



**MARINE FISHERIES ADVISORY COMMISSION  
BUSINESS MEETING AGENDA**

**8:00AM**

**March 10, 2022**

**Via Zoom**

**Link: <https://bit.ly/3CeyK8K>**

**Dial-In: 1-929-205-6099**

**Webinar ID: 828 9516 4342**

1. Introductions and Announcements (8:00 – 8:05)
2. Review and Approval of the January 21, 2022 Draft Business Meeting Minutes (8:05 – 8:15)
3. Comments (8:15 – 8:30)
  - a. Chairman
  - b. Commissioner
  - c. Law Enforcement
  - d. Director
4. Emergency Regulations to Set 2022 Recreational Fishing Limits (8:30 – 9:30)
  - a. Black Sea Bass, Summer Flounder, and Scup
  - b. Gulf of Maine Cod and Haddock
  - c. George's Bank Cod
5. Consultation on Residency Issues Regarding Student Lobster Permit (9:30 – 10:00)
6. Discussion Items (10:00 – 11:30)
  - a. Protected Species Update
  - b. Upcoming Public Hearing on Quota Managed Species
  - c. Summary of March 1, 2022 Shellfish Advisory Panel Meeting
  - d. Updates Concerning the Atlantic States Marine Fisheries Commission
  - e. Updates Concerning Federal Fisheries Management
7. Other Business (11:30 – 11:45)
  - a. Commission Member Comments
  - b. Public Comment
8. Adjourn (11:45)

**Future Meeting Dates**

**April 7, 2022**

**Location TBD**

**May 12, 2022**

**Location TBD**

**June 9, 2022**

**Location TBD**

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

## **MARINE FISHERIES ADVISORY COMMISSION**

**January 21, 2022**

**Held Virtually via Zoom**

### **In attendance:**

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

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

*Department of Fish and Game:* Ron Amidon, Commissioner

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

*Members of the Public:* Katie Almeida; Lizzie Roche; Andrew Kolek; Craig P; Emerson Hasbrouck; Tom McShane; Michael Moore; Tom Smith; Peter Kaizer; Beth Casoni; Eric Apjohn; Colleen Coogan; Heather Haggerty; Erica Fuller; Lori Caron; Kathleen Collins; Eric Matzen; Philip Coates; John Moran; Leah Baumwell; Henry Milliken; Scott Swicker; and Manuela Barrett

## **INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane called the January 21, 2021 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

### **REVIEW AND APPROVAL OF JANUARY 21, 2022 BUSINESS MEETING AGENDA**

There were no amendments made to the January 21, 2022 business meeting agenda.

**Chairman Kane asked for a motion to approve the draft January 21, 2022 business meeting agenda. Bill Doyle made a motion to approve the draft agenda. The motion was seconded by Sooky Sawyer. The January 21, 2022 MFAC business meeting agenda was approved by unanimous consent.**

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

Kalil Boghdan requested a minor modification to page 8 of the minutes; he asked that the word ‘from’ be changed to ‘similar to’. There were no further amendments made to the draft business meeting minutes.

**Chairman Kane asked for a motion to approve the December 2, 2021 MFAC business meeting minutes. Kalil Boghdan made motion to approve the December 2, 2021 business meeting minutes as amended. Shelley Edmundson seconded the motion. The motion was approved by unanimous consent.**

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

Chairman Kane thanked the MFAC members who attended the recent DMF public hearings. The Chairman reminded MFAC members to complete their ethics training and provide DMF with updated resumes if they were seeking reappointment.

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

Commissioner Amidon thanked Jared Silva for his assistance in organizing the MFAC reappointment process and expected reappointments would be completed by the spring. The Commissioner also commended Massachusetts Environmental Police (MEP) for their work to assist a vessel sinking off Chatham.

#### **LAW ENFORCEMENT COMMENTS**

Lt. Matt Bass handled the comments for the MEP. He supported the recent legislative action to rescind the statutory prohibition on setting and fishing lobster trawls in Gosnold waters. DMF and MEP were working with industry to address issues regarding the shucking of sea scallop in state waters. MEP had been involved with gear removal in Cape Cod Bay and were enforcing duck hunting season.

On the subject of staffing, one new hire had completed the Police Academy and another new hire was in the process of completing the work. MEP is looking to hire three to four individuals to backfill recent departures. Lt. Bass anticipated there may be another group of officers hired this upcoming fiscal year; Captain Clayton confirmed MEP would be able to hire 10 additional officers.

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

Director McKiernan started his comments by informing the MFAC the new striped bass conservation license plate were being issued. He provided some brief background on license plate and noted he would be appointing a five-member panel to distribute revenues generated.

On the subject of permitting, the annual permitting process was delayed. As a result, the permit 2021 permit was extended into 2022.

DMF's Shellfish Program was working with the Massachusetts Shellfish Officer's Association to transition the bi-annual shellfish constable training to an online format. The training will run for three weeks starting in the beginning of March.

DMF held two public hearings on January 5 and 6 to address commercial fishing regulations. The MFAC was scheduled to vote on final regulations on these matters today. DMF also held a public meeting to take comment on allowing a ropeless fishing project to occur this winter during the trap gear closure.

Lastly, Dan discussed the rescission of the law prohibiting lobster trap trawls in Gosnold waters. DMF intended to announce this in the coming week. He was hopeful this action would resolve certain enforcement issues and enable the agency to more effectively address protected species issues. Sooky Sawyer supported this action.

## **ACTION ITEMS**

### New Trap Gear Buoy Line Requirements

Bob Glenn provided background information on the current buoy line marking rules and explained the need for the new trap gear buoy line requirements. He also highlighted the inconsistencies between state and federal buoy line marking rules that the recommended regulations sought to resolve.

Bob stated DMF was recommending: (1) all MA commercial lobster and crab trap fishermen fishing in federal waters have a green mark measuring at least 1' within 1' of all Massachusetts-specific red marks in the buoy line; (2) prohibit all Massachusetts commercial trap fishermen from fishing buoy lines with marks other than the prescribed marks; (3) require all federal green marks be removed from the buoy line when set in state waters; and (4) extend the state waters buoy line marking rules to apply to all commercial trap gear fisheries.

Sooky Sawyer asked for clarification on what constituted a solid mark and a non-solid mark. Bob Glenn stated paint, tape, a heat shrink tube, or a solid piece of red rope spliced or tucked into the buoy line would be acceptable. Weak contrivances such as a splice of red or candy cane weak rope may also double as a solid red mark. Tracers do not constitute a solid red mark but are sufficient to constitute a non-solid mark. Therefore, South Shore sleeves with a red tracer in them could double as a non-solid mark.

Sooky Sawyer asked about using a rope floating freely off the buoy line tucked at one end. Bob stated it would need to be tucked at both ends. Similar to 2021, DMF would be holding outreach events in the winter and the spring to educate fishermen on gear configuration and marking. DMF would also ontrivances and weak rope available to fishermen. .

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

### Gillnet Closure to Protect Right Whales

Dan McKiernan provided the MFAC with a history of the existing gillnet closure in Cape Cod Bay to protect right whales. For 2022 (and beyond), he recommended the MFAC vote in favor of extending this closure to all state waters. This action would further protect right whales, particularly given the co-occurrence of the gillnet fishery and right whales in Massachusetts Bay in April and May.

Lou Williams understood the need to expand the closure but was concerned about the lack of gillnet and groundfish fishing opportunities in state waters. He advocated for DMF to roll back the May groundfish closure to 42°30' N latitude, which would open waters between Boston and Marblehead.

Jared Silva and Director McKiernan discussed procedure. They concluded DMF could not currently take action on the May closure because it had not been proposed at public hearing and comment was not taken on such an action. If the MFAC wanted DMF to move this forward, DMF would analyze the action and then potentially take it out to rule making. This could take up to six months, and as such, would not impact fishing in May of 2022. Jared added that DMF previously determined to maintain the southern boundary for the May groundfish closure at 42°20' N latitude due to spawning cod concerns.

Lou pressed DMF to consider more timely options to provide access to the state waters groundfish fishery beyond increasing trip limits. He noted the fishery is effectively closed from October through May due to groundfish and protected species closures. Lou advocated DMF use its emergency regulatory authority or develop a pilot program.

Bill Amaru stated he supported the Director's recommendation. However, if there were opportunities to allow additional groundfish fishing effort in state-waters, he expected DMF and the MFAC would consider pursuing them.

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

### Commercial Groundfish Trip Limits and Spatiotemporal Closures

Jared Silva provided the MFAC with background on existing groundfish closures in state waters. These closures include winter flounder and cod spawning closures and seasonal groundfish mortality closures. Jared went on to summarize the findings from the IBS surveys, which detail when and where spawning cod were observed in state waters.

Jared then provided the Director's recommendation to the MFAC. This recommendation was bifurcated and multi-faceted. First, DMF sought to adopt a April 15 – April 30 commercial groundfish closure in state waters between Plymouth (42°00'N) and the MA/NH maritime border west of 70°30'W to protect spawning cod. This closure would

apply to all fishing gears capable of catching groundfish other than shellfish dredges. Then, should the MFAC approve the late-April cod spawning closure, DMF would further recommend three additional regulatory adjustments. This included: (1) rescinding the April 1 – April 30 conditional commercial groundfish closure in those state waters between Plymouth (42°00'N) and Marblehead (42°30'N) west of 70°30'W; (2) increasing the commercial trip limits for Gulf of Maine (GOM) cod from 200 pounds to 400 pounds; and (3) increasing GOM yellowtail flounder from 250 pounds to 350 pounds. DMF had proposed rescinding the May 15 – October 31 gillnet closure off Outer Boston Harbor but was not recommending any action to effect this existing regulation.

Lou Williams did not support the closure. He stated it would primarily impact trawlers and these vessels do not catch large quantities of cod in April. This would effectively limit spring-time groundfish fishing opportunities in Massachusetts Bay until June without providing much additional spawning protection for cod.

Bill Amaru asked if this closure would apply to a hook and line fishermen in Cape Cod Bay. Jared confirmed commercial hook fishermen would also be affected by the closure. Bill agreed with Lou's comments and stated he did not support the recommendation.

**Chairman Kane asked for a motion to approve the recommendation from the Director. Mike Pierdinock made a motion to approve the first recommendation from the Director. Shelley Edmundson seconded the motion. A roll call vote was taken, and the motion was passed 5-3 with Bill Doyle, Bill Amaru, and Lou Williams voting in opposition.**

With the late-April cod spawning closure being approved, the MFAC moved onto review the additional contingent recommendations.

Lou Williams sought clarification on these contingent recommendations. Jared Silva explained the conditional commercial groundfish closure would be lifted, opening the first half of April to commercial groundfish fishing, and the trip limits for GOM cod and yellow tail flounder would be increased.

Mike Pierdinock asked about how overages were handled and reported. Jared stated to comply with trip limits overages would be discarded. Fishermen are not required to report discards on their state reports. Information about discards is generated from federal observer data. These data are applied to the state-waters fishery when and accounted for in stock assessments.

Lou Williams stated gillnetters know how to scale their gear to avoid discarding. Based on his experience discarding is minimal.

No comments were made regarding rescinding the April conditional closure.

Chairman Kane indicated the MFAC would consider the three contingent recommendations as one motion.

**Chairman Kane asked for a motion to approve the Director's recommendation (1) the increase in GOM cod trip limit from 200-400 pounds; (2) the increase the yellowtail trip limit from 250 to 350 pounds; and (3) rescind the April conditional closure between Plymouth and Marblehead west of 70 30'. Bill Amaru made a motion to approve the recommendations. Lou Williams seconded the motion. A roll call vote was taken, and the motion was passed unanimously 8-0.**

#### Recommendation on Small Mesh Squid Trawl Season Adjustment

Dan McKiernan described the current state waters small mesh squid fishery season. He highlighted some of the issues the fishery faces and provided background on why DMF brought this proposal forward. Jared Silva then provided some information regarding the length of the fishery in recent years and anecdotes about the 2021 fishing season.

Dan recommended the MFAC vote to extend the inshore small mesh trawl squid season from April 23 – June 9 to April 23 – June 15 and eliminate the provision allowing the Director to extend the season beyond the regulatorily set season end date.

The Director stated that if the recommendation was not passed then status quo will remain in place for 2022 and he will rely primarily on anecdotal information when determining whether or not to extend the fishery past June 9. Dan further stated he did not intend to make an alternative recommendation or parse this recommendation to extend the season but maintain the season extension provision nor maintain the season and rescind the season extension provision.

Bill Amaru asked Dan why he felt the need to rescind his ability to extend the season past the closure date. Bill thought DMF should seek to retain its discretion to adjust fishing limits in real time.

Dan stated there were several reasons for this recommendation. First, he was trying to balance the interests of the commercial fleet with recreational concerns about forage. Second, under status quo rules he has to rely on anecdotal reports of fishing conditions to inform his decision because of limitations with using observer data for this purpose. Jared Silva further detailed these limitations.

Kalil Boghdan also expressed concerns over DMF retaining discretion and flexibility. Kalil also noted there was little support for this action among Massachusetts squid trawlers. Dan explained that if status quo rules are maintained he's likely going to be making decisions to extend the season based largely on anecdotal reports and these reports would primarily come from trawlers and seafood dealers.

Mike Pierdinock discussed the concerns raised by recreational fishermen regarding forage availability and impacts on target species availability. Mike P. also noted the lack of support for this measure from Massachusetts trawl fishermen.

Shelley Edmundson echoed the concerns raised by the other MFAC members and supported status quo.

Dan McKiernan appreciated the MFAC's feedback. He then withdrew his recommendation.

#### Trap Tag Installation Deadline

Dan McKiernan recommended the MFAC vote in favor of requiring all commercial lobster traps to have current year trap tags installed into them by May 1 for all LCMAs. If gear is not set until after May 1, then it would have to have the current year trap tag installed when set.

There were no questions or comments regarding this recommendation.

**Chairman Kane asked for a motion to approve the recommendation from the Director. Sooky Sawyer made a motion to approve the recommendation from the Director. Bill Amaru seconded the motion. A roll call vote was taken, and the motion was passed 7-0-1. Bill Doyle abstained.**

#### Recommendation on Winter Period Scup Limits

Dan McKiernan and Jared Silva provided the MFAC with the background for this recommendation and briefly discussed the administrative burden associated with the current declaratory process to set the Winter period scup limits.

Jared then stated DMF was recommending the MFAC vote in favor of: (1) establishing a 2,000-pound possession limit for scup taken by commercial fishermen in state waters during the Winter I (January 1 – April 30) and Winter II (October 1 – December 31) periods; and (2) allowing commercial fishermen lawfully fishing in the federal zone during the Winter I and Winter I periods to possess and land scup in Massachusetts in accordance with the federal limits, provided the vessel transits directly through state waters and all gear is stowed.

There were no questions or comments regarding this recommendation.

**Chairman Kane asked for a motion to approve the recommendation from the Director. Shelley Edmundson made a motion to approve the recommendation from the Director. Kalil Boghdan seconded the motion. A roll call vote was taken, and the motion was passed 7-0-1. Bill Doyle abstained.**

### **ITEMS FOR FUTURE PUBLIC HEARING**

#### Commercial Spiny Dogfish Trip Limits for 2022

Nichola Meserve informed the MFAC that DMF would take out to public hearing a proposal to increase the commercial spiny dogfish trip limit from 6,000 pounds to 7,500 pounds. This proposal was designed to match the trip limit adjustments being proposed



by the NEFMC and ASMFC. Nichola anticipated DMF would take this out to public hearing later in the winter with other proposed management measures affecting commercial quota managed species.

#### Commercial Bluefish Minimum Size for 2022

Nichola Meserve stated DMF intended to take to public hearing a proposal to establish an 18" commercial minimum size for bluefish. This minimum size was being proposed to eliminate the possibility that snapper bluefish are not retained in excess of the recreational bag limit under the guise of commercial fishing activity. Nichola further discussed this loophole and expressed the importance of the proposed adjustment. Nichola anticipated DMF would take this out to public hearing later in the winter with other proposed management measures affecting commercial quota managed species.

Bill Amaru asked what the other states have for their minimum size. Nichola stated RI has an 18" minimum size in their commercial fishery.

#### Recreational Georges Bank Cod Limits

Melanie Griffin addressed this agenda item. As part of Framework 63 to the Northeast Multi-Species Groundfish FMP, the NEFMC approved adopting a 22-inch to 28-inch slot limit; 5 fish per angler bag limit; and May 1–July 31 closed season for Georges Bank (GB) cod. If approved by NOAA Fisheries, these changes would go into effect for this upcoming federal fishing year (May 1, 2022–April 30, 2023). Accordingly, DMF would move to adopt complementary changes to its recreational fishing limits, likely through an emergency regulation, and then take public comment.

Bill Amaru asked if this applied to both east and west subsections of the GB management area. Melanie explained the east/west sections are designations for commercial fisheries management. The recreational fishery treats GB as a single management unit.

Mike Pierdinock asked about the ability for the state and federal government to enact rules by the start of the fishing year on May 1. Melanie expected NOAA Fisheries would have these rules promulgated by that time and DMF would work to fast track its regulatory process to be ready to file emergency regulations once federal rules are announced.

Bill Amaru asked about the current recreational fishing limits. Jared thought it was a year round season with a 24" minimum size and 10 fish bag limit. Bill asked if this was intended to be a harvest reduction method in response to the recent stock assessment. Melanie confirmed this and went on to explain some of the reasoning behind the cuts.

### **DISCUSSION ITEMS**

#### *Protected Species Update*

Bob Glenn briefed the MFAC on issues relevant to protected species. The discussion focused on a recent public hearing on an application by the Pioneers for a Thoughtful

Co-Existence, Inc. (“Pioneers”) to fish on-demand (“ropeless”) trap systems in areas of areas of state waters during the February 1–May 15 trap gear closure. Bob provided the details of the proposal and the application, including the proposed areas; gear use; fishing practices; and risk management protocols.

Bob noted some of the applicants have since withdrawn. All remaining applicants are dual state/federal permit holders and are therefore required to obtain a federal Exempted Fishing Permit from NOAA Fisheries before DMF can issue a state authorization.

Dan McKiernan stated DMF was not asking the MFAC to vote on the proposal. Ultimately, the decision to issue an authorization fell within his purview. However, he sought the MFAC’s feedback on the proposal and the issue of ropeless fishing more generally. He highlighted some of the ongoing concerns with ropeless fishing, particularly as they pertain to cost and scalability and how this may impact the makeup of the inshore fishery if it were to become a fishery-wide requirement.

Sooky Sawyer noted there is negligible support for this proposal among state lobstermen. He argued the proposal had limited value as it would allow for fishing in an area where other trap gear would be prohibited and mobile gear fishing does not occur. He also expressed concerns about the cost of the gear and how a ropeless mandate may impact the inshore fishery.

Mike Pierdinock and Tim Brady discussed concerns about how ropeless fishing gear may cause gear conflicts with the for-hire fisheries and how for-hire operators would be aware of where the gear was set.

Mike P. then asked what would occur if a buoy release incidentally entangled a right whale. Bob noted the risk of this occurring is very low given how the gear is handled. However, if it occurred it would count as a take towards the Massachusetts trap fishery. Tim Brady struggled with allowing trap gear in this area when all other fishermen are prohibited from fishing due to right whale conservation concerns.

Lou Williams agreed with Sooky and expressed his frustration with the NGO push for the widespread adoption of this technology despite concerns about cost and scalability.

Kalil Boghdan asked about DMF’s review and response timeline. Dan explained that the two state waters only fishermen have dropped out of the application. This leaves only the three dual state-federal permit holders as the applicants. Accordingly, DMF cannot issue an authorization until NOAA Fisheries addresses whether or not these fishermen will obtain an EFP. Kalil expressed his support for appropriate research into this technology.

#### *Atlantic Mackerel Management*

Melanie Griffin provided the MFAC with an update on Atlantic mackerel management. The update highlighted a recent letter from the states of Maine, New Hampshire, and

Massachusetts to the MAFMC raising concerns about proposals requiring the states to reduce their recreational mackerel catch. Melanie then discussed the MAFMC's rule making timeline.

Mike P. noted mackerel are often live lined to catch striped bass and bluefin tuna. Both the striped bass and tuna rod and reel fisheries are of significant commercial and recreational value. He was concerned about the lack of economic data regarding the use of mackerel for these purposes, particularly for purposes of comparing it to the commercial fishery, which is valued at \$3-4M. Mike P. was also curious if there was any information on the end use of US caught mackerel and on the exportation of the product. Lastly, he raised concerns about the stock assessment not addressing the climatic shift of the mackerel stock to the north and east, which is similar to what is occurring with other species (e.g., summer flounder, black sea bass).

#### *Updates from the New England Fishery Management Council*

Melanie Griffin briefed the MFAC on the December 2021 NEFMC meeting and the outlook for the February 2022 NEFMC meeting. This focused on: spiny dogfish trip limits; Northeast Multi-Species Framework 63; Sea Scallop Framework 34; Skate Framework 9; cod stock structure; scallop rotational management and leasing; Atlantic mackerel; climate planning; and habitat issues in Southern New England. Melanie welcomed any questions from the commission.

Dan added that there is an open period for the public to reach out to us for a council seat vacated by Mike Sissenwine. DMF is accepting applications through the beginning of February.

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

Nichola Meserve briefed the MFAC on pertinent issues addressed by the ASMFC in December 2021. This included: proposed requirements for electronic vessel tracking in the federal lobster and Jonah crab fisheries; approved recreational/commercial reallocations for scup, black sea bass, and summer flounder, and a preliminary outlook on recreational management for these species in 2022; and a continuation of the northern shrimp harvest moratorium. Nichola also highlighted several important action items on the ASMFC Winter meeting agenda, including the continued development of Draft Amendment 7 to the Striped Bass Fishery Management Plan and draft Addendum I to the Menhaden Fishery Management Plan; and final action on the spiny dogfish northern region trip limit for FY22. Nichola welcomed questions from the commission.

Ray Kane thanked Nichola for her presentation.

Mike Pierdinock thanked Nichola for the work she has done with ASMFC. He expressed concern over the recreational management of black sea bass, fluke, and scup. In particular, he was worried about the credibility of the management process if the recreational black sea bass fishery has to take substantial cuts even though stock conditions are strong and considering the commercial fishery is obtaining a sizeable quota increase.

Mike P. also asked if it would be possible if he could be forwarded information on the status of the northern shrimp stock. Nichola stated the stock assessment would be the starting point and stated she will forward the documents to him after the meeting.

## **OTHER BUSINESS**

### *Commission Member Comments*

Lou Williams has heard from a couple fishermen with smaller boats that may have trouble getting their gear out before the closure. He hopes that enforcement will not be heavy handed in enforcing the closure.

Kalil Boghdan stated he thoroughly enjoyed his visit to the newly reacquired DMF Facility at Cat Cove. He encouraged fellow commission members to visit as time allows. He then stated he read through DMF's 2020 Annual Report and encouraged members of the commission MFAC members to take a read through.

Bill Doyle told Dan the lack of MFAC support for his squid recommendation was a sign of confidence in the agency's ability to address this issue on an annual basis.

## **PUBLIC COMMENTS**

No public comments were made.

## **ADJOURNMENT**

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

## **MEETING DOCUMENTS**

- January 21, 2022 Business Meeting Agenda
- December 2, 2021 Draft Meeting Minutes
- Recommendation on Buoy Line Marking Rules for Commercial Trap Gear
- Recommendation on Gillnet Closure to Protect Right Whales
- Squid Season Recommendation
- State Waters Groundfish Recommendation
- Spiny Dogfish Trip Limit Adjustment Public Hearing Proposal
- Commercial Bluefish Minimum Size Public Hearing Proposal
- Recreational Georges Bank Cod Limits Public Hearing Proposal
- ASMFC Updates Presentation
- Atlantic Mackerel Updates Presentation
- NEFMC Update Presentation

## **UPCOMING MEETINGS**

**March 10, 2022**  
**Via Zoom**

**April 7, 2022**  
**Location TBA**

**May 12, 2022**  
**Location TBA**

**June 9, 2022**  
**Location TBA**



# The Commonwealth of Massachusetts

## Division of Marine Fisheries

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Secretary

RONALD S. AMIDON  
Commissioner

DANIEL J. MCKIERNAN  
Director

### MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director 

DATE: March 8, 2022

SUBJECT: Emergency Regulations for Recreational Summer Flounder, Black Sea Bass, and Scup

#### Introduction

For 2022, DMF is required to implement regulations to reduce recreational harvest of black sea bass and scup, and is allowed to implement regulations to increase recreational harvest of summer flounder (Table 1). Due to the timing of the management process, DMF will need to adopt these new regulations by emergency action (G.L. c. 30A, §2). We anticipate filing paperwork in early-April for early-May implementation, followed by final rulemaking with the required public hearing and MFAC approval process after the season has already commenced (likely for the June business meeting). Consequently, DMF held a virtual scoping meeting on February 17 to collect public input that could inform the development of measures for the Atlantic States Marine Fisheries Commission's approval on March 24.<sup>1</sup> While MFAC approval is not required for enacting emergency regulations, I seek to gain your support for the measures that will need your eventual approval during final rulemaking. DMF has selected a preferred set of measures for each species. The background and rationale for each species' recommendation is provided herein.

Table 1. Overview of required management actions and DMF preferred measures for 2022

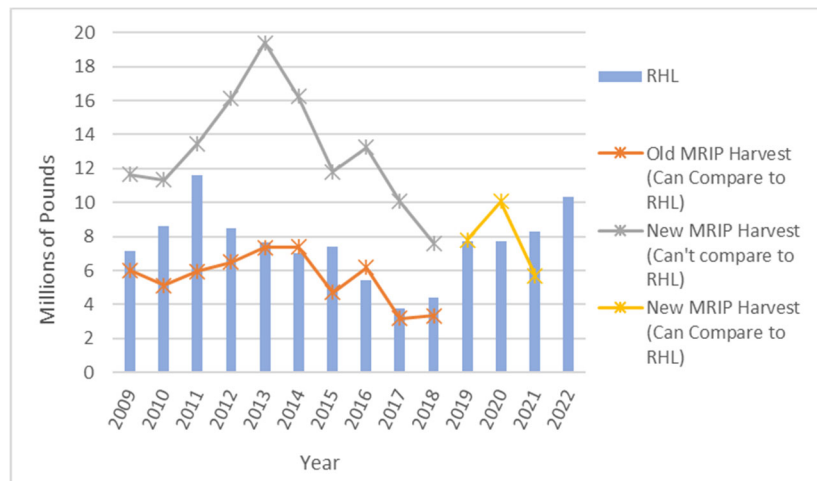
	Summer Flounder	Black Sea Bass	Scup
MA 2021 Regs	May 23–Oct 9 5 fish 17" minimum	May 18–Sept 8 5 fish 15" minimum	January 1–December 31 30 fish except 50 fish for-hire during May/June 9" minimum
Action for 2022	16.5% liberalization allowed	20.7% reduction required	1" size limit increase required
DMF Preferred Option	May 21–Sept 29 5 fish 16.5" minimum	May 21–Sept 4 4 fish 16" minimum	January 1–December 31 30 fish except 50 fish for-hire during May/June 10" minimum

<sup>1</sup> <http://www.asafc.org/calendar/3/2022/Summer-Flounder-Scup-and-Black-Sea-Bass-Management-Board/1910>

## Summer Flounder (Fluke)

### Background

A 16.5% liberalization in coastwide recreational harvest of summer flounder has been authorized for 2022 by a joint decision of the Mid-Atlantic Fishery Management Council (MAFMC) and the ASMFC's Summer Flounder, Scup, and Black Sea Bass Management Board. This is half of the maximum liberalization that could have been allowed based on comparison of the 10.36-million-pound recreational harvest limit (RHL) to the past four years' average coastwide harvest of 7.79 million pounds (Figure 1). The ASMFC and MAFMC took a conservative approach due to the high inter-annual variability in summer flounder harvest despite status quo regulations and the expectation that the 2018 year class (the first to be above average since 2010) will recruit to the fishery in 2022.



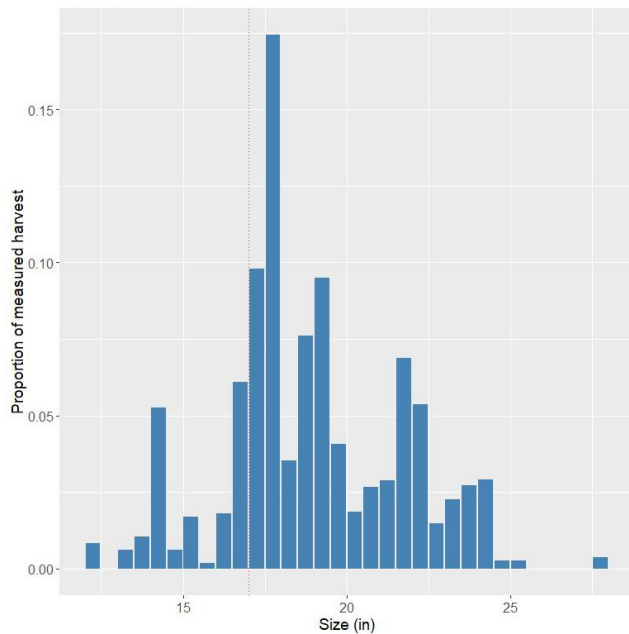
*Figure 1. Comparison of the summer flounder RHLs to estimated recreational harvest. 2021 harvest includes a projection for Waves 5-6.*

Under the interstate plan, there are six regions (MA, RI, CT-NY, NJ, DE-VA, and NC) and the ASMFC determined that each region is allowed an equivalent 16.5% liberalization. Regulations within multi-state regions must be aligned; this is not an issue for Massachusetts, as we are a single state region. Each region is using MRIP data from 2018–2021 to project its harvest liberalizations under various bag/size/season combinations.

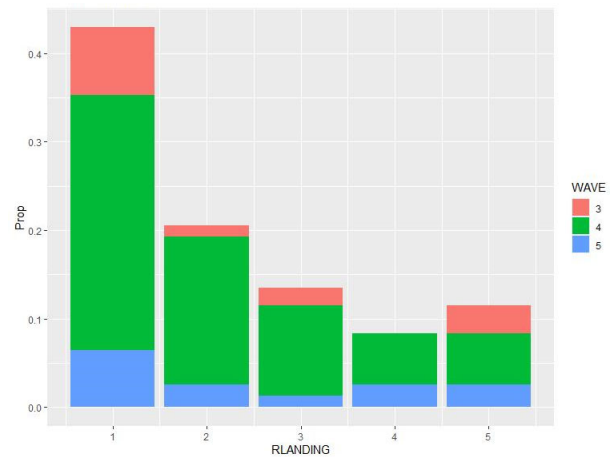
Massachusetts' 2021 regulations include a 17" minimum size, 5 fish bag limit, and May 23–October 9 season (See Appendix 1 for all states' 2021 regulations). These rules have been status quo since 2018, when the bag was increased from 4 fish and the season lengthened from May 22–September 23. The prior year (2017), the bag had been reduced from 5 fish to 4 fish and the size increased from 16" to 17". For 2012 and 2013, the size limit decreased from 17.5" to 16.5" and then 16.5" to 16".

### Liberalization Analyses

The Massachusetts recreational summer flounder fishery is characterized by peak landings in Wave 4 (July/August); over 40% of anglers taking home only 1 summer flounder per trip and declining proportions taking home larger bags; and a wide size range of harvested fish (up to 25"+), with the highest proportions being just legal in the 17–18" range (Figure 2–3). These traits affect the harvest liberalizations associated with possible size, season, and bag limit changes in Massachusetts. For example, decreasing the size limit by 1" to 16" is expected to increase harvest by a considerable amount (36.1%; and 21.9% for 16.5"), while a 1-fish bag increase to 6 fish would only increase harvest by 7.3%.



*Figure 2. Size distribution of harvested summer flounder in MA, by weight and based on 2018-2021 average data. Red vertical line represents the 17" minimum size.*



*Figure 3. Bag distribution of harvested summer flounder in MA, by angler trip count and based on 2018-2021 average data. Non-compliant bags excluded from analysis.*

### Scoping Comment

Roughly 10 people provided comment during the virtual scoping meeting and a dozen comment letters were received (enclosed). However, only a small portion of these addressed summer flounder (most were focused on the pending black sea bass harvest reduction). Specific options were not presented at the meeting, and some of the draft liberalization analyses that were shared have changed following Technical Committee review of our work. A brief synthesis of the comment follows.

Several commenters were surprised that a liberalization was allowed given their observations of the stock and thus suggested not making any changes. Most of those favoring a change supported putting the liberalization towards decreasing the size limit to reduce regulatory discarding, although several individuals noted this would not change their practice of only taking fish well above the minimum size. There was one comment each in favor of an increased bag or a longer fall season.

### DMF Preferred Option

Given the general agreement that the season is already sufficiently long (May 23–October 9) per the seasonal availability of this species in state waters, DMF developed five options focused on either increasing the bag limit or decreasing the size limit (Table 2). DMF's preference is to focus this year's liberalization on decreasing the size limit, given that the bag limit is constraining very few catches. The data indicate that many harvested fish are just above the current minimum size and smaller fish are of interest to some anglers. A lower minimum size would bring greater parity with the commercial minimum size (14"), decrease the release rate (about 78% of caught fish are released in MA), and should allow for higher bags to be taken. It's likely that the size decrease would benefit shore-based anglers in particular (8% of harvest in numbers). While several other states have separate size limits for the shore mode, we are able to do so across all modes here, which facilitates compliance and benefits the collection of recreational data and regulatory analyses in the future (e.g.,



less uncertainty when all modes' data can be aggregated). It also appears that a lower minimum size would convert some illegal harvest to compliant harvest.

While having a size limit in whole inches is preferred by law enforcement, decreasing 1" to 16" requires a shortening of the season to early September or reducing the bag limit to 4 fish with a shortening of the season to mid-September. Given that our objective is to liberalize, the optics of reducing the bag or shortening the season considerably are not ideal. Accordingly, I prefer the approach of a ½" decrease to 16.5" in order to make no change in the bag and lose just 9 days at the end of the season. While I understand law enforcement's concerns, a size limit in half-inch increments is not precedent setting for the recreational summer flounder fishery; in 10 of the 11 years between 2002 and 2012, the size limit was at a high-inch increment (i.e., 16.5", 17.5" or 18.5").

I also prefer to align the opening of the black sea bass and summer flounder fisheries to minimize discarding. Based on my preferred option for the recreational black sea bass season provided later in this memorandum, I propose to shift the summer flounder opening date from May 23 to May 21. Adding two days in May can be achieved by ending the season one day earlier in October.

I do not support forgoing the liberalization (status quo rules) because this would amount to treating the recreational fishery differently from how we treat the commercial fishery (i.e., enact regulatory changes to promote full commercial quota utilization) and may have negative implications for our measures in the future if a reduction is needed. The ASMFC and MAFMC also took a conservative approach in setting the allowed liberalization.

*Table 2. Potential options for MA summer flounder recreational measures in 2022, with DMF's preferred option highlighted.*

	Season	Minimum Size	Bag Limit	Alternative Season*
Status Quo	May 23–October 9	17"	5 fish	
Option 1	May 23–October 25	17"	6 fish	May 21–October 24
Option 2	May 23–September 30	16.5"	5 fish	May 21–September 29
Option 3	May 23–October 9	16.5"	4 fish	May 21–October 8
Option 4	May 23–September 12	16"	5 fish	May 21–September 11
Option 5	May 23–September 20	16"	4 fish	May 21–September 19

\*The alternative seasons include a May 21 start date to align with DMF's preferred start date for black sea bass.

## **Black Sea Bass**

### Background

A 20.7% reduction in coastwide recreational harvest of black sea bass is required to not exceed the 2022 recreational harvest limit (RHL). This is based on comparison of the 6.74-million-pound RHL to the past four years' average coastwide harvest of 8.51 million pounds<sup>2</sup> (Figure 4). These years (2018–2021) reflect a period of nearly uniform regulations, and it is assumed that status quo regulations again in 2022 would cause a 1.77-million-pound overage. This anticipated overage under status quo regulations is not allowed under the federal fisheries management program, and as a result, the ASMFC and MAMFC are requiring this reduction (this action is not being driven by concern regarding the conservation of the stock).

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<sup>2</sup> This harvest estimate incorporates a Technical Committee analysis of the MRIP data in which anomalously high and low harvest estimates at the state-year-wave-mode level were identified and smoothed. This outlier analysis and the incorporation of more complete 2021 harvest data decreased the required reduction from 28% initially.

Under the interstate plan, there are three regions (MA–NY, NJ, and DE–NC) and the ASMFC determined that each region will take an equivalent 20.7% reduction. Within our northern region (MA–NY), the states have also agreed to take equivalent 20.7% cuts individually, with part of that to be achieved through a region-wide increase in the minimum size limit to 16". Each state is using a spreadsheet developed by the Technical Committee using MRIP data from 2018–2021 (as modified by the TC outlier analysis) to project its harvest reductions under various bag/size/season combinations.

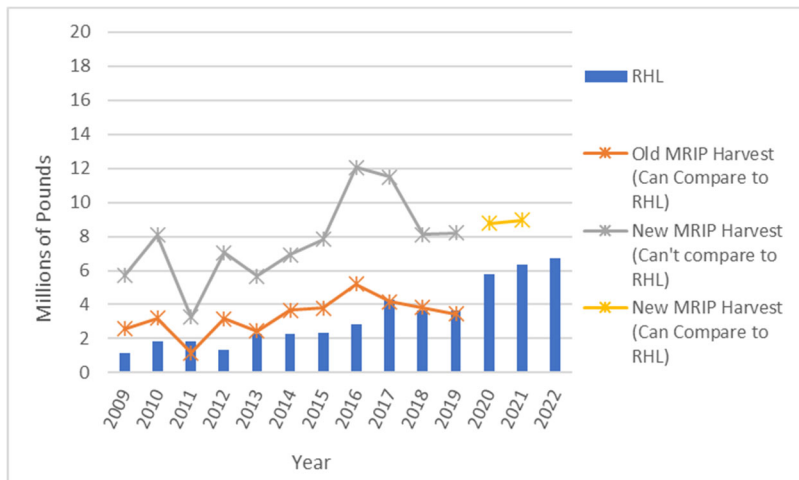


Figure 4. Comparison of the black sea bass RHLs to estimated recreational harvest (as modified by TC outlier analysis for 2018–2021). 2021 harvest includes a projection for Wave 6.

The precautionary default measures would apply to a state that does not submit a proposal that can be approved by the Board, i.e., 16" minimum size, 3-fish limit, and June 24–December 31 open season.

Massachusetts' 2021 regulations include a 15" minimum size, 5 fish bag limit, and May 18–September 8 season (114 days). (See Appendix 1 for all states' 2021 regulations.) Since 2016, only the season length has changed—generally to accommodate a Saturday start date in May—with opening dates between May 18–20 and closing dates between August 29–September 12 (except for the COVID-19 impacted for-hire season in 2020, which ran from May 25–October 9).

### Reduction Analyses

The Massachusetts recreational black sea bass fishery is characterized by very strong Wave 3 landings (May/June); a majority of anglers taking home 1–2 sea bass per trip, but also over 20% who limit out at 5 fish (particularly in Wave 3); and a wide size range of harvested fish, with the highest proportions being well above the minimum size in the 17–19" range (Figure 5–6). These traits affect the harvest reductions associated with possible size, season, and bag limit changes in Massachusetts. For example, raising the size limit to 16" achieves a modest reduction of 6.3% in MA (less than other states); a 20% reduction in the bag limit (from 5 to 4 fish) provides only a 7.5% harvest reduction; and cutting one day in Wave 3 has as much effect as cutting 6.9 days in Wave 4 (July/August) and 2.5 days in Wave 5 (September/October) (Table 3).

Table 3. Black sea bass harvest reductions achieved from changing each management measure.\*

Bag Changes (throughout full season)		Minimum Size Changes (throughout full season)		Season Changes	
5 fish	Status Quo	15"	Status Quo	May 18–September 8	Status Quo
4 fish	-7.5%	16"	-6.3%	Each day cut Wave 3	-1.76%
3 fish	-17.5%	17"	-17.5%	Each day cut Wave 4	-0.26%
2 fish	-31.5%	18"	-34.1%	Each day cut Wave 5	-0.71%

\* Note that reduction percentages from changing two measures cannot simply be added due to their interaction; the combinations of regulations shown later in this memo account for that interaction.

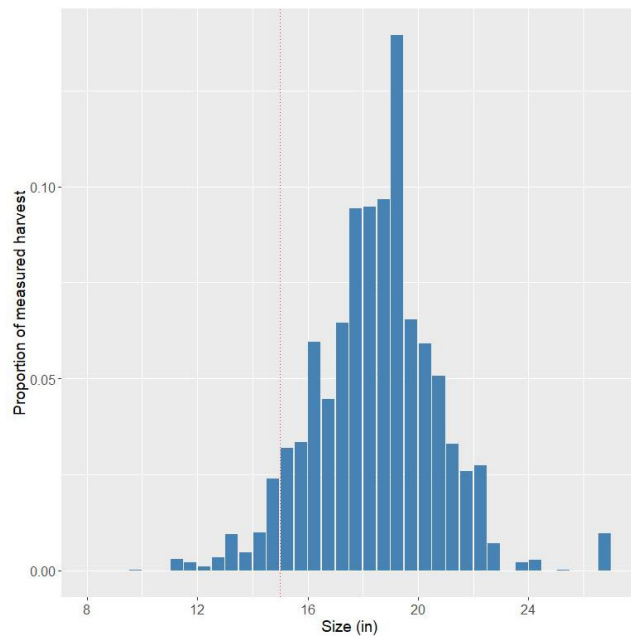


Figure 5. Size distribution of harvested black sea bass in MA, by weight and based on 2018-2021 average data. Red vertical line represents the 15" minimum size.

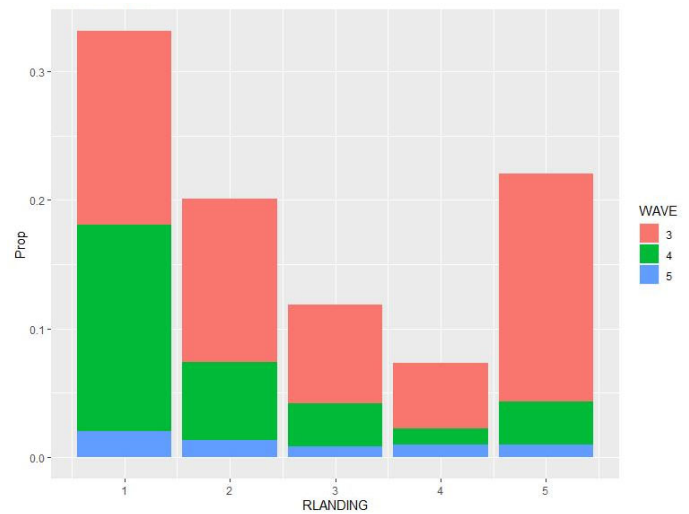


Figure 6. Bag distribution of harvested black sea bass in MA, by angler trip count and based on 2018-2021 average data. Non-compliant bags excluded from analysis.

### Scoping Comment

Roughly 10 people provided comment during the virtual scoping meeting and a dozen comment letters were received (enclosed). There was a good mix of private anglers and for-hire captains who provided comment. A brief synthesis of the comment follows.

- Size limit: the majority of comments supported a 16" or even 17" size limit to achieve part of the reduction. Many commented that they already release anything below this size.
- Bag limit: many for-hire captains spoke to the need to maintain a 5-fish limit, especially in May/June, to retain their bookings, although this was not a unanimous view. Several captains and private anglers recommended lower bag limits during the latter waves of the year to extend the season. A number of private anglers supported lower bag limits rather than cutting the season. Very low bag limits (1 or 2 fish) were not supported by for-hire captains.
- Season: overall, there was mixed input on giving up spring versus fall days to help achieve the reduction; many private anglers supported maintaining a long season at the expense of the bag limit, and noted interest to have fall fishing for sea bass; many for-hire operators comments that a May 18 start was "crucial" because trips had already been booked based on the prior year's regulations, and several private anglers spoke of their interest to have sea bass to target then as well. Switching to a more traditional Saturday start (May 21 specifically) was supported by several individuals (private & for-hire).
- Other: frustration with the need for any reduction was widely expressed given stock status.

### DMF Preferred Option

DMF's preferred options includes a combination of size increase, bag reduction, and slight season shortening to achieve the 20.7% required reduction. This approach seeks to balance the cut among user groups in recognition of their differing priorities among the three types of measures.

Regarding the size limit, I support a 16" minimum, which achieves a 6.3% reduction. An increase in the size was widely supported at scoping to achieve part of the reduction. Notably, a 17" size limit was favored by a number of individuals to avoid cuts in the bag and/or season. However, I do not support this. We agreed within our Northern Region to keep a common size limit (the only measure currently standardized). This will facilitate compliance and enforcement for fishing trips that cross jurisdictional boundaries, and may benefit future analyses and management (e.g., ability to pool state data; interest to reduce disparity in emerging management through a "harvest control rule"). Due to their local fish size availability and not wanting to exacerbate the already high release rate (especially in deeper water where discard mortality rates are higher), the other states were not interested in a 17" size limit which would have yielded reductions of around 30% for them. While tolerable to some boat-based anglers here, a 17" size limit would disproportionately effect shore-based anglers, who already experience the highest release rate at 15" (95% release rate compared to 60–80% rates among the other modes).

Having established the size limit at 16", we developed an extensive table of bag and season combinations to achieve the necessary reduction (Table 4). These propose three different season start dates: May 18 (status quo, a Wednesday this year), May 21 (third Saturday in May, 5.3% reduction), and May 25 (a one-week delay from status quo, a 12.3% reduction). There are several reasons that I would like to select the May 25 start, including that our rod-and-reel black sea bass survey in Buzzards Bay documents that before late May, most fish encountered are below the current legal size of 15". We also get considerable "bang for our buck" in terms of meeting the reduction with every day we close in May because of the peak CPUE that we see in June being applied across the May/June Wave 3. For example, moving to a May 25 start would enable us to keep the 5-fish bag and nearly make it through Labor Day with the open season (September 4 close). However, I recognize that the third Saturday of May (occasionally the fourth when there are five Saturdays in May) is a traditional start date for this fishery that a portion of the for-hire fleet counts on, and I am willing to maintain that for continuity. No particular date, including May 18, has the same precedence for a season start date, counter to some of the public comment. While we experienced a temporary reprieve the last three years of status quo measures, for years DMF has reminded the fleet that there is volatility in the sea bass regulations and recommended caution in booking trips prior to the regulations being established.

While there are those that prioritize an early start and high bag in Wave 3, there are other components of the fishery that prioritize season length (number of open days overall) over the start date or bag limit. The desire to be able to keep at least one or two fish into the early fall has oft been repeated. That could be accomplished but not without a more delayed start and/or greatly reduced bag, and trying to gain that season length during a reduction year does not strike the best balance among user groups. At a minimum, I'm interested to keep the fishery open through the unofficial end of summer, (i.e., Labor Day weekend, which ends on September 5 this year), after which boat activity and fishing effort decline.

With the May 21 start, it will take a reduction in the bag limit to achieve this. While we received suggestions for bag limits that decline later in the year to extend the season, the payoff for bag reductions in Wave 4 and 5 are not nearly as great as in Wave 3 and may not be worth the burden on enforcement. Law enforcement has recommended against variable bag limits in this fishery in particular given the already poor compliance with a single bag limit and because their prior experience demonstrates in-season bag limit adjustments can contribute to additional non-compliance.

Consequently, my preferred approach is for the consistent 4-fish bag limit throughout the season, which yields a 107-day season from May 21–September 4. This is 7 days shorter than the status quo, with 3 days coming off the front end and 4 days coming off the back end. It does unfortunately omit the Monday of Labor Day weekend. If a variable bag limit approach were to be supported, I recommend there be only one change during the season and that it come at the start of Wave 4 (July), to avoid having the lower bag for only several days or weeks in Wave 5, which would likely further erode compliance.

*Table 4. Required closing dates to achieve 20.7% reduction at 3 different opening dates and various bag limit combinations, all at a 16" minimum size, with DMF's preferred option highlighted.*

Bag Limit	Wave 3	5 fish	5 fish	5 fish	5 fish	4 fish	4 fish	4 fish	4 fish	3 fish	
	Wave 4	5 fish	5 fish	3 fish	3 fish	2 fish	4 fish	4 fish	2 fish	1 fish	
	Wave 5	3 fish	3 fish	1 fish	2 fish	2 fish	2 fish	2 fish	1 fish		
Season Start Date	May 18 (Wed)	July 22 (66d)	July 22 (66d)	July 27 (71d)	July 27 (71d)	Aug 1 (76d)	Aug 19 (94d)	Aug 19 (94d)	Sept 2 (108d)	Sept 13 (119d)	Sept 12 (118d)
	May 21 (Sat)	Aug 13 (85d)	Aug 13 (85d)	Aug 23 (95d)	Aug 23 (95d)	Sept 1 (104d)	Sept 4 (107d)	Sept 5 (108d)	Sept 13 (116d)	Sept 29 (132d)	Sept 21 (124d)
	May 25 (Wed)	Sept 4 (103d)	Sept 5 (104d)	Sept 10 (109d)	Sept 18 (117d)	Sept 17 (116d)	Sept 15 (114d)	Sept 20 (119d)	Sept 28 (127d)	Oct 21 (150d)	Oct 2 (131d)

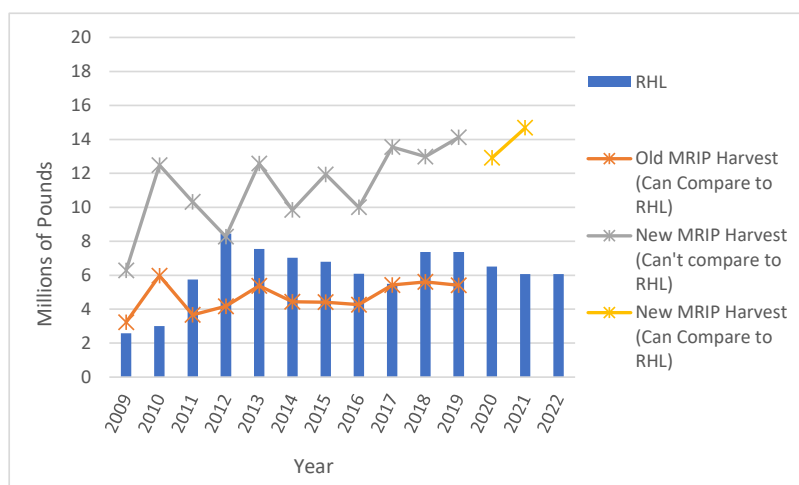
## Scup

### Background

Using the 2019–2021 average harvest of 13.9 million pounds calls for 56% coastwide harvest reduction to not exceed the 2022 RHL of 6.08 million pounds (Figure 7). However, given stock status (twice the biomass target), the anticipated commercial underage, and the negative socio-economic implications of taking such a large reduction, the Board and Council opted to require a 1" increase to state and federal waters size limits, which is expected to achieve a 33% reduction.

This is in conflict with federal regulations requiring the implementation of measures

reasonably expected to constrain harvest to the RHL, thus NOAA Fisheries has indicated it may take more drastic measures in federal waters (even closing them completely). However, even a complete closure of federal waters would only reduce harvest by about 5–10%. The Technical Committee is



*Figure 7. Comparison of the scup RHLs to estimated recreational harvest. 2021 harvest includes a projection for wave 5–6.*

expected to perform the same outlier identification and smoothing analysis it did for black sea bass for scup, which may help to sway NOAA Fisheries otherwise.

#### Reduction Analysis

Per Council staff, the 1" increase is expected to reduce MA harvest by about 31% given the size distribution of our state's scup harvest (Figure 8).

#### DMF Preferred Option

There is no real option here but to increase the minimum size by 1" to 10". Notably, the state (and Northern Region, MA-NY for scup) was at 10" prior to 2018, when the record high 2015 year class supported a liberalization. Below average year class strength has followed during 2017–2019 and biomass is now trending downward towards the target.

#### **Outlook for 2023**

A reminder about two items of note for 2023 recreational management of these species.

First, the Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment is expected to be implemented for 2023. The amendment incorporates the recalibrated MRIP catch estimates into the historical base years upon which the sectors' allocations are based, which will result in the movement of some allocation from the commercial fishery to the recreational fishery for each species. For more information, see:

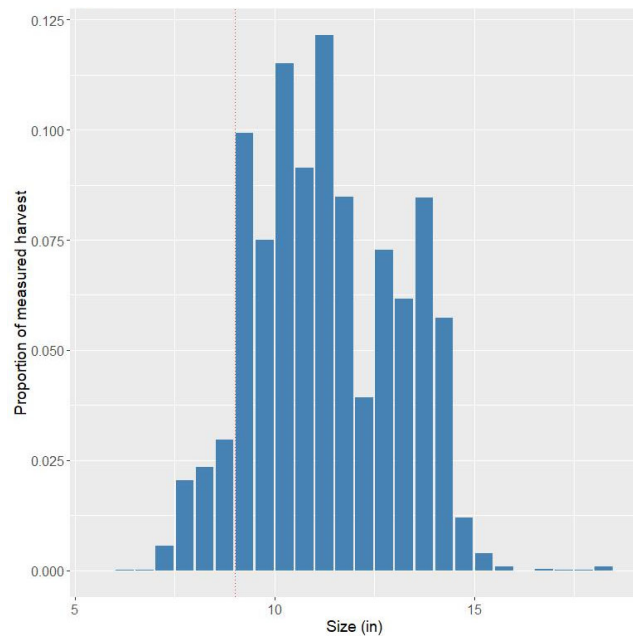
<http://www.asmfc.org/uploads/file/61bb8086pr31SFSBSB-AllocationAmendment.pdf>

Second, the ASMFC and MAFMC are developing the Harvest Control Rule Addendum/Framework to consider changing the process by which recreational measures for the three species (and bluefish) are set. These potential changes are intended to provide greater stability and predictability in recreational management measures from year to year and allow for more explicit consideration of stock status when setting the measures. Public hearings are scheduled for March and April, with Massachusetts' taking place on April 13. If an alternative is approved, it is *possible* that it may be used in setting 2023 measures. For more information, see:

[http://www.asmfc.org/uploads/file/621fa4d7pr06HarvestControlRule\\_PublicComment.pdf](http://www.asmfc.org/uploads/file/621fa4d7pr06HarvestControlRule_PublicComment.pdf)

#### **Enclosures**

Written scoping comment



*Figure 8. Size distribution of harvested scup in MA, by weight and based on 2019-2021 average data. Red vertical line represents the 9" minimum size.*

## Appendix

Table A1. 2021 recreational summer flounder regulations by state.

State	Minimum Size (inches)	Possession Limit	Open Season
Massachusetts	17	5 fish	May 23-October 9
Rhode Island	19	6 fish	May 3-December 31
7 designated RI shore sites	19	4 fish*	
	17	2 fish*	
Connecticut	19	4 fish	May 4-September 30
41 designated CT shore sites	17		
New York	19	4 fish	May 4-September 30
New Jersey	18	3 fish	May 22-September 19
NJ Pilot shore program 1 site	16	2 fish	
New Jersey/Delaware Bay COLREGS	17	3 fish	
Delaware	16.5	4 fish	All year
Maryland			
PRFC			
Virginia			
North Carolina	15	4 fish	September 1-14

\*Combined possession limit of 6 fish; no more than 2 fish at 17 inch minimum size limit

Table A2. 2021 recreational black sea bass regulations by state.

State	Min Size	Bag Limit	Open Season
MA	15"	5 fish	May 18-Sep 8
RI	15"	3 fish	Jun 24-Aug 31
		7 fish	Sep 1- Dec 31
CT P/S	15"	5 fish	May 19-Dec 31
CT FH	15"	5 fish	May 19-Aug 31
		7 fish	Sep 1- Dec 31
NY	15"	3 fish	Jun 23-Aug 31
		7 fish	Sep 1-Dec31
NJ	12.5"	10 fish	May 15-Jun 22
		2 fish	Jul 1-Aug 31
		10 fish	Oct 8-Oct 31
		15 fish	Nov 1-Dec 31
DE	12.5"	15 fish	May 15-Dec 31
MD	12.5"	15 fish	May 15-Dec 31
VA	12.5"	15 fish	Feb 1-28; May 15-31; Jun 16-Dec 31
NC	12.5"	15 fish	May 15-Dec 31

Table A3. 2021 recreational scup regulations by state

State	Minimum Size (inches)	Possession Limit	Open Season
MA (private & shore)	9	30 fish; 150 fish/vessel with 5+ anglers on board	January 1-December 31
MA (party/charter)	9	30 fish	Jan 1-April 30; July 1-December 31
		50 fish	May 1-June 30
RI (private & shore)	9	30 fish	January 1-December 31
RI shore program (7 designated shore sites)	8		
RI (party/charter)	9	30 fish	January 1-August 31; November 1-December 31
		50 fish	September 1-October 31
CT (private & shore)	9	30 fish	January 1-December 31
CT shore program (45 designated shore sites)	8		
CT (party/charter)	9	30 fish	January 1-August 31; November 1-December 31
		50 fish	September 1-October 31
NY (private & shore)	9	30 fish	January 1-December 31
NY (party/charter)	9	30 fish	January 1-August 31; November 1-December 31
		50 fish	September 1- October 31
NJ	9	50 fish	January 1- December 31
DE	8	50 fish	January 1-December 31
MD	8	50 fish	January 1-December 31
VA	8	30 fish	January 1-December 31
NC, North of Cape Hatteras (N of 35° 15'N)	8	50 fish	January 1-December 31

Federal Waters: 9", 50 fish, January 1–December 31



## Meserve, Nichola (FWE)

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**From:** patriottoo@aol.com  
**Sent:** Thursday, February 17, 2022 2:32 PM  
**To:** Meserve, Nichola (FWE)  
**Subject:** Re: Black Sea Bass

**CAUTION:** This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Nichola,

I looked over the measures that might be taken and I have some ideas about the direction I hope DMF goes. My major concern is that I already have trips schedule for May 18th that are expecting to fish for Black Sea Bass and I also know that some charter boats need days after Labor Day. The measures I could best live with are: 16" 3 fish May 18 - Sept 12 or 17" 4 fish May 18 - Sept 15. We are going to be throwing a lot of fish back, but I think the 17" size limit is achievable in the spring and we will get a few throughout the summer. We will be keeping mostly male fish but hopefully enough male fish under 17" will be around to spawn and not disrupt breeding. I'm trying to keep this short. I may miss the meeting, so these is my thoughts.

Regards,  
Jim Tietje

-



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Capt. Robert Savino

Capt. John Richardson

February 18, 2022

Mr. Daniel J. McKiernan, Director  
Commonwealth of Massachusetts  
Division of Marine Fisheries  
251 Causeway St., Suite 400  
Boston, Massachusetts 02114

**RE: Comments to the Proposed Black Sea Bass and Summer  
Flounder 2022 Recreational Measures**

Dear Mr. McKiernan:

On behalf of the Stellwagen Bank Charter Boat Association (SBCBA) whose membership includes the for hire fleet, recreational anglers and commercial fisherman that fish the state and federal waters off the coast of Massachusetts, we offer the following comments to the proposed black sea bass and summer flounder seasons and bag limits for 2022:

**Black Sea Bass**

- Historically May 18<sup>th</sup> has been the opening season for black sea bass and as a result the for hire fleet books our trips several months and up to a year earlier for highly sought season opening start dates. This start date needs to be maintained since customers have already booked the trip, hotels and arranged for vacation days from work.
- The May 18<sup>th</sup> opening of the black sea bass season is the opportunity for the for hire fleet finally gets a chance to make some money after a long period of little to no income. The spring black sea bass fishery is the for hire fleets most profitable fishery, the fish are close to our respective docks, giving us a lower overhead with the ever rising price of diesel fuel and gasoline. It also provides us the opportunity to run two trips a day in late May and early June.
- To change this opening date just a few months before it opens, while the for hire fleet has hundreds of trips booked with deposits received would have a significant financial impact on our business. The deposits we have received months ago in turn, have been used for vessel maintenance and winter storage, etc.



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- It should be noted that the dates in the Fall are very weather dependent, we are lucky if we get 25% of our trips off the dock in September and October for black sea bass and if we were able to target them, the fish are too far offshore to push the unpredictable Fall weather.
- The five fish bag limit with a May 18<sup>th</sup> opening date needs to be maintained for clientele to book the trips. Reduction in bag limits will result in cancelations.

### **Summer Flounder**

- We recommend a reduction in the size limit on summer flounder (“Fluke”) that will help up provide access to the fishery on half day trips.
- Local fishing grounds such as Buzzards and Vineyard Sound have a strong Fluke Biomass, but the fish tend to be on the smaller side and are below the current 17 inch size limit. A 15.5 or 16 inch size limit would appeal to the recreational angler who do not have the experience, nor vessel to transit to Noman’s, Browns, or Nantucket Shoals.
- A reduction in size is favored over a larger bag limit on Fluke if for example we were provided two additional fish per person with a size reduction.

In addition, we recommend separate seasons and bag limits for both species for the fore hire fleet such as what is already in place for scup, bluefish, bluefin tuna, etc., but have not reviewed any details of what would be proposed if such was implemented? The time is now to consider such with the proposed RHL revision. To implement such should consider revising the dead discard rate for black sea bass that is much lower in Massachusetts waters than abutting states where fishing occurs in much deeper waters. Additional conservation measures should assess and/or consider a male and/or female bag limit for black sea bass.



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If you have any questions or comments, please email, or give me a call.

Very truly yours,

*Capt. Eric Morrow*

Capt. Eric Morrow  
SBCBA, Board of Directors  
[caperic@fishbountyhunter.com](mailto:caperic@fishbountyhunter.com)

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*Capt Mel True*

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[Capt.meltrue@gmail.com](mailto:Capt.meltrue@gmail.com)

Cc: Dan McKiernan, MassDMF  
Ron Amidon, MassF&G

## Meserve, Nichola (FWE)

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**From:** Theodore Velsor <tvelsor@verizon.net>  
**Sent:** Monday, February 21, 2022 3:18 PM  
**To:** Fish, Marine (FWE)  
**Subject:** Black Seabass recreational limits

**CAUTION:** This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Good Afternoon:

I am writing to day in response to the Scoping Meeting, held on Thursday, February 17, regarding the 17% proposed reduction to the black seabass quota.

The population of black sea bass has grown steadily in the waters off the coast of New England, expanding all the way to Maine. Both the recreational and commercial fishery are sustainable in Cape Cod Bay. I have fished Cape Cod Bay for 20 years and when I started fishing, finding a seabass in the bay was almost impossible. Today this is not the case. You are now able to catch Black Seabass in the Bay. As well, the 2020 and 2021, annual seabass run in Buzzards Bay has started earlier by 2 weeks. This was evident during the 2021 tautog season by us catching and releasing large male seabass. Once the seabass season actually opened, these fish we had located during the tautog season had had moved their way into deeper water. Another observation made during this time was that the seabass caught from rocky bottom were full of juvenile lobsters.

As a charter fisherman/mate, a limit of less then 5 fish per day would make it difficult to book charters. Clients feel 5 is a reasonable catch limit. In discussion with fellow captain/mates increasing the size limit from 15" to 17" would be a better solution to help sustain the fishery. Generally the boats I fish on do not retain any fish less than 17" and have no issue fulfilling our catch limit.

I am reiterating my recommendation:

1. Increase minimum size from 15" to 17".
2. Open the season May 21, 2022 at 5 fish/day. Memorial Day is a little later this year, so the opening would be a few days later.

Thank you for your time

Theodore Velsor  
Mate  
(774)226-3736

## Meserve, Nichola (FWE)

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**From:** Len Greiner <capecodsportsmen@gmail.com>  
**Sent:** Tuesday, February 15, 2022 6:58 AM  
**To:** Fish, Marine (FWE)  
**Subject:** Black Sea Bass Recreational harvest Comment

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Mass Division of Marine Fisheries  
Daniel McKiernan

I am a full time charter boat Captain out of Harwich Port Mass and would like to offer my insight on the upcoming reduction for Black Sea Bass Harvest.

Please open the season on May 18th as you have done in the past few years regardless of whatever measures are taken for reduction. My customers as well as all of the other Charter Boat operators have based our bookings with the start date of May 18 in mind. These reservations in many cases have been booked a year in advance. With that so have our customers planned on taking time off of work for their fishing trips and in some cases have already booked hotel accommodations.

Solution could be as simple as reducing the daily catch limit to 4 black sea bass per day with the same size limit and season length.

Or Same daily catch as last season 5 and same size limit with the reduction being taken away the length of the season at the tail end of the season.

Or the same daily catch limit as last season 5 with the reduction of fishing days coming in the middle of the season. By this creating a split sea bass season.

PLEASE SIR no matter what your final conclusion to this reduction don't change the opening date of black sea bass season from May 18th. This opening is a vital part of our fishing income and a great shot in the arm of our coastal economy due to the influx of tourism in mid May and June. A later or different start date other than May 18 will cause a lot of hardship on everyone.

Thank you for allowing my input.

Captain Len Greiner  
F/V Magellan  
[capecodsportsmen.com](http://capecodsportsmen.com)

## Meserve, Nichola (FWE)

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**From:** Philip Buzby <philip.buzby@gmail.com>  
**Sent:** Monday, February 21, 2022 1:16 PM  
**To:** Fish, Marine (FWE)  
**Subject:** MA Black Sea Bass limits

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I have fished recreationally for Black Sea Bass for over 10 years. I had my own boat and also fished with many other boat owners. Over this period, the "boat rule" has always been to keep MALES ONLY at least 20 inches in length. We usually obtained a boat quota within a few hours of fishing. BSB fishing is so much fun in the Spring in MA, with light tackle it has never been hard to catch&release 10-100's of fish that did not meet the "boat rule".

My recommendation:

1. Increase minimum size from 15" to 17".
2. Open the season May 21, 2022 at 5 fish/day.
3. no change in recreational quota (IMO this is such a meaningless number anyways as very few boats report any daily catch NOR are they surveyed by any government official to assess their daily catch)

Phil

--

**Phil Buzby**  
617.699.5372

## Meserve, Nichola (FWE)

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**From:** Tyler Macallister <fvcynthiac@comcast.net>  
**Sent:** Monday, February 21, 2022 12:19 PM  
**To:** Fish, Marine (FWE)  
**Cc:** Silva, Jared (FWE)  
**Subject:** Black Seabass recreational limits, recommendations due 2/21/2022!!

**Importance:** High

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Good morning:

It is with utter astonishment I am writing this email. I listened to the Scoping Meeting held on Thursday, February 17 regarding the proposed REDUCTION in the black seabass quota. I would not have believed that an approximately 17% reduction is proposed if I had not been on the call to hear it. Only having 4 days to respond with our comments is very short and a conversation for another day.

The population of black sea bass continues to increase in New England waters, expanding all the way to Maine. There is now a viable recreational and commercial fishery in Cape Cod Bay. I have fished Cape Cod Bay for almost 40 years and finding a seabass was very unusual until recent memory. In the spring of 2021, the run of seabass in Buzzards Bay started a full 2 weeks early. While trying to catch tautog, we were continuously releasing large male seabass, once the season actually opened, they were already working their way out of Buzzards Bay to deeper water.

Many of my friends that fish seabass on the rocky bottom report seabass full of juvenile lobsters.

As a charter fisherman, any less than 5 fish per day would make it difficult to book charters and those that are on the books may cancel due to lack of fish. Increasing the size limit from 15" to 17" was proposed as a way to maintain both historical opening of the Saturday before Memorial Day Weekend and the 5 fish limit. Personally, we generally do not retain any fish less than 18" on charters and select for males. I have not had any issue getting a limit with a little extra effort.

I currently sit on 2 NOAA working groups for bluefin tuna and have good working knowledge of population modelling and from what I understand about the models being used for black seabass, they appear to be very flawed.

I am reiterating my recommendation:

1. Increase minimum size from 15" to 17". An increase to 18" would not affect my business model, but I have spoken with other charter fisherman and they are more comfortable with 17".
2. Open the season May 21, 2022 at 5 fish/day. Memorial Day is a little later this year, so the opening would be a few days later.

Please feel free to contact me at any time to discuss further.

Have a great day!!

*Tyler Macallister, Owner/Captain*  
*F/V Cynthia C<sup>2</sup>*



(508) 221-8991 (m)  
[fcynthiac@comcast.net](mailto:fcynthiac@comcast.net)

## Meserve, Nichola (FWE)

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**From:** Ray Castano <r.castano@comcast.net>  
**Sent:** Friday, February 18, 2022 7:47 PM  
**To:** Fish, Marine (FWE)  
**Subject:** Scoping for Recreational BSB and Fluke

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Hi

Thanks for the zoom meeting on the 17th, very informative.  
Rather than comment online I'll put in my two cents worth here.

I'm (retired) recreational and fish from Boston harbor to Block Island for a lot more hours than my wife thinks I should... :-)

For me, I'd like to see the bag limit remain, the size increased, maintain the 18th start date and adjust the fall closure date for BSB. I'm thinking the amount of fish taken up front will decrease especially in the Buzzards Bay fishery. That area gets a ton of pressure on the BSB and weeding through large numbers to get a few keepers ( at the current size ) is not uncommon. Upping the size will most likely decrease the bag ( take home ? )....

As for decreasing the season length, there is plenty of other fishing options in the fall. The elimination of the BSB earlier in the fall won't hurt as bad... IMO I think sometimes we should call recreational ( sporting ) , I think it's true that the vast majority of fishing people are looking for the largest fish they can catch, making the hunt a little more challenging can only help maintain resources...IMO

I'll stop rambling now.. :-)

Thanks for your consideration, Ray

A "cape Cod Salty"

## Meserve, Nichola (FWE)

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**From:** Michael Bady <racerock166@aol.com>  
**Sent:** Friday, February 18, 2022 4:26 PM  
**To:** Fish, Marine (FWE)  
**Subject:** Public Comment on Proposed Fluke/Black Sea Bass Allocations

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Dear Director  
McKiernan,

February 18, 2022

I understand that the MAFMC/AFMC meetings and deliberations are underway concerning many of the most popular species we harvest along the NJ, NY, New England coastline. I have fished the areas of the North Fork of Long Island and Montauk Point for over 60 years. I also run a successful charter fishing business that has now been in continuous operation for the past 22 years. Typically, in season, I am on the water 3-4 days per week, so I have a great many observations to offer on the ebb and flow of our most popular species.

What concerns me most at this time are the proposed regulations for Fluke and Black Sea Bass. It is my understanding that what is currently being considered, on a coastwise regional basis, is a 16.5% liberalization of Fluke quotas and a 20.7% reduction in the Black Sea Bass allocation. In my own mind, those of many other Captains I speak with, and based upon constant observation of the availability of these 2 species, it seems that the direction being suggested is exactly opposite of what is actually occurring in nature.

The Fluke fishery has been in decline now for at least the past 10 years and in certain locations there is a significant reduction of both adult and juvenile fish. In fact, the numbers of legal to harvest Fluke for my charter customers is so low that it is economically unfeasible to run full day trips for solely this species anymore. Reducing the size limits or increasing the bag limits will only exacerbate this situation.

On the other side of the coin, the Black Sea Bass numbers are so large that they are literally moving other species off of commonly shared grounds. I have witnessed a number of trips in recent years where the Sea Bass had actually outnumbered the usually prolific Scup fishery! Many of my friends who are involved in harvesting Lobsters in LI Sound are convinced that one of the reasons the lobster fishery is in decline is the overabundance of Sea Bass. I tend to agree with them when I see the stomach contents of many of the Sea Bass I filet for my customers, which are often filled with lobster fry. In certain areas where we are still able to catch some legal Fluke, again the Black Sea Bass population is so large they often decimate the

baits intended for the Fluke and seem to have overrun some of these grounds. Lastly, I hear from other friends who fish to my north and have also seen a huge explosion in the number of Sea Bass in their waters where they used to be an occasional bycatch. This is almost always in indication of a species that is way more than healthy and, in fact, may need some reduction measures to be taken in the form of higher allocations.

It is hard to comprehend what type of data the Commissions are looking at when all of us who are deeply entrenched in the maritime and fishing industries see evidence of exactly the opposite population sizes. I would strongly encourage you to reverse the course of proposed action for Fluke and Black Sea Bass. It is actually the Fluke who need more protection and the Sea Bass a little more liberalization.

Thank you for your time and consideration.

Sincerely,

Capt. Michael Bady

Captain's Table Charters

Greenport, NY

516-317-5423 cell

raceroack166@aol.com

## Meserve, Nichola (FWE)

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**From:** caleb slater <calebhslater@gmail.com>  
**Sent:** Friday, February 18, 2022 11:43 AM  
**To:** Fish, Marine (FWE)  
**Subject:** 2022 Proposed Black Sea Bass Regulations

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Director McKiernan,

First of all, it is outrageous that MA should have to reduce black sea bass harvest by 20%. The number of sea bass in our waters is high and increasing every year. I can not catch anything else- areas where I used to catch fluke- nothing but sea bass, striped bass- nothing but sea bass, bluefish- nothing but sea bass.

However, seeing as this is a federal mandate. I would prefer a long season, a large bag limit, and a larger size limit.

The larger bag limit is essential to make it worth the trip. The larger size limit also only makes sense- black sea bass are all head and I try not keep fish less than 18" anyway. These larger fish are almost all Male - so increasing the min size should also increase reproduction (if you really believe we need more sea bass).

Of the options presented in the 2/17 webinar I would advocate for a 17" min size, a 5 fish limit and a long season (18 May- 2 Sept)

Thank you,

Caleb Slater  
Northbridge MA

## Meserve, Nichola (FWE)

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**From:** Matthew Robertson <robertson.matt.j@gmail.com>  
**Sent:** Sunday, February 20, 2022 8:52 PM  
**To:** Meserve, Nichola (FWE)  
**Subject:** 2022 regs

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Preference for seabass:

Larger size limits, longer seasons, lower bag limits, i.e. 3 fish bag limit, 17", may 18-Oct 6

Fluke:

No change to existing regs.

I'm a rec angler.

Matt Robertson

## Meserve, Nichola (FWE)

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**From:** Ricardi, Christian S. <christian.ricardi@woodplc.com>  
**Sent:** Sunday, February 20, 2022 6:05 PM  
**To:** daniel.mckiernan@mass.gov  
**Cc:** Meserve, Nichola (FWE)  
**Subject:** 2022 Recreational Fluke & Black Sea Bass Measures

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To Daniel McKiernan

Hello Dan,

I attended the meeting on Thursday and spoke briefly. I wanted to follow up in writing with some ideas to consider regarding fluke and blank seabass populations and commercial and recreational regs. As I had indicated during the Zoom meeting, my family has a camp in Westport and my observations from fishing inshore locations in the Westport area of Buzzards Bay is that the numbers of fluke and scup have declined and the numbers of black sea bass have increased sharply in the past decade or two. The harvest statistics that were presented in the Zoom meeting, decline in fluke harvest and sharp increase in black sea bass harvest, seem to confirm the population trends. Most of the fishermen who spoke during the meeting also described the similar observations. The increase in black sea bass is due to climate change and warming ocean temps in New England waters. They are shifting north and habitat has become more favorable. As you know, sea bass are very aggressive and will compete with fluke and scup. Based on the fishing I have done off Westport the past 5 years, there is a surge in juvenile sea bass <15 inches. For example, on a typical fishing outing to rock ledges in open sea, we might hook 50 seabass and >90 percent will be <15 inches indicating heavy recruitment and a growing population. These are areas where a decade earlier the catch would be dominated by scup and fluke, but now we catch far fewer.

I believe developing fluke and sea bass regulations based on harvest comparison to historic recreational harvest limits as presented in the meeting would be harmful to both the fluke and scup, and the sea bass populations. That approach should be reconsidered. Assuming that the fish management goal is to maintain healthy fluke and scup populations as ocean water warms over the next decades, while taking advantage of harvest opportunities presented by the growing sea bass population, I believe that MDMF should approach regulations differently in order to deal with a very new and changing situation. Consider the following suggestions.

Any new regulations should provide an advantage to fluke and scup, while at the same time managing the growing sea bass population. Increasing harvest of fluke at a time when harvests are dropping and the population is under increasing stress from sea bass should be reconsidered. If anything, the regulations to protect these species should be developed. Regulations aimed at slowing down the growth of sea bass while maintaining a population of larger harvestable fish should be developed. This could be done with a slot limit approach that has been used in freshwater fisheries management with great success on many waters. The regulation should encourage removal of small sea bass, protection of mid-sized fish, and harvest of larger fish. A regulation that would accomplish this might look like this. A 5 to 10 fish daily limit on sea bass between 10-14 inches, all fish 14-17 inches are released, and 5 fish > 17 inches daily limit. **Fishermen would need to be aggressively encouraged to remove small fish in order for this to work. This can often be a difficult persuasion and would require a public relation initiative.** Using slightly different limits and size slots based on your data might be needed, but the effect would be the same. The growing sea bass population would be slowed and there would be a shift to fewer but larger individuals. Competition forces on other fish species would be

reduced. I would guess that if you asked most fishermen if they would prefer to catch fewer, but larger sea bass (and more fluke and scup), they would support the regulations.

In Maine, where I live there are many lakes that are managed with regulations that target removal of smaller fish to improve fisheries. On Sebago Lake, lake trout have overpopulated and harmed the native whitefish, brook trout, perch, and indigenous landlocked salmon. Regulations now specify no limit of lake trout <26 inches to try and save the lake. And last year, I fished Aziscohos Lake. In 2012, a regulation was enacted to reduce a wild landlocked salmon population with too many small fish. There is no limit on fish <16", and one fish >16". In 2012, the fish were in very poor shape, but last year we caught 19 fish in 2 days and they were fat and healthy. We kept all fish <16 and released all fish >16". The regulation is working.

I fear that the sea bass population will get out of control soon if it is not already, and that now is the time to take aggressive steps to manage that species. I admit that I do not have access to the kind of population data and statistical evaluations that MDMF has. And my assessment of population trends is based solely on my experience on the water and from listening to other fishermen with similar experiences. But I think it is an accurate understanding.

Thank you for doing the work you do. I am happy to purchase a marine fishing license and continue to donate each year even though I have aged out.

Chris Ricardi  
Westport, Massachusetts

107 Black Point Road  
New Gloucester, ME 04260  
Cell 207 440-4531  
Home 207 926-3721

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## Meserve, Nichola (FWE)

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**From:** Jacob Rose <jakerose02360@gmail.com>  
**Sent:** Thursday, February 17, 2022 9:20 PM  
**To:** Fish, Marine (FWE)  
**Subject:** Seabass

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Hi - nice presentation tonight. Thank you. I am a recreational fisherman. My vote would be to leave the 5/18 opener and 5 bag limit in the spring and increase the size limit or shorten the fall season. There are tons of other species to target in the fall. Also, one thing not mentioned tonight and not sure how important it is to the overall discussion but my daughter is 9. She can't plug all day in the summer for blues and bass but her and her friends can come out and jig seabass in buzzards bay in the spring and have a great time with non stop action to keep them engaged and learn to love fishing. Between the weather and the kids activities there are only a handful of spring days that we can make it out where they can have constant action and create the next generation of fishermen so think it's important to keep the early spring days open. And the kids will eat the fish they catch. Even the picky ones who only eat chicken nuggets and Mac n cheese. If they catch it themselves they will eat it and love it!

Regarding the data and surveys at the ramps. Have you considered self reporting systems via the internet at all? I'd be happy to do that. Honestly would prefer it as many of the times I'm in a rush and don't want to do the survey when coming in. I also only get surveyed when I trailer the boat. They never come down to my slip so wonder if there is any difference in the responses from folks that trailer vs slip. I'm sure the live surveys are important but if you could cut down a bit on live with a system for self reporting it may allow additional funds to educate fisherman, create kids programs or access. I even think it may result in better data for you.

Thanks for all your efforts. Oh. And fluke. I don't spend much time targeting them but probably should more. I would leave things the way they are if had to change something I suppose change the length. I've never caught one out of season or hit a limit so I suppose size would be my response as long as there is still a reasonable amount of meat on them.

Thanks again  
Jake

## Meserve, Nichola (FWE)

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**From:** Eric Morrow <fishbountyhunter@gmail.com>  
**Sent:** Tuesday, March 8, 2022 9:08 AM  
**To:** Meserve, Nichola (FWE)  
**Subject:** 2022 Black Sea Bass proposed limits

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### **Bounty Hunter Charters**

**1 Union Wharf**

**Fairhaven, MA 02719**

[www.fishbountyhunter.com](http://www.fishbountyhunter.com)

To: Nichola Meserve

From: Capt. Eric Morrow

RE: Proposed 2022 Black Sea Bass Regulations

Good Day,

The intent of this letter is to make you aware of the devastating blow and quite possibly fatal consequences the Massachusetts "For – Hire Fleet" is about to be dealt pertaining to proposed changes in the Black Sea Bass regulations for 2022. Please keep in mind the season is traditionally scheduled to open on May 18, a little over 2 months from today. Picture running a business, selling your product in advance (taking reservations and deposits), your clients put in for time off from work, book hotels, and suddenly you are in a position where you may not be able to provide the product in the time promised! That is a prime example of what a poor business model looks like. Unfortunately, it has been the reality of the "For-Hire Fleet" for many years.

- As a full time Charter/Party boat owner and operator, I fully support sustainable fishing practices and conservation. You will find numerous videos of my operation releasing large Tautog and Fluke to help preserve the resource. What is happening with the Black Sea Bass Quota is not about conservation, it is simply a combination of poor science (MRIP Data) and politics. It has been reported that the biomass is 178% of the targeted number that would provide sustainable fishing, yet we are on the chopping block facing reductions year after year.
- The commercial sector gets an increase in quota and yet again, the "For- Hire" and recreational sector repeatedly faces reductions.
- The "For-Hire Fleet" repeatedly requests separation from the recreational quota, giving us different regulations. We repeatedly are told that the option is being explored and maybe next season. Neighboring states recognize the importance of a strong "For-Hire fleet" and the economic importance they provide to the numerous small businesses in their respective towns. Local hotels, restaurants, convenience stores, bait and tackle shops, and fuel docks are just a few examples of ways the economy is stimulated by our type of business.

- **The proposal to reduce the possession limit of Black Sea Bass to 1 fish per angler on July 1 through the end of the season is irresponsible and will undoubtedly be a fatal blow to a majority of the “For-Hire Fleet”.** We simply are not left with enough options to make a living by the time the summer months come. Our client’s freezers are already filled with scup. It is the Black Sea Bass that keeps them driving 2 – 6 hours to fish our waters. Unlike Black Sea Bass, they can catch Scup easily in their home states. We have already had our Tautog limit reduced to 1 fish during the summer months and the local Fluke grounds have been scarce on “keeper” sized fish. So we are being forced to steam 20 miles to catch our clients Scup. While we are out there we will be throwing back hundreds of Black Sea Bass a day.
- 80% of my clients are from out of state and they stay at our local hotels for at least one night. They eat at the local restaurants and patronize the local stores. It is not just the Bounty Hunter vessels contributing to the local economy, it is a web of businesses that benefit from each customer I bring into town for a fishing trip.
- Gas prices are continuously rising, and customers will choose to fish locally in their home states if we do not have a reasonable “bag limit” to “sell” them. That is needed to convince them to take the 2-6 hour ride with fuel prices almost double from the year before.
- Diesel Fuel is increasing drastically daily. Fuel is our largest overhead and we will be forced to implement a fuel surcharge. Customers now will be paying more than the base fare with less fish to keep. This will cause a major downturn in business. When fuel increases, so does the price of bait and ice. It causes a domino effect. My particular business averages 40,000 gallons of diesel annually.
- The “For- Hire Fleet” faced unprecedented challenges during COVID-19. We barely managed to survive and now as 2022 progresses, we have been watching the perfect storm of rapidly climbing costs of fuel, dockage, insurance, and bait. Inflation is at an all-time high and although we are a strong group and have weathered economic storms in the past, we could always work with semi-reasonable fishing regulations. The proposed Black Sea Bass regulations for 2022 is a one – two punch, and I’m afraid will knock out a lot of us.

**We need an “EMERGENCY ACTION” addendum to the 2022 Massachusetts Marine Fisheries Regulations providing a SEPARATE “For – Hire” Season for Black Sea Bass. Providing Status Quo Limits and Season from the previous year, 5 Fish Per person May 18 through Sept 8. With a ONE inch increase on the size limit to promote conservation.**

Thank you for taking the time to work with us at our most desperate moment. Please reach out directly at:

capteric@fishbountyhunter.com or 774-766-1228

Sincerely,

Capt. Eric Morrow

# Emergency Regulations for Recreational Summer Flounder, Black Sea Bass & Scup

	Summer Flounder	Black Sea Bass	Scup
MA 2021 Regs	May 23–Oct 9 5 fish 17" minimum	May 18–Sept 8 5 fish 15" minimum	January 1–December 31 30 fish except 50 fish for-hire during May/June 9" minimum
Action for 2022	16.5% liberalization allowed	20.7% reduction required	1" size limit increase required
DMF Preferred Option	May 21–Sept 29 5 fish 16.5" minimum	May 21–Sept 4 4 fish 16" minimum	January 1–December 31 30 fish except 50 fish for-hire during May/June 10" minimum



# Potential Summer Flounder Options (DMF Preferred Option in Bold)

	Season	Minimum Size	Bag Limit	Alternative Season*
Status Quo	May 23–October 9	17"	5 fish	
Option 1	May 23–October 25	17"	6 fish	May 21–October 24
Option 2	May 23–September 30	<b>16.5"</b>	<b>5 fish</b>	<b>May 21–September 29</b>
Option 3	May 23–October 9	16.5"	4 fish	May 21–October 8
Option 4	May 23–September 12	16"	5 fish	May 21–September 11
Option 5	May 23–September 20	16"	4 fish	May 21–September 19

\*The alternative seasons include a May 21 start date to align with DMF's preferred start date for black sea bass.



# Potential Black Sea Bass Options at 16" Minimum Size (DMF Preferred Option in Bold)

<i>Bag Limit</i>	<i>Wave 3</i>		5 fish	5 fish	5 fish	5 fish		4 fish	4 fish	4 fish	
	<i>Wave 4</i>	5 fish	5 fish	3 fish	3 fish	2 fish	<b>4 fish</b>	4 fish	2 fish	1 fish	3 fish
	<i>Wave 5</i>		3 fish	3 fish	1 fish	2 fish		2 fish	2 fish	1 fish	
<i>Season Start Date</i>	<i>May 18 (Wed)</i>	July 22 (66d)	July 22 (66d)	July 27 (71d)	July 27 (71d)	Aug 1 (76d)	Aug 19 (94d)	Aug 19 (94d)	Sept 2 (108d)	Sept 13 (119d)	Sept 12 (118d)
	<b><i>May 21 (Sat)</i></b>	Aug 13 (85d)	Aug 13 (85d)	Aug 23 (95d)	Aug 23 (95d)	Sept 1 (104d)	<b>Sept 4 (107d)</b>	Sept 5 (108d)	Sept 13 (116d)	Sept 29 (132d)	Sept 21 (124d)
	<i>May 25 (Wed)</i>	Sept 4 (103d)	Sept 5 (104d)	Sept 10 (109d)	Sept 18 (117d)	Sept 17 (116d)	Sept 15 (114d)	Sept 20 (119d)	Sept 28 (127d)	Oct 21 (150d)	Oct 2 (131d)

2021 Regulations: May 18–Sept 8 (114 days), 5 fish, 15" minimum

Massachusetts Division  
of Marine Fisheries



# Emergency Regulations for Recreational Summer Flounder, Black Sea Bass & Scup

	Summer Flounder	Black Sea Bass	Scup
MA 2021 Regs	May 23–Oct 9 5 fish 17" minimum	May 18–Sept 8 5 fish 15" minimum	January 1–December 31 30 fish except 50 fish for-hire during May/June 9" minimum
Action for 2022	16.5% liberalization allowed	20.7% reduction required	1" size limit increase required
DMF Preferred Option	May 21–Sept 29 5 fish 16.5" minimum	May 21–Sept 4 4 fish 16" minimum	<b>January 1–December 31</b> <b>30 fish except 50 fish for-hire during May/June</b> <b>10" minimum</b>





# The Commonwealth of Massachusetts

## Division of Marine Fisheries

251 Causeway Street, Suite 400, Boston, MA 02114  
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DANIEL J. MCKIERNAN  
Director

### MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)  
FROM: Daniel J. McKiernan, Director   
DATE: March 4, 2022  
SUBJECT: Emergency Regulations for Recreational Gulf of Maine Cod and Haddock Limits

#### Anticipated Emergency Regulations

For Gulf of Maine (GOM) cod and haddock, I will be using my emergency regulatory authority to implement the recreational fishing limits for the upcoming federal fishing year (May 1, 2022 – April 30, 2023).

For Gulf of Maine (GOM) cod (Table 1), I intend to file emergency regulations to open the recreational fishing season from September 1 - October 7, 2022 and April 1 - 14, 2023 for all modes (private and for-hire). During this open season, the bag limit will remain status quo at 1-fish but the minimum size would increase by one inch to 22 inches. This adds three weeks to the current private season and two weeks to the current for-hire season.

I also intend to file emergency regulations to amend the recreational fishing limits for Gulf of Maine haddock (Table 2). This amendment will increase the bag limit from 15-fish to 20-fish, while maintaining the current minimum size limit (17") and open season (May 1 – February 28 and April 1 – April 30). For the upcoming fishing year, this leaves only March 2023 closed to recreational fishing for this stock.

#### Rationale

This recommended action complements anticipated (FY2022) federal fishing limits for GOM cod and haddock. This will allow recreational fishermen fishing in state-waters to have the same limits as those fishing in adjacent federal waters and for recreational fishermen to possess and land haddock in Massachusetts that were lawfully taken in the federal zone.

#### Anticipated Public Process

Given the timing of anticipated federal approval of these fishing limits and the May 1 start of the fishing year, I cannot accommodate a normal rule making schedule. Instead, in order to have complementary rules in place for May 1, I intend to use my emergency rule making authority. Emergency regulations are effective when filed. Accordingly, pending federal approval, I intend to file these regulations on an emergency basis prior to May 1.



Once filed, emergency regulations remain in place for a period of 90-days. During this emergency period, the agency may hold a public hearing and comment period and put a final recommendation to the MFAC for a vote. If a final recommendation is approved the regulations will be codified on a more permanent basis and will not expire after 90-days. If a final recommendation is not approved, the regulations will expire after 90-days and revert back to the current regulations.

I anticipate holding a public comment period and public hearing later this spring (likely May) and bringing a final recommendation to the MFAC at their June meeting. This will be on the same rule making schedule as the other emergency regulations affecting recreational fisheries (e.g., black sea bass, scup, summer flounder, and Georges Bank cod). As such, I will not be able to take public comment in advance of these rule changes going into effect. While not ideal, I am comfortable with this approach given these changes generally represent liberalizations from the current limits and DMF has very limited ability to do something different than the federal government. However, I would like to use the March 10, 2022 MFAC business meeting to discuss this with you and get your feedback on the proposals and this approach.

<b>Table 1. Existing and Emergency GOM Cod Limits</b>			
<b>Rules</b>	<b>Season</b>	<b>Bag Limit</b>	<b>Size Limit</b>
Current	Private: Sep 15 – Sep 30 Apr 1 – Apr 14	1-fish	21"
	For-hire: Sep 8 – Oct 7 Apr 1 – Apr 14		
Emergency	<b>Sep 1 – Oct 7</b> Apr 1 – Apr 14	1-fish	<b>22"</b>

<b>Table 2. Existing and Emergency GOM Haddock Limits</b>			
<b>Rules</b>	<b>Season</b>	<b>Bag Limit</b>	<b>Size Limit</b>
Current	May 1, 2021 – Feb 28, 2022 April 1-30, 2022	15-fish	17"
Recommended	May 1, 2022 – Feb 28, 2023 April 1-30, 2023	<b>20-fish</b>	17"



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Director

### MEMORANDUM

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

#### Proposal Overview

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

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

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

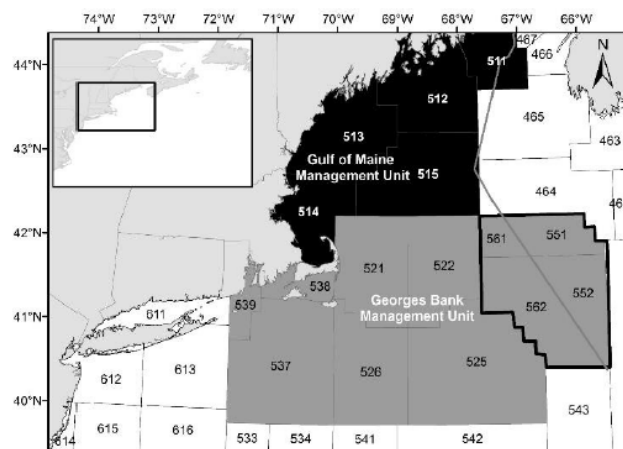
NOAA Fisheries is now reviewing that action for eventual implementation. Given the expected timing of the federal final rule – not likely until late Spring, early Summer – I plan to implement complementary rules changes via emergency action upon notification of federal approval. DMF will then take public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

### Additional Background

#### A 2021 management track assessment

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

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



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

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

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

# Emergency Regulations for Recreational Cod and Haddock

Mode	Year	Stock	Open Season	Bag Limit	Size Limit
All	FY21	GB Cod	May 1 – April 30	10/angler/day	21"
<b>All</b>	<b>FY22</b>	<b>GB Cod</b>	<b>August 1 – April 30</b>	<b>5/angler/day</b>	<b>22" – 28" slot</b>
Private	FY21	GOM Cod	September 15 – September 30 April 1 – April 15	1/angler/day	21"
<b>Private</b>	<b>FY22</b>	<b>GOM Cod</b>	<b>September 1 – October 7</b> <b>April 1 – April 14</b>	<b>1/angler/day</b>	<b>22"</b>
For-Hire	FY21	GOM Cod	September 8 – October 7 April 1 – April 14	1/angler/day	21"
<b>For-Hire</b>	<b>FY22</b>	<b>GOM Cod</b>	<b>September 1 – October 7</b> <b>April 1 – April 14</b>	<b>1/angler/day</b>	<b>22"</b>
All	FY21	GOM Haddock	May 1 – February 28 April 1 – April 30	15-fish	17"
<b>All</b>	<b>FY22</b>	<b>GOM Haddock</b>	<b>May 1 – February 28</b> <b>April 1 – April 30</b>	<b>20-fish</b>	<b>17"</b>

Bold text shows limits for this year. Red bold text shows changes.





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Director

### MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)  
FROM: Daniel J. McKiernan, Director   
DATE: March 4, 2022  
SUBJECT: Residency Requirements and Seasonal Lobster Permit

#### Decision

After a careful review of public comment, I have decided to not move forward with a regulatory clarification to apply the residency requirement established at G.L. c. 130, §38 to the seasonal lobster permit (also referred to as “student lobster permit”). Rather, it is my intent to interpret the admittedly vague statute in a manner that allows DMF to issue the seasonal lobster permit to full-time students who have not resided in Massachusetts for at least one-year prior to issuance. Based on my reading of the existing regulation at 322 CMR 7.01(2)(f)<sup>1</sup>, this interpretation does not require a regulatory adjustment. However, I have drafted policy to clarify this issue for posterity and am seeking your feedback.

#### Background and Rationale

State law at G.L. c. 130, §38<sup>2</sup> establishes a seasonal commercial lobster permit. This is an open entry commercial fishing permit that authorizes full-time students to fish commercially for lobster using up to 25 traps during a June 15 through September 15 season. These permit holders are regulated under the state’s commercial lobster trap fishery regulations; this means all relevant commercial lobster conservation limits, trap gear restrictions, trap and buoy marking requirements, and protected species measures apply. G.L. c. 130, §38<sup>3</sup> also establishes a residency requirement for DMF issued lobster permit. In summary, it requires DMF only issue a

<sup>1</sup> 322 CMR 7.01(2)(f). Seasonal Lobster Permit. Authorizes only the named individual to harvest, possess and land lobsters for commercial purposes, to be issued only to full-time students 12 years of age or older and conditioned to authorize the harvest, possession and landing of lobsters for commercial purposes only from June 15 to September 15 of each year and further conditioned to the use of not more than 25 lobster traps. DMF may issue up to 150 seasonal lobster permits for use during any single calendar year.

<sup>2</sup> G.L. c. 130, §38. In addition to the above noncommercial lobster and crab permit and the commercial fisherman permit (lobster) there shall be a seasonal commercial fisherman permit (lobster). Such a permit shall be issued to full-time students only, after such verification of student status as the director may determine, and shall allow the holder to take and sell lobster during the period June fifteen to September fifteen and shall limit the holder to the use of not more than twenty-five pots.

<sup>3</sup> G.L. c. 130, §38. Except as hereinafter provided, such licenses to catch or take both lobsters and edible crabs shall be granted only to individuals who are citizens of the commonwealth and who have resided therein for at least one year next preceding the date of such license, but no such license shall be issued to a minor under seventeen years of age except with the written consent of his parent, guardian or custodian and at the discretion of the director.

commercial lobster and crab permits to individuals who have resided in Massachusetts for at least one-year prior to the date of issuance.

In recent years, DMF observed some non-resident students apply for this permit – on average less than one per year. . The historic permitting record (dating back to 2000) shows that a small number of full-time non-resident students had obtained this permit since 2000 due to DMF’s inconsistent application of the statute. This raised the question of whether the residency requirement applied to the seasonal lobster permit, and when I became Director, I prioritized working to clarify the issue. Over the course of this winter, DMF took public comment on a regulatory amendment to clarify the residency requirement applies to the student lobster permit, as it is a commercial fishing permit for lobster and the statute does not explicitly state it is exempt from the residency requirement.

An argument was made at public hearing that G.L. c. 130, §38 establishes the seasonal lobster permit as a “lobster-only” commercial fishing permit and it does not allow for the commercial harvest of edible crabs (e.g., *Cancer* crabs). Accordingly, the residency requirement does not apply because it is applicable only to those permits to “catch or take both lobsters and edible crabs.” I found this argument to present a persuasive interpretation of the statute. Moreover, it is consistent with the student lobster permitting regulation which does not reference edible crabs.

My draft policy adopts the interpretation of the seasonal lobster permit as being a “lobster-only” permit. With anticipated MFAC support, DMF will commence outreach to seasonal lobster permit holders regarding the retention, possession, landing, and sale of edible crabs.

The expected impacts of interpretation are:

1. DMF will continue to issue seasonal lobster permits to non-residents who are full-time students. Based on the historic permitting record, DMF has issued 44 of these annual permits on 44 occasions to 13 non-resident full-time students since 2000. I expect the number of non-resident applicants to remain nominal given logistics of a student living out-of-state and fishing in Massachusetts waters. Moreover, the number of seasonal lobster permits issued is capped at 150 annually by regulation, so allowing non-residents to obtain this permit should not be expected to result in a proliferation of new fishing effort and buoy lines.
2. The seasonal lobster permit will not authorize the commercial harvest of edible crabs. Based on harvester trip-level reports, I do not expect this will negatively impact existing fishing behavior, as only a nominal amount of edible crabs are landed annually by student lobster permit holders. Only two student lobster permit holders reported landing crabs on just a handful of occasions in the years 2010 to 2020. This is not surprising given student lobster fishermen are likely fishing from small vessels in nearshore waters where edible crabs are not commonly found.

Additionally, I am taking this opportunity to formalize in policy the criteria DMF uses to determine full-time student status. We have interpreted a “full-time student” to mean “any person, age 12 or older, enrolled as a student in middle school, high school, or in a full-time college or post-graduate education program as defined by their academic institution.

Attachment

Draft Policy on Seasonal Lobster Permits

Written public comment



# Massachusetts Division of Marine Fisheries

Daniel J. McKiernan, Director

## Policies, Procedures, and Guidelines

### Issuance and Use of Seasonal Lobster Permit

#### Introduction and Purpose:

G.L. c. 130, §38 establishes a seasonal commercial lobster permit. The statute sets forth that, “such a permit shall be issued to full-time students only, after such verification of student status as the director may determine and shall allow the holder to take and sell lobster during the period of June fifteen to September fifteen and shall limit the holder to the use of not more than twenty-five pots.” Moreover, the implementing regulation at 322 CMR 7.01(2)(f) further states the seasonal lobster permit, “authorizes only the named individual to harvest, possess and land lobsters for commercial purposes, to be issued only to full-time students 12 years of age or older and conditioned to authorize the harvest, possession and landing of lobsters for commercial purposes only from June 15<sup>th</sup> to September 15<sup>th</sup> of each year and further conditioned to the use of not more than 25 lobster traps. DMF may issue up to 150 seasonal lobster permits for use during any single calendar year.”

Unlike other commercial lobster permits (e.g., Commercial Coastal Lobster Permit), the statutory and regulatory language establishing the seasonal lobster permit does not explicitly authorize the commercial harvest of edible crabs (e.g., *Cancer* crabs). As such, the residency requirement at G.L. c. 130, §38 affecting DMF-issued lobster permits does not apply to the seasonal lobster permit. This is because the residency requirement applies only to permits for the taking of both lobsters and edible crabs. The residency requirement at G.L. c. 130, §38 states, “such licenses to catch or take both lobsters and edible crabs shall be granted only to individuals who are citizens of the commonwealth and who have resided therein for at least one year next preceding the date of such a license...”



This policy seeks to clarify to whom the student lobster permit may be issued and how it applies.

**Policy:** Consistent with the implementing statute at G.L. c. 130, §38 and regulation at 322 CMR 7.01(2)(f):

1. The student lobster permit allows for the retention, possession, landing, and sale of lobsters.
2. The student lobster permit does not authorize the retention, possession, landing, and sale of edible crabs. The term “edible crabs” is defined at 322 CMR 6.19 to mean, “blue crabs, *Cancer* crabs, and other native species of crabs that are suitable for human consumption. This shall not include species of non-native crabs, including but not limited to, the European green crab or the Asian shore crab.
3. The student lobster permit may be issued to non-residents of the Commonwealth of Massachusetts who are full-time students.
4. Full-time student means any person, age 12 or older, enrolled as a student in middle school, high school, or in a full-time college or post-graduate education program as defined by their academic institution.

# Draft Policy Affecting Student Lobster Permit

**Policy:** Consistent with the implementing statute at G.L. c. 130, §38 and regulation at 322 CMR 7.01(2)(f):

1. The student lobster permit allows for the retention, possession, landing, and sale of lobsters.
2. The student lobster permit does not authorize the retention, possession, landing, and sale of edible crabs. The term “edible crabs” is defined at 322 CMR 6.19 to mean, “blue crabs, Cancer crabs, and other native species of crabs that are suitable for human consumption. This shall not include species of non-native crabs, including but not limited to, the European green crab or the Asian shore crab.
3. The student lobster permit may be issued to non-residents of the Commonwealth of Massachusetts who are full-time students.
4. Full-time student means any person, age 12 or older, enrolled as a student in middle school, high school, or in a full-time college or post-graduate education program as defined by their academic institution.



# Trap Closure Gear Removal Program

- Cooperative effort with DMF, MEP, and 6 Commercial Lobstermen
- Haul abandoned buoyed gear within the state waters closed area to protect NARW
- We used aerial surveillance from CCS and MEP vessel patrols to identify/confirm the location of abandoned gear
- DMF funded 25 sea-days with contracted commercial lobstermen
- MEP provided vessel escort for the contracted lobster vessel while they were hauling gear
- DMF staff on board the contracted lobster vessel each day to inventory/identify all the gear being hauled
- Critical to success of NARW conservation program
  - Ensures that the closure is effective
  - Demonstrates to NMFS/ALWTRT that MA enforces regulations and monitors compliance



- Compliance
  - Overall compliance with closure is good
    - Chatham to Cohasset – very good – modest amounts of lost gear
    - Boston to Cape Ann – needs improvement – substantial amounts of gear left behind
  - Compliance with whale safe measures – very good overall
    - Compliance issues with gear marking and 1,700 lb rope rules among abandoned gear observed in the Salem Sound and Mass Bay.

## Trap Closure Gear Removal Program

# Gear Removal Project Totals

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	Sea Days Completed	Buoy Lines Hauled	Total Traps Hauled	Estimated # Permit Holders
DMF/Contract Vessel	24	406	1596	129
MEP Vessel	22	77	200	NA

# Trap Closure Gear Removal Program

- All gear hauled was taken back to port
  - The owners were identified and notified
- Fate of the gear
  - Small quantities/compliant with whale safe measure = returned to owner
  - Large quantities/not compliant with whale safe measure = referred to MEP
- MEP working on multiple pending cases





# Special Thanks

- MEP
  - Cpt. Chris Baker
  - Lt. Matt Bass
  - Sgt. Rob Akin
  - Many MEP Officers who assisted
- Lobstermen
  - Fred Penney
  - Jeff Bartlett
  - Eric Lorenzen
  - Dean DeCoste
  - Mike Rego
  - Kurt Martin
- DMF
  - Julia Kaplan
  - Anna Dorrance
  - Brendan Reilly
  - Alex Boeri



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February 18, 2022

### **Notice of March 14, 2022 Virtual Public Hearing and Public Comment Period: Draft Regulatory Proposals Affecting Commercial Menhaden and Bluefish Limits, Commercial Striped Bass Permitting, and Regulatory Housekeeping**

Under the provisions of G.L. c. 30A and pursuant to the authority found at G.L. c. 130 §§ 2, 17A, 80 and 104, the Division of Marine Fisheries (DMF) is taking public comment and holding a virtual public hearing on draft regulations to amend 322 CMR 6.00 and 7.00. Full text of the draft regulations may be found on [DMF's website](http://www.mass.gov/dmf) along with additional relevant background information.

Commercial Menhaden (322 CMR 6.43). DMF is proposing to adopt a June 1 start date for the limited entry commercial menhaden fishery with an exception for fish weirs.

Commercial Bluefish Minimum Size (322 CMR 6.18). DMF is proposing to adopt an 18" commercial minimum size for bluefish.

Commercial Striped Bass Permitting (322 CMR 7.04). DMF is proposing to update the commercial striped bass control date to June 14, 2022. The current control date is September 8, 2013. DMF could use this control date, in combination with other eligibility criteria, to limit future access and participation in this commercial fishery.

Housekeeping (322 CMR 6.19, 6.41, 7.03, and 7.06). DMF is proposing several regulatory housekeeping measures to clarify existing regulations.

1. *Owner-Operator Rules.* Owner-operator rules apply to certain commercial fishing permits and commercial fishing permits govern the fishing activity, as well as the possession and sale of fish. As such, DMF seeks to clarify the owner-operator requirements extend not just to permitted fishing activity but the possession and sale of fish caught under the authority of the permit.
2. *Limited Entry Permit Endorsement Renewal Rules.* Correct typographical errors to improve the readability of the regulation governing the renewal of limited entry permit endorsements received or post-marked after the permit renewal deadline.
3. *Officer Discretion and Violations Onboard For-Hire vessels.* Eliminate redundant language regarding officer discretion from its regulation affecting liability for violations onboard for-hire vessels.
4. *Recreational Traps for Cancer Crabs.* With the prohibition on the use of trap gear to catch blue crabs, clarify that all recreational traps for lobsters and edible crabs be configured as a recreational lobster trap.

### **Public Hearing and Comment Schedule**

A virtual Zoom public hearing is scheduled for Monday, March 14, 2022 at 6PM. To attend this virtual public hearing, please register [online](http://www.mass.gov/dmf). Once you are registered, you will receive information regarding



how to login to the hearing. DMF will also accept written public comment through March 20, 2022. Submit written comments to Director Daniel McKiernan by e-mail ([marine.fish@mass.gov](mailto:marine.fish@mass.gov)) or post (251 Causeway Street, Suite 400, Boston, MA 02114).



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February 18, 2022

### **Notice of March 16, 2022 Virtual Public Hearing and Public Comment Period: Draft Regulatory Proposals Affecting Commercial Summer Flounder, Black Sea Bass, and Spiny Dogfish Fishery Limits and Regulatory Housekeeping**

Under the provisions of G.L. c. 30A and pursuant to the authority found at G.L. c. 130 §§ 2, 17A, 80 and 104, the Division of Marine Fisheries (DMF) is taking public comment and holding a virtual public hearing on draft regulations to amend 322 CMR 6.00 and 7.00. Full text of the draft regulations may be found on [DMF's website](http://www.mass.gov/dmf) along with additional relevant background information.

Commercial Summer Flounder Limits (322 CMR 6.22). As a result of a 37% increase in the 2022 commercial summer flounder quota, and in response to recent fishery performance, DMF is proposing to:

1. *Quota Allocation.* Adjust the allocation of the annual commercial summer flounder quota between the Period I (January 1 – April 22) and Period II (April 23 – December 31) fisheries so the allocation for the Period I fishery increases from 30% overall to as much as 50% overall.
2. *Period I Trip Limit.* Increase the regulatorily set Period I summer flounder trip limit from 1,000 pounds to 2,500 pounds and maintain a trigger that reduces the trip limit to no less than 500 pounds once a certain amount of the Period I quota allocation is taken.
3. *Multi-State Pilot Program.* Codify the pilot program allowing vessels permitted in Massachusetts and other neighboring states to retain a trip limit from those states and possess non-conforming quantities of fish when offloading in Massachusetts provided the fish destined for another state is clearly labeled and remains on the vessel.
4. *Period II Inshore Directed Fishery Season.* Adjust the timing of the Period II directed inshore summer flounder fishing season so that it occurs from April 23 – October 9 rather than June 10 to October 31.
5. *Period II Inshore Directed Fishery Open Fishing Days.* During the Period II directed inshore summer flounder fishing season allow commercial harvest, possession, and landing seven days per week. This eliminates Fridays and Saturdays as closed fishing days.
6. *Period II Inshore Directed Fishery Trip Limits.* During the Period II directed inshore summer flounder fishing season increase the commercial trip limit from 400 pounds to 500 pounds for net fishermen and from 250 pounds to 300 pounds for hook and line fishermen. For trawlers, the limit would remain 100 pounds if in possession of squid.
7. *In-season Adjustment to Period II Inshore Directed Fishery Trip Limits.* Allow the Period II directed inshore summer flounder trip limit to increase to 600 pounds for all gear types on September 1 if more than 25% of the annual quota remains unharvested.
8. *Period II Late Fall and Early Winter Fishery Limits.* From October 10 – December 31, establish a 2,500 pound trip limit if more than 15% of the annual quota remains unharvested or 1,000 pounds if less than 15% of the quota remains unharvested.

Commercial Black Sea Bass Limits (322 CMR 6.28). As a result of 26% increase in the 2022 commercial black sea bass quota, and in response to recent fishery performance, DMF is proposing to:

1. *Summertime Directed Fishery Season.* Adjust the timing of the commercial black sea bass summertime directed fishery season so that it opens on the first open fishing day on or after July 1 rather than July 8.
2. *Summertime Directed Fishery Open Fishing Days.* For all non-trawl gear types fishing during the summertime directed fishery, allow open fishing days Sundays through Thursdays. Closed fishing days on Fridays and Saturdays would be maintained. This would add Mondays and Wednesdays as open fishing days to the current open fishing day schedule of Sundays, Tuesdays, and Thursdays. Then on October 1, eliminate closed fishing days on Fridays and Saturdays and allow commercial fishing seven days per week.
3. *Summertime Directed Fishery Trip Limits for Potters.* For commercial black sea bass potters, increase the commercial trip limit from 400 pounds to 500 pounds. Then on October 1, increase the trip to 600 pounds if more than 10% of the annual quota remains unharvested.
4. *Summertime Directed Fishery Trip Limit for Other Gears.* For hook and line and other non-trawl or weir gears (e.g. lobster traps), increase the commercial trip limit from 200 pounds to 250 pounds. Then on October 1, increase the trip to 300 pounds if more than 10% of the annual quota remains unharvested.
5. *Trawl Bycatch Limits.* Trawlers will continue to be allowed to retain a 100 pound bycatch of black sea bass beginning on April 23. To reduce regulatory discarding, open fishing days for black sea bass will correspond to the open fishing days established for the inshore squid and summer flounder trawl fisheries.

Commercial Spiny Dogfish (322 CMR 6.35). DMF is proposing to increase the commercial spiny dogfish trip limit from 6,000 pounds to 7,500 pounds consistent with changes to the interstate and federal Fishery Management Plan for spiny dogfish.

Housekeeping (322 CMR 6.19, 6.41, 7.03, and 7.06). DMF is proposing several regulatory housekeeping measures to clarify existing regulations.

1. *Owner-Operator Rules.* Owner-operator rules apply to certain commercial fishing permits and commercial fishing permits govern the fishing activity, as well as the possession and sale of fish. As such, DMF seeks to clarify the owner-operator requirements extend not just to permitted fishing activity but the possession and sale of fish caught under the authority of the permit.
2. *Limited Entry Permit Endorsement Renewal Rules.* Correct typographical errors to improve the readability of the regulation governing the renewal of limited entry permit endorsements received or post-marked after the permit renewal deadline.
3. *Officer Discretion and Violations Onboard For-Hire vessels.* Eliminate redundant language regarding officer discretion from its regulation affecting liability for violations onboard for-hire vessels.
4. *Recreational Traps for Cancer Crabs.* With the prohibition on the use of trap gear to catch blue crabs, clarify that all recreational traps for lobsters and edible crabs be configured as a recreational lobster trap.

### **Public Hearing and Comment Schedule**

A virtual Zoom public hearing is scheduled for Wednesday, March 16, 2022 at 6PM. To attend this virtual public hearing, please register [online](#). Once you are registered, you will receive information regarding how to login to the hearing. DMF will also accept written public comment through March 20, 2022. Submit written comments to Director Daniel McKiernan by e-mail ([marine.fish@mass.gov](mailto:marine.fish@mass.gov)) or post (251 Causeway Street, Suite 400, Boston, MA 02114).

**Proposed Draft Regulations**  
**Amendments to Commercial Quota Managed Species Regulations and Regulatory Housekeeping**

6.18: Bluefish Limits (~~Pomatomus Salatrix~~)

(2) Commercial Bluefish Catch Limits. ~~For the period January 1 through December 31, it is unlawful for commercial fishermen to land or possess more than 5,000 pounds of bluefish, per calendar day or per trip, whichever period of time is longer. Holders of valid commercial fishermen permits may sell bluefish to licensed dealers only.~~

a. Minimum Size. It shall be unlawful for a commercial fisherman to retain, possess, or land a bluefish less than 18 inches in total length.

b. Trip Limit. It shall be unlawful for a commercial fisherman to retain, possess, or land more than 5,000 pounds of bluefish, per calendar day or per trip, whichever period of time is longer.

c. Quota Closure. It shall be unlawful for a commercial fisherman to retain, possess, or land bluefish once the Director has determined 100% of the bluefish quota has been reached. The quota closure will be enacted and announced in accordance with the procedure set forth at 322 CMR 6.41(2)(c).

6.19: Edible Crab Management

(7) **Management of Recreational *Cancer* Crab Fishery Possession Limits for Recreational Fishermen.** ~~It shall be unlawful for a recreational fisherman to take, possess or land more than 50 *Cancer* crabs per calendar day or possess more than 50 *Cancer* crabs while fishing. This limit shall not apply to any fisherman who has obtained rock crabs from lawfully permitted dealers for the purpose of use as bait.~~

a. **Possession Limits.** It shall be unlawful for a recreational fisherman to take, possess or land more than 50 *Cancer* crabs per calendar day or possess more than 50 *Cancer* crabs while fishing. This limit shall not apply to any fisherman who has obtained rock crabs from lawfully permitted dealers for use as bait.

b. **Restrictions on the Use of Traps.** A recreational fisherman may use traps to catch *Cancer* crabs provided the traps used to take or attempt to take *Cancer* crabs comply with the recreational lobster trap restrictions at 322 CMR 6.02(3).

## 6.22: Summer Flounder (Fluke) Restrictions

(1) Definitions. For the purposes of 322 CMR 6.22, the following terms shall have the following meanings.

Commercial Fisherman means fishermen fishing for purposes of sale, barter, or exchange.

Land means to transfer or attempt to transfer the catch of summer flounder from any vessel to any other vessel or onto any land, pier, wharf, dock or other artificial structure, or for a fishing vessel with any summer flounder onboard to tie-up to any pier, wharf, dock, or artificial structure.

~~Longline means any fishing gear having a single weighted main line set along the ocean bottom to which many gangions or leaders (short line sections) are attached with each one ending with a baited hook.~~

~~Possession Limits. For purposes of 322 CMR 6.22, all possession limits shall be per trip or per 24 hour day, whichever is the longer period of time, except where noted otherwise, and shall be vessel limits, regardless of the number of commercial fishermen with fluke special permits onboard said vessel.~~

Period I means the commercial fishery for summer flounder occurring between January 1 and April 22.

Period II means the commercial fishery for summer flounder occurring between April 23 and December 31.

Quota means the Commonwealth's ~~6.8%~~ share of the annual commercial summer flounder quota adopted by the Atlantic States Marine Fisheries Commission.

Recreational Fisherman means fishermen fishing for purposes of personal or family use by angling.

Summer Flounder means fluke or that species of fish known as *Paralichthys dentatus*.

(2) Commercial Fishery.

(a) Minimum Size. It shall be unlawful for any commercial fisherman to land or possess summer flounder less than 14 inches in total length.

(b) Seasonal Quota Allocations. **Annually**, the ~~annual~~ quota shall be split with a target allocation of **50%** ~~30%~~ to the Period I fishery and **50%** ~~70%~~ allocated to the Period II fishery ~~that occurs from April 23 through December 31~~. Any unused portion of the quota from Period I may be re-allocated to Period II. Overharvest of either period allocation may be deducted from the corresponding period in the following year.

(c) Period I (January 1 through April 22).

1. From January 1 through April 22, **or until 45%** ~~or until 25%~~ of the ~~annual~~ quota has been reached, **whichever occurs sooner**, it shall be unlawful for any commercial fisherman to retain, possess or land any summer flounder using any gear other than nets. During this period, fishermen using nets may ~~retain~~,

~~possess or~~ land up to **2,500** ~~1,000~~ pounds of summer flounder during any calendar day or trip, whichever period **of time** is longer.

2. Once ~~25%~~ **45%** of the ~~annual~~ quota has been reached, it shall be unlawful for any commercial fisherman using nets to retain, possess or land more than 100 pounds of summer flounder during any calendar day or trip, whichever period **of time** is longer.

**3. Vessels landing in Massachusetts may possess summer flounder in quantities exceeding the limits at 322 CMR 6.22(2)(c)(1) and (2), provided the non-conforming fish is to be landed in another state, is clearly labeled identifying the state it is to be landed in, and it remains on the vessel while the Massachusetts limit is being landed.**

**(d) Period II (April 23 through December 31).**

**1. From April 23 – August 31 it shall be unlawful for a commercial fisherman to retain, possess, or land:**

**a. more than 500 pounds of summer flounder caught with nets during any trip or calendar day, whichever period of time is longer.**

**Exception: Any vessel fishing with trawl gear and in the possession of squid may not retain, possess, or land more than 100 pounds of summer flounder during any trip or calendar day, whichever period of time is longer.**

**b. more than 300 pounds of summer flounder when fishing with hook and line gear during any trip or calendar day, whichever period of time is longer.**

**2. Provided more than 25% quota remains available on September 1, during the period of September 1 – October 9, it shall be unlawful for a commercial fisherman to retain, possess, or land more than 600 pounds of summer flounder. If less than 25% of the quota remains on September 1, the limits provided at 322 CMR 6.22(2)(d)(1) shall apply.**

**3. From October 10 – December 31 it shall be unlawful for any commercial fisherman to retain, possess, or land:**

**a. more than 2,500 pounds of summer flounder during any calendar day or trip, whichever period of time is longer, if more than 15% of the quota remains available on October 10; or**

**b. more than 1,000 pounds of summer flounder during any calendar day or trip, whichever period of time is longer, if less than 15% of the quota remains available on October 10.**

~~**1. April 23 through June 9. During this period, it shall be unlawful for any commercial fisherman to retain, possess or land:**~~

~~a. more than 100 pounds of summer flounder caught with nets or longlines during a 24-hour day.~~

~~b. any summer flounder caught with handlines or rod and reel.~~

~~2. June 10 through October 31. During this period, it shall be unlawful for any commercial fisherman to retain, possess or land:~~

~~a. any summer flounder on Fridays or Saturdays;~~

~~b. more than 400 pounds of summer flounder when fishing with nets;~~

~~c. more than 250 pounds of summer flounder when fishing with hook and line gear.~~

~~3. November 1 through December 31. During this period, it shall be unlawful for any commercial fisherman to retain, possess or land:~~

~~a. more than 1,000 pounds of summer flounder during any calendar day or trip, whichever period of time is longer, provided at least 5% of the annual quota remains available to harvest on November 1.~~

~~b. more than 500 pounds of summer flounder during any calendar day or trip, whichever period of time is longer, if 5% or less of the annual quota remains available to harvest on November 1.~~

(e) Quota Closure. It shall be unlawful for any commercial fisherman to retain, possess, or land summer flounder once the Director has determined that 100% of the ~~annual~~ commercial summer flounder quota has been reached. The quota closure will be enacted and announced in accordance with the procedure set forth at 322 CMR 6.41(2)(c).

(f) Vessel Limits. All possession limits **set forth at 322 CMR 6.22(2)** shall be applied to the vessel per calendar day **or per trip, whichever period of time is longer, and** regardless of the number of commercial fishing permits or letters of authorization carried onboard the vessel. ~~The landing/possession limits described in 322 CMR 6.22(2) shall apply to any vessel involved in the commercial summer flounder fishery, regardless of the number of commercial fishermen with summer flounder special permits onboard said vessel.~~

(g) Landing Prohibition. It is unlawful for any commercial fisherman to land or possess summer flounder from 8:00 P.M. through 6:00 A.M.

(h) Inspection. Commercial fishermen shall keep all summer flounder separate from the rest of the vessel's catch and readily available for immediate inspection by the **Office of** ~~Division of Environmental~~ Law Enforcement.

(i) Requirements for Dealers. All dealers authorized as primary buyers permitted in accordance with M.G.L. c. 130, 322 CMR 7.01(3): Dealer Permits and 322 CMR 7.07: Dealers Acting as Primary Buyers shall obtain a federal dealer permit from the National Marine Fisheries Service to purchase **summer flounder fluke**



directly from commercial fishermen during the Period I commercial **summer flounder fluke** fishery.

## 6.28: Black Sea Bass Fishery Management

### (2) Commercial Fishery Management.

(a) Permit Requirements. A regulated fishery black sea bass permit endorsement or black sea bass pot endorsement, issued by the Director pursuant to 322 CMR 7.01(4)(a): Regulated Fishery Permit Endorsement, is required to sell, **barter, or exchange** black sea bass or to fish for, retain, possess or land black sea bass in accordance with the black sea bass commercial fishery regulations at 322 CMR 6.28(2).

(b) Minimum Size. It is unlawful for any commercial fisherman or dealer to possess black sea bass less than 12 inches in total length, not including the tail tendril.

(c) Possession and Landing Limits. It shall be unlawful for any commercial fisherman to retain, possess, land or sell, **barter, or exchange** black sea bass, except as authorized at 322 CMR 6.28(2)(c)1. through 5.:

1. Winter Catch Allowance. From January 1 through March 31, it shall be unlawful for a commercial fisherman to possess or land more than 100 pounds of black sea bass.

2. Weirs. From April 1 through December 31, commercial fishermen permitted in accordance with 322 CMR 7.01(4)(a): Regulated Fishery Permit Endorsement to operate a fish weir, shall not be subject to daily possession limits or closed commercial fishing days for black sea bass caught in fish weirs. The weir fishery shall close when all permitted weir fishermen have combined to land 24,000 pounds of black sea bass or the commercial black sea bass quota is taken and the fishery is closed in accordance with 322 CMR 6.28(2)(c)6.

3. Black Sea Bass Bycatch Allowance for Trawlers. **Beginning on April 23, commercial fishermen using trawl gear may retain, possess, or land up to 100 pounds of black sea bass during any calendar day or trip, whichever period of time is longer.**

~~a. Small Mesh Trawl Squid Fishery. During the small mesh trawl squid fishery, as established at 322 CMR 4.06(5)(a): Small Mesh Trawl Squid Fishery, commercial fishermen permitted in accordance with 322 CMR 7.01(4)(a): Regulated Fishery Permit Endorsement to fish with small mesh trawls for squid and retain black sea bass may retain, possess and land up to 100 pounds of black sea bass per calendar day or trip, whichever period is longer. When the small mesh trawl fishery for squid closes or once aggregate landings by trawlers have combined to land 50,000 pounds of black sea bass, whichever occurs first, it shall be unlawful for trawl fishermen to possess black sea bass until the directed Period II trawl fishery for summer flounder, managed in accordance with 322 CMR 6.22(2)(d)(2), opens on June 10.~~

~~b. Summertime Summer Flounder Trawl Fishery. Beginning on June 10, commercial fishermen permitted in accordance with 322 CMR 7.01(4)(a): Regulated Fishery Permit Endorsement to fish with~~

~~trawls and retain black sea bass may retain, possess, and land up to 100 pounds of black sea bass on Sundays, Mondays, Tuesdays, Wednesdays, and Thursdays during the Period II summer flounder fishery, as set forth at 322 CMR 6.22(2)(d)(2).~~

4. Summertime Black Sea Bass Pot Fishery. ~~During the period~~

a. Beginning on ~~July 1~~ **July 8**, commercial fishermen permitted to fish black sea bass pots may retain, possess, and land up to **500** ~~400~~ pounds of black sea bass ~~on Sundays, Tuesdays, and Thursdays.~~ during any calendar day or trip, whichever period of time is longer. Fridays and Saturdays shall be closed to commercial fishing for black sea bass with black sea bass pot gear, and the retention, possession, and landing of black sea bass taken by pot gear is prohibited on Fridays and Saturdays.

b. Beginning on October 1, if more than 10% of the quota remains, commercial fishermen permitted to fish black sea bass pots may retain, possess, and land up to 600 pounds of black sea bass during any calendar day or trip, whichever time period is longer.

5. Other Gear Types. ~~During the period~~

a. Beginning on ~~July 1~~ **July 8**, commercial fishermen using all other authorized gear types including, but not limited to, hook and line, may retain, possess, and land up to **250** ~~200~~ pounds of black sea bass ~~on Sundays, Tuesdays, and Thursdays.~~ during any calendar day or trip, whichever period of time is longer. Fridays and Saturdays shall be closed to commercial fishing for black sea bass with these gears, and the retention, possession, and landing of black sea bass taken by these gears is prohibited on Fridays and Saturdays.

b. Beginning on October 1, if more than 10% of the quota remains, commercial fishermen permitted to fish black sea bass pots may retain, possess, and land up to 300 pounds of black sea bass during any calendar day or trip, whichever period of time is longer.

6. Quota Closure. It shall be unlawful for commercial fishermen to **retain**, possess, or land black sea bass once the Director has determined that 100% of the annual commercial black sea bass quota has been reached. The quota closure will be enacted and announced in accordance with the procedure set forth at 322 CMR 6.41(2)(c).

### 6.35: Spiny Dogfish Management

(1) **Definitions.** For the purposes of 322 CMR 6.35 **the following terms shall have the following meanings:**

Fin or Finning means the act of taking a spiny dogfish and removing the fins.

Night means the time between ½ hour after sunset to ½ hour before sunrise during the period March 1 through October 31 or from 6:00 P.M. to 6:00 A.M. during the period November 1 through the last day of February.

Spiny Dogfish means that species of fish known as *Squalus acanthias*.

Spiny Dogfish Commercial Quota means the allowable annual commercial harvest of spiny dogfish, as specified by the Atlantic States Marine Fisheries Commission under the authority of the interstate and federal management plans.

(2) Permit. A regulated fishery permit endorsement, issued by the Director pursuant to 322 CMR 7.01(4)(a): Regulated Fishery Permit Endorsement shall be required of all commercial fishermen taking or landing spiny dogfish in accordance with 322 CMR 6.35.

(3) Dealer Authorization. It is unlawful for dealers, without written authorization from the Director, to purchase spiny dogfish from commercial fishermen.

(4) Dealer Reporting. Dealers shall report all purchases of spiny dogfish by phone and in writing based on schedules established and on forms to be provided by the Division.

(5) Possession Limit. It shall be unlawful for commercial fishermen to possess or land more than **7,500 6,000** pounds of spiny dogfish during any trip or calendar day, whichever period of time is longer. To the extent that it is required by the Atlantic States Marine Fisheries Commission or the National Marine Fisheries Service, the Director may adjust the manner and times of taking spiny dogfish, the legal size of spiny dogfish to be taken, and the quantities of spiny dogfish to be taken in accordance with the authority and procedure set forth at 322 CMR 6.41(2) to make commercial fishery limit adjustments for quota managed species.

(6) Quota Closure. ~~Commercial Quota.~~ It shall be unlawful for a commercial fisherman to retain, possess, or land spiny dogfish once the Director has determined 100% of the spiny dogfish commercial quota has been reached. The quota closure will be enacted and announced in accordance with the procedure set forth at 322 CMR 6.41(2)(c). ~~is unlawful for commercial fishermen to land or possess spiny dogfish when the Director projects that 100% of the Commonwealth's spiny dogfish commercial quota is taken and the fishery is closed through a Declaration of Closure, issued in accordance with 322 CMR 6.41(2).~~

(7) Prohibitions. It is unlawful for any person while at sea to fin a spiny dogfish or to possess spiny dogfish fins.

6.41: The Further Regulation of Possession and Size Limits

(3) Recreational Fishing.

(c) Liability for Violations Onboard For-hire Recreational Vessels. With respect to recreational for-hire fishing operations permitted in accordance with 322 CMR 7.10(5): Permit Requirements Applicable to For-hire Vessels, an individual patron, as well as the named for-hire permit holder or for-hire vessel operator, may each be held liable for any violations of recreational size, possession or daily bag limits established at 322 CMR that are attributable to the patron fishing onboard the for-hire recreational fishing vessel. ~~In enforcing this provision, law enforcement officers may exercise their discretion on whether to cite the named for-hire permit holder or for-hire vessel operator for such violations in instances where the best industry practices required by 322 CMR 7.10(5) have been used on the for-hire vessel.~~

6.43: Atlantic Menhaden Management

(4) Commercial Fishing Limits.

(a) Quota Managed Fishery.

1. Limited Entry Fishery. Commercial fishermen who have been issued a regulated Atlantic menhaden fishery permit endorsement, in accordance with 322 CMR 6.43(3) and 322 CMR 7.01(4)(a): Regulated Fishery Permit Endorsement, shall adhere to the following trip limits:

a. Until the Director declares that 85% of the commercial menhaden quota has been landed, it shall be unlawful to possess or land more than 125,000 pounds of menhaden in the coastal waters of the Commonwealth per trip or calendar day, whichever **period of time duration** is longer; and

b. Once the Director has declared that 85% of the commercial menhaden quota has been landed, it shall be unlawful to possess or land more than 25,000 pounds of menhaden in the coastal waters of the Commonwealth per trip or calendar day, whichever **period of time duration** is longer.

2. Open Access Fishery. Commercial fishermen who have not been issued a regulated Atlantic menhaden fishery permit endorsement in accordance with 322 CMR 6.43(3) and 322 CMR 7.01(4)(a): Regulated Fishery Permit Endorsement may participate in an open access fishery for menhaden. For commercial fishermen participating in this fishery, it shall be unlawful to retain, possess, land, sell, **barter, or exchange** or offer for sale, **barter, or exchange** more than 6,000 pounds of Atlantic menhaden per trip or calendar day, whichever **period of time duration** is longer.

3. Season. Prior to June 1, the possession, retention, and landing of menhaden in excess of the open access fishery limit at 322 CMR 6.43(4)(a)2. is prohibited. This prohibition shall not apply to the possession, retention, or landing of menhaden caught in lawfully-set fisher weirs by a commercial fisherman with a fish weir regulated fishery permit endorsement issued by the Director pursuant to 322 CMR 7.01(4)(a).

4. ~~3.~~ Quota Closure. Except as provided at 322 CMR 6.43(4)(b) and (c), it shall be unlawful to catch, ~~and~~ retain, or land Atlantic menhaden once the Director has **declared determined** that 100% of the **menhaden** quota has been **reached harvested**. The quota closure will be enacted and announced in accordance with the procedure set forth at 322 CMR 6.41(2)(c).

### 7.03: Coastal Lobster Permit and Trap Allocation Transfer Programs

(2) Definitions. For the purposes of 322 CMR 7.03, the following words shall have the following meanings.

Actively Fished means landing and selling at least 1,000 lbs. of lobster or landing and selling lobster on at least 20 occasions, in a single year.

Allocation Transferee means the holder of a commercial lobster permit to whom a transfer of trap allocation is made.

**Owner operator means that the named individual listed on the coastal lobster permit must be onboard the vessel when commercial fishing is occurring and present at the time of primary purchase.**

Permit Holder means a holder of a coastal commercial lobster permit endorsed for either LCMAs 1, 2 or OCC.

Permit Transferee means the person to whom a commercial lobster permit is transferred who must document that he or she has at least one year of full-time or equivalent part-time experience in the commercial lobster trap fishery or two years of full-time or equivalent part-time experience in other commercial fisheries, according to criteria developed by the Division.

Transfer Trap Debit means the area-specific percentage of each allocation transfer transaction retained by the Division for conservation purposes as defined by the Division and subject to criteria developed by the Division, and not restricted by the Director under his authority to condition permits.

#### 7.04: Commercial Fisheries Control Date

(1) Purpose. The purpose of 322 CMR 7.04 is to provide the Director and Marine Fisheries Advisory Commission with time to develop further access controls in certain commercial fisheries, including moratoria and limited entry, without the Director and Commission having to deal with large numbers of applicants attempting to enter the fisheries before access is restricted or denied. The implementation of the control date on an emergency basis is necessary to prevent a surge of applicants for licenses into fisheries for which the Director and the Commission may decide to restrict access in the future.

#### (2) Control Dates.

(a) Mobile Gear. After April 2, 1992, any person issued a commercial fisherman's permit to conduct any fishery using gillnets or trammel nets, or any mobile or encircling fishing gear or nets which are towed, hauled, or dragged through the water for the harvest of fish including, but not limited to, otter trawls, beam trawls, pair trawls, mid-water trawls, Scottish seines, Danish seines, pairseins, or sea scallop dredges, excluding purse seines and shellfish dredges, within waters under the jurisdiction of the Commonwealth, will not be assured of future access to or participation in these fisheries if a management regime is developed and implemented that limits the number of participants in these fisheries.

(b) Hook Gear. After March 6, 2008, any person issued a new commercial fisherman's permit to conduct any fishery using hook-and-line, longline, or handgear within waters under the jurisdiction of the Commonwealth, excluding the commercial striped bass fishery, may be subject to eligibility criteria for determining levels of future access to and allowable harvest of these fisheries. Future entry into such fisheries may be based on historic harvest levels of a vessel, person, or other criteria established by the Director.

(c) Spiny Dogfish. After November 6, 2008, any person issued a new regulated fishery endorsement for spiny dogfish may be subject to eligibility criteria for determining levels of future access to and allowable harvest of this fishery. Future entry into such fisheries may be based on historic harvest levels of the permit holder.

(d) Striped Bass. **Access into the commercial striped bass fishery may be limited in the future. Decisions to limit access may be based on permitting history, landings, or other activity criteria established by the Director. Commercial fishermen are hereby notified that any person obtaining a new regulated fishery permit endorsement for striped bass after June 14, 2022 or any person who did not have a certain level of landings prior to June 14, 2022 may not be provided future access to this fishery or may be subject to eligibility criteria for determining levels of future access and allowable harvest in this fishery. ~~Any person who did not hold a regulated fishery permit endorsement on September 8, 2013 may not be provided future access into this fishery and may be subject to eligibility criteria for determining levels of future access to and allowable harvest in this fishery. Future access may be based on historic landings of a vessel or person, or other criteria established by the Director.~~**

(e) Tautog. Any person who did not report the lawful landing or selling of tautog under the authority of the commercial fisherman permit prior to August 28, 2017 may not be provided future access into this fishery and may be subject to eligibility criteria for determining levels of future access to and allowable harvest in this fishery. Future access



may be based on historic landings of a vessel or by a person, or other criteria established by the Director.

(f) Groundfish Endorsement. After December 31, 2018, any person issued a state-waters groundfish endorsement may be subject to eligibility criteria for determining future access to or participation in this regulated fishery. Such eligibility criteria may include historic landings of a vessel, a person or other criteria to be established by the Director.

## 7.06: Limited Entry Permits

### (1) Definitions.

Black Sea Bass means that species of fish known as *Centropristes striata*.

**Black Sea Bass Fishery Permit Endorsement** means those limited entry regulated fishery permit endorsements issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80, and 322 CMR 7.01(4)(a) and 322 CMR 7.06, that authorize commercial fishing for black sea bass in accordance with the regulations set forth at 322 CMR 6.28.

Black Sea Bass Pot Regulated Fishery Permit Endorsement means those limited entry regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80, and 322 CMR 7.01(4)(a) and 7.06, that authorize a named individual to use black sea bass pots, as defined at 322 CMR 6.12(1): Definitions, for the taking of black sea bass for commercial purposes.

**Bluefish Gillnet Permit Endorsement** means those limited entry regulated fishery permit endorsements issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80, and 322 CMR 7.01(4)(a) and 322 CMR 7.06, that authorize commercial fishing with a bluefish gillnet in accordance with the regulations set forth at 322 CMR 6.18.

Coastal Access Permit means those limited entry regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130 §§ 2 and 80, and 322 CMR 7.01, 7.05 and 7.06, that authorize the permit holder to use mobile gear in the waters under the jurisdiction of the Commonwealth.

Coastal Commercial Lobster Permit means the commercial fisherman permit, issued and managed pursuant to M.G.L. c. 130, §§ 2, 37 and 38, and 322 CMR 7.01(2) and 7.03, that authorizes a named individual to fish for, possess and land lobsters and finfish taken from the waters under the jurisdiction of the Commonwealth for commercial purposes.

Conch Pot Regulated Fishery Permit Endorsement means those limited entry regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80, and 322 CMR 7.01(4)(a) and 7.06, that authorize a named individual to use conch pots, as defined at 322 CMR 6.12(1): Definitions, for the taking of whelks for commercial purposes.

Director means the Director of the Division of Marine Fisheries.

Fish Pot Regulated Fishery Permit Endorsement means those limited entry regulated fishery permit endorsements for black sea bass pots, scup pots and conch pots, issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80, and 322 CMR 7.01(4)(a) and 7.06.

Immediate Family Member means the legal father, mother, wife, husband, sister, brother, son, daughter, grandparent or grandchild.

Limited Entry Regulated Fishery Permit Endorsement means any regulated fishery permit endorsement that is issued, pursuant to M.G.L. c. 130, §§ 2 and 80, and 322 CMR 7.01(4)(a), and is limited in distribution to renewals only and may be transferred in accordance with this section. Limited entry regulated fishery permit endorsements include, but are not limited to: Atlantic menhaden; black sea bass; black sea bass pots; bluefish gillnets; bluefin tuna seines; coastal

access permits; conch pots, fluke, horseshoe crabs, sink gillnets; ocean quahog, scup pots, state-waters groundfish, surf clams, **tautog**, and quahog dredges.

**Menhaden means that species of fish known as *Brevoortia tyrannus*.**

Menhaden Regulated Fishery Permit Endorsement means those limited entry regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80, and 322 CMR 7.01(4)(a) and 322 CMR 7.06, that authorize a named individual to commercially fish for menhaden in accordance with the regulations set forth at 322 CMR 6.43.

Owner-operator means that the named individual listed on the limited entry regulated fishery permit endorsement must be onboard the vessel **when commercial fishing is occurring and present at the time of primary purchase** ~~when commercial fishing is being conducted under the authority of that limited entry regulated fishery permit endorsement.~~

Regulated Fishery Permit Endorsement means any required special permit, issued in accordance with M.G.L. c. 130, § 80, and 322 CMR 7.01(4)(a), for a fishery, gear type or fishing activity regulated by the Director in the form of an endorsement to the commercial fishing permit.

Scup means that species of fish known as *Stenotomus chrysops*.

Scup Pot Regulated Fishery Permit Endorsement means those regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80, and 322 CMR 7.01(4)(a) and 7.06, that authorize a named individual to use scup pots, as defined at 322 CMR 6.12(1): Definitions, for the taking of scup.

**Tautog means that species of fish known as *Tautoga onitis***

**Tautog Regulated Fishery Permit Endorsement means those limited entry regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80, and 322 CMR 7.01(4)(a) and 322 CMR 7.06, that authorize commercial fishing for tautog in accordance with the regulations set forth at 322 CMR 6.40.**

Whelk means those species known as *Busycon carica* (knobbed whelk) and *Busycotypus canaliculatus* (channeled whelk).

(2) Renewal of Limited Entry Regulated Fishery Permit Endorsements. Annual applications for the renewal of limited entry regulated fishery permit endorsements, which shall include any catch reports or other documentation required by any provision of M.G.L. c. 130, and 322 CMR must be post marked or otherwise marked with the date of receipt by the Division of Marine Fisheries no later than 12:00 A.M. on the last day of February. Renewal applications not post marked or otherwise received by the Division of Marine Fisheries by this deadline may be denied and returned to the applicant. Limited entry regulated fishery permit endorsements that are not post marked or received by the Division of Marine Fisheries prior to 12:00 A.M. on the last day of February may **not** be approved by the Director.

(3) Retiring of Limited Entry Regulated Fishery Permit Endorsements. All limited entry regulated fishery permit endorsements that are not renewed in accordance with 322 CMR 7.06(2) are automatically forfeited to the Division of Marine Fisheries. All forfeited limited entry regulated fishery permits are retired.

(4) Transfers of Limited Entry Regulated Fishery Permit Endorsements.

(a) Transfer Eligibility Criteria. Limited entry regulated fishery permit endorsements are nontransferable, unless approved by the Director. The Director may approve the transfer of a limited entry regulated fishery permit endorsement subject to the following criteria:

1. The holder of the limited entry regulated fishery permit endorsement is in good standing with the marine fisheries laws and regulations at M.G.L. c. 130, and 322 CMR.
2. The limited entry regulated fishery permit endorsement has been actively fished during four of the last five years, as evidenced by commercial fisherman catch reports and SAFIS dealer reports. Final determination of active fishing shall be specified in written policy provided by the Director.
3. If a permit holder transfers a limited entry regulated fishery Coastal Access Permit endorsement or a Coastal Lobster Permit other limited entry regulated fishery permit endorsements held in conjunction with that permit or permit endorsement may be transferred as part of that transaction, at the request of the permit holder and with approval of the Director.

(b) Transferee Eligibility Criteria.

1. Fish Pot Regulated Fishery Permit Endorsements. To be eligible to obtain a transferable limited entry regulated fishery fish pot permit endorsement, the transferee must document that he or she has one year full-time or the equivalent part-time commercial fishing experience in a commercial pot fishery or two-year full-time or the equivalent part time commercial fishing experience in another commercial fishery, as determined by the Director.
2. All Other Limited Entry Regulated Fishery Permit Endorsements. To be eligible to obtain any limited entry regulated fishery permit endorsement, other than a limited entry regulated fishery fish pot permit endorsement, the transferee must document that he or she has one year full-time or the equivalent part-time commercial fishing experience in a commercial fishery, as determined by the Director.

(c) Exceptions to Transfer Eligibility Criteria.

1. The actively fished performance criteria established at 322 CMR 7.06(4)(a)2. may be waived in instances of a posthumous transfer; a recent disability to the permit holder; or for persons on active military duty, provided that the limited entry regulated fishery permit endorsement was fished four out of the five years preceding the death, disability or military duty. In the case of disability there must be a signed statement from a physician that verifies that the disability prevents the permit holder from fishing. Final determination of active fishing shall be specified in written policy provided by the Director.
2. The experience criteria at 322 CMR 7.06(4)(b) may be waived for posthumous transfers to immediate family members.

(d) Restrictions.

1. Transfers shall involve the sale or transfer of fishing-related business assets.

2. Transfers may be denied if any evidence of fraud is found, or if the Director determines that the transfer is not in the best interests of the Commonwealth.

e) Restrictions Specific to the Coastal Access Permit.

1. Coastal Access Permits are authorized for use on a specific vessel. If the Coastal Access Permit is to the recipient of a transfer, the vessel that is authorized may be either the same vessel as the original permit holder or another vessel that does not exceed by more than 20% the horsepower of the original vessel, nor exceed by more than 10% the length overall, gross registered or net tonnage of the original vessel for which the Coastal Access Permit was issued. Vessel length overall shall not exceed that specified in 322 CMR 7.05(13).

2. No person or corporation may hold more than 5% of the existing Coastal Access Permits issued by DMF.

3. The recipient of a transfer, after obtaining a permit, may not transfer the permit until he or she has fished said permit for two years. This requirement may be waived in instances of a posthumous transfer, a recent disability to the permit holder, or active military duty, provided the performance criteria at 322 CMR 7.06(4)(a)2. were met before death, disability or military service occurred.

(5) Owner-operator Requirements. All Fish Pot Regulated Fishery Permit Endorsements and Menhaden Regulated Fishery Permit Endorsements are issued to a named individual who shall be the owner-operator of that commercial fishing business. This requirement may be waived by means of a letter of authorization from the Director for:

(a) immediate family;

(b) active military duty; or

(c) for up to two years for good cause, including death or disability to the permit holder, subject to annual renewal. In all instances, the performance criteria at 322 CMR 7.06(4)(a)2. shall be met prior to the request for a letter of authorization.



## **SHELLFISH ADVISORY PANEL BUSINESS MEETING AGENDA**

**9:00 AM**

**March 1, 2022**

**Held via Zoom**

1. Introductions and Announcements (9:00 – 9:30)
  - a. Review and Approval of March 1 Agenda
  - b. Review and Approval of November 18 Draft Meeting Minutes
  - c. Opening Statement from DMF Director
2. DMF Update Including Personnel Changes (9:30 – 9:45)
3. Shellfish Constable Appointments and Training (9:45 – 10:45)
  - a. Overview of Section 98 and Shellfish Constable Training
  - b. Police Reform and Impacts on Shellfish Constables
  - c. Update on Virtual Shellfish Constable Training Course
  - d. Overview of New Shellfish Constable Database
4. Sub-Committee and Survey of Municipalities on Transfer of Aquaculture Licenses (10:45 – 11:00)
5. SMAST Modeling of Wastewater Treatment Plants (11:00 - 11:15)
6. DMF Policy Clarifying Value Added Processed Non-Conforming Quahogs (11:15 –11:30)
7. Other Business (11:30 – 12:00)
  - a. Panel Member Comments
  - b. Public Comments
8. Adjourn (12:00)

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

## 2022 constable training session modified syllabus for virtual presentations

Sessions 1 through 15

Last Update - 1/25/22

SESSION	Time	Topic	Speaker	TIME
<b>WEEK 1 (March 7 - 11)</b>				
<b>Session #1 Monday, March 7<sup>th</sup></b>	9:00-9:30	Introduction, Housekeeping, overview goals & objectives	Henry Lind MSOA (ret)	30
	9:30-10:15	History of Shellfish Constable / Constable relationship with DMF	Paul Bagnall, MSOA President & Renee Gagne, Chatham Shellfish Constable	45
	10:15-10:20	Q & A		5
	10:20-11:05	ISSC,NSSP Shellfish Section Overview	Jeff Kennedy, DMF	45
	11:05-11:15	Q & A		10
	11:15-11:45	DPH HACCP REGS	Eric Hickey, DPH	30
	11:45-12:15	Harvester to Wholesaler	Eric Hickey, DPH	30
	12:15-12:25	Q & A		10
	12:25-12:55	Shellfish Planting Guidelines	Tom Shields, DMF	30
	12:55-13:00	Q & A		5
<b>Total</b>				<b>240</b>
<b>Session #2 Tuesday, March 8<sup>th</sup></b>	9:00-9:30	MSI Background and Current Status	Mel Sanderson, CCCFA & Steve Kirk, TNC	30
		Q & A		5
	9:30-10:00	DMF Shellfish Advisory Panel	Dan McKiernan & Jeff Kennedy	30
		Q & A		5
	10:00-11:00	Ocean & Coastal Acidification	Jennie Rheuban, WHOI	60
		Q & A		5
	11:00-11:45	Nitrogen remediation and shellfish	Josh Rietsma CCCE /WHOI	45
		Q & A		5
	11:45-12:45	PEER Food safety	Amy Fitzpatrick, FDA	60
	12:45-13:15	Q & A		5
<b>Total</b>				<b>250</b>
<b>Session #3 Wednesday, March 9<sup>th</sup></b>	9:00-9:45	DMF Shellfish Program Overview	Jeff Kennedy, DMF	45
	9:45-9:55	Q & A		10
	9:55-10:25	Classification of Shellfish Growing Areas	Terry O'Neil, DMF	30
	10:25-10:30	Q & A		5
	10:30-11:00	Sanitary Surveys - purpose, steps, outcomes	John Mendes, DMF	30
	11:00-11:05	Q & A		5
	11:05-12:05	Recent changes to NSSP MO-Mooring Areas and WWTP's	Jeff Kennedy, DMF	60
	12:05-12:15	Q & A		10
<b>Total</b>				<b>195</b>
<b>Session #4 Thursday, March 10<sup>th</sup></b>	9:00-9:30	Contaminated Relays	Tom Shields, DMF	30
	9:30-9:35	Q & A		5
	9:35-10:20	Shellfish Management Plans	Ryan Joyce,DMF	45
	10:20-10:25	Q & A		5
	10:25-11:10	Lab analysis for classification of growing areas	Florence Cenci, DMF	45
	11:10-11:15	Q & A		5
	11:15-11:45	Depuration Plant Operations, Analyses and Criteria	Greg Bettencourt, DMF	30
		Q & A		5
	11:45-12:30	Shellfish Landings data collection & storage	Anna Webb,DMF	45
	12:30-12:35	Q & A		5
<b>Total</b>				<b>220</b>
<b>Session #5 Friday, March 11<sup>th</sup></b>	9:00-9:45	Biology of Shellfish	Dale Leavitt RWU	45
	9:45-9:55	Q & A		10

<b>March 11</b>	9:55-10:55	Shellfish diseases	Roxanna Smolowitz RWU	60
	10:55-11:05	Q & A		10
	11:05-11:50	Razor Clam Biology and Culture	Josh Reitsma/Abigail Archer, CCCE/WHOI	45
	11:50-11:55	Q & A		5
	11:55-12:40	Pests and Predators	Harriet Booth, CCCE/WHOI	45
	12:40-12:45	Q & A		5
			<b>Total</b>	<b>225</b>
<b>WEEK 2 (March 14-18)</b>				
<b>Session #6 Monday, March 14<sup>th</sup></b>	9:00-9:30	Herring Management in MA Waters	Brad Chase, DMF	30
	9:30-9:35	Q & A		5
	9:35-10:05	Eel Biology and Management	Brad Chase, DMF	30
	10:05-10:10	Q & A		5
	10:10-10:55	Lobster biology, Management & regulations	Tracy Pugh, DMF	45
	10:55-12:00	Q & A		5
	12:00-13:00	Ecology of Harmful Algal Blooms	Chrissy Petitpas, DMF	60
	13:00-13:05	Q & A		5
	13:05-13:35	DMF Biotxin Monitoring Program	Terry O'Neil DMF	30
	13:35-13:40	Q & A		5
			<b>Total</b>	<b>220</b>
<b>Session #7 Tuesday, March 15<sup>th</sup></b>	9:00-10:00	Aquaculture and Municipal Propagation Management & Permitting	Chrissy Petitpas, DMF	60
	10:00-10:10	Q & A		10
	10:10-10:55	Vibrio Control Program	Chrissy Petitpas, DMF	45
	10:55-11:00	Q & A		5
	11:00-11:30	Traditional gear & upwellers for shellfish growout	Dale leavitt RWU	30
	11:30-11:35	Q & A		5
	11:35-12:20	Coastal Processess	Greg Berman, CCCE / WHOI	45
	12:20-12:25	Q & A		5
	12:25-13:10	Expected coastline changes	Greg Berman CCCE / WHOI	45
	13:10-13:15	Q & A		5
			<b>Total</b>	<b>255</b>
<b>Session # 8 Wednesday, March 16<sup>th</sup></b>	9:00- 9:45	Docks and Piers	Mark Rousseau or appointee, DMF	45
		Q & A		5
	9:45-10:30	CZM Waterways management	Steve McKenna CZM	45
		Q & A		5
	10:30-11:15	Fisheries Habitat/ EIR Process	Mark Rousseau or appointee, DMF	45
		Q & A		5
	11:15-12:00	Dredging Issues	Mark Rousseau or appointee, DMF	45
		Q & A		5
	12:00-12:45	Marine Mammals and Turtles	Erin Burke, DMF	45
	12:45-13:15	Q & A		5
	13:15-13:45	Mid Term Review		30
			<b>Total</b>	<b>280</b>
<b>Session 9 Thursday, March 17<sup>th</sup></b>	9:00 - 10:00	Laws Pertaining to Shellfish Constables	LT Desroches, OLE	60
	10:00-10:10	Q & A		10
	10:10-11:10	State & Local Jurisdiction	LT Desroches, OLE	60
	11:10-11:20	Q & A		10
	11:45-12:45	Contaminated Areas & Harvest of Shellfish	DMF & OLE, TBD	60
	12:45-12:50	Q & A		5
	12:50-13:35	CMR's and DMF adjudicatory hearings	Jared Silva, DMF	45
	13:35-13:40	Q & A		5
			<b>TOTAL</b>	<b>255</b>
<b>Session 10 Friday, March 18<sup>th</sup></b>	9:00-9:30	Local Bylaws and Regulations	Paul Bagnall, MSOA	30
	9:30 -9:35	Q & A		5
	9:35-10:20	Interaction with DPH, Constables, Other Agencies	LT Bass , OLE	45
	10:20- 10:25	Q & A		5
	10:25-11:25	Boat Handling / Boarding /radio procedures	A. Pierce & C. Haynes, OLE	60



	11:25-11:30	Q & A		5
	11:30-12:30	Chapter 90 B overview	A. Pierce & C. Haynes, OLE	60
	12:30-12:35	Q & A		5
	12:35-13:20	Focus on North Shore shellfish enforcement issues	Peter Seminara, Gloucester & EPO's Ryan Lennon and /or Joe Gray	45
	13:20-13:40	Q&A		10
			<b>TOTAL</b>	<b>270</b>
<b>WEEK 3 (March 21 - 24)</b>				
<b>Session 11 Monday, March 21<sup>st</sup></b>	9:00-9:45	Non-Criminal Citations	Paul Bagnall, MSOA	45
	9:45-9:50	Q&A		5
	9:50-10:50	Interview & interrogation	LT Gamache, OLE	60
	10:50-10:55	Q&A		5
	10:55-11:55	Property Custody	LT Gamache, OLE	60
	11:55-12:05	Q&A		10
	12:05-13:05	Court Procedures	LT Gamache, OLE	60
	13:05-13:15	Q&A		10
			<b>TOTAL</b>	<b>255</b>
<b>Session 12 Tuesday, March 22<sup>ed</sup></b>	9:00-10:00	Report Writing	LT Cullen, OLE	60
	10:00-10:05	Q&A		5
	10:05-10:35	Intro to Criminal Justice System	CPT Clayton, OLE	30
	10:35-10:40	Q&A		5
	10:40-11:55	Search & Seizure / Boarding	CPT Clayton, OLE Aiken, OLE	75
	11:55-12:05	Q&A		10
	12:05-13:05	Processing the Arrestee	Lt. Bass, OLE	60
	13:05-13:15	Q&A		10
			<b>TOTAL</b>	<b>255</b>
<b>Session 13 Wednesday, March 23<sup>ed</sup></b>	9:00-10:00	DEP, Emergency Response Unit	Dan Crafton, DEP	60
	10:00-10:10	Q&A		10
	10:10-10:55	DEP Oil Spill Prevention, Response	Julie Hutcheson, DEP	45
	10:55-11:05	Q&A		10
	11:05-12:05	USCG Oil/HAZMAT Response	LTJG Adam Kosen/ENS Carli Moore	60
	12:05-12:20	Intro to Incident Command System	LT Desroaches	15
	12:20-12:30	Q&A		10
			<b>TOTAL</b>	<b>210</b>
<b>Session 14 Thursday, March 24<sup>th</sup></b>	9:00-9:40	Intro to Various Species	Lt. Bass, OLE	40
	9:40-9:45	Q&A		5
	9:45-10:25	Horseshoe Crabs, Blue Crabs & other	Derek Perry & Steve Wilcox, DMF	40
	10:25-10:30	Q&A		5
	10:30-11:10	State Managed Shellfish and Other Invertebrate Fisheries	Jared Silva, DMF	40
	11:10-11:15	Q&A		5
	11:15-11:45	Recreational Programs	Amy Croteau, Barnstable & Renee Gagne, Chatham	30
	11:45-11:50	Q&A		5
	11:50-12:20	Upweller Propagation	Rachel Hutchinson, Chatham	30
	12:20-12:25	Q & A		5
			<b>TOTAL</b>	<b>205</b>
<b>WEEK 4 (March 28)</b>				
<b>Session 15 Monday, March 28<sup>th</sup></b>	9:00-9:45	First year as a constable	Nancy Civetta, Wellfleet	45
	9:45-9:55	Q & A		10
	9:55-10:40	Real world experience of a shellfish constable	Henry Lind, Paul Bagnall, Renee Gagne, Peter Seminara	45
	10:40-10:50	Q & A		10
	10:50-11:50	Final Course review	Henry Lind	60
	11:50-12:05	Final Exam Instructions	Details TBD	15
			<b>Total</b>	<b>185</b>



# Massachusetts Division of Marine Fisheries

Daniel J. McKiernan, Director

## Policies, Procedures, and Guidelines

### Importation, Possession, and Processing of Non-Conforming Quahogs

#### Introduction and Purpose:

At 322 CMR 6.20(2), the Division of Marine Fisheries (DMF) establishes a minimum size for quahogs (*Mercenaria mercenaria*) of 1" shell thickness (hinge width). This minimum size applies as a possession limit and therefore can be interpreted as applying to harvesters, seafood dealers, and consumers. Exempt from this are Massachusetts' aquaculture raised quahogs, which are subject to a 7/8" shell thickness minimum size and must be sold outside of the Commonwealth following the initial sale to a Massachusetts primary buyer, consistent with DMF regulations at 322 CMR 14.03(3).

The 1" shell thickness minimum size standard is a historic, biologically based metric designed to sustain wild quahog populations. Certain state jurisdictions allow quahogs to be harvested and sold at sizes smaller than Massachusetts' 1" shell thickness standard, particularly aquaculture-reared product. Moreover, seafood production and consumer markets are dynamic and there are emerging markets that favor value-added, frozen quahogs measuring less than 1" shell thickness. In a state like Massachusetts that is both a major seafood producer and a major seafood processor, DMF must balance resource conservation with the interests of our fishing industry and the broader seafood processing economy.

The National Shellfish Sanitation Program (NSSP) is a cooperative state-federal-industry program for the sanitary control of shellfish produced for human consumption. To safeguard public health the NSSP's Model Ordinance establishes a shellfish traceability program through harvester and dealer tagging requirements. This traceability also benefits enforcement and conservation, as it allows for the shellfish to be traced back to its area of harvest allowing for the enforcement of public health as well as shellfish conservation regulations. Accordingly, this

allows for the interstate shipment of shellfish without negatively impacting local shellfish conservation and enforcement efforts. This policy to allow the possession of non-conforming quahogs relies on the tagging requirements of the NSSP's Model Ordinance to ensure there remains compliance with and enforcement of state conservation management regulations governing quahogs.

As a state with a large seafood processing sector, Massachusetts seafood dealers have an interest in obtaining non-conforming sized quahogs for processing into frozen, value-added products to be sold into commerce. This policy seeks to differentiate between the possession and sale of quahogs as raw shellstock and the possession and sale of frozen quahogs. In doing so, it describes the narrow circumstances whereby frozen quahogs that do not conform with the state's minimum size standard at 322 CMR 6.20(2) may be possessed and sold in Massachusetts.

**Policy:** The quahog minimum size regulation at 322 CMR 6.20(2) shall apply to all quahog shellstock and processed inshell quahogs except as enumerated below:

1. Packaged, frozen, value-added, inshell quahogs may be possessed, offered for sale, and sold in Massachusetts. This shall be inclusive of wholesaling, retailing, and possession by end-consumers.
2. Consistent with 322 CMR 6.20(2) and 14.03(3), Massachusetts wholesale dealers who are primary buyers ("primary buyer") of shellfish may purchase quahog shellstock at a shell thickness of 7/8" from lawfully permitted Massachusetts aquaculturists and shall only sell this quahog shellstock outside of Massachusetts. However, the primary buyer may process the shellstock into packaged, frozen, value-added, inshell quahog product and this product may be sold in Massachusetts consistent with this policy.
3. Massachusetts wholesale dealers may obtain frozen, inshell, aquaculture-reared quahogs from another jurisdiction that do not conform to the state's minimum size regulations at 322 CMR 6.20(2), provided they were lawfully harvested in the jurisdiction of origin. The wholesale dealer may then process the frozen, inshell quahogs into packaged, frozen, value-added, inshell quahog product and this product may be sold in Massachusetts consistent with this policy.
4. To conduct the value-added processing activities described in #2 and #3 above, the Massachusetts wholesale dealer shall obtain a Letter of Authorization and Statement of Permit Conditions issued by the Division of Marine Fisheries in accordance G.L. c. 130, §80 and 322 CMR 7.01(7). This Letter of Authorization will set forth the conditions by which the non-conforming frozen, inshell quahogs may be possessed and imported. This includes but is not limited to the disposition of the product, as well as segregation and tagging requirements. A Letter of Authorization is not necessary for primary buyers to purchase quahog shellstock at a shell thickness of 7/8" from lawfully permitted Massachusetts aquaculturists and to sell this shellstock out of state.

This policy shall not be construed to affect any other laws or regulations of the Commonwealth, including but not limited to all requirements of the Massachusetts Department of Public Health regarding the sanitary control of shellfish produced or sold for human consumption.



# Atlantic States Marine Fisheries Commission

## 2022 Winter Meeting Webinar Summary

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*Sustainable and Cooperative Management of Atlantic Coastal Fisheries*

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2022 Winter Meeting Webinar  
January 25-27, 2022

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

### Meeting Summaries, Press Releases and Motions

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## **AMERICAN LOBSTER MANAGEMENT BOARD (JANUARY 25, 2022)**

### ***Meeting Summary***

The American Lobster Management Board (Board) met to consider several items: Draft Addendum XXVII: Increasing Protection of Spawning Stock in the Gulf of Maine/Georges Bank (GOM/GBK) for public comment, terms of reference for the Jonah crab benchmark stock assessment, Fishery Management Plan (FMP) Reviews and state compliance for American lobster and Jonah crab for the 2020 fishing year, and nominations for Advisory Panel membership.

Staff provided an overview of Draft Addendum XXVII, which responds to signs of reduced settlement in the GOM/GBK stock in both the 2015 and 2020 stock assessments. The Draft Addendum includes two issues. Issue 1 considers immediate action to standardize some management measures within and across Lobster Conservation Management Areas in the GOM/GBK stock. Issue 2 considers establishing a trigger mechanism to implement management measures—specifically gauge and vent sizes—that are expected to add an additional biological buffer through the protection of spawning stock biomass (SSB). Management triggers are based on an index of recruit abundance. The Board approved Draft Addendum XXVII for public comment.

In consideration of the following issues – upcoming information on stock condition, the need for additional time for the Lobster Board to better understand current or new right whales rules that could benefit the resiliency of the lobster stock, and the importance of giving the states the opportunity to safely hold in-person scoping meetings with their lobster industry ahead of any Commission public hearing – the ISFMP Policy Board, which met later this week, delayed further action on the Draft Addendum. Consequently, public hearings are expected to occur in June 2022 and the Board will review public comment and consider final action on the addendum at the August 2022 meeting.

The Board approved terms of reference and a proposed timeline for the first Jonah crab range-wide benchmark stock assessment. The assessment will help answer questions about the status and sustainability of the resource and provide more information with which to manage the fishery. The stock assessment is scheduled to be completed in Fall 2023.

The Board also approved the American Lobster and Jonah Crab FMP Reviews for the 2020 fishing year, state compliance reports, and *de minimis* status for Delaware, Maryland, and Virginia. Since the adoption of the Jonah Crab FMP, New York has not implemented two required measures for Jonah crab: regulations to limit the directed trap fishery to lobster permit holders only and the 1,000 crab bycatch limit for non-trap and non-lobster trap gear. Given this concern has been raised by the Plan Review Team for several years and the Commission sent a letter to New York regarding its implementation of Jonah crab measures in 2020, the Board considered making a recommendation to the ISFMP Policy Board to find the State of New York out of compliance for not fully and effectively implementing the provisions of the FMP. The Board postponed the motion until August 2022 to allow New York's legislative process to approve the required regulations. In August, the Board will review New York's progress in implementing the FMP requirements.

Finally, the Board approved two nominations to the American Lobster Advisory Panel: Eben Wilson and Jeff Putnam, both commercial trap fishermen from Maine. For more information, please contact Caitlin Starks, Fishery Management Plan Coordinator, at [cstarks@asmfc.org](mailto:cstarks@asmfc.org) or 703.842.0740.

### ***Motions***

#### **Move to approve Draft Addendum XXVII for Public Comment, as amended today.**

Motion made by Mr. McKiernan and seconded by Mr. Keliher. Motion approved by consent.

#### **Move to approve Terms of Reference and timeline for Jonah Crab Benchmark Stock Assessment.**

Motion made by Mr. McKiernan and seconded by Mr. Hasbrouck. Motion approved by consent.

#### **Move to approve Fishery Management Plan Review, state compliance reports, and *de minimis* requests for DE, MD, and VA for American Lobster for the 2020 Fishing Year.**

Motion made by Mr. Hasbrouck and seconded by Ms. Bouffard. Motion approved by consent.

**Move the American Lobster Board recommend to the ISFMP Policy Board that the State of New York be found out of compliance for not fully and effectively implementing and enforcing Section 5.1. Commercial Fisheries Management Measures of the Fishery Management Plan for Jonah crab, and Sections 3.1 and 3.2 of Addendum I to the FMP. The State of New York must implement regulations to limit participation in the directed trap fishery to only those vessels and permit holders that already hold a lobster permit; or can prove prior participation in the crab fishery before the control date of June 2, 2015. The State of New York must also implement the incidental bycatch limit of 1,000 crabs per trip for non-trap gear and non-lobster trap gear. The implementation of these measures is necessary to achieve the goals and objectives of the FMP and ensure conservation of the species by preventing increased participation and landings in the fishery.**

Motion made by Mr. Keliher and seconded by Mr. Borden. Motion postponed until August 2022 meeting.

#### **Move to postpone until the August 2022 meeting.**

Motion made by Mr. Keliher and seconded by Ms. Patterson. Motion approved by consent.

#### **Move to approve Fishery Management Plan Review, state compliance reports, and *de minimis* requests for DE, MD and VA for Jonah Crab for the 2020 Fishing Year.**

Motion made by Ms. Patterson and seconded by Mr. Miller. Motion approved by consent.

#### **Move to approve American Lobster Advisory Panel nominations Eben Wilson and Jeff Putnam.**

Motion made by Mr. Keliher and seconded by Ms. Patterson. Motion approved by consent.

### **TAUTOG MANAGEMENT BOARD (JANUARY 25, 2022)**

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

The Tautog Management Board (Board) met to review hypothetical scenarios for the Risk and Uncertainty Decision Tools and consider feedback from the Law Enforcement Committee's (LEC) on the commercial tagging program.



In October 2021, the Board was presented the stock assessment update which showed positive improvements for all regions from the past assessment update. Considering the results, the Board chose not to adjust current regional management measures but instead tasked staff with developing hypothetical scenarios to further illustrate how the Decision Tool could be used. At this meeting, the Board was presented the hypothetical scenarios, which demonstrated what risk tolerance level the Decision Tools would recommend under different hypothetical projection scenarios and weighting schemes. The Board discussed whether the Decision Tool was ready to be used in the management of other Commission species. The Board indicated support for developing Decision Tools for other species as a way of further testing the process, as well as preparing for the potential application of the Risk and Uncertainty Policy to species management in the future. The results of the tautog pilot case and feedback from the Tautog Board will be communicated to the ISFMP Policy Board for consideration.

Next, the Board reviewed feedback from the LEC on the commercial harvest tagging program based on a prior tasking from the Board to the LEC on the impact of the tagging program on illegal harvest and evaluating compliance. The LEC met in December 2021 and identified some key considerations for the Board, most notably that illegal harvest and market sales are predominately coming from the recreational sector now. The LEC indicated there is generally good compliance with the tagging program, but that a minority of commercial harvesters have experienced issues with applying the tags and observing injury to the fish held in tanks for long periods of time. Considering this and feedback from the public, the Board discussed how best to further evaluate the impact of the tagging program on market price, specifically whether dealers had noticed a change in market price for tagged live fish. New York indicated it will be conducting a survey of their commercial dealers later this year to better understand how the tagging program has impacted market price. Additionally, Board members will identify dealers for staff to reach out to and the specific questions to pose to these dealers.

For more information on tautog management contact James Boyle, FMP Coordinator  
[jboyle@asmfc.org](mailto:jboyle@asmfc.org).

### ***Motions***

No motions made.

## **SUMMER FLOUNDER, SCUP AND BLACK SEA BASS MANAGEMENT BOARD (JANUARY 25, 2022)**

### ***Meeting Summary***

The Summer Flounder, Scup, and Black Sea Bass Management Board met to review Technical Committee (TC) recommendations on the criteria regions will use for adjusting summer flounder and black sea bass recreational measures and receive an update on the TC's ongoing analysis for identifying and smoothing outlier recreational harvest estimates.

In December 2021, the Board and the Mid-Atlantic Fishery Management Council (Council) jointly agreed to use regional conservation equivalency for summer flounder and black sea bass in 2022 to achieve, but not exceed, the 2022 recreational harvest limit (RHL). For summer flounder, the Board and Council jointly approved a 16.5% increase in coastwide harvest compared to average 2018-2021 harvest. For black sea bass the Board and Council jointly approved a 28% reduction in coastwide

harvest compared to average 2018-2021 harvest. In order to achieve these changes in harvest each region is required to submit proposals for adjustments to summer flounder and black sea bass recreational measures. The TC met twice in January to recommend a methodology for regions to use when developing summer flounder and black sea bass conservation equivalency proposals. After reviewing the recommended criteria for proposals, the Board approved the methodology by consensus. The deadline for regions to submit proposals is February 21<sup>st</sup>. Each state is responsible with working within their region to coordinate measures between states and collect stakeholder input on preferred recreational regulations.

During the TC's review of 2018-2021 black sea bass recreational harvest, the TC identified various anomalous harvest estimates and has since been considering several methodologies for identifying and smoothing outlier harvest estimates. The Board reviewed the TC's progress on this analysis and tasked the TC with providing a recommendation on an outlier identification and smoothing methodology. Depending on the final method recommended by the TC, the resulting percentage reduction in black sea bass to prevent an RHL overage may be less than the 28% recommended by the Board and Council in December 2021. The TC is scheduled to meet again on Monday, January 31<sup>st</sup> to discuss the analysis further and provide a recommendation, which the Board will vote on prior to the Council's meeting on February 8<sup>th</sup>. The Council can then determine appropriate action to allow for consistency in the approach in state and federal waters in 2022.

Additionally, the Board also tasked the TC with conducting a similar outlier identification and smoothing analysis for scup to determine whether revised data should inform the reduction needed for the recreational scup fishery. For more information, please contact Dustin Colson Leaning, Fishery Management Plan Coordinator, at [dleaning@asmfc.org](mailto:dleaning@asmfc.org) or 703.842.0740

### ***Motions***

**Move to rescind the December 2021 black sea bass recreational management motion and move to adopt conservation equivalency for 2022 black sea bass recreational management, with a reduction in harvest specified to achieve the coastwide 2022 RHL. A 28 percent reduction will be required unless additional analyses conducted by the Technical Committee examining the MRIP data, including an outlier analysis and incorporation of the updated 2021 data as presented today, result in a modified percentage. Non-preferred coastwide measures are: 14-inch minimum size, 5 fish possession limit, and open season of May 15-September 21. Precautionary default measures are: 16-inch minimum size, 3 fish possession limit, and open season of June 24-December 31. If the percent reduction is changed the precautionary default and coastwide measures will be adjusted to be consistent with the required adjustment.**

Motion made by Ms. Madsen and seconded by Ms. Meserve. Motion passes (11 in favor, 1 abstention).

### **SPINY DOGFISH MANAGEMENT BOARD (JANUARY 25, 2022)**

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

The Spiny Dogfish Management Board met to consider postponed motions from October 2021 to adjust the commercial trip limit for the northern region states (Maine through Connecticut) for the 2022 fishing year.

In October 2021, the Board was presented analysis from Mid-Atlantic Fishery Management Council (MAFMC) staff on the impact of the federal trip limit on market price. The analysis showed that increasing the trip limit from 6,000 to 7,500 pounds would not have a negative impact on the resource or on market price. Based on these conclusions, MAFMC recommended setting the trip limit at 7,500 pounds. At the October Board meeting it was unclear if the New England Fishery Management Council (NEFMC) would recommend a different trip limit level and, depending on the NEFMC, when NOAA Fisheries would implement the regulatory change. In December, NEFMC recommended adjusting the trip limit to be consistent with that recommended by MAFMC. NOAA Fisheries indicated that the regulatory change would be implemented for the 2022 fishing year starting May 1. Based on this information, the Board approved changing the commercial trip limit in state waters for the northern region to 7,500 pounds for the 2022 fishing year.

Last, the Board approved the nomination of Rick Bellavance of Rhode Island to be on Spiny Dogfish Advisory Panel. For more information on management, please contact Caitlin Starks, Fishery Management Plan Coordinator, at [cstarks@asmfc.org](mailto:cstarks@asmfc.org).

### ***Motions***

#### **Main Motion from Fall 2021 Meeting**

**Move to set at least a 7500-pound trip limit in the Northern Region (ME through CT) for FY2022 contingent upon NOAA Fisheries adopting at least a 7500-pound trip limit for federal waters. If at least a 7500-pound trip limit is not approved in federal waters, then the 6,000-pound trip limit will remain in the Northern Region.**

#### **Motion to Substitute from Fall 2021 Meeting**

**Move to substitute to set the Northern Region (ME through CT) state waters trip limit for FY 2022 equal to the trip limit in federal waters approved by NOAA Fisheries.**

Motion to substitute approved unanimously.

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

**Move to set the Northern Region (ME through CT) state waters trip limit for FY 2022 equal to the trip limit in federal waters approved by NOAA Fisheries.**

Motion approved by unanimous consent.

#### **Move to nominate Captain Rick Bellavance to the Spiny Dogfish Advisory Panel.**

Motion made by Dr. McNamee and seconded by Mr. Gates. Motion approved by unanimous consent.

### **EXECUTIVE COMMITTEE (JANUARY 26, 2022)**

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

The Executive Committee (EC) met to discuss several issues, including wind energy Involvement; the distribution of CARES Act funds; the Commission's Appeals Process, and staff workload concerns. The following action items resulted from the Committee's discussions:

- A lengthy discussion about the role of the Commission in offshore wind energy along the Atlantic coast was held. Several members endorsed the concept of the Commission involvement for the following purposes 1) improved and timely sharing of information about processes and procedures related to siting, leasing, construction, and operation; 2) providing subject matter expertise regarding the science-based data and information used to evaluate environmental, social, and economic impacts; 3) evaluation of how siting of infrastructure might adversely affect fishery-independent surveys; 4) development of consistent approaches for mitigation and compensation; 5) advocacy for policy development and/or modification thereof that protects state interests and 6) evaluation of offshore wind energy in the larger context of marine spatial planning. Leadership and staff will develop a draft scope of work with an associated analysis of the capacity of the Commission to address these tasks.
- Mr. Beal presented information on member state responses to needs for unused CARES 1 funds. A unanimous decision was made to make available unspent funds to states that had further needs with the goal of zeroing out the remaining CARES 1 balance by the deadline of June 30, 2022. The details of the EC's decision will be forwarded to NOAA Fisheries for approval prior to implementation. The EC agreed this decision does not set a precedent for how any unused funds from CARES 2 will be allocated and spent.
- Mr. Beal presented draft revisions to the Appeals Process Policy. The ensuing discussion identified the need for further modification of the policy to reflect concerns of some members. The draft revised policy will be discussed at a future EC meeting.
- The near-term workload of Commission staff was discussed. It is possible that there may need to be public hearings on four fishery management plan amendments/addenda between the Winter and Spring Meetings. This will strain the capacity of staff especially considering that two veteran staff members have resigned. Possible mitigating measures include changing the timeline for some of the FMP actions and/or having management board actions originally scheduled for the May 2022 meeting occur at a meeting to be held in June 2022. This matter was discussed at the ISFMP Policy Board meeting later this week (see that section later in the document).

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

### ***Motions***

No motions made

## **HORSESHOE CRAB MANAGEMENT BOARD (JANUARY 26, 2022)**

### ***Press Release***

### **Horseshoe Crab Board Accepts ARM Framework Revision and Peer Review for Management Use and Initiates Draft Addendum to Consider Changes to Delaware Bay Management**

Arlington, VA – The Commission’s Horseshoe Crab Management Board reviewed and accepted for management use the 2021 Revision of the Adaptive Resource Management (ARM) Framework and the independent peer review of the Revision. The ARM Revision addresses previous peer review critiques, includes new sources of data, and adopts new modeling software to set harvest levels for Delaware Bay-origin horseshoe crabs that account for the forage needs of migratory shorebirds. The independent peer review panel endorsed the ARM Revision as the best and most current scientific information for the management of horseshoe crabs in the Delaware Bay Region.

“On behalf of the Board, I want to applaud the members of the ARM Subcommittee for their exceptional work on the 2021 ARM Revision,” stated Board Chair Joe Cimino from New Jersey. “This revision made a notable advancement in considering more sources of data and providing a thorough picture of the population dynamics in the Delaware Bay Region. The Board recognizes that there is considerable public concern about the potential impact of the ARM Revision on the status of the endangered red knot and is committed to fully vetting its possible use in setting harvest levels for horseshoe crabs of Delaware Bay-origin through our public comment process.”

Since 2013, horseshoe crabs in the Delaware Bay Region (New Jersey, Delaware, Maryland, and Virginia) have been managed under the ARM Framework to set harvest levels with consideration of the needs of migratory shorebirds. The ARM was developed jointly by the Commission, U.S. Fish and Wildlife Service, and U.S. Geological Survey in recognition of the importance of horseshoe crab eggs to migratory shorebirds stopping over in the Delaware Bay region. In particular, horseshoe crab eggs are a critical food source for the rufa red knot, which is listed as threatened under the Endangered Species Act. In the past decade, more data has been collected on red knots and horseshoe crabs and modeling software has advanced. Thus, the ARM Subcommittee was tasked with revising the ARM Framework to address critiques from the previous peer review panel, include newly available data, and transition to new modeling software since the old software is obsolete.

Several improvements to the ARM Framework were made during this revision. In the original ARM Framework, the population models for horseshoe crabs and red knots were largely based on life history information taken from the literature that was not always specific to Delaware Bay. The ARM Revision improves the models for both species by incorporating region-specific data collected over the past few decades. Additionally, the ARM Revision incorporates more sources of horseshoe crab removals than the previous version, including mortality due to the biomedical industry and commercial discards from other fisheries.

In the original ARM Framework, the Virginia Tech Trawl Survey was used annually to estimate the Delaware Bay horseshoe crab population. The revised ARM Framework still relies heavily on the

Virginia Tech Trawl Survey, but also includes additional abundance indices from the region. The population model in the ARM Revision indicated that adult abundance in the Delaware Bay was stable from 2003-2013 and then began increasing in the past few years for both sexes. This finding is consistent with stock rebuilding due to a period of significantly reduced commercial landings and tight management controls on the fishery beginning in the 2000s in this Region. In 2019, the ARM Revision estimates there were 21.9 million male and 9.4 million female horseshoe crabs in the Delaware Bay Region. Mark-resight and count data from New Jersey and Delaware were used to estimate the population of red knots passing through the Delaware Bay. The passage population estimates were fairly stable between 2011 and 2020 at approximately 45,000 birds and their annual survival estimates were consistently high. A more detailed overview of the 2021 ARM Revision can be found [here](#).

Using estimated numbers of horseshoe crabs and red knots, the ARM Framework recommends the level of horseshoe crab harvest for the next fishing season. The maximum number of male and female horseshoe crabs the ARM Revision can recommend remains the same at 210,000 females and 500,000 males. While additional data and model improvements are used in the ARM Revision, the conceptual model of horseshoe crab abundance influencing red knot survival and reproduction remains intact with the intent of ensuring the abundance of horseshoe crabs does not become a limiting factor in the population growth of red knots.

After accepting the ARM Revision and Peer Review for management use, the Board initiated a Draft Addendum to consider allowing its use in setting annual specifications for horseshoe crabs of Delaware Bay-origin. The Horseshoe Crab Plan Development Team, composed of representatives from the states and federal agencies, will draft management options for Board review prior to the Board considering approving the document for public comment. If approved, the draft addendum will be released for public comment with opportunities to submit comment through public hearings and written comments. Following the public comment period, the Board will meet to review submitted comment and consider final action on the addendum.

A more detailed overview of the 2021 ARM Revision can be found at [http://www.asmfc.org/uploads/file/61f2f18aHSC\\_ARM\\_RevisionOverview\\_Jan2022.pdf](http://www.asmfc.org/uploads/file/61f2f18aHSC_ARM_RevisionOverview_Jan2022.pdf). The final ARM Revision and Peer Review Report will be available on the Commission website, [www.asmfc.org](http://www.asmfc.org), on the Horseshoe Crab webpage under stock assessment reports in early February. For more information, please contact Caitlin Starks, Fishery Management Coordinator, at [cstarks@asmfc.org](mailto:cstarks@asmfc.org) or 703.842.0740.

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PR22-02

### ***Motions***

#### **Move to accept the Revised ARM Framework and Peer Review for management use.**

Motion made by Mr. Hasbrouck and seconded by Mr. McKiernan. Motion passes by consent.

#### **Move to initiate an addendum to consider implementing changes to the ARM Framework as recommended by the ARM subcommittee and Peer Review Panel**

Motion made by Mr. Clark and seconded by Mr. Luisi. Motion passes by consent.

## **NOAA PRESENTATION ON SEA TURTLE BYCATCH IN TRAWL FISHERIES**

### ***Meeting Summary***

Carrie Upite, Sea Turtle Recovery Coordinator for the NMFS Greater Atlantic Regional Fisheries Office, presented on sea turtle bycatch in Atlantic trawl fisheries. Fisheries bycatch is the primary threat to endangered and threatened sea turtles in the Greater Atlantic Region. The highest level of observed sea turtle trawl bycatch in the region occurs in the Atlantic croaker, longfin squid, and summer flounder fisheries. Under the Endangered Species Act, bycatch must be minimized in order to recover sea turtles.

In 2007 and 2010, NMFS held public workshops to discuss bycatch reduction technologies in New England and Mid-Atlantic trawl fisheries. NMFS is now sharing the results of the research that came out of these workshops, identifying potential management measures based on that research, and requesting early input from the public. The presented research included Turtle Excluder Devices (TEDs) in the Atlantic croaker, summer flounder, and longfin squid fisheries and data loggers to record and monitor tow duration.

Final operational feasibility research is being completed, but given the previous results, NMFS is considering:

- 1) Requiring TEDs with a large escape opening in trawls that target Atlantic croaker, weakfish, and longfin squid to reduce injury and mortality resulting from accidental capture in these fisheries;
- 2) Moving the current northern boundary of the TED requirements in the summer flounder fishery (i.e., the Summer Flounder Fishery-Sea Turtle Protection Area) to a point farther north to more comprehensively address capture in this fishery;
- 3) Amending the TED requirements for the summer flounder fishery to require a larger escape opening to allow the release of larger hard-shelled and leatherback sea turtles; and
- 4) Adding an option requiring limited tow durations, if feasible and enforceable, in lieu of TEDs in these fisheries to provide flexibility to the fisheries.

Early information from the public will help shape future management measures. Additionally, industry feedback would be particularly helpful on mitigation measures, operational considerations, and economic considerations. The type of information needed can be found on the website below.

There are several ways to provide public input.

- Written comments may be submitted to [nmfs.gar.turtletrawl@noaa.gov](mailto:nmfs.gar.turtletrawl@noaa.gov) by May 31.
- Oral comments may be submitted at call-in days or a webinar.
  - Call-in days
    - March 4, 8 a.m. to 3 p.m., (978) 281-9276
    - March 22, noon to 6 p.m., (978) 281-9276
  - Webinars: While NMFS will present on all the fisheries under consideration, the webinars are designed to provide a more in-depth focus on a particular fishery. Regardless of the focus, NMFS will be accepting comments on all measures under consideration at all of the webinars.



- *Croaker*: February 16, 6:30 to 8:30 p.m.
- *Longfin squid*: March 1, 6:30 to 8:30 p.m.
- *Summer flounder*: March 14, 6:30 to 8:30 p.m.

NMFS has a [sea turtle bycatch in trawl fisheries website](#) that provides background information, descriptions of TED designs, research reports, measures under consideration, the type of information needed from the public, and how to comment and participate in public webinars. NMFS will provide a summary of public input at the May Commission meeting. The recording of the presentation can be found [here](#); the PDF of the presentation will be posted to the Winter Meeting page early next week.

For more information, contact Carrie Upite at [carrie.upite@noaa.gov](mailto:carrie.upite@noaa.gov).

## **ATLANTIC STRIPED BASS MANAGEMENT BOARD (JANUARY 26, 2022)**

### ***Press Release***

## **Atlantic Striped Bass Board Approves Draft Amendment 7 for Public Comment: Hearings to be Conducted Throughout March**

Arlington, VA – The Commission’s Atlantic Striped Bass Management Board approved for public comment Draft Amendment 7 to the Interstate Fishery Management Plan (FMP) for Atlantic Striped Bass. The Draft Amendment proposes options to address the following issues: management triggers, recreational release mortality, stock rebuilding plan, and conservation equivalency. These issues were identified during the public scoping process for Amendment 7 as critically important to help rebuild the stock and update the management program.

The Draft Amendment’s proposed options consider changes to the management triggers, which determine when the Board is required to make management adjustments, and whether to adopt new restrictions or requirements for the use of conservation equivalency, which provides the states the flexibility to tailor the management measures. For stock rebuilding, the proposed options consider the impact of low recruitment and how the Board could respond to the 2022 stock assessment if action is needed to achieve stock rebuilding by 2029. Since release mortality in the recreational fishery is a large component of annual fishing mortality, the Draft Amendment considers options to reduce the number of striped bass released alive and options to increase the chance of survival after a striped bass is released.

The last time a new plan amendment to the Atlantic Striped Bass FMP was adopted was in 2003 (Amendment 6). Since then, the status and understanding of the striped bass stock and fishery has changed considerably, and the results of the 2018 Benchmark Stock Assessment in particular led the Board to discuss a number of prominent issues facing striped bass management. Consequently, the Board initiated the development of Amendment 7 in August 2020 to update the management program to better align with current fishery needs and priorities. The Board intends for this amendment to build upon the Addendum VI to Amendment 6 action to end overfishing and initiate rebuilding in response to the overfished status of the stock.



The Draft Amendment will be available on or before February 4<sup>th</sup> on the Commission's website at <http://www.asmfc.org/about-us/public-input>. The public comment period will begin once the Draft Amendment 7 has been posted and will extend until April 15. All those interested in the management of Atlantic striped bass are encouraged to provide input either by participating in public hearings, which may be conducted via webinar, or providing written comment. Public comment will be accepted until **11:59 PM (EST) on April 15** and should be sent to Emilie Franke, FMP Coordinator, at 1050 N. Highland St., Suite 200 A-N, Arlington, Virginia 22201; 703.842.0741 (fax) or at [comments@asmfc.org](mailto:comments@asmfc.org) (Subject line: Draft Amendment 7). A subsequent press release will provide the details of the scheduled hearings once those are finalized. For more information, please contact Emilie Franke at [efranke@asmfc.org](mailto:efranke@asmfc.org) or 703.842.0740.

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PR22-03

### ***Motions***

**Move to remove in Section 4.1: Management Triggers, sub-option B3 in Tier 1: Fishing Mortality Management Triggers (three year average F exceeds the F threshold) from draft Amendment 7.**

Motion made by Ms. Ware and seconded by Mr. McMurray. Motion passes (10 in favor, 6 opposed).

**Move to add an option to Section 4.4: Rebuilding Plan that considers an alternative process for responding to the 2022 stock assessment, as follows: If the 2022 stock assessment results indicate the Amendment 7 measures have less than a 50% probability of rebuilding the stock by 2029 (as calculated using the recruitment assumption specified in Amendment 7) and if the stock assessment indicates at least a 5% reduction in removals is needed to achieve F rebuild, the Board may adjust measures to achieve F rebuild via Board action.**

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

**Motion to remove Section 4.2.1 Measures to Protect Strong Year Classes (Recreational Size and Bag Limits) from Draft Amendment 7.**

Motion made by Dr. Davis and seconded by Mr. Borden. Motion passes (15 in favor, 1 opposed).

**Move to approve Draft Amendment 7 for public comment as modified today.**

Motion made by Mr. Hasbrouck and seconded by Dr. Davis. Motion passes by consent.

### **ATLANTIC MENHADEN MANAGEMENT BOARD (JANUARY 27, 2022)**

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

The Atlantic Menhaden Management Board met to receive an overview of Atlantic menhaden mortality events over the last two years, consider approval of Draft Addendum I to Amendment 3 for public comment, and approve Advisory Panel nominations.

The Board was presented an update on menhaden mortality events that have occurred along the Atlantic coast from 2020 through 2021. While these fish kills of menhaden can be relatively common events due to seasonal changes in dissolved oxygen and water temperature, pathology samples from recent fish kills in New Jersey and New York indicated die off from *Vibrio anguillarum*, a bacteria found

in marine and estuarine areas. It is not known what may have caused the outbreak of *V. anguillarum* to occur, but the scale of these mortality events so far have not posed a significant threat to the Atlantic menhaden population, nor is it expected to impact wild populations of other species. The states will continue to monitor fish kills in coordination with staff at U.S. Geological Survey where samples are analyzed and stored on a regional level.

The Board was presented an overview of the management options developed for Draft Addendum I to Amendment 3. Previous to the Board meeting, the Plan Development Team (PDT) developed the document and provided recommendations for the Board's consideration. The Advisory Panel (AP) also met to provide feedback on whether additional options or information should be considered by the Board before approval for public comment. Draft Addendum I proposes changes to three management topics: commercial allocations, episodic event set-aside program (EESA), and the incidental catch and small-scale fisheries (IC/SSF) provision. The three topics are interconnected. For example, changes to allocation can affect states' need to participate in the EESA program as well as the volume of annual IC/SSF landings. This dynamic in the management program has created additional complexity for the options outlined in the Draft Addendum. Taking into consideration PDT recommendations and feedback from the AP, the Board made a number of changes to the Draft Addendum to reduce the complexity and possible options in the document for public comment. Due to time constraints and the extent of changes made to the document, the Draft Addendum will be reconsidered by the Board at the Spring Meeting in May before being approved for public comment. Below is a summary of changes made to the document and items for the PDT to work on further:

### **Allocation**

- Adjust Section 3.1.1 Option 3. (three-tiered fixed minimum allocation) to designate Delaware and Florida in the second tier (0.25%) and New York in the third tier (0.50%)
- Provide clarifying language in the Section regarding how latent quota under the tiered minimum allocation options (Section 3.1.1. Options 2 and 3) would be allocated to the state allocations unless directed by the Board to be used for the EESA, if a tiered minimum allocation were selected.
- Remove Section 3.1.2. Option 2 (2009-2020) and Option 4 (Second Highest Year) timeframes for allocating the remaining Total Allowable Catch (TAC)
- Remove Section 3.1.2 Sub-Option 3 under both Options 6A and 6B where the weighted Sub-Option 3 uses 75% older timeframe/25% newer timeframe from the weighted allocation timeframe options 6A (2009-2011/2018-2020) and 6B (2009-2012/2017-2020)
- For Section 3.2.1 the moving average timeframe Option 5, provide additional information on how directed landings are to be evaluated and included into the calculation for moving average. The Board indicated that directed landings above a state's final annual quota should not count towards the moving average.

### **Episodic Event Set-Aside (EESA) Program**

- Clarify that Section 3.2.2 Option 2 (to Set EESA during Specifications) is contingent on the Board selecting Section 3.2.1 Option 2 (to Increase the EESA up to 5%). If the Board does not move to increase the EESA percentage, then it will remain 1% of the annual TAC and does not need to be revised through specifications.

### **Incidental Catch and Small-Scale Fisheries (IC/SSF) Provision**

- The PDT should explore creating two tiers for Section 3.3.4 Options 2-4 where the first tier addresses how the management trigger would be specified and the second tier would outline a management response to the management trigger.
- In Section 3.3.4 modify the language in Option 4. Total Landings with Payback Provision to more clearly indicate that if IC/SSF landings, when added with directed landings under state quotas and the EESA, cause the TAC to be exceeded, then the overage will be deducted on a pound-for-pound basis from the next subsequent year's TAC. The PDT should explore this further to provide more guidance on how this would be evaluated.

The Board considered and approved the nominations of Michael Dawson of Maine and William Caldwell of New York to the Atlantic Menhaden Advisory Panel. Last, Dr. Conor McManus of Rhode Island was elected Vice-Chair of the Board.

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

### **Motions**

**Move to remove option 3: 3-tiered fixed minimum approach, under 3.1.1 options for addressing minimum allocation.**

Motion made by Ms. Fegley and seconded by Mr. Hasbrouck. Motion fails (3 in favor, 12 opposed, 3 abstentions).

### **Main Motion**

**Move to modify section 3.1.1. option 3 to put DE and FL in tier 2 (0.25%).**

Motion made by Ms. Meserve and seconded by Ms. Burgess. Motion amended.

### **Motion to Amend**

**Move to amend to move NY into tier 3**

Motion made by Mr. Hasbrouck and seconded by Mr. Miller. Motion passes.

### **Main Motion as Amended**

**Move to modify section 3.1.1. option 3 to put DE and FL in tier 2 (0.25%) and move NY into tier 3 (.5%).**

Motion passes (15 in favor, 1 opposed, 3 abstentions).

### **Main Motion**

**Move to remove from Draft Addendum I in Section 3.1.2:**

- **Option 2: 2009-2020**
- **Option 4: Second Highest Year**
- **Option 6b: Weighted Allocation Timeframe 6B (2009-2012 and 2017-2020)**

Motion made by Ms. Ware and seconded by Mr. Clark.

### **Motion to Amend**

#### **Move to amend to remove option 6b and replace with option 6a (2009-2011 and 2018-2020)**

Motion made by Mr. Cimino and seconded by Dr. Davis. Motion fails for lack of a majority (6 in favor, 6 opposed, 5 abstentions, 1 null).

### **Main Motion**

#### **Move to remove from draft Addendum I in Section 3.1.2:**

- **Option 2: 2009-2020**
- **Option 4: Second Highest Year**
- **Option 6b: Weighted Allocation Timeframe 6B (2009-2012 and 2017-2020)**

Motion made by Ms. Ware and seconded by Mr. Clark.

### **Motion to Amend**

#### **Move to amend to remove option 6b: Weighted Allocation Timeframe 6B (2009-2012 and 2017-2020)**

Motion made by Dr. Davis and seconded by Mr. Fote. Motion carries (13 in favor, 2 opposed, 3 abstentions).

### **Main Motion as Amended**

#### **Move to remove from draft Addendum I in Section 3.1.2:**

- **Option 2: 2009-2020**
- **Option 4: Second Highest Year**

Motion carries without objection with 3 abstentions from USFWS, NOAA Fisheries, and South Carolina.

#### **Move to eliminate sub-options 3 (weighting 75/25) to both 6a (2009-2011/2018-2020) and 6b (2009-2012/2017-2020)**

Motion made by Ms. Patterson and seconded by Ms. Fegley. Motion passes (11 in favor, 4 opposed, 3 abstentions).

#### **Move to eliminate sub option 1 (weighting 25/75) to both 6a (2009-2011/2018-2020) and 6b (2009-2012/2017-2020) from section 3.1.2.**

Motion made by Mr. Geer and seconded by Mr. Pugh. Motion fails (2 in favor, 13 opposed, 3 abstentions).

#### **Motion to remove Option 5 (moving average) from section 3.1.2.**

Motion made by Ms. Burgess and seconded by Mr. Geer. Motion fails (2 in favor, 13 opposed, 3 abstentions).

#### **Move to nominate Michael Dawson of ME and William Caldwell of NY to the Atlantic Menhaden Advisory Panel.**

Motion made by Mr. Gilmore and seconded by Dr. Davis. Motion carries by unanimous consent.

## **Move to nominate Dr. Conor McManus of Rhode Island as Vice-Chair of the Atlantic Menhaden Board**

Motion made by Mr. Reid and seconded by Ms. Ware. Motion passes.

## **INTERSTATE FISHERIES MANAGEMENT PROGRAM POLICY BOARD (JANAURY 27, 2022)**

### ***Meeting Summary***

The Interstate Fisheries Management Program (ISFMP) Policy Board met to receive an update from Executive Committee; review the 2021 Commissioner Survey results; consider a Policy on Information Requests; receive an update on the East Coast Scenario Planning Initiative; receive reports from the Atlantic Coastal Fish Habitat Partnership (ACFHP) and Habitat Committee (HC); and consider revision to the Submerged Aquatic Vegetation (SAV) Policy.

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

Deke Tompkins presented the results of the 2021 Commissioner Survey Results. Many questions show similar trends to years past. It was noted some obstacles to the Commission's success in rebuilding stocks include a need to improve cooperation among states and federal managers; managing fisheries in changing environmental conditions; and the social impacts of management decisions. Some of the issues Commissioners would like to focus more on include: allocation; improving recreational management strategies (party and charter mode split, processes that allow for uncertainty in recreational harvest estimates); adapting management to changing environmental conditions; filling data gaps; advocating for increased state and federal agency resources; cooperation with federal partners; and improving federal enforcement.

Commission member states have committed to transparent and open ASMFC decision-making, record-keeping, and public meeting processes. Much of the Commission's work can readily be accessed on the ASMFC's website, [www.asmfc.org](http://www.asmfc.org). The Commission's website is maintained to provide extensive information on fishery management proceedings, scientific and technical information, ASMFC procedures, and many other topics. For information that is not available via the website, the public can make requests for that information. The Board reviewed and approved a policy to provide clarity to the public on making information requests for information that is not available on the Commission's web page. The Policy includes where to make requests, timeline and process for responses, and information regarding possible costs. It will be posted to the website in early February and can be found at <http://www.asmfc.org/about-us/guiding-documents>.

Over the past year, East Coast fishery management bodies have been collaborating on a climate change scenario planning initiative designed to prepare fishing communities and fishery managers for an era of climate change. Staff reviewed progress of the initiative and discussed upcoming drivers of change webinars. The goals of this project are to assess how climate change might affect stock distribution and availability of East Coast marine fisheries over the next 20 years and to identify the implications for fishery management and governance. Last summer and fall, many stakeholders participated in the Scoping phase of the project by attending introductory scoping

webinars and providing input through an online questionnaire. A summary of the scoping process and input received is available [here](#). The next step in the scenario planning process is the Exploration phase. Building on the input gathered during scoping, this phase will include a series of [three webinars](#) which will focus on identifying and analyzing the major drivers of change in greater depth. Once again, stakeholder involvement is key, and the webinars are open to the public. The outcomes of these webinars will form the “building blocks” for a future scenario creation workshop to be held in Spring 2022.

Dr. Lisa Havel provided updates on ACFHP and HC. The ACFHP Steering Committee revised the National Fish Habitat Partnership (NFHP) request for proposals (RFP) and discussed the creation of a general ACFHP RFP in response for potential funding associated with the Infrastructure Bill. The Steering Committee began discussing its next strategic plan, including how to handle future fundraising, and how to better consider diversity, equity, inclusion, and justice in their work moving forward. Kent Smith (FL FWC) and Jessica Coakley (Mid-Atlantic Fishery Management Council) were re-confirmed as Chair and Vice Chair, respectively. Finally, the Committee reviewed endorsement project success over the years. The FY2023 NFHP RFP was released on November 16, 2021 and closed on January 19, 2022. ACFHP received three proposals this year.

The HC discussed the status and next steps for the documents they are currently working on: Acoustic Impacts to Fisheries, Fish Habitats of Concern, and a review of each state’s current climate change initiatives. The Committee also discussed potential Commission involvement in offshore wind and the impacts of harbor deepening projects on fisheries. The Policy Board unanimously approved the updates to the current SAV Policy. The HC also welcomed Rachael Peabody as the newest representative for the Virginia Marine Resources Commission.

Lastly, the Board also discussed the possibility of delaying the release of American Lobster Draft Addendum XXVII for public comment. In consideration of the following issues – upcoming information on stock condition, the need for additional time for the Lobster Board to better understand current or new right whales rules that could benefit the resiliency of the lobster stock, and the importance of giving the states the opportunity to safely hold in-person scoping meetings with their lobster industry ahead of any Commission public hearing – the Board delayed further action on the Draft Addendum. Consequently, public hearings are expected to occur in June 2022 and the Board will review public comment and consider final action on the addendum at the August 2022 meeting.

For more information, please contact Toni Kerns, Policy Director, at [tkerns@asmfc.org](mailto:tkerns@asmfc.org) or 703.842.0740.

### ***Motions***

**Move that the ISFMP Policy Board delay further action on Draft Addendum XXVII to Amendment 3 to the American Lobster Fishery Management Plan, to move back the public hearings to June 2022.**

**The delay of final action on this FMP is to ensure that the public hearings can include a presentation on the 2021 stock status, ensure that the Lobster Board has a better understanding**

**of current or new right whales rules that could benefit the resiliency of the lobster stock, and to allow for possible changes in the current COVID situation to allow states that will need to hold in-person scoping meetings ahead of any commission public hearings.**

Motion made by Mr. Keliher and seconded by Mr. McKiernan. Motion carries unanimously.

**Move to approve the Policy on Information Requests as presented today.**

Motion made by Mr. Keliher and seconded by Mr. Bell. Motion approved by unanimous consent.

**Move to approve the updates to the 2018 ASMFC SAV Policy.**

Motion made by Mr. Keliher and seconded by Mr. Cimino. Motion approved unanimously.

## **BUSINESS SESSION (JANAURY 27, 2022)**

### ***Meeting Summary***

The Atlantic States Marine Fisheries Commission approved Amendment 22 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan: *Commercial/Recreational Allocation*. The Amendment establishes new catch-based allocations between the commercial and recreational sectors for all three species, and provides the option for future changes to commercial/recreational allocations and annual quota transfers to be made through addenda.

The Commission's Summer Flounder, Scup, and Black Sea Bass Management Board and the Mid-Atlantic Fishery Management Council (Council), who jointly manage these three species, initiated the Amendment to respond to the Marine Recreational Information Program's (MRIP) release of revised recreational catch and harvest estimates that showed that recreational catch and harvest of summer flounder, scup, and black sea bass were much higher than previously estimated. The revised MRIP estimates resulted in significant changes to stock biomass estimates and resulting catch limits for these three species, and action was needed to consider modifications to the allocations.

The current commercial and recreational allocations for all three species were set in the mid-1990s based on historical proportions of landings (for summer flounder and black sea bass) or catch (for scup) from each sector. The Amendment revises the commercial and recreational sector allocations using the original base years updated with new MRIP data. These changes are intended to better reflect the current understanding of the historic proportions of catch and landings from the commercial and recreational sectors. The modified allocations are provided in the table below.

	<b>Current Allocations</b>	<b>Revised Allocations</b>
Summer Flounder	<b>60%</b> Commercial; <b>40%</b> Recreational Landings-based	<b>55%</b> Commercial; <b>45%</b> Recreational Catch-based
Scup	<b>78%</b> Commercial; <b>22%</b> Recreational Catch-based	<b>65%</b> Commercial; <b>35%</b> Recreational Catch-based
Black Sea Bass	<b>49%</b> Commercial; <b>51%</b> Recreational Landings-based	<b>45%</b> Commercial; <b>55%</b> Recreational Catch-based

Note: Landings-based allocations are based on each sector's harvest only. Catch-based allocations are based on each sector's harvest plus dead discards.

Given the joint nature of the Amendment and the federal process that requires the Council's Amendment to undergo federal review and rulemaking, the implementation date for the Commission plan will be set once NOAA Fisheries approves the Council's Amendment. The Amendment is expected to go into effect for the 2023 fishing year.

For more information, please contact Dustin Colson Leaning, Fishery Management Plan Coordinator, at [dleaning@asmfc.org](mailto:dleaning@asmfc.org) or 703.842.0740.

***Motions***

**Move on behalf of the Summer Flounder, Scup, and Black Sea Bass Management Board approval of Amendment 22 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan: Commercial/Recreational Allocation. The effective date of the Amendment will be consistent with the effective date published in the final rule in the Federal Register.**

Motion made by Dr. Davis. Motion passes unanimously.





# Atlantic States Marine Fisheries Commission

## ASMFC & MAFMFC Joint Meeting Webinar

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*Sustainable and Cooperative Management of Atlantic Coastal Fisheries*

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MAFMC & ASMFC Summer Flounder, Scup and  
Black Sea Board and ISFMP Policy Board  
February 11, 2022

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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## **SUMMER FLOUNDER, SCUP AND BLACK SEA BASS MANAGEMENT BOARD (February 8, 2022)**

### ***Meeting Summary***

In December 2021, the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) jointly approved a 28% reduction in coastwide black sea bass harvest compared to the 2018-2021 average. This reduction was deemed necessary to prevent exceeding the 2022 recreational harvest limit (RHL). They also jointly agreed to use the conservation equivalency process to waive federal waters measures and allow states to work together as regions to develop measures to collectively reduce harvest to prevent a 2022 RHL overage.

The Commission's Summer Flounder, Scup, and Black Sea Bass Technical Committee (TC) met several times in January 2022 to develop an agreed upon methodology for states to use when developing regional proposals for recreational black sea bass measures. The TC considered methodologies for identifying and smoothing outlier recreational harvest estimates at the state, wave, and mode level for 2018-2021. As a result of this analysis, the TC recommended a modified coastwide harvest reduction target of 24% but agreed that reductions ranging from 20.7% to 26.8% could be justified based on its outlier analysis.

At the Board-only meeting hosted on the Council's February Meeting webinar, the Board met to review TC recommendations and approved a revised harvest reduction target of 20.7% to be used by regions when developing proposals for 2022 recreational measures for black sea bass. States within each region are now expected to work collectively to develop measures which are designed to achieve this coastwide reduction in harvest to meet, but not exceed, the 2022 recreational harvest limit of 6.74 million pounds. The Board will meet again in mid-March to review regional proposals. The exact date for the meeting has not yet been set; the details of which will be released when they become available.

The Board also approved non-preferred coastwide measures, which were modified to reflect the revised harvest reduction target of 20.7% and are intended to be waived in favor of regional measures that would collectively prevent an RHL overage. The revised non-preferred coastwide measures include a 14-inch minimum size limit, a 5 fish possession limit, and an open season of May 15-October 8. The Council and Board's December 2021 recommendation for precautionary default measures, consisting of a 16-inch minimum size, a 3 fish possession limit, and an open season of June 24-December 31, remained unchanged. These measures are intended to be implemented in any state or region that does not put forward a proposal that can be approved by the Board through the Commission's conservation equivalency process.

For more information, please contact Dustin Colson Leaning, Fishery Management Plan Coordinator, at [dleaning@asmfc.org](mailto:dleaning@asmfc.org) or 703.842.0740.

### ***Motions***

#### ***Main Motion Made Via Email***

**Move to specify a 24% reduction in harvest compared to the 2018-2021 average incorporating the Technical Committee's analyses of the MRIP data to achieve the coastwide 2022 RHL for black sea bass, and adjust the non-preferred coastwide measures for consistency to: 14-inch minimum size, 5 fish possession limit, and open season of May 15-October 2.**

Motion made by Ms. Meserve and seconded by Mr. Batsavage. Motion substituted.

#### **Substitute Motion Made Via Email**

**Move to substitute to specify a 20.7% reduction in harvest compared to the 2018-2021 average incorporating the Technical Committee's analyses of the MRIP data to achieve the coastwide 2022 RHL for black sea bass, and adjust the non-preferred coastwide measures for consistency to: 14-inch minimum size, 5 fish possession limit, and open season of May 15-October 8.**

Motion made by Mr. Gorham and seconded by Mr. Sikorski. Motion carries (8 in favor, 2 opposed, 1 abstention, 1 null).

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

**Move to specify a 20.7% reduction in harvest compared to the 2018-2021 average incorporating the Technical Committee's analyses of the MRIP data to achieve the coastwide 2022 RHL for black sea bass, and adjust the non-preferred coastwide measures for consistency to: 14-inch minimum size, 5 fish possession limit, and open season of May 15-October 8.**

Motion carries (10 in favor, 1 opposed, 1 abstention).

#### **MID-ATLANTIC FISHERY MANAGEMENT COUNCIL (February 8, 2022)**

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

##### **Reconsideration of 2022 Black Sea Bass Recreational Management Measures**

Following the meeting of the Summer Flounder, Scup and Sea Bass Board, the Council reconvened to review the TC's recommendations and the Board's action. Based on this review, the Council voted to modify the coastwide reduction target to 20.7% and also approved modified non-preferred coastwide measures based on the revised reduction target.

##### ***Motions***

**Move to rescind the December 2021 black sea bass recreational management motion and move to adopt conservation equivalency for 2022 black sea bass recreational management, with a 20.7% reduction in coastwide harvest compared to the 2018-2021 average to achieve the 2022 RHL. Non-preferred coastwide measures are: 14-inch minimum size, 5 fish possession limit, and open season of May 15-October 8. Precautionary default measures are: 16-inch minimum size, 3 fish possession limit, and open season of June 24-December 31.**

Motion made by Mr. Cimino and seconded by Mr. Risi. Motion passes with no objection and 2 abstentions.

#### **COUNCIL & ISFMP Policy Board (February 8, 2022)**

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

##### **Recreational Harvest Control Rule Framework/Addenda**

The Council and the Commission's Interstate Fisheries Management Program Policy Board (Policy Board) met to review the range of alternatives in the Recreational Harvest Control Rule Framework/Draft Addenda. The goal of this proposed action is to establish a process for setting recreational bag, size, and season limits for summer flounder, scup, black sea bass, and bluefish such that measures aim to prevent overfishing, are reflective of stock status, appropriately account for uncertainty in the recreational data, take into consideration angler preferences, and provide an appropriate level of stability and predictability in changes from year to year. The options under consideration include various methods to allow for greater stability in measures and more explicit consideration of stock status when setting the measures compared to the current process.

The Council and Policy Board requested that the Council's Scientific and Statistical Committee (SSC) provide a qualitative evaluation of the potential effect of each of the five primary options in this proposed action on the SSC's assessment and application of risk and uncertainty in determining acceptable biological catch levels. The intent is to provide the Council and Policy Board with information to consider the tradeoffs among the different alternatives with respect to the relative risk of overfishing, increasing uncertainty, fishery stability, and the likelihood of reaching or remaining at the target biomass level.

The Policy Board approved its draft addenda for public comment, with public hearings to take place in the coming months. The Commission will distribute a press release on the Draft Addenda's availability and public hearing schedule once the hearing details have been finalized.

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

### ***Motions***

#### **Main Motion**

**Request that the SSC provide a qualitative evaluation, in time for final action at the June 2022 Council/Policy Board meeting, regarding the potential effect of each of the five primary alternatives in the Harvest Control Rule Addendum/Framework on the SSC's assessment and application of risk and uncertainty in determining ABCs. The intent is to provide the Council and Policy Board with information to consider the tradeoffs among the different alternatives with respect to the relative risk of overfishing, increasing uncertainty, fishery stability, and the likelihood of reaching/remaining at  $B_{MSY}$  for each approach at different biomass levels (e.g., for  $\frac{1}{2} B_{MSY} < B < B_{MSY}$ , the relative risk among alternatives is (highest to lowest)  $E > C > B > A > D$ ).**

Council: Motion made by Ms. Duval and seconded by Mr. Hemilright.

Board: Motion made by Mr. Hasbrouck and seconded by Ms. Madsen.

#### **Motion to Amend (Council and Board)**

**Move to amend to replace "in time for final action at the June 2022 Council/Policy Board meeting" with "in time for final action by the August 2022 meeting."**

Board: Motion made by Mr. Reid and seconded by Mr. Cimino. Motion to amend fails for lack of a majority (2 in favor, 15 opposed).

Council: Motion made by Mr. Cimino and seconded by Mr. Nowalsky. Motion to amend carries (11 in favor, 9 opposed).

#### **Motion to Reconsider (Council Only)**

**Move to reconsider the Council's motion to amend.**

Council: Motion made by Mr. Farnham and seconded by Mr. Cimino. Motion to reconsider passes (17 in favor, 3 opposed).

#### **Reconsidered Motion to Amend (Council Only)**

**Move to amend to replace "in time for final action at the June 2022 Council/Policy Board meeting" with "in time for final action by the August 2022 meeting."**

Council: Motion to amend fails (5 in favor, 15 opposed).

**Main Motion (Council and Board)**

**Request that the SSC provide a qualitative evaluation, in time for final action at the June 2022 Council/Policy Board meeting, regarding the potential effect of each of the five primary alternatives in the Harvest Control Rule Addendum/Framework on the SSC's assessment and application of risk and uncertainty in determining ABCs. The intent is to provide the Council and Policy Board with information to consider the tradeoffs among the different alternatives with respect to the relative risk of overfishing, increasing uncertainty, fishery stability, and the likelihood of reaching/remaining at  $B_{MSY}$  for each approach at different biomass levels (e.g., for  $\frac{1}{2} B_{MSY} < B < B_{MSY}$ , the relative risk among alternatives is (highest to lowest)  $E > C > B > A > D$ ).**

Council: Motion carries with one objection and one abstention.

Board: Motion carries with 1 abstention.

**Board Only**

**Move to approve Draft Addendum XXXIV to the Summer Flounder, Scup, and Black Sea Bass FMP and Draft Addendum II to the Bluefish FMP for public comment as presented today.**

Motion made by Dr. McNamee and seconded by Ms. Patterson. Motion carries (15 in favor).

**Council Only**

**Move to approve the range of options in the Harvest Control Rule Framework/Addenda as presented today.**

Motion made by Mr. Farnham and seconded by Mr. Batsavage. Motion carries by consent.





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

## ***American Lobster Management Board Summary***

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*Sustainable and Cooperative Management of Atlantic Coastal Fisheries*

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American Lobster Management Board  
February 22, 2022

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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## **AMERICAN LOBSTER MANAGEMENT BOARD (FEBRUARY 22, 2022)**

### ***Meeting Summary***

The American Lobster Management Board (Board) met to consider public comments, input from the American Lobster and Jonah Crab Advisory Panels (APs), and final action on Draft Addenda XXIX and IV to the American Lobster and Jonah Crab FMPs, respectively, on electronic tracking requirements in the federal American lobster and Jonah crab fisheries. In response to requests from the public for more information on the proposed management program, the Board agreed to postpone considering final action on the Draft Addenda until its next meeting, which is to be held virtually sometime prior to the ASMFC Spring Meeting.

The Draft Addenda were initiated in August 2021 to consider electronic tracking requirements for federal permit holders in the American lobster and Jonah crab fisheries. The purpose of the proposed action is to address a critical need for high-resolution spatial and temporal data to characterize effort in the federal American lobster and Jonah crab fleet. Spatial data collected by tracking devices would benefit managers in contending with several challenges facing the fisheries, including Atlantic right whale risk reduction efforts, marine spatial planning discussions, stock assessment, and offshore enforcement. The Draft Addenda include two options for proposed management programs. The first is status quo or no change, and the second is to implement electronic tracking requirements for federally-permitted lobster and Jonah crab vessels with commercial trap gear area permits for Lobster Conservation and Management Areas 1, 2, 3, 4, 5, and Outer Cape Cod. Under this option, the specified permit holders would be required to install an approved electronic vessel tracking device to their vessel prior to beginning a fishing trip to collect and transmit spatial data.

The majority of public comments, as well as advice from American lobster and Jonah crab advisors, supported the status quo option. In large part this was the result of many remaining questions about the tracking devices, costs to industry, and standard procedures that would need to be followed by harvesters and states to successfully implement requirements for electronic vessel tracking. Therefore, the Board agreed to postpone consideration of final action. Instead, the Board engaged in further discussion on questions that had been raised by the public and APs about how the program would work in practice. The Board requested that staff work with the Plan Development Team, state managers, NOAA Fisheries, and ACCSP to provide additional details to the Board on standard operating procedures. The Board is expected to meet to consider this information and Draft Addendum XXIX for final approval in late March or early April. A press release will announce the timing of that meeting.

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

### ***Motions***

**Move to postpone action on Lobster Draft Addendum XXIX and Jonah Crab Draft Addendum IV until the next meeting of the American Lobster Management Board, which will be held before the ASMFC Spring Meeting.**

Motion made by Ms. Patterson, and seconded by Mr. Borden. Motion passes (11 in favor).



# ASMFC Winter Meeting: January 25-27

- Lobster Draft Addendum XXVII (increased protection of spawning stock in GOM/GBK) approved for public comment with hearings in June
  - Potential revisions to gauge sizes, v-notch definitions, and reissuance of lost trap tags
- Black sea bass: recreational harvest reduction revised from 28% to 20.7% through outlier analysis
  - Final approval of states' proposals for black sea bass & fluke: March 24
- Spiny dogfish: FY22 Northern Region trip limit set equal to pending federal waters limit (7500-lb expected for May 1)
  - Comments due March 14 on federal waters proposed rule
- Menhaden: draft addendum on commercial allocation/EESA/ICSSF allowance expected to be approved for public comment next meeting after Board changes made



# ASMFC Winter Meeting: January 25-27

- Striped bass: Draft Amendment 7 approved for public comment
  - Removed year class protection options
  - Added option for Board to reduce F through Board action if 2022 stock assessment indicates we will not rebuild by 2029
  - 12 hearings between March 8-29

MA Hearing  
March 21  
6-8pm  
Virtual



The screenshot shows the Atlantic States Marine Fisheries Commission website. The header includes the ASMFC logo and the text "Atlantic States Marine Fisheries Commission" with the tagline "Sustainable and Cooperative Management of Atlantic Coastal Fisheries". A navigation bar lists: ABOUT US | MANAGEMENT | SCIENCE | HABITAT | DATA | LAW ENFORCEMENT | NEWS | CALENDAR. A sidebar on the left has links for "Calendar" and "Meeting Archives". The main content area is titled "MA DMF Public Hearing on Atlantic Striped Bass Draft Amendment 7". It lists the start time as March 21, 2022 6:00 pm, the end time as March 21, 2022 8:00 pm, and the location as Webinar. The contact email is michael.armstrong@mass.gov. The description section mentions "Draft Amendment 7 to the Interstate Fishery Management Plan for Atlantic Striped Bass" and states that comments are accepted until 11:59 PM (EST) on April 15, 2022. The "Webinar Instructions" section provides details on how to participate via GoToWebinar, including a link to register and a note to use computer voice over internet (VoIP). A red circle highlights the "HERE" link in the registration instructions.

Calendar  
Meeting Archives

## MA DMF Public Hearing on Atlantic Striped Bass Draft Amendment 7

**STARTS** | March 21, 2022 6:00 pm  
**ENDS** | March 21, 2022 8:00 pm  
**LOCATION** | Webinar  
**INFORMATION:** | Email: [michael.armstrong@mass.gov](mailto:michael.armstrong@mass.gov)

### Description

[Draft Amendment 7 to the Interstate Fishery Management Plan for Atlantic Striped Bass](#)

Comments accepted until **11:59 PM (EST), April 15, 2022**; submit comments to [comments@asmfc.org](mailto:comments@asmfc.org) (Subject line: Draft Amendment 7)

### Webinar Instructions

Please note that in order to comment during virtual webinar hearings you will need to use your computer or download the GoToWebinar app for your phone. Those joining by phone only will be limited to listening to the presentation and will not be able to provide input. In those cases, you can send your comments to staff via [email](#), [U.S. mail](#), or fax at any time during the public comment period. To attend the webinar in listen only mode, dial 951.384.3421 and enter access code 269-324-849.

To register for a virtual public hearing webinar please click [HERE](#) and select the hearing(s) you plan to attend from the dropdown menu. Hearings will be held via GoToWebinar, and you can join the webinar from your computer, tablet or smartphone. If you are new to GoToWebinar, you can download the software by ([clicking here](#)) or via the App store under GoToWebinar. We recommend you register for the hearing well in advance of the hearing since GoToWebinar will provide you with a link to test your device's compatibility with the webinar. If you find your device is not compatible, please contact the Commission at [info@asmfc.org](mailto:info@asmfc.org) (subject line: GoToWebinar help) and we will try to get you connected. We also strongly encourage participants to **use the computer voice over internet (VoIP)** so you can ask questions and provide input at the hearing.

For those who cannot attend any in-person or virtual hearings, a recording of the hearing presentation can be found [here](#).

Massachusetts Division  
of Marine Fisheries



# ASMFC & MAFMC Meeting: February 8

- Harvest Control Rule addendum/framework approved for public comment (fluke, scup, sea bass, bluefish)
  - 8 hearings between March 16-April 13

MA Hearing  
April 13  
6-8pm  
Virtual

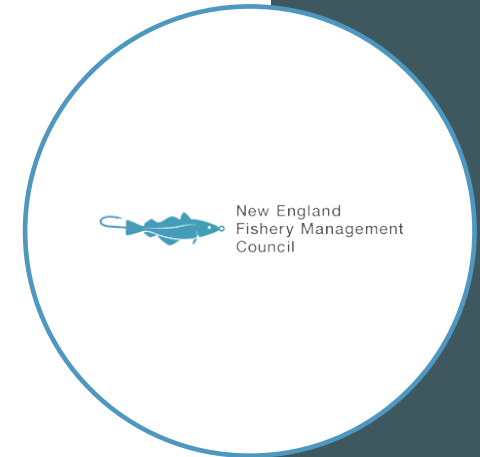
# Lobster Management Board: February 22

- To consider final approval of addendum for electronic tracking requirements in the federal lobster & Jonah crab fisheries: POSTPONED



# New England Regional Fishery Updates

- February Outcomes
- April Outlook
- Additional Updates



# February Outcomes

- **Skates** – Amendment 9
- **Habitat** – SNE Habitat Area of Particular Concern & GSC Habitat Management Area
- **Groundfish** – Recreational GOM cod and haddock

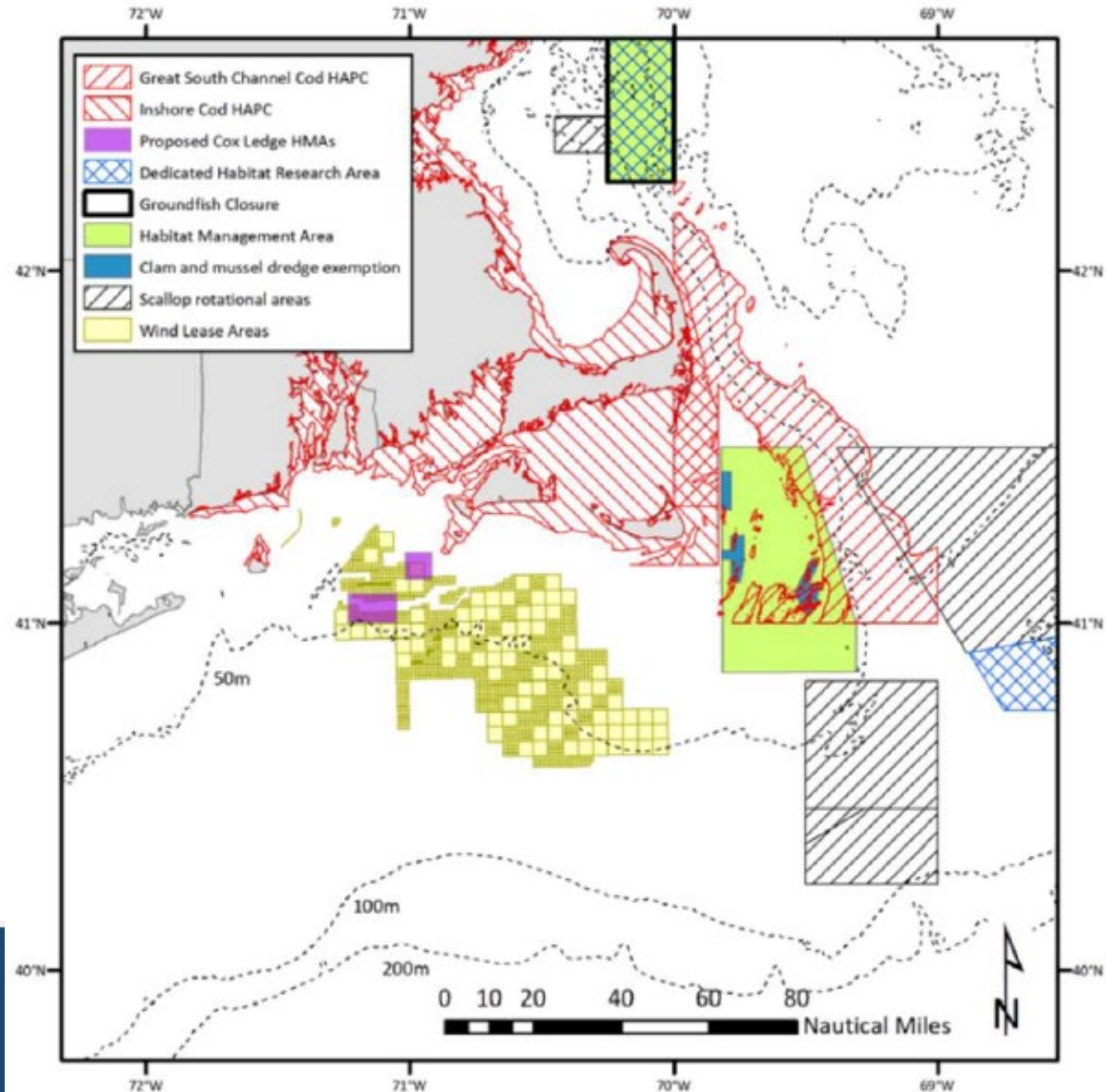
	Current Measures	Proposed Measures
GOM cod	1 fish @ 21" during Sep 15- Sep 30, Apr 1-14 (private) Sep 8 – Oct 7, Apr 1-14 (for-hire)	1 fish @ 22"-28" during Sep 1 – Oct 7, Apr 1-14
GOM haddock	15 fish @ 17" during May – Feb 28, Apr 1-30	20 fish @ 17" during May – Feb 28, Apr 1-30



# April Outlook

## Final Action on:

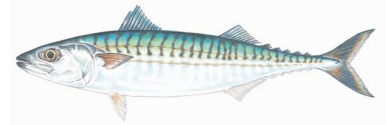
- Habitat – SNE HAPC
- Scallop – Limited Access leasing scoping document



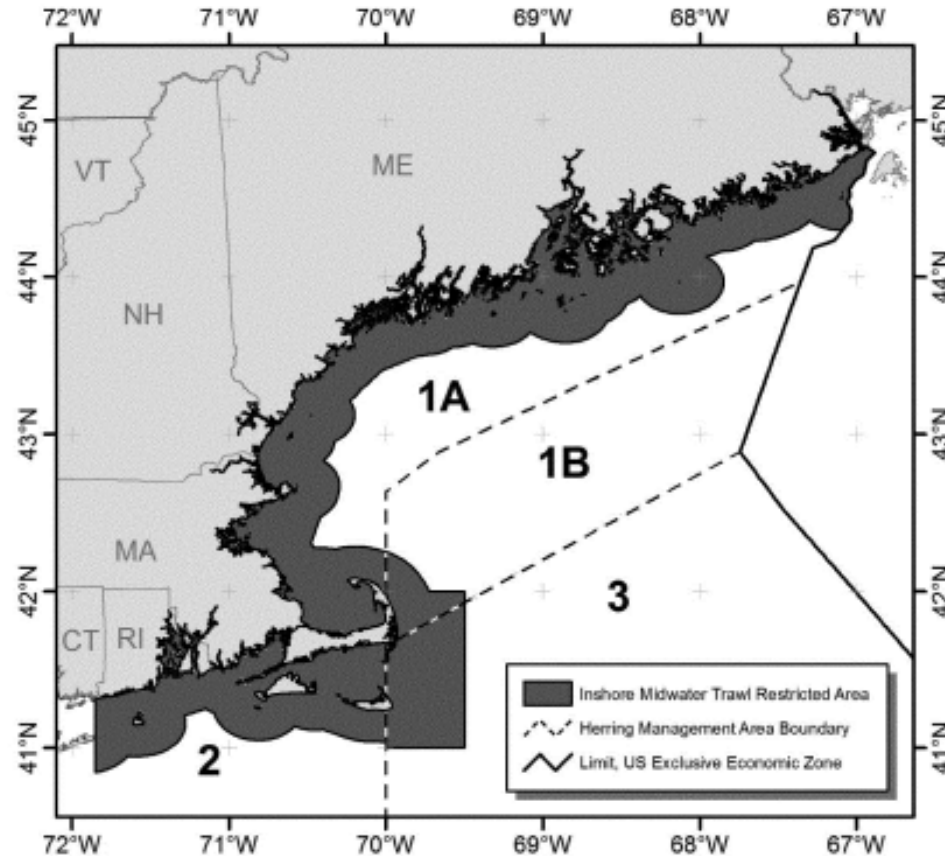


# Additional Updates

- Atlantic herring court case
- Atlantic mackerel
- NEFMC Appointments



# Atlantic Herring



## UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

SUSTAINABLE FISHERIES COALITION,

Plaintiff,

v.

THE HONORABLE GINA RAIMONDO,  
Secretary of Commerce

Defendant.

Civil No. 21-10204-LTS

### ORDER ON CROSS MOTIONS FOR SUMMARY JUDGMENT (DOC. NOS. 29, 33)

March 4, 2022

SOROKIN, J.

The subject of the pending cross-motions for summary judgment is a challenge to the National Marine Fisheries Service's<sup>1</sup> final rule amending the Fishery Management Plan for Atlantic Herring. The Plaintiff, Sustainable Fisheries Coalition ("SFC"), is an unincorporated trade association with members that include various participants in the herring fishing industry. Doc. No. 1 ¶ 7.<sup>2</sup> SFC objects to a portion of the final rule implementing a ban on the use of midwater trawl gear in certain inshore waters. The Defendant opposes SFC's Motion and seeks summary judgment on all claims, contending that the final rule was rational and supported by the administrative record. For the reasons stated herein, the Court ALLOWS the Plaintiff's Motion for Summary Judgment solely on the grounds that the final rule violates the Administrative

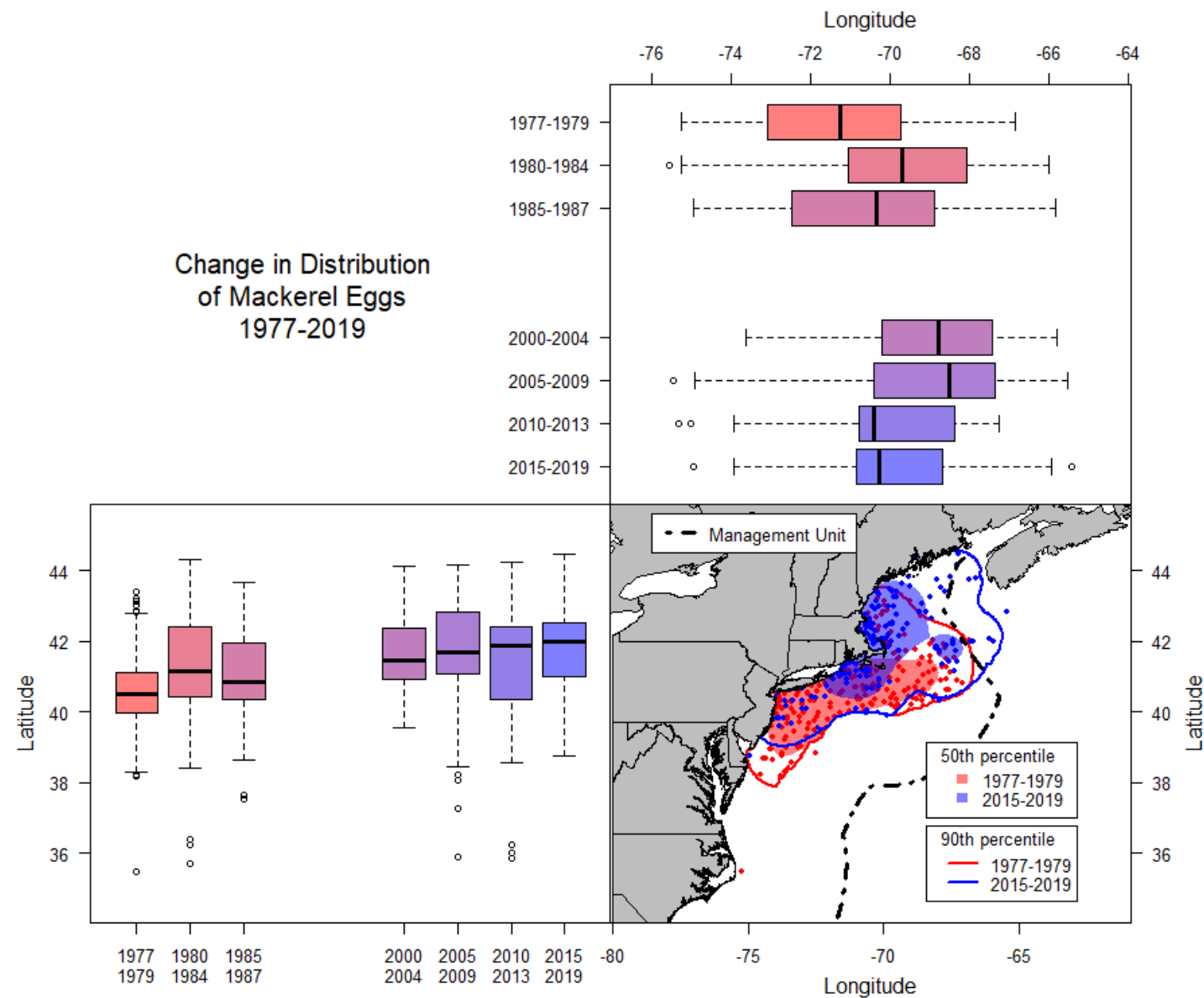
<sup>1</sup> The National Marine Fisheries Service ("NMFS") is a designee of the Department of Commerce.

<sup>2</sup> Citations to "Doc. No. \_\_ at \_\_" reference items appearing on the court's electronic docketing system, and pincites are to the page numbers in the ECF header.

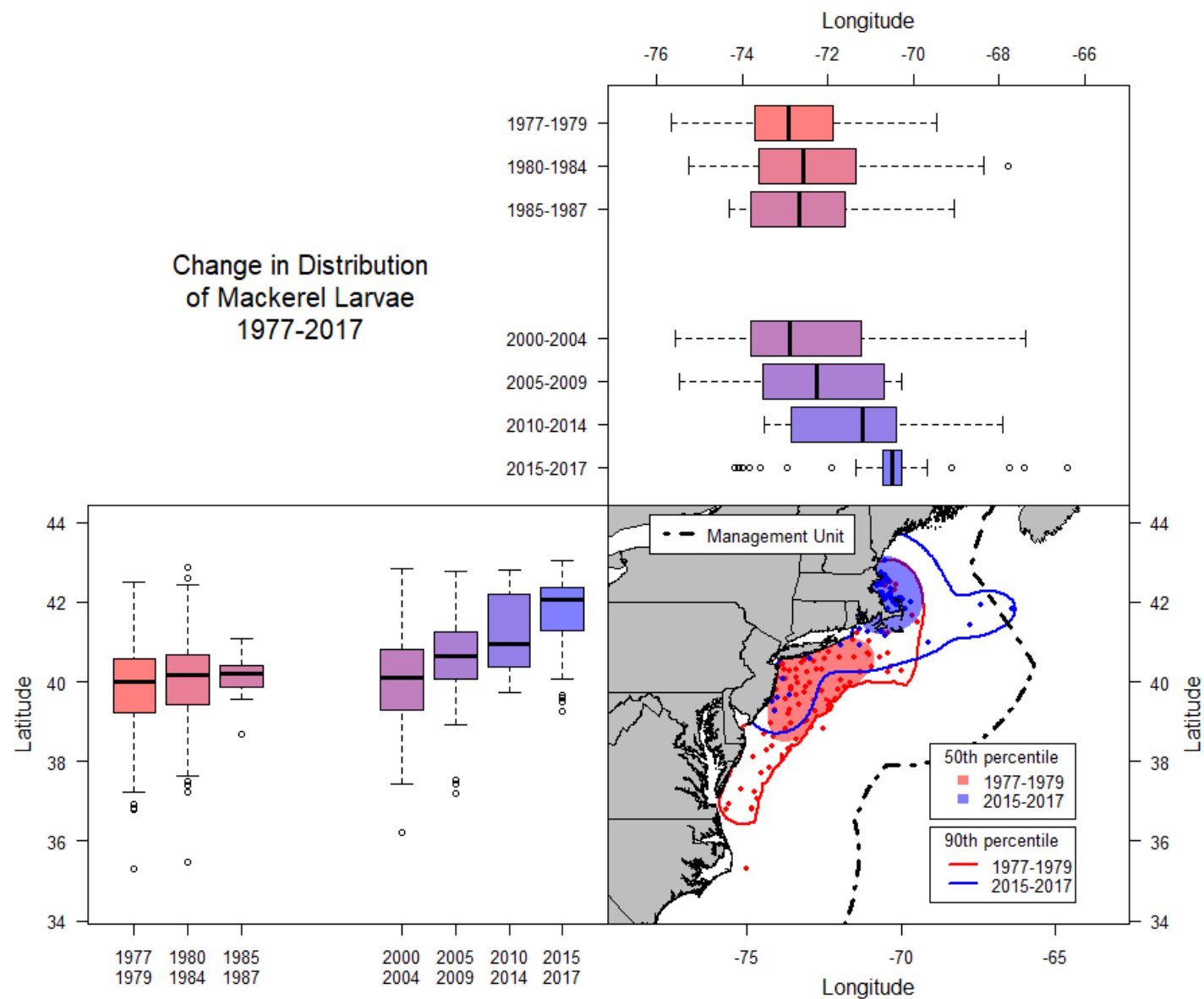


# Atlantic Mackerel

- Central mass shift to north within existing stock boundary

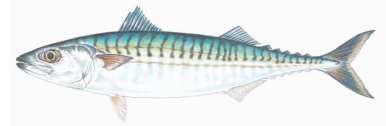


# Change in Distribution of Mackerel Larvae 1977-2017



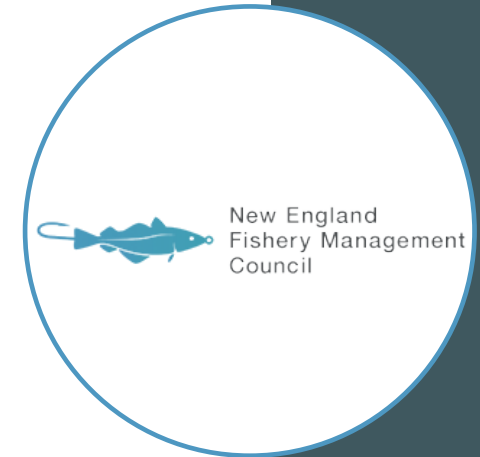
# Atlantic Mackerel Next Steps

- Mid-Atlantic
  - Bag limit analysis
  - Compliance gaps
- States (ME/MA/NH)
  - Joint letter on regulatory intent



# NEFMC Appointments

- Two at-large seats are open for nomination
- 3/15 submission deadline



**February 3, 2022**

Mr. Daniel McKiernan  
Division of Marine Fisheries  
251 Causeway Street, Suite 400  
Boston, MA 02114

**RE: 322 CMR 6.21(2)(c) Rule amendment proposal**

Dear Mr. McKiernan:

I am writing on behalf of the Massachusetts Conch Association and conch fishery stakeholders to request a whelk management rule amendment to change the whelk minimum chute gauge width schedule. The conch industry is experiencing a detrimental decrease in whelk landings and subsequent decline in fishing effort. This precipitous decline coincides with the current expeditious schedule of size increases enacted under **322 CMR 6.21(2)(c)**.

We are requesting an additional year between size increases as illustrated below:

<b>Current schedule</b>	<b>Proposed Schedule</b>	<b>Chute Gauge width</b>
2021 & 2022	2021 - 2023	3 1/8"
2023 & 2024	2024 - 2026	3 1/4"
2025 & 2026	2027 - 2029	3 3/8"
2027 & 2028	2030 -2032	3 1/2"
2029	2033	3 5/8"

The proposed rule amendment would allow for extended time to study recruitment, environmental impacts, and other biological factors such as fecundity traits and different regional growth rates that remain unknown about this species due to limited scientific information. Additional time could also facilitate the performance of a current stock assessment and possibly a sufficient trawl survey, as it has been more than five years since the first and only, limited assessment of the Massachusetts channeled whelk was performed and mainly focused on Nantucket Sound. The fishery will also be impacted imminently by vulnerabilities to cables and pipelines/sand mining as outlined in the Executive Office of Energy and Environmental Affairs Massachusetts Office of Coastal Zone Management Fisheries Work Group's 2020 Massachusetts Ocean Management Plan Review.

It is recognized that the conch (Channeled Whelk) fishery, one of the few inshore small boat fisheries in Southern Massachusetts, and the species both benefit from regulation and management. The species should be protected from overexploitation, as it is a public resource and a fundamental part of the inshore waters of Southern New England. There are many valid rational reasons for the request to be granted. The current level of harvest is less than one million pounds per year which is far less than the 3.6-million-pound peak in 2012. There are major concerns from the remaining conch fishermen that if more of them leave the fishery landing levels will be so low dealers and the infrastructure for the fishery may cease in the near future. The following table provided by the Massachusetts Division of Marine Fisheries illustrates a continued decline in the number of active conch fishermen since 2010.

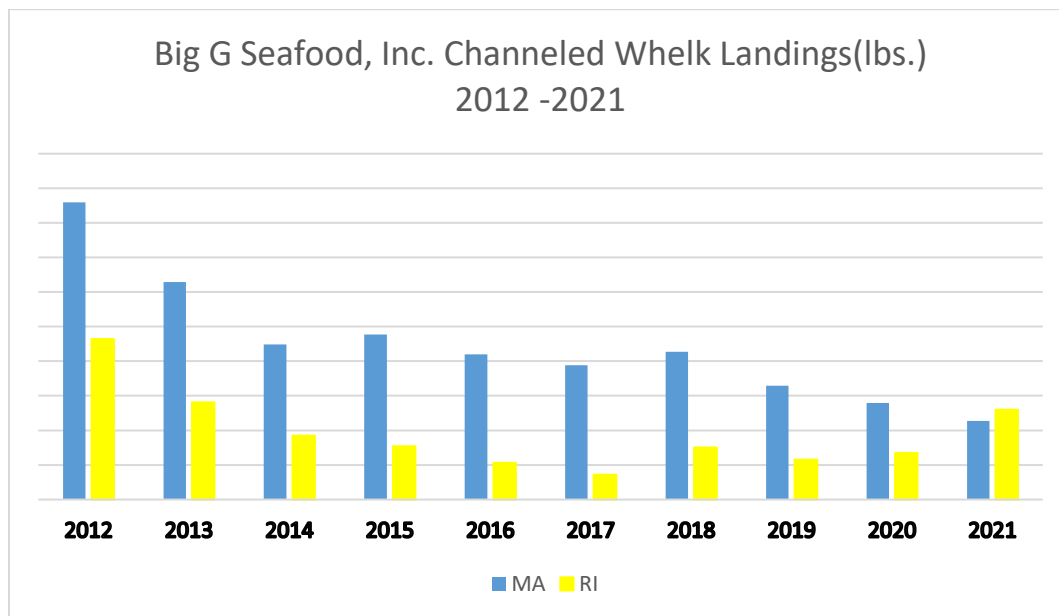
**Numbers and Median Age of Total Conch Pot Endorsement Holders by Active Status, 2010-2019**

YEAR	Endorsements			Median Age	
	Issued	Active	Latent	Active	Latent
2010	151	79	72	51	54
2011	148	87	61	52	55
2012	146	88	58	52.5	56
2013	145	90	55	53.5	57
2014	145	84	61	54	55
2015	144	83	61	55	56
2016	142	84	58	56	56
2017	138	79	59	57	56.5
2018	138	77	61	57	59
2019	137	74	63	57	58

Source: MA permit database, MA Harvester reports and VTR's

updated  
12/20/2021

Whelk dealers are currently buying more conch today than in previous years from other states with a myriad of different whelk fishery management plans including states without regulations to maintain a viable level of product. Big G Seafood's Massachusetts whelk purchases have declined precipitously since 2012 as illustrated in the following graph:



As of 2021, approximately 65% of our whelks (channeled and knobbed) were purchased from out-of-state dealers and fishermen and more than 50% (channeled whelk only) from Rhode Island.

We respectfully request that the amendment to add an additional year between size increases be considered and adopted to allow time for additional research and stronger science-based decision-making.

Sincerely,

Heather Haggerty, President  
Big G Seafood, Inc.  
48 Antonio Costa Avenue  
New Bedford, MA 02740

# Issue Brief - Successful Lawsuit Against Mid-water Trawl Buffer Zone

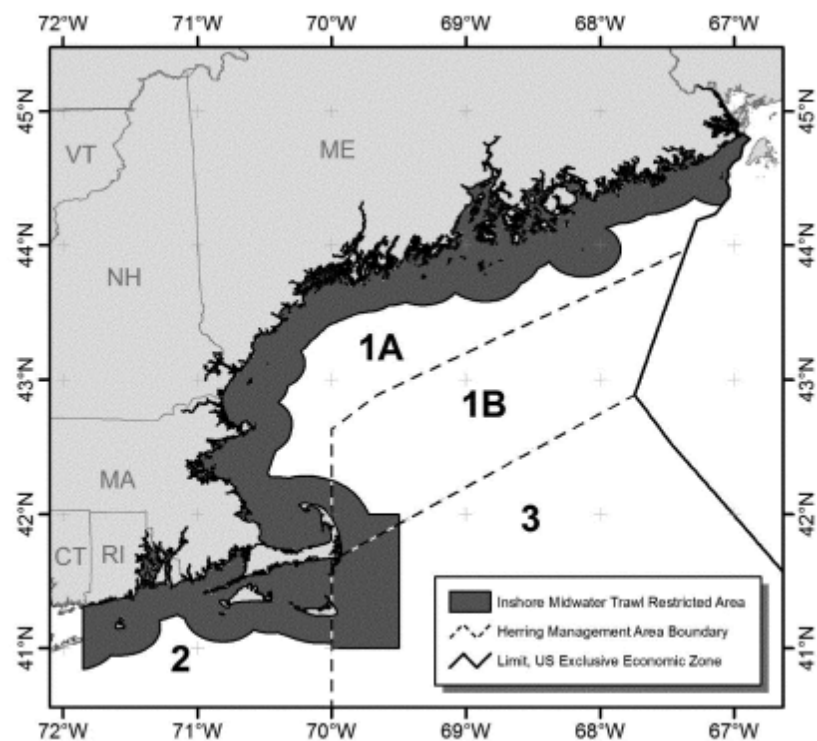
7 March 2022

## Executive Summary

This issue brief summarizes a recent court ruling in favor of mid-water trawl (MWT) vessels fishing for Atlantic herring. The New England Fishery Management Council approved a buffer zone that excludes MWT gear from a 12+ nautical mile zone extending from ME to CT year-round as part of Amendment 8 to the Atlantic Herring Fishery Management Plan. Upon announcement of the final rule by the National Marine Fisheries Service on January 21, 2022, an organization of MWT industry members under the name Sustainable Fisheries Coalition sued the federal government citing the buffer zone was unjustified for conservation purposes and arbitrary and capricious. The U.S. District Court agreed and has ordered both parties to submit a status report containing their joint or separate proposed schedules for supplemental briefing regarding the appropriate remedy considering this Order within 7 days of the March 4<sup>th</sup> Order.

## Background

Nearly four years ago (September 2018), the New England Fishery Management Council (NEFMC) approved Amendment 8 to the Atlantic Herring Fishery Management Plan. The two main components of Amendment 8 created 1) an acceptable biological catch control rule formula to be used to set annual catch limits and 2) a buffer zone wherein midwater trawling would be prohibited year-round. The NEFMC approved the buffer zone (Figure 1) to address potential localized depletion and user conflicts in the Atlantic herring fishery.



**Figure 1.** The shaded inshore Midwater Trawl Restricted Area would prohibit the mid-water trawling year-round within 12 nautical miles of the territorial sea baseline from Maine to the 71° 51'W longitude line off Connecticut. The outer boundary of this “buffer zone” is the same as the territorial sea limit, except for two 30-minute squares eastward of Cape Cod, which are known as blocks 114 and 99, where the width of the buffer zone is expanded roughly 20 nautical miles east and southeast of the Cape. (Source: *Federal Register*. Vol. 86, No. 6, pp. 1810-1825)

The National Marine Fisheries Service accepted public comment on a Notice of Availability from August 21, 2019, to October 21, 2019, and on a proposed rule from October 9, 2019 to November 25, 2019. “After considering public comment, (NMFS) approved Amendment 8, on behalf of the Secretary of Commerce, on November 19, 2019, and notified the Council of the amendment’s approval in a letter dated that same day. (A January 2021) final rule implements Amendment 8 as approved”, effective February 10, 2021 (Federal Register, Vol. 86, No. 6, pp. 1810-1825).

In February 2021, Plaintiffs, Sustainable Fisheries Coalition, sued the federal government exclusively regarding the exclusionary buffer zone portion of Amendment 8. Their three primary challenges contend:

1. the final rule is arbitrary and capricious, violating the Administrative Procedure Act;
2. the final rule is inconstant with Magnuson-Stevens Fishery and Management Act (MSA) National Standards 1, 2, 4, 5, 7, and 8; and
3. the Defendant failed to undertake its statutory duty under the MSA to provide a fishery impact statement.

## **Court Ruling**

On Friday, March 4, 2022, U.S. District Court Judge Leo T. Sorokin ruled in favor of the Plaintiff’s Motion for Summary Judgment solely on the grounds that the final rule violates the Administrative Procedure Act (APA) and MSA National Standard 4 (challenges 1 and 2). The Court allowed the Defendant’s Motion for Summary Judgment insofar as the final rule provides a lawful fishery impact statement (challenge 3).

## **APA Challenge**

The legal standard for APA challenges is “highly deferential” and “permits courts to set aside an agency decision if it is arbitrary, capricious, or otherwise unlawful...A court must set aside regulations ‘if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.’” (Judge Sorokin’s Order on Cross Motions for Summary Judgment, Civil No. 21-10204-LTS).

The arbitrary and capricious argument mainly hinges on the failure of an overlap analysis to be a reliable proxy for direct evidence of localized depletion at the hands of mid-water trawl (MWT) fishing. The Court determined “the Secretary could not identify any scientific evidence of localized depletion, let alone establish a link between MWT vessels and localized depletion” (Civil No. 21-10204-LTS). Instead Judge Sorokin finds that the federal final rule does not contain a rational connection between the facts found and choice made and is therefore arbitrary and capricious.

## **National Standard 4 Challenge**

MSA National Standard 4 states:

Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (b) reasonably calculated to promote conservation; and (C) carried



out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges. (16 U.S.C. 1851)

The nature of the Amendment 8 buffer zone being an allocation decision is contentious. It was not explicitly recognized until NMFS rulemaking and Plaintiff's argue it was unsupported by the Council's decision-making record. NMFS counters it is entitled to its conclusion in the January 2021 final rule that "(t)he Council's recommendation to prohibit midwater trawling in inshore areas is an allocation decision intended to balance the needs of user groups and provide conservation benefits. Consistent with objectives in the Herring FMP, the inshore midwater trawl restricted area is intended to facilitate an efficient, fair, and equitable accommodation of relevant social, economic, and ecological factors associated with achieving OY, in part by providing, to the extent practicable, controlled opportunities for participants in other New England and Mid-Atlantic fisheries." (FR Vol. 86, No. 6, pp. 1810-1825).

The court, however, finds the Secretary of Commerce (defendant) failed to explain how Amendment 8 comports with the reasonable promotion of conservation requirement of NS4. The Court finds the Secretary's final rule provides "lackluster support" that alleviating localized depletion is a conservation benefit given the Council failed to confirm the existence of localized depletion.

Amendment 8 provided the following background on the Council's engagement with localized depletion:

Localized depletion has been discussed at Council herring meetings for over 15 years dating back to Amendment 1 to the Atlantic Herring FMP, which excluded midwater trawl (MWT) gears from management Area 1A from June-September starting in 2007. Since that time there has been limited research on whether and to what extent the Atlantic herring fishery causes localized depletion. Appendix VIII summarizes the literature available on this topic and examples where localized depletion has been addressed in fisheries management, including other potentially relevant examples of how user conflicts have been addressed and precautionary measures taken to ensure prey availability. The Council has recommended that localized depletion be included in the research priorities for 2019-2021 to potentially help ensure more research is conducted on this subject...

After scoping ended the Council developed goals and objectives for Amendment 8 including measures to address localized depletion - a working definition of localized depletion and problem statement about the need for these measures (Section 1.4). As the Council developed the problem statement, it became clearer that the concerns voiced by many stakeholders were not just about the biological impacts of removing herring in discrete areas on predators, but also the potentially negative economic impacts on businesses that rely on those predators. These user conflicts, competing interests in using herring for the directed fishery versus maintaining herring in the ecosystem for predators, are also part of the more socioeconomic objectives for this action.

Information about herring consumption by predators, fishing effort maps and trends, potential correlations between catches of herring and predator fisheries, as well as fishery overlap analysis is in Appendix VI and VII. No direct evidence of localized depletion was found from concentrated herring fishing activity events and later predator fishery events; however, there are data limitations and caveats with the analysis. (NEFMC, Herring FMP Amendment 8)

## **Fishery Impact Challenge**

Despite Plaintiff's complaint, the Court finds the FEIS fulfills the Defendant's statutory duty, plainly addressing cumulative impacts of the management measures on the fishing community and measures to mitigate impacts whereby the MWT fleet can switch gear types and focus fishing efforts offshore.

## **Next Steps**

The remedy remains unclear and the NEFMC has yet to hear anything from NMFS or NOAA General Counsel. Within seven days, the parties shall submit a status report containing their joint or separate proposed schedules for supplemental briefing regarding the appropriate remedy considering this Order.

In ruling for the plaintiff regarding the failure to meet NS4 requirements, the Court did not take a position on whether the buffer zone could be "rationalized as an allocation decision in the future with a fuller explanation." (Judge Sorokin's Order on Cross Motions for Summary Judgment, Civil No. 21-10204-LTS). However, "(t)he Court notes a further problem with the localized depletion justification and analysis: the record fails to clearly define localized depletion spatially or temporally" (Civil No. 21-10204-LTS).

The New England Fishery Management Council's Executive Committee meets on March 25<sup>th</sup> and the full Council next meets April 12-14, 2022.