



**MARINE FISHERIES ADVISORY COMMISSION  
BUSINESS MEETING AGENDA**

**9:00AM**

**August 20, 2024**

**SMAST East**

**836 S. Rodney French Boulevard**

**New Bedford, MA**

1. Call to Order and Routine Business (9:00 – 9:15)
  - a. Introductions and Announcements
  - b. Review of August 2024 Business Meeting Agenda
  - c. Review and Approval of June 2024 Draft Business Meeting Minutes
2. Comments (9:15 – 9:45)
  - a. Chairman
  - b. Law Enforcement
  - c. Commissioner
  - d. Director
3. 2024 Fishery Performance and Quota Utilization Report (9:45 – 10:30)
4. Upcoming Public Hearing Items (10:30 – 10:45)
  - a. Monkfish Trip Limits
5. Discussion Items (10:45 – 12:15)
  - a. Update on Legislation Affecting Marine Fisheries
  - b. Federal Fisheries Management
  - c. Interstate Fisheries Management
  - d. Use of Fish and Conch Pots in Federal Waters
  - e. Non-Native Species for Use and Sale as Bait
6. Other Business (12:15 – 12:30)
  - a. Commission Member Comments
  - b. Public Comment
7. Adjourn (12:30)

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**

9AM  
September 17, 2024  
via Zoom

9AM  
October 29, 2024  
1 Rabbit Hill Road, Westborough

9AM  
November 19, 2024  
1 Rabbit Hill Road, Westborough

9A  
December 17, 2024  
via Zoom

## **MARINE FISHERIES ADVISORY COMMISSION**

**Tuesday, June 19, 2024  
DMF's Cat Cove Marine Lab  
92 Fort Street  
Salem, MA 01970**

### **In attendance:**

*Marine Fisheries Advisory Commission:* Raymond Kane, Chairman; Michael Pierdinock, Vice-Chairman; Kalil Boghdan; Shelley Edmundson; Chris McGuire; Bill Doyle; Tim Brady Arthur "Sooky" Sawyer. Absent: Bill Amaru.

*Division of Marine Fisheries:* Daniel McKiernan, Director; Michael Armstrong, Deputy Director; Bob Glenn, Deputy Director; Kevin Creighton, Assistant Director; Story Reed, Assistant Director; Jared Silva; Nichola Meserve; Anna Webb; Mark Rousseau; Stephanie Cunningham; Ben Gahagan; Gary Nelson; Tracy Pugh; Derek Perry; Nick Buchan; Dave Martins; Erich Druskat; Chrissy Petitpas; Lynne Besse; Vicki Oliveira; Kim Trotto; Ross Kessler; and Wendy Mainardi.

*Department of Fish and Game:* Tom O'Shea, Commissioner; Sefatia Romeo-Theken, Deputy Commissioner; Julia Hopkins, Communications Director.

*Members of the Public:* Martin Gary; Shanna Madsen; Phil Coates; Elizabeth Stroymeyer; Paul Caruso; Adrian Jordan; Elizabeth Fairchild; Nick King; Hunt Howell; Allison Roy; Allison Bowden.

## **INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane called the June 19, 2024 business meeting to order and introduced Marty Gary, the Director of Marine Resources in New York, and Shanna Madsen, the Deputy Chief of Fisheries in Virginia. Ray noted that Marty and Shanna serve their states at the Atlantic States Marine Fisheries Commission (ASMFC).

## **REVIEW OF JUNE 19, 2024 BUSINESS MEETING AGENDA**

Chairman Kane asked if there were any amendments to the June 19, 2024 agenda. Kalil Boghdan indicated he wanted to bring up an item for the MFAC's consideration during other business.

## **REVIEW AND APPROVAL OF MAY 21, 2024 DRAFT MEETING MINUTES**

Chairman Kane asked if there were any amendments to the May 21, 2024 draft business meeting minutes. Tim Brady indicated he did not abstain from certain votes but rather he was at sea and his satellite connection dropped out and he was unable to rejoin the meeting. Jared Silva indicated he would update the minutes accordingly.

There was no further discussion. The Chairman requested a motion to approve the minutes. **Shelley Edmundson made the motion to approve the May 21, 2024**

**business meeting minutes. Sooky Sawyer seconded the motion. The motion was approved 7-0-1 with Chairman Kane abstaining.**

### **CHAIRMAN'S COMMENTS**

Chairman Kane did not provide any comments.

### **COMMISSIONER'S COMMENTS**

Commissioner O'Shea provided some brief comments noting that he would provide the MFAC with an update on DFG's Strategic Plan and the Governor's Executive Order on Biodiversity later in the meeting.

Eve Zuckoff from the WCAI recently joined Commissioner O'Shea, Director McKiernan, and DMF biologist Derek Perry on a spawning beach survey for horseshoe crabs along Stage Harbor. This provided DMF and DFG with an opportunity to highlight the spawning survey work and discuss horseshoe crab management, including the recently adopted spawning closure. Commissioner O'Shea felt Eve's resulting article was well written and balanced. He also praised the volunteers who coordinate and conduct many of the spawning beach surveys.

DMF's Recreational Development Panel also met recently in Westborough. This Panel oversees DMF's use of its recreational fishing license funds. He noted there was a robust discussion about potentially increasing the annual fee for a recreational fishing license from \$10.

### **DIRECTOR'S COMMENTS**

Director McKiernan welcomed the MFAC and the public to DMF's Cat Cove facility. This facility was recently re-acquired from Salem State with updates being made to the marine lab and the building being rehabbed to enhance office space. Dan thanked Mike Armstrong, Kevin Creighton, Brian Castonguay, and Luke Cuning for their work to update this facility. Dan then thanked the DMF staff that worked to put on the day's events, which included the MFAC's business meeting, as well as a retirement party for Dr. Mike Armstrong.

The Director then discussed personnel, noting that Justin Bopp (Wind Energy Specialist) and Julia Kaplan (Communications Specialist) recently left DMF. These departures have left substantial holes in DMF's Policy Program. Dan was hopeful he would be able to readily backfill these positions, despite new hiring controls, given the administration emphasis on wind energy and communications.

On the subject of wind energy, Director McKiernan stated that the Bureau of Offshore Energy Management (BOEM) recently issued a proposed sale notice for wind energy lease sites in the Gulf of Maine. Wind energy development in the Gulf of Maine is particularly thorny given that it will use floating arrays and there are questions about

the viability of this technology and how it may displace fishing effort given challenges of fishing between platforms.

The Martha's Vineyard Fishermen's Preservation Trust would be hosting their annual Meet the Fleet event in Menemsha on August 1. Shelley Edmundson provided additional details regarding the festivities. Chairman Kane encouraged MFAC members to attend and Dan noted MFAC members should coordinate their attendance with DMF.

The Director will be attending a meeting in New Brunswick whereby New England fishery managers will meet with Canadian Department of Fishery and Oceans staff and members of the lobster industry to discuss having Canada complement the gauge size rules in Addendum XXVII within the Gulf of Maine. Dan was hopeful some consensus could be reached given how these upcoming gauge adjustments in New England may impact international commerce.

Lastly, DMF hosted a meeting in Gloucester with members of the local commercial lobster fleet and trawler fleet to discuss an informal agreement for lobster trap fishers to accommodate whiting trawling in federal waters north of Cape Ann. There was support for revising the historic informal agreement and educating new entrants about how to accommodate this activity. Additionally, DMF has reached out to New Hampshire Fish and Game to involve their commercial fishers who also fish in this area.

### **ACTION ITEMS**

#### Letter to Secretary Tepper Regarding MEP Resources and Funding

Chairman Kane and Jared Silva drafted a letter from the MFAC to EOEEA Secretary Tepper advocating that MEP receive more funding and resources for coastal enforcement. The letter was strongly supported by the MFAC. However, the MFAC requested two additional points be made. First, Chris McGuire argued the historic peak of MEP officers be stated to provide a point of reference as to what rebuilding MEP ranks should look like. Additionally, Shelley Edmundson requested the letter advocate for dedicated officers on Martha's Vineyard and Nantucket and providing state-supported housing for these officers.

Jared Silva and Chairman Kane indicated the letter would be updated accordingly. Chairman Kane asked if the MFAC wanted to see the revised letter or if it was sufficient to commit to including these points in the final letter. The consensus position was to issue the letter as expediently as possible and vote on the letter today, rather than requiring a review and vote on the updated letter at a future meeting.

The Chairman requested a motion be made. **Kalil Boghdan made a motion to approve the letter as amended by Chris McGuire and Shelley Edmundson. Tim Brady seconded the motion. The motion passed 7-0-1 with Chairman Kane abstaining.**

## **DISCUSSION ITEMS**

### 2024 Commercial Fishery Performance Update

Director McKiernan indicated that staff would present on the performance of certain fisheries to-date. Story Reed, Anna Webb, and Jared Silva presented this agenda item and introduced themselves to the public.

Anna Webb noted the presentation provided by DMF included data through June 8, 2024. She then presented on aggregate landings and value trends across all commercial fisheries. She noted that both landings and values in 2024 are down compared to recent years (except 2020) and this was largely due to a decline in sea scallop landings. Anna noted that sea scallop value remains high and stable despite these decreased landings. However, oyster and lobster landings and value were higher than in previous years and offset some of the scallop related declines.

Kalil Boghdan asked why sea scallop landings are declining. Director McKiernan indicated it was a decline in abundance. Dan added that while Melanie Griffin could not attend today's meeting, he would have her follow up on this later this summer.

Chris McGuire asked why lobster and oyster landings were not included in today's update. Jared Silva indicated today's update was focused primarily on the performance of those fisheries that were subject to rule changes this year. Anna Webb stated DMF will provide more robust performance reviews at upcoming summer and fall meetings.

Kalil then asked if DMF could update its tables of commercial fisheries by value and landings. Anna stated that this can be produced for the next meeting.

Story Reed then provided an update on the menhaden fishery. He began by reminding the MFAC that the directed fishery opened on May 15 rather than June 15, except within the inshore net areas that do not open on June 1. This was done to provide the larger capacity boats with access to menhaden when they migrate into our waters and are available in the deeper waters outside the harbors and embayments.

To date, the fishery has been concentrated around Cape Ann with some landings coming from Boston Harbor. The fishery took 50% of the annual quota on June 6 and the trip limit was reduced from 120,000 pounds to 25,000 pounds. The fishery continues to operate at the 25,000-pound limit.

Dan and Story noted that some bait dealers and large-scale vessels have complained about the automatic reduction in the trip limit to 25,000 pounds once 50% of the quota is taken and have advocated for the trip limit to stay elevated to ensure the quota is taken. The quota-based trip limit reduction is baked into the regulation to slow down landings, maintain a small-scale local fishery throughout the summer, and provide bait to local lobster fishers. Accordingly, DMF was not going to pursue an in-season adjustment to maintain a higher trip limit. This concern can be debated at the annual end-of-season meeting with menhaden interests.

Mike P. asked if there were any reported user group conflicts this year. Story stated that with most of the early season landings coming from outside the harbors and embayments, user group conflicts were likely minimized. Additionally, with fish off Cape Ann this spring, effort has been limited in Boston Harbor and this has likely helped mitigate the ongoing user group conflict in Boston.

Commissioner O'Shea stated that he went out with a striped bass charter on Boston Harbor and heard complaints from these users regarding the local menhaden fishery. Story and Dan recognized that such policy disagreements exist and are likely to persist. However, DMF's concern is when these disagreements bubble up into on the water conflicts that create boating safety issues.

Jared Silva presented on squid, whelk, summer flounder, and horseshoe crabs. The squid fishery started off slow but at a high ex-vessel value. As the prevailing winds shifted around to southwest, catch increased but this was met with a reduced ex-vessel value given market demand and there being more small squid in the catch. Squid fishing tailed off by the end of May. This was evidenced in the landings trends and the fact that many trawlers sought the authorization participate in multi-day program for summer flounder. Summer flounder landings just started to trickle in during June. However, there are reports of low ex-vessel value driven by substantial landings from the Mid-Atlantic. Jared indicated the dip in price was not evident in SAFIS landings data yet but would likely show up in the reports due this week. These market conditions have created a cause for concern among the trawl fleet as it is substantially affecting their profitability. Accordingly, there has been some interest in among trawlers for DMF to take an in-season adjustment to increase the horseshoe crab trip limit. DMF does not support taking such an action at this time, given concerns about quota utilization and an early season bait quota closure and market demand for horseshoe crabs given uncertainty in the whelk fishery. The spring whelk fishery has been active, and value is hovering around \$3 per pound, but there are fewer active dealers and there are concerns about export market remaining weak particularly if landings and effort increase (as they typically do during the fall). Accordingly, there is little interest beyond the trawl fleet to raise the horseshoe crab trip limits because of uncertainty regarding the viability of the fall whelk fishery.

Kalil and Jared further discussed the horseshoe crab fishery, the bait market, the spawning closure, and the rent-a-crab program.

#### Update on Legislation Potentially Impacting DMF and Marine Fisheries

Director McKiernan highlighted several pieces of draft legislation that may affect DMF and marine fisheries management. The Senate budget was approved and included an amendment to G.L. c. 130 to exempt fisheries from the Wetlands Protection Act, similar to what is accommodated for other food production activities. The House and Senate budgets now go to Conference Committee for reconciliation. Dan was hopeful the amendment would be approved as it would resolve issues related to municipalities using the Wetlands Protection Act to manage fishing gear. The House and Senate budgets also include funding to SMAST for a PhD student to conduct a Management Strategy Evaluation for the whelk fishery. There is also continued funding for SMAST to conduct oceanographic modeling that DMF is using to assess buffer zone closures around

wastewater treatment plants. Lastly, Senator Tarr has sponsored a stand-alone bill to pursue the statutory amendments recommended by DMF's Derelict Gear Task Force. This bill delineates the difference between active fishing gear that should be treated as private property and abandoned, lost, or derelict fishing gear that DMF and the MFAC will be able to regulate and permit how to remove and clean up. This bill reportedly favorably from committee and has been referred to the Senate Committee on Ways and Means.

Mike Pierdinock, Bill Doyle, and Director McKiernan spoke about the extent to which fishing activity (e.g., commercial, recreational, aquaculture) may be exempt from the Wetlands Protection Act should this budget amendment pass.

Commissioner O'Shea noted his support for this amendment. However, he raised DEP's likely concerns, and highlighted that should it pass, DMF will have to coordinate with DEP about efforts being made to manage fishing gear impacts on benthic habitat within wetlands resource areas.

Chris McGuire noted that The Nature Conservancy submitted written testimony in favor of the Derelict Gear Bill.

#### Presentation on DFG's Strategic Plan

Commissioner O'Shea provided a high-level overview of the Department's five-year strategic plan. He views the plan as a way to focus work and bring in resources to priority areas. The plan boasts three themes: (1) biodiversity and climate; (2) environmental justice; and (3) relevancy, visibility, and capacity. Additionally, it sets five leadership priorities to achieve goals relevant to these themes: (1) protect and conserve landscapes; (2) restore habitat and habitat connectivity; (3) decarbonize and enhance carbon sequestration; (4) create equitable access to nature; and (5) increase food security. In the marine environment, this may include finding resources and partnerships to protect and increase eel grass and saltmarsh habitat, improve fish passage, improve public access and public outreach, and to develop food security programs with the seafood industry.

Additionally, the Department was working to execute the Governor Healey's Executive Order on Biodiversity. This executive order requires DFG to review existing biodiversity and conservation efforts and establish goals and strategies for 2030, 2040, and 2050. The Department intends to host two public listening sessions in July and Tom encouraged MFAC members and other DMF constituents to attend.

Kalil Boghdan asked how the execution of the Department's Strategic Plan would be funded. Tom noted it would have to come from a diversity of sources including Environmental Bond Bills, earmarks, dedicated funding, growth in the operational budget, federal grants, and public-private partnership.

Director McKiernan praised Tom's leadership and forward-thinking with regards to how DFG may provide more robust professional services to its agencies.

Chris McGuire noted his support for the Department's work on both the Strategic Plan and the Governor's Biodiversity Executive Order. Chris and Tom then discussed the roll out

process for each item.

### **OTHER BUSINESS**

Kalil Boghdan stated his intention to nominate Dr. Michael Armstrong for the 2024 Belding Award. Kalil cited Mike's substantial contributions to marine fisheries science and management and his leadership at the ASMFC on striped bass conservation and management.

Chairman Kane requested a motion be made in support of Kalil's nomination of Mike Armstrong for the 2024 Belding Award. **Kalil Boghdan made a motion to move his nomination. The motion was seconded by Tim Brady. The motion as approved 7-0-1 with Chairman Kane abstaining.**

Upon the conclusion of the June 19, 2024 MFAC business meeting, the 2024 Belding Award was presented to Dr. Michael Armstrong.

### **PUBLIC COMMENTS**

Phil Coates advocated for DMF to obtain resources to enhance its public outreach and communications program. Phil added that he thought DMF should do more to draw attention to the outcomes of its adjudicatory proceedings.

### **ADJOURNMENT**

Chairman Ray Kane requested a motion to adjourn the June 19, 2024 MFAC business meeting. **Tim Brady made a motion to adjourn the meeting. The motion was seconded by Shelley Edmundson. The motion as approved 7-0-1 with Chairman Kane abstaining.**



## **MEETING DOCUMENTS**

- June 19, 2024 MFAC Agenda
- May 21, 2024 Draft MFAC Minutes
- Draft Letter to Secretary Tepper to Enhance MEP Funding and Resources
- 2024 Fishery Performance Update through June 8, 2024

## **UPCOMING MEETINGS**

11AM  
June 18, 2024  
Cat Cove Marine Lab  
92 Fort Street  
Salem, MA

DRAFT



# 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 K. O'SHEA  
Commissioner

DANIEL J. MCKIERNAN  
Director

### MEMORANDUM

**TO:** Marine Fisheries Advisory Commission  
**FROM:** Daniel J. McKiernan, Director  
**DATE:** August 14, 2024  
**SUBJECT:** Proposal to Increase Monkfish Trip Limits

#### Proposal

I intend to take to public hearing a proposal that would increase the commercial trip limits for whole monkfish and monkfish tails. The current trip limits are 1,560 pounds for whole monkfish and 536 pounds for monkfish tails (the monkfish tails to whole monkfish conversion factor is 2.91). I am proposing these trip limits be increased to 1,746 whole weight and 600 pounds tail weight<sup>1</sup>. This is consistent with the current trip limits for the vessels fishing in the federal Northern Fishery Management Area (NFMA) days-at-sea (DAS) program under Category B and D permits.

#### Discussion

Massachusetts state waters monkfish fishery occurs almost exclusively in the Gulf of Maine prosecuted by a small number of gillnet fishers<sup>2</sup>. The state waters fishery contributes nominally to overall monkfish landings (less than 1% overall in recent years). Accordingly, this proposed trip increase is not expected to substantially increase harvest. DMF has informally consulted staff from the New England Fishery Management Council (NEFMC) and National Marine Fisheries Service (NMFS) about this proposal and they have not raised any objections with this proposed action.

DMF's historic approach to managing this fishery has been to set state waters limits commensurate with the federal Category B and D permit holders for the NFMA DAS program. The current state-waters whole weight trip limit (1,560 pounds) was adopted in 2008 in response to Framework 4 to the Federal Monkfish Fishery Management Plan (FMP) approved by the New England Fishery Management Council (NEFMC) in late-2007. At that time, the tail weight trip limit was 470 pounds, a product of the then tail weight to whole weight conversion factor being 3.32. In 2011, the NEFMC approved Framework 7 to the Monkfish FMP, which decreased the tail weight conversion factor to 2.91. In response, DMF adopted a complementary conversion factor in state regulations, thereby increasing the tail weight trip limit to 536 pounds.

Over the past decade, state trip limits have become out of phase with the trip limits for federal Category B and D permit holders participating in the NFMA DAS fishery for monkfish. This discrepancy between state and federal management was recently brought to my attention by Chris Chadwick—a state waters gillnet fisher. Chris requested DMF consider increasing the state waters monkfish limits. After reviewing

<sup>1</sup> Note, the head of the monkfish contributes up to 70% of the animal's total weight but is of little commercial value.

Accordingly, it is very common but not universal for monkfish to be processed at sea with fishers landing only the tails or tails and livers.

<sup>2</sup> Since 2020, harvester data indicates that there are ten or fewer vessels retaining monkfish caught in state waters with about half of these vessels being state-waters-only.

his request, I support bringing the state trip limit back in line with the federal trip limit for federal Category B and D permit holders participating in the NFMA DAS fishery for monkfish.



# Atlantic States Marine Fisheries Commission

## ASMFC 2024 Summer Meeting

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*Sustainable and Cooperative Management of Atlantic Coastal Fisheries*

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ASMFC Summer Meeting  
August 6 - 8, 2024

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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## **ATLANTIC HERRING MANAGEMENT BOARD (AUGUST 6, 2024)**

### ***Meeting Summary***

The Atlantic Herring Management Board met to review the 2024 Management Track Stock Assessment; review the draft Fishery Management Plan (FMP) Review and state compliance for fishing year 2023; and receive an update from the New England Fishery Management Council (NEFMC).

The Board received a presentation of the 2024 Management Track Stock Assessment for Atlantic herring conducted by NOAA's Northeast Fisheries Science Center (NEFSC). No significant changes were made to the methods in the 2024 assessment as compared to the 2022 assessment. The 2024 assessment update includes data through 2023 and indicates the Atlantic herring stock is overfished but not experiencing overfishing. This is the same stock status as determined by the 2022 assessment.

The Board approved the Atlantic Herring FMP Review for the 2023 fishing year, state compliance reports, and *de minimis* requests for New York. In 2023, all states implemented management measures consistent with the FMP. The Board also discussed two recommendations from the Plan Review Team (PRT). First, the PRT recommended the Board consider long-term funding to support continuation of the Maine Department of Marine Resources portside sampling program, which requires funding for sample collection in states outside of Maine. The portside sampling program is an important data source informing management and is used in the Atlantic herring stock assessment model. The Board agreed to convene a meeting of State Administrative Commissioners in the near-term to discuss potential funding solutions and/or the possibility of states collecting their own samples. Second, the PRT recommended the Technical Committee convene to discuss any concerns regarding the prolonged use of default closure dates for Area 1A spawning areas, due to insufficient samples available in recent years. The Board noted that since there is no new information to consider and the best available information was used in the previous spawning closure analysis, the TC should not be tasked at this time. The Board can revisit this issue in the future as needed.

The Board received an update from NEFMC Staff on NEFMC activity for Atlantic herring. NEFMC Atlantic herring priorities for 2024 include specifications for the 2025-2027 fishing years and development of Amendment 10. For the 2025-2027 fishing years, the NEFMC's Scientific and Statistical Committee is recommending specifications based on projections from the 2024 Assessment using the biomass-based control rule for Atlantic herring. The resulting recommended annual catch limit for 2025 would be a large reduction from the current annual catch limit. NEFMC will consider the 2025-2027 specifications at their September 2024 meeting. For Amendment 10, NEFMC Staff will follow up with more information on the amendment which will consider measures to 1) minimize user conflicts, contribute to optimum yield, and support rebuilding of Atlantic herring; and 2) enhance river herring and shad avoidance and catch reduction.

For more information, please contact Emilie Franke, Fishery Management Plan Coordinator, at [efranke@asmfc.org](mailto:efranke@asmfc.org).

### ***Motions***

**Move to approve the Atlantic Herring FMP Review for the 2023 fishing year, state compliance reports, and *de minimis* request for New York.**

Motion made by Ms. Patterson and seconded by Mr. Kane. Motion approves by consent.

## **ATLANTIC MENHADEN MANAGEMENT BOARD (AUGUST 6, 2024)**

### ***Meeting Summary***

The Atlantic Menhaden Management Board met to review a report from the US Geological Survey (USGS) on osprey data in Chesapeake Bay, receive a progress report on the ecological reference point (ERP) benchmark stock assessment, and discuss possible changes to Chesapeake Bay management.

In response to a request from the Board, USGS staff presented a summary of the latest information regarding osprey abundance, spatial and temporal distribution, dietary demands, and timing of fledge in the Chesapeake Bay region, as well as ongoing research and information gaps. Osprey data comes from two primary sources: the North American Breeding Bird Survey and the eBird database. Long-term trends show significant population growth from both a continental and regional perspective. Since 1966, osprey abundance has shown a 299% increase in North America, a 587% increase on the Atlantic coast, and a 1,801% increase in Chesapeake Bay. However, since 2012, eBird data estimates show declines in some areas around Chesapeake Bay, particularly in the lower Bay where local reproductive rates have declined sharply since 1975 to below the population maintenance level. There are numerous pressures that may affect osprey reproduction, including food availability, habitat loss leading to greater levels of inter- and intraspecific competition, disease, algal blooms, inexperienced breeders, environmental contaminants, and water depth and clarity. Additionally, abundance indices in other Atlantic and Pacific coast states show similar plateauing and short-term declines since 2012. Osprey diet composition varies by salinity in different regions of the Bay with menhaden being the second-most consumed species in the higher salinity areas, including the lower Bay. More information is needed to explore the relationship between osprey abundance trends and trends in prey species, fish community composition shifts, and other high trophic level feeders. Ongoing research in Chesapeake Bay seeks to compare the availability of osprey prey, including menhaden and other fish species, between current and historical populations.

The Board received a progress report on the ERP benchmark stock assessment. The ERP Workgroup has had discussions with USGS about the inclusion of additional data on piscivorous birds and has scheduled a workshop for November 2024. The ERP benchmark stock assessment and single-species stock assessment update are both scheduled to be presented to the Board at the 2025 Annual Meeting.

The Board discussed initiating an addendum to consider seasonal closures to purse seine vessels larger than 300 gross tons within the Chesapeake Bay to support the dietary needs of menhaden predators during critical points of their life cycles. Ultimately, the Board established a work group to gain additional information and evaluate different options of precautionary management in Chesapeake Bay, and the workgroup will provide a report to the Board at the Annual Meeting.

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

### ***Motions***

#### **Main Motion**

**Move to initiate an Addendum to the Atlantic Menhaden Interstate Fishery Management Plan to consider Chesapeake Bay-specific management options for the menhaden purse seine vessels larger than 300 gross tons in order to support the need of piscivorous birds and fish during critical points of**

their life cycles (e.g., Osprey fledge and molt). The document should include options for seasonal closures of Chesapeake Bay Waters (inside the Colregs line). The document should not consider changes to the current Bay Cap of 51,000 MT. The document should also contain options to re-evaluate seasonal closures within the Bay after 2, 3 or 4 years. The Plan Development Team should consult with outside experts as necessary to identify spatiotemporal patterns of predatory demand for menhaden.

Motion made by Ms. Fegley and seconded by Mr. LaFrance.

#### **Motion to Postpone**

**Motion to postpone until the October Meeting.**

Motion made by Mr. Geer and seconded by Mr. Gary.

#### **Motion to Amend**

**Motion to amend to postpone indefinitely.**

Motion made by Mr. Geer and seconded by Mr. Reid. Motion fails due to a lack of a majority (9 n favor, 9 opposed).

#### **Motion to Postpone**

**Motion to postpone until the October Meeting.**

Motion made by Mr. Geer and seconded by Mr. Gary. Motion fails (6 in favor, 12 opposed).

#### **Main Motion**

**Move to initiate an Addendum to the Atlantic Menhaden Interstate Fishery Management Plan to consider Chesapeake Bay-specific management options for the menhaden purse seine vessels larger than 300 gross tons in order to support the need of piscivorous birds and fish during critical points of their life cycles (e.g., Osprey fledge and molt). The document should include options for seasonal closures of Chesapeake Bay Waters (inside the Colregs line). The document should not consider changes to the current Bay Cap of 51,000 MT. The document should also contain options to re-evaluate seasonal closures within the Bay after 2, 3 or 4 years. The Plan Development Team should consult with outside experts as necessary to identify spatiotemporal patterns of predatory demand for menhaden.**

Motion made by Ms. Fegley and seconded by Mr. LaFrance. Motion substituted.

#### **Motion to Substitute**

**Move to substitute to establish a Board workgroup to consider and evaluate options for further precautionary management of Chesapeake Bay menhaden fisheries, including time and areas closures to be protective of piscivorous birds and fish during critical points of their life cycle.**

Motion made by Ms. Colden and seconded by Mr. Borden. Motion passes (17, 0 opposed, 0 abstentions, 1 null).

#### **Main Motion as Substituted**

**Move to establish a Board workgroup to consider and evaluate options for further precautionary management of Chesapeake Bay menhaden fisheries, including time and areas closures to be protective of piscivorous birds and fish during critical points of their life cycle.**

Motion passes by consent.



## **SPINY DOGFISH MANAGEMENT BOARD (AUGUST 6, 2024)**

### ***Meeting Summary***

The Spiny Dogfish Management Board met to review a report on the state impacts of the recommended actions by the Mid-Atlantic and New England Fishery Management Councils in Spiny Dogfish Framework Adjustment 6 to reduce sturgeon bycatch in the spiny dogfish fishery and consider complementary action in state waters.

The Council-recommended alternative proposes prohibiting overnight soaks for federal spiny dogfish permit holders on gillnets with 5-10" mesh in November and May for a certain area of state and federal waters off of New Jersey, as well as for gillnets of 5.25-10" mesh in November through March in specified areas off of Maryland and Virginia. The Board reviewed a report on state permitting structures and considered how to implement regulations consistent with the federal action given the differences in permitting between states and between state and federal permitting. The Board initiated an addendum that will develop options to establish equivalent overnight soak restrictions for harvesters that possess state spiny dogfish permits but do not possess a federal spiny dogfish permit.

The Board will consider approval of the Draft Addendum for public comment at its next meeting in October 2024. For more information, please contact James Boyle, Fishery Management Plan Coordinator at [jboyle@asmfc.org](mailto:jboyle@asmfc.org).

### ***Motions***

**Move to initiate an addendum to maintain consistency between the Spiny Dogfish FMP and the recommended alternatives of Spiny Dogfish Framework Adjustment 6.**

Motion made by Ms. Meserve and seconded by Mr. Hasbrouck. Motion carries by unanimous consent.

## **ATLANTIC STRIPED BASS MANAGEMENT BOARD (AUGUST 6, 2024)**

### ***Meeting Summary***

The Atlantic Striped Bass Management Board met to review the draft Fishery Management Plan (FMP) Review and state compliance for fishing year 2023; consider initial recommendations from the Board Work Group on recreational release mortality; provide guidance to the Technical Committee (TC) on responding to the 2024 assessment if a reduction is needed to achieve stock rebuilding; receive an update on winter tagging; and consider two nominations to the Advisory Panel.

The Board approved the Striped Bass FMP Review for the 2023 fishing year and state compliance reports. In 2023, all states implemented management measures and monitoring programs consistent with the FMP and 2023 Emergency Action. The Board also discussed the Plan Review Team's (PRT) recommendation to conduct a review of the commercial tagging program. The PRT noted the review is not necessarily intended to change the program requirements, but instead intended to review how state programs are operating and identify issues states have encountered, including input from the Law Enforcement Committee. The Board agreed with this recommended review and tasked the PRT with moving forward, acknowledging the review would not occur until Commission and State staff time permits following the 2024 stock assessment and associated tasks.

The Board received a report from the Board Work Group (WG) on recreational release mortality with WG recommendations on stock assessment tasks and public scoping. In May 2024, the WG was established to address tasks related to no-targeting closures, gear restrictions, stock assessment work, and public scoping. The WG presented two recommendations for the Board's consideration. First, the WG recommended the Board task the TC with calculations during the 2024 stock assessment to determine how decreasing recreational release mortality could contribute to any potential reduction needed to achieve rebuilding. The Board agreed with the WG recommendation and tasked the TC as outlined by the WG. If a reduction is needed to achieve rebuilding, the TC will calculate how low the release mortality rate would need to be to achieve the reduction, and separately, the reduction in the number of live releases needed to achieve the reduction. The TC will also calculate the reduction associated with potential no-targeting closures, comprised of a reduction in live releases and a reduction in harvest, if a reduction is needed to achieve rebuilding. The TC will also identify tradeoffs of implementing no-targeting closures at different times of the year with different assumed release mortality rates. Second, the WG recommended the Board extend the timeline for conducting a public survey on recreational release mortality. The WG supports the use of an online survey to gather public input on release mortality, but notes the need to take time to gather input from survey design experts and the Advisory Panel to ensure the survey is well-designed. The Board agreed with the WG recommendation and supports continued development of the survey for review at the 2024 Annual Meeting.

The Board received a progress update on the 2024 stock assessment update, which will be presented at the 2024 Annual Meeting. The Board also provided guidance to the TC on potential management measures to consider if the assessment indicates a reduction is needed to achieve stock rebuilding, in which case the Board could adjust management measures via Board action (i.e., no addendum process). Regarding how a potential reduction should be allocated between sectors, the Board is interested in a range of options from no reduction for the commercial fishery, to different percent reductions for each sector based on contribution to total removals, to equal reductions for both sectors. Regarding the types of recreational options to consider, the Board is interested in a variety of measures, including a dynamic slot limit that would change year-to-year and mode split options. Some Board members noted seasonal closures may be one of the few viable options given the current restrictive slot limits, but some Board members expressed concern about consideration of seasonal closures through Board action. There was also a request to consider whether the recreational reduction should aim slightly higher than the required reduction given uncertainty, and a request that the 2024 assessment provide projections out to 2034 to capture the impact of recent low year classes as they mature and contribute to spawning stock biomass beyond the 2029 rebuilding deadline.

The Board received an update on the 2024 Striped Bass Cooperative Winter Tagging Cruise coordinated by the U.S. Fish and Wildlife Service. Striped bass have been tagged through the program since 1988, and the current hook & line survey has been in place since 2011. Over time, sampling locations have shifted northward from the coast of North Carolina up to the coast of Maryland, Virginia, and New Jersey in some years. In 2024, 38 striped bass were tagged. This low number was partly impacted by weather delays in 2024.

Finally, the Board approved Tom Fote representing New Jersey and Will Poston representing the District of Columbia to the Atlantic Striped Bass Advisory Panel. For more information, please contact Emilie Franke, Fishery Management Plan Coordinator, at [efranke@asmfc.org](mailto:efranke@asmfc.org).

### ***Motions***

**Move to approve the Atlantic Striped Bass FMP Review for the 2023 fishing year and state compliance reports.**

Motion made by Mr. Luisi and seconded by Mr. Hasbrouck. Motion approved by unanimous consent.

**Move to approve Tom Fote representing New Jersey and Will Poston representing the District of Columbia to the Striped Bass Advisory Panel.**

Motion made by Mr. Abbott and seconded by Mr. Cimino. Motion approved by consent.

### **AMERICAN LOBSTER MANAGEMENT BOARD (AUGUST 6, 2024)**

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

#### **American Lobster Board Initiates Addendum to Postpone Implementation of Addendum XXVII Measures and Approves Addendum XXX**

Arlington, VA – The Commission’s American Lobster Management Board initiated Draft Addendum XXXI to Amendment 3 to the Interstate Fishery Management Plan for American Lobster. The Draft Addendum will consider postponing the implementation of the measures from Addendum XXVII. The Board also approved Addendum XXX, which addresses how the measures of Addendum XXVII will apply to foreign imports of American lobster once implemented.

Draft Addendum XXXI considers postponing the implementation of management measures under Sections 3.1 and 3.2 of Addendum XXVII until July 1, 2025. Addendum XXVII was adopted in May 2023 and established a trigger mechanism to automatically implement management measures to provide additional protection of the Gulf of Maine/Georges Bank (GOM/GBK) spawning stock biomass. Changes to the current gauge and escape vent sizes in Lobster Conservation Management Areas (LCMAs) 1, 3, and Outer Cape Cod (OCC) were triggered based on observed changes in recruit abundance indices in October 2023 with the inclusion of 2022 survey data in the trigger index. The Board then extended the implementation date of the series of changes to gauge and vent size to begin January 1, 2025 to allow the Gulf of Maine states the opportunity to coordinate with Canada regarding possible trade implications, and give the industry and gauge makers additional time to prepare for these changes.

A meeting was held between US and Canadian lobster fishery managers and industry members in June 2024 to discuss the management structures and stock assessments of the two countries. Based on this meeting, the Board determined that postponing implementation of Addendum XXVII’s biological measures to July 1, 2025 would reduce negative impacts to the US and Canadian lobster industries in 2025 and allow Canada more time to consider implementing complementary management measures. Specifically, Draft Addendum XXXI will consider postponing the changes in minimum gauge size for LCMA 1 (inshore Gulf of Maine), and the measures under Section 3.1 of Addendum XXVII to create a common size limit for state-only and federal permit holders fishing in OCC to July 2025. The Draft Addendum will not consider postponing regulations prohibiting the issuance of 10% additional trap tags in Areas 1 and 3 above the trap limit or allocation. Draft Addendum XXXI will be released for public comment later this year.

The Board also approved Addendum XXX, which clarifies the Commission’s intent for how the measures of Addendum XXVII will apply to foreign imports of American lobster once implemented. The

Addendum recommends to NOAA Fisheries that the Mitchell Provision of the Magnuson-Stevens Act apply to foreign imports of whole live lobster, meaning the smallest minimum size for foreign imports would match the smallest minimum size in effect for the US industry. The current smallest LCMA minimum gauge size in effect is 3¼ inches, and when the LCMA 1 gauge size increases, this will change to 3 5/16 inches. Foreign imports smaller than the new minimum gauge size would be prohibited. These size restrictions do not apply to lobsters travelling in-bond through the US.

Addendum XXX will be available on the Commission website, [www.asmfc.org](http://www.asmfc.org), on American lobster webpage by next week. For more information, please contact Caitlin Starks, Senior Fishery Management Plan Coordinator, at [cstarks@asmfc.org](mailto:cstarks@asmfc.org).

###

PR24-21

### ***Meeting Summary***

In addition to approving Addendum XXX and initiating Draft Addendum XXXI, the Board received an update on the ongoing stock assessment; a report from the Plan Development Team (PDT), a review of the Colby College economic impact analysis of a lobster gauge increase; a summary of a July meeting with Canada's lobster fishery managers and industry; and a report from the Vessel Tracking Work Group (WG).

The American lobster benchmark stock assessment is underway, and the Stock Assessment Subcommittee (SAS) met in July for the assessment methods workshop. At the workshop the SAS determined the assessment timeline should be extended to allow for completion of 2023 data and the inclusion of analyses from external collaborators, some of which did not have access to necessary confidential data until recently. With the extended timeline, the assessment is expected to be completed for Board review at the 2025 Annual Meeting instead of the 2025 Summer Meeting.

The Board reviewed the PDT report responding to the Board task to review the original goals and objectives of Addenda XXI and XXII and make recommendations for alternate measures to achieve those goals, considering recommendations from the Lobster Conservation Management Teams (LCMTs) for Lobster Conservation Management Areas (LCMA) 2 and 3. Addenda XXI and XXII, approved in 2013, aimed to scale back the Southern New England (SNE) lobster fishery after the 2009 stock assessment found the stock remained depleted. The measures in Addenda XXI and XXII were implemented for state waters, and included maximum trap cap reductions and ownership caps. However, complementary federal measures were not finalized until October 2023 and scheduled to be implemented on May 1, 2025, spurring concerns about the potential impacts of the measures to a fishery that has changed dramatically over the past decade. The PDT report included analyses of LCMA 2 and 3 fishery effort data, which show that the size of Southern New England fishery has decreased considerably despite federal measures not being implemented. The Board requested that the LCMTs for Areas 2 and 3 review the PDT's findings and make recommendations on management measures moving forward.

Dr. Amanda Lindsay, Professor of Economics at Bates College, presented a review of a study from Colby College that estimated economic impacts of the LCMA 1 minimum gauge size increase under Addendum XXVII. After evaluating the study, Dr. Lindsay commented that it used appropriate economic modeling methods that appear to have provided a reasonable estimate of impacts based on the best available data. The study estimated that a 10% decrease in landings value would have resulted

in a \$59.6 million loss to Maine's economy and a reduction of 686 jobs. Dr. Lindsay emphasized that, like all models, the economic model used for this study has limitations that create uncertainty about the true impacts of a gauge increase, and the study does not necessarily contradict the Technical Committee's (TC) estimates of impacts to the number and weight of lobster landings. The Board suggested the TC could meet with the economists to discuss their data and methods, and will determine next steps at its October meeting.

Staff provided a summary of a meeting on lobster management between the US and Canada held in July 2024. The objective of the meeting was to build understanding of adjacent lobster stocks, including current management and opportunities to strengthen measures given current trends in population abundance and distribution throughout the broader Gulf of Maine. The two countries discussed the implementation and potential impacts of Addendum XXVII for US and Canadian industries and on international trade. Canada Department of Fisheries and Oceans will hold a meeting with Maritimes Region Lobster Advisory Committee in September, where they will discuss the possibility of implementing measures similar to LCMA 1.

The Board received a report from the Vessel Tracking Workgroup (WG) responding to its task to investigate possible modifications to the 24/7 tracking requirement of Addendum XXIX that would still ensure monitoring of fishing activity, while acknowledging that fishermen also use their boats for personal non-fishing reasons. The WG proposed two strategies that could be used: geofencing and a "snooze" function. Geofencing would require devices to use satellite service to automatically change the ping rate when the vessel is in certain areas. The "snooze" function approach would involve a process whereby the permit holder could request their device stop collecting data for a pre-determined period of time. Not all currently approved tracking devices are capable of geofencing, and modifications would need to be made to allow for either approach. The WG also noted concerns about loss of fishing effort data and challenges law enforcement. The Board will discuss this topic at its next meeting and determine a path forward.

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

### ***Motions***

**Move to initiate an addendum to delay the biological measures implementation date of Addendum XXVII until July 1, 2025. Specifically, biological measures under Section 3.1 that created common size limits for state-only and federal permit holders fishing in Outer Cape Cod would be implemented effective July 1, 2025. Similarly, management measures triggered under Section 3.2 would be implemented by July 1, 2025 starting with the Year 1 measures, and subsequent management measures (additional minimum size increase in Area 1 in year 3; vent size increase in Area 1 in year 4; maximum size reduction in Area 3 and Outer Cape Cod) would be implemented by July 1 of the calendar year for which they are required. Trap tag issuance regulations regarding the routine issuance of 10% additional trap tags in Areas 3 and 1 above the trap limit or allocation would remain unchanged.**

Motion made by Mr. McKiernan and seconded by Mr. Train. Motion passes (9 in favor, 1 opposed).

**Move to approve Addendum XXX, effective today.**

Motion made by Mr. Grout and seconded by Mr. McKiernan. Motion passes with one abstention (NOAA Fisheries).

## **EXECUTIVE COMMITTEE (AUGUST 7, 2024)**

### ***Meeting Summary***

The Executive Committee met to discuss the proposed FY25 budget and receive a Legislative Committee update.

Staff provided an update to the Executive Committee on the strengths of the FY25 Senate CJS bill, and plans to usher provisions which are of benefit to ASMFC into law. William Hyatt provided information on Senator Shaheen's (D-NH) State Boating Act, and urged the Executive Committee to support the bill. Additionally, there was a Q&A session with Anderson Tran of Congressman Graves's office on the Fisheries Data Modernization and Accuracy Act of 2024. The bill was introduced by Rep. Graves to reform the Marine Recreational Information Program (MRIP). The bill intends to increase the flexibility of the recreation data collection program to potentially incorporate alternative data streams into the management process. The Executive Committee discussed their concerns with the bill on a call in July. Staff has engaged with the Graves office on these concerns and will continue to do so as the bill moves along in the legislative process.

Staff provided an update on future Annual Meeting locations. In October 2024, the Annual Meeting will be in Annapolis, Maryland; 2025 in Delaware; 2026 in Rhode Island; 2027 in South Carolina; 2028 in Massachusetts; 2029 in Pennsylvania; and 2030 in Georgia. For more information, please contact Laura Leach, Director of Finance & Administration, at [lleach@asmfc.org](mailto:lleach@asmfc.org).

### ***Motions***

No motions were made.

## **ATLANTIC STURGEON MANAGEMENT BOARD (AUGUST 7, 2024)**

### ***Press Release***

#### **Atlantic Sturgeon Stock Assessment Update Shows Signs of Improvement for Coastwide Population and Mixed Results at the Distinct Population Segment Level**

Arlington, VA – The Atlantic Sturgeon Stock Assessment Update finds that while the coastwide population remains depleted relative to historic levels, the population has shown signs of improvement with a significant positive trend over the time series. Further, there is a high probability that abundance in 2022 was greater than abundance in 1998 at the start of the coastwide moratorium. Total mortality is low and has a low probability of exceeding its reference point. Depleted status is used instead of overfished because many factors (such as bycatch, habitat loss and ship strikes), not just directed historical fishing, have contributed to the continued low abundance of Atlantic sturgeon.

At the individual distinct population segment (DPS) level, results were mixed. Most indices showed either a positive trend or no significant trend over the time series. The average probability that the New York Bight and Carolina DPSs indices were greater than the reference year was high, meaning it was likely that abundance in 2022 was higher than it was at the start of the moratorium. For the Gulf of Maine, Chesapeake Bay, and South Atlantic DPSs, the average probability was lower – less than 50% for all three DPSs – meaning that it was unlikely that abundance in 2022 was greater than it was at the start of the moratorium. Total mortality estimates for each DPS were higher than for the full coastwide population and the probability of exceeding the reference point was higher, partly due to the smaller

sample size and higher uncertainty in the tagging model at the DPS level than at the coastwide level. For the Gulf of Maine DPS there was a greater than 50% chance that total mortality exceeded the reference point, while there was a lower probability that total mortality exceeded the reference point for the other DPSs.

Atlantic sturgeon are a challenging species to assess because datasets for this species are limited. However, progress has been made on research recommendations addressing questions about genetics, life history, abundance, and sources of mortality, and work will continue to develop better datasets to support the next benchmark assessment in 2028.

No management action was taken given the continued coastwide harvest moratorium and protection under the federal Endangered Species Act. Additionally, efforts are being taken to reduce sturgeon bycatch in other directed fisheries. In April, the Mid-Atlantic and New England Fishery Management Councils recommended their preferred alternative to NOAA Fisheries to reduce sturgeon bycatch in the federal monkfish and spiny dogfish fisheries, and a final rule is expected by the end of 2024. The Commission's Spiny Dogfish Management Board also initiated an addendum to develop options to maintain consistency with the federal action for state-permitted spiny dogfish harvesters in state waters, with the goal of reducing sturgeon bycatch.

A more detailed description of the stock assessment results can be found at [https://asmfc.org/uploads/file/66b398b9AtlanticSturgeonStockAssmtOverview\\_Aug2024.pdf](https://asmfc.org/uploads/file/66b398b9AtlanticSturgeonStockAssmtOverview_Aug2024.pdf). The Stock Assessment Update will be available on the Commission website, [www.asmfc.org](http://www.asmfc.org), on the Atlantic Sturgeon webpage next week. For more information, please contact James Boyle, Fishery Management Plan Coordinator, at [jboyle@asmfc.org](mailto:jboyle@asmfc.org).

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PR24-22

### ***Motions***

#### **Move to elect Dave Sikorski as Vice Chair of the Atlantic Sturgeon Management Board.**

Motion made by Mr. Clark and seconded by Mr. Gilmore. Motion approved by consent.

### **SCIAENIDS MANAGEMENT BOARD (AUGUST 7, 2024)**

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

The Sciaenids Management Board met to consider several items, including Traffic Light Analysis (TLA) reports for spot and Atlantic croaker; Fishery Management Plan Reviews and state compliance reports for red drum and Atlantic croaker; and an update on the ongoing red drum, Atlantic croaker, and spot benchmark stock assessments.

The Board received a presentation on the findings of the 2024 TLA, which were updated with data through 2023. The TLA, as revised in Addendum III for spot and Atlantic croaker, assigns a color (red, yellow, or green) to categorize relative levels of indicators based on the condition of the fish population (abundance metric) or fishery (harvest metric). For example, as harvest or abundance increases relative to a reference period, the proportion of green in a given year will increase. The Board evaluates the proportion of red against threshold levels to potentially trigger management action. In 2020, the TLA for the 2019 fishing year indicated that both species triggered at the 30% red



threshold. State implementation plans for management measures were approved in early 2021 and all new management measures were enacted by the end of 2021. The management measures enacted in 2021 for both species were due to be reevaluated based on the results of current updates of the TLAs.

Abundance metrics in the spot TLA did not trigger at any threshold in the past three years. In this case, Addendum III states the measures that were put into place in 2020 are no longer required for spot. However, the Board agreed with the Technical Committee's (TC) recommendation to maintain the current spot management measures. This decision was due in part to results from a benchmark stock assessment expected in the next couple of years and continued concern with low spot commercial and recreational harvest.

For Atlantic croaker, an abundance metric exceeded the 30% threshold in all four terminal years. Addendum III states, in this case, the TC must evaluate trends in the stock's abundance to recommend to the Board whether triggered measures should remain in place or more restrictive measures should be considered. The Board agreed with the TC's recommendation of maintaining the current management measures, due to the anticipation of results from the ongoing benchmark stock assessment within the next year.

The Board reviewed and approved the 2023 Fishing Year Fishery Management Plan (FMP) Reviews and state compliance reports for red drum and Atlantic croaker. For red drum, *de minimis* status was approved for New Jersey and Delaware. For Atlantic croaker, *de minimis* status was approved for New Jersey (commercial and recreational), Delaware (commercial), South Carolina (commercial), and Georgia (commercial). Since Delaware did not request or qualify for *de minimis* for their Atlantic croaker recreational fishery, Addendum III to the Interstate FMP requires Delaware to implement a 50-fish recreational bag limit, which will be completed prior to October 2024.

The Board received an update on the ongoing red drum, Atlantic croaker, and spot benchmark stock assessments. For red drum, a SouthEast Data and Assessment Review (SEDAR) Peer Review Workshop will be held August 13-16, 2024, in Charleston, South Carolina. The red drum assessment and peer review report are expected to be presented to the Board at their October 2024 meeting. Work on the Atlantic croaker benchmark stock assessment is ongoing, and a sub-group of the Stock Assessment Subcommittee is meeting biweekly to discuss modeling progress. Due to the loss of a lead modeler, work on the spot stock assessment has been paused until the Atlantic croaker assessment is completed and peer-reviewed.

For more information, please contact Tracey Bauer, Fishery Management Plan Coordinator, at [Tbauer@asmfc.org](mailto:Tbauer@asmfc.org) or 703.842.0723.

### **Motions**

**Move to approve the Red Drum FMP Review for the 2023 fishing year as amended today, state compliance reports, and *de minimis* status for New Jersey and Delaware.**

Motion made by Ms. Fegley and seconded by Mr. Clark. Motion passes by consent.

**Move to approve the Atlantic Croaker FMP Review for the 2023 fishing year, state compliance reports, and *de minimis* status for New Jersey, Delaware, South Carolina, and Georgia commercial fisheries and New Jersey recreational fishery.**

Motion made by Mr. Miller and seconded by Mr. Kaelin. Motion passes by consent.



***Press Release***

**Coastal Pelagics Board Approves Atlantic Cobia Addendum II  
*Regional Recreational Allocation Framework Addresses  
Uncertainty and Incorporates Recent Harvest Data***

Arlington, VA – The Commission’s Coastal Pelagics Management Board approved Addendum II to Amendment 1 to the Interstate Fishery Management Plan for Atlantic Cobia. The Addendum modifies the recreational allocation framework, allows the Board to update allocations quickly if the underlying data are revised, expands the range of data used in harvest evaluations, and allows the Board to set management measures for a longer period of time. Addendum II responds to increased cobia harvest in some Mid-Atlantic states in recent years, as well as concerns about high uncertainty associated with cobia recreational harvest estimates. All Addendum II measures are effective immediately, and will be used to set recreational measures for 2025 and beyond.

Addendum II changes both the geographic scope of the recreational allocation framework and the timeframe of data used as the basis for allocations. The Addendum changes the allocation framework from a state-by-state to a regional framework, with a northern region of Rhode Island through Virginia and a southern region of North Carolina through Georgia. The new regional allocation framework is intended to reduce uncertainty by using harvest estimates based on a larger sample size combining multiple states in a region, instead of individual state-level harvest estimates.

Each region is allocated part of the recreational quota based on each region’s percentage of the coastwide harvest in number of fish over the last ten years, combining 50% of 2014-2023 data and 50% of 2018-2023 data. Data from 2016 and 2017 are excluded due to fishery closures during those years, and data from 2020 are excluded due to COVID-19 impacts on recreational data collection. Using more recent data, as compared to previously using 2006-2015 data, accounts for changes in harvest and potential range expansion of the species in recent years.

There is a possibility that the recreational harvest estimates could be revised in the future by NOAA Fisheries, which would affect the percent allocations for each region. If the harvest estimates are revised, Addendum II allows the Board to quickly update the percent allocations via Board vote to reflect the any revisions to the data used to establish the allocations.

Each region’s percent allocation is applied to the coastwide recreational quota (currently 76,908 fish) to determine the regional harvest targets in number of fish. When a region’s harvest is compared to its target, Addendum II specifies that a rolling average of up to five years of harvest data under the same management measures will be compared to the target, instead of limiting it to a three-year average. This allows for inclusion of two additional data years to account for the variability and uncertainty of cobia harvest estimates from year to year.

Finally, Addendum II allows the Board to set specifications (e.g., coastwide total harvest quota) via Board action for up to five years, which is a longer time period than the current three years. Setting management measures for a longer period of time is intended to align management action with the availability of new stock assessment information.

Addendum II will be available in late August on the Commission website at <http://www.asmfc.org/species/cobia> under Management Plans and FMP Reviews.

For more information, please contact Emilie Franke, Fishery Management Plan Coordinator, at [efranke@asmfc.org](mailto:efranke@asmfc.org).

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PR24-24

### **Motions**

**Move to approve the Atlantic Cobia FMP Review for the 2023 fishing year, state compliance reports, and *de minimis* requests for Rhode Island, New York, New Jersey, Delaware, Maryland, Georgia, and Florida.**

Motion made by Mr. Clark and seconded by Mr. Sikorski. Motion approved by consent.

**Motion to postpone deliberation on Addendum II to the Atlantic Cobia Management Plan until the Annual Meeting.**

Motion made by Ms. Burgess and seconded by Mr. Haymans. Motion fails (4 in favor, 7 opposed, 1 abstention, 1 null). (Roll Call: In favor – SC, GA, FL, SAFMC; Opposed – RI, NY, NJ, NC, VA, PRFC, DE; Abstention – NOAA; Null – MD)

**Move to postpone final action on Addendum II until the Board receives the presentation of SEDAR 95 results and receives TC recommendations on applying SEDAR 95 to management, including recommendations for the total harvest quota.**

Motion made by Mr. Dyar and seconded by Ms. Burgess. Motion fails (3 in favor, 7 opposed, 2 abstentions, 1 null). (Roll Call: In favor – SC, GA, FL; Opposed: RI, NY, NJ, NC, VA, PRFC, DE; Abstentions – NOAA, SAFMC; Null – MD)

### **Main Motion**

**Move to adopt for issue 3.1 Recreational Allocation Framework, a combination of Option C4 – Northern Regional Allocation for RI, CT, NY, NJ, DE, MD, VA and Option B2 – State Allocations for NC, SC, GA, with allocations based on 50% of 2014-2023 landings and 50% of 2018-2023 landings (excluding 2016, 2017, and 2020).**

Motion made by Ms. Madsen and seconded by Dr. McNamee.

### **Motion to Substitute**

**Motion to substitute to adopt Option A for Issue 3.1 until the SEDAR 95 stock assessment is concluded.**

Motion made by Mr. Haymans and seconded by Mr. Dyar. Motion fails (3 in favor, 6 opposed, 2 abstentions, 2 null). (Roll Call: In favor – SC, GA, FL; Opposed – RI, NY, NJ, DE, PRFC, VA; Abstentions – NOAA, SAFMC; Null – MD, NC)

### **Main Motion**

**Move to adopt for issue 3.1 Recreational Allocation Framework, a combination of Option C4 – Northern Regional Allocation for RI, CT, NY, NJ, DE, MD, VA and Option B2 – State Allocations for NC, SC, GA, with allocations based on 50% of 2014-2023 landings and 50% of 2018-2023 landings (excluding 2016, 2017, and 2020).**

Motion made by Ms. Madsen and seconded by Dr. McNamee. Motion substituted.

### **Motion to Substitute**

**Move to substitute to approve in Section 3.1 Recreational Allocation Framework Option C4. regional harvest allocations based on 50% of 2014-2023 landings and 50% of 2018-2023 landings (excluding 2016, 2017, and 2020) with a northern region of Rhode Island through Virginia and a southern region of North Carolina through Georgia.**

Motion made by Mr. Dyar and seconded by Mr. Haymans. Motion passes (11 in favor, 2 abstentions). (Roll Call: In favor – RI, NY, NJ, FL, NC, VA, PRFC, MD, DE, SC, GA; Abstentions – NOAA, SAFMC)

### **Main Motion as Substituted**

**Move to approve in Section 3.1 Recreational Allocation Framework Option C4. regional harvest allocations based on 50% of 2014-2023 landings and 50% of 2018-2023 landings (excluding 2016, 2017, and 2020) with a northern region of Rhode Island through Virginia and a southern region of North Carolina through Georgia.**

Motion carries without opposition.

**Move to adopt for issues 3.2 Updates to State/Regional Allocations - Option B Allocation Changes via Board Action, 3.3 Data and Uncertainty in Recreational Landings Evaluations - Option B Extend Rolling Average to Five Years, 3.4 Overage Response for Recreational Landings Evaluations – Option A Status Quo, 3.5 Timeline for Setting Commercial and Recreational Measures – Option B Five-Year Specifications.**

Motion made by Ms. Madsen and seconded by Mr. Maniscalco. Motion passes (10 in favor, 3 abstentions). (Roll Call: In favor – RI, NY, NJ, NC, VA, PRFC, MD, DE, SC, GA; Abstentions: FL, NOAA, SAFMC)

**Move to approve Addendum II to Amendment 1 to the Atlantic Cobia FMP, as modified today, with an implementation date of today (August 7, 2024).**

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

### **SHAD AND RIVER HERRING MANAGEMENT BOARD (AUGUST 6, 2024)**

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

#### **River Herring Benchmark Stock Assessment Finds Populations Remain Depleted at a Coastwide Level Though Some Rivers Show Signs of Improvement**

Arlington, VA – The River Herring Benchmark Stock Assessment finds the coastwide populations of both alewife and blueback herring (collectively referred to as river herring) are depleted relative to historic levels, with the habitat model indicating that overall productivity of both species is lower than an unfished population before the occurrence of any habitat modifications (e.g., dams or human alterations to the environment). The depleted determination was used instead of overfished and overfishing because of the many factors that have contributed to the declining abundance of river herring, which include not just directed and incidental fishing, but also habitat loss, predation, and climate change.

In terms of recent trends, there is no clear signal for either species across the coast. Even within the genetic stock-regions, trends in abundance and mortality differed from river to river, with some rivers showing increasing trends and low mortality rates, and others showing flat or declining trends and total mortality rates above the reference point. Although very few significant trends overall were

detected since the adoption of [Amendment 2](#) in 2009, the majority of indices of abundance for both alewife and blueback herring are likely to be higher now than they were in 2009. However, half of the blueback populations and 65% of the alewife populations have a high probability of being above the total mortality reference point, indicating total mortality on adult fish was too high. Total mortality is the removal of fish from a population due to both fishing and natural causes.

The northern New England region shows more positive trends and a higher probability of abundance in the most recent years being greater than in 2009. It is unclear why that is the case, especially as the more northern regions also have higher probabilities of being above the total mortality reference point. States in the northern New England region have conducted extensive habitat restoration and dam removal, but so have states further south, and they have not seen the same degree of positive trends in run counts and indices. In addition, states in the northern stock-region have also accounted for the majority of directed catch in recent years, while states in the Mid-New England, Southern New England, and Mid-Atlantic stock-

regions have closed their fisheries. Genetic analysis indicates most of the ocean bycatch around Cape Cod and Long Island Sound was of alewife from the Southern New England stock-region and blueback herring from the Mid-Atlantic stock-region, two areas that have had more negative trends in recent years despite habitat restoration efforts and directed fishery closures.

The assessment includes two proof-of-concept approaches to develop biologically-based caps on bycatch in ocean fisheries. The data-limited methods produced estimates of bycatch caps that were lower than the current coastwide bycatch estimates and lower than the current caps in the Atlantic herring and Atlantic mackerel fishery. However, more work needs to be done on the data-limited bycatch cap approach, including consulting with the Mid-Atlantic and New England Fishery Management Councils on risk levels and how to implement species-specific caps in fisheries where the bycatch monitoring includes American and hickory shad as well as river herring. The assessment also recommended exploring species distribution modeling to identify hot spots of river herring bycatch that could be avoided with time-area closures as an alternative or complement to in-season monitoring of river herring bycatch.

No management action was taken given the continued coastwide harvest moratorium for states without an approved Sustainable Fishery Management Plan, as required by Amendment 2. Additionally, the New England Fishery Management Council is early in the process of drafting Amendment 10 to the Atlantic Herring Fishery Management Plan, which is proposing the development of measures to reduce river herring bycatch in the federal fishery.

A more detailed description of the stock assessment results, as well as the Benchmark Stock Assessment and Peer Review Report will be available on the Commission website, [www.asmfc.org](http://www.asmfc.org), on the Shad & River Herring webpage. For more information, please contact James Boyle, Fishery Management Plan Coordinator, at [jboyle@asmfc.org](mailto:jboyle@asmfc.org).

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PR24-23

## ***Motions***

**Move to accept the 2024 River Herring Benchmark Stock Assessment and Peer Review Report for management use.**

Motion made by Mr. Clark and seconded by Ms. Patterson. Motion passes by unanimous consent.

## **INTERSTATE FISHERIES MANAGEMENT PROGRAM (ISFMP) POLICY BOARD (AUGUST 8, 2024)**

### ***Meeting Summary***

The ISFMP Policy Board met to address a number of issues, including the potential listing of American eel in CITES Appendix III; H.R. 8705, the Fisheries Data Modernization and Accuracy Act of 2024; a National Fish and Wildlife Foundation grant opportunity; and committee reports from Atlantic Coastal Fish Habitat Partnership, Habitat, and the Assessment Science Committees.

### **American Eel CITES Appendix III Listing**

The US Fish and Wildlife Service (USFWS) is considering listing American eel as under CITES Appendix III, which would mean any eel or eel product export would need a certification that the product/eel was legally caught and legally purchased before leaving the country. An Appendix III listing is not required by CITES, but is an option countries can choose to use. Trade in an Appendix III species is regulated using CITES export permits (which would be issued by USFWS) and certificates of origin (issued by all other countries). The Commission, with the Association of Fish and Wildlife, sent a letter to USFWS expressing concerns regarding the potential listing. There are two primary concerns about an Appendix III listing. The first is the listing must not have an adverse impact on the managed exports of American eel. Secondly since an Appendix III listing would require the development and implementation of a means of certifying legal acquisition by the competent authorities (the states), and such systems do not currently exist in all jurisdictions, a considerable amount of planning would be required to ensure minimum disruption of trade. The Commission requested USFWS provide the criteria for securing a Legal Acquisition Finding (LAF), which will help the states better understand possible budget and harvest monitoring implications. The Commission also requested confirmation of the process the USFWS would use to remove American eel from Appendix III if future trade data analysis demonstrates there are no significant conservation status concerns associated with exports of American eel. It is the Commission's understanding that the criteria are so restrictive, American eel would never be removed from Appendix III unless listed in Appendix II. The elver fishery, which was worth almost 20 million dollars in 2023 in Maine, is one of the most regulated and monitored fisheries in the country. The Maine elver fishery exports can be tracked back to the harvester through Maine's monitoring program which uses NFC tokens. The Commission is concerned that a listing without clarity of what the Service will require and advanced agreement on the process to receive a LAF, would have a significant negative impact to this highly valuable fishery.

### **H.R. 8705 – Fisheries Data Modernization and Accuracy Act of 2024**

The H.R. 8705, the Fisheries Data Modernization and Accuracy Act of 2024, introduced by Representative Graves of Louisiana, has had one legislative hearing in front of the House Committee on Natural Resources. In this hearing, members generally discussed the purpose of the bill and their support for or against it. The next step in the process is a bill markup in the House Committee on Natural Resources (see Executive Committee Summary earlier in this document for more details).

### **National Fish and Wildlife Foundation Electronic Monitoring and Reporting**

The National Fish and Wildlife Foundation presented that it will award up to \$4.8 million in grants that

catalyze the voluntary implementation of electronic technologies for fisheries catch, effort, and/or compliance monitoring, and improvements to fishery information systems in U.S. fisheries. The Program will advance NOAA's sustainable fisheries goals to partner with fishermen and other stakeholders, state agencies, and Fishery Information Networks to systematically integrate technology into fisheries data collection and observations as well as streamline data management and use for fisheries management. An [RFP](#) has been released and proposals are due by October 2, 2024.

### **Committee Reports**

Staff presented activities of the Atlantic Coastal Fish Habitat Partnership (ACFHP) and Habitat Program. ACFHP has submitted an application for Congressional designation under the ACE Act, and has received \$300,000 from USFWS for FY24 fish habitat restoration projects, including the Maryland Coastal Bays Salt Marsh Restoration Project and engineering work for removal of the Upper E.R. Collins Dam in the Pequest River, NJ. ACFHP also secured approval and top funding tier status by the National Fish Habitat Partnership Board for FY25 projects, including two additional dam removals in the Pequest River, NJ and one oyster reef restoration project in the Matanzas River, FL. In May 2024, ACFHP held an in-person steering committee meeting in Virginia Beach, VA to discuss partner updates, plans for the next FY26 funding cycle, and announce the call for nominations for the 2024 Melissa Laser Habitat Conservation Award. The Policy Board approved the latest issue of the Habitat Committee's Habitat Management Series, which focuses on anthropogenic noise impacts on Atlantic fish and fisheries. The document covers the effects of anthropogenic noise on fish, mitigation strategies, and future research needs.

Staff presented the Commission's stock assessment schedule. The revised schedule now includes 2027 and 2028. The following assessments have been added to the schedule: 2027 – American eel, black sea bass, bluefish, scup, summer flounder, winter flounder, and 2028 – Atlantic sea herring, Jonah crab, and potentially Atlantic menhaden. The following assessments have shifted their delivery dates for a variety of reasons: Atlantic croaker will be presented in the third quarter of 2025, spot will be presented in the third quarter of 2026, and American lobster will be presented in the fourth quarter of 2025. Staff also noted the quarter of the year an assessment will be presented to the board is now listed for the two most recent years of the schedule.

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

### **Motions**

**Move to approve the Habitat Management Series: Anthropogenic Noise Impacts on Atlantic Fish and Fisheries: Implications for Managers and Long-Term Productivity.**

Motion made by Ms. Patterson and seconded by Mr. Clark. Motion carries by consent.



# The Commonwealth of Massachusetts

## Division of Marine Fisheries

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



MAURA T. HEALEY  
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KIMBERLEY DRISCOLL  
Lt. Governor


REBECCA L. TEPPER  
Secretary

THOMAS K. O'SHEA  
Commissioner

DANIEL J. MCKIERNAN  
Director

### MEMORANDUM

**TO:** Marine Fisheries Advisory Commission

**FROM:** Daniel J. McKiernan, Director 

**DATE:** August 14, 2024

**SUBJECT:** Applicability of State Fish Pot Rules in Federal Waters

#### Overview

Over the past several years, I have become aware of more regular conch and fish pot fishing effort in federal waters. As discussed in more detail below, this raises significant concerns regarding entanglement risks, particularly given NOAA Fisheries does not require a permit to use fish pot gear for black sea bass or regulate the number of traps that may be set in federal waters. I am interested in potentially regulating Massachusetts licensed commercial fishers so as to ensure state effort controls (e.g., permitting, trap tags, trap limits, seasons) apply to their use of this gear in the federal zone. I also seek to clarify that the buoy lines affixed to this gear must comply with the Massachusetts Mixed Species Trap/Pot Fishery rules [322 CMR 12.06] when fished in state waters and the Atlantic Large Whale Take Reduction Plan (ALTRWP) rules [50 CFR 229.32] when fished in federal waters. This is necessary to ensure that any potential entanglement that may occur with pot gear set in federal waters is not attributable to the Massachusetts Mixed Species Trap/Pot Fishery.

I wanted to raise this issue with the MFAC to begin public-facing discussions about this issue and how best to address it. These discussions will serve as the foundation for a potential draft regulatory proposal to go out to public hearing this winter for the 2025 fishing season.

#### Discussion

Absent a federal fisheries management plan for channeled whelk, NOAA Fisheries does not permit or manage the whelk fishery or conch pot fishing in federal waters. Accordingly, anyone with an open entry shellfish endorsement in Massachusetts may set conch pot gear in federal waters without any permitting requirement or limitations on the use of pot gear. While federal waters conch pot fishing effort has likely been historically limited because whelk were abundant nearshore, as this fishery has become depleted inshore fishing effort has spilled into the nearby federal zone east of Nantucket, enabled by the lack of state trip limit.

The state's sea bass and scup pot fisheries also present a similar—albeit substantially lesser—challenge. While NOAA Fisheries does not manage fish pot fishing effort in federal waters, commercial fishers hold a federal limited entry scup or black sea bass permit to retain these species in federal waters. Moreover, these species are quota managed and subject to state trip limits, which constrains the extent to which additional gear pot gear in excess of the state pot limits would likely be set in the federal zone; the low ex-vessel value for scup likely also has a limiting effect on pot fishing effort generally. While a commercial fisher is unlikely to fish pots in excess of the 200 black sea bass pot limit when the trip limit is 500 pounds, it is conceivable that extra gear will be set in the federal zone during the fall months when the fish move offshore and DMF takes action to increase the trip limit in response to quota availability.

The potentially uncontrolled proliferation of pot gear in federal waters poses an avoidable risk to endangered right whales and sea turtles. Accordingly, it may be appropriate to clarify that existing state fish pot effort rules apply to Massachusetts licensed commercial fishers regardless of whether they are fishing in state waters or adjacent federal waters. This will continue to allow these commercial fishers to fish in the federal zone while preventing the proliferation of trap fishing effort in the federal waters and thereby managing the resulting entanglement risk.

It is also necessary to address buoy line marking and configuration requirements. These state regulations apply strictly to the Massachusetts Mixed Species Trap/Pot Fishery, which by definition<sup>1</sup>, occurs only within the waters under the jurisdiction of the Commonwealth. This is consistent with the extent of DMF's draft Habitat Conservation Plan and Incidental Take Permit application. Therefore, it would be inappropriate for buoy lines affixed to pot gear set in the federal zone to comply with these state regulations. Rather, any gear set by pot fishers fishing in the federal zone should comply with the federal ALWTRP's rules. Given the geography of this fishery, the applicable federal rules would likely be those for the [Northern Nearshore Trap/Pot Waters](#). Accordingly, buoy lines would have to be rigged with a weak link at the buoy that has a breaking strength of less than 600 pounds and be marked with three one-foot red marks with one mark occurring in the top, middle, and bottom third of the buoy line. While the federal rules do not require weak rope (i.e., breaking strength of 1,700 pounds or less), DMF would strongly encourage the discretionary use of this gear.

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<sup>1</sup> 322 CMR 12.02 defines the Massachusetts Mixed Species Pot/Trap Fishery as meaning, "inclusively the commercial lobster and crab trap, black sea bass pot, scup pot, and whelk pot fisheries occurring within the waters under the jurisdiction of the Commonwealth."





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July 1, 2024

Karen Baker  
Office of Renewable Energy Programs  
Bureau of Ocean Energy Management  
45600 Woodland Road  
Sterling, VA 20166

RE: Docket No. BOEM–2024–0026: Atlantic Wind Lease Sale 11 (ATLW-11) for  
Commercial Leasing for Wind Power Development on the U.S. Gulf of Maine Outer  
Continental Shelf – Proposed Sale Notice

Dear Chief Baker,

The Massachusetts Executive Office of Energy and Environmental Affairs (EEA) respectfully submits the following comments to the Bureau of Ocean Energy Management (BOEM) in response to the above-referenced Proposed Sale Notice (PSN). These comments incorporate input received through conversations with stakeholders and with subject matter experts from my agencies and offices. We look forward to continued engagement with BOEM, stakeholders, our fellow Gulf of Maine States, and other federal agencies regarding this and future lease sales in the Gulf of Maine, and throughout the development of wind energy projects in Gulf of Maine leases.

The development of floating offshore wind in the Gulf of Maine is critical to ensure the

Commonwealth of Massachusetts achieves its carbon emission reduction targets. Massachusetts strongly supports the Biden-Harris Administration's goals to achieve 30 gigawatts (GW) of offshore wind by 2030 and 15 GW from floating offshore wind by 2035 while reducing costs of floating offshore wind. These national goals align with the Commonwealth's requirement of achieving net-zero carbon emissions by 2050, a target which is expected to require at least 23 GW of energy from offshore wind, including 10 GW or more from the Gulf of Maine. Meeting these state and national decarbonization milestones on time will enable us to minimize the adverse impacts we are already witnessing in our ocean and coastal ecosystems, including warming ocean waters, sea level rise, and increased frequency and intensity of coastal storms.

Siting offshore wind within the already-busy Gulf of Maine is a complex challenge that requires careful analysis of numerous factors and engagement with an array of stakeholders. Existing ocean habitats, resources, and uses in the Gulf of Maine, including commercial and for-hire fisheries and the economic value they provide to the Commonwealth, are critically important to our economy, history, and culture. The planning and siting process conducted by BOEM for the Gulf of Maine has been robust and informed by best available data and significant stakeholder engagement. With spatial suitability models developed by the National Oceanic and Atmospheric Administration's (NOAA) National Centers for Coastal Ocean Science (NCCOS) and a transparent and iterative review process for applying and interpreting the model outputs, BOEM has taken into consideration the many marine uses and environmental concerns in the region. In siting the wind energy leases, and in developing this PSN, BOEM has responded to concerns raised by Massachusetts on behalf of its stakeholders, including comments in our previous letters of October 3, 2022, June 12, 2023, and November 20, 2023.

### *Bidding Credits*

The Commonwealth generally supports the use of bidding credits in this lease sale to facilitate growth and stability of the offshore wind industry and to mitigate impacts to Gulf of Maine fisheries. As stated in our previous comments of November 20, 2023, in response to the release of the draft Wind Energy Area, we also recommend bidding credits for supporting environmental research for wildlife and habitats in the Gulf of Maine. Recognizing that BOEM will allocate at most 25% non-monetary factors in this lease sale, we request BOEM keep the existing Fisheries Compensatory Mitigation bid credit (with some adjustments as discussed below) at the same or similar percentage as it currently carries (12.5%), but split the remaining available percentage between the workforce/supply chain credit described in the PSN and a new credit for contributions to research on the impacts of offshore wind on Gulf of Maine wildlife and habitats. Awarding credit for financial contributions to research to better understand the potential impacts of offshore wind development on wildlife and habitats, including habitats that support commercial fisheries and critically endangered species, would be consistent with the power purchase agreement bid requirements in Massachusetts and other states. Funds derived from a bid credit for wildlife and habitat research and monitoring should be administered by the Regional Wildlife Science Collaborative for Offshore Wind.

Massachusetts is one of eleven states involved in the establishment of a regional fund that

would administer financial compensation for fisheries economic impacts resulting from offshore wind development off the Atlantic Coast. As such, we support the Bidding Credit for Fisheries Compensatory Mitigation for commercial and for-hire recreational fisheries that would be directed towards the regional fund. Also, we are encouraged that the proposed credit is higher in this PSN compared to previous lease sales in other regions. The Fisheries Compensatory Mitigation bid credit is especially critical in the Gulf of Maine given the value of the groundfish fishery in the area and the potential for exclusion of mobile gear from floating wind arrays. The fishing industry has indicated that demand for fisheries compensation in the Gulf of Maine over the course of these projects from planning, through construction, operations, and decommissioning will likely exceed the funds generated through a 12.5% bidding credit. However, the bid credit monies could be directed to near-term fisheries impacts related to those activities specifically authorized by this lease sale (such as site characterization surveys and site assessment), leaving the longer-term impacts from construction, operations, and decommissioning to be assessed and mitigated as part of BOEM's National Environmental Policy Act (NEPA) review of individual project COPs and/or state level reviews under the Coastal Zone Management Act. In addition to monies being put towards direct compensation, bid credit monies could be used to support coexistence between offshore wind and the fishing and seafood industries, for example through support of fisheries resource enhancement programs, innovation and research funds, or shoreside community funds.

For the Final Sale Notice, BOEM should consider adjustments to the implementation of the Fisheries Compensatory Mitigation credit and the Workforce Training credit so that they may better serve members of the fishing industry. In the southern New England lease areas off Massachusetts and Rhode Island to date, fisheries direct compensation is applicable and payable only to the owner of a fishing vessel that fished the area during the eligible baseline period defined by developers. If a permit is transferred between vessel owners, payments cease. BOEM should encourage developers through lease stipulations and Record of Decision conditions to allow fishing permit transfers among vessels to be included in direct compensation programs. Additionally, BOEM should consider making fisheries compensation available to vessels transiting through lease areas in addition to current compensation requirements listed in the PSN (page 35233) such as gear loss or damage and lost fishing access within the Gulf of Maine Lease Areas. As opposed to fixed foundation turbines in the southern New England WEAs, floating wind turbines will move within a watch circle when installed. This characteristic of floating arrays and the related safety concerns may exclude fishing vessels navigating through wind lease areas to a greater extent than for fixed foundation arrays. The Bidding Credit for Workforce Training should support opportunities for training within and around floating arrays, such as crew on scout vessels, for commercial fishing industry members to gain unique and transferable on-the-water skillsets.

### *Fisheries Compensatory Mitigation*

While not the subject of this PSN, we recommend that BOEM review related policies that may need to be updated given this and other recent PSNs and renewable energy lease sales in areas where depths are expected to necessitate floating wind technology. Specifically, BOEM should update the "Guidelines for Mitigation Impacts to Commercial and Recreational Fisheries on the Outer Continental Shelf Pursuant to 30 CFR part 585" for wind lease areas to include the unique

characteristics and conditions of floating offshore wind technology, such as for the Gulf of Maine, particularly with respect to the payment structure during wind farm operation. The text currently written in the Operations section of the draft guidance for fisheries mitigation reads, “Generally, and as a minimum standard it should be assumed that there is an adjustment period for fisheries post construction. BOEM recommends that, at minimum, lessees consider the following payment structure be available for claimants: 100 percent of revenue exposure for the first year after construction, 80 percent of revenue exposure 2 years after construction, 70 percent of revenue exposure 3 years after construction, 60 percent after four years, and 50 percent after five years post construction. Compensatory mitigation beyond 5 years post-construction may be necessary and should be evaluated based on the activities proposed in the COP.” However, the adjustment period for the commercial fisheries in the Gulf of Maine will likely differ significantly than that within fixed foundation arrays due to the floating technology, anchor types, spacing among turbines, and arrangement of moorings/cables in the water column that may preclude fishing operations. Therefore, we recommend that BOEM, in consultation with NOAA National Marine Fisheries Service (NMFS), increase both the duration of assumed operational impacts and percentage of revenue exposure per year post-construction in an updated draft guidance that accounts for floating wind technology. Pre- and post- construction monitoring of fishing activity within the lease areas should be gathered to inform the update to BOEM’s Guidelines for Mitigation Impacts.

Potential impacts to commercial and for-hire fisheries, and the need for additional compensation, will vary between projects and according to their design, layout, and location. During its NEPA review, BOEM should consult with NMFS to determine the value of fisheries within each lease area and utilize their new socioeconomic tool<sup>1</sup> in wind lease areas to evaluate landings and revenue values according to lease areas, species type, gear type and port/state of landing. We recommend that BOEM consider enabling the fisheries communities to have more input on how fisheries compensation should be disbursed given some concern that monies used in previous compensation programs do not always address the fisheries (and fishing industry participants) most impacted by offshore wind development. Allowing the fishing industry to have more input regarding fisheries compensation could ameliorate impacts for those fisheries most impacted by offshore wind development and help inform the Eleven States Initiative.

### *Benthic Resource Protection*

The Commonwealth supports a robust planning process to identify cable routes through federal waters that will be useful to the offshore wind industry while also minimizing impacts to existing resources and uses. The Massachusetts Office of Coastal Zone Management is working with the Stellwagen Bank National Marine Sanctuary (SBNMS) and NCCOS to identify potential cable routes through state waters and federal waters including those in SBNMS that minimize impacts to natural and cultural resources. BOEM should require lessees to consult with this group and consider using the routes identified through this effort before proposing cable routes in a Construction and Operations Plan (COP).

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<sup>1</sup> <https://www.fisheries.noaa.gov/resource/data/socioeconomic-impacts-atlantic-offshore-wind-development>

The PSN includes an advisory that deep sea corals, sponges, and hardbottom habitat have been identified in the Gulf of Maine, and that these areas may be subject to protections during activities authorized by the lease or by any future COP. The Commonwealth supports restrictions that avoid and minimize impacts to deep-sea corals, sponges, and biologically sensitive benthic habitat. BOEM should include a restriction via lease stipulation on anchoring, sampling, or other bottom contact associated with survey vessels and other site characterization activities on or within a defined distance from hardbottom habitat, coral areas, fish spawning areas, and other sensitive areas as identified through consultation with NOAA or other relevant agencies. Given the paucity of data on the Gulf of Maine Seafloor, if anchoring, sampling, or otherwise making contact with the seabed will occur in areas without recent bathymetric or other surveys, those surveys should be conducted first to avoid impacts to protected habitats that have not yet been identified. The specific distance to keep from protected habitats during site assessment activities should be at least as great as that in similar stipulations on recent BOEM leases elsewhere. Likewise, any future COP approvals should include a requirement for a similar setback distance for construction-related anchoring and disturbance, especially any permanently installed anchor lines that may continuously disturb the seafloor such as catenary anchor lines on floating turbine platforms. When turbines and their foundations (whether floating or fixed) are installed, required setbacks from hard bottom and protected habitats should be considered during the micro-siting process and required by the COP terms and conditions.

### ***Responses to BOEM Questions for Stakeholders***

#### *Number, Size, Orientation, and Location of the Proposed Lease Areas*

The eight proposed lease areas include five that are partially or entirely located within 75 miles of shore. Since wind farm construction costs increase with distance, this arrangement will support the early phases of commercial scale floating offshore wind by reducing costs and barriers to entry as the industry becomes established. The eight lease areas are approximately equal in size and are arranged such that two are closest to possible grid interconnection points in Maine, and six are likely closer to interconnection points in Massachusetts. The geographical spread of the leases approximately aligns with the spread of expected demand for the energy they will produce, with Massachusetts requiring at least 10 GW of offshore wind power from the Gulf of Maine, and Maine requiring 3 GW.

The initial auction in the Gulf of Maine should include sufficient leased area to facilitate the development of at least 13 GW of offshore wind to support the combined offshore wind targets for Maine and Massachusetts, with additional area made available in subsequent auctions. The currently proposed eight leases will enable states to meet their requirements, and all should be offered for auction in 2024. While we expect and encourage BOEM to lease all eight areas, if for any reason the initial auction does not include them all, then those closest to shore (e.g., OCS-A 0562, OCS-A 0563, OCS-A 0564, OSC-A 0567, and/or OSC-A 0568) should be prioritized for this lease sale, with the rest included in a subsequent Gulf of Maine lease sale currently scheduled for 2028. With this PSN, BOEM has not offered all available area within the final WEA, with the expectation that some of the remaining area may be included in additional lease areas not yet

delineated as part of that future lease sale. Leasing in phases in this way will allow for needed collection and analysis of data on fisheries and habitat impacts from floating offshore wind development to occur in this first set of leases; this additional data may inform future refinements to lease areas, the overall WEA, or project designs for areas leased in 2028 or beyond.

The proposed lease areas avoid Rodgers Swell and Mayo Swell. These areas should not be leased now or in future auctions. We encourage BOEM to continue to engage stakeholders to ensure that all such seabed features important to fisherman are avoided in any other leasing within the current Wind Energy Area (WEA) or elsewhere within the Gulf of Maine. If BOEM eliminates or reduces the size of any lease areas or of the final WEA, we recommend that development be excluded from the top 3 quantiles of the Vessel Monitoring System (VMS) groundfish activity provided through the Northeast Seafood Coalition, especially near or at important fishing features including Rodgers Swell and Davis Swell. BOEM should also consider a 1.5-2 nautical mile (nm) setback along the eastern edge of Lease Area OCS-A 0564 with no subsurface or surface offshore wind infrastructure in that area due to the infrequent trips but high-volume landings of groundfish species (e.g., Acadian Redfish) there. The gaps between leases and the restrictions on development within the leases that together create transit corridors should also be retained in this and any future leases sales in the area.

The proposed lease stipulation “Surface Structure Layout and Orientation” in Addendum C would require lessees of lease areas that abut without a transit corridor gap to design a structure layout with two common lines of orientation across the adjacent leases, and if the lessees cannot agree on the same layout, each must have a 1 nm setback from the lease boundary. We recommend that BOEM clarify the definition of common orientation and layout given that offshore wind infrastructure may differ between abutting lease areas. BOEM should consider factors that may subtly change the layout of turbine foundations between abutting leases, such as foundation types, watch circle radii, mooring types and designs, and anchor types, that could change the effective spacing and therefore impact user navigability and operations. We agree that if lessees do not adhere to the same orientation and layout of wind turbine generators as part of the “good neighbor” stipulation, that a setback should be in place as a lease stipulation. To keep the spacing consistent with other transit corridors in the PSN (2.5 nm), we recommend the setback be modified from 1 nm to 1.25 nm if the same orientation among neighboring lease areas is not adopted.

### *Considerations for delineation of the proposed Lease Areas*

As discussed above, the delineation of these lease areas will facilitate interconnections with both Massachusetts and Maine, and their orientation and distance from shore will allow multiple wind projects to potentially use alternating current (AC) rather than direct current (DC) high voltage (HV) transmission cables. HVAC will likely be preferred for the initial floating wind installations due to relative costs and the status of currently available technology. BOEM should continue to engage stakeholders in the offshore wind industry and supply chain to determine optimal delineations and orientations for maximizing energy production given the prevailing winds, meteorological conditions, ocean depths, and other characteristics of the Gulf of Maine.

### *Existing uses and how they may be affected by the development of the proposed Lease Areas*

Numerous federal and state listed threatened and endangered species are present in the Gulf of Maine. Areas of important habitat for these and other species have been considered while siting of Gulf of Maine WEA and proposed lease areas, and BOEM has adopted many stakeholder and expert recommendations through this process. After leasing, BOEM and lessees should work with states and other local and regional organizations to develop appropriate minimization and mitigation strategies to offset impacts to protected species that may occur as a result of surveys, construction, and operations. Minimization and mitigation measures will be needed because while many important habitat areas have been removed from consideration for leasing in this proposed sale, some protected habitat and species, including the North Atlantic Right Whale, will likely have a presence in any energy lease that is sited in the Gulf of Maine. In addition, offshore wind poses a unique risk to avifauna because collision risk is difficult to mitigate, and because data on key bird parameters such as flight heights and migration paths are lacking and thus could not be included in the spatial suitability model. BOEM should encourage lessees to conduct or support research that will fill these data gaps and facilitate better minimization and mitigation in the future. In addition to the proposed lease stipulation for baseline monitoring, BOEM should also incentivize other types of habitat and wildlife research (i.e., going beyond required monitoring to fill data gaps) with the new bidding credit discussed above.

In a June 12, 2023, letter to BOEM, the Commonwealth identified an area of importance to the Multispecies Groundfish fishery in the northern portion of Wilkinson Basin and requested exclusion of this area from consideration for leasing. In a subsequent November 20, 2023 letter, the Commonwealth requested deferral of leasing for all areas in the top 10% of revenue for Multispecies Groundfish in the Planning Area (according to Vessel Trip Reports, years 2008-2020) and/or in the top 2 quantiles of fishing activity of that fishery within the Call Area (according to VMS in years 2009-2021 at 1 km<sup>2</sup> resolution, speed filtered to 4 knots or less) until more information on coexistence could be gained and technology developed. The delineation of the final WEA and subsequent designation of lease areas was responsive to our concerns about potential effects on the Massachusetts groundfish fleet. Just 3% of fishing revenue for all target species, and approximately 5% of revenue from the Multispecies Groundfish fishery specifically, generated in the original Gulf of Maine planning area are from the proposed lease areas.

While approximately 95% of the groundfish revenue in the Gulf of Maine has been avoided in the proposed lease areas, we recommend that BOEM conduct a portside analysis on the groundfish fishery, particularly of day-boats and vessel owners with few vessels in the South Region leases. Many small vessel owners actively fish closer to shore and leasing in these lease areas could disproportionately exclude operations of local fleets in the Gulf of Maine if they are not able to fish safely within the floating arrays. BOEM should consider economic viability of both small and large groundfish vessels to maintain fleet diversity and should identify which port economies will be most at risk for potential shoreside economic losses from various floating offshore wind designs and layouts. Over half of the Massachusetts small ports (i.e., excluding Boston, Gloucester, and New Bedford) had at least 50% of their respective groundfish vessels fishing within the current proposed lease sales based on Vessel Monitoring System (VMS) data

from 2008-2022. In addition, 32% of all vessels that land fish in the largest Massachusetts groundfish landing ports (Boston, Scituate, Chatham, Gloucester, and New Bedford) have fished and/or transited within the proposed lease areas based on groundfish VMS data from 2018-2022. Based on the Framework 66 report from the New England Fishery Management Council Northeast Multispecies Fishery Management Plan,<sup>2</sup> this could equate to impacting average annual Massachusetts groundfish revenues of \$23,780,000 over the same period (2018-2022) from the ports of Boston, Scituate, Chatham, New Bedford, and Gloucester. However, we caution this estimated monetary value does not include an exact amount of groundfish landed from the proposed lease areas because it includes vessels that at least fished once within the proposed lease areas while also fishing outside of the lease areas from 2018 to 2022.

### *Baseline Monitoring*

As described in the PSN, BOEM is considering a lease stipulation that “would require lessees to conduct baseline data collection activities for endangered and threatened marine mammals and their habitats in support of their construction and operations plans.” Massachusetts strongly supports a lease stipulation to require baseline data collection on potentially impacted wildlife and habitats. BOEM should expand the proposed stipulation beyond marine mammals to require baseline data collection for other vulnerable species including endangered and threatened birds. Data collection on state- as well as federally-listed threatened and endangered species, and also species of concern, should be covered by this stipulation. All wildlife and habitat data should be shared following best practices including the guidance of the Regional Wildlife Science Collaborative (RWSC). As a part of any lease stipulation to collect baseline data, BOEM should require developers to coordinate (e.g., via RWSC) to ensure compatibility of that data between lease areas to facilitate a regional understanding of the Gulf of Maine. While this stipulation only covers baseline monitoring, such monitoring programs must be designed with long-term monitoring through the life of the project in mind, since additional monitoring is likely to be required by permits and consultations associated with COP approval. Therefore, baseline data collection that will continue should be collected in a way that will be compatible with the methods that will be available during construction and operations.

Wildlife surveys should be multi-year and multi-season to account for inter- and intra-annual variability. For mammals, surveys should include aerial surveys (via aircraft or drone with a proven technology), as well as Passive Acoustic Monitoring (PAM) to inform a baseline understanding of marine mammal usage of the Gulf of Maine. Oceanographic surveys of prey distribution and abundance should also be monitored during all phases of wind energy development in lease areas and proposed cable corridors to determine how marine mammals may change their distributions and migratory pathways from wind energy infrastructure. Aircraft survey design should mirror that from documents related to the Southern New England wind energy area Megafauna Surveys. Continuous archival PAM and acoustic telemetry monitoring should be conducted in the proposed lease areas to collect baseline information on the presence, distribution,

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<sup>2</sup> NEFMC, 2024. Northeast Multispecies Fishery Management Plan Framework Adjustment 66. <https://www.nefmc.org/library/northeast-multispecies-groundfish-framework-66>



and seasonality of North Atlantic right whales and other marine Megafauna. Archival and real-time PAM should be used to collect baseline information on the presence, distribution, and seasonality of marine mammals, endangered species, and especially along anticipated transit routes. Archival PAM should also be used to establish baseline noise levels in the proposed lease areas and surrounding waters.

Baseline habitat data collection should include studies of key prey species (plankton, etc.) of threatened and endangered species, meteorological/oceanographic monitoring, and surveys for hard bottom areas, coral areas, and other key habitats. BOEM should require sufficient high-resolution geophysical surveys (including sub-bottom profiling) be completed during the initial site assessment phase to allow for effective avoidance and minimization of seafloor disturbance through informed siting of infrastructure including export cables outside of the lease areas. The existing bathymetry within the leases is over 60 years old and other data necessary for mapping seafloor habitats is nonexistent. Therefore, BOEM should work with other federal agencies, state partners, and eNGOs to fund the data collection necessary to provide baseline data within the lease areas.

Environmental DNA (eDNA) monitoring is recommended to detect presence of species in the marine environment because it is a non-invasive sampling technique that can be used at fine temporal and spatial scales and can be used to detect a multitude of wildlife and fish species from one water sample. eDNA is already being used to detect mammals, fish, invertebrates, and birds in the southern New England wind energy areas and the required technology and methodology (e.g., appropriately specific PCR primers) are available for many marine species. Given that floating offshore wind will likely preclude conventional survey tools such as bottom trawling from operating within lease areas, eDNA could provide a feasible alternative method for information on species presence for a variety of different species, including those that are otherwise difficult to detect, and should be initiated in the baseline period before structures are built. Sampling for eDNA should occur on a seasonal basis and across the water column (surface, midwater, bottom) to capture the presence/absence of pelagic and demersal species.

In addition to these baseline wildlife surveys, BOEM should encourage lessees to conduct or support research into key uncertainties associated with floating offshore wind impacts on fisheries, habitat, and wildlife. For example, floating offshore wind has a greater potential of exposing pelagic species to electromagnetic fields (EMF) vertically in the water column given that dynamic cabling will likely be used and will not be sheathed in steel foundations like in fixed arrays.<sup>3</sup> BOEM should require developers to estimate EMF impacts associated with their design when they submit their COP, and then measure EMF and monitor its effects on EMF-sensitive species throughout construction and operations. Monitoring should include studies on EMF impacts to behaviors and movements through methods such as acoustic telemetry. BOEM should also identify pelagic species that may be EMF sensitive in floating offshore wind arrays.

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<sup>3</sup> Hutchison, Z.L., Secor, D.H. and Gill, A.B., 2020. The interaction between resource species and electromagnetic fields associated with electricity production by offshore wind farms. *Oceanography*, 33(4), pp.96-107.

A second key uncertainty for floating wind is the interactions of threatened and endangered species with floating wind infrastructure including the risk of secondary entanglement. BOEM should consider requiring subsea camera monitoring beneath floating wind turbine foundations and routine video monitoring along the mooring lines as a lease stipulation or as a condition of COP approval. Video monitoring could be used to examine species presence/absence and behavioral interactions of endangered/threatened species with floating wind infrastructure. Routine video monitoring and side scan sonar (i.e., seasonally) along the mooring and inter-array cables is also recommended to examine the frequency of snagged fishing gear. If left unchecked, snagged and derelict fishing gear in floating wind arrays could increase the risk of secondary entanglements to North Atlantic Right Whales and other marine mammal and fish species.

### *Corridors between Leases*

The arrangement of the leases as proposed, combined with the undevelopable areas within lease block aliquots, creates 2.5 nm transit corridors between leases that facilitate transit by fisherman and other mariners. The transit corridors, including the gaps between leases plus the undevelopable areas within lease block aliquots, facilitate transit by fishing vessels and other mariners. BOEM has been responsive to requests to create these corridors. The 2.5 nm transit corridors mimic those established in the New York Bight lease areas and represent a strong starting point. As the Gulf of Maine lease areas are planned for development, additional data and maritime engagement will inform the final wind turbine array spacing and orientation including the final transit corridor widths.

To aid mariner navigation and safety between lease areas in transit corridors, BOEM should require that developers install AIS transponders and cell phone towers on peripheral turbines and/or buoys that demarcate lease boundaries. Navigation remains a major concern for mariners and BOEM should encourage all developers to maximize navigational aides to mariners and fishers to bolster safety on the water with offshore wind infrastructure. Cell phone towers can also enable real-time relay of data on real-time PAM networks.

### *Limits on the Number of Lease Areas per Bidder*

BOEM is proposing to allow each bidder in the auction to bid for at most two of the eight leases. BOEM has also proposed two schemes to disperse each bidder's allotment of two geographically: in the first, bidders would be limited to two leases overall, with at most one of the two leases in the "North" part of the WEA. In the alternative scheme, bidders would still be limited to two leases overall, with at most one in each of three areas: "North", "East" and "South". The intended effect of the overall limit, and the geographic region limits, is to ensure states will have a competitive response to power purchase agreement solicitations by preventing any one company from having a controlling number of leases in an area. The Commonwealth agrees there is the benefit to ratepayers, the region, and the public created by fostering competition among bidders in state renewable energy procurements. We therefore support the limit of two lease areas per bidder in this lease auction. We also support the original lease area scheme with the "North" and "South" regions.

Thank you for the opportunity to provide comments on the PSN for the first renewable energy auction in the Gulf of Maine. The Commonwealth appreciates BOEM for its expertise in siting energy on the outer continental shelf and working with the interested agencies and entities through the Gulf of Maine Task Force. My agencies and offices look forward to continuing to work with BOEM, key stakeholders like our commercial fishing industry, other federal agencies, and the states of Maine and New Hampshire as the planning process for siting offshore wind in the Gulf of Maine continues.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Tepper', with a long horizontal stroke extending to the right.

Rebecca Tepper  
Secretary



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
GREATER ATLANTIC REGIONAL FISHERIES OFFICE  
55 Great Republic Drive  
Gloucester, MA 01930

July 17, 2024

Mr. Eric Reid, Chairman  
New England Fishery Management Council  
50 Water Street, Mill 2  
Newburyport, Massachusetts 01950

Dear Eric:

We have partially approved Framework Adjustment 12 to the Northeast Skate Complex Fishery Management Plan. As recommended by the New England Fishery Management Council, the final rule implements reduced catch specifications for fishing years 2024 and projected specifications for 2025, increases possession limits in the wing fishery, removes the barndoor skate possession restrictions for the wing fishery, and removes the smooth skate possession restrictions for the wing and bait fisheries. However, as explained below, we did not approve the recommendation to remove the barndoor skate possession restriction for the bait fishery.

After publication of the proposed rule, we received corrected information regarding the amount of barndoor skate discarded in the skate bait fishery for the years analyzed in the Environmental Assessment (i.e., 2018-2022). The corrected data indicate that the amount of barndoor skate under 23 inches (the maximum size for the bait fishery) discarded on trips under a Skate Bait Letter of Authorization was substantially higher than the amount considered by the New England Fishery Management Council when recommending the removal of the barndoor skate possession restriction for both the bait and wing fisheries. Barndoor skates are considered sexually mature at 42.5 inches for males and 45.8 inches for females. Therefore, allowing barndoor skates under 23 inches to be landed in the bait fishery would increase mortality of juvenile barndoor skate if these discards were converted to landings. Given the potential increase in juvenile barndoor skate mortality, additional analysis is required before determining whether the removal of the barndoor skate possession restriction is supported for the bait fishery. The Council may reconsider this measure in a future action following a review of the updated discard data and an evaluation of the potential impacts on juvenile barndoor skates.

This action is intended to maintain healthy skate stocks while increasing flexibility and economic opportunities across the skate fishery and allowing the fishery to better achieve optimum yield. The final rule implementing the approved measures published and became effective on July 17, 2024. If you have questions about any of the measures in Framework 12, please contact Laura Deighan in our Sustainable Fisheries Division at (978) 281-9184.

Sincerely,

Michael Pentony  
Regional Administrator

cc: Cate O'Keefe, Executive Director, New England Fishery Management Council

