options for developing an inventory of data collection deficiencies and impacts to the effective fisheries management.**

Motion made by Mr. McKiernan and seconded by Mr. Bell. Motion carries with one abstention.





**The Trustees of Reservations**

200 High Street | Boston, MA 02110

July 18, 2023

Daniel J. McKiernan, Director  
Massachusetts Division of Marine Fisheries

Raymond W. Kane, Jr. Chair  
Massachusetts Fisheries Advisory Commission

Via Email: [dan.mckiernan@state.ma.us](mailto:dan.mckiernan@state.ma.us); [marine.fish@mass.gov](mailto:marine.fish@mass.gov); [jared.silva@mass.gov](mailto:jared.silva@mass.gov)

Dear Director McKiernan, Chair Kane, and members of the Massachusetts Fisheries Advisory Commission,

The Trustees of Reservations submits these comments to urge the Massachusetts Fisheries Advisory Commission (MFAC) to approve proposed revisions to the horseshoe crab regulations, including a breeding season harvest prohibition, protecting this critical species and the shorebirds that depend on them for survival.

The Trustees preserves, for public use and enjoyment, properties of exceptional scenic, historic, and ecological value in Massachusetts. We are the largest private holder of coastline in the state, protecting over 120 miles of coast in 25 communities. As stewards of this public resource, we take great pride in our efforts to protect wildlife habitat in these critical environments. We manage a model shorebird program that aims to protect nesting and staging habitat for several species of at-risk migrating shorebirds. We published three yearly State of the Coast reports that document the grave impact of climate change on community infrastructure and coastal habitats.

The Trustees appreciates the efforts of the MFAC to reduce annual state quotas for horseshoe crab harvests. However, we urge the MFAC to reconsider its decision to allow harvesting of horseshoe crabs during peak spawning season from April through mid-June. We also encourage the commission to consider developing a new policy focused on phasing out the horseshoe crab bait harvest altogether. Female crabs have been traditionally harvested during spawning to be used as bait in the whelk fishery, despite DMF classifying the whelk fishery as overfished and unsustainable.

Atlantic horseshoe crabs take at least 10 years to reach spawning age, and management of the species must take their lifecycle into account when crafting regulations. Scientists at Mass Audubon have found chronically depleted numbers of crabs over the past several years and a population skewed toward males. It is critical that we protect spawning males and females to ensure their population continues to

remain viable. It is not legal to harvest egg bearing female lobsters and true crabs in Massachusetts. It's time to extend similar protections to spawning horseshoe crabs, as well.


Horseshoe crabs play a critical role in local ecosystems both regionally and in Massachusetts and support declining and federally protected shorebirds. Multiple sources indicate that Massachusetts was historically an important stopover for migrating rufa Red Knot, a state and federally listed shorebird that depends on horseshoe crab eggs as a key food source. Restoring horseshoe crab populations must be a key action toward restoring threatened shorebird populations.

We urge you to reconsider your decision to allow harvesting of horseshoe crabs, especially during peak spawning season, and to consider a phase-out of all harvesting for bait. Horseshoe crab populations support an interconnected and complex ecological system and are a critical component to fisheries, economy, and habitat.

Thank you for your continued management of this critical species and for considering our comments.

If you have questions, please contact me at [cdittbrenner@thetrustees.org](mailto:cdittbrenner@thetrustees.org) or 978-870-1247.

Sincerely,

A handwritten signature in blue ink, appearing to read "C. Dittbrenner", with a long horizontal flourish extending to the right.

Cynthia Dittbrenner  
Interim Vice President of Conservation and Resilience

Cc: Commissioner Thomas O'Shea  
Department of Fish and Game

*Founded in 1891 by Charles Eliot, The Trustees preserves, for public use and enjoyment, properties of exceptional scenic, historic, and ecological value in Massachusetts. Today, 132 years after our founding, we are Massachusetts' largest conservation and preservation organization and with the support of our 150,000 members we care for over 120 properties—nearly 27,000 irreplaceable acres. The Trustees works with a variety of volunteer, nonprofit, and community-based partners across the state to preserve remarkable, scenic landscapes and historic and cultural resources. [thetrustees.org](http://thetrustees.org)*



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 230808-0187]

RIN 0648-BM22

### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Fishing Year 2023 Recreational Management Measures

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** This rule implements changes to fishing year 2023 recreational management measures for Georges Bank cod, Gulf of Maine cod, and Gulf of Maine haddock. The measures are necessary to ensure the recreational fishery achieves, but does not exceed, fishing year 2023 catch limits for Gulf of Maine cod and haddock, and the recreational catch target for Georges Bank cod.

**DATES:** The measures in this rule are effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** To review *Federal Register* documents referenced in this rule, you can visit: <https://www.fisheries.noaa.gov/management-plan/northeast-multispecies-management-plan>.

**FOR FURTHER INFORMATION CONTACT:** Spencer Talmage, Fishery Policy Analyst, (978) 281-9232.

#### SUPPLEMENTARY INFORMATION:

##### Background

##### Measures for the Gulf of Maine

The recreational fishery for Gulf of Maine (GOM) cod and GOM haddock is managed under the Northeast Multispecies Fishery Management Plan (FMP). The multispecies fishing year starts on May 1 and runs through April 30 of the following calendar year. The FMP sets sub-annual catch limits (sub-ACLs) for the recreational fishery each fishing year for both stocks. These sub-ACLs are a fixed proportion of the overall catch limit for each stock. The FMP also includes proactive recreational accountability measures (AMs) to prevent the recreational sub-ACLs from being exceeded and reactive AMs to correct the cause, or mitigate the effects, of an overage if one occurs.

The proactive AM provision in the FMP provides a process for the Regional Administrator, in consultation with the New England Fishery Management Council (Council), to develop recreational management measures for the upcoming fishing year to ensure that the recreational sub-ACL is achieved, but not exceeded. The provisions governing this action can be found in the FMP's implementing regulations at 50 CFR 648.89(f)(3).

The 2023 recreational sub-ACL for GOM cod established by Framework Adjustment 63 (87 FR 42375, July 15, 2022), is 192 metric tons (mt), the same as the 2022 recreational sub-ACL. Framework Adjustment 65 (88 FR 34810, May 31, 2023) proposed a 610-mt recreational sub-ACL for GOM haddock. The proposed 2023 sub-ACL for GOM haddock would be reduced from 3,634 mt in 2022, a reduction of approximately 83 percent. This rule does not set sub-ACLs for any stocks. The recreational sub-ACL for GOM cod is already in place and, because Framework Adjustment 65 has been delayed, default measures are in place for other stocks, including the proposed sub-ACL for GOM haddock, until the Framework Adjustment 65 final rule is published.

The results of bio-economic model simulations that were shared with the Council and its Recreational Advisory Panel (RAP) and Groundfish Committee to help inform Council recommendations on GOM cod and haddock measures, as well as the Council, Groundfish Committee, and RAP discussions, are described in the proposed rule for this action (88 FR 23611; April 18, 2023), and not described further here.

For GOM cod, the Council recommended, and the Regional Administrator proposed, an extended fall season (September 1-October 31) while eliminating the April open season (Table 1). No changes were proposed for either the minimum size or bag limit for GOM cod. These measures are expected to adequately constrain recreational catch of GOM cod based on bio-economic model estimates. As a result, the Regional Administrator is implementing these measures for GOM cod for fishing year 2023 (Table 1).

For GOM haddock, the Council ultimately recommended a status quo season (March closed), a 15-fish limit, and an 18 inch (45.7 centimeter (cm)) minimum size. The Council's recommendation sought in part to accommodate charter and party vessels seeking to benefit from advertising a 15-fish limit and expected increased bookings. While the Council-recommended measures for GOM haddock are expected to result in catch below the recreational sub-ACL, we remain concerned that the Council measures are expected to unnecessarily constrain catch and increase dead discards of GOM haddock for private anglers compared to a 17 inch (43.2 cm) minimum size and 10-fish bag limit.

The GOM haddock stock is dominated by relatively young year classes of haddock that are beginning to recruit to the fishery. These small haddock are subject to high discard mortality, especially during the summer and fall months, so any increase in discards would convert the majority of potential landings of haddock between 17 and 18 inches (43.2 and 45.7 cm, respectively) into dead discards. A 10-fish limit at 17 inches

(43.2 cm) is expected to result in higher landings, lower dead discards, more fishing trips, and higher angler satisfaction with a minimal increase in the risk of exceeding the recreational sub-ACL. Available data show that only a small proportion of anglers or trips harvest 10 or more haddock per angler and increasing the minimum size from 17 to 18 inches (43.2 and 45.7 cm, respectively) is expected to further reduce the number of haddock landed per angler. In fishing year 2022, the average number of haddock landed on trips targeting cod or haddock was just 2.3 haddock per angler, 3.6 haddock per angler on for-hire trips, and 2.2 haddock per angler on private trips. To reduce dead discards and increase landings, trips, and angler satisfaction, this rule implements the Council-recommended GOM haddock measures for only the for-hire angling mode (March closure, 15-fish limit, 18 inch (45.7 cm) minimum size; Table 2). This rule implements a status quo season (March closure), a 10-fish limit, and a 17 inch (43.2 cm) minimum size for GOM haddock for the private angling mode (Table 2).

These mode-based measures balance the different needs of the for-hire mode and the private mode and reduce discard mortality to the extent practicable. For-hire fishing operators and RAP advisors have repeatedly stated that high bag limits are beneficial for advertising and outreach to potential customers to increase for-hire trips and/or anglers per trip. Marketing trips and the resulting “booking” of trips are necessary to maintain the viability of for-hire businesses operations. The Council’s recommendation for the 15-fish bag limit and increased minimum size recognizes the value of increased bookings to for-hire businesses and that the potential increased income from a higher bag limit, coupled with a higher minimum size, may result in some additional dead discards and reduced landings.

While private anglers would normally benefit from a larger bag limit as well, in this case, there is greater benefit to private anglers in a smaller minimum size, which allows them to land more of the haddock they catch. Advertising and booking trips are

not relevant to private anglers because they do not operate as businesses. Private anglers, and the recreational fishery as a whole, are expected to benefit from keeping the 17 inch (43.2 cm) minimum size because anglers will land more of the haddock they encounter. Because private anglers account for the majority of recreational fishing activity, dead discards will be reduced more as a result. Thus, the mode-based measures provide a more refined balance, as dead discards are projected to be reduced by implementing the smaller minimum size in the private mode without any expected adverse economic impact.

**Table 1-- Gulf of Maine Cod Status Quo and Implemented Measures**

GOM Cod	Possession Limit	Minimum Size inches (cm)	Open Season
Status Quo Measures	1	22 (55.9)	September 1 - October 7, April 1 – 14
NMFS Final Measures			September 1 - October 31

**Table 2-- Gulf of Maine Haddock Status Quo and Implemented Measures**

GOM Haddock	For Hire Possession Limit	Private Angler Possession Limit	For Hire Minimum Size inches (cm)	Private Angler Minimum Size inches (cm)	Open Season
Status Quo Measures	20		17 (43.2)		May 1 - February 28, April 1 - 30
NMFS Final Measures	15	10	18 (45.7)	17 (43.2)	

## **Measures for the Georges Bank Cod**

Unlike GOM cod and haddock, the FMP does not set a sub-ACL for the recreational fishery each fishing year for Georges Bank (GB) cod. Instead, the Council establishes a recreational annual catch target for GB cod. The catch target is not an allocation or sub-ACL but sets an expectation for recreational catch for the fishing year for management purposes that is not expected to result in an overage of the overall GB cod ACL. The catch target in Framework 65 is 113 mt.

The FMP includes a process for the Regional Administrator, in consultation with the Council, to develop recreational management measures for GB cod for fishing years 2023 and 2024 to prevent the recreational fishery from exceeding the annual recreational catch target for GB. The provisions governing this authority can be found in the FMP's implementing regulations at 50 CFR 648.89(g).

Unlike GOM cod and haddock, there is no peer-reviewed bio-economic model available to evaluate the potential impacts of various recreational measures for GB cod. Instead, measures were evaluated based on estimates of the percent reduction in catch from the fishing year 2022 projection. The 2022 catch projection is 218 mt, so a harvest reduction of approximately 48 percent would be required to remain below the catch target of 113 mt in fishing year 2023. Current measures for GB cod were implemented as part of Framework Adjustment 63 on July 15, 2022 (87 FR 42375; July 15, 2022), so they were not in place for the full fishing year in 2022. Status quo measures would result in a landings reduction of about 28 percent if all states implemented complementary measures in 2023, so additional measures are needed to achieve the necessary 48-percent reduction.

This rule eliminates the maximum size limit (slot), increases the minimum size from 22 to 23 inches (55.9 to 58.4 cm, respectively), and shifts the closed season back one month to close June, July, and August instead of May, June, and July (Table 3).



These measures are consistent with the Council recommendation, and we expect these measures to adequately constrain total catch to the proposed 2023 catch target.

**Table 3 – Georges Bank Cod Status Quo and Proposed and NMFS Implemented Measures**

GB Cod	Possession Limit	Minimum Size inches (cm)	Maximum Size inches (cm)	Open Season	Closed Season
Status Quo Measures	5	22 (55.9)	28 (71.1)	August 1 - April 30	May 1 - July 31
NMFS Final Measures		23 (58.4)	NA	May 1 - 31, September 1 - April 30	June 1 - August 31

### Comments and Responses

We received comments on the proposed rule from the New England Fishery Management Council, Massachusetts Division of Marine Fisheries (MADMF), Rhode Island Party and Charter Boat Association (RIPCBA), Stellwagen Bank Charter Boat Association (SBCBA), and the Massachusetts Striped Bass Association (MSBA). We also received comments from 42 individuals, of which the majority were for-hire fishing vessel operators or private recreational anglers. The majority of comments focused on the GOM haddock measures, and a few comments discussed GB and/or GOM cod measures, one comment was opposed to the proposed rule but did not elaborate further.

*Comment 1:* Three commenters, including RIPCBA and MSBA, supported the proposed measures for GOM cod, and another individual supported the proposed change to the GOM cod season. The individual commenter also supported a larger minimum size for GOM cod, stating that a larger minimum size would have conservation benefits and that anglers value larger fish.

*Response:* This rule implements the proposed measures for GOM cod, including the season modifications recommended by the Council. This action is not implementing a

larger minimum size for cod because the proposed measures are expected to keep recreational catch below the GOM cod sub-ACL. Sub-ACLs are designed to prevent overfishing while allowing catch at levels that over the long-term help achieve optimum yield.

*Comment 2:* Two commenters, both for-hire vessel operators, opposed the elimination of the status quo April 1 through April 14 open season for GOM cod. One stated that the April season generated customers for for-hire vessels during the spring season, and the other argued an even longer spring season would benefit for-hire businesses and that an expanded fall season would not be as helpful because other species are available to anglers during the fall season.

*Response:* This rule eliminates the April 1-14 open season for GOM cod, consistent with the Council recommendation. While the April season may provide some benefit to for-hire businesses, many for-hire businesses do not begin operations until later in the season and do not benefit from the April opening. The April season also provides minimal benefit to private anglers as very few private anglers are fishing in the GOM that time of year. The GOM cod measures are expected to increase overall opportunity for recreational anglers to harvest GOM cod while keeping catch below the 2023 recreational sub-ACL for GOM cod.

*Comment 3:* SBCBA and one individual noted that their on-the-water observations include an abundance of all size classes of cod in Massachusetts state waters, Stellwagen Bank, east of Cape Cod, and Nantucket Shoals.

*Response:* This action sets measures based on the 2023 recreational sub-ACL for GOM cod, which is informed by stock assessment determinations of the status and abundance of GOM cod. There can be considerable uncertainties in stock assessments, however, recent assessments have shown that the GOM cod stock is overfished. The stock declined substantially in recent years and is now near historic lows in terms of

biomass. The current low ACL and recreational sub-ACL for GOM cod is intended to allow for future rebuilding of the stock. Evidence of strong recruitment of young cod is welcome news given the current status and history of the stock.

*Comment 4:* SBCBA and one individual commented in support of mode-based measures for GOM cod, in particular an open season for the for-hire mode from April 15 through the end of May, as historically this time period was important to for-hire operators before other species become available.

*Response:* This rule implements the proposed measures for GOM cod, which are expected to provide additional opportunities to harvest GOM cod while adequately restraining catch. NMFS has previously raised concerns about open seasons during the time period raised by the commenter, particularly because it overlaps with the Spring Massachusetts Bay Spawning Protection Area, which is closed to protect spawning activity from April 15 to April 30. Targeted fishing for cod should not occur during documented spawning time given the overfished status of GOM cod and the need to rebuild the resource to sustainable levels. Additionally, opening a season later than the April 1 through April 14 timeframe is likely to result in higher effort and catch. While NMFS did not evaluate an April 15 through May 31 opening using the bio-economic model, a season during that time would be expected to considerably increase catch of GOM cod.

*Comment 5:* Several commenters supported the proposed measures to reduce catch of GB cod. Two organizations (RIPCBA and MSBA), supported the proposed measures for GB cod, while additional commenters supported the proposed May opening for GB cod and the elimination of the slot limit for GB cod. Two of these commenters also supported winter spawning protections for GB cod. RIPCBA and MSBA both supported mid-Atlantic states adopting complementary measures to the proposed measures for GB cod in state waters.

*Response:* This rule implements the proposed measures for GB cod, which are expected to constrain recreational catch of GB cod to the 2023 recreational catch target. We are implementing proactive measures for GB cod, which are limited to measures aimed at achieving, but not exceeding, the recreational catch target. Spawning protections were not recommended by the Council and were not considered in this action as they are outside the scope of the proposed measures. We would support the Council considering additional spawning protections for GB cod in future actions that would impact both recreational and commercial fishing, particularly in the context of ongoing Council discussions about Atlantic cod stock structure. We coordinate with state fishery management agencies allowing them to have the opportunity to implement complementary measures for state waters within impacted stock areas.

*Comment 6:* Two commenters opposed measures to further constrain recreational catch of GB cod; one opposed the closed season and the other supported status quo recreational measures for GB cod.

*Response:* Status quo measures are not expected to adequately constrain recreational catch of GB cod. Additionally, because of the considerable recreational effort during the proposed closed season, more substantial changes to minimum or maximum sizes or the bag limit for GB cod would be needed to reduce recreational GB cod catch. We are implementing the proposed measures for GB cod, which are expected to constrain recreational catch to the 2023 recreational catch target for GB cod.

*Comment 7:* SBCBA suggested the use of mode-based measures for GB cod, stating that separate seasons and bag limits for for-hire vessels would help with operators' business viability and the for-hire fleet accounts for a small portion of the overall catch of GB cod.

*Response:* This rule is implementing the proposed measures for GB cod, which are expected to adequately constrain recreational catch, and is consistent with the Council

recommendation. We did not consider mode-based measures for GB cod as they were not deemed necessary to balance varying needs of the for-hire and private recreational modes.

*Comment 8:* One commenter supported status quo measures for GOM haddock for private anglers but urged consideration of using alternative methods to reduce discard mortality, including additional education for anglers, use of descending devices, and implementing circle hook requirements.

*Response:* The bio-economic model indicates that status quo measures for recreational anglers for GOM haddock would likely result in catch exceeding the 2023 recreational sub-ACL for GOM haddock. As a result, we are implementing mode-based measures that are expected to constrain GOM haddock recreational catch below the 2023 recreational sub-ACL.

While not considered in this rule, alternative management measures, including angler education programs, gear modifications, and recreational reporting have been discussed by the RAP. Future Council actions or recommendations could consider alternative measures to enhance the conservation of groundfish stocks. In recent years, MADMF led a study that resulted in resources, including maps that support anglers trying to target haddock and avoid cod in the GOM and reduce discard mortality of encountered fish; for more information on this effort visit <https://www.mass.gov/guides/haddock-recreational-fishing-guide>.

*Comment 9:* We received 29 comments that supported the proposed mode-based measures for GOM haddock, with commenters including RIPCBA and SBCBA and a number of for-hire operators. Many of these commenters noted that the higher for-hire bag limit would have benefits for for-hire businesses through increased bookings.

*Response:* This rule is implementing mode-based measures for GOM haddock, as proposed. Responses to surveys of recreational anglers generally show that recreational

anglers get greater satisfaction from, and prefer to catch, more legal-sized fish when given the opportunity. Marketing and booking trips is an integral part of the for-hire business model and their ability to produce income.

The RAP recommended to the Council the 15-fish limit and 18-inch minimum size, based on for-hire vessel representations and knowledge of the for-hire business model, because those measures are expected to enhance for-hire marketing and ability to gain bookings in order to increase income. However, data show that increases in the bag limits do not necessarily result in increases in landings by individual anglers. The combination of this limit with the 18-inch minimum size constrains catch sufficiently, with a smaller increase in dead discards than would occur in the private angler fishery with the same bag and size limits. Mode-based measures allow the 15-fish bag limit and 18-in (45.7-cm) minimum fish size for for-hire anglers consistent with the Council recommendation. Because private recreational anglers are not businesses that rely on bookings, the 15-fish limit is not necessary and a 10-fish limit with the smaller 17-inch (43.2-cm) minimum size results in higher landings, reduced discards, and better outcomes for private recreational anglers as a whole.

*Comment 10:* The Council reiterated its recommended measures for GOM haddock and provided additional context for the recommendation. MSBA and one individual also supported the Council-recommended measures for GOM haddock. The Council noted that the justifications for increasing the minimum size to 18 inches (45.7 cm) included that the large 2020 year, class of GOM haddock would likely be around 18 inches (45.7 cm) in 2023, and that advisors noted that larger fish were more valued by anglers. The Council noted that their recommended measures were intended for both the for-hire and private modes, and that they considered broad input.

*Response:* This rule is implementing the Council-recommended GOM haddock measures for the for-hire mode. We considered the clarifying justifications provided in

the Council comment, but data do not support the assertion that the 2020 year, class of GOM haddock would reach 18 inches (45.7 cm) in 2023. The bio-economic model predicting catch under different modes used recent survey catch data. The bio-economic model results using this information expects most of the GOM haddock encountered by anglers will be less than 18 inches (45.7 cm). The bio-economic model also uses estimated angler preferences based on angler surveys. The surveys show that, while anglers value larger fish over smaller fish, anglers value kept fish much more highly than fish that are released. These factors increase the potential negative impacts on private anglers if they are held to an unnecessarily restrictive 18-inch (45.7-cm) minimum size limit. The bio-economic model showed that the more restrictive minimum size would result in considerably lower landings and significantly higher dead discards under the Council's recommendation. By implementing Council-recommended measures for the for-hire fleet, and a 10-fish at 17 inches (43.2 cm) limit for private anglers, we are balancing the needs of the for-hire fleet with the goal of maximizing landings relative to the sub-ACL while reducing discards in the recreational fishery as a whole to the extent practicable, consistent with National Standard 9 considerations.

*Comment 11:* Four commenters supported a 10-fish limit at 17 inches (43.2 cm) for all modes that was described, but not proposed, in the proposed rule. Another stated they would support, and their charter business would not be impacted by, a haddock bag limit as small as three or four fish. These commenters stated various reasons for their support of a smaller bag limit for all modes, including statements that higher haddock bag limits were wasteful, anglers rarely catch enough haddock to reach a limit and are happy with fewer haddock, that large limits of haddock are difficult for anglers and for-hire crews to handle, that for-hire operators would be better off with a smaller bag limit, and that there are other species available for anglers to target if they catch their limit of haddock. While one commenter suggested a larger haddock minimum size, another

commented that the 17-inch (43.2-cm) minimum size would allow anglers to keep more of the haddock they catch and increase the likelihood of anglers catching a smaller (10 or fewer) bag limit.

*Response:* The results of the bio-economic model show that a 10-fish limit coupled with a status quo, 17-inch (43.2 cm) minimum size for GOM haddock would result in higher landings, lower dead discards, and more angler trips than the Council-recommended measures of a 15-fish bag limit at 18 inches (45.7 cm). As a result, we are implementing a 10-fish at 17-inches (43.2 cm) limit for GOM haddock for private anglers but implementing the Council-recommended measures for the for-hire mode, where the economic benefit to for-hire businesses of a larger bag limit is a consideration. Marine Recreational Information Program (MRIP) data supports the assertion that very few anglers harvest more than 10 haddock per trip, whether on private or for-hire trips.

*Comment 12:* Several commenters raised concerns about the use of mode-based measures for GOM haddock, including the Council, MSBA, and MADMF. Some of these commenters noted that the use of mode-based measures can be controversial or pit user groups against one another; that most anglers oppose mode-based measures; and that consideration of mode-based measures should only be considered in Council actions. Some of these commenters also noted that mode-based measures may lead to regulatory confusion, enforcement challenges, and impact the quality of MRIP data available to support future decision making. MSBA also stated that it was inappropriate for NMFS to consider marketing as a consideration in its decision making and disagreed with the summary of the Council and RAP discussions that led to the Council recommendation for a 15-fish haddock limit provided in the proposed rule.

*Response:* This rule is implementing mode-based measures for GOM haddock to increase catch relative to the sub-ACL, reduce dead discards, and attempt to balance the different needs of the for-hire and private modes under the unique circumstances at play



this fishing year. These mode-based measures for GOM haddock are effective only for fishing year 2023. Mode-based measures do not allocate catch to either mode and are not expected to result in more GOM haddock catch going to the for-hire mode. We estimate that the for-hire mode will trade landing fewer GOM haddock under these measures than under a 10-fish limit and 17-inch (43.2-cm) minimum size to achieve the higher 15-fish limit. However, for-hire interests revolve around their business model and operations. They have repeatedly asserted that they will benefit from the opportunity to have a higher bag limit. We are adopting the Council's recommendation for the for-hire fleet to accommodate the fleet's business needs and expected increased income and the slight increase in dead discards but are concerned these measures would unnecessarily limit landings and increase dead discards for the private mode.

There is no prohibition against using mode-based measures. GOM cod measures that varied between private and for-hire modes have been approved in the past in response to Covid-19 impacts on for-hire operations. Recreational fishing participants are accustomed to varying mode-based measures that are implemented in state fisheries. State agencies throughout the region, including MADMF, have implemented mode-based recreational measures for other species, including varying minimum sizes, seasons, bag limits, and aggregate vessel bag limits, to meet various management objectives.

We agree that mode-based measures have historically been subject to various levels of public support, and mode-based allocations for this fishery have not been pursued because of significant concerns raised by many in the recreational fleet. Comments revealed various opinions across the recreational community. Most for-hire operators supported the proposed mode-based measures. Many private anglers supported consistency between modes, often with a preference for a smaller overall bag limit. There were no programmatic objections raised that require changing the mode-based measures.

Another objection to mode-based measures is a concern about compliance and enforcement. We do not expect the mode-based measures to have a considerable impact on compliance, however. Many state fisheries and some federal fisheries, for example bluefish and tilefish, successfully use differing mode-based measures. Further, we intend to do outreach and provide resources to anglers trying to navigate the regulations. We do not anticipate that mode-based measures will limit the ability of enforcement agencies to determine when a violation has occurred.

We share MADMF's concern that MRIP data available to support decision making in the region is limited and that estimates come with significant uncertainty. Mode-based measures may result in changes in the sampled landings and have other effects. But we are not concerned that mode-based measures alone will undermine the validity of MRIP data in the region. As discussed earlier, GOM haddock will be only one stock subject to mode-based measures this fishing year in the region. We expect any effect to be small and, therefore, have determined that the expected benefits of mode-based measures this fishing year outweigh the small risk of an impact to MRIP data quality. We agree that additional funding and innovations to support more effective recreational data collection in the region could improve datasets and create opportunities for more focused recreational management measures in the future.

The Council recommended the 15-fish limit combined with the 18-inch minimum size in part on the basis of marketing benefits. We are accepting this part of the Council's rationale as it recognizes that booking trips is a primary business factor for the success of the for-hire fleet. It further considers the relatively small increase in dead discards that may result. We are rejecting this combination for private anglers that do not rely on marketing and booking for successful fishing. Implementing the Council's recommended measures for the private recreational mode would result in reduced landings, increased dead discards, and make it less likely that the recreational fleet as a whole would achieve

its sub-ACL for GOM haddock. Recreational management measures for cod and haddock must achieve, but not exceed, the sub-ACL's for the recreational fishery. Mode-based measures are expected to achieve this goal better than the Council-recommended measures for all modes.

*Comment 13:* MADMF and MSBA presented analysis based on MRIP intercept data that indicated there is no statistically significant difference in the size of haddock landed by different recreational modes. They noted this is likely because private and for-hire anglers target GOM haddock in the same general areas using the same gear. MSBA argued that, based on this finding, NMFS must implement the Council-recommended measures for GOM haddock. MADMF did not argue for any particular set of measures but did urge consideration of the MRIP-intercept data and supported consistency between modes as described in our response to comment 12 above. MADMF also noted that, based on surveys, it is probable that for-hire operators overestimate the importance of high bag limits to for-hire anglers, their potential customers.

*Response:* We agree with the commenters' interpretation of the MRIP-intercept data. The available data do not show a distinct difference in the size of haddock landed by different recreational angling modes. We noted in the proposed rule that Council members and advisors have suggested that for-hire anglers fish further offshore and/or catch larger haddock than their private angler counterparts, but our decision was not contingent on any relationship between recreational mode and area fished or haddock size. The bio-economic model assumes that all modes encounter the same size distribution and provides an understanding of the trends and directional impacts of different measures. But it does not allow for direct comparison of mode-based measures such as different size encounters by mode. The model informed our understanding of the impacts of different sets of measures on the recreational fishery as a whole, which informed our decision to implement mode-based measures.

The MRIP-intercept data for GOM haddock size by, and across, recreational modes suggest that an increase in the minimum size of GOM haddock above 17 inches (43.2 cm) is likely to significantly reduce landings and increase dead discards, regardless of mode. MADMF noted that the highest median length of landed GOM haddock across four recent fishing years for any mode was only 17.8 inches (45.2 cm). This suggests that an increase of the minimum size consistent with the Council recommendation of 18 inches (45.7 cm) will result in more than half of all the GOM haddock that would be able to be harvested with a 17-inch (43.2-cm) minimum size being discarded, leading to much higher discard mortality for GOM haddock, and making it even more difficult for anglers to catch and keep their GOM haddock limit.

The above conclusion supports our decision to implement a 10-fish at 17 inches (43.2 cm) limit for the private mode, as that regulation will lead to higher landings and lower dead discards than the Council-recommended measures. Arguably, the finding that for-hire anglers are not harvesting larger haddock than their private angler counterparts would support implementing a 10-fish at 17-inches (43.2 cm) limit for the for-hire fleet as well. We ultimately found the Council recommendation appropriately considered the potential benefit of additional bookings for the for-hire fleet under a higher bag limit and chose to implement the Council-recommended measures for the for-hire mode.

*Comment 14:* Three commenters stated that recreational fishing is not contributing as much to impacts on the fishery as commercial fishing, especially trawling, which commenters stated had a bigger impact. One of the commenters noted that they were concerned about the depletion of baitfish in near shore waters.

*Response:* The measures in this rule constrain recreational fishery catch to catch limits and targets for GOM cod and haddock and GB cod; this rule did not consider changes to commercial measures or allocations between commercial and recreational fisheries.

*Comment 15:* Two commenters stated that recreational fishing and booking a charter is becoming too expensive for anglers to continue to be interested in recreational fishing for groundfish.

*Response:* The measures in this rule are intended to allow the recreational fishery to achieve, but not exceed, their sub-ACL's. NMFS cannot set management measures on the basis of the cost of fishing or booking trips.

*Comment 16:* Two commenters stated that it is not clear when the proposed measures would be implemented (with no further explanation of concern). One noted just overall uncertainty while the other noted that it could impact a charter trip he had already booked for August 2023. One commenter asked that, in the future, regulations be in place by the start of the fishing year to avoid conflicts with trips that were already booked. Another commenter noted that major changes in recreational measures from year to year are a challenge for for-hire operators and anglers.

*Response:* This rule implements the proposed measures for GOM cod and haddock and GB cod. Measures are effective immediately for federal waters, however, anglers should be aware that state-waters measures may differ. We share the commenters concerns about the timing of the implementation of future measures and agree that major changes between years can be challenging for anglers and for-hire businesses to adapt to. We will continue to work with the Council to consult on future recreational actions and to implement necessary changes to regulations as quickly as possible and closer to the start of the fishing year on May 1.

*Comment 17:* One commenter stated that measures should be considered for other stocks including pollock, redfish, and cusk. Another commenter asked whether the status of Atlantic wolffish would be reevaluated and stated that he hoped anglers could be allowed to keep wolffish in the future.

*Response:* The regulations allow NMFS to set Northeast multispecies recreational management measures for GB cod, and GOM cod and haddock. The Council could consider changes to recreational measures for Northeast multispecies stocks in a future action. Cusk is not currently managed under the Northeast Multispecies FMP.

Management measures for cusk would require adding it to an FMP through the Council process. Atlantic wolffish was last assessed in 2022. The assessment concluded that the stock is currently overfished. Due to its status, both commercial and recreational vessels are prohibited from possessing Atlantic wolffish.

### **Changes from the Proposed Rule**

This rule implements regulations outlined in the proposed rule, and there are no changes from the proposed measures in this final rule.

### **Classification**

NMFS is issuing this final rule pursuant to section 305(d) of the Magnuson-Stevens Act. In a previous action taken pursuant to section 304(b), the Council designed the FMP to specify the process for NMFS to take this action pursuant to MSA section 305(d). See 50 CFR 648.89(f)(3) and (g). The NMFS Assistant Administrator has determined that this final rule is consistent with the Northeast Multispecies FMP and other applicable law.

The Assistant Administrator for Fisheries finds that there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in the date of effectiveness for this action. This final rule must be implemented as soon as possible reduce the potential for overfishing and avoid regulatory confusion. The regulations governing development and implementation of these measures are designed to facilitate implementation in a timely way that accounts for measures that are annual and seasonal. The fishing year begins May 31 each year, though delays in receiving, as happened here, information required to develop measures and the public process for developing such measures at times can result in implementing measures after that date. Recreational measures also often include

seasonal restrictions or modifications designed with timing requirements essential to meeting their conservation and management goals and objectives.

A delay in the implementation of measures may result in overages or overfishing. For GOM haddock, less restrictive status quo measures have been in effect since May 1, 2023, potentially increasing catch above the levels predicted in the bio-economic model and raising the likelihood of an overage. GOM haddock is subject to overfishing and these new measures in the recreational fishery to help prevent overfishing are important components of the overall set of measures (for commercial and recreational fishing) to prevent overfishing. For GB cod, the August 1 start of the proposed August closure which was recommended to limit cod catch and help prevent overfishing has already passed. Further delay would increase the potential that recreational harvest could contribute to excess catch relative to estimates and may contribute to possible overfishing of the GB cod stock. Exceeding catch targets may require more restrictive measures in the following fishing year that could result in lost fishing opportunities and adverse economic impacts.

The current delay, and further delay, of implementing this rule will result in regulatory confusion for the industry. Recreational stakeholders are well aware of the proposed measures but are currently fishing under last year's different measures. NMFS has received numerous requests for clarification on what measures anglers should be following and when measures will be implemented. This includes questions about the haddock limits and the August closure for GB cod. A delay also has the potential to negatively impact for-hire fishing business operations and angler's fishing trip bookings as fishing charter companies and anglers wait for the final measures to be implemented.

For GOM cod, a delay in implementation of regulations expanding the fall season may result in reduced or delayed bookings for for-hire vessels during that season. If the measures in this rule are delayed, anglers may cancel reservations or try to reschedule

trips for other dates; some operators may have to reimburse clients for trips already booked, reserved, or paid for. This could also hurt the business relationships between for-hire operators and their clients, leading to longer-term economic impacts for operators. For GB cod, trips that are already booked in August would need to be canceled with immediate implementation of this action. However, in this instance, the need for the August closure to help prevent overfishing supersedes the concern about booking trips. In addition, if we announce a delay in effectiveness past August, anglers will book trips in August, thereby ensuring that the benefits of the August closure would be undermined.

Furthermore, anglers and for-hire operators who are subject to this action expect timely implementation to provide regulatory certainty, prevent overages and overfishing, and prevent adverse economic impacts. This final rule follows a process for setting yearly measures that are familiar to, and anticipated by, fishery participants. During the development of this rule, and in particular after the proposed rule comment period ended, private anglers and for-hire vessel owners and operators sought information from NMFS about the status and timing of the implementation of these measures. They regularly urged NMFS to finalize the measures so that the measures for the year would take effect as intended.

For these reasons, a 30-day delay in the date of effectiveness for this final rule is unnecessary, impracticable and contrary to the public interest.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification, which was published in the proposed rule, has not changed and is not repeated here. No comments were received regarding this certification. As a result, a final regulatory flexibility analysis was not required and none was prepared.



This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

**List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: August 8, 2023.

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Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS is amending 50 CFR part 648 as follows:

**PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES**

1. The authority citation for part 648 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. In § 648.89, revise Table 1 to Paragraph (b)(1), Table 2 to Paragraph (c)(1)(i), and Table 3 to Paragraph (c)(2), to read as follows:

**§ 648.89 Recreational and charter/party vessel restrictions.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

Table 1 to Paragraph (b)(1)

Species	Charter/Party Minimum size		Private Minimum size		Maximum size	
	Inches	cm	Inches	cm	Inches	cm

Cod:

Inside GOM Regulated Mesh Area<sup>1</sup> 22 55.9 22 55.9 N/A N/A

Outside GOM Regulated Mesh Area<sup>1</sup> 23 58.4 23 58.4 N/A N/A

Haddock:

Inside GOM Regulated Mesh Area<sup>1</sup> 18 45.7 17 43.2 N/A N/A

Outside GOM Regulated Mesh Area<sup>1</sup> 18 45.7 18 45.7 N/A N/A

Pollock 19 48.3 19 48.3 N/A N/A

Witch Flounder (gray sole) 14 35.6 14 35.6 N/A N/A

Yellowtail Flounder 13 33.0 13 33.0 N/A N/A

American Plaice (dab) 14 35.6 14 35.6 N/A N/A

Atlantic Halibut 41 104.1 41 104.1 N/A N/A

Winter Flounder (black back) 12 30.5 12 30.5 N/A N/A

Redfish 9 22.9 9 22.9 N/A N/A

<sup>1</sup> GOM Regulated Mesh Area specified in § 648.80(a).

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(i) \* \* \*

Table 2 to Paragraph (c)(1)(i)

Stock	Open Season	Possession Limit	Closed Season
GB Cod	September 1-April 30 May 1 - 31	5	June 1-August 31
GOM Cod	September 1 – October 31	1	May 1 – August 31 November 1 – April 30
GB Haddock	All Year	Unlimited	N/A
GOM Haddock	May 1 - February 28 (or 29) April 1 - 30	10	March 1 – March 31
GB Yellowtail Flounder	All Year	Unlimited	N/A
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A

CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A
American Plaice	All Year	Unlimited	N/A
Witch Flounder	All Year	Unlimited	N/A
GB Winter Flounder	All Year	Unlimited	N/A
GOM Winter Flounder	All Year	Unlimited	N/A
SNE/MA Winter Flounder	All Year	Unlimited	N/A
Redfish	All Year	Unlimited	N/A
White Hake	All Year	Unlimited	N/A
Pollock	All Year	Unlimited	N/A
N. Windowpane Flounder	CLOSED	No retention	All Year
S. Windowpane Flounder	CLOSED	No retention	All Year
Ocean Pout	CLOSED	No retention	All Year
Atlantic Halibut	See paragraph (c)(3)		
Atlantic Wolffish	CLOSED	No retention	All Year

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(2) \* \* \*

Table 3 to Paragraph (c)(2)

Stock	Open Season	Possession Limit	Closed Season
GB Cod	September 1 – April 30 May 1 – 31	5	June 1 – August 31
GOM Cod	September 1 – October 31	1	May 1 – August 31 November 1 – April 30
GB Haddock	All Year	Unlimited	N/A

GOM Haddock	May 1 - February 28 (or 29) April 1 - 30	15	March 1 – March 31
GB Yellowtail Flounder	All Year	Unlimited	N/A
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A
American Plaice	All Year	Unlimited	N/A
Witch Flounder	All Year	Unlimited	N/A
GB Winter Flounder	All Year	Unlimited	N/A
GOM Winter Flounder	All Year	Unlimited	N/A
SNE/MA Winter Flounder	All Year	Unlimited	N/A
Redfish	All Year	Unlimited	N/A
White Hake	All Year	Unlimited	N/A
Pollock	All Year	Unlimited	N/A
N. Windowpane Flounder	CLOSED	No retention	All Year
S. Windowpane Flounder	CLOSED	No retention	All Year
Ocean Pout	CLOSED	No retention	All Year
Atlantic Halibut	See Paragraph (c)(3)		
Atlantic Wolffish	CLOSED	No retention	All Year

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