



**MARINE FISHERIES ADVISORY COMMISSION
AMENDED BUSINESS MEETING AGENDA**

9 AM

Tuesday, November 22, 2022

Via Zoom

Login: <https://us02web.zoom.us/j/89812954723>

Call In: 1-929-436-2866

Webinar ID: 898-1295-4723

1. Introductions, Announcements and Review of November Agenda (9:00 – 9:05)
2. Review and Approval of October 18, 2022 Business Meeting Minutes (9:05 – 9:15)
3. Comments (9:15 – 9:45)
 - a. Chairman
 - b. Commissioner
 - c. Law Enforcement
 - d. Director
4. Action Items and Review of Final Recommendations (9:45 – 11:00)
 - a. Atlantic Mackerel Management
 - b. Recreational Tautog Slot Limit and Trophy Fish
 - c. Electronic Trackers in Commercial Lobster and Crab Trap Fishery
 - d. Whelk Gauge Size Schedule
 - e. Protected Species Management
 - f. Extended Area 1A Winter Mobile Gear Fishery
 - g. Prohibition on Retention and Landing of Shortfin Mako
 - h. Housekeeping
5. Discussion Items (11:00 – 12:45)
 - a. Interstate Fisheries Management Update
 - b. Federal Fisheries Management Update
 - c. Protected Species Management Update
 - d. MFAC Sub-Committee Update
 - i. Permitting Sub-Committee
 - ii. Law Enforcement Sub-Committee
6. Other Business (12:45 – 1:00)
 - a. Commission Member Comments
 - b. Public Comment
7. Adjourn (1:00)

Future Meeting Dates

To Be Determined

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

October 18, 2022

Via Zoom

In attendance:

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

Division of Marine Fisheries: Daniel McKiernan, Director; Bob Glenn, Deputy Director; Story Reed, Assistant Director; Kevin Creighton, CFO; Jared Silva; Nichola Meserve; Melanie Griffin; Kelly Whitmore; Jeff Kennedy; Anna Webb; Julia Kaplan; Stephanie Cunningham; Derek Perry; Scott Schaffer; Nick Buchan; Steve Wilcox; Vincent Manfredi; and Kerry Allard

Department of Fish and Game: Ron Amidon, Commissioner

Massachusetts Environmental Police: Lt. Col. Pat Moran; and Lt. Matt Bass

Members of the Public: Phil Michaud, Len Michaud, Phil Coates, Emerson Hasbrouck, Peter Fallon, Elizabeth Roche, Beth Casoni, Deborah Cramer, and Mark.

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Ray Kane called the October 18, 2022 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

REVIEW OF OCTOBER 18, 2022 BUSINESS MEETING AGENDA

There were no changes to the October 18, 2022 agenda.

REVIEW AND APPROVAL OF DRAFT BUSINESS MEETING MINUTES

Jared Silva reminded the MFAC that the August minutes were not approved at the September 13, 2022 MFAC business meeting. Accordingly, the MFAC were to review and approve both the August 18, 2022 and September 13, 2022 draft business meeting minutes.

With regards to the August 18, 2022 MFAC business meeting minutes, Jared stated the August draft minutes were edited to address two issues raised at the September MFAC meeting. First, to include typographical edits proposed by Kalil Boghdan to page eight of the draft minutes. Second, to answer the question raised by Chairman Kane regarding the status of the Atlantic sea herring stock and if it changed from the 2020 assessment to the 2022 assessment. Jared Silva confirmed the draft minutes were correct and the status remained unchanged—overfished with overfishing occurring.

Chairman Kane asked for a motion to approve the August 18, 2022 MFAC draft business meeting as provided by DMF. Kalil Boghdan made the motion to approve the amended August 18, 2022 business meeting minutes. Tim Brady seconded the motion. A roll call vote was taken and the motion passed 5-0-2 with Mike Pierdinock and Sooky Sawyer abstaining.

Chairman Kane asked for comments or edits regarding the September 13, 2022 MFAC draft business meeting minutes. Jared Silva stated that Mike Pierdinock submitted comments prior to the meeting regarding typographical edits and reviewed these typographical edits with the MFAC. **Chairman Kane asked for a motion to approve the August 18, 2022 MFAC draft business meeting minutes with the amendments proposed by Michael Pierdinock through Jared Silva. Kalil Boghdan made the motion to approve the amended September 13, 2022 business meeting minutes. Tim Brady seconded the motion. A roll call vote was taken and the motion passed 5-0-2 with Mike Pierdinock and Bill Doyle abstaining.**

CHAIRMAN'S COMMENTS

Chairman Kane thanked everyone for their attendance and turned the floor over to Commissioner Amidon.

COMMISSIONER'S COMMENTS

Commissioner Amidon noted Director McKiernan was able to move forward his plan to restructure DMF, including the creation of several key management position. This enabled Dan to promote several staff members and would help the agency retain talent moving forward. Ron then congratulated Mike Armstrong on his promotion to Deputy Director overseeing the Fisheries Biology Section; Bob Glenn on his promotion to Deputy Director overseeing the Shellfish, Habitat, Invertebrate Fisheries, and Protected Species Section; Story Reed on his promotion to Assistant Director overseeing State Fisheries Management and Policy; Kevin Creighton on his promotion to Assistant Director overseeing Administrative Operations; and Stephanie Cunningham on her promotion to work under Kevin Creighton as the manager for fiscal administration and operations.

LAW ENFORCEMENT COMMENTS

Lt. Col. Moran and Lt. Matthew Bass provided comments for the Massachusetts Environmental Police (MEP). Lt. Bass stated MEP responded to about 1,250 marine fisheries calls over the last month. He then highlighted some species-specific issues, including tautog tagging and shellfish tagging.

Lt. Bass moved on to describe the delays MEP has encountered within the court system, and by comparison, praised DMF's efficient administrative process to sanction permits.

Kalil Boghdan asked about staffing and whether new hires were adding additional officers to the force. Lt. Bass stated there were three new hires entering field training and Lt. Col. Moran added it has yet to be determined if these new hires would report to the Coastal or Inland bureaus. Lt. Col. Moran added MEP was on track to hire 11 new officers in 2023, which would be sufficient to maintain recent staff levels.

Lt. Col. Moran closed MEP's comments by giving praise to one of his officers who designed and distributed 3D printed blue crab gauges to contacts in the field. As a result of this initiative, MEP saw a 50% reduction in blue crab violations in 2022. Chairman Kane congratulated MEP.

Commissioner Amidon recommended the Commission reach out to stakeholder groups such as the coastal caucus committee to request they look into staffing issues faced by MEP.

DIRECTOR'S COMMENTS

Director Dan McKiernan started his comments by thanking Commissioner Amidon for his assistance with the restructuring of DMF and the development of this management team.

Dan then discussed the final assessment from the Monterey Bay Aquarium to red-list American lobster. This red-listing was based on potential interactions between the trap fishery and right whales. The Director stated his disappointment with this final decision and noted DMF had been in contact the aquarium to advocate against red-listing.

On the subject of protected species, Dan also discussed the federal court's decision in Center for Biological Diversity vs NOAA Fisheries. This decision ("Boasberg Decision") invalidated NOAA Fisheries recent Biological Opinion on right whales and subsequent Atlantic Large Whale Take Reduction Plan regulations. Additionally, it requires the agency review its regulatory program to achieve the PBR for right whales within six-months, as required by the Marine Mammal Protection Act. As a result of this, NOAA initiated a public scoping process to determine how to achieve a 90% risk reduction to right whales across all regulated fisheries.

The upcoming ASMFC meeting will be held in person in New Jersey from November 7 to November 10. He added the most significant actions for Massachusetts will be those addressing the menhaden and striped bass management plans.

Dan then discussed the longstanding issue regarding hydraulic dredging for surf clams in Provincetown waters. Several years back, the town restricted this activity pursuant to its authority under the Wetlands Protection Act. The municipal act was controversial and DMF has advocated for trying to resolve the matter in a manner that would allow fishing in the area to continue. In recent weeks, a surf clam dredge business filed a Notice of Intent (NOI) with Provincetown to fish hydraulic dredge gear in municipal waters and reignited this conversation. This NOI will eventually be heard by the local Conservation Commission, however, DMF was hoping to time this hearing so that it occurs after the

release of studies conducted by the Provincetown Center for Coastal Studies on the impacts of hydraulic dredging in the area. Dan expressed his interest in improving the spatial management of this fishery to protect important habitat and was hopeful an arrangement could be brokered to allow the hydraulic dredge fishery to access Provincetown waters again.

Dan then discussed issues related to the administration of the agency. He stated the Boston office will be closing and permitting functions will take place out of the field stations in Gloucester and New Bedford. The Boston staff is being relocated to the field stations. Additionally, DMF continues to develop the Cat Cove facility. DMF was also finalizing a new permitting system, which he expected would go live in 2023. With this change, commercial fishers will be issued a different permit stock and will eventually be able to renew online.

Sooky Sawyer expressed concern over that NOAA Fisheries would not allow Massachusetts to take credit for the Massachusetts Restricted Area to protect right whales. During the federal rule making process occurring prior to the Boasberg Decision, Massachusetts' was given credit for this closure in the risk assessment of its commercial trap fishery. However, following the Boasberg Decision, it appeared NOAA Fisheries would no longer credit Massachusetts because the management measure was implemented in 2015 and NOAA Fisheries was looking to use 2017 as the benchmark for risk reduction. Sooky requested DMF and DFG appeal to the Governor to support the industry. Commissioner Amidon stated that he would be happy to meet with a small delegation of industry members on the issue.

DISCUSSION ITEMS

2022 Quota Managed Fishery Performance Update

Story Reed provided the MFAC with an update on the performance of 2022 quota managed fisheries. The presentation focused on bluefish, black sea bass, summer flounder, horseshoe crabs, spiny dogfish, and tautog.

- **Bluefish.** DMF projects the commercial fishery is approaching full utilization of annual quota (~97%). Landings have slowed recently indicating the fish have begun to migrate out of nearshore waters. DMF considered obtaining a quota transfer to accommodate additional fishing opportunities, but given current fishing conditions such an action does not appear necessary.
- **Black Sea Bass.** The fishery has performed similar this year to recent years. However, due to a substantial quota increase for 2022, the fishery had landed only about 75% of the annual quota. While commercial fishing activity continues, DMF anticipates the available quota will likely be underutilized this year. Nichola Meserve added the black sea bass quota increased by 26% from 2021 to 2022 in response to how quota is allocated on a state-by-state basis. However, the quota will be decreasing in 2023 with revisions to how fish are allocated between the recreational and commercial sector, with the recreational share being allocation

being increased from 51% overall to 55% overall. If the fishery performs similarly in 2023, the available quota should be fully utilized.

- Summer Flounder. The summer flounder fishery was again underperforming its quota this year. For 2022, DMF and the MFAC implemented substantial liberalizations to catch limits in response to an increasing quota and underperformance in recent years. However, despite these changes the fishery had only taken 46% of its available quota. The trip limit increased to 10,000 pounds on October 1, with the in-season adjustment approved by the MFAC at their September business meeting. DMF was interested to see how this action may affect performance this fall. Lou Williams expressed concern about the performance of the summer flounder fishery and requested DMF look into potential issues. Nichola stated recent performance has been affected by a number of ecological and economic issues that are driving a decline in participation. Lt. Col. Moran agreed that fishing effort has declined and noted there are only about 10 trawlers participating in the summertime fishery. DMF intends to hold an industry scoping meeting this winter to discuss how to improve quota utilization and fishery performance.
- Horseshoe Crabs. The horseshoe crab fishery was underperforming its quota this year and landings were below recent years. Story opined this may be the result of a shift in fishing effort to the bio-medical fishery, as several hand harvesters and trawlers had turned over their bait permits to participate in the biomedical fishery. Director McKiernan noted DMF would be hosting a stakeholder meeting before the end of the calendar year to address emerging challenges related to the horseshoe crab fishery.
- Tautog. Tautog landings were increasing in recent weeks, which is typical for this fishery. Additionally, some permit holders had begun to reach out to DMF to request second allotments of tags. Mike Pierdinock asked if the commercial fishery had a size preference. Bob Glenn indicated market demand prefers fish in the 16" to 18" range.
- Spiny Dogfish. The spiny dogfish fishery was under performing its quota this year. The spiny dogfish quota is a regional quota; Massachusetts fishes against the northern region's (ME-CT) quota. While the quota is regional, Massachusetts is typically responsible for most of the region's landings. So far, in 2020, Massachusetts has only landed about 20% of the available quota. Kalil Boghdan was interested in what was driving low landings for spiny dogfish. Story stated effort was depressed due to low ex-vessel value and issues related to demand and the European market. Director McKiernan added the low trip limit was designed to support a day boat fishery, but it constrains effort by larger offshore vessels. If trip limits were liberalized new effort could conceivably move into the fishery and create new markets for the product.

Protected Species Management Update

Bob Glenn provided the MFAC with a protected species update. He discussed NOAA Fisheries ongoing rule making initiative following the Boasberg Decision. DMF also

recently held joint meetings with industry representatives, NOAA Fisheries, and state managers from Rhode Island and New Hampshire to discuss the potential ways the regulated fisheries can achieve the required 90% risk reduction. Lastly, DMF provided NOAA Fisheries with written comment on potential modifications to the Atlantic Large Whaled Take Reduction Plan. DMF advocated for a full accounting of risk management reduction measures for all fixed gear fisheries; for a risk credit be provided to Massachusetts for the Massachusetts Restricted Area closure; to update mortality estimates to include most recent years' data; to delay action until empirical data on the effectiveness of the most recent buoy line configuration measures can be calculated; and test and consider the sensitivity of the right whale density model when accounting for changing in spatial distribution over the past decade.

Bob Glenn moved on to discuss NOAA Fisheries proposed modifications to the right whale speed rule. He described the current rules and stated the proposal would expand the extent of the speed limit rule to include most waters off northeast coast during the period of November 1 – May 30 and it would affect all vessels 35' in length or larger. DMF was preparing written comment on this proposal and intended to raise concerns that the economic impacts are not fully captured, that the scope and scale of the rule is not surgical, and that it is difficult to enforce the speed limit on vessels less than 65' as AIS is not required.

Lastly, Bob provided an update on the status of DMF's Incidental Take Permit to NOAA Fisheries for state managed fixed gear fisheries. The first draft was submitted to NOAA Fisheries in July 2022 and NOAA Fisheries provided its initial feedback in September 2022. NOAA Fisheries indicated the draft plan was thorough and well written. DMF was now working to address NOAA Fisheries' comments with the intention of submitting a formal draft to NOAA Fisheries in December 2022.

Kalil Boghdan asked why NOAA Fisheries was expanding its speed limit rule to include vessels between 35' and 65' length. Bob explained that including this size class of vessels would further reduce the risk of potential ship strikes.

Mike Pierdinock highlighted the negative economic impact of the proposed speed rule not just on the fishing industry but the maritime economy at large. He anticipated numerous national maritime organizations would be submitting written comment to NOAA Fisheries.

Lou Williams asked about the status of the 600-pound weak link requirement at the buoy on trap gear. Bob Glenn indicated that NOAA Fisheries rescinded this requirement for 2022 as part of its most recent round of rule-making because it was determined to have no demonstrable risk reduction benefit. DMF's rules were out of phase with federal rules and still required its trap fishers to have a weak link at the buoy. This occurred because of the timing state and federal rule making processes. However, DMF was currently taking comment on rescinding the weak link requirement for commercial trap fisheries for 2023.

Sooky Sawyer commended Bob Glenn and his staff for their thorough work.

Interstate Fisheries Management Update

Nichola Meserve provided the MFAC with an update on interstate fisheries management issues.

Earlier in October, the MAFMC took action to reduce the coastwide quota for Fishing Year (FY) 2023 (May 1, 2023 – April 30, 2024) by ~60%. As a result, it is projected the northern region of ME through CT—which receives a 58% share of the coastwide quota—will have its quota allocation reduced from 17.1 mlbs (in FY2022) to 7.0 mlbs (in FY2023). Given recent landing trends, the anticipated FY2023 quota (coastwide and northern region) will be set above where landings have been in recent years, although some states with individual quota shares may struggle with their allocation at the reduced quota.

The preliminary 2022 stock assessment for striped bass will be subject to review and approval by the ASMFC's Striped Bass Board at their November meeting. The preliminary assessment shows the stock remains overfished (SSB estimated at 64,805 metric tons with a threshold of 85,457 metric tons), but overfishing is no longer occurring (fishing mortality rate of 0.14 with a threshold of 0.2 and a target of 0.17). This indicates the management measures adopted through Addendum VI are achieving the goal of reducing fishing mortality. If the current fishing mortality rate (0.14) persists, then there is a 78.6% change the stock will be rebuilt by 2029. As a result, DMF did not anticipate further management measures to reduce mortality would be required for 2023. Had the assessment demonstrated additional cuts in fishing mortality were necessary, Amendment 7 would have required the Board take immediate action to amend state rules for 2023. Nichola encouraged interested MFAC members to listen to the Management Board meeting on November 7.

Kalil Boghdan asked if reduced striped bass stock biomass and availability could have contributed to the recent reduction in catch. Nichola acknowledged that it could be a contributing factor but credited the measures implemented two years prior to achieve an 18% reduction as the main driver given the pronounced dip in fishing mortality that year

Lastly, the ASMFC's Menhaden Board is expected to take final action on Draft Addendum I to the fishery management plan. This addendum considers modifications to the state-by-state quota allocations in response to changes in stock distribution and availability since these baseline allocations were set, as well as management actions to constrain the incidental catch/small scale fishery landings to prevent the annual total allowable catch (TAC) from being exceeded. Additionally, the Board will set the TAC for 2023 – 2025, and the expectation is it will be increased. Following these decisions by the ASMFC, DMF will convene an industry scoping meeting to consider changes to the state's regulatory program for 2023.

Federal Fisheries Management Update

Melanie Griffin provided the MFAC with an update on federal fisheries management issues focused primarily on happenings at the September NEMFC meeting.

- Sea scallops. The NEFMC declined to develop a limited access leasing program. Development of Framework 36—which will set 2023 specifications and 2024 default measures—remains ongoing.
- Multi-species groundfish. The NEFMC continued to work towards the development of Framework 65 to set 2023-2024/2025 specifications, rebuild cod stocks, and consider revisions to the Allowable Biological Catch control rule.
- Atlantic herring. The NEFMC approved the 2023 – 2025 specifications for Atlantic herring and continued to develop Framework 7, which considers spawning protections for Georges Bank.
- Habitat. The NEFMC: (1) recommended GARFO keep the Stellwagen Dedicated Habitat Research Area (DHRA); (2) concluded future recommendations will be provided for the GB DHRA; (3) initiated a framework to allow for Atlantic salmon aquaculture; and (3) gave GARFO some feedback for any future Exempted Fishing Permits regarding surf clam access to certain areas of the Great South Channel Habitat Management Area around Nantucket Shoals.
- Other items. Throughout late-October and early-November, the NEFMC will host workshops regarding ecosystem-based fisheries management. There was also some discussion at the NEFMC regarding offshore wind energy development, sanctuaries and monuments, and the East Coast Climate Change Planning Initiative.

OTHER BUSINESS

Upcoming State Fisheries Management Meeting and Hearing Schedule

Jared Silva highlighted various upcoming fisheries management meetings:

- 10/20/22 - MFAC Permitting Sub-Committee Meeting (10AM - Zoom)
- 10/26/22 – MFAC Law Enforcement Sub-Committee Meeting (10AM - Zoom)
- 11/1/22 – [DMF Public Hearing on Mackerel, Tautog, Mako, and Groundfish](#) (6PM - Zoom)
- 11/3/22 – [DMF Public Hearing on Trap Fisheries, Mobile Gear Fishing Seasons, and Whelk Sizes](#) (6PM - Zoom)
- 11/7/22 – 11/10/22 – [ASMFC Annual Meeting](#)
- 11/15/22 – Shellfish Advisory Panel Meeting (3PM – Hanover Library)
- 11/22/22 – November MFAC Business Meeting (9AM – DFW Westborough Field HQ)
- TBD – Industry Meeting on Summer Flounder and Horseshoe Crab Management
- TBD – Industry Meeting on Menhaden Management

Kalil Boghdan requested the MFAC be sent a schedule of these upcoming meetings. Jared stated a schedule will be sent out immediately after the meeting with electronic copies of the presentations provided by DMF staff.

Commission Member Comments

Tim Brady appreciated DMF's efforts to address right whale conservation issues. Tim also echoed Mike Pierdinock's earlier comments concerning NOAA Fisheries' proposed vessel speed amendment and the impacts it may have across the maritime industry.

Kalil Boghdan commended DMF for being present at the Topsfield Fair. Kalil added that he would like DMF to set the MFAC dates for 2023 as soon as possible so that he may plan his calendar accordingly.

Mike Pierdinock stated he will be in attendance at the upcoming ICCAT meetings in Silver Spring. He described some agenda items that will be addressed which included stock assessments for certain pelagics. He added that the November ICCAT meeting will be held in Portugal.

Ray Kane thanked everyone for their attendance. Ray asked about a lawsuit pertaining to the limited access scallop fishery. Melanie stated she had not heard anything about it but would look into the subject and respond directly to the Chairman.

PUBLIC COMMENTS

Beth Casoni commended DMF for their efforts in trying to get NOAA Fisheries to credit Massachusetts for the Massachusetts Restricted Area closure. Beth also congratulated DMF staff on their recent promotions.

ADJOURNMENT

Chairman Ray Kane requested a motion to adjourn the October 18th MFAC business meeting. **Tim Brady made a motion to adjourn the meeting. The motion was seconded by Sooky Sawyer. The motion was approved by unanimous consent.**

MEETING DOCUMENTS

- October 18, 2022 MFAC Business Meeting Agenda
- August 18, 2022 MFAC Draft Meeting Minutes
- September 13, 2022 MFAC Draft Meeting Minutes
- DMF Comments on ALWTRT Scoping
- Quota Managed Species Presentation
- October 2022 Presentation on Protected Species
- October 2022 Presentation on Interstate Fisheries Management Updates
- October 2022 Presentation on Federal Fisheries Management Updates
- EEA Letter to BOEM on Wind Development on GOM
- NEFMC Letter to BOEM on Wind Development
- GARFO Letter to BOEM on Wind Development
- NEFMC Eco-System Based Fisheries Management Workshop Notice
- NEFMC East Coast Climate Change Scenario Planning Narratives

UPCOMING MEETINGS

November 22, 2022
DFW Field Headquarters
Westborough, MA



The Commonwealth of Massachusetts

Division of Marine Fisheries

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Lt. Governor


BETHANY A. CARD
Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director 

DATE: November 17, 2022

SUBJECT: **Recommendations on Fall 2022 Omnibus Public Hearing Proposals**

As part of a Fall 2022 omnibus draft regulatory package, DMF proposed a number of amendments to its marine fisheries regulations at 322 CMR. A public comment period was held from September 30, 2022 through November 11, 2022 and all written public comment received is attached to this memorandum. Additionally, DMF split the omnibus proposal package over two virtual public hearings to accommodate the public testimony on the varied regulatory proposals. The public hearings were held via Zoom on [November 1, 2022](#) and [November 3, 2022](#) and were published on [DMF's YouTube Channel](#).

These proposed regulatory amendments included:

- a limit on recreational Atlantic mackerel catch and possession;
- a permitting requirement for the commercial Atlantic mackerel fishery;
- a recreational tautog slot limit and trophy fish allowance;
- a prohibition on the retention, possession, and landing of shortfin mako;
- a framework to accommodate the federal groundfish maximum retention program to be adopted as part of Amendment 23 to the Multi-Species Groundfish Fishery Management Plan;
- a requirement for electronic trackers to be installed and operational onboard vessels participating in the commercial lobster and edible crab trap fishery with a federal permit to fish traps;
- adjustments to existing protected species regulations for commercial and recreational trap fisheries;
- an extension of the late-winter and early-spring mobile gear fishing season in Area 1A off Gloucester and Rockport;
- a delay in the schedule to increase the whelk gauge; and
- housekeeping edits to improve the readability of state regulations.

I have reviewed the written public comment and public hearing testimony and am now presenting to you my final recommendations. For each item, I describe my recommendation and

summarize and respond to the public comment received. For the sake of brevity, I am not rehashing background information on each item; this was previously provided to the MFAC in the initial proposal memoranda. However, should you want to refresh your memory, I have embedded a link to these initial proposal memoranda so that you can readily access the information.

This memorandum contains my final recommendation on each proposal, except for groundfish maximum retention. I am not recommending any action be taken on the proposed framework to accommodate the federal groundfish maximum retention program at this time, as NOAA Fisheries has not yet finalized Amendment 23. I will address this decision in more detail below.

For most of the final recommendations contained herein the MFAC will have to make a motion and then vote on my final recommendations in order for them to be promulgated as final regulations¹. There are two notable exceptions: (1) the permitting requirement for the commercial Atlantic mackerel fishery; and (2) the installation of operational electronic trackers installed onboard federally permitted vessels participating in the commercial lobster and edible crab trap fishery. The statutory authorities for these final regulations—G.L. c. 130, §§21 and 80—do not require MFAC approval².

Atlantic Mackerel Commercial Permit Endorsement

Recommendation

I recommend DMF adopt a new commercial regulated fishery permit endorsement (“endorsement”) for Atlantic mackerel beginning in 2023. This will be an open entry endorsement available to any commercial permit holder. The endorsement fee is set at \$30 for residents and \$60 for non-residents through existing regulations of the Executive Office for Administration and Finance. This recommendation does not differ from the proposal set forth at public hearing. For more details on this item, please review DMF’s June 10, 2022 [memorandum](#).

Rationale

The purpose of this permit will be to differentiate between commercial and recreational fishing activity. The permit will be required for any commercial fishing operation to retain and land more than the recreational limit for Atlantic mackerel—this includes the possession, retention, and landing of mackerel for commercial purposes, as well as the retention and possession of mackerel by commercial anglers for use as bait in other commercial rod and reel fisheries (e.g., striped bass). Under existing regulations, commercial anglers may not mix recreational and commercial trips. Accordingly, a commercial angler is prohibited from commercially fishing for

¹ G.L. c. 130, §17A sets forth that the MFAC is required to approve all DMF regulations governing the manner of taking fish; legal size limits; seasons and hours when fish may be taken; quantities of fish that may be taken; and the opening and closing of areas to fishing.

² These final regulations are being adopted pursuant to the Director’s authority at G.L. c. 130, §§21 and 80. G.L. c. 130, § allows the DMF Director to devise a system to collect and compile fisheries data and statistics useful to the commercial fishing industry and create and G.L. c. 130, §80 allows the DMF Director to establish the forms, use, and contents of commercial fishing permits and appurtenant regulated fishery permit endorsements. While these two items do not require a formal MFAC vote, I recognize the overarching purpose of the MFAC is to advise DMF on the proper management and development of marine fisheries in the Commonwealth. It is my view that this purpose certainly extends to advising DMF on commercial fisheries data collection and permitting. Accordingly, I encourage you to discuss the recommendation and provide me with any feedback you may have.

mackerel while recreationally fishing for another species (e.g., striped bass) on the same trip, thereby preventing a loophole whereby anglers may exceed the recreational mackerel limit by simply obtaining a commercial permit.

Atlantic Mackerel Recreational Catch Limit

Recommendation

I recommend the MFAC vote to approve a 20-fish recreational limit for Atlantic mackerel. This limit shall apply as a daily per angler harvest limit and a per angler possession limit while fishing. Recreational anglers will not be subject to this limit when holding mackerel in a freezer, fish car, or shore-based bait well or a holding car tied off a dock. This recommendation does not differ from the proposal set forth at public hearing. For more details on this item, please review DMF's June 10, 2022 [memorandum](#).

Rationale

Public comment was generally supportive of this proposal. However, in both the written public comment and the public hearing testimony, charter boat captains presented an interesting scenario for which they sought an additional exemption. In certain instances, the charter boat captain and crew may leave the dock before the clientele arrives to obtain bait for the trip and return to pick up the clients. Under this circumstance, their ability to retain bait would be limited to the recreational possession limit for the number of persons onboard the vessel when bait fishing is occurring (e.g., 40 fish covering the possession limit for the captain and mate), rather than the number of persons who will be fishing onboard the charter later. Accordingly, they sought an exemption to instead retain and possess mackerel consistent with the number of persons to be onboard their charter.

This is an activity I want to accommodate. However, I prefer adopting a straightforward and prescriptive rule. My position on this is informed by historic feedback from the Massachusetts Environmental Police (MEP) who have consistently advocated for DMF to not layer a variety of exemptions into rules as it can confound enforcement. Considering this is the first time the state is managing the recreational harvest of Atlantic mackerel, and I expect there will already be growing pains with the rule as written, I do not want to carve additional exemptions into the rule to further complicate enforcement and compliance. However, I am willing to reconsider this this is a position, particularly if it creates an untenable situation for the for-hire industry or law enforcement or muddles data collection.

While I would prefer not to accommodate this via a regulatory exemption, for-hire permit holders may obtain a commercial fishing permit and regulated fishery permit endorsement for Atlantic mackerel. If so permitted, they may fish prior to their charters as commercial fishers and retain mackerel in excess of the 20-fish per angler recreational limit and obtain the bait necessary for their charters (i.e., 20-fish per angler onboard the charter). Their commercial trip would then end when they return to port and the for-hire trip would begin when they embark with the clientele. Accordingly, these activities would be discrete and would not constitute mixing commercial and recreational trips. Catch retained in this manner would have to be reported on commercial trip level reports and coded as "personal use."

If the MFAC approves this recommendation as provided, DMF will reach out directly to the charter boat community to describe how the new limit will apply to their business and how they may go about obtaining bait in advance of a charter.

Recreational Tautog Slot Limit and Trophy Fish

Recommendation

I recommend the MFAC vote to approve a recreational tautog slot limit of 16” to 21” with an allowance for each angler to retain one trophy fish per day exceeding the 21” maximum size. This recommendation does not differ from the proposal set forth at public hearing. For more details on this item, please review DMF’s August 15, 2022 [memorandum](#).

Rationale

The ASMFC’s Interstate Fishery Management Plan (FMP) for Tautog seeks to establish uniform regulations within a management region, and under this FMP, Massachusetts and Rhode Island constitute a single management region. Adopting this provision would bring Massachusetts rules in line with Rhode Island’s, as Rhode Island adopted this slot limit and trophy fish rule for this season. Having consistent rules across jurisdictions would enhance enforcement and compliance. In doing so, we should also restrict the potential eastward movement of fishing effort into Massachusetts waters to target larger trophy fish.

DMF received ample written public comment and oral testimony on this proposal. Nearly all of the public comment received was in support of adopting the proposal as a final rule for 2023. The public supported this measure as it would bring Massachusetts regulations into phase with Rhode Island regulations and because of the perceived conservation benefits associated with potentially protecting larger trophy fish. Massachusetts also benefits from Rhode Island adopting this rule first. In the public comment, anglers expressed their strong enthusiasm for the Rhode Island rule. The popularity of this rule has also been echoed by my colleagues in Rhode Island.

At public hearing there was some concern expressed regarding the potential for the slot limit to increase discard mortality on larger fish, particularly when the fishery is occurring offshore in deeper waters. We are not particularly concerned with the potential for an increase in discard mortality. First, available data suggest the frequency of catch of trophy fish in Massachusetts is likely low³ and I think it is unlikely most trips will result in an angler catching more than one trophy fish. Moreover, tautog are a hearty fish mostly caught in shallower waters and during cooler months, as a result, discard mortality associated with the rod and reel fishery is low—a 2.5% recreational discard mortality rate is used in tautog stock assessments.

Electronic Trackers in Commercial Lobster and Crab Trap Fishery

Recommendation

I recommend that DMF require all commercial Offshore Lobster Permit holders and Coastal Lobster Permit holders with a federal lobster trap permit to install and have operational by May

³ DMF conducted a rod and reel study on tautog. During the study, 314 legal sized fish were landed. Of these 314 fish, only 3% were greater than 21”. MRIP data shows similar low catch rates of tautog exceeding 21 inches, but the MRIP data may not be terribly informative given the substantial percent standard error driven by limited intercepts and small sample size.

1, 2023 an electronic tracking device onboard the vessel named on the federal and state lobster permit. This recommendation does not differ from the proposal set forth at public hearing. For more details on this item, please review DMF's August 12, 2022 [memorandum](#).

In terms of implementation, the states have sought guidance from NOAA Fisheries on any exempted parties. At present, all vessels with a federal lobster trap permit will be subject to this new electronic tracker requirement, whether active in the fishery or not (i.e., those who hold the permit and intend to fish traps, as well as those who hold the permit and do not intend to fish traps). Additionally, permit holders who have a VMS requirement to participate in another federally managed fishery are not exempt from this new electronic tracker requirement. The only exempt group of permit holders are those whose permits are held in CPH⁴.

Rationale

Without high resolution spatial data, the lobster industry will not be able to adequately address a variety of ongoing and emerging issues. This is of particular concern for that component of the fishery occurring offshore in federal waters where many of the concerns for the lobster industry are spatially concentrated. Accordingly, in April 2022, the ASMFC amended the Interstate FMPs for American Lobster and Jonah Crab to have states require electronic trackers be placed onboard lobster vessels with a federal lobster trap permit. Requiring these trackers will allow for the collection of high-resolution spatial data. These data will better inform ongoing and future discussions regarding marine spatial planning, marine protected areas, protected species risk assessment and analysis, and stock assessments.

The collection of these data is so critical to the future success of the lobster industry that I am moving to have Massachusetts fishers adopt this requirement for the start of this upcoming fishing year on May 1, 2023. This is earlier than the January 1, 2024 implementation date required by the Interstate FMPs. At present the ASMFC is reviewing RFRs from potential vendors and I suspect at least a half dozen devices will be approved for purchase in early-2023. By being first to require the instillation of the devices, we will be first in line and will get better service from the vendors and face fewer supply chain issues. Additionally, Massachusetts has secured funding through a federal earmark to subsidize the purchase of electronic tracking devices, installation, and the annual service fee for the first few years. Once these subsidies run out, fishers can expect to pay an annual service fee of about \$250.

There was some opposition to this requirement in the public testimony. Some view it as an additional expense and imposition on an industry that is currently facing strong headwinds, particularly considering protected species management challenges and market factors. This sentiment was also echoed in the written comment from the Massachusetts Lobstermen's Association (MLA), who do not support the action.

While I understand the industry's frustration, I am moving forward to require the affected permit holders have these devices be installed and operational by May 1, 2023. First, it is a mandatory

⁴ Confirmation of Permit History—or CPH—is a federal permit status that is required when a permitted vessel has sunk, been destroyed, or has been sold to another person without its permit history. Permits held in CPH allow the applicant to maintain the landings history associated with the permit without owning a vessel.

measure to comply with the ASMFC’s FMPs and overarching federal law. Second, I strongly support the action because the collection of these data is critical for the lobster industry to address ongoing and future challenges. Despite the imposition requiring electronic trackers may cause in the short term, it will provide accurate spatial data to the benefit of the industry over the long term.

Delay in Schedule to Increase Whelk Gauge Width

Recommendation

I recommend the MFAC vote to approve a revised whelk gauge schedule whereby the gauge width is increased by 1/8” every third year (instead of every other year), achieving the terminal width of 3 5/8” in 2033. In doing so, the pending increase from 3 1/8” to 3 1/4” will occur in 2024, rather than 2023 (Table 1). This recommendation does not differ from the proposal set forth at public hearing. For more details on this recommendation, please review DMF’s August 12, 2022 [memorandum](#).

Table 1. Recommended Amendments to Schedule for Whelk Gauge Increases and Corresponding Size at Maturity					
Current Schedule	2021 – 2022 3 1/8”	2023 – 2024 3 1/4”	2025 – 2026 3 3/8”	2027-2028 3 1/2”	2029 3 5/8”
Recommended Schedule	2021 – 2023 3 1/8”	2024 – 2026 3 1/4”	2027 – 2029 3 3/8”	2030-2032 3 1/2”	2033 3 5/8”
Percent Size at Maturity	0%	0%	5%	20%	50%

Rationale

The recommended delay to the gauge width increase schedule was brought forth to DMF through an industry petition from the Massachusetts Conch Association and Big G. Seafood. The petitioners were concerned the gauge increases were the cause of diminished fishery performance in recent years. If effort and landings were to continue to decay, industry claims they would lose the shoreside infrastructure necessary to support the fishery. Additionally, the petitioners were interested in delaying the schedule to further investigate other scientific questions related to the management of this fishery (e.g., sexual dimorphism and sex ratios of catch and landings) and develop potential alternative conservation and management strategies to the current minimum size management approach.

These sentiments were similarly supported by the public testimony. Industry members raised their concerns about the impacts of the current regulation on their landings; the presence of large numbers of sub-legal sized whelks in their catch; and the potential for this management program

to skew the sex ratio by producing a female-only fishery. Industry members also argued for additional scientific research into the whelk resource. With the whelk fishery and its shoreside infrastructure centered around New Bedford, DMF also received public comment from local state legislators in support of the industry petition. Representatives Cabral and Hendricks provided testimony at the public hearing and Representative Cabral and Senator Montigny provided written comment.

The current gauge increase schedule was developed to gradually bring the size-at-harvest for whelks to 50% size-at-maturity to protect female spawning stock biomass. Recognizing this is a slow growing animal, DMF anticipated this gradual approach would offset some economic impacts by allowing near legal sized whelks to recruit into the fishery before the next gauge increase would occur. Adding an extra year to the current schedule will delay milestones for protecting spawning stock. However, I think it is consistent with our long-standing goal balancing conservation with the long-term viability of this fishery. For these reasons, I am moving this recommendation forward.

Protected Species Management

Recreational Trap Gear Closure

Recommendation

I recommend the MFAC vote to provide the DMF Director with the authority to annually amend the opening of the May 16 – October 31 buoyed recreational trap fishery on a dynamic basis in response to the presence/absence of right whales. This recommendation does not differ from the proposal set forth at public hearing. For more details on this item, please review DMF's August 12, 2022 [memorandum](#).

Rationale

Under existing regulations, the DMF Director may extend or shorten the duration of commercial fixed gear closures to protect right whales on a dynamic basis in response to the presence/absence of right whales. This allows DMF to extend the closure past May 15 if right whales remain in state waters or rescind the closure before May 15 if they have migrated out of state waters. A similar authority does not currently exist for the recreational trap fishery. At present, buoyed trap gear may be set on May 16 regardless of whether right whales remain present and may not be set prior to even if right whales depart. This recommendation would treat the commercial and recreational fisheries similarly with regards to the seasonal opening of the fishery.

DMF received limited written comment and testimony regarding this action, but the comment and testimony received supported the action.

Weak Link at Buoy

Recommendation

I recommend the MFAC vote to rescind the requirement that commercial trap fishers install a 600-pound weak link where the buoy line connects to the buoy. This recommendation does not differ from the proposal set forth at public hearing. For more details on this item, please review DMF's August 12, 2022 [memorandum](#).

Rationale

For 2022, NOAA Fisheries' Atlantic Large Whale Take Reduction Plan ("Plan") regulations were amended and the weak link requirement was rescinded from the Plan. This was done because the entanglement record shows little evidence the gear modification works as intended. Accordingly, the gear modification ultimately does not contribute to risk reduction. DMF was unable to take a complementary action for 2022, which allowed for state and federal rules to become out of phase (i.e., state rules requiring Massachusetts trap fishermen to continue to fish with weak links remained in effect despite changes in the federal rule). This was an unanticipated byproduct of how the rule making schedule interacted with our Incidental Take Permit application and our application to have our commercial trap fisheries listed as a single Massachusetts Mixed Species Trap Fishery on NOAA's annual List of Fisheries. If adopted, this recommendation will allow state regulations to complement federal regulations next year and Massachusetts trap fishermen will no longer be required to fish with weak links.

DMF received limited written comment and testimony regarding this action, but the comment and testimony received supported the action. Some commercial fishers did advocate for the continued use of the device. In the event that an entanglement occurs, other weak contrivances fail, the weak link may function as intended and allow the animal to part from the gear. Additionally, there was some testimony describing how the weak link makes the gear easier to fish. While I do not think this is sufficient cause to retain the requirement in regulation, continuing to use weak links would not be prohibited if this recommendation is adopted.

Buoy Line Definition

Recommendation

I recommend the MFAC vote to amend the definition of buoy line as it pertains to protected species regulations. The recommended definition will describe a buoy line as that segment of line connecting fishing gear in the water to a buoy at the surface. For trap gear, the connection to the fishing gear in the water shall be where it connects to a trap, trap bridle, or groundline in front of the terminal trap at that end of the trawl. If the buoy line is connected to the groundline but that connection is not readily apparent or visible, then the end of the buoy line shall occur 12' in front of the connection to the terminal trap at that end of the trawl. This recommendation differs from the proposal set forth at public hearing. For more details on this item, please review DMF's August 12, 2022 [memorandum](#).

Rationale

In hauling and inspecting trap gear this past year, DMF became aware that the current definition for buoy line is nebulous and it makes it difficult to determine the precise location where the

buoy line terminates along the ocean floor. Accordingly, it can be unnecessarily complicated to measure a buoy line and determine if it is compliant with the various buoy line configuration and marking rules. This is particularly true if you are not seizing the gear and removing the buoy line from it. Accordingly, I sought public comment to enhance the definition of the term buoy line to allow for more effective enforcement of the state's buoy line regulations.

We received informative written public comment and testimony from the industry on this subject. The industry encouraged DMF to move away from a more prescriptive definition of a buoy line and accommodate the various techniques commonly deployed. Based on this public comment, I am recommending a less prescriptive buoy line definition than initially proposed. Specifically, the 12' standard would only apply to so-called Frankenstein gear whereby the connection between the groundline and the buoy line is not apparent. The purpose of this action is not to alter existing gear conventions or require additional regulatory compliance, but ensure that compliance with the protected species rules cannot be obscured by configuring buoy lines in an intentionally confounding manner.

Extension of Area 1A Mobile Gear Fishing Season

Recommendation

I recommend the MFAC vote to approve extending the Area 1A wintertime opening from February 1 – March 31 to February 1 – May 15. This recommendation does not differ from the proposal set forth at public hearing. For more details on this item, please review DMF's August 12, 2022 [memorandum](#).

Rationale

Area 1A off Gloucester and Rockport is currently open to mobile gear fishing from February 1 – March 31 and June 15 – September 30. This past winter, DMF received a request from industry to extend the wintertime closure past March 31 to provide additional inshore access to sea scallops, should they be available. DMF analyzed the request and supported extending this opening through May 15. If approved, any Coastal Access Permit holder further endorsed for North Shore Mobile Gear will now be allowed to fish in this area with mobile gear from February 1 – May 15.

Given the February 1 – May 15 seasonal fixed gear closure to protect right whales, DMF does not anticipate this extension will result in gear conflicts with trap fishermen. Additionally, DMF does not anticipate this change will result in increased interactions with groundfish species. This fishery would be occurring in a time and space where seasonal groundfish availability is low, the use of trawl gear and the retention of groundfish will be limited by overarching groundfish closures, and sea scallop dredges are rigged in a manner to reduce groundfish bycatch. DMF will be monitoring the upcoming season(s) regarding these potential gear conflict and groundfish bycatch concerns. We anticipate there will be additional federal observer coverage on future Northern Gulf of Maine (NGOM) sea scallop trips, which will better inform discussions regarding potential groundfish bycatch in the region.

The limited comment received supported extending the open season.

Prohibition on Retention, Possession, and Landing of Shortfin Mako Sharks

Recommendation

I recommend the MFAC vote to approve a prohibition on the retention, possession, and landing of shortfin mako taken from the waters under the jurisdiction of the Commonwealth and allow for DMF to exempt fish lawfully caught in federal waters should NOAA Fisheries provide an allowance for harvest in the federal zone in the future. This recommendation does not differ from the proposal set forth at public hearing. For more details on this item, please review DMF's June 10, 2022 [memorandum](#).

Rationale

Recently, ICCAT determined all member nations needed to reduce shortfin mako fishing mortality to accelerate the recovery of the stock. In response, NOAA Fisheries adopted a federal prohibition on shortfin mako retention with an allowance to authorize harvest should it be allowed by ICCAT and the ASMFC's Coastal Sharks Management Board took action to require zero retention in state waters. This recommended action will complement federal rules and comply with the Interstate FMP.

We received no written public comment or oral testimony on this proposal. This reflects our understanding that shortfin mako catch in Massachusetts state waters is negligible.

Housekeeping

Recommendation

I recommend the MFAC vote to: (1) eliminate the term "grandfather" from the regulatory code; (2) adopt gender neutral terms in the sections of 322 CMR currently being amended (e.g., fisher replaces fisherman); (3) rescind 322 CMR 8.08 thereby eliminating redundant provisions; (4) correct typographical errors in language defining black sea bass pots and mobile gear exemption areas; (5) move buoy line marking rules from 322 CMR 4.13 to 322 CMR 12.00; and (6) amend organization of 322 CMR 12.00 and update its purpose section to better reflect the current status of protected species management.

Rationale

We received no written public comment or oral testimony on these housekeeping proposals.

Groundfish Maximum Retention

Currently, I am not recommending any action to adopt a framework to authorize federally permitted fishers and dealers to possess, land, sell, purchase, and process non-conforming sized groundfish taken by vessels participating in the federal maximum retention electronic monitoring program. The maximum groundfish retention program has been occurring as a federal pilot program over the past several years. At the federal level, this pilot program was accommodated through an Exempted Fishing Permit, and at the state level, we have accommodated it through a Letter of Authorization (LOA). The program is now in the process of being codified as part of Amendment 23 to the NEFMC's Northeast Multi-Species Groundfish FMP.

NOAA Fisheries has not yet finalized and published Amendment 23 by this juncture. Without knowing the final regulatory language in Amendment 23, I am uncomfortable providing a precise recommendation to adopt a complementary state framework. Rather than moving ahead without potentially critical details, I will wait until Amendment 23 has been published and then proceed to final rule making. This may result in a time-lag between when the federal program goes into effect and the state framework is adopted. However, we can accommodate continued participation in this program through an LOA, as we did in the preceding pilot program.

Attachments

November 1, 2022 Public Hearing Presentation

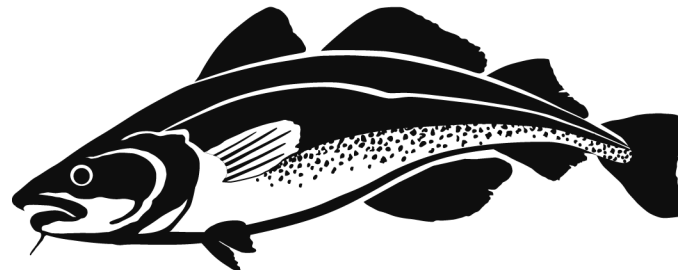
November 3, 2022 Public Hearing Presentation

Written comments

**Public Hearing:
Electronic Monitoring, Protected Species, Mobile
Gear Exemption Areas, and Whelk Gauge
Schedule**

**6PM
November 3, 2022
Virtually Via Zoom**

Marine Fisheries
Commonwealth of Massachusetts



Public Hearing and Comment

Under the provisions of M.G.L. c. 30A, and pursuant to the authorities found at M.G.L. c. 130 §§ 17A, 21, 80 and 104, the Division of Marine Fisheries (DMF) is taking public comment and holding public hearings on proposed amendments to regulations at 322 CMR 4.00, 6.00, 7.00, 8.00 and 12.00. These amendments affect electronic monitoring in the federal lobster and Jonah crab trap fishery; protected species regulations; mobile gear exemption areas; and the whelk gauge schedule.

Written public comment will be accepted through Friday, November 11, 2022. Please send written public comment via e-mail to marine.fish@mass.gov or by post to the attention of Director McKiernan at 251 Causeway Street, Suite 400, Boston, MA 02114.



Overview of Proposals

Electronic Tracking for Commercial Lobster and Crab Trap Fishery (322 CMR 7.11).

- Require by 5/1/23, all commercial lobster permit holders with federal lobster permits to fish traps install and have operational electronic tracking devices onboard the permitted fishing vessel.

Protected Species Regulations (322 CMR 4.13, 6.02, and 12.00)

- Allow Director to amend opening of recreational trap fishing season based on presence/absence of right whales.
- Eliminate the weak link requirement for commercial trap fisheries.
- Improve the regulatory definition of buoy line to enhance compliance with protected species rules.

Whelk Gauge Schedule (322 CMR 6.21). Delay the scheduled 1/8” whelk gauge increases so they occur every third year rather than biennially.

Area 1A Mobile Gear Season (322 CMR 4.06). Expand the Area 1A (Rockport/Gloucester) open season for mobile gear fishing from February 1 – March 31 to February 1 – May 15.

Housekeeping (322 CMR 4.00, 6.00, 7.00, and 8.00).

- Eliminate term “grandfather” from DMF regulations.
- Replace term “fisherman” with “fisher”.
- Update and delete out-of-date or misprinted terms.
- Reorganize regulatory provisions.



Virtual Rules of Engagement

- Purpose of the hearing is to afford interested parties an opportunity to submit data, opinions, comments, or arguments on the specific amendments being proposed, or to offer how the proposed amendment can be changed to minimize the impact on those affected while still achieving goals.
- Comments on matters outside of the scope of the specific amendments being proposed will be accommodated upon the conclusion of the hearing if time permits.
- All members of the public will be muted throughout the presentation. At the conclusion of the presentation, DMF will first accept clarifying questions regarding the proposals, and then once all the questions are addressed, DMF will invite public comment on the various proposals.
- The written “chat” and “question and answer” functions have been disabled. DMF will respond to verbal questions at the end of the hearing. Additionally, you can follow up with DMF staff after the hearing by e-mail (marine.fish@mass.gov).
- When participating in the question and comment forums, the public is required to use the raise hand function. This creates a queue and DMF will recognize and unmute individuals when it is their turn to speak. Individuals will be provided three (3) minutes for questions and comments per hearing item. Follow-up comments may be allowed after all other persons have had an opportunity to speak.
- It is not necessary for you to provide verbal comment during this public hearing. You may use this virtual hearing for informational purposes and submit written comments later. In fact, submitting written public comment is recommended.
- DMF prefers that written comment be submitted by e-mail (marine.fish@mass.gov). All written comment is to be submitted by November 11, 2022. Written comment will be shared with the MFAC in advance of the November 22, 2022 business meeting.
- This public hearing will be recorded, and questions and comments are part of the public record. The recording of the public hearing will also be posted to [DMF's YouTube Channel](#).



Timeline for Rule Making

Nov 3 – Public Hearing

Nov 11 – Close Public Comment Period

Nov 18 – Final Recommendation to MFAC

Nov 22 – MFAC Final Review and Vote

Nov 23 – Jan 5 – Executive Review

Jan 6 – Promulgate Final Regulations



Electronic Trackers

Proposal:

- For May 1, 2023, require all commercial lobster permit holders with federal lobster trap permit to install and have operational an electronic tracking device onboard the federally permitted vessel named on the state lobster permit.

Rationale:

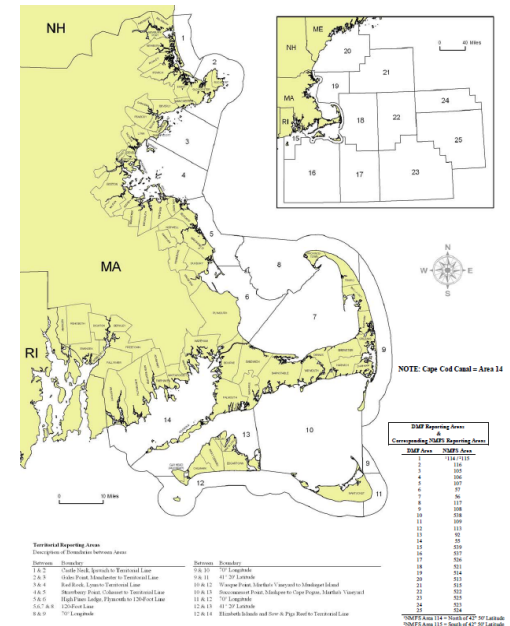
- Comply with ASMFC FMPs for American Lobster and Jonah Crab.

Purpose:

- Improve spatial data collection in federal lobster trap fishery.
- Enhance spatial data available to address emerging issues:
 - Marine spatial planning (e.g., offshore wind energy development and mitigation, offshore aquaculture);
 - Development of habitat conservation and marine protected areas;
 - Protected species risk analyses; and
 - Stock assessment and delineation of catch to stock area.

Additional Info

- Federal earmark will allow MA to subsidize cost and installation of electronic tracking device and first three years of annual service fee.
- ASMFC currently reviewing RFRs for potential tracking device vendors.



Protected Species

Proposal:

- Allow Director to annually amend opening of May 16 – October 31 buoyed recreational lobster trap fishery on dynamic basis in response to presence/absence of right whales.

Background:

- Right whales seasonally aggregate in Massachusetts waters during winter and early spring.
- Recently, whale aggregations have not broken up until early-to-mid May.
- Recreational buoyed trap closure was implemented in 2021 to reduce risk posed to right whales and proliferation of marine debris. Closure does not apply to unbuoyed trap gear fished from shoreline (e.g., Cape Cod Canal).
- Dynamic management exists for commercial fixed gear fisheries.

Rationale:

- Allows DMF to delay opening of fishery if right whales remain in state waters to prevent entanglement risk.
- Allows DMF to allow fishing prior to May 15 should right whales migrate out of state waters and entanglement risk minimized.



Protected Species

Proposal:

- Eliminate weak link requirement at buoy in all commercial trap fisheries.
- Retain requirement for recreational trap fishery.

Background:

- Weak link requirement has been eliminated from federal ALWTRP rules for lobster and crab trap fishery.
- Entanglement record shows little evidence gear modification works as intended.
- Commercial fishery is subject to new buoy line diameter and weak contrivance rules (2021).

Rationale:

- Will provide MA Mixed Species Trap Fishery similar allowances afforded under federal plan.
- Provides some risk reduction to recreational gear where more involved gear modifications (e.g., weak inserts) are not mandated.

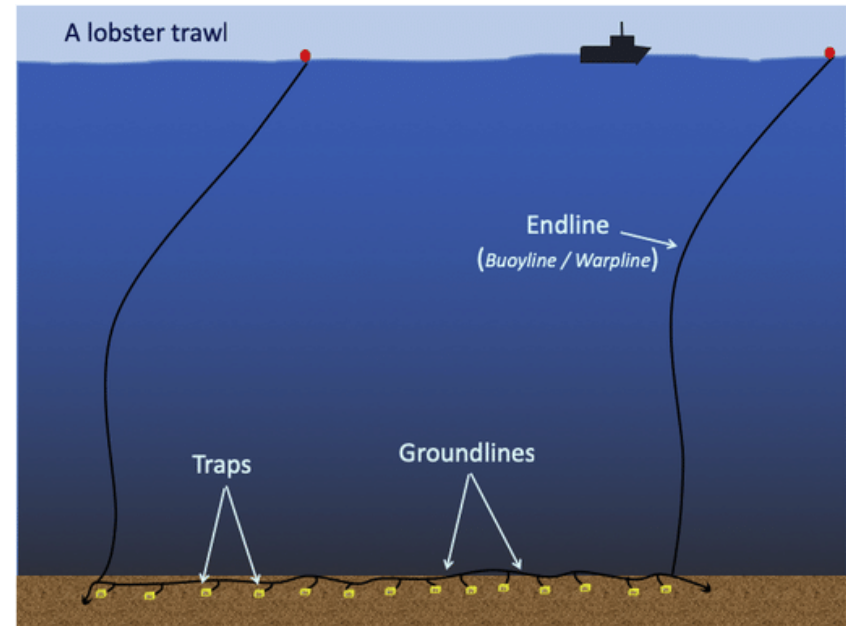


Source: National Fisherman

Protected Species Housekeeping

Proposal:

- Clarify commercial fishers fishing trawls may not have more than 12' of groundline extending from the first gangion on either end of the trawl to where it splices with the buoy line. All buoy line rules then apply between connection at surface buoy to spot where groundline is spliced to buoy line.
- Move buoy line marking rules from 322 CMR 4.00 (Fishing Equipment) to 322 CMR 12.00 (Protected Species) to better reflect these are protected species management rules.
- Update purpose section of regulation to better reflect current status of protected species management.
- Improve organization and readability of 322 CMR 12.00.



Source: Sean Brilliant c/o Google Images

Whelk Gauge Size Increase Schedule

Proposal:

- Delay 1/8" increases to whelk gauge size by moving from a biennial schedule to a once every three-year schedule beginning in 2023.

Rationale:

- Address industry concerns about declines in whelk fishing effort and landings and potential loss of shore-side infrastructure.
- Responds to public petition from MA Conch Association and Big G Seafood.

Comparison of Current & Proposed Gauge Schedules & Percent of Mature Females at Gauge Size					
Current Schedule	2021 – 2022 3 1/8"	2023 – 2024 3 1/4"	2025 – 2026 3 3/8"	2027-2028 3 1/2"	2029 3 5/8"
Proposed Schedule	2021 – 2023 3 1/8"	2024 – 2026 3 1/4"	2027 – 2029 3 3/8"	2030-2032 3 1/2"	2033 3 5/8"
Percent Size at Maturity	0%	0%	5%	20%	50%

Background and Additional Info:

- Stock assessment shows resource is overfished with overfishing occurring.
- Size-at-maturity study shows females do not reach 50% size-at-maturity until 3 7/8" shell width corresponding to a 3 5/8" gauge width.
- 2019: DMF implemented a 10-year schedule of 1/8" biennial gauge width increases resulting in a terminal gauge width of 3 5/8" in 2029. Animal is slow growing and gradual schedule was designed to offset economic impacts.
- Petition will delay milestones for spawning stock protections, but petitioners seek to balance this against long-term viability of fishery and shore-side infrastructure.



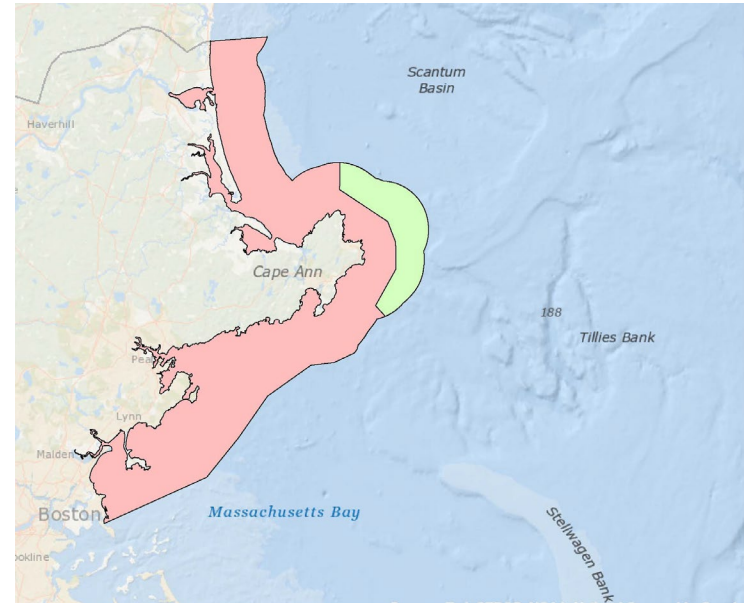
Area 1A Mobile Gear Open Season

Proposal:

- Extend wintertime exemption to Area 1A to allow mobile gear fishing from February 1 – May 15 rather than February 1 – March 31.

Rationale:

- Will provide CAP permit holders with access to potentially exploitable sea scallop resource.
- Exempted fishing activity will occur in area where fishing activity has seasonally occurred.
- Unlikely to produce direct or indirect effort on groundfish given seasonal availability and overarching closures.
- Roundfish bycatch in sea scallop dredges limited by gear configuration rules (i.e., 10" twine top mesh).
- Analysis of federal observer data for adjacent federal waters shows winter flounder bycatch likely nominal.



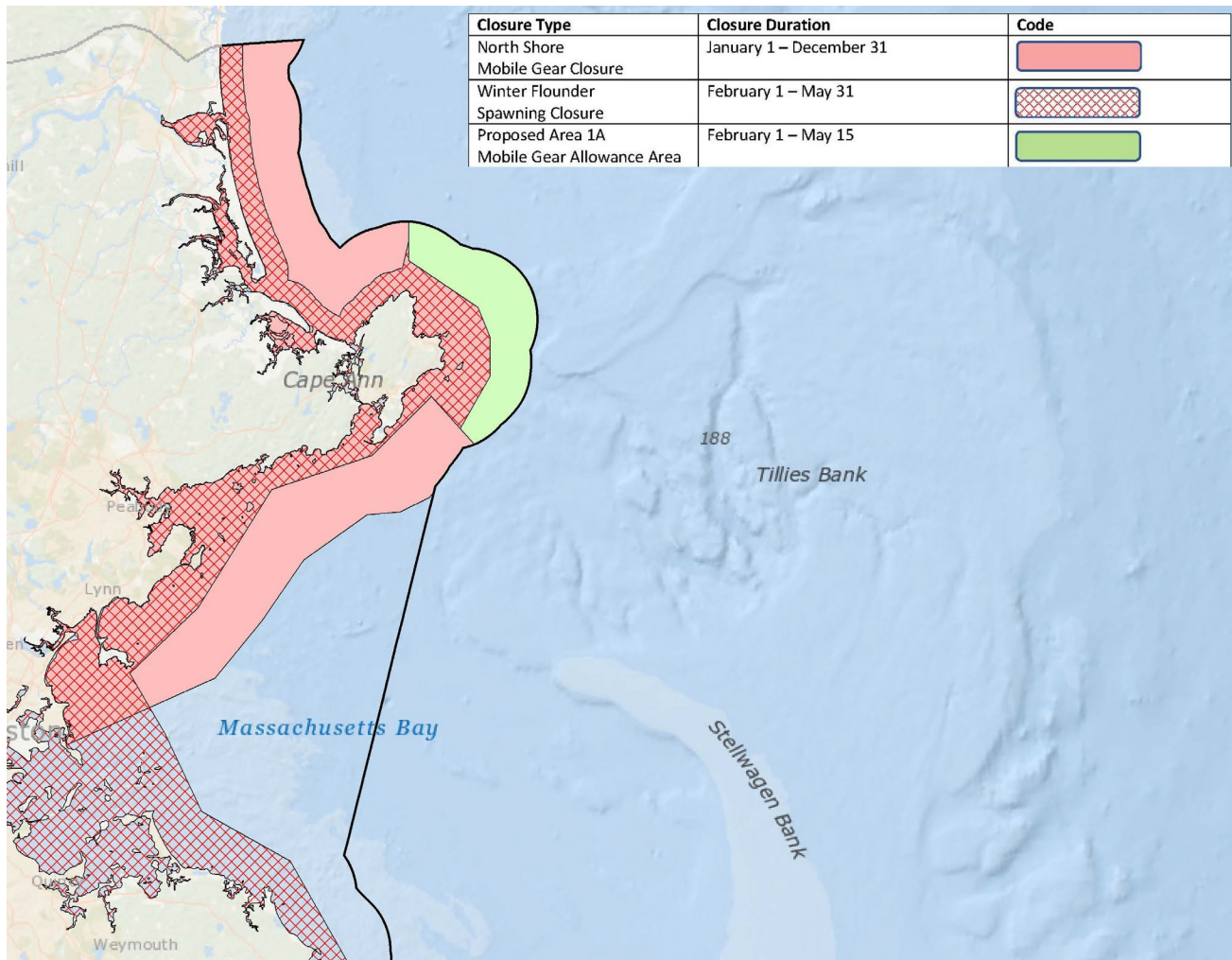
Background:

- 1930s - North Shore waters closed to mobile gear fishing year-round to prevent gear conflicts.
- DMF and MFAC have carved out time-area exemptions (Area 1A – Rockport/Gloucester and Area 1B – Ipswich Bay) to allow targeting of certain fisheries (e.g., scallops, whiting) when and where gear conflicts are expected to be limited.
- Fixed gear fishing is currently prohibited north of Cape Cod from February 1 – May 15 due to right whales.



Overlap of Closures Affecting Mobile Gear Fishing

February 1 – April 14



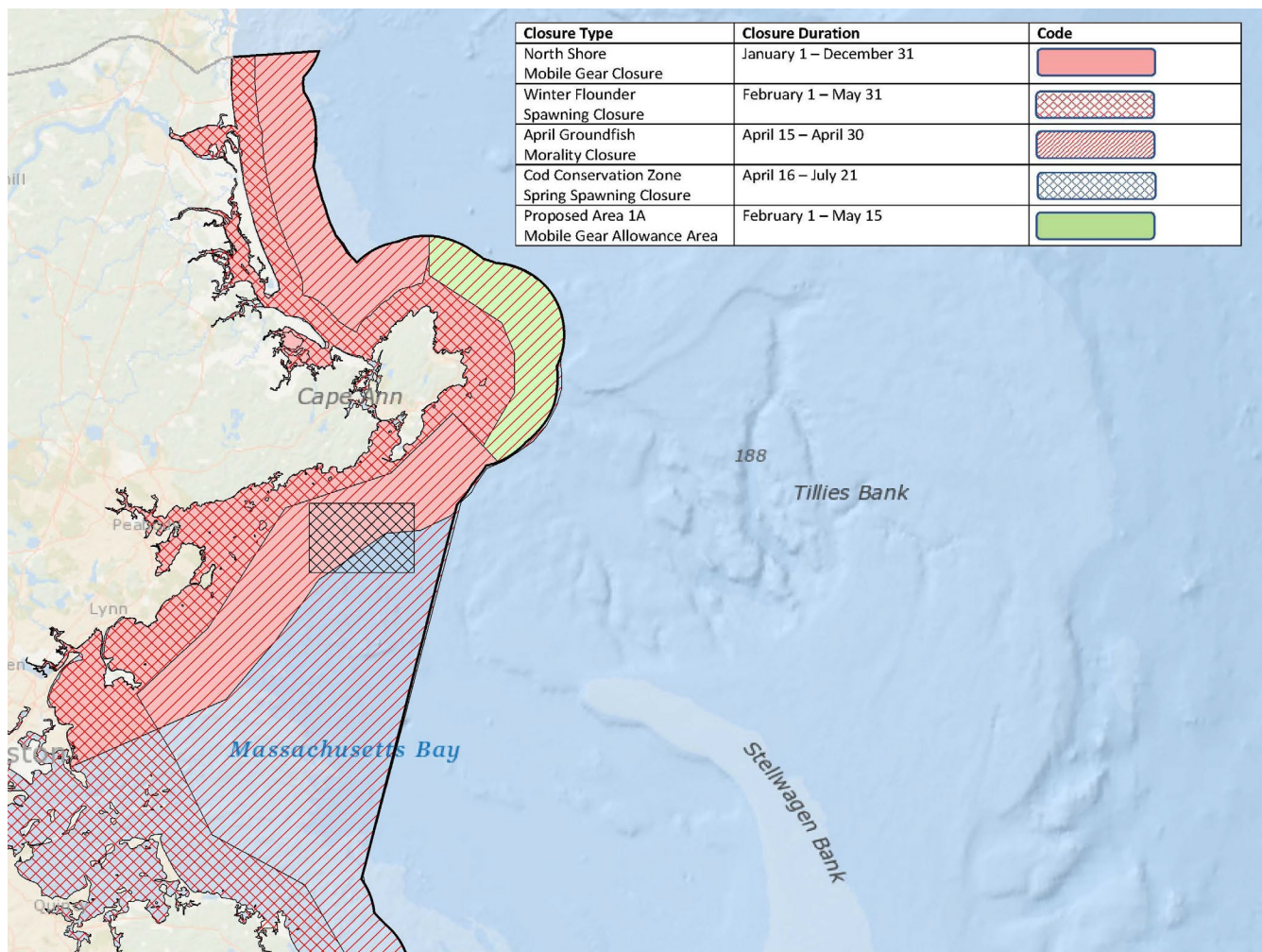
November 3, 2022

Massachusetts Division
of Marine Fisheries



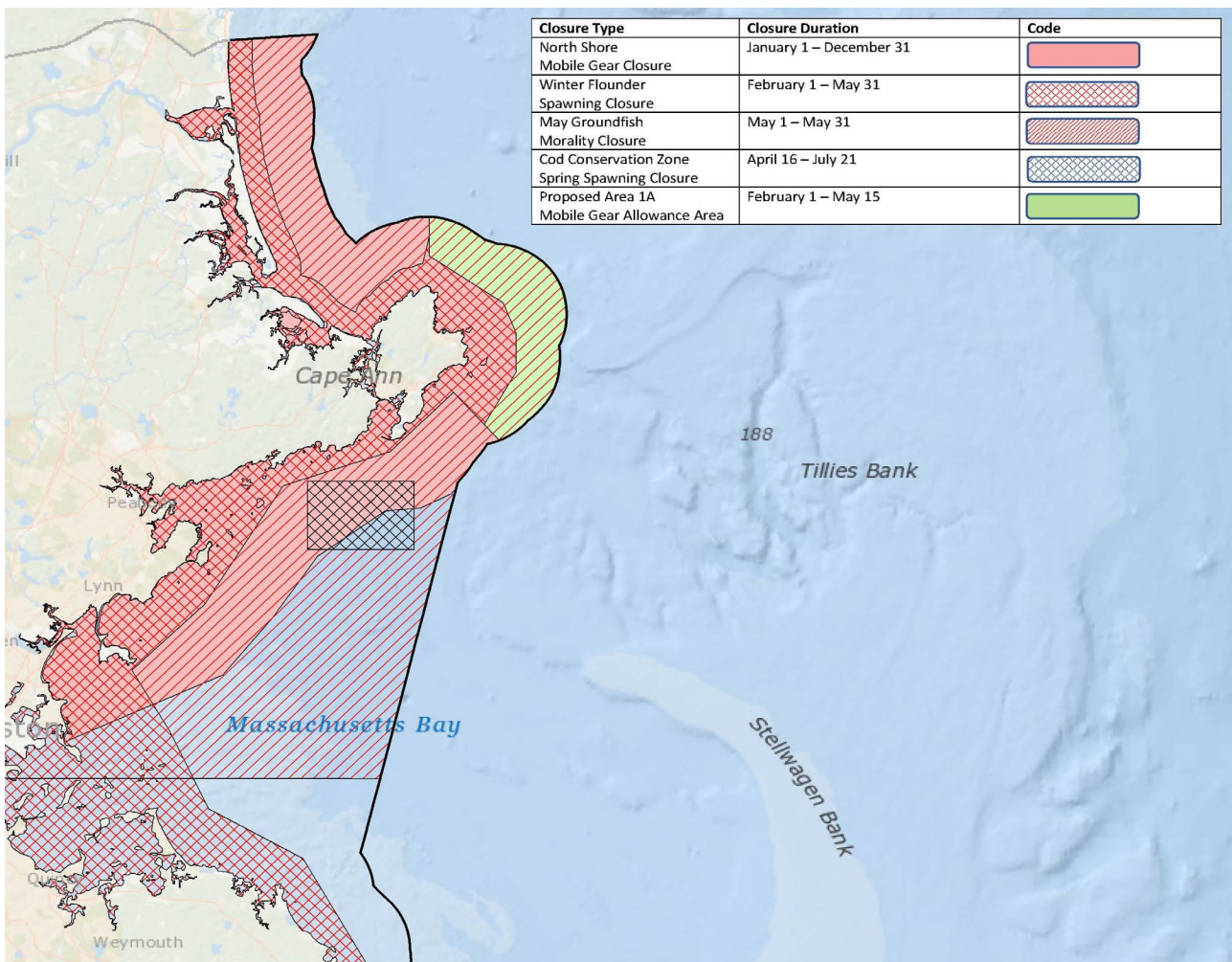
Overlap of Closures Affecting Mobile Gear Fishing

April 15 – April 30



Overlap of Closures Affecting Mobile Gear Fishing

May 1 – May 31



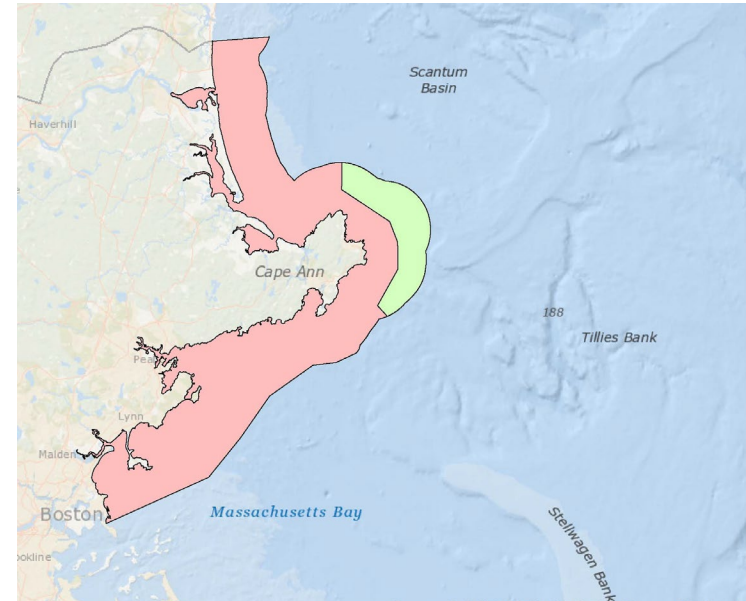
Area 1A Mobile Gear Open Season

Proposal:

- Extend wintertime exemption to Area 1A to allow mobile gear fishing from February 1 – May 15 rather than February 1 – March 31.

Rationale:

- Will provide CAP permit holders with access to potentially exploitable sea scallop resource.
- Exempted fishing activity will occur in area where fishing activity has seasonally occurred.
- Unlikely to produce direct or indirect effort on groundfish given seasonal availability and overarching closures.
- Roundfish bycatch in sea scallop dredges limited by gear configuration rules (i.e., 10" twine top mesh).
- Analysis of federal observer data for adjacent federal waters shows winter flounder bycatch likely nominal.



Background:

- 1930s - North Shore waters closed to mobile gear fishing year-round to prevent gear conflicts.
- DMF and MFAC have carved out time-area exemptions (Area 1A – Rockport/Gloucester and Area 1B – Ipswich Bay) to allow targeting of certain fisheries (e.g., scallops, whiting) when and where gear conflicts are expected to be limited.
- Fixed gear fishing is currently prohibited north of Cape Cod from February 1 – May 15 due to right whales.

Housekeeping

Proposal:

- Eliminate term “grandfather” from regulatory code consistent with executive mandates.
- In sections affected by this rule making, replace the term “fisherman” or “fishermen” with gender neutral term “fisher”.
- Eliminate 322 CMR 8.08 and established as a reserved section, as requirements of section are redundant to existing provisions codified elsewhere in the CMR.
- Correct errors in language defining black sea bass pots and mobile gear exemption areas.



Written Public Comment

Written public comment will be accepted through Friday, November 11, 2022. Please address written by e-mail to marine.fish@mass.gov or by post to the attention of Director McKiernan at 251 Causeway Street, Suite 400, Boston, MA 02114.

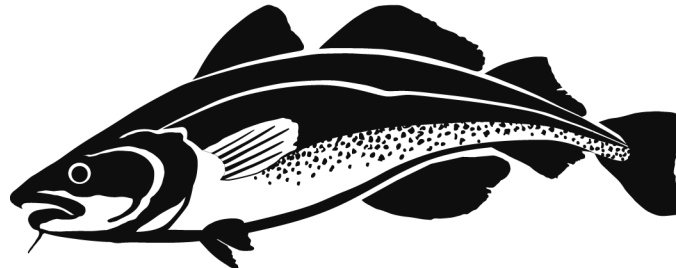
Recording of public hearings will be published on [DMF's YouTube Channel](#)



**Public Hearing:
Atlantic Mackerel Management, Tautog
Recreational Slot Limit, Shortfin Mako
Prohibition, and Groundfish Maximum Retention**

**6PM
November 1, 2022
Virtually Via Zoom**

Marine Fisheries
Commonwealth of Massachusetts



Public Hearing and Comment

Under the provisions of M.G.L. c. 30A, and pursuant to the authorities found at M.G.L. c. 130 §§ 17A, 21, 80 and 104, the Division of Marine Fisheries (DMF) is taking public comment and holding public hearings on proposed amendments to regulations at 322 CMR 4.00, 6.00, 7.00 and 8.00 affecting Atlantic mackerel management, recreational tautog size limits, a shortfin mako prohibition, and groundfish maximum retention.

Written public comment will be accepted through Friday, November 11, 2022. Please send written public comment via e-mail to marine.fish@mass.gov or by post to the attention of Director McKiernan at 251 Causeway Street, Suite 400, Boston, MA 02114.



Virtual Rules of Engagement

- Purpose of the hearing is to afford interested parties an opportunity to submit data, opinions, comments, or arguments on the specific amendments being proposed, or to offer how the proposed amendment can be changed to minimize the impact on those affected while still achieving goals.
- Comments on matters outside of the scope of the specific amendments being proposed will be accommodated upon the conclusion of the hearing if time permits.
- All members of the public will be muted throughout the presentation. At the conclusion of the presentation, DMF will first accept clarifying questions regarding the proposals, and then once all the questions are addressed, DMF will invite public comment on the various proposals.
- The written “chat” and “question and answer” functions have been disabled. DMF will respond to verbal questions at the end of the hearing. Additionally, you can follow up with DMF staff after the hearing by e-mail (marine.fish@mass.gov).
- When participating in the question and comment forums, the public is required to use the raise hand function. This creates a queue and DMF will recognize and unmute individuals when it is their turn to speak. Individuals will be provided three (3) minutes for questions and comments per hearing item. Follow-up comments may be allowed after all other persons have had an opportunity to speak.
- It is not necessary for you to provide verbal comment during this public hearing. You may use this virtual hearing for informational purposes and submit written comments later. In fact, submitting written public comment is recommended.
- DMF prefers that written comment be submitted by e-mail (marine.fish@mass.gov). All written comment is to be submitted by November 11, 2022. Written comment will be shared with the MFAC in advance of the November 22, 2022 business meeting.
- This public hearing will be recorded, and questions and comments are part of the public record. The recording of the public hearing will also be posted to [DMF's YouTube Channel](#).



Overview of Proposals

Atlantic Mackerel Management (322 CMR 6.44 and 7.01).

- Adopt daily harvest limit of 20-fish per recreational angler.
- Establish a new commercial regulated fishery permit endorsement for Atlantic mackerel.

Recreational Tautog Size Limits (322 CMR 6.40).

- Adopt a 16” to 21” recreational slot limit for tautog.
- Allow each angler to retain one trophy fish exceeding 21” per calendar day.

Shortfin Mako Prohibition (322 CMR 6.37). Prohibit retention, possession and landing of shortfin mako within the waters under the jurisdiction of the Commonwealth.

Groundfish Maximum Retention (322 CMR 6.03). Establish a regulatory framework to accommodate the possession and landing of non-conforming sized groundfish taken by federal permit holders participating in the maximum retention electronic monitoring program.

Housekeeping (322 CMR 4.00, 6.00, 7.00, and 8.00).

- Eliminate term “grandfather” from DMF regulations.
- Replace term “fisherman” with “fisher”.
- Update and delete out-of-date or misprinted terms.
- Reorganize regulatory provisions.



Timeline for Rule Making

Nov 1 – Public Hearing

Nov 11 – Close Public Comment Period

Nov 18 – Final Recommendation to MFAC

Nov 22 – MFAC Final Review and Vote

Nov 23 through Jan 5 – Executive Review

Jan 6 – Promulgate Final Regulations



Atlantic Mackerel Management

Proposal:

- Adopt a 20-fish recreational limit for mackerel.
- Limit will apply as a per angler harvest limit and a per angler possession limit while fishing.
- Exempt holding of mackerel in a freezer, fish car, or shore-based bait well.

Background:

- 2021 stock assessment shows species is overfished with overfishing occurring and prior rebuilding plan was unlikely to rebuild stock within decade.
- MAFMC approved a second rebuilding plan to address 2021 stock assessment findings.
- Rebuilding plan contained a 20-fish recreational possession limit for federal waters.



Source: www.thefisherman.com

Rationale:

- Under MSA, states are expected to adopt complementary measures for state-water fisheries.
- Harvest in MA (and other northeast states) occurs principally in state waters.

Atlantic Mackerel Permitting

Proposal:

- Establish a commercial regulated fishery permit endorsement for Atlantic mackerel.

Rationale:

- Permit will allow for differentiation between commercial and recreational fishing activity
- Allows for commercial permit holders to not be regulated by recreational catch limits.

Additional Information

- Endorsement will be open entry and may be added to a commercial fishing permit.
- Endorsement fees: \$30 resident and \$60 non-resident.
- Permitted commercial anglers may retain, possess, and land mackerel in excess of recreational limit when commercially fishing for mackerel or other species (e.g., striped bass).
- Commercial anglers may not mix commercial and recreational trips (e.g., can't commercially fish for mackerel when recreationally striped bass fishing).



Tautog Recreational Slot Limit

Proposal:

- Establish a recreational slot limit of 16" to 21".
- Allow each angler to retain one trophy fish per day exceeding 21".

Rationale:

- Will provide similar rules across MA and RI, consistent with Interstate FMP objective.
- May restrict eastward movement of anglers targeting large tautog.
- Will likely have limited impact on current fishing activity in MA but may contribute to increase in larger, older fish in population over time.

Background and Additional Info:

- DMF trawl survey length/weight data indicate 21" tautog weigh about 7 lb.
- Frequency of catch of trophy sized fish is likely low.
- MA-RI regional stock is not overfished or experiencing overfishing (2020).
- RI adopted rule for 2022 in response to stakeholder petition and concern about increased effort and harvest.
- MA recreational possession limits vary by open season (between 1 and 5 fish).



Prohibition on Shortfin Mako

Proposal:

- Prohibit retention, possession, and landing of shortfin mako in Massachusetts' state waters, except when legally caught in federal waters.

Rationale:

- Complies with new ASMFC requirement for a zero-retention limit in state waters.
- Provides for possible future federal waters harvest allowance to be landed in MA.



Background and Additional Information:

- ICCAT determined all member countries need to reduce shortfin mako fishing mortality to accelerate rate of stock recovery and increase probability of rebuilding success.
- April 2022: NOAA Fisheries proposed a federal prohibition on shortfin mako retention with a process to allow harvest if authorized by ICCAT. Adopted as proposed in July.
- May 2022: ASMFC required states to adopt a zero retention limit in state waters once the expected federal waters prohibition was effective.
- Shortfin mako catch in Massachusetts state waters is negligible. Primarily caught in federal waters in association with fisheries that target tuna and tuna-like species. Federal permit holders held to most restrictive rules whether in state or federal waters.



Groundfish Maximum Retention

Proposal:

- Establish a regulatory framework for federally permitted fishers and dealers to possess, land, sell, purchase, and process non-conforming sized groundfish taken by vessels participating in the federal maximum retention electronic monitoring program.

Background:

- NOAA Fisheries, New England states, and GMRI have conducted a multi-year experimental fishery to analyze the efficacy of a maximum retention electronic monitoring program for federal groundfish sector vessels.
- This exempted all participating vessels from minimum size standards and allowed for maximized retention of fish caught (e.g., haddock and redfish) and eliminated regulatory discarding.
- NEFMC approved the formal adoption of the maximum retention electronic monitoring program for federal groundfish sector vessels as part of Amendment 23. Implementation is currently pending final adoption by NOAA Fisheries.
- DMF has accommodated experimental fishery through Letter of Authorization to participating permit holders.
- With formal adoption at federal level, DMF seeks to create a consistent regulatory framework to allow this catch to be landed, possessed, sold, and processed in Massachusetts.



Housekeeping

Proposal:

- Eliminate term “grandfather” from regulatory code consistent with executive mandates.
- In sections affected by this rule making, replace the term “fisherman” or “fishermen” with gender neutral term “fisher”.
- Eliminate 322 CMR 8.08 and established as a reserved section, as requirements of section are redundant to existing provisions codified elsewhere in the CMR.
- Correct errors in language defining black sea bass pots and mobile gear exemption areas.
- Move buoy line marking rules for fixed gear from 322 CMR 4.00 (Fishing Gear) to 322 CMR 12.00 (Protected Species) and reorganize remaining aspects of amended sections at 322 CMR 4.00.



Written Public Comment

Written public comment will be accepted through Friday, November 11, 2022.

Please address written comment to Director McKiernan and submit

- by e-mail to marine.fish@mass.gov (*preferred*) or
- by post to 251 Causeway Street, Suite 400, Boston, MA 02114

Recording of public hearings will be published on [DMF's YouTube Channel](#)





Captain Tony Santosus

Cutwater Guide Service

P.O Box 135

Marblehead, MA 01945

(978)337-9934

tony@cutwatercapitalllc.com

USCG#2988654

November 8, 2022

Dear Director McKiernan:

Please accept this written comment regarding the proposed 20 fish recreational possession limit for Atlantic mackerel.

While I support recreational limits to help maintain healthy fish populations, I believe a consideration must be made for Massachusetts recreational charter fishing captains with respect to the new proposed 20 mackerel possession limit. Mackerel are an important baitfish used during recreational charter fishing trips. Many captains, including myself, regularly fish for live bait prior to the arrival of our customers. This practice not only allows captains to target mackerel very early in the morning when bait fishing is best, but also allows customers to begin pursuing the target species without spending charter time catching their own bait. If a captain is fishing for mackerel alone, or with one crew member, they would be limited by this regulation to retaining only 20 or 40 mackerel, respectively. This would not be adequate preparation for a charter of up to six passengers, let alone a day with multiple fishing trips scheduled.

I believe that there should be an exemption to the possession limit for captains holding a valid charter/head boat permit when bait fishing in preparation for charter trips. If a captain holds a permit for six paying passengers, I believe it is fair that they should have at least a multiple of six times the possession limit in preparation for a charter, regardless of the number of people currently bait fishing on board the boat. This would afford captains and crew the ability to continue to prepare a top-quality experience for their valued customers even when live bait may be difficult to find later in the day.

Thank you for your time and consideration in this matter.

Respectfully submitted,

Captain Anthony C Santosus,
Cutwater Guide Service

From: [J Goodridge](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Fw: Question about defining Atlantic Mackerel within the guidelines of 20 fish recreational proposal:
Date: Tuesday, November 1, 2022 7:41:45 PM

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.

I should also mention, that ethnically - some fisherfolk refer to Atlantic Mackerel phenotype as "Bonito," which is in error because what they are catching is not in fact, "False albacore."

- May I also recommend that for New, First year Saltwater anglers that a friendly link is placed to a PDF of the Massachusetts Saltwater Fishing guide? And that perhaps, next year it can also include an ID chart for various Mackerel varieties within the species? (the crab chart was very helpful this year.)
- Both Mackerel fishing and crabbing are very attractive to the new first year saltwater angler. This can increase awareness.

Thanks again for your efforts.

-Jill Goodridge

From: J Goodridge
Sent: Tuesday, November 1, 2022 7:37 PM
To: marine.fish@mass.gov <marine.fish@mass.gov>
Subject: Question about defining Atlantic Mackerel within the guidelines of 20 fish recreational proposal:

Question about defining Atlantic Mackerel within the guidelines of 20 fish recreational proposal:

In this instance, are we defining by DNA , or does it include similar species of Mackerel like "Spanish Mackerel," Which are also caught in Atlantic waters?

Thank you,

-Jill Goodridge

Recreational fisher, Peabody MA

(978) 210-5568

From: [Joe](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Mackerel limits
Date: Saturday, October 1, 2022 11:39:00 AM

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.

With all the new restrictions put on the recreational fisherman the last 2 years, now your going to put a limit on mackerel ? But once again not for the commercial guys?

But these regulations are trying to keep the fishery sustainable but the commercial guys seem to win out every time a new regulation is set in to effect. Makes you wonder who is actually in control there. I think the best one is striped bass. You say recreational has a slot limit because “ we are keeping larger breeders going to help sustain the fishery” but.. the commercial guys can take the bigger breeders and use whatever hook they need too and potentially kill the 34” and under fish. Your regulations don’t make sense and certainly are not fair. I’m definitely for keeping fisheries going for generations to come but you need to better regulations on the commercial guys also.

Sent from my iPhone

From: [Alvin Williams](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Proposed Atlantic Mackerel retention limit
Date: Thursday, November 3, 2022 6:15:05 PM

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.

Attn: Director Dan McKiernon

From: Al Williams / Gloucester

Comment: I frequently catch and retain live mackerel for bait while striped bass fishing both commercially and recreationally. The proposed retention limit of 20 mackerel per angler per day should be adequate for most trips.

My concern is with enforcement. The baitwell in my boat holds about 42 gallons of water and is vertically cylindrical in shape. If an enforcement officer were to try to count the number of mackerel swimming in my tank, there is no way he would be able to arrive at an accurate number by simply looking into the tank. If it becomes necessary to remove the mackerel from my tank to verify compliance, this will undoubtedly result in the death of most or all of these baits.

I suggest that Law Enforcement weigh in on this.

It is common for 2 or 3 recreational anglers to be fishing on a boat with a 55 gallon drum (or similar) for a baitwell.

Those 2 / or 3 anglers are allowed 40 / or 60 live mackerel in that barrel.

How will enforcement be verified without removing and potentially killing those baits?

Thank you for considering my comments

Al Williams
Gloucester

Sent from my iPad

From: [Steve Volpe](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Public comment : Proposed Atlantic Mackerel recreational limits
Date: Thursday, November 3, 2022 1:50:08 PM

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 Director McKiernan:

Please accept this message as written comment regarding the proposed 20 fish recreational possession limit for atlantic mackerel.

While I support recreational limits to help maintain healthy fish populations, I believe a consideration must be made for Massachusetts recreational charter fishing captains with respect to the new proposed 20 mackerel possession limit. Mackerel are an important baitfish used during recreational charter fishing trips. Many captains, including myself, regularly fish for live bait prior to the arrival of our customers. This practice not only allows captains to target mackerel very early in the morning when bait fishing is best, but also allows customers to begin pursuing the target species without spending charter time catching their own bait. If a captain is fishing for mackerel alone, or with one crew member, they would be limited by this regulation to retaining only 20 or 40 mackerel respectively. This would not be adequate preparation for a charter of up to six passengers, let alone a day with multiple fishing trips scheduled.

I believe that there should be an exemption to the possession limit for captains holding a valid charter/head boat permit when bait fishing in preparation for charter trips. If a captain holds a permit for six paying passengers, I believe it is fair that they should have at least a multiple of six times the possession limit in preparation for a charter, regardless of the number of people currently bait fishing on board the boat. This would afford captains and crew the ability to continue to prepare a top quality experience for their valued customers even when live bait may be difficult to find later in the day.

Thank you for your time and consideration of public comment in this matter.

Respectfully submitted,
Capt. Steve Volpe
USCG OUPV

From: [J Goodridge](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Question about defining Atlantic Mackerel within the guidelines of 20 fish recreational proposal:
Date: Tuesday, November 1, 2022 7:37:29 PM

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Question about defining Atlantic Mackerel within the guidelines of 20 fish recreational proposal:

In this instance, are we defining by DNA , or does it include similar species of Mackerel like "Spanish Mackerel," Which are also caught in Atlantic waters?

Thank you,
-Jill Goodridge
Recreational fisher, Peabody MA
(978) 210-5568

From: [J Goodridge](#)
To: [Fish, Marine \(FWE\)](#)
Subject: re: 6 pack Atlantic Mackerel proposal
Date: Tuesday, November 1, 2022 6:33:40 PM

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re: 6 pack

Commercial may go out and fish under lot # generated by QR code.

When charter carries out 6 passenger, Mackerel lot # by QR code may be recorded by "disposed as bait" in quantifying amounts.

many apps can produce a QR code and a portable printer could be used on land or sea

thanks,
Jill Goodridge

From: [Michael Hogan](#)
To: [Fish, Marine \(FWE\)](#)
Subject: My Support For Proposed Tautog Regulations
Date: Friday, November 11, 2022 2:30:16 PM
Attachments: [Add a little bit of body text.pdf](#)

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 MA DMF Director Daniel McKiernan,

Attached, please find my formal letter of support for proposed new tautog regulations that include a 16-21" slot limits plus one trophy class tautog.

A brief outline of a number of key points behind my opinion:

1. Consistent size limit for MA and RI tautog management. There's a lot of overlap in spots between the two states in terms of fishing grounds. Managers, scientists, and law enforcement would benefit from a consistent size limit in MA and RI. Consistent regulations would also limit angler confusion and ability to "game the system."

2. We should **err on the side of caution** in the absence of perfect science. I am not currently worried about tautog numbers but I do worry about their vulnerability due to:

- a. increased popularity
- b. enhance sonar capabilities
- c. and their ease of catch generally speaking.

3. Big fish preservation. Tautog do not migrate as much as other species. Leaving more larger fish in the gene pool is beneficial for the future stocks.

In short, I believe strongly that proactive, precautionary management amid effort increases makes a lot of sense to preserve this fishery. I am happy to answer any questions and volunteer further support on behalf of Hoky Lures,

Thank you for taking the time to read this letter,

Sincerely,

Michael P. Hogan

Founder CEO
Hogy Lure Company

From: [MVFPT](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Public Comment on Whelk Gauge Schedule
Date: Friday, November 11, 2022 3:10:34 PM
Attachments: [DMF Whelk Gauge Comment Letter Final .pdf](#)

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Hi DMF,

Please find the attached letter from the MV Fishermen's Preservation Trust intended for the Public Comment on the whelk gauge size increase schedule.

Thank you,

--

Martha's Vineyard Fishermen's Preservation Trust
P.O. Box 96
Menemsha, MA 02552
mvfishermenspreservationtrust.org

From: [Benjamin Andrews](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Fwd: Tautog Proposal
Date: Thursday, November 10, 2022 5:54:19 PM

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I support the amendment to the regulations, adopting Rhode Island's slot limit to Massachusetts waters
Zachary P Hintz

Zah's One Stop Fish Shop

345 Nooseneck Hill Rd

Exeter, RI 02822

860-316-7539

Zahsbaitandtackleri@gmail.com

Zahsbaitandtackle@gmail.com

----- Forwarded message -----

From: **Benjamin Andrews** <zahsbaitandtackleri@gmail.com>
Date: Thu, Nov 10, 2022, 4:24 PM
Subject: Tautog Proposal
To: <marine.fish@mas.gov>

I support the amendment to the regulations, adopting Rhode Island's slot limit to Massachusetts waters

Zachary P Hintz

Zah's One Stop Fish Shop

345 Nooseneck Hill Rd

Exeter, RI 02822

860-316-7539

Zahsbaitandtackleri@gmail.com

Zahsbaitandtackle@gmail.com

From: [Chris Deacutis](#)
To: [Fish, Marine \(FWE\)](#)
Subject: I support the proposed changes for recreational Tautog to follow State of RI regulations
Date: Thursday, November 10, 2022 5:34:50 PM

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I support the proposed rule change for Regulatory Amendments Affecting
Recreational Tautog

Chris Deacutis

State of RI

Recreational fisherman

From: [Derek Cummings](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Massachusetts 2023 Trophy Tautog Regulations
Date: Thursday, November 10, 2022 5:17:01 PM

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Dan,

My old buddy. My old pal. I'm writing you on a different topic today, surprise!

It is with utmost pleasure that I wholeheartedly support the adoption of Rhode Island's conservative approach to the harvest of tautog over 20", limiting harvest to 1 trophy fish per day in Massachusetts in 2023.

We (recreational anglers) appreciate the proactive approach to a conservative & sustainable Tautog fishery in Massachusetts. It's a breath of fresh air! And after all... we're going to need it after MA DMF is done with striped bass.

If only you could use some other neighboring states regulations as inspiration to improve the **Atlantic's** striped bass fishery. States that have paved the way in conservation for decades, like NH & ME.

Am I crazy to think that is a reasonable request?! I'm beginning to think so.

You have a great day now, looking forward to our dialogue at upcoming ASMFC events.

From: [Charles OMalley](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Tautog
Date: Thursday, November 10, 2022 4:51:04 PM

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I support the Tautog resolution
Sent from my iPad

From: [Lou Mazza](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Director Daniel McKiernan
Date: Thursday, November 10, 2022 3:37:32 PM

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I support the rule change proposal
Sent from my iPhone

From: thoude3320@aol.com
To: [Fish, Marine \(FWE\)](#)
Subject: MA DMF Tog Proposal
Date: Thursday, November 10, 2022 3:00:15 PM

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.

Yes, I support the rule change. It is working in Rhode Island and we value and respect MA efforts in this endeavor.

Good luck.

Tom Houde

RISAA Member

[Sent from the all new AOL app for iOS](#)

From: [Matt OConnell](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Mass Tog Rule Change
Date: Thursday, November 10, 2022 3:21:23 PM

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My name is Matt OConnell.

I have lived in MA for a portion of my life now in RI but I fish regularly in MA still.

I support the Tog rule change proposal for Trophy.

Matt

Sent from my iPhone

From: [Paul Phillips](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Proposed Tautog Regulations
Date: Thursday, November 10, 2022 3:57:34 PM

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.

Director McKiernan-

I'm writing to express my support for the tautog regulations for the state of Massachusetts that have already been implemented by the state of RI.

I am a RI resident, but I do fish Massachusetts waters. After almost an entire season of fishing for tautog in RI, I can honestly say that recreational limits of 5 fish with only one over 21" had zero impact on my season. I have boated many fish over the 21" size limit and kept none of them. In fact, I prefer the smaller legal sized fish for the table.

If we preserve this precious resource now, we will avoid the pitfalls that have decimated other species and will be able to enjoy this fantastic fishery well into the future.

v/r-
Paul Phillips
401-378-8916

From: [Pete](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Rule Change Proposal
Date: Thursday, November 10, 2022 3:38:34 PM

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.

To : Director Daniel McKiernan

Dear Sir,

I support your Massachusetts proposed Rule Change to limit only one Tautog (Blackfish) allowed over 21", as did Rhode Island.

This will be a great effort to improve the management of this very important species.

Respectfully,

Peter O'Biso

From: [Rick Z](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Save out fisheries
Date: Thursday, November 10, 2022 3:46:28 PM

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.

Please implement the Tautog trophy rule in MA. Every sane and moral angler would agree that this is the right step towards sustainable fishing.

From: [Gilbane, James M.](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Fishing rule change proposal
Date: Thursday, November 10, 2022 1:25:56 PM

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.

I support the Mass matching the RI Tatog regulations supporting the single trophy fish a day restriction and the proposed rule change which will help preserve tatog for the future.

Thank you for your work related to preserving fish and wildlife.

James Gilbane
Sent from my iPhone

From: [steve leusner](#)
To: [Fish, Marine \(FWE\)](#)
Subject: I support.
Date: Thursday, November 10, 2022 11:49:32 AM

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Tautog are very slow growing fish. I support anything that reducing their mortality. Maybe they won't go way of cod which we've fished to 4 % of level needed to sustain. Steve

95 Beaver River Rd.
West Kingston, RI 02892
610 742-2569

From: [Walter Cavanagh](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Mass Tautog rule proposal
Date: Thursday, November 10, 2022 11:29:35 AM

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.

To whomever it may concern:

I support the move to match RI Tautog regulations in the state of Massachusetts. It is time to protect this fishery in MA as well!

Get [Outlook for Android](#)

From: mary.creighton@gmail.com
To: [Fish, Marine \(FWE\)](#)
Subject: Mass. Tog proposal
Date: Thursday, November 10, 2022 1:31:47 PM

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.

I support the rule change proposal.

Sent from my iPhone

From: [Ethan Lucas](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Recreational Tautog Slot Limit and Trophy Fish (322 CMR 6.40)
Date: Thursday, November 10, 2022 1:21:52 PM

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 Daniel,

I am writing to voice my support for this proposed measure "Recreational Tautog Slot Limit and Trophy Fish (322 CMR 6.40)".

Thank you very much.

Ethan Lucas

From: [Joe Lomastro](#)
To: [Fish, Marine \(FWE\)](#)
Subject: RI trophy tog regulations
Date: Thursday, November 10, 2022 2:36:46 PM

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.

I support RI trophy tog regulations limiting an angler to one fish 21" or larger

From: [captain kdog](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Rule change
Date: Thursday, November 10, 2022 12:02:01 PM

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.

I support the rule change proposal

From: [Chris Cullen](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Support Change for Trophy Fish
Date: Thursday, November 10, 2022 12:10:23 PM

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Dear Director Daniel,

My name is Capt. Chris Cullen from the Island Current Fleet. I am writing in strong support of the one trophy fish a day tautog regulation change. I supported this in RI and this is vital to preserving our fall fishery. If you have any questions please do not hesitate to contact me at 917.417.7557.

Respectfully,

Capt. Chris Cullen
ISLAND CURRENT FLEET
www.Islandcurrent.com

--

Sincerely,

Captain Chris
Island Current Fleet
www.IslandCurrent.com
917.417.7557
CaptChris@islandcurrent.com

From: [MICHAEL MERCER](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Support Mass following the same rules and recs for Tautog
Date: Thursday, November 10, 2022 2:28:54 PM

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I support that Mass should follow the same rules and regulations for Tautog as RI does.

Mike Mercer
401 787 6483

[Sent from the all new AOL app for Android](#)

From: [Greg F Vespe](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Support of MASS DMF Trophy Tog Rule
Date: Thursday, November 10, 2022 12:46:38 PM
Attachments: [Mass DMF Tautog signed.rtf](#)

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Attn: Mass DMF and Director Daniel McKiernan

Please see attached letter in support of Mass DMF Proposal to adjust the Tautog Regs to include limiting the daily Bag limit only include 1 fish over 21".

Representing over 300 direct Mass angler members as well as 7,500 direct and affiliate regional members who often fish in Mass waters to include 28 affiliate associations and clubs in NE region please accept the following Rhode Island Saltwater Anglers comments:

If there was ever a fish that benefits from proactive regulations Tautog are it. Given both their slow growth rates particularly in the northern end of their range and increasingly popular status among NE anglers RISAA feels this proactive change will benefit not only the fish but the fishery as a whole to include the angling community, tackle shops and charter/head boats who can rely on this fish to support angling opportunity for years to come if we manage it properly. As we mentioned in our verbal comments, few fish release as well as Tautog do and given their penchant for remaining in our region year round we have a rare situation where we can control and manage a fish without concern over actions other states outside of our area may take that might negatively impact our management efforts. As Mass DMF is aware this trophy Tog regulation has already been implemented in RI for a season and has been overwhelmingly well received by the angling public and created an environment where releasing trophy tog has become celebrated and something our RISAA Charter boat Captains and members as a whole have embraced. In short Tautog are our fish... manage them well and the fishery will be even better for years to come and we fully support the Mass DMF Tautog proposal as part of a proactive management strategy to do just that.

V/R

Greg Vespe
Executive Director
Rhode Island Saltwater Anglers Assoc.



November 7, 2022

Daniel J. McKiernan, Director
Massachusetts Division of Marine Fisheries (DMF)
215 Causeway Street, Suite 400
Boston, MA 02114

Re: Recreational Tautog Slot Limit and Trophy Fish Proposal (322 CMR 6.40)

Dear Director McKiernan,

Thank you for the opportunity to provide public comment on the proposed rule change to amend the recreational size limit for tautog.

The American Saltwater Guides Association (ASGA) represents fishing guides, small fishing-related businesses, and conservation-minded anglers who believe that long-term fishery and ecosystem health are the core foundation of a strong recreational fishing economy. We are proud to count many representatives from New England's engaged and passionate angling community among our members, including more than 65 guides and fishing businesses in Massachusetts. As an association, we adhere to the best available science and advocate for resource-first, precautionary approaches to fisheries management. Therefore, we support DMF's proposed regulation to implement a 16-21-inch slot limit and trophy fish provision for the recreational tautog fishery.

This proposal seeks to align Massachusetts' tautog size limit with Rhode Island's, as these jurisdictions are considered one management region by the Atlantic States Marine Fisheries Commission (ASMFC). According to the ASMFC's Tautog Fishery Management Plan, "compatible regulations between adjacent states are desirable to prevent the shift of fishing effort to areas with more liberal regulations, or to an area with an open season."¹ We support DMF's proposal for regulatory consistency, which would also limit the ability of Rhode Island anglers to travel to Massachusetts waters to land more trophy (21-inch-plus) tautog.

In addition to these logistical reasons, ASGA supports this proposal for its intended conservation benefits. In 2021, recreational anglers and charter captains in Rhode Island successfully advocated for this slot limit and trophy fish regulatory package as a way to conserve the increasingly popular and expanding trophy tautog fishery. Their intention was to conserve larger and older tautog in order to maintain a robust and productive spawning population.

ASGA firmly believes in precautionary fishery management strategies to ensure long-term sustainable fisheries and angling opportunities. In this case, the proposed slot limit and trophy

¹ Atlantic States Marine Fisheries Commission. October 2017. Amendment 1 to the Interstate Fishery Management Plan for Tautog. http://www.asmfc.org/uploads/file/5a0477c3TautogAmendment1_Oct2017.pdf.

fish provision is a proactive move to protect the expanding trophy tautog fishery in Massachusetts and Rhode Island waters. In speaking with charter captains and other stakeholders, they shared that this fishery is gaining in popularity and that the proposed regulations would not harm their businesses and might even improve them if trophy tautog become more abundant.

Finally, it is worth noting that tautog are highly susceptible to large and sudden increases in effort and landings due to changing seasonal fisheries and advancements in fishing equipment and technology. Anecdotally, we are hearing more and more about how recent “fall runs” of striped bass in southern Massachusetts are not nearly as prolific and productive as they used to be. This leads to the potential that angling effort once focused on southward-migrating striped bass could shift to other species, such as tautog. In addition, due to advancements in fishing technologies such as side-scan, down-imaging, and trolling motors equipped with spot-lock, even novice anglers can become unfathomably efficient. Tautog and other structure-oriented species do not have places to hide, and landings can increase to unsustainable levels very quickly.

In closing, we believe that DMF’s proposal is well-founded and that the proposed regulations will protect the increasingly popular tautog fishery and leave more spawning-sized fish in the water.

Thank you for your consideration and please reach out if you have any questions.

Sincerely,



Will Poston
Policy Associate
American Saltwater Guides Association
will@saltwaterguidesassociation.org



Tony Friedrich
Vice President and Policy Director
American Saltwater Guides Association
tony@saltwaterguidesassociation.org

From: [Jeff Kneebone](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Comment on 322 CMR 6.40
Date: Monday, November 7, 2022 7:57:23 AM

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Dear Director McKiernan,

I am writing to voice my strong support for the adoption of a 21" maximum size limit in the recreational tog fishery. As you know, this regulation has already been implemented in RI and originated from a group of RI charter and recreational fishermen who were concerned about the recent and dramatic increase in fishing pressure on tautog in RI waters. As a regular participant in the recreational tog fishery in MA, I too am concerned over increased fishing effort in MA state waters and believe that preemptive regulation is needed to ensure the MA/RI tautog stock does not become overfished.

Tautog anglers from MA and RI share access to the same stock/resource and vessels routinely move between fishing locations in MA and RI state waters during fishing trips at the mouth of Buzzards Bay and in Rhode Island Sound. Thus, the responsibility of preserving our strong tautog fishery is the burden and responsibility of both states.

Thank you for your consideration and I look forward to the implementation of the slot limit.

Regards,
Jeff Kneebone

From: [Chris Fay](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Comments on Tautog regulations under consideration
Date: Monday, November 7, 2022 10:14:56 PM

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I'd like to voice my strong support for Massachusetts' consideration of adopting the RI Trophy Tog regulations. This is a no brainer in my opinion, the big breeders need to be protected from overfishing. This fishery is important to many anglers and after seeing the stock drop in years past for striped bass and fluke, it's important to put measures into place that protect the fish now and for generations to come. The current bag limit combined with only taking 1 fish over 21" is fair and reasonable for all anglers.

Thank you for your consideration.

Respectfully,

Christopher Fay
21 Christine Drive
Dartmouth, MA 02747

From: [Willy Goldsmith](#)
To: [Fish, Marine \(FWE\)](#)
Subject: RE: ASGA Public Comment on Proposed Recreational Tautog Regulations
Date: Monday, November 7, 2022 5:00:13 PM
Attachments: [image001.png](#)

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Thank you Jared!

--



Willy Goldsmith, PhD
Executive Director
[American Saltwater Guides Association](#)
(617) 763-3340
willy@saltwaterguidesassociation.org
[Like Us on Facebook](#)

From: Fish, Marine (FWE) <marine.fish@state.ma.us>
Sent: Monday, November 7, 2022 4:34 PM
To: Willy Goldsmith <willy@saltwaterguidesassociation.org>
Cc: Tony Friedrich <tony@saltwaterguidesassociation.org>; Will Poston <will@saltwaterguidesassociation.org>; Ayer, Matt (FWE) <matt.ayer@state.ma.us>
Subject: RE: ASGA Public Comment on Proposed Recreational Tautog Regulations

Willy,

DMF has received this public comment.

Best regards,

Jared

From: Willy Goldsmith <willy@saltwaterguidesassociation.org>
Sent: Monday, November 7, 2022 12:56 PM
To: Fish, Marine (FWE) <marine.fish@mass.gov>
Cc: Tony Friedrich <tony@saltwaterguidesassociation.org>; Will Poston <will@saltwaterguidesassociation.org>; Ayer, Matt (FWE) <matt.ayer@mass.gov>
Subject: ASGA Public Comment on Proposed Recreational Tautog Regulations

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Dear Director McKiernan,

Attached, please find a public comment letter from the American Saltwater Guides Association supporting DMF's proposed recreational tautog slot limit and trophy fish provision. Please confirm receipt if possible.

Thank you,

Willy

--



Willy Goldsmith, PhD

Executive Director

[American Saltwater Guides Association](#)

(617) 763-3340

willy@saltwaterguidesassociation.org

[Like Us on Facebook](#)

From: thecoops1@comcast.net
To: [Fish, Marine \(FWE\)](#)
Subject: Tautog Regulations
Date: Wednesday, October 26, 2022 4:28:39 PM

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Sirs:

I am 79, a frequent fisherman and spear fisherman, a Coast Guard licensed captain, owner of homes in Rhode Island and Washington, DC, and an active member of the Rhode Island Saltwater Anglers Association. I have friends who reside at Eastham, MA, and I often fish both sides of the Cape with them. I write to encourage Massachusetts to adopt tautog (blackfish) regulations similar to the recent revisions in Rhode Island that limit harvesting of larger breeder fish.

I do not fish for tautog with rod and reel. Rather, I exclusively hunt for them with a speargun while free diving. I have always been careful not to spear female tautog, and to avoid spearing males over about five pounds. I know that tautog grow very slowly as compared to scup, striped bass and bluefish. And they tend not to wander far from their summer season haunts, increasing their vulnerability. I am very pleased that Rhode Island has acted to protect the larger tautog, many of which are the fecund females so essential to ensure a sustainable fishery. I am perfectly happy to limit my harvest to just one tautog over 21 inches if that will help assure that my grandkids will be able to fish for tautog in the future. No doubt Massachusetts tautog fishermen will feel similarly.

I am, Ken Cooper
Cell: 202-302-5490
Email: thecoops1@comcast.net.
Sent from my iPhone

From: [DONALD GOEBEL](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Tog. Reg.
Date: Tuesday, November 1, 2022 10:21:19 AM

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Yes I am in favor of one Tog over 21in.

From: [RomanAround5246](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Tautog Proposal
Date: Thursday, November 10, 2022 2:11:34 PM

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Hi Director Daniel McKiernan,

I wanted to voice my opinion on the newly proposed Tautog Regulation. I want to say, Yes I agree with the proposal to limit anglers to taking one fish over 21 inches. I think that it is a reasonable and conservative approach to protecting the species. I remember New Jersey being the location for the biggest trophy Tautog but I have seen it go down and now alot of people heading to Rhode Island and Massachusetts for a trophy fish. We don't want to see the population disappear because these are slow growing fish. Thank you for considering a proactive approach to managing these fish. Thank you for taking the time to read this email.

Sincerely,

Roman Dudus

Sent via the Samsung Galaxy Z Flip3 5G, an AT&T 5G smartphone

From: [Aquidneck Island](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Tautog Slot limit proposal
Date: Thursday, November 10, 2022 11:45:05 AM

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Hello,

We, the Aquidneck Island Striper Team, support the change to MA state Tautog regulations, specifically the new 21" slot. Thank you for taking comments and allowing public opinions to be heard.

Best regards,
TJ Harris
AIST Vice President
(401) 200-0968

From: [Mike Piper](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Tautog Trophy fish comments
Date: Thursday, November 10, 2022 11:43:31 AM

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To Whom It May Concern,

My family and I recently were introduced to Tautog fishing, and we've become addicts. It's great fun with the kids hooking into these hard fighters, and it's also nice to have a fish that is managed well enough so that we can take an occasional one home for the dinner table. We have fished for them in Rhode Island and am aware of and support their trophy fish regulations. It makes sense both for the support of the species and to have consistency between state lines that Massachusetts adopt the same parameters. These are very slow growing fish, but they provide a great opportunity late in the season or when other species are not around.

Sincerely,
Mike Piper
Marblehead, MA

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From: [michael kilmartin](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Tog proposal
Date: Thursday, November 10, 2022 1:55:47 PM

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Ladies and/or Gentlemen,

Please count me and my three children as supporters of the "tog" proposal.

A regional approach to **working** fishing regulation is smart policy. A compelling basis for future discussions.

Michael, Brendan, Kara and Michael T. Kilmartin.
401-222-9386

From: [Walt Galloway](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Tog proposed rule change
Date: Thursday, November 10, 2022 11:55:47 AM

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Hi. As a member of RISAA I support your proposed Tog rule. Best for all of us, including the Tautog!

Thanks,

Walt Galloway
353 Fry Pond Rd
W. Greenwich, RI 02817

Sent from my Galaxy

From: [Vann Lam](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Togs reg
Date: Thursday, November 10, 2022 1:37:41 PM

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Yes, I support the proposal.

Vann Lam

From: dqboenning@verizon.net
To: [Fish, Marine \(FWE\)](#)
Subject: Trophy Tautog Restriction
Date: Thursday, November 10, 2022 11:42:13 AM

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I support MA matching the RI Tautog regulations and support a single trophy fish a day restriction.

Let's return the larger fish and enjoy their future offspring.

Dickson Gm Boenning
Jamestown, RI

From: [warhamster74](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Tautog proposal
Date: Thursday, November 10, 2022 4:26:29 PM

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I support the amendment to the regulations, adopting Rhode Island's slot limit to Massachusetts waters

Sent from my Verizon, Samsung Galaxy smartphone

Zachary P Hintz
Zah's Bait and Tackle
860-316-7539
860-982-0963
[@zahsbaitandtackle](#)
Zahsbaitandtackle@gmail.com
204 B Main St
Portland, CT 06480

From: [guy mister](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Tautog proposal
Date: Thursday, November 10, 2022 4:25:37 PM

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I support the amendment to the regulations, adopting Rhode Island's slot limit to Massachusetts waters

From: [Greg Rodrigues](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Tautog Regulations
Date: Thursday, November 10, 2022 11:44:20 PM

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Hello,

I support the tog rule change proposal to match RI regulations.

We need common sense regulation to prevent overfishing.

Thank you

Greg Rodrigues
125 Hickory Rd
Wrentham, MA 02093

From: [Rick Marshall](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Tog Regulation
Date: Thursday, November 10, 2022 7:51:10 PM

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.

Hi,

I support the rule change proposal for MA to match RI with Tog regulations.

Respectfully,

Rick Marshall
East Greenwich, RI

From: [David Fewster](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Tog rule
Date: Thursday, November 10, 2022 5:07:43 PM

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Yes !! I support the tautog rule change proposal. It's a great start to protectIng these large fish. Thankyou Massachusetts Marine Fisheries !

Sent from my iPhone

From: [Bob Casola](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Tog rule change proposal
Date: Friday, November 11, 2022 7:09:48 AM

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Hello -

I support the Mass. rule change proposal on tautog.

Thank you,
Bob Casola

From: [Greg Spier](#)
To: [Fish, Marine \(FWE\)](#)
Cc: greg@rissa.org
Subject: Tog size
Date: Friday, November 11, 2022 4:40:59 AM

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Director

Please support modify 1 fish over 21" regulation in MA, like RI. To maintain the resource.

Thank u.

Greg Spier

1 Hutchins Dr,

Foxborough, MA 02035

508.328.7848

From: [DONALD GOEBEL](#)
To: [Fish, Marine \(FWE\)](#)
Subject: tog
Date: Friday, November 11, 2022 7:46:20 AM

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yes

From: johnnym53@charter.net
To: [Fish, Marine \(FWE\)](#)
Subject: Tautog Regulations
Date: Friday, November 11, 2022 4:44:02 PM

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As a life long Massachusetts resident, I strongly urge the Division to adapt the current regulations now

in effect in Rhode Island. This is a superb northeast fisheries, and we need to protect it for the current

and future generations.

From: [John Boardman](#)
To: [Fish, Marine \(FWE\)](#)
Subject: tautog size limit
Date: Friday, November 11, 2022 5:22:09 PM

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.Please support the tautog size limit increase. These fish need all the help we can give them. The increase will align us with RI rules which is a good idea. TY.



Massachusetts Lobstermen's Association

8 Otis Place ~ Scituate, MA 02066
781.545.6984

November 7, 2022

Director Daniel McKiernan
Massachusetts Division of Marine Fisheries
251 Causeway Street
Boston, MA 02114

Sent via: marine.fish@mass.gov

On behalf of its 1800 members, the Massachusetts Lobstermen's Association (MLA) respectfully submits this letter of comment on the proposed measures affecting the trap fisheries and the whelk gauge sizes as presented during the recent Public Hearing on November 3, 2022.

Established in 1963, the MLA is a member-driven organization that accepts and supports the interdependence of species conservation and the members' collective economic interests. The membership is comprised of fishermen from Maryland to Canada and encompasses a wide variety of gear types from fixed gear and mobile gear alike. The MLA continues to work conscientiously through the management process with the Division of Marine Fisheries (DMF), Atlantic States Marine Fisheries (ASMFC), Atlantic Large Whale Take Reduction Team, and the New England Fisheries Management Council to ensure the continued sustainability and profitability of the resources in which our commercial fishermen are engaged in.

Electronic Tracking for Commercial Lobster and Jonah Crab Trap Fishery

The MLA **DOES NOT** support the vessel tracking initiative put forth by the ASMFC Addendum XXIX for the commercial lobster and Jonah Crab industry as a management measure to better serve stock assessments, protected species interactions, marine spatial planning, and offshore enforcement.

Even though there is talk about financial help from the government on the startup funding for the lobster fleet, the MLA is concerned that the vessel tracking will be just another expense for the commercial lobster and Jonah Crab industry.

Protected Species Regulations for Commercial and Recreational Trap Fisheries

The MLA **SUPPORTS** the adoption of a regulatory change to allow the Director of the DMF to temporarily amend the opening of the May 16-October 31 recreational trap fishery based on the presence or absence of right whales in state waters.

The MLA **SUPPORTS** eliminating the requirement that commercial trap buoy lines be rigged with a weak link at the buoy. Should a fisher choose to use one it will not be considered non-compliant.

The MLA does **NOT SUPPORT** the regulatory definition of the term “buoy line” as the proposed language allows the use of a groundline to the vertical line to be no more than 12’ seems unreasonable as many fishers’ current are using a one third as a metric based upon the depth they are fishing. Using the average depth in state waters of 292’, per the MA Ocean Planning document <https://www.mass.gov/files/2017-08/v2-text.pdf> and the one third metric would make the use of groundlines at 97’, a far stretch from the proposed 12’. There needs to be more input from the industry on what a reasonable compromise would be as 12’ is too short to avoid hang-ups.

The MLA understands the reasoning for this definition but does not see this as a one size fits all remedy. Could the State possibly do a range for groundline use like; 12’ within 0-1nm, 24’ within 1-2nm, 36’ within 2-3nm to allow fishers in the deeper water the use more groundline?

Whelk Minimum Gauge Size

The MLA **SUPPORTS** the delay in the proposed gauge increase schedule for whelks by having 1/8” gauge increases occur every third year rather than the biennially until a terminal gauge size of 3 5/8” is reached.

Additional Gear Markings Proposal

The MLA and Lobster Foundation of Massachusetts have been actively working on the incorporation of the *MASS LOBSTER* tracer ribbon in the weak red and candy cane ropes. We are happy to report that these ropes are now 100% being made with the *MASS LOBSTER* tracer ribbon and are readily available.

The MLA is proposing an additional gear marking option for the lobster industry. We are asking the DMF to accept having the *MASS LOBSTER* tracer ribbon be a standalone gear marking should a fisher use the weak red and candy rope for the entire vertical line. Currently, there are numerous fishers fishing full weak vertical lines with the *MASS LOBSTER* tracer ribbon and should not have to add additional gear markings.

The amount of time it takes a fisher to mark their endlines is upwards of a 100 plus hours annually. This would be a great way for the State to truly encourage fishers to use full vertical lines of the weak red and candy cane rope with the *MASS LOBSTER* tracer ribbon.

Thank you for your thoughtful deliberation and consideration of our comments. Should you have any question please feel free to reach out anytime.

Sincerely,

Beth Casoni

Executive Director



THE GENERAL COURT OF MASSACHUSETTS
STATE HOUSE, BOSTON 02133-1053

November 10, 2022

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

Dear Director McKiernan:

I strongly support the Massachusetts Conch Association's (MCA) proposed Whelk Minimum Chute Gauge Size regulatory amendment under *322 CMR 6.21(2)(c)*. The amendment would change the current chute gauge increase width schedule from 2 years to 3 years between size increases.

The amendment would provide more time to study this fishery, including environmental and biological factors including different regional growth rates that remain unknown about this species due to limited scientific information. Studies examining this fishery were last completed by the Division of Marine Fisheries in 2013 and 2015 to review the size-at-maturity for whelk in important harvest areas, including Nantucket Sound, Buzzards Bay, and Vineyard Sound. Massachusetts lacks sufficient knowledge and data about this species is largely unknown to continue with the current two-year schedule.

The biennial approach has resulted in a severe decline in commercial landings, threatening the loss of shoreside infrastructure. The whelk fishery is one of the few remaining inshore small boat fisheries in Southern Massachusetts. The regulations need to balance the protection of the whelk and the economic interests of the fishermen and shoreside businesses that support this fishery. This species certainly benefits from regulation and management that protects it from overexploitation. However, we must balance this interest with the important economic interests involved.

The industry's request is a reasonable accommodation that can protect this valuable fishery while promoting a sustainable resource. I appreciate your support. Should you have any questions or concerns regarding this letter please to hesitate to contact me at 617-722-2017.

Sincerely,

A handwritten signature in black ink that reads "Antonio F.D. Cabral".

ANTONIO F.D. CABRAL

State Representative, 13th Bristol District

House Chair, Joint Committee on State Administration and Regulatory Oversight

From: [Tom Luce](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Conch gauge
Date: Thursday, November 10, 2022 8:55:25 AM

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.

Hello Dan,

Writing in support of extending the conch gauge increase to every 3 years. The next increase will be a significantly large sized conch. With 90% plus retained conch as females, it's hard to see a healthy conch fishery for the future, especially with 3 or 4 more size increases to follow. It appears that the larger conch we can keep are only in certain areas or spots. And large swathes of bottom with abundant conch but too small to keep. So the same areas get set over and over. I believe they perhaps possibly congregate together by size at some level. There are places where you set pots that hasn't been fished in awhile thinking they might have grown to size, but this appears to be futile as they don't seem to get any larger in these places.

Much more research would come in handy if the financing is available-Tagging larger conch for growth rates is one. And obviously the discrepancies in sizes between male to female needs much discussion for possible alternative management measures.

Thank you,

Tom Luce
F/ V Sea Win
508-274-9402

Sent from my iPhone

November 8, 2022

Mass. Conch Association
P.O. Box 40117
New Bedford, MA 02744

Welk Minimum Gauge Size (322 CMR6.21)

Dear Director McKiernan,

We are taking this opportunity to express our support for the proposed welk minimum gauge size amendment. This would change the gauge increase schedule from 2 years to 3 years between increases. Just so we are all on the same page if this were to be approved the next gauge increase would be 2024.

The welk fishery is an extremely important small boat near shore fishery in Southern Ma including Cape Cod and the Islands. There are many more unknowns about this animal and a proper population study needs to be conducted. Interestingly the 3rd world nation of Columbia has done a population study of the queen conch that has had a positive outcome for the fishery. I am sure if the country of Columbia can conduct a proper population study that the Commonwealth of Massachusetts can do so as well being that the largest fishing port in North America is located here.

The regulations need to balance the protection of the whelk as well as the economic interests of the fishermen and shoreside businesses that support this fishery. Valuable knowledge and shoreside infrastructure will be lost if something is not done quickly. An approval of 3 years between size increases is a step in the right direction.

Sincerely,

Board of Directors
Mass. Conch Association

Via email: marine.fish@mass.gov

Dear Director Daniel J. McKiernan:

The following is my comment on the proposal to extend the required conch size increases from every two years to every three years. I am currently potting conch and have for three of the last four years. (I took off the last year of gauge increase). My best friend is a longtime conch potter, so I also have insight into the historical fishery. The most important item that I want to express is the fact that there are billions of conchs under the size limit present in Buzzard's Bay, and it appears that there are more every year. I am glad that the conch biomass in Massachusetts is protected by the size limit and that it is healthy and growing, unlike in other states. There is certainly no risk to the fishery created by increasing the time between gauge increases and I, personally, believe that the current gauge would adequately protect the fishery forever moving forward.

On the other side of the equation, the burden created by the gauge increase is real for conch potters. In the years without a gauge increase, you haul traps full of nice looking conch and only end up with a few keepers. In the years with a gauge increase, you haul full traps and end up with no keepers. Hopefully, an extra year for growth between gauge increases would help to lessen this burden for conch potters.

Yours truly,

Douglas E. Sylvia
318 Rock O'Dundee Road
S. Dartmouth, MA

John Kenneway fishing vessel Christopher Wentworth Stage Harbor Chatham MA. My 30 year old son Sam and I set conch pots in Nantucket sound. Both my self and Sam are in favor of delaying the conch gauge increase in 2023

On Oct 10 2022 a NOAA observer did an Observer trip on my boat. All undersize conchs were put in a basket and weighed .We had 195# legal conchs 576# undersize conchs. On this trip we returned 73%of our catch

DMF needs to do observer trips on Ma conch pot boats from May to Dec to gather up to date real time data on the conch stock if female conchs are not reproducing at the current 3 1/8 gauge where did 73%of catch come from on Oct 10th trip?????

There are miles of bottom we don't set pots due to 90 to 100%of the conchs are under sizes. At what size do male conchs reach maturity? What % of our catch at the present gauge size of 3 1/8 are mature male, female ?? There is no lack of conchs on the bottom of Nantucket sound.

The Ma DMFneeds to slow down or stop the gauge increase .Have observers on conch pot boats May-Dec garthing up to date data on conch stock We need to sex observed catch of conchs .What % pare male ,female what % are mature and reproducing .

It is very important to retain the conch buyers for present and future conch fishermen .When the catch decreases every time the gauge increases and fisher man continue to drop out of the fisheries due to digarding 70 to 100% of our catch .Moring are lost, dock side slips and interstater are lost conch buys buy from out of state .We need to slow down the stop gauge increase and get up to date since on sex maturity sizes.

Johne. Kenneway

A handwritten signature in blue ink that reads "John Kenneway". The signature is written in a cursive style with a long, sweeping underline.

From: [christopher.jepsen](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Welk size increase
Date: Wednesday, November 9, 2022 5:10:51 AM

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.

I don't believe that there should be a 1/8" size increase because it doesn't make sense to be taking mostly females. That will make the fishery fail in the near future.

Chris Jepsen, FV Blood Blistah
Chatham Ma

Sent from my iPhone



The Commonwealth of Massachusetts
MASSACHUSETTS SENATE

SENATOR MARK MONTIGNY
Second Bristol and Plymouth District

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Chair
SENATE COMMITTEE ON
STEERING AND POLICY

Vice Chair
EXPORT DEVELOPMENT

SENATE COMMITTEE ON
INTERGOVERNMENTAL AFFAIRS

November 4, 2022

Daniel McKiernan, Director
Massachusetts Division of Marine Fisheries
251 Causeway Street, Suite 400
Boston, MA 02114

RE: Whelk Minimum Gauge Size (322 CMR 6.21)

Dear Director McKiernan:

I am writing to express my support for the proposed Whelk Minimum Gauge Size amendment under 322 CMR 6.21. This proposed regulatory amendment would delay the gauge increase schedule for whelks by having the gauge increases occur every third year rather than biennially. This adjustment was requested by the Massachusetts Conch Association in order to provide more time to study this fishery, including environmental and biological factors impacting the species size and commercial landings.

Studies examining this fishery were last completed by the Division in 2013 and 2015 to review the size-at-maturity for whelk in important harvest areas, including Nantucket Sound, Buzzards Bay, and Vineyard Sound. Subsequently, the Division implemented a minimum biennial increase to the whelk gauge width that was intended to be gradual to avoid severe economic impacts on an important inshore fishery.

The biennial approach, however, resulted in a severe decline in landings, threatening the loss of shoreside infrastructure. In response, the industry has submitted a reasonable request to add an additional year between gauge width increases. An additional year would provide time to further study various environmental and biological factors that may be impacting the whelk resource. In a previous meeting hosted by the UMass Dartmouth School for Marine Science and Technology (SMASST) with the association, agency officials, my office, and Representative Cabral, it was

clear that Massachusetts lacks sufficient knowledge and data about this species to continue with the current biennial schedule.

The whelk fishery is one of the few remaining inshore small boat fisheries in Southern Massachusetts. This species certainly benefits from regulation and management that protects it from overexploitation. However, we must balance this interest with the important economic interests involved. Adding an additional year to the gauge width increase schedule is a reasonable accommodation that can protect this valuable fishery while fostering a sustainable commercial marketplace.

In closing, I fully support the proposed amendment under 322 CMR 6.21 to foster a sustainable balance between a healthy fishery and robust commercial industry. Please do not hesitate to contact my office with any questions or concerns.

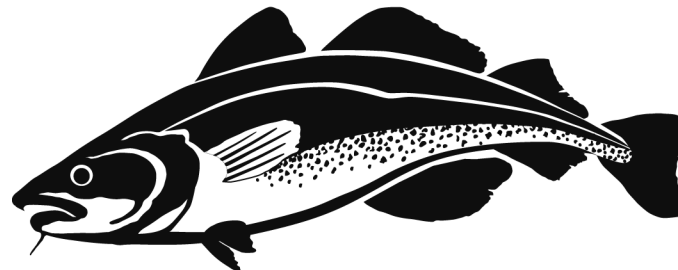
Sincerely,

A handwritten signature in black ink, appearing to read "Mark Montigny". The signature is fluid and cursive, with a large initial "M" and a long, sweeping tail.

Mark Montigny
SENATOR

Final Recommendations of Fall Omnibus Public Hearing Items

Marine Fisheries
Commonwealth of Massachusetts



Anticipated Timeline for Rule Making



Atlantic Mackerel Permitting

Action

- DMF will establish a commercial regulated fishery permit endorsement for Atlantic mackerel.

Rationale:

- Permit will allow for differentiation between commercial and recreational fishing activity
- Allows for commercial permit holders to not be regulated by recreational catch limits.

Additional Information

- Endorsement will be open entry and may be added to a commercial fishing permit.
- Endorsement fees: \$30 resident and \$60 non-resident.
- Permitted commercial anglers may retain, possess, and land mackerel in excess of recreational limit when commercially fishing for mackerel or other species (e.g., striped bass).
- Commercial anglers may not mix commercial and recreational trips (e.g., can't commercially fish for mackerel when recreationally striped bass fishing).



Atlantic Mackerel Management

Recommendation

MFAC make a motion to adopt a 20-fish recreational limit for mackerel. This recreational limit will apply per angler as a daily harvest limit and a possession limit while fishing. Exempt from this limit will be mackerel held in a freezer, fish car, or shore-side bait well. For-hire operations seeking to obtain bait prior to clientele arriving may do so under a commercial permit and report this catch as “personal use.”

Background:

- 2021 stock assessment shows species is overfished with overfishing occurring and prior rebuilding plan was unlikely to rebuild stock within decade.
- MAFMC approved a second rebuilding plan to address 2021 stock assessment findings.
- Rebuilding plan contained a 20-fish recreational possession limit for federal waters.

Rationale:

- Under MSA, states are expected to adopt complementary measures for state-water fisheries.
- Harvest in MA (and other northeast states) occurs principally in state waters.



Source: www.thefisherman.com

Tautog Recreational Slot Limit

Recommendation

MFAC make a motion to adopt a recreational tautog slot limit of 16” to 21” with an allowance for a recreational angler to retain one trophy fish exceeding 21” per calendar day.

Rationale:

- Will provide similar rules across MA and RI, consistent with Interstate FMP objective.
- May restrict eastward movement of anglers targeting large tautog.
- Will likely have limited impact on current fishing activity in MA but may contribute to increase in larger, older fish in population over time.



Background and Additional Info:

- DMF trawl survey length/weight data indicate 21” tautog weigh about 7 lb.
- Frequency of catch of trophy sized fish is likely low.
- MA-RI regional stock is not overfished or experiencing overfishing (2020).
- RI adopted rule for 2022 in response to stakeholder petition and concern about increased effort and harvest.
- MA recreational possession limits vary by open season (between 1 and 5 fish).



Electronic Trackers

Action

For May 1, 2023, DMF will require all commercial lobster permit holders with federal lobster trap permit to install and have operational an electronic tracking device onboard the federally permitted vessel named on the state lobster permit. Exempt from this are those federal permit holders whose permits are held in CPH.

Rationale:

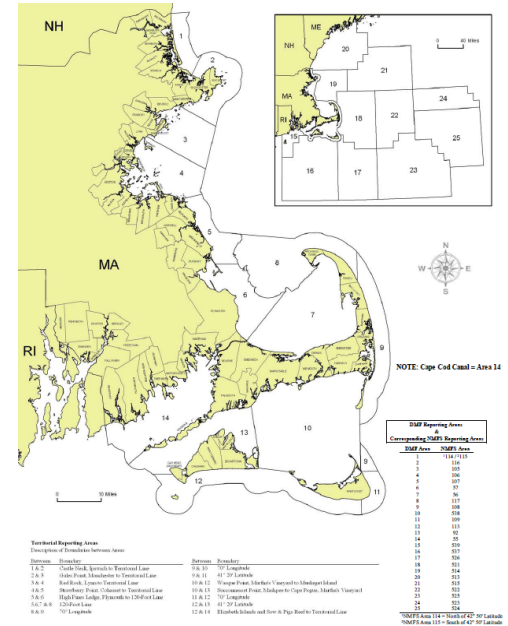
- Comply with ASMFC FMPs for American Lobster and Jonah Crab.

Purpose:

- Improve spatial data collection in federal lobster trap fishery.
- Enhance spatial data available to address emerging issues:
 - Marine spatial planning (e.g., offshore wind energy development and mitigation, offshore aquaculture);
 - Development of habitat conservation and marine protected areas;
 - Protected species risk analyses; and
 - Stock assessment and delineation of catch to stock area.

Additional Info

- Federal earmark will allow MA to subsidize cost and installation of electronic tracking device and first three years of annual service fee.
- ASMFC currently reviewing RFRs for potential tracking device vendors.



Whelk Gauge Size Increase Schedule

Recommendation:

MFAC make a motion to approve a revised whelk schedule whereby the gauge width is increased by 1/8" every third-year (rather than biennially), achieving a terminal 3 5/8" gauge width in 2033 (rather than 2029), and with the next gauge increase going into effect in 2024 (rather than 2023).

Background and Additional Info:

- Address industry concerns about declines in whelk fishing effort and landings and potential loss of shore-side infrastructure.
- Responds to public petition from MA Conch Association and Big G Seafood.
- Stock assessment shows resource is overfished with overfishing occurring.
- Size-at-maturity study shows females do not reach 50% size-at-maturity until 3 7/8" shell width corresponding to a 3 5/8" gauge width.
- 2019: DMF implemented a 10-year schedule of 1/8" biennial gauge width increases resulting in a terminal gauge width of 3 5/8" in 2029. Animal is slow growing and gradual schedule was designed to offset economic impacts.
- Petition will delay milestones for spawning stock protections, but petitioners seek to balance this against long-term viability of fishery and shore-side infrastructure.

Comparison of Current & Proposed Gauge Schedules & Percent of Mature Females at Gauge Size					
Current Schedule	2021 – 2022 3 1/8"	2023 – 2024 3 1/4"	2025 – 2026 3 3/8"	2027-2028 3 1/2"	2029 3 5/8"
Proposed Schedule	2021 – 2023 3 1/8"	2024 – 2026 3 1/4"	2027 – 2029 3 3/8"	2030-2032 3 1/2"	2033 3 5/8"
Percent Size at Maturity	0%	0%	5%	20%	50%



Protected Species Management

Recommendation:

MFAC make a motion to provide Director with authority to annually amend opening of the May 16 – October 31 buoyed recreational lobster trap fishery on dynamic basis in response to presence/absence of right whales.

Background:

- Right whales seasonally aggregate in Massachusetts waters during winter and early spring.
- Recently, whale aggregations have not broken up until early-to-mid May.
- Recreational buoyed trap closure was implemented in 2021 to reduce risk posed to right whales and proliferation of marine debris. Closure does not apply to unbuoyed trap gear fished from shoreline (e.g., Cape Cod Canal).
- Dynamic management exists for commercial fixed gear fisheries.

Rationale:

- Allows DMF to delay opening of fishery if right whales remain in state waters to prevent entanglement risk.
- Allows DMF to allow fishing prior to May 15 should right whales migrate out of state waters and entanglement risk minimized.



Protected Species Management

Recommendation:

MFAC make a motion to rescind the requirement that commercial trap fishers install a 600-pound weak link where the buoy line connects to the buoy.

Rationale:

- State rules are currently out-of-phase with the ALWTRP.
- Change will provide MA Mixed Species Trap Fishery similar allowances afforded under federal plan.

Background:

- Weak link requirement has been eliminated from federal ALWTRP rules for lobster and crab trap fishery.
- Entanglement record shows little evidence gear modification works as intended.
- Commercial fishery is subject to new buoy line diameter and weak contrivance rules (2021).
- Will still be required in recreational fishery where more involved gear modifications (e.g., weak inserts) are not mandated.

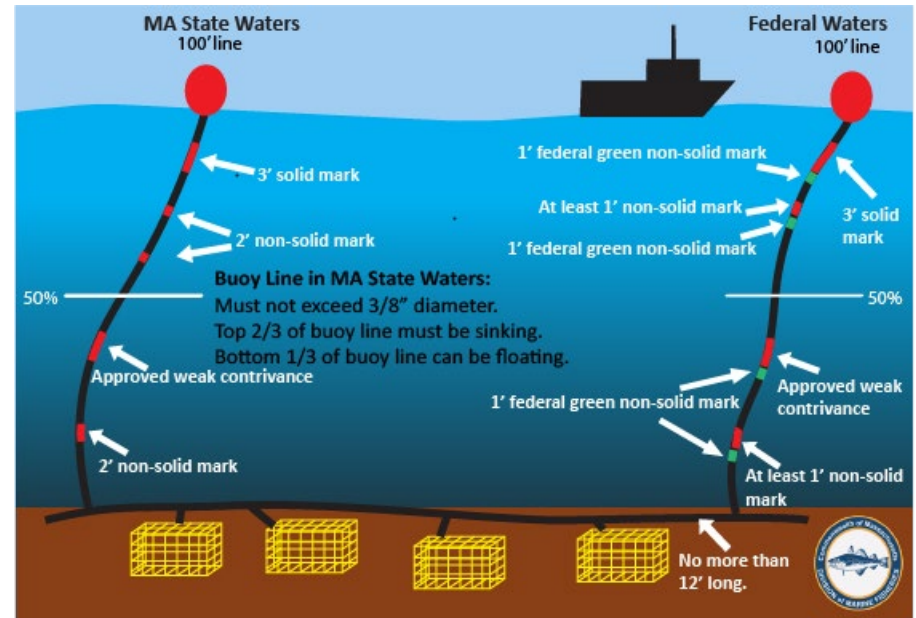


Source: National Fisherman

Protected Species Housekeeping

Recommendation

MFAC make a motion to revise definition of “buoy line” as it pertains to protected species regulation. New definition to describe buoy line as that segment of line connecting fishing gear in the water to a buoy at the surface. For trap gear, the connection to the fishing gear in the water shall be where it connects to a trap, trap bridle, or a groundline in from of the terminal trap at the end of a trawl. If the buoy line is connect to the ground line but the connection is not readily apparent or visible, then the end of the buoy line shall occur 12’ in front o the terminal trap at that end of the trawl.



Rationale:

- Current buoy line language makes it difficult to determine where the buoy line terminates at the ocean floor.
- Complicates enforcement and compliance with various protected species rules, particularly if gear is not seized and inspected shoreside.
- Interest in making existing rules easier to enforce and comply with without altering existing gear conventions and imposing new burdens on commercial trap fisheries.

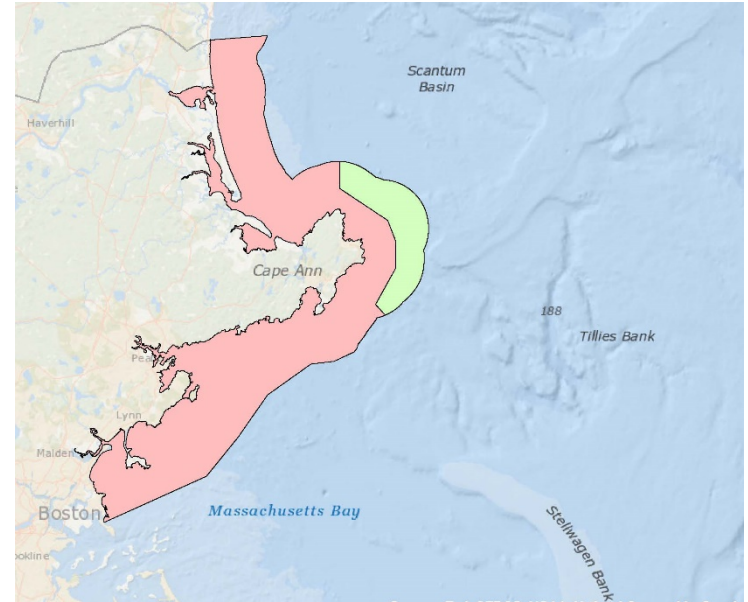
Area 1A Mobile Gear Open Season

Recommendation:

MFAC make a motion to extend the wintertime exemption to Area 1A to allow mobile gear fishing from February 1 – May 15; currently seasonally open from February 1 – March 31.

Rationale:

- Will provide CAP permit holders with access to potentially exploitable sea scallop resource.
- Exempted fishing activity will occur in area where fishing activity has seasonally occurred.
- Unlikely to produce direct or indirect effort on groundfish given seasonal availability and overarching closures.
- Roundfish bycatch in sea scallop dredges limited by gear configuration rules (i.e., 10" twine top mesh).
- Analysis of federal observer data for adjacent federal waters shows winter flounder bycatch likely nominal.



Background:

- 1930s - North Shore waters closed to mobile gear fishing year-round to prevent gear conflicts.
- DMF and MFAC have carved out time-area exemptions (Area 1A – Rockport/Gloucester and Area 1B – Ipswich Bay) to allow targeting of certain fisheries (e.g., scallops, whiting) when and where gear conflicts are expected to be limited.
- Fixed gear fishing is currently prohibited north of Cape Cod from February 1 – May 15 due to right whales.

Prohibition on Shortfin Mako

Recommendation:

MFAC to make a motion to prohibit retention, possession, and landing of shortfin mako in Massachusetts' state waters, except when legally caught in federal waters.

Rationale:

- Complies with new ASMFC requirement for a zero-retention limit in state waters.
- Provides for possible future federal waters harvest allowance to be landed in MA.



Background and Additional Information:

- ICCAT determined all member countries need to reduce shortfin mako fishing mortality to accelerate rate of stock recovery and increase probability of rebuilding success.
- April 2022: NOAA Fisheries proposed a federal prohibition on shortfin mako retention with a process to allow harvest if authorized by ICCAT. Adopted as proposed in July.
- May 2022: ASMFC required states to adopt a zero retention limit in state waters once the expected federal waters prohibition was effective.
- Shortfin mako catch in Massachusetts state waters is negligible. Primarily caught in federal waters in association with fisheries that target tuna and tuna-like species. Federal permit holders held to most restrictive rules whether in state or federal waters.

Housekeeping

Recommendation:

The MFAC vote to: (1) eliminate term “grandfather” from regulatory code consistent with executive mandates; (2) adopt gender neutral terms in the sections of the CMR currently being amended (e.g., fisher replaces fisherman); (3) rescind 322 CMR 8.08 thereby eliminating outdated and redundant references; (4) correct topographical errors in language defining black sea bass pots and mobile gear exemption areas; (5) move buoy line marking rules from 322 CMR 4.13 to 332 CMR 12.00; and (6) improve readability and organization of 322 CMR 12,00 including updating the purpose section to better reflect the current status of the state’s protected species management program.



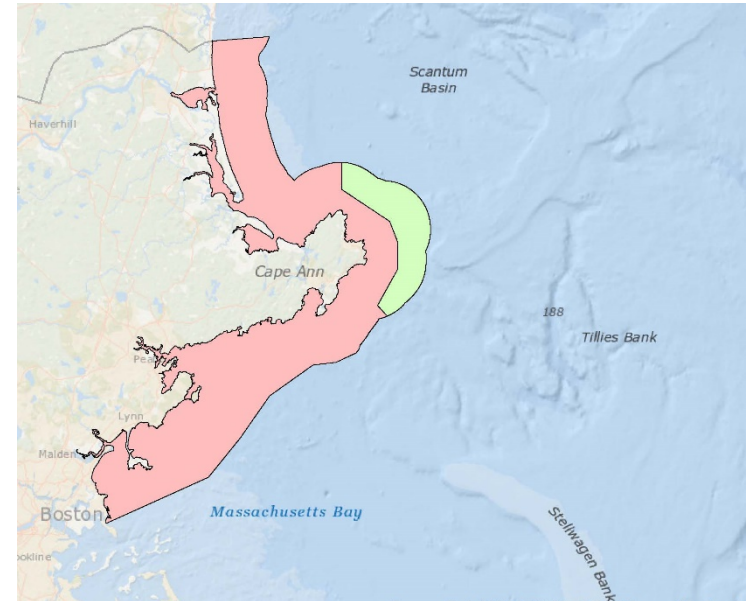
Area 1A Mobile Gear Open Season

Proposal:

- Extend wintertime exemption to Area 1A to allow mobile gear fishing from February 1 – May 15 rather than February 1 – March 31.

Rationale:

- Will provide CAP permit holders with access to potentially exploitable sea scallop resource.
- Exempted fishing activity will occur in area where fishing activity has seasonally occurred.
- Unlikely to produce direct or indirect effort on groundfish given seasonal availability and overarching closures.
- Roundfish bycatch in sea scallop dredges limited by gear configuration rules (i.e., 10" twine top mesh).
- Analysis of federal observer data for adjacent federal waters shows winter flounder bycatch likely nominal.



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- DMF and MFAC have carved out time-area exemptions (Area 1A – Rockport/Gloucester and Area 1B – Ipswich Bay) to allow targeting of certain fisheries (e.g., scallops, whiting) when and where gear conflicts are expected to be limited.
- Fixed gear fishing is currently prohibited north of Cape Cod from February 1 – May 15 due to right whales.

November 22, 2022
MFAC Business Meeting On Break
To Resume at 11:15AM





Atlantic States Marine Fisheries Commission

80th Annual Meeting Summary

Sustainable and Cooperative Management of Atlantic Coastal Fisheries

80th Annual Meeting
November 7-10, 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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ATLANTIC HERRING MANAGEMENT BOARD (NOVEMBER 7, 2022)

Meeting Summary

The Atlantic Herring Management Board met to receive an update on the New England Fishery Management Council's (NEFMC) recommended 2023-2025 specifications for Atlantic herring; set the quota periods for the 2023 Area 1A fishery; and consider the vacant ASMFC seat on the NEFMC's Herring Committee.

The Board received an update on the NEFMC's recommended Atlantic herring fishery specifications for the 2023-2025 fishing years. In September 2022, the NEFMC voted on the 2023-2025 specifications package to be submitted to NOAA Fisheries for review and approval. NEFMC's recommended specifications are based on the 2022 Atlantic herring stock assessment and recommendations from the NEFMC Scientific and Statistical Committee, which are consistent with the Atlantic herring biomass-based control rule and with the Atlantic herring rebuilding plan. The specifications include the sub-annual catch limits (sub-ACL) for each Atlantic herring management area, which for Area 1A would be 3,592 metric tons in 2023. NOAA Fisheries final rule to implement 2023-2025 specifications is expected to be published in January or February 2023. The Board will consider action to approve 2023-2025 specifications after publication of NOAA's final rule.

Per Amendment 3 to the Atlantic Herring Fishery Management Plan, quota periods shall be determined annually for Area 1A. The Board can consider distributing the Area 1A sub-ACL using bi-monthly, trimester, or seasonal quota periods. The Board can also decide whether quota from January through May will be allocated later in the fishing season, and underages may be rolled from one period to the next within the same year. For the 2023 Area 1A fishery, the Board adopted a seasonal quota approach with 72.8% available June-September and 27.2% available October-December with underages from June through September rolled into the October through December period, if applicable.

During the discussion of quota periods, the Board raised concerns about the challenge of managing the Area 1A fishery under low quotas. It was noted the postponed Draft Addendum III (postponed as of May 2020) was developed to consider new approaches for managing the Area 1A fishery under low quotas, including alternative quota period options. The Board will likely discuss postponed Draft Addendum III at a 2023 Board meeting to consider whether the types of management options in Draft Addendum III should be revisited.

The Commission's seat on the NEFMC's Atlantic Herring Committee is currently vacant with the recent retirement of Ritchie White, past New Hampshire Governor Appointee. The Board selected Mr. Ray Kane from Massachusetts as the new ASMFC representative on the NEFMC's Atlantic Herring Committee. Mr. Kane stated that he would step down from his current role on the NEFMC's Atlantic Herring Advisory Panel to take on this new Committee role.

For more information, please contact Emilie Franke, Fishery Management Plan Coordinator, at EFranke@asmfc.org.

Motions

Move to allocate the 2023 Area 1A sub-ACL seasonally with 72.8% available from June through September and 27.2% allocated from October through December. The fishery will close when 92% of

the seasonal period's quota has been projected to be harvested and underages from June through September shall be rolled into the October through December period.

Motion made by Ms. Griffin and seconded by Mr. Reid. Motion approved by unanimous consent.

Move to select Ray Kane as the ASMFC representative on the New England Fishery Management Council's Atlantic Herring Committee.

Motion made by Mr. Abbott and seconded by Ms. Griffin. Motion approved by unanimous consent.

HABITAT COMMITTEE (NOVEMBER 7, 2022)

Meeting Summary

The Habitat Committee received updates on the Atlantic Coastal Fish Habitat Partnership, the Northeast Regional Habitat Assessment Data Explorer, East Coast Climate Change Scenario Planning, aquaculture advancements at NOAA's Greater Atlantic Regional Fisheries Office, and the New England and Mid-Atlantic Fishery Management Councils. The Committee also checked-in on the status on the next Habitat Management Series publication on Acoustic Impacts to Fish Habitat, the 2022 issue of *Habitat Hotline Atlantic*, Fish Habitats of Concern designations, and the habitat section for the upcoming Bluefish Benchmark Stock Assessment. The Habitat Committee welcomed Robert Atwood (NH Fish and Game) and Forrest Vanderbilt (U.S. Geological Survey) as new members. Russ Babb (NJ DEP) was unanimously voted in as the new Chair, and Kate Wilke (The Nature Conservancy) was unanimously voted in as the new Vice-Chair.

AMERICAN LOBSTER MANAGEMENT BOARD (NOVEMBER 7, 2022)

Meeting Summary

The American Lobster Management Board (Board) met to consider a number of items: (1) an update on ongoing litigation related to the take of North Atlantic Right whales in the American lobster fishery; (2) the annual data update of American lobster indices; (3) next steps on Draft Addendum XXVII on increasing protection of spawning stock biomass of the Gulf of Maine/Georges Bank (GOM/GBK) stock; (4) an update on the implementation of American Lobster Addendum XXIX and Jonah Crab Addendum IV; (5) a progress update on the Jonah crab benchmark stock assessment; and (6) Fishery Management Plan (FMP) Reviews for the 2021 fishing year.

NOAA Fisheries provided an update on the status of ongoing court cases regarding the take of North Atlantic right whales in the American lobster fishery, including the case brought by the Center for Biological Diversity and several other environmental organizations versus Secretary Raimondo and the Maine Lobstermen's Association. In this case, the Court held that aspects of the 2021 Biological Opinion and the 2021 Final Rule violated requirements of the Endangered Species Act and the Marine Mammal Protection Act (MMPA). The parties have all submitted their written briefs over the past two months. The Court has scheduled a hearing for Thursday, November 10th in which the parties will be able to make oral arguments. The Court will then be in position to issue its remedy order, which is expected to occur in the coming weeks before the end of the year.

The 2020 American Lobster Stock Assessment recommended an annual data update process to allow the Board to more closely monitor changes in stock abundance between stock assessments. The objective of this process is to present information, including any potentially concerning trends, that could indicate a need for additional research or consideration of management changes. Young-of-year (YOY) settlement

indicators, trawl survey indicators, and ventless trap survey (VTS) sex-specific abundance indices were updated through 2021 and provide insights to future stock conditions. Generally, the GOM stock indicators show declines from the time series highs observed in the stock assessment. GBK indicators, which do not include YOY or VTS indicators, show conditions similar to those included in the stock assessment. The Southern New England indicators show continued unfavorable conditions, with some further signs of decline since the stock assessment.

The Board discussed next steps in the development of Draft Addendum XXVII on increasing protection of spawning stock biomass of the GOM/GBK stock. In January 2022, the Board approved the Draft Addendum for public comment; however, the Interstate Fisheries Management Program Policy Board postponed public hearings to allow additional time for the Board to consider pending information on stock condition and right whales risk reduction measures. In August, the Board further delayed hearings and tasked the Plan Development Team (PDT) to provide guidance on the impacts of the proposed management measures under the Magnuson-Stevens Act, which prohibits the import and sale of lobsters smaller than the Commission's lowest minimum possession limit. Staff reviewed the management options and provided an update to the proposed trigger index that would be used to trigger implementation of gauge size changes in the GOM/GBK stock management areas. The 2021 index value is 0.765, which represents a 23% decline in the index, and surpasses the first two trigger levels proposed in the document. After considering the updated trigger index proposed in the draft addendum, the Board rescinded the approval of Draft Addendum XXVII for public comment in order to make changes to the options within the document. The Board and directed the PDT to modify (1) the proposed options to include a single trigger level which falls within a 30% to 45% decline in the trigger index, and (2) the implementation years for scheduled gauge and vent size changes. The Board will consider approval of Draft Addendum XXVII for public comment at its next meeting.

Staff gave an update on the implementation of American Lobster Addendum XXIX and Jonah Crab Addendum IV, which establish electronic tracking requirements for federally-permitted vessels in both fisheries. A Work Group comprised of state and federal partners was convened to develop a request for quotes from vessel tracking device manufacturers, which was released in the fall of 2020. Five applications for type approval were received and the Work Group is in the process of evaluating the devices for approval. ACCSP completed the SAFIS API for tracking data submission and is developing the application for viewing vessel tracks and monitoring vessel compliance.

Staff provided a progress update on the benchmark stock assessment for Jonah crab. The assessment data workshop was held in June 2022, and the assessment methods workshop was held in early October 2022. At this workshop, the Stock Assessment Subcommittee continued development of potential stock indicators and discussed possible assessment methods. The assessment is scheduled for completion in the fall of 2023.

The Board will review and consider approval of the FMP Reviews for the 2021 fishing year for lobster and Jonah crab by email following the meeting. For more information, please contact Caitlin Starks, Senior Fishery Management Plan Coordinator, at cstarks@asmfc.org or 703.842.0740.

Motions

Move to rescind the following two motions passed in August 2022 and January 2022 meetings, respectively:

- **Move to postpone consideration of public hearings on Draft Addendum XXVII until the Annual Meeting to allow the Plan Development Team (PDT) time to address challenges raised by existing Magnuson-Stevens Act language regarding possession of lobsters smaller than the lowest minimum size limit specified in the American Lobster FMP. This could include language which differentiates harvest vs. possession limits to reduce impacts on dealers and processors. The Law Enforcement Committee should also review new language that may be suggested by the PDT.**
- **Move to approve Draft Addendum XXVII for Public Comment, as amended today.**

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

Main Motion

Move that the PDT simplify section 3.2 of Draft Addendum XXVII to the American Lobster FMP, by creating a single trigger level, that shall act as a backstop, protecting the stock from further declines. The PDT shall use the Technical Committee's trigger level recommendation (Sept 10, 2021 Memo to the Board), utilizing a three-year running average of the trigger index when it declines by 45% from the reference period.

Motion made by Mr. Keliher and seconded by Mr. Abbott. Motion amended.

Motion to Amend

Move to amend the percentage to a range of 30% to 45%

Motion made by Ms. Patterson and seconded by Mr. Reid. Motion passes with one abstention.

Main Motion as Amended

Move that the Plan Development Team simplify Section 3.2 of Draft Addendum XXVII to the American Lobster FMP, by creating a single trigger level, that shall act as a backstop, protecting the stock from further declines. The PDT shall use the Technical Committee's trigger level recommendation (Sept 10, 2021 Memo to the Board), utilizing a three-year running average of the trigger index when it declines by 30-45% from the reference period.

Motion approved with one abstention.

Move to change the years in Issue 2 Option E to 2025 and 2027

Motion made by Mr. Keliher and seconded by Mr. Abbott. Motion approved with one abstention.

ATLANTIC COASTAL COOPERATIVE STATISTICS PROGRAM COORDINATING COUNCIL (NOVEMBER 7, 2022)

Meeting Summary

The ACCSP Coordinating Council met to consider the FY2023 Partner and Administrative proposals and the Atlantic Recreational Implementation Plan.

The Council voted to fund the all three maintenance and all six new FY2023 proposals as ranked by the Advisory and Operations Committees. The Council also supported the development of a workgroup to address questions on ACCSP future funding approach for data collection applications for all data types. Several members supported the transparency and robust process of project ranking discussions. Within

the ACCSP Administrative proposal, the Council supported including activities such as the Accountability Workshop as appendices for consideration as optional components to maintain transparency and provide alignment with the proposal ranking criteria.

The Council voted to approve the Atlantic Recreational Implementation Plan (2023-2027). This document includes regional priorities for data collection, and will be submitted to MRIP. The priorities in the implementation plan are also used in the annual ACCSP request for proposals.

The Council was presented an update of ACCSP program activities, including addition of the Potomac River Fisheries Commission to the confidential data access process, partnerships on data collection tools for MRIP survey state conduct, ACCSP software development timelines, development of spatial data tools, fishermen One Stop Reporting, and status of the SciFish citizen science project.

The Council thanked Mr. Carmichael for his tenure as Chair, and elected Dr. McNamee (RI DEM) as Chair and Ms. Knowlton (GA CRD) as Vice-Chair. The Council and staff recognized Ms. Lupton (recently retired from NC DMF) for her contributions to ACCSP standards, policies, and projects over the past 27 years.

For more information, please contact Geoff White, ACCSP Director, at geoff.white@accsp.org.

Motions

Move to approve the ACCSP FY2023 projects as presented to the ACCSP Coordinating Council, with unallocated funds to be held in the ACCSP Administrative grant for future determination.

Motion made by Mr. Gilmore and seconded by Mr. Reid. Motion approved by unanimous consent.

Move to approve the Atlantic Recreational Implementation Plan (2023-2027), as presented to the ACCSP Coordinating Council.

Motion made by Ms. Knowlton and seconded by Mr. Bell. Motion approved by unanimous consent.

Motion to elect Dr. McNamee as Coordinating Council Chair.

Motion made by Mr. McKiernan and seconded by Mr. Gilmore. Motion approved by unanimous consent.

Motion to nominate Ms. Knowlton as Coordinating Council Vice-Chair.

Motion made by Ms. Fegley and seconded by Ms. Lupton. Motion approved by unanimous consent.



ATLANTIC STRIPED BASS MANAGEMENT BOARD (NOVEMBER 7, 2022)

Press Release

Atlantic Striped Bass Assessment Update Finds Resource No Longer Experiencing Overfishing but Remains Overfished

Board Approves Draft Addendum I for Public Comment to Consider Voluntary Commercial Quota Transfers

Long Branch, NJ – The Commission’s Atlantic Striped Bass Management Board reviewed the results of the 2022 Atlantic Striped Bass Stock Assessment Update, which indicates the resource is no longer experiencing overfishing but remains overfished relative to the updated biological reference points. Female spawning stock biomass (SSB) in 2021 was estimated at 143 million pounds, which is below the SSB threshold of 188 million pounds and below the SSB target of 235 million pounds. Total fishing mortality in 2021 was estimated at 0.14, which is below the updated fishing mortality threshold of 0.20 and below the updated fishing mortality target of 0.17.

The 2022 Assessment Update used the same model from the approved peer-reviewed 2018 Benchmark Stock Assessment. Data through 2021 were added to the model, and the model structure was adjusted for 2020-2021 to account for the regulation changes implemented through Addendum VI to Amendment 6. The assessment model was able to handle missing data due to COVID-19, but overall, COVID-19 increased uncertainty in the 2020 and 2021 data.

The 2022 Assessment Update also included short-term projections to determine the probability of SSB being at or above the SSB target by 2029, which is the stock rebuilding deadline. Under the current fishing mortality rate, there is a 78.6% chance the stock will be rebuilt by 2029, indicating a reduction in catch is not necessary at this time. The projections and the updated fishing mortality reference points took into account the period of low recruitment the stock has experienced in recent years.

“This 2022 assessment was the first check-in point for progress toward stock rebuilding by 2029,” said Board Chair Marty Gary with the Potomac River Fisheries Commission. “It is extremely important that we continue to monitor fishery removals and conduct regular stock assessments to keep evaluating rebuilding progress and stay on track.” The next stock assessment update is scheduled for 2024, and the Board will review the 2022 removals as soon as the data are available to evaluate whether catch remains at sustainable levels.

The Assessment Update will be available next week on the Commission’s website at <http://www.asmfc.org/species/atlantic-striped-bass> under Stock Assessment Reports. An overview of the assessment is available at http://www.asmfc.org/uploads/file/636967f9AtlStripedBassStockAssessmentOverview_2022.pdf.

Draft Addendum I

The Board also approved Draft Addendum I to Amendment 7 to the Interstate Fishery Management Plan for Atlantic Striped Bass for public comment. The Draft Addendum considers allowing for the voluntary transfer of striped bass commercial quota in the ocean region between states that have ocean quota.

The Board initiated Draft Addendum I in August 2021 after deciding that changes to the striped bass commercial quota system would not be considered during the ongoing development of Amendment 7. With the adoption of Amendment earlier this year, the Board re-initiated discussions on, and ultimately approved, Draft Addendum I for public comment to consider voluntary quota transfers which could provide some relief to states seeking additional quota. The Draft Addendum proposes a range of options that would permit voluntary transfers of commercial quota, including options based on stock status and options allowing the Board to set criteria for transfers on a regular basis.

The Draft Addendum will be posted to the website next week at <http://www.asmf.org/about-us/public-input>. A subsequent press release will provide the details on the public hearing schedule and how to submit written comments. The Board will meet to review submitted comment and consider final action on the addendum in February 2023 at the Commission's Winter Meeting in Arlington, VA.

For more information, please contact Emilie Franke, Fishery Management Plan Coordinator, at efranke@asmfc.org or 703.842.0740.

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PR22-31

Motions

Main Motion

Move to approve Draft Addendum I to amendment 7 to the Interstate Fishery Management Plan for public comment.

Motion made by Mr. Clark and seconded by Mr. Geer. Motion amended.

Motion to Amend

Motion to amend to add "if the stock is overfished, apply a 5% conservation tax to address discrepancy that a pound of striped bass quota is not equal across all states." This would apply to options B and D.

Motion made by Ms. Ware and seconded by Mr. Grout. Motion carries without objection.

Main Motion as Amended

Move to approve Draft Addendum I to amendment 7 to the interstate fisheries management plan for public comment, and add if the stock is overfished, apply a 5% conservation tax to address discrepancy that a pound of striped bass quota is not equal across all states. This would apply to options B and D.

Motion passes without objection.

Move to approve Craig Poosikian representing Massachusetts to the Striped Bass Advisory Panel.

Motion made by Mr. Kane and seconded by Dr. Davis. Motion passes without opposition.

SHAD AND RIVER HERRING MANAGEMENT BOARD (NOVEMBER 8, 2022)

Meeting Summary

The Shad and River Herring Management Board met to consider updates to American shad habitat plans and Sustainable Fishery Management Plans (SFMPs), approve the Terms of Reference (TORs) and Stock Assessment Subcommittee (SAS) membership for the 2023 River Herring Benchmark Stock Assessment, and approve two nominations for the Advisory Panel (AP).

The Board considered an addition to the Massachusetts American Shad Habitat Plan to include the Taunton River. Under Amendment 3 to the FMP, all states and jurisdictions are required to develop habitat plans including information on habitat threats and restoration programs affecting American shad. The Taunton River addition was developed to begin a stocking project that aims to stock 20 million fish over the next six to eight years. In 2022, the first year of the plan, five million shad larvae were stocked. The Board approved the shad habitat plan, as presented.

The Board also considered updates to the Massachusetts and Maine SFMPs for River Herring. Amendments 2 and 3 to the Shad and River Herring FMP require all states and jurisdictions that have a commercial fishery to submit a SFMP for river herring and American shad, respectively. Plans are updated and reviewed by the Technical Committee every five years. The Massachusetts update included new information for the Nemasket River and added the Herring River to the plan. The Board approved the presented Massachusetts SFMP.

The Maine SFMP for River Herring includes an addendum, approved in 2019, that allows for three limited fisheries through 2024 with a scheduled review in 2022. The Board received a status update on the limited fisheries and approved them to continue as described in the addendum for the remainder of the five-year period, at which point the Board will consider allowing the permitted municipalities to continue under the Maine SFMP.

The Board approved the presented Draft TORs and SAS nominations for the 2023 River Herring Benchmark Stock Assessment. The assessment is scheduled to be presented to the Board at the Annual Meeting in October 2023.

Ben German and Jonathan Watson of the NOAA National Marine Fisheries Service Habitat and Ecosystem Services Division presented the River Herring Habitat Conservation Plan. The Plan was developed by the Atlantic Coast River Herring Collaborative Forum (River Herring Forum) who brings together river herring practitioners, managers, researchers, and community groups from across the species range to exchange information and the Commission is a member. The plan builds on a previous conservation plan developed through the River Herring Technical Expert Working Group in 2015 to include recent developments in river herring habitat conservation and provide recommendations for future methods to conserve and restore coastwide river herring populations. The final plan is scheduled to be published in late 2022 or early 2023.

The Board considered and approved the nomination of Paul Perra and Jerry Audet of Massachusetts to the Shad and River Herring Advisory Panel. For more information contact James Boyle, Fishery Management Plan Coordinator at jboyle@asmfc.org.

Motions

Move to approve the updated Shad Habitat Plan from MA as presented today.

Motion made by Mr. Armstrong and seconded by Mr. Reid. Motion passes by unanimous consent.

Move to approve the updated River Herring Sustainable Fishery Management Plan from MA as presented today.

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

Move to approve the continuation of the provisional river herring fisheries as described in the addendum to the Maine river herring SFMP for the remainder of the five-year period ending in 2024, at which time the Technical Committee will use the established sustainability criteria to evaluate if the municipalities may continue harvest under the SFMP.

Motion made by Mr. Keliher and seconded by Dr. Rhodes. Motion passes by unanimous consent.

Move to approve the Stock Assessment Subcommittee and Terms of Reference for the 2023 Benchmark Stock Assessment as presented today.

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

Move to approve the nominations of Paul Perra and Jerry Audet from Massachusetts to the Shad & River Herring Advisory Panel.

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

LAW ENFORCEMENT COMMITTEE

Meeting Summary

The Law Enforcement Committee (LEC) met to review a working draft of the vessel tracker application for federal American lobster and Jonah crab fisheries; discuss species issues; and review the enforceability guidelines document.

ACCSP staff presented a working draft of the vessel track application, including how data flows, the process for the LEC to access the application, and a demonstration. The track view allows for vessel tracks to be followed and speed identified. The LEC provided feedback on the application including components it would want to see built into the application, such as the ability to review multiple vessel tracks from a specified date, range, and area.

The LEC discussed possible enforcement issues and potential methods to reduce regulatory loop holes if the American lobster management program allowed for a smaller minimum sized lobster to be imported into the United States than that allowed to be harvested under Amendment 3. The Committee will discuss potential solutions with state managers before coming back to the Committee for additional recommendations to the American Lobster Board.

The Committee discussed how states would enforce the proposed modifications to the North Atlantic right whale speed rule if it were to go into effect. The NOAA law enforcement member shared that NOAA is experimenting with different types of radar, including hand held. NOAA is working on ways to enforce the speed restrictions for boats that do not have AIS (AIS is one of the primary enforcement tools for the current speed zones). State enforcement officers would like to

see increased engagement with the states on this issue. Without increased resources, it will be difficult for the states to enforce the proposed speed restrictions.

The Committee reviewed the latest version of [Guidelines for Resource Managers on the Enforceability of Fishery Management Measures](#) and determined that some revisions are needed to better address new management measures and better reflect current practices. The Committee agreed each member would review the document and provide recommendations for changes to be considered by the Committee on a conference call in January.

The Committee reviewed species assignments to ensure each species Board has an assigned law enforcement representative that is familiar with current law enforcement issues.

For more information, please contact Toni Kerns, Fisheries Policy Director, at tkerns@asmfc.org.

COASTAL PELAGICS MANAGEMENT BOARD (NOVEMBER 8, 2022)

Meeting Summary

The Coastal Pelagics Management Board met to receive an update on the 2022 stock assessment for Spanish mackerel; receive an update on differences between the Interstate and Federal Fishery Management Plans (FMPs) for Spanish mackerel; and review state compliance and FMP Reviews for the 2021 fishing year for Spanish mackerel and Atlantic cobia.

The Board received an update from the South Atlantic Fishery Management Council (SAFMC) on the status of the 2022 stock assessment for Spanish mackerel (SEDAR 78). SEDAR 78 is an operational (i.e., update) assessment for Atlantic Spanish mackerel with terminal year 2020. The SAFMC's Scientific and Statistical Committee (SSC) reviewed SEDAR 78 in August 2022 and noted several concerns regarding data and model fit. Additional model runs were conducted in October 2022 using revised MRIP shore-based landings estimates, but there continue to be SSC concerns. The SSC created a working group to develop terms of reference for assessment revisions, and a revised assessment is scheduled for completion in April 2023. At that time, the SSC will determine whether the revised assessment should be used to inform management recommendations. Potential management action by the SAFMC is on hold until the assessment concerns are resolved and the acceptable biological catch (ABC) is updated to reflect current MRIP estimates (based on the Fishing Effort Survey).

The Board also received an update on differences between the Interstate FMP and the federal Coastal Migratory Pelagics FMP for Spanish mackerel. The last update to the Interstate FMP was the Omnibus Amendment (2011) and its Addendum I for Spanish Mackerel (2013). Differences between the Interstate and Federal FMPs exist in terms of commercial management zones, commercial trip limits and closures, allowable gears, recreational season, and recreational accountability measures. The Board initially discussed this in February 2020, and postponed considering action to address the differences until completion of the 2022 stock assessment for Spanish mackerel.

During the Spanish mackerel discussions, the Board agreed to hold off on any potential management action for state waters, including addressing differences between the FMPs, until the

revised assessment is complete and the SAFMC determines what management action, if any, may be considered for federal waters. The Board also agreed to form a Spanish Mackerel Technical Committee to be prepared for any tasks following the revised stock assessment. In the interim, ASMFC staff will work with the States to compile information on each state's fisheries to provide the Board with a profile on Spanish mackerel fisheries along the coast, including growing fisheries at the northern end of the management unit.

The Board reviewed state compliance and FMP Reviews for the 2021 fishing year for both Spanish mackerel and Atlantic cobia. For Spanish mackerel, all states' regulations were found to be consistent with the FMP, and the Board approved all *de minimis* status for Rhode Island, New Jersey, and Delaware. For Atlantic cobia, all states' regulations were found to be consistent with the FMP, and the Board approved all *de minimis* requests from Rhode Island, New Jersey, Delaware, Maryland, Georgia, and Florida. The Cobia Plan Review Team (PRT) noted multiple states could exceed cobia *de minimis* thresholds over the next few years, which would require additional states to implement in-season monitoring of commercial landings and require state-specific recreational harvest targets to be re-calculated to incorporate additional states. Additionally, the current state-by-state allocation of recreational quota is based on landings data through only 2015, which may need to be updated to reflect more recent years. During the upcoming development of 2024 specifications, the Board can consider these potential updates to state recreational harvest targets.

For more information, please contact Emilie Franke, Fishery Management Plan Coordinator, at EFranke@asmfc.org.

Motions

Move to approve the Spanish Mackerel FMP Review for the 2021 fishing year, state compliance reports, and *de minimis* requests for Rhode Island, New Jersey, and Delaware.

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

Move to approve the Atlantic Cobia FMP Review for the 2021 fishing year, state compliance reports, and *de minimis* requests for Rhode Island, New Jersey, Delaware, Maryland, Georgia, and Florida.

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

ATLANTIC COASTAL FISH HABITAT PARTNERSHIP STEERING COMMITTEE (NOVEMBER 8-10, 2022)

Meeting Summary

The Atlantic Coastal Fish Habitat Partnership (ACFHP) Steering Committee received a presentation from The Nature Conservancy on recent habitat restoration projects in New Jersey, many of which were partially funded by ACFHP. The Committee discussed the transition plan over the next few months as a new director is hired. The rest of the time was spent on strategic and action planning for next five-year strategic plan and two-year action plan. The Steering Committee welcomed new members Robert Atwood (NH Fish and Game) and Eric Schneider (RI DEM).

CLIMATE CHANGE SCENARIO PLANNING INITIATIVE WORKSHOP (NOVEMBER 8, 2022)

Meeting Summary

Commissioners and proxies participated in a workshop as part of the East Coast Climate Change Scenario Planning Initiative (Initiative). This is a joint initiative among the Commission, the three East Coast Regional Fishery Management Councils, and NOAA Fisheries. Through this Initiative, fishery scientists and managers are working collaboratively and engaging diverse fishery stakeholders to explore jurisdictional and governance issues related to climate change and fish stock distributions. The Initiative uses scenario planning as a structured process for managers to explore and describe multiple plausible futures, termed “scenarios,” and consider how to best adapt and respond to them.

The purpose of the workshop was for Commissioners and proxies to have in-depth discussions on the four scenarios developed for this Initiative, and to provide ideas and recommendations to be considered in the Initiative’s next steps. The four scenarios represent different potential futures considering two uncertainties: 1) how predictable or unpredictable conditions will be; 2) whether stocks will be increasing/maintained or declining. Commissioners and Proxies discussed the challenges and opportunities presented by each scenario, and recommended considerations to add under each scenario.

Looking across all scenarios, Commissioners and proxies discussed the identified management themes of cross-jurisdictional governance, data & science, alternative ocean uses, and adaptability. They identified recurring ideas that are particularly important to them, including the need for flexible management response; building collaboration, trust and transparency among stakeholders at the table; incorporating politicians into the process, recognizing the impact of politics on decision-making; considering social and economic impacts and maintaining access for fishermen; developing stock assessment tools to account for changing environmental conditions; and evaluating what type of governance and management structure would lead to effective, nimble management.

Commission feedback was captured by the Initiative’s Core Team to inform the Initiative’s upcoming Summit in February 2023. The Commission will be sending ten representatives to participate in the Summit.

For more information, please contact Toni Kerns, Fisheries Policy Director, at tkerns@asmfc.org.

EXECUTIVE COMMITTEE (NOVEMBER 9, 2022)

Meeting Summary

The Executive Committee (Committee) met to discuss several issues, including the FY22 Audit; CARES Update, the Draft *De Minimis* Policy; North Atlantic right whale spending strategy; Conservation Equivalency Process; potential stipend for Legislative and Governor-appointed Commissioners; a draft letter in support of the Reinvesting in Shoreline Economies and

Ecosystems Act of 2021 (RISEE); and future annual meetings update. The following action items resulted from the Committee's discussions.

- The Executive Committee reviewed and approved the FY22 Audit, as recommended by the Administrative Oversight Committee.
- Staff provided an update on the balances in the CARES Act and Consolidated Appropriations Act (CAA) cooperative agreements. In CARES, there is projected to be about \$55,000 unspent, which the Commission will ask to re-budget to overhead for the Commission. In CAA, there is projected to be roughly \$5 million remaining that will be available to states that need additional funds. Staff will prepare a spreadsheet for the Executive Committee outlining the proposed re-allocation.
- The Committee reviewed the Draft *De Minimis* Policy and approved it for consideration by the ISFMP Policy Board.
- Staff presented a proposed spreadsheet for allocation of the North Atlantic right whale funds. The Committee discussed the spending strategy and agreed to the proposed allocation. The four northern states will develop individual spend plans and staff will work with the states from Connecticut through Maryland to develop and submit one combined spend plan. NOAA noted they are ready to review the spend plans and plan to turn them around within one to two weeks after submission.
- The Committee reviewed the proposed Conservation Equivalency Process, and approved it for Management & Science Committee review.
- A Committee member raised the question of providing a stipend to the Legislative and Governor Appointee Commissioners for their volunteer service to the Commission. The suggestion focused on providing stipends for participation in meetings beyond the four quarterly meeting weeks and joint meetings with the Mid-Atlantic Council, noting this work is more than should be required of a volunteer. Staff was directed to look at the Council process and develop proposed options for review at a future Committee meeting.
- Staff presented a letter drafted in support RISEE, noting if passed, 37.5% of the money generated through off-shore energy would be dedicated to the states and 12.5% will also be available through competitive grants. The Committee approved the letter of support be forwarded to the ISFMP Policy Board for action.
- Staff presented the schedule for future annual meetings; 10/14-19/23 – Beaufort, NC; 2024 – Maryland; 2025 – Delaware; 2026 – Rhode Island; 2027 – South Carolina; 2028 – Massachusetts; 2029 – Pennsylvania; and 2030 – Georgia.

For more information, please contact Laura Leach, Director of Finance and Administration, at lleach@asmfc.org.

Motions

On behalf of the Administrative Oversight Committee, move acceptance of the FY22 Audit.

Motion made by Mr. Cimino. Motion passes unanimously.

BUSINESS SESSION (NOVEMBER 9, 2022)

Meeting Summary

The Commission, via its Business Session, reviewed and approved the 2023 Action Plan to guide the Commission's activities over the next year. The Plan will be available on the Commission website at <http://www.asmfc.org/about-us/guiding-documents>. The Commission also re-elected Spud Woodward and Joe Cimino as its Chair and Vice-Chair, respectively. For more information, please contact Robert Beal, ASMFC Executive Director, at rbeal@asmfc.org.

Motions

Move to approve the 2023 Action Plan as modified today.

Motion made by Mr. Fote and seconded by Mr. Clark. Motion carries without objection.

Move to re-elect Spud Woodward as Commission Chair and Joe Cimino as Commission Vice-Chair.

Motion made by Mr. Keliher on behalf of the Nominating Committee. Motion approved without objection.

COASTAL SHARKS MANAGEMENT BOARD (NOVEMBER 9, 2022)

Meeting Summary

The Coastal Sharks Management Board met to consider a process to set 2023 specifications and review the Fishery Management Plan (FMP) Review and state compliance for the 2020 fishing year. Regarding specifications, NOAA Fisheries Highly Migratory Species Division published the [proposed 2023 Atlantic shark specifications in September](#). The proposed rule includes a start date of January 1 for all shark management groups, with quota levels and possession limits remaining unchanged from 2022. The proposed initial 2023 possession limit for the aggregate large coastal sharks (LCS) other than sandbar is 55 sharks per vessel trip, and the initial possession limit for blacknose sharks is eight sharks per vessel trip. NOAA Fisheries may reduce the retention limits as needed to ensure the quotas are not exceeded. Upon the release of NOAA's final rule later this year, the Board will set the 2023 coastal shark specifications via an email vote.

The Board reviewed and approved the FMP Review and state compliance for the 2020 fishing year, as well as *de minimis* status for Massachusetts.

A Board member inquired about the process for adding rays to the list of species managed under the authority of the Commission. Concerns were raised regarding unregulated recreational harvest via bowfishing within Delaware state waters. The Board agreed that more information on recreational and commercial harvest of rays, as well as any information on stock status should be gathered to help inform whether additional action should be taken. Once this information is gathered, it will be presented to the Board.

For more information, please contact Caitlin Starks, Senior Fishery Management Plan Coordinator at cstarks@asmfc.org.

Motions

Move to approve the 2023 coastal sharks specifications via an email vote after NOAA Fisheries HMS Division publishes the final rule for the 2023 Atlantic Shark commercial fishing season.

Motion made by Mr. Clark and seconded by Mr. Batsavage. Motion carries without objection.

Move to approve the Coastal Sharks FMP Review for the 2020 fishing year, state compliance reports, and the *de minimis* request from Massachusetts.

Motion made by Ms. Meserve and seconded by Mr. Reid. Motion carries without objection.

CAPTAIN DAVID H. HART AWARDS (NOVEMBER 7 & 9, 2022)

Press Release

Douglas Grout and Jason McNamee Named Captain David H. Hart Award Recipients for 2020 and 2022

Long Branch, NJ – At its 80th Annual Meeting in Long Branch, New Jersey, the Atlantic States Marine Fisheries Commission presented Douglas Grout, New Hampshire’s Governor Appointee, and Dr. Jason McNamee, Rhode Island Administrative Commissioner, the Captain David H. Hart Award for 2020 and 2022, respectively. The Commission instituted the Hart Award in 1991 to recognize individuals who have made outstanding efforts to improve Atlantic coast marine fisheries. The Hart Award is named for one of the Commission’s longest serving members, who dedicated himself to the advancement and protection of marine fishery resources, Captain David H. Hart, from the State of New Jersey.

“Having just returned to in-person meetings this May, we have a lot of catching up to do when it comes to acknowledging the achievements of those who have contributed to the success of the Commission and fisheries management along the Atlantic coast,” stated ASMFC Awards Committee Chair Jim Gilmore from New York. “This week we have the privilege of honoring two outstanding recipients for the Captain David H. Hart Award – Douglas Grout as the 2020 recipient and Dr. Jason McNamee as the 2022 recipient. I cannot think of a better way for us to celebrate our first Annual Meeting together since 2019 by honoring these two worthy gentlemen.”

Douglas Grout, New Hampshire Governor Appointee to the Commission

For nearly four decades, Douglas Grout has worked across all levels of government in the fields of marine fisheries science, management, and policy. A longstanding Commission participant, Doug has played a role in nearly all aspects of the Commission’s science and management programs – from his early work as a member of the Management and Science Committee and numerous technical and stock assessment committees, to his involvement and leadership on several species management boards including northern shrimp, striped bass, and American lobster. As Commission Chair from 2015-2017,

Doug oversaw the development of the Commission's Stock Assessment and Peer Review Process, leading the way for external peer reviews of benchmark stock assessments for Atlantic sturgeon, American shad, horseshoe crab, and many more since.

Through his extensive involvement with the New England Fishery Management Council, Doug led the Council in the development of an amendment to improve catch monitoring and bycatch caps for shad and river herring. He also served in a leadership role on the Council's Habitat Committee as it developed new protection measures, including those contained in the Omnibus Deep Sea Coral amendment.

Back in his home state, Doug devoted 36 years working for the New Hampshire Fish and Game Department, starting as a fish culturist and ultimately serving as Chief of Marine Fisheries from 2008-2020. During his time as Chief, he oversaw programs that included marine and anadromous resource management, monitoring, and education. He was also actively involved with the Great Bay National Estuarine Research Reserve and the Piscataqua Region Estuaries Partnership, with the goal of protecting and enhancing these nationally significant estuarine resources.



Doug's full body of work clearly highlights his commitment to fisheries science, management, and environmental policy. Throughout it all, he has maintained a steadfast manner, collaborative nature, and relentless work ethic which make him a treasured colleague and a cherished member of the fisheries science and management community.

Dr. Jason McNamee, Deputy Director of the Marine Fisheries Division for the Rhode Island Department of Environmental Management (RI DEM)

Dr. Jason McNamee is being recognized for his longstanding technical contributions, exceptional leadership, and commitment to sound fisheries management along the Eastern Seaboard. Since joining the RI DEM over two decades ago, Jason has advanced the quality of stock assessments and promoted the use of sound fisheries science in the management decision-making process. Jason has served in several positions within his agency and the Commission, and has been a contributing member, often in leadership positions, on numerous Commission species technical committees, stock assessment subcommittees, science advisory committees, and, more recently, species management boards.

Jason played a key role in a number of benchmark stock assessments, including those for Atlantic menhaden, summer flounder, tautog, and black sea bass. Notably, he led the Tautog Stock Assessment Subcommittee in developing an assessment that incorporated regional structure to address management board concerns. Further, he helped develop and implement a novel model approach to provide a method

to assess this data-poor stock and further corroborate assessment results. As Atlantic Menhaden Technical Committee Chair, Jason took a leadership role in the development of modeling approaches and ecosystem-based reference points. He also played a lead role in the development of management strategy evaluation, now being used by the Mid-Atlantic Fishery Management Council for summer flounder, as well as the Commission's risk and uncertainty policy.

In all the groups Jason has been a part of, he has consistently provided thoughtful and unbiased insights during committee discussions and has gone above and beyond to apply his technical knowledge and analytical skills to address challenging issues. Jason's leadership in developing new models and reference points for stock assessments has made him an enormous asset to the Commission and to science-based fisheries management in general.

In addition to his leadership and analytical support, Jason is an outstanding colleague, who is enthusiastic about his work, considerate of others' viewpoints, and able to maintain a calm demeanor even under the most adversarial conditions.



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PR22-30

ATLANTIC MENHADEN MANAGEMENT BOARD (NOVEMBER 9, 2022)

Press Release

Atlantic Menhaden Board Sets 2023 TAC at 233,550 MT & Approves Addendum I to Address Commercial Allocations, Episodic Event Set Asides, and Incidental Catch/Small-scale Fisheries

Long Branch, NJ – The Commission's Atlantic Menhaden Management Board set the 2023 total allowable catch (TAC) at 233,550 mt, which is an approximate 20% increase from the 2021-2022 TAC based on the positive stock status of the resource under ecological reference point-based management. According to Technical Committee analysis, this increase has a less than 40% probability of exceeding the target set by the ecological reference points (ERPs) adopted in 2020. Given the positive results of the 2022 Stock Assessment Update, the Board approved this modest increase to provide additional fishing opportunities, while maintaining a conservative risk level of exceeding the ERP target.

The Board also approved Addendum I to Amendment 3 to the Interstate Fishery Management Plan for Atlantic Menhaden. The Addendum changes the allocations for the commercial fishery. It creates a

three-tiered system for minimum allocations to the states, with Pennsylvania receiving 0.01%; South Carolina, Georgia, Connecticut, Delaware, North Carolina, and Florida receiving 0.25%; and the remaining states continuing to receive a minimum of 0.5%.

Furthermore, the Addendum allocates the remainder of the TAC, excluding the 1% reserved for the Episodic Event Set Aside (EESA) Program, on a state-by-state basis based on landings history of the fishery from 2018, 2019, and 2021. Regarding the Incidental Catch/Small-Scale Fishery (IC/SSF) provision, the Addendum codifies the ability for states to elect to divide their quotas into sectors, enabling individual sectors to enter into the provision at different times. Additionally, the Addendum removes purse seines as a permitted small-scale directed gear, thereby, prohibiting them from harvesting under the IC/SSF provision. Finally, the Addendum counts IC/SSF landings against the TAC and if IC/SSF landings cause the TAC to be exceeded, then the Board must take action to modify one or both of permitted gear types and trip limits under the provision.

The Board initiated Draft Addendum I in August 2021 in response to the recommendations of a Board Work Group charged with evaluating provisions of the current management program and providing strategies to refine those provisions. Under the EESA Program, 1% of the TAC is reserved at the start of the fishing year and Northeastern states from Maine to New York who can demonstrate a large influx of menhaden and have caught their state quota may apply to harvest during the event to reduce discards and prevent fish kills. Additionally, after a state quota allocation is met, the state may enter into the IC/SSF provision where certain small-scale directed gears and non-directed gears may continue to harvest menhaden at a reduced trip limit.

Since Amendment 3 was adopted in 2017, the EESA and IC/SSF provisions have been impacted by recent trends in landings. The impacts have been most notable in New England, where states rely on the EESA to keep their commercial fisheries open while working to secure quota transfers. An increasing abundance of menhaden in New England has led to a rise in landings under the IC/SSF provision once commercial quotas have been met. Addendum I aligns state quotas with recent landings and resource availability while maintaining access to the resource for all states, reduce dependence on quota transfers, and minimizing regulatory discards.

The new TAC and allocations are effective January 1, 2023; all remaining measures will become effective May 1, 2023. States implementation plans must be submitted by January 1, 2023 for Board review at the Winter Meeting. The Addendum will be available by the end of November on the Commission website at <http://www.asmfc.org/species/atlantic-menhaden> under Management Plans and FMP Reviews.

For more information, please contact James Boyle, Fishery Management Plan Coordinator, at jboyle@asmfc.org or 703.842.0740.

Table 1. Addendum I Atlantic Menhaden Allocations*

State	Allocation (%)
ME	4.80%
NH	1.19%
MA	2.12%
RI	0.81%
CT	0.33%
NY	0.86%
NJ	11.00%
PA	0.01%
DE	0.27%
MD	1.17%
PRFC	1.09%
VA	75.20%
NC	0.37%
SC	0.25%
GA	0.25%
FL	0.29%
TOTAL	100.00%

*Note: Allocation percentages shown here are rounded for clarity, quotas will be based on unrounded percentages values.

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Motions

Main Motion

Move to set the total allowable catch for 2023 through 2025 at 259,500 MT.

Motion made by Mr. Clark and seconded by Mr. Geer. Motion amended.

Motion to Amend

Motion to amend to replace 259,500 MT with 233,550 MT.

Motion made by Ms. Ware and seconded by Ms. Patterson. Motion passes without objection.

Main Motion as Amended

Move to set the total allowable catch for 2023 through 2025 at 233,550 MT.

Motion to Amend

Move to amend to replace 233,550 with 213,840 MT.

Motion made by Mr. LaFrance and seconded by Dr. Colden. Motion fails (5 in favor, 13 opposed).

Main Motion as Amended

Move to set the total allowable catch for 2023 through 2025 at 233,550 MT.

Motion to Amend

Move to amend to replace 233,550 MT with 225,000 MT.

Motion made by Ms. Fegley and seconded by Mr. Lustig. Motion fails (7 in favor, 11 opposed).

Main Motion as Amended

Move to set the total allowable catch for 2023 through 2025 at 233,550 MT.

Motion carries unanimously.

Main Motion

Move to approve a modified version of Option B of Section 3.1.1 allocation. Step 1 so that the following states are at 0.25% PA, SC, GA, CT, DE, NC, FL and the remaining states will all receive a base allocation of 0.5%

Motion made by Mr. Haymans and seconded by Mr. McDonough. Motion amended.

Motion to Amend

Motion to amend that Pennsylvania moves from 0.25% to 0.01%

Motion made by Ms. Patterson and seconded Mr. Miller. Motion carries (12 in favor, 2 opposed, 1 null, 3 abstentions).

Main Motion as Amended

Move to approve a modified version of option B of section 3.1.1 allocation. Step 1 so that the following states are at 0.25% SC, GA, CT, DE, NC, FL; that PA is at 0.01%; and the remaining states will all receive a base allocation of 0.5%

Motion carries (15 in favor, 1 opposed, 2 abstentions).

Main Motion

Move to approve under Section 3.1.2 Timeframe Option 3A: Combination, sub-option 1: 25/75.

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

Motion to Substitute

Move to substitute Option 4.B moving average: provision to limit states' moving average landings if total landings exceed the total allowable catch.

Motion made by Ms. Ware and seconded by Ms. Patterson. Motion fails (8 in favor, 10 opposed).

Main Motion

Move to approve under Section 3.1.2 Timeframe Option 3A: Combination, sub-option 1: 25/75.

Motion made by Mr. Clark and seconded by Mr. Geer. Motion substituted.

Motion to Substitute

Move to substitute Option 2: 2018, 2019, and 2021.

Motion made by Ms. Meserve and seconded by Mr. Gilmore. Motion passes (8 in favor, 7 opposed, 3 abstentions).

Main Motion as Substituted

Move to approve Section 3.1.2 Option 2: 2018, 2019, and 2021.

Motion passes (12 in favor, 3 opposed, 3 abstentions).

Move to approve overage payback Option 2

Motion made by Ms. Meserve and seconded by Mr. Gilmore. Motion carries without objection.

Move to approve Option 1 (status quo) under Section 3.2.1.

Motion made by Ms. Patterson and seconded by Mr. Cimino. Motion passes unanimously.

Move to approve under Section 3.3.1 Option 2 (States may split quota by sector/fishery/gear type).

Motion made by Mr. Cimino and seconded by Mr. Geer. Motion carries unanimously.

Main Motion

Move to adopt Option 2 in Section 3.3.2 (No purse seines, all other small-scale and non-directed gears maintained).

Motion made by Ms. Meserve and seconded by Ms. Fegley.

Motion to Substitute

Move to substitute to maintain purse seines in IC/SSF with a reduced trip limit of 4,000 lbs for purse seines only.

Motion made by Ms. Ware and seconded by Mr. Abbott. Motion tabled.

Move to table until after the Board addresses Section 3.3.4.

Motion made by Mr. Nowalsky and seconded by Mr. Reid. Motion carries unanimously.

Move to approve under Section 3.3.3 Option 1 (status quo).

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

Move to adopt Option 2A Sub-option 1 and Option 2B Sub-option 1 in Section 3.3.4 (to evaluate incidental catch and small-scale fishery landings annually against the coastwide total allowable catch and to allow the modification of the daily trip limit and/or gear types included in the incidental catch/small-scale fisheries provision via Board action).

Motion made by Dr. Colden and seconded by Mr. Grout. Motion carries unanimously.

Main Motion

Move to adopt Option 2 in Section 3.3.2 (No purse seines, all other small-scale and non-directed gears maintained).

Motion made by Ms. Meserve and seconded by Ms. Fegley.

Motion to Substitute

Move to substitute to maintain purse seines in IC/SSF with a reduced trip limit of 4,000 lbs for purse seines only.

Motion made by Ms. Ware and seconded by Mr. Abbott. Motion fails (5 in favor, 9 opposed, 3 abstentions, 1 null).

Main Motion

Move to adopt Option 2 in Section 3.3.2 (No purse seines, all other small-scale and non-directed gears maintained).

Motion made by Ms. Meserve and seconded by Ms. Fegley. Motion passes (14 in favor, 1 opposed, 3 abstentions).

Move to approve the Addendum as modified today and have the allocations be effective January 1, 2023 and the remaining measures will be effective May 1, 2023. Implementation plans will be submitted by January 1, 2023 and reviewed by the Board at the Winter Meeting in 2023

Motion made by Ms. Patterson and seconded by Mr. Gilmore. Motion passes unanimously.

HORSESHOE CRAB MANAGEMENT BOARD (NOVEMBER 10, 2022)

Press Release

Horseshoe Crab Board Sets 2023 Specifications for Horseshoe Crabs of Delaware Bay-Origin & Adopts ARM Framework Revision via Addendum VIII

Long Branch, NJ – The Commission’s Horseshoe Crab Management Board approved harvest specifications for horseshoe crabs of Delaware Bay-origin. Taking into consideration the recommendations of the Adaptive Resource Management (ARM) Framework Revision, the Board set a harvest limit of 475,000 male horseshoe crabs and zero female Delaware Bay-origin horseshoe crabs for the 2023 season.

“The ARM Framework Revision represents a considerable advancement in the science upon which we manage horseshoe crabs in the Delaware Bay Region,” stated Board Chair John Clark of Delaware. “ASMFC is very proud of this effort and the improvements that have been made to the model and data inputs for both horseshoe crabs and red knots. The Board’s action today is consistent with the goal of balancing ecosystem and fishery needs.”

Acknowledging public concern about the status of the red knot population in the Delaware Bay, the Board elected to implement a zero female horseshoe crab harvest for the 2023 season as a conservative measure. To make up for the lost harvest of larger female crabs, the Board agreed to increase Maryland and Virginia’s male harvest quotas with an offset ratio of 2:1 males to females. Using the allocation methodology established in Addendum VIII, the following quotas were set for New Jersey, Delaware, Maryland, and Virginia:

	Delaware Bay Origin Horseshoe Crab Quota (no. of crabs)	Total Quota**
State	Male Only	Male Only
Delaware	164,364	164,364
New Jersey	164,364	164,364
Maryland	126,221	255,980
Virginia*	20,052	81,331

*Virginia harvest refers to harvest east of the COLREGS line only

**Total harvest quotas for Maryland and Virginia include crabs which are not of Delaware Bay origin.

The Board also approved Addendum VIII to the Interstate Fishery Management Plan (FMP) for Horseshoe Crab. Addendum VIII adopts the changes to the ARM Framework as recommended in the peer-reviewed 2021 ARM Framework Revision, and allows its use in setting annual bait harvest specifications for horseshoe crabs of Delaware Bay-origin. The Board initiated Draft Addendum VIII in January 2022, after accepting the 2021 Revision of the ARM Framework and Peer Review Report for management use. The 2021 Revision includes improvements to the ARM Framework’s population models for horseshoe crabs and red knots and incorporates more sources of horseshoe crab removal data, including mortality due to the biomedical industry and commercial discards from other fisheries. Given these improvements, which address previous peer review critiques, the ARM Revision was endorsed by the independent peer review panel as the best scientific information for the management of horseshoe crabs in the Delaware Bay Region that accounts for the forage needs of migratory shorebirds.

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 an important food source for the rufa red knot, which is listed as threatened under the Endangered Species Act.

Under Addendum VIII, the 2021 ARM Revision will be used to annually produce bait harvest recommendations for male and female horseshoe crabs of Delaware Bay-origin, based on the abundance of horseshoe crabs and red knots. The maximum number of male and female horseshoe crabs the ARM Revision can recommend (500,000 males and 210,000 females) and the conceptual model of horseshoe crab abundance influencing red knot survival and reproduction remain unchanged, with the objective of ensuring horseshoe crab abundance does not become a limiting factor for the population growth of red knots. While the methodology for allocating the overall quota among the four Delaware Bay states is also unchanged, the state allocations have been updated to reflect the most current genetic information on the proportion of each state’s harvest that is of Delaware Bay-origin.

The Addendum will be available next week on the Commission website, www.asmf.org, under Management Plans & FMP Reviews. A more detailed overview of the 2021 ARM Revision can be found [here](#). The final ARM Revision and Peer Review Report is available [here](#). The U.S. Geological Survey released the software code for the ARM Framework models on November 3, which is posted on GitLab at <https://code.usgs.gov/cooperativeresearchunits/hsc-adp/-/releases>. A description of the software release can be found in a Readme summary at <https://code.usgs.gov/cooperativeresearchunits/hsc-adp/-/tree/main>.

For more information, please contact Caitlin Starks, Senior Fishery Management Coordinator, at cstarks@asmfc.org.

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PR22-32

Meeting Summary

In addition to approving Addendum VIII and setting Delaware Bay-origin harvest specifications for 2023, the Board populated a work group to review the best management practices (BMPs) for handling biomedical collections, and approved the Fishery Management Plan (FMP) Review for the 2021 fishing year.

The Board approved nominations for individuals to serve on the work group that will review and update the best management practices (BMPs) for handling biomedical catch. The work group includes technical committee and advisory panel members with expertise in horseshoe crab biology, ecology, and biomedical processing. The Board is expected to review the recommendations of the work group at the Spring 2023 meeting.

The Board also discussed forming a work group to evaluate current goals and objectives for the Delaware Bay horseshoe crab fishery and ecosystem. Staff will provide additional information to the Board on available resources and approaches for the work group at its next meeting.

Finally, the Board approved the Fishery Management Plan (FMP) Review and state compliance reports for horseshoe crab for the 2021 fishing year. For more information, please contact Caitlin Starks, Senior Fishery Management Plan Coordinator, at cstarks@asmfc.org.

Motions

Main Motion

Move to implement Option B: Implement the ARM revision for setting bait harvest specifications for DE-Bay origin horseshoe crabs and Suboption B1: round down continuous optimal harvest specifications to the nearest 25,000 crabs, with the intent to allow the 2:1 offset for MD and VA if the Board sets female harvest at zero during specification setting.

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

Motion to Amend

Motion to amend to replace Suboption B1 with Suboption B2.

Motion made by Mr. Jacobson and seconded by Dr. Davis.

Motion fails (2 in favor, 11 opposed, 2 abstentions).

Main Motion

Move to implement Option B: Implement the ARM revision for setting bait harvest specifications for DE-Bay origin horseshoe crabs and Suboption B1: round down continuous optimal harvest specifications to the nearest 25,000 crabs, with the intent to allow the 2:1 offset for MD and VA if the Board sets female harvest at zero during specification setting.

Motion made by Ms. Madsen and seconded by Mr. Luisi. Motion carries (14 in favor, 1 abstention).

Move to approve Addendum VIII as modified today with an implementation date effective today.

Motion made by Dr. Davis and seconded by Ms. Madsen. Motion approved unanimously.

Move to accept the 2023 Adaptive Resource Management harvest specifications with 475,000 males and no female harvest on Delaware Bay-origin crabs. In addition, the 2:1 offset will be added to MD's and VA's allocations due to no female harvest.

Motion made by Ms. Madsen and seconded by Mr. Luisi. Motion passes with 1 abstention.

Move to approve the nominations to the work group to review best management practices for handling biomedical collections.

Motion made by Mr. Hasbrouck and seconded by Dr. McManus. Motion passes by unanimous consent.

Move to approve the FMP Review, state compliance reports, and *de minimis* requests for South Carolina, Georgia, and Florida for the 2021 fishing year.

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

INTERSTATE FISHERIES MANAGEMENT PROGRAM POLICY BOARD (NOVEMBER 7, 2022)

Meeting Summary

The Interstate Fisheries Management Program Policy Board met to receive an update from Executive Committee; consider approval of the *De Minimis* Policy; receive a report from the Habitat Committee; receive a report from the Atlantic Coast Fish Habitat Partnership; receive a report from the Law Enforcement Committee; receive and update on ongoing stock assessments; and consider sending a letter of support to Senate Leadership on the Reinvesting in Shoreline Economies and Ecosystems (RISEE) Act.

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

The Commission includes *de minimis* provisions in Interstate FMPs to reduce the management burden for states that have a negligible effect on the conservation of a species. The *de minimis* provisions in FMPs vary by species and include a range of requirements for management measures, reporting requirements, and *de minimis* qualification periods. Staff presented a draft policy that would establish *de minimis* standards across all FMPs but allow for exceptions for unique characteristics of a species. Included in the new policy is the requirement for FMPs to establish baseline regulations that will provide a minimum level of conservation and prevent regulatory loop holes but not require *de minimis* states to change regulations on an annual basis. The Policy Board approved the *De Minimis* Policy as presented.

Dr. Lisa Havel provided updates on the Atlantic Coastal Fish Habitat Partnership (ACFHP) and Habitat Committee (HC) (both summaries can be found earlier in this document). The ACFHP Steering Committee met this week to primarily focus on transition plans and strategic and action planning for the next year, as well as review a presentation from The Nature Conservancy on funded projects. Dr. Havel announced ACFHP is currently [accepting project applications](#) to restore and conserve habitat necessary to support coastal, estuarine-dependent, and diadromous fish species along the U.S. Atlantic coast. Federal funding that is available through the National Fish Habitat Partnership program will be used to support the top ranked proposals.

Dr. Havel presented a draft of the Fish Habitats of Concern designations. The draft document describes the regulatory and policy context for habitat descriptions in Commission FMPs. The Policy Board raised a few questions concerning some of the species' designations for the HC and requested additional time to review the documents before considering approval.

The Policy Board received updates on several ongoing assessments some of which are being conducted via the Northeast Fisheries Science Center (NEFSC). Black drum, spiny dogfish (NEFSC) and bluefish (NEFSC) assessment reports have recently been finalized and will go to peer review this winter. The black sea bass (NEFSC) assessment recently requested an extension. It was previously scheduled for a review in February 2023, but a new timeframe has not been announced. The red drum assessment has just started and the committee will bring terms of reference before the Sciaenids Board for approval this spring.

The Policy Board agreed to send a letter of support for the RISEE Act to Senate Leadership. Currently, all operating fees, rentals, bonuses, royalties, and other payments for offshore wind in the U.S. exclusive economic zone are deposited in the U.S. Treasury. The RISEE Act, would provide 37.5% of these revenues to coastal states, 12.5% to the National Oceans and Coastal Security Fund, and 50% would continue to be deposited in the U.S. Treasury. The RISEE Act will offset some of the negative consequences of offshore wind development by providing states, local governments, Tribal Nations, nongovernmental organizations, public-private partnerships, and academic institutions with resources to mitigate the necessary changes imposed by construction, access restrictions, and increased use of shore-side infrastructure. Importantly, the RISEE Act will provide a dedicated funding stream to coastal states and the National Oceans and Coastal Security Fund, which has a proven track record of success in protecting against rising sea levels by enhancing infrastructure resiliency, protecting and restoring coastal marine habitats, and supporting sustainable marine resource management.

For more information, please contact Toni Kerns, Fisheries Policy Director, at tkerns@asmfc.org.

Motions

Move to approve the *De Minimis* Policy as presented today.

Motion made by Mr. Grout and seconded by Mr. Haymans. Motion carries without objection but with one abstention.

Interstate Fisheries Management Update

Outcomes from ASMFC Annual Meeting, November 7-10
Preview of MAFMC/ASMFC Joint December 13 Meeting

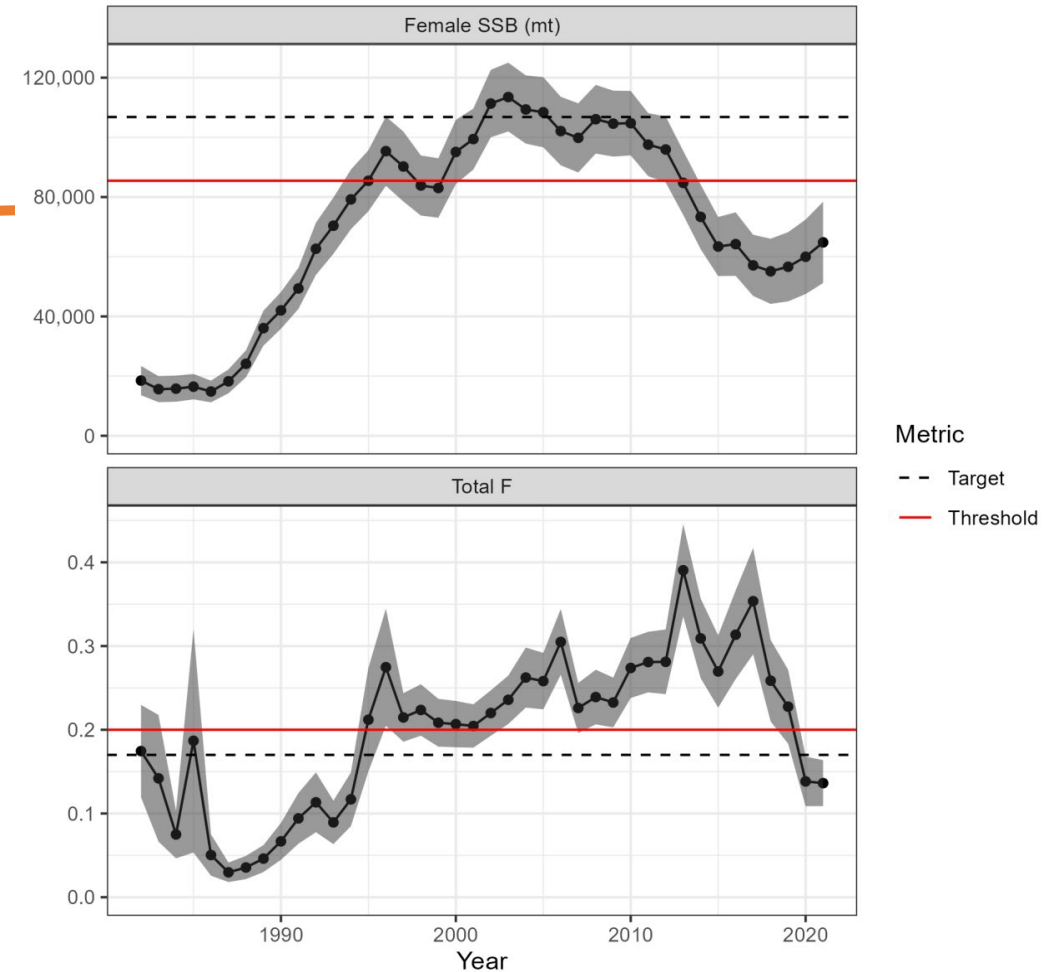
Marine Fisheries
Advisory Commission
November 22, 2022

Massachusetts Division
of Marine Fisheries



Striped Bass

- 2022 stock assessment update
 - Overfished but overfishing no longer occurring
 - Projected to achieve rebuilding target by 2029 with >50% probability
 - No additional reductions required right now.
 - Success with caution: retrospective pattern of underestimating F, poor recruitment continues in MD Chesapeake Bay JAI.



Striped Bass

MA Virtual Hearing:
December 19
(tentative)

Written Comment
Deadline: January 13

- Draft Addendum I approved for Public Comment
 - Considers allowing transfers of coastal commercial quota
 - Options:
 - Allow in general, with a 5% “conservation tax” on transfer amount if stock is overfished
 - Allow in general, except not allowed if stock is overfished
 - Board determines if allowed based on stock/fishery conditions, with 5% conservation tax if overfished
 - Board determines if allowed based on stock/fishery conditions, except not allowed if stock is overfished
- Final action expected at ASMFC Winter Meeting



Atlantic Menhaden

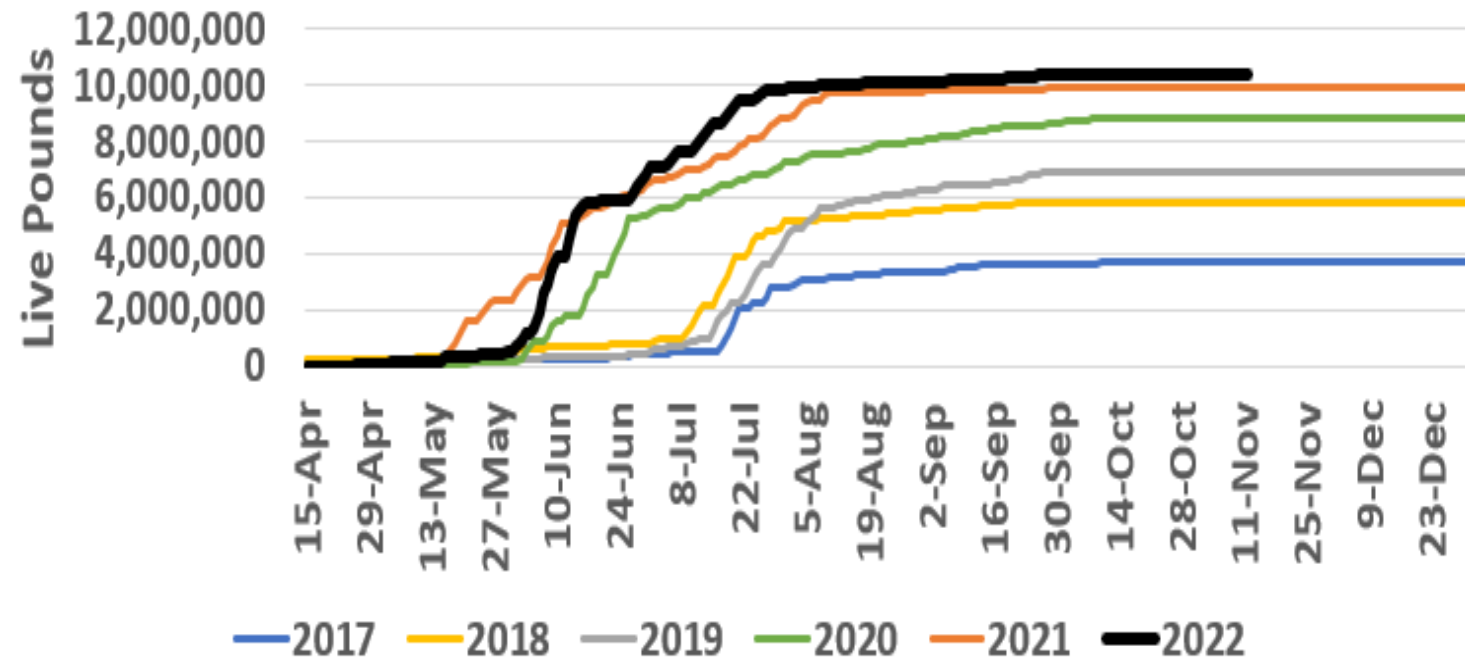
- 2023-2025 TAC set at 233,550 MT
 - Up 20% from 194,400 MT
 - <40% probability of causing the ERP F target to be exceeded
- Addendum I Approved
 - New State Allocations
 - 3-tiered minimum & 2018/19/21 landings basis
 - EESA still 1% off the top
 - Removal of purse seines from IC/SSF allowance
 - IC/SSF landings to be evaluated against TAC; if overage, Board must change trip limit or gears allowed, and may do so by Board action.

	Am 3	Add I	2023 (mlb)
ME	0.52%	4.80%	24.5
NH	0.50%	1.19%	6.0
MA	1.27%	2.12%	10.8
RI	0.52%	0.81%	4.1
CT	0.52%	0.33%	1.7
NY	0.69%	0.86%	4.4
NJ	10.87%	11.00%	56.1
PA	0.50%	0.01%	0.05
DE	0.51%	0.27%	1.4
MD	1.89%	1.17%	5.9
PRFC	1.07%	1.09%	5.5
VA	78.66%	75.20%	383.3
NC	0.96%	0.37%	1.9
SC	0.50%	0.25%	1.3
GA	0.50%	0.25%	1.3
FL	0.52%	0.29%	1.5
EESA	1.0%	1.0%	5.1

Atlantic Menhaden

- 2023 quota = 10.8 mlb
 - 2021/2022 landings closer to that after 6+ transfers and EESA use
- Rule changes
 - Required: IC/SSF purse seine removal
 - Additional scoping meeting this winter for other issues
 - Rule-making in early spring

Annual Running Totals of Landings: Menhaden



American Lobster

- Review of stock status indicators
- Rescinding/redevelopment of Draft Addendum XXVII: management triggers to increase spawning stock protection of GOM/GBK stock
 - Previously delayed for myriad of reasons: protected species issues, international trade implications, desire for in-person hearings, awaiting status indicators
 - Trigger levels and implementation schedule for action to be revised
 - May be approved for comment at ASMFC Winter Meeting






- River Herring & Shad
 - RH SFMPs for Nemasket River (update) and Herring River (new) approved.
 - Shad Habitat Plan updated with Taunton River 5-year stocking project.
- Horseshoe Crab
 - Adaptive Framework Model for setting DE-Bay harvest specifications updated based on best available science; but no female harvest authorized for 2023.
 - Working group approved to review BMPs for biomedical handling; recommendations expected in spring 2023.
- *New de minimis* policy



MAFMC/ASMFC Joint Meeting: December 13

- Next step in setting 2023 recreational measures for fluke, scup & black sea bass
 - RHLs set in August
 - Use new “Percent Change” approach to bin each species
 - Determine coastwide or regional approaches to achieve
- Resume discussion on recreational sector separation and catch accounting amendment.

Future RHL vs Harvest Estimate	Stock biomass compared to the target stock size (B/B_{MSY})	Change in Harvest
Future 2-year average RHL is greater than the upper bound of the harvest estimate confidence interval (harvest is expected to be lower than the RHL)	Very high (at least 150% of the target stock size)	Liberalization percent based on the difference between the harvest estimate and the 2-year average RHL, <u>not to exceed 40%</u>
	High (between the target and 150% of the target stock size)	Liberalization percent based on the difference between the harvest estimate and the 2-year average RHL, <u>not to exceed 20%</u>
	Low (below the target stock size)	Liberalization: 10% 
Future 2-year average RHL is within the confidence interval of the harvest estimate (harvest is expected to be close to the RHL)	Very high (at least 150% of the target stock size)	Liberalization: 10%
	High (between the target and 150% of the target stock size)	No change: 0% 
	Low (below the target stock size)	Reduction: 10%
Future 2-year average RHL is less than the lower bound of the harvest estimate confidence interval (harvest is expected to exceed the RHL)	Very high (at least 150% of the target stock size)	Reduction: 10% 
	High (between the target and 150% of the target stock size)	Reduction percent based on the difference between the harvest estimate and the 2-year average RHL, <u>not to exceed 20%</u>
	Low (below the target stock size)	Reduction percent based on the difference between the harvest estimate and the 2-year average RHL, <u>not to exceed 40%</u>



Questions?



**NEFMC Updates for Marine Fisheries Advisory Commission
November 22, 2022**

Upcoming Council Meetings

- [December 5- 8, 2022 in Newport, RI](#)

The following FMP updates focus on pending discussion and decisions at the December Council meeting.

FMP updates:

Groundfish

- November 22nd and December 2nd Committee meetings
- Scheduled for Tuesday, December 6th at Council
- Approval of FW65 (specifications for 2023-2025)
 - Concern around declining/constraining catch limits:
 - White hake is an important stock for offshore fishing and successful prosecution of redfish fishery. SSC approved limits based on 70%Fmsy. Possible remand for consideration of limits under 75%Fmsy.
 - GOM haddock is an important stock for nearshore fishing and is facing an 80%+ decline in Annual Biological Catch (ABC). The decline, mainly due to ageing out of 2013 year class, will constrain commercial and recreational fisheries in state and federal waters. A potential 2020 year class may be recruiting to the fishery in 2023 and beyond. Committee discussions will likely focus on if and how to phase in such a drastic change in catch recommendations.

Scallops

- December 1st Committee meeting
- Scheduled for Wednesday, December 7th at Council
- Approval of FW36 (specifications for 2023 & defaults for 2024)

Habitat

- Update on framework adjustment to facilitate offshore Atlantic salmon aquaculture
- Discuss retention of Georges Bank Dedicated Habitat Research Area (DHRA)
- Updates on offshore energy and habitat-related work

Monkfish

- November 29th Committee meeting
- Scheduled for Wednesday, December 7th at Council
- Approval of FW13 (specifications for 2023-2025)

EBFM

- Scheduled for Thursday, December 8th of Council
- Receive summary of seven in-person EBFM Public Information Workshops
- Overview of Prototype MSE scoping meetings for EBFM and the Georges Bank example Fishery Ecosystem Plan (eFEP)
- Report on November 2022 CMOD meeting

Spiny Dogfish

- Scheduled for Thursday, December 8th of Council
- Approve specifications for the 2023 spiny dogfish fishing year

Non-FMP Agenda Items

Climate Change Scenario Planning

- Scheduled for Wednesday, December 7th of Council
- Facilitated discussion to identify main takeaways and potential actions across four thematic areas – management and governance, data and science, alternative ocean uses, and adaptability – developed through the East Coast Climate Change Scenario Planning initiative.
- Recommend and prioritize actions for evaluation at a February 2023 Summit to assist East Coast fishery management organizations in adapting to climate change.



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Division of Marine Fisheries

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DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)
THRU: Daniel J. McKiernan, Director
FROM: Story Reed, Assistant Director
DATE: November 17, 2022
SUBJECT: **Summary of MFAC Permitting Sub-Committee Meeting**

The MFAC's Permitting Sub-Committee (PSC) met on October 20, 2022 via Zoom. In attendance were Shelley Edmundson; Bill Doyle; and Bill Amaru from the Marine Fisheries Advisory Commission (MFAC); and Daniel McKiernan (Director); Story Reed (Sub-Committee Chair); Jared Silva; Julia Kaplan; Anna Webb; and Kerry Allard of the Division of Marine Fisheries (DMF).

Based on the discussion at this meeting, there are several topics, challenges, and deliverables that DMF intends to follow up on with the Sub-Committee and MFAC in late 2022/early 2023. This summary describes the PSC's discussions on a variety of topics and the pending deliverables for 2023.

Meeting Summary

DMF provided the PSC with a presentation broadly describing the legal framework establishing DMF's permitting program. This focused principally on the transferability of limited entry permits and regulated fishery permit endorsements. DMF reviewed recent annual transfer information and how the median age of permit holders has changed overtime. The full presentation is attached.

Permitting Issues and Objectives

DMF then highlighted several permitting issues and objectives that have been identified as being of substantial importance to the state's fishing industry. This includes: (1) promoting diverse permit portfolios; (2) encouraging new entrants and maintaining fishing communities; (3) equity invested by permit holders in permit profile; (4) dynamically managing effort in response to fishery performance and conservation goals; (5) extending the "immediate family" exemption regarding the determination of "actively fished" for the Coastal Lobster Permit to other limited entry permit endorsements; (6) examining—and possibly amending—activity and experience criteria for certain limited entry fisheries; (7) setting standards for what constitutes prior experience and commercial fishing activity; and (8) requiring owner-operator upon transfer.

The PSC then discussed these objectives at length. Conversation focused on several specific issues: (1) managing the permitting system to allow the full utilization of existing quotas; (2) challenges associated with obtaining a permit transfer; (3) encouraging younger fishers to enter commercial fisheries; and (4) enabling active fishers in multi-species fisheries (e.g., summertime inshore summer flounder trawl fishery) to obtain the necessary endorsements to maximize their ability to retain bycatch species.

Deliverables

Based on the above-described discussion, DMF developed the following list of deliverables for further consideration. DMF will internally analyze these matters and reconvene the PSC for further deliberation. The PSC encouraged DMF to establish an industry working group to assist help in the strategic development of potential amendments to the state's permitting program.

1. DMF will look into activity levels for certain endorsements such as sea bass, horseshoe crabs, tautog, surf clams, and fluke to help guide conversations on adjusting the requirements for a permit transfer. The MFAC members suggested various potential avenues for adjusting the limited entry requirements, such as liberalizing the actively fished 4 out of the past 5 years requirement or evaluating permit activity for a given fishery on a three-year basis.
2. DMF will investigate ways to encourage new entrants, included younger persons, to join the commercial fishery. The MFAC recommended starting with the student lobster permit and looking into whether it is an adequate entry-level permit.
3. DMF will look into mobile-gear fishing that occurs primarily south of the Cape and ways to encourage new entrants into mobile gear fishing, including ways to diversify permit portfolios. The MFAC requested that an advisory panel be formed comprised of commercial fishermen to participate at the next meeting.

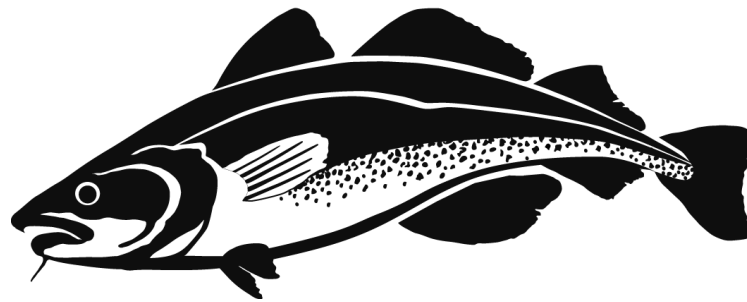
Attachments

October 20, 2022 DMF Presentation to PSC

Permitting Sub-Committee

October 20, 2022

Marine Fisheries
Commonwealth of Massachusetts



Limited-Entry & Transfer Background

G.L. c. 130,
s. 2 and 38B

- Section 2: DMF issued permits and endorsements are non-transferable.
- Section 2: DMF may develop regulations allowing transferability of limited entry permits.
- Section 38B: Requires DMF to develop transferability program for lobster permits.

322 CMR
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- Establishes transferability rules for lobster permits.
- Establishes transferability rules for transferable limited entry endorsements.
- Gillnet, Bluefish Gillnet, and SW-Groundfish (not on a CAP) endorsements are only limited-entry endorsement that remain non-transferable.

DMF
Policies

- Fill in gaps and further clarify permit transferability program.
- Ex: Permit bundling for similar gear types; activity thresholds and lookback periods for endorsements; non-profit policy; COVID lookback policy.



Regulatory Transfer Programs

Coastal Lobster (LMA1)

- Permit in good standing.
- Fished 4 out of past 5 years with limited exemptions (e.g., disability or military duty).
- Activity threshold of 1,000 lbs sold or 20 transactions.
- Transferee 1-year pot fishing experience or 2-years in another commercial fishery.
- Experience and activity requirements waived for immediate family members.

Coastal Lobster (LMA2 and OCC)

- Permit in good standing.
- Allows transfer of whole business or individual trap allocations.
- Whole business transfers have same eligibility requirements for transferor and transferee as LMA1.
- No eligibility criteria for trap allocation transfers, but subject to mandatory trap debit.

Offshore Lobster (LMA1 Only)

- Permit is in good standing.
- Transfer involves movement of federal trap permit.
- No eligibility or activity criteria.

Permit Endorsements

- Permit in good standing.
- Fished 4 out of past 5 years with limited exemptions (e.g., disability or military duty).
- Activity thresholds are 1 pound landed except if otherwise established by policy.
- Transferee 1-year experience in commercial fishing except pot fisheries requiring 1-year experience in trap fishery or 2-years in another commercial fishery.



DMF Permit Transfer Policies

Conch Pot Activity Threshold (2012)

- Actively fished is defined as landing and selling 5,000 pounds of whelk by conch pot per year for four out of the past five years.

Bundling Policy (2016)

- Allows certain similar endorsements to be transferred as a bundle even if not all have been actively fished
- E.g., Rod & Reel endorsements, Fish Pot endorsements

Non-Profit Organizations Supporting Local Fleets Policy (2016)

- Allows 501(c)(3) non-profits dedicated to the preservation of local fishing fleets to temporarily obtain and hold DMF owner-operator limited entry permits and/or endorsements until a suitable, qualified transferee is found
- Essentially pauses the “actively fished” criteria while the permit is held by the non-profit
- Permit and/or endorsement bundles cannot be split



DMF Permit Transfer Policies Cont.

COVID and Actively Fished Lookback Policy (2020)

- Allows 2020 to be excluded for the four-out-of-five-year lookback for all limited entry permit and endorsements.

Rod & Reel Transfer Policy (2021)

- Allows for the transferability of actively fished Sea Bass, Fluke, and Tautog endorsements.
- Actively fished for one or more of these endorsements is defined as having landed at least one trip limit, annually in aggregate, in four out of the last five years.
- Bundling is allowed for two or three of these endorsements if at least one meets the actively fished criteria.



Limited Entry Permits & Endorsements

Limited Entry Fishery	Limited Entry Year	Transferable (Y/N)	2022 # Issued	Owner/Operator
Coastal Lobster Permit	1975	Y	1,006	Y
Bluefish Gillnet	1983	N	1	N
Sink Gillnet	1992	N	70	N
Scup Pot	1990	Y	137	Y
Sea Bass Pot	1987	Y	56	Y
Inshore Net Purse Seine	1988(?)	Y	11	N
Conch Pot	1990	Y	131	Y
Surf Clam/Ocean Quahog	1993	Y	33	N
Coastal Access Permit	1992	Y	174	N
Fluke	1999	Y	587	N
Bay Quahog Dredge	2001	Y	43	N
State Waters Groundfish	2006	Y (w/ CAP)	533	N
Horseshoe Crab	2008	Y	204	N
Black Sea Bass	2012	Y	1,078	N
Menhaden	2013	Y	55	Y
Tautog	2019	Y	210	N



Number Issued – Past 5 Years

Limited Entry Fishery	Year	Transferable	2018	2019	2020	2021	2022
Coastal Lobster	1975	Y	1082	1066	1047	1031	1006
SW-Groundfish	2006	Y(w/ CAP)	614	594	566	553	533
Fluke	1999	Y(Limited)	674	656	635	611	587
Gillnet	1992	N	85	83	80	73	70
Sea Bass	2012	Y	1260	1224	1168	1116	1078
Fish Pot-Conch	1990	Y	138	137	136	133	131
Fish Pot-Scup	1990	Y	144	142	140	139	137
Fish Pot-Sea Bass	1987	Y	57	56	56	56	56
Surf Clam/Ocean Quahog	1993	Y	37	36	35	34	33
Tautog	2019	Y	2040	210	218	214	210



Median Age

Permit/Endorsement	2015 Median Age	2022 Median Age
All Permits	54	56
Coastal Lobster	57	60
Coastal Access Permit	56	59
Fluke	60	63
Conch-Pot	56	58
Scup-Pot	55	58
Sea Bass-Pot	55	57
Sea Bass	55	60
Gillnet	60	66
SW-Groundfish	58	63
Tautog	53	56



Median Age Coastal Lobster Transfers

Younger people transferring into the lobster fishery over the past 5 years

- 149 transfers

Permit Holder	Median Age
Original Permit Holder	65
Transferee	34



Limited Entry Permit Transfers

Limited Entry Fishery	2017	2018	2019	2020	2021
Coastal Lobster	33	32	42	23	34
Mobile Gear CAP	8	7	5	8	9
Fish Pot	5	6	7	3	10
Fluke	12	10	13	18	21
Black Sea Bass	7	6	6	23	31
SW-Groundfish	2	2	1	3	2
Surf Clam/Ocean Quahog	3	1	2	0	2
Quahog Dredge	2	2	2	0	3
Horseshoe Crab	3	3	1	1	7
Menhaden	0	0	0	2	1
Tautog	n/a	n/a	0	2	8
Inshore Net	0	0	0	0	1



Permitting Issues and Objectives

- How to promote diverse permit portfolios.
- Encourage new entrants and maintain fishing communities.
- Consider permit holders concerns of equity invested in permits.
- Manage effort dynamically in response to fishery performance and conservation goals.
- Extending CLP immediate family activity exemption to other limited entry permits/endorsements.
- Examining activity and experience criteria.
- Setting standards for what constitutes prior experience and commercial fishing activity.
- Requiring owner-operator upon transfer.



Next Steps

- Additional analysis?
- Next meeting





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DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)
THRU: Daniel J. McKiernan, Director
FROM: Jared Silva, Policy Analyst
DATE: November 17, 2022
SUBJECT: Summary of Law Enforcement Sub-Committee Meeting

The MFAC's Law Enforcement Sub-Committee (LESC) met on October 26, 2022. In attendance were Raymond Kane, MFAC Chair; Shelley Edmundson; and Bill Doyle from the MFAC; Jared Silva (Sub-Committee Chair); Mike Armstrong; Story Reed; Jeff Kennedy; Nichola Meserve; and Julia Kaplan from the Division of Marine Fisheries (DMF); and Major Chris Baker; Lt. Matthew Bass; Lt. James Cullen; and Ofc. Dave Marrocco from the Massachusetts Environmental Police (MEP).

Based on the discussion at this meeting, there are several deliverables that DMF intends to follow up with the MFAC on in early 2023. This memorandum summarizes the contents of this sub-committee meetings and the outstanding deliverables.

Review of 2022 Quota Management Enforcement Issues

Menhaden

MEP discussed the difficulties in enforcing menhaden trip limits for the limited entry fishery during the quota management period. Of specific concern was that period when the trip limit is set at 125,000 pounds and vessels are landing large quantities of fish. Among the items discussed to address this was a volumetric equivalency or standard. For instance, Rhode Island requires commercial menhaden vessels to have their fish holds surveyed and marked at the trip limit capacity. The LESC suggested that such a system be considered in Massachusetts (particularly during the 125,000-pound trip limit period) and DMF consider prohibiting the use of carrier vessels once the limit drops to 25,000-pounds.

The LESC also discussed the "single ticket" reporting system for menhaden whereby limited entry permit holders (or participants in the Episodic Event Set Aside Fishery) are required to obtain bait dealer permits and be the primary buyer of their own catch. MEP explained how this system reduces accountability and makes overages difficult to detect. DMF stated they would bring these items to a public industry scoping meeting later this winter.

Striped Bass

With the adoption of consecutive commercial fishing days, commercial anglers may now fish overnight tides. As a result, MEP is encountering two discrete non-compliance issues. First, fishers are beginning their commercial fishing trips before the start of the commercial fishing day when the catch will be landed, including on Sundays—a closed commercial fishing day when commercial fishing is prohibited. Second, with catch is being landed at times when primary buyers are not open for business (i.e., late night and early morning hours). As the primary buyers are unable to accept the product, fishers are dropping their catch off at unoccupied dealer facilities with information regarding the permit holder. As a result, fish are not being immediately tagged, there are chain of custody issues, and enforcement at the dealer level is weakened. The LESC suggested DMF require the dealer be physically present at primary purchase to accept and immediately tag the fish.

MEP also described an issue regarding the measurement of striped bass. To determine the total length of the fish, the regulation requires a straight-line measurement from the snout of the fish to the furthest extremity of the tail and if a tail is forked the tail may be squeezed together to measure the extremity. The fact that the tail “may” be squeezed complicates compliance with the size limit rules, particularly with the recreational slot limit. MEP described how this “may” allows anglers to either squeeze the tail to lengthen the fish or fan a tail to shorten the fish to allow for its retention. MEP argued that more precise regulatory language would improve both enforcement and compliance. The LESC asked DMF to consider amending the total length definition to require either the tail be squeezed or fanned.

Shellfish Tagging

DMF and MEP provided the LESC with some background information regarding a variety of shellfish tagging issues encountered this year. Foremost among them was untagged shellfish being found at shellfish dealers. DMF and MEP discussed the appropriateness of involving the Department of Public Health (DPH) in incidents involving untagged shellfish at seafood dealers, as DPH is the principal regulatory authority governing shellfish handling by seafood dealers. DMF noted this issue would also be on the agenda for an upcoming DMF-DPH-MEP meeting.

DMF also informed the LESC that the Shellfish Advisory Panel’s has established a sub-committee to look at expanding bulk tagging allowances for harvesters. DMF currently allows for bulk tagging by aquaculturists who are also licensed shellfish dealers (“grower-dealers”). There is some interest among industry in expanding this program to all aquaculturists and potentially wild harvesters. DMF staff was currently conducting a comparative analysis of bulk tagging rules in other coastal states for this sub-committee to consider. The sub-committee would then refer the issue back to the full Shellfish Advisory Panel who would provide guidance to DMF on advancing the issue.

Gear Removal and Trap Gear Closure Efforts

DMF briefly reviewed 2022 efforts to remove abandoned gear from the seasonal trap gear closure. DMF is on track to renew gear removal efforts in 2023. DMF also provided updates on adjudicatory hearings resulting from the non-compliant gear recovered during the 2022 removal efforts.

Continuing Business

Surface Marking Rules for Trap Gear

MEP previously requested DMF consider a surface marker (e.g., color coded zip tie) at the buoy to differentiate the type of trap gear fished below (e.g., black sea bass pot, conch pot). DMF had not yet pursued this concept with industry to avoid additional regulatory burdens beyond what was being required as part of the ongoing right whale conservation efforts.

Uniformity of Lobster Management Rules

DMF noted the ASMFC's Lobster Board had drafted a resiliency addendum, which was a vehicle to create greater uniformity in lobster management across Lobster Management Areas (e.g., carapace size limits, v-notch rules). However, this addendum was put on hold due to the pressing need to address right whale conservation.¹

Scallop Shellstock Conversion Factor

DMF provided an overview of the state's sea scallop possession rules, which establish a 1:10 weight conversion for scallop meats to inshell product and a volumetric equivalency that one standard level filled fish tote equates to 100 pounds of whole inshell sea scallops. NOAA Fisheries recently contacted DMF regarding a pending federal adjustment to their shellstock conversion factor. NOAA Fisheries currently uses a conversion factor of 1 bushel of shellstock to 8 pounds of meat for harvesters and 8.33 pound of shellstock to 1 pound of meat conversion factor for dealers. The adjustment will apply the dealer conversion factor (8.33 pounds of shellstock to 1 pound of meat) to fishers. Given this pending change, DMF sought feedback from MEP and the LESC regarding the need to bring the state conversion factor in phase with the federal rule. MEP liked the state rule because it was easy to enforce. They supported maintaining the state rule for the state waters fishery and did not see an issue with having disparate conversion factors across jurisdictions.

Permitting Questions

¹ Update: Addendum XXVII was approved for public hearing at the November 7, 2022 ASMFC Lobster Board meeting. This addendum proposes an amended v-notch measure for the Gulf of Maine of 1/8" - of any shape with or without setal hairs. If enacted at the upcoming May 2022 meeting, Massachusetts could have a single definition for all its LMA's - as well as in commerce.

MEP sought additional regulatory guidance on the appropriateness of a named permit holder fishing the boat-based permit on another vessel. DMF indicated it would review its permitting regulations and provide feedback to MEP.

Other Business

There was some discussion about a recent incident involving the theft of oysters from an aquaculture grant in Plymouth. The LESC was interested in whether the state could provide guidance to municipalities on how best to handle such situations. DMF stated it would review the potential for developing a standard operating procedure to distribute to municipal shellfish enforcement officers.

Attachments:

October 26, 2022 LESC Agenda



**MARINE FISHERIES ADVISORY COMMISSION
LAW ENFORCEMENT SUB-COMMITTEE**

10:00 AM

October 26, 2022

Held Virtually Via Zoom

Webinar Link: <https://us02web.zoom.us/j/87331507026>

Dial In: 1 929-436-2866

Meeting ID: 873-3150-7026

1. Introductions and Announcements
2. Review of 2022 Quota Management Enforcement Issues
 - a. Menhaden
 - b. Striped Bass
 - c. Other
3. Shellfish Tagging
4. Gear Removal and Trap Gear Closure Efforts
5. Continuing Business
 - a. Surface marking rules for trap gear
 - b. Uniformity of lobster management rules across LMAs
 - c. Scallop Shellstock Conversion Factor
 - d. Permitting Questions
6. Other Business