



Daniel J. McKiernan  
Acting Director

# Commonwealth of Massachusetts

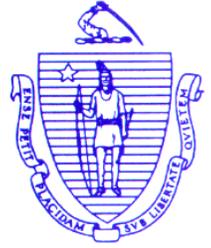
## Division of Marine Fisheries

251 Causeway Street, Suite 400

Boston, Massachusetts 02114

(617) 626-1520

fax (617) 626-1509



Charles D. Baker  
Governor

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Lieutenant Governor

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### MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Acting Director

DATE: February 14, 2020

SUBJECT: **Recommendation to Temporarily Lift the Commercial State-Waters  
Groundfish Closure in Massachusetts Bay for April 2020**

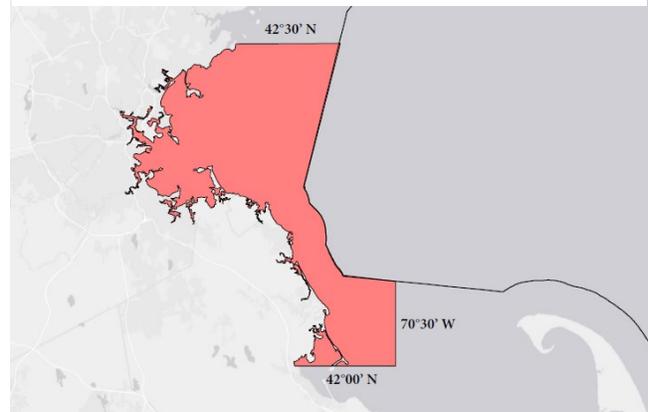
#### Recommendation

I recommend temporarily lifting the commercial groundfish closure between 42°00'N (Plymouth) and 42°30'N (Marblehead) and west of 70°30'W for April 2020 (Image 1).

This action is being proposed consistent with the procedure [322 CMR 6.41] allowing in-season regulatory adjustments through declaration. Accordingly, a public comment period is being held concurrent with this recommendation (February 14 – February 28).

It is also noteworthy that DMF transitioned to using a new e-mail outreach system on February 1, and it will be interesting to see if this has any impact on the scope of comments received.

Image 1. Current April MA Bay Groundfish Closure



#### Background

NOAA Fisheries implements state-waters' subcomponents ("subcomponents") set by the New England Fishery Management Council for the various regulated groundfish species caught in the Gulf of Maine (GOM) for the federal fishing year (May 1 – April 30). These subcomponents are to be shared by the states (ME, NH and MA) to cover their state-waters commercial fisheries conducted by non-federal permit holders. While the subcomponents are not hard annual catch limits (e.g., quotas), the states are expected to manage their state-waters fisheries in a manner that does not jeopardize federal conservation initiatives.

State-waters commercial groundfish fishing activity in MA is authorized by the Groundfish Permit Endorsement ("GE"). GE fishermen are subject to trip limits to constrain landings. Additionally, commercial fishing activity (state and federal) is also restricted by seasonal spatial state-waters groundfish closures ("groundfish closures"), spawning closures (e.g., Cod Conservation Zones,

Winter Flounder Spawning Area Closure), and gear closures (e.g., gillnet closures, mobile gear closures).

With reductions in annual catch limits for certain important groundfish stocks (e.g., GOM cod), DMF has been challenged in its management of the fishery prosecuted by GE permit holders. Of particular concern is preventing overages by the GE fishery, because when total catch exceeds the ABC then payback provisions are triggered, but only for the federal fishery. This scenario is especially critical for GOM cod given the overall ACL is close to being fully utilized. This is less of a concern for other stocks (e.g., GOM winter flounder and GOM haddock) because their ACLs are not fully utilized and underages in the federally managed fishery provide a buffer against exceeding the subcomponents.

In 2019, the MFAC approved DMF's recommendation to enact a conditional commercial groundfish closure in MA Bay in April to realign the GE catch of GOM cod (and other stocks to a lesser extent) with its federally allocated subcomponent. The closure was approved with the understanding that DMF would track GE landings for the current federal fishing year relative to the subcomponent and overall ACL utilization to determine if the closure continued to be justified. The GE fishery is effectively closed from October – January due to seasonal groundfish closures throughout much of the state waters portion of the GOM. Additionally, landings are typically nominal during February and March due to availability, weather, and protected species closures affecting the gillnet fishery. Commercial groundfish fishing does not typically begin again until the April. This creates a *de facto* fall and winter seasonal closure and provides DMF with ample opportunity to compile and audit GE landings for the current federal fishing year and determine if an April closure is justified.

### **Analysis for Fishing Year 2019**

#### GOM Cod

For Fishing Year 2019 (May 1, 2019 – April 30, 2020) the GOM cod subcomponent is 47 metric tons (~103,617 pounds). DMF projects that if the April closure were to remain in effect that the subcomponent may be underutilized by up to 45,000 pounds. In recent years, the GE fishery has landed between about 6,000 and 35,000 pounds of cod during April. Accordingly, it is unlikely that the subcomponent will be exceeded if the April closure is temporarily lifted for this year.

#### GOM Winter Flounder

For Fishing Year 2019, the GOM winter flounder subcomponent is about 67 metric tons (~147,710 pounds). To date, DMF estimates that GE landings are approximately 130,000 pounds. This leaves about 18,000 pounds of the set-aside available through April. GOM winter flounder is one of the target stocks of the GE fishery in April. In the most recent federal fishing years (2017 and 2018) GE landings of GOM winter flounder in April were about 29,000 pounds. If we are to assume that fishing performance will be similar this year as it has been during the past two years, opening April may result in a slight overage of the subcomponent. However, there is very little risk of exceeding the total ACL of 428 metric tons (~943,578 pounds) because a substantial buffer is provided by the federal commercial fishery underutilizing its sub-ACL. As of February 4, 2020, the federal commercial fishery has only taken about 11% of their sub-ACL of 355 metric ton (~782,641 pound) and in Fishing Year 2018 (May 1, 2018 – April 30, 2019) 55% of the total ACL was caught.

Moreover, it should be noted that the state's February – May winter flounder spawning closure [322 CMR 8.04] will remain in effect (Image 2). This closure prevents commercial groundfish fishing within the inshore spawning grounds. The spawning closure should preserve fishing opportunities for inshore recreational fishing on post-spawning fish.

### GOM Haddock

Fishery performance by GE fishermen for GOM haddock has been anomalous during this current fishing year. From Fishing Year 2012 through Fishing Year 2018, the GE fishery landed less than 80,000 pounds of GOM haddock annually. However, for 2019, landings are estimated to be about 270,000 pounds. This already exceeds the state waters subcomponent of 91 metric tons (~202,000 pounds). This increase in landings was driven by an abundance of haddock in inshore waters that some GE trawlers were able to successfully target. Similar to GOM winter flounder, there is very little risk of exceeding the GOM haddock total ACL; as of February 4, 2020, the federal commercial fishery landed 32% of its sub-ACL of 8,312 metric tons (~18 million pounds).

### **Conclusion**

It is likely that opening April will not result in the GE fishery exceeding the subcomponent for GOM cod, the species of most concern. This is critical given the impact such an overage could have on federal catch limits and conservation objectives. GE fishermen have already exceeded the GOM haddock subcomponent and may exceed the GOM winter flounder subcomponent slightly if April is open. However, the low utilization of the total ACL significantly buffers against any potential federal payback.

**Image 2. Winter Flounder Spawning Closure (February 1 – May 31)**

