



**MARINE FISHERIES ADVISORY COMMISSION
BUSINESS MEETING AGENDA**

9:30AM

June 16, 2022

SMAST East

836 S. Rodney French Blvd

New Bedford, MA 02744

1. Introductions, Announcements and Review of Agenda (9:30-9:35)
2. Review and Approval of the April 7, 2022 Draft Business Meeting Minutes (9:35 – 9:40)
3. Comments (9:40 – 10:00)
 - a. Chairman
 - b. Commissioner
 - c. Law Enforcement
 - d. Director
4. Action Items (10:00-10:15)
 - a. 2022 Recreational Fishing Limits for Black Sea Bass, Scup, and Summer Flounder
5. Item for Future Public Hearing (10:15 – 10:30)
 - a. Mackerel Possession Limit and Permit
 - b. Prohibition on Shortfin Mako Retention
6. Discussion Items (10:30-11:00)
 - a. Updates Concerning the Atlantic States Marine Fisheries Commission
 - b. Updates Concerning Federal Fisheries Management
 - c. Vineyard Wind Innovation Panel
7. Other Business (11:00-11:15)
 - a. Future Meeting Schedule
 - b. Commission Member Comments
 - c. Public Comment
8. Belding Award Nomination (11:15-11:30)
9. Adjourn (11:30)

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

April 7, 2022

Held Virtually via Zoom

In attendance:

Marine Fisheries Advisory Commission: Raymond Kane, Chairman; Michael Pierdinock, Vice-Chairman; Bill Doyle, Clerk; Kalil Boghdan; Shelley Edmundson; Arthur “Sooky” Sawyer; Bill Amaru; Lou Williams; and Tim Brady (Tim was experiencing technical difficulties and abstained from voting on action items).

Division of Marine Fisheries: Daniel McKiernan, Director; Kevin Creighton, CFO; Story Reed; Jared Silva; Nichola Meserve; Bob Glenn; Jeff Kennedy; Melanie Griffin; Kelly Whitmore; Stephanie Cunningham; Tracy Pugh; Derek Perry; Brad Schondelmeier; Wendy Mainardi; Nick Buchan; Scott Schaffer and Anna Webb

Department of Fish and Game: Ron Amidon, Commissioner; Mark Reil, Director of Legislative Affairs

Massachusetts Environmental Police: Capt. Kevin Clayton; and Lt. Matt Bass

Members of the Public: Heather Haggerty; Lizzie Roche; Philip Coates; Emerson Hasbrouck; Brian Curry; and Rob Savino

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Ray Kane called the April 7, 2022 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

REVIEW AND APPROVAL OF MARCH 10, 2022 DRAFT BUSINESS MEETING MINUTES

Shelley Edmundson requested a couple typographical errors be amended. Jared stated he will make the changes.

Chairman Kane asked for a motion to approve April 7, 2022 MFAC business meeting minutes as amended by Shelley Edmundson. Sooky Sawyer made the motion to approve the amended April 7, 2022 business meeting minutes as amended. Shelley Edmundson seconded the motion. A roll call vote was taken and the motion passed unanimously 6-0 with Chairman Kane, Tim Brady, and Bill Amaru abstaining.

CHAIRMAN’S COMMENTS

Chairman Kane did not provide any comments.

COMMISSIONER'S COMMENTS

Commissioner Amidon was unavailable at the outset of the meeting and joined later as his schedule permitted. No comments were provided.

LAW ENFORCEMENT COMMENTS

Lt. Matthew Bass handled the comments for the Massachusetts Environmental Police (MEP). Lt. Bass stated the joint MEP-DMF trap gear retrieval project had wrapped up and MEP was transitioning into vessel speed enforcement in Cape Cod Bay. In May, their attention will turn to recreational fisheries enforcement with the arrival of various migratory species.

Mike Pierdinock asked if MEP had observed river herring of north of Cape Cod. Lt. Bass could not speak to this. Mike P. then asked about activity in the recreational haddock fishery. Lt. Bass did not think the boats were landing many fish this spring.

Ray Kane asked for further details regarding the abandoned gear project. Bob Glenn stated the project began the first week of February and ended around mid-March. Glenn stated the season does not close until February 1st, which means DMF does not conduct aerial surveys until early February when all gear set in the closure is non-conforming. Prior to the closure going into effect, it is too difficult to ascertain what is abandoned gear and what is gear being actively fished.

DIRECTOR'S COMMENTS

Director Dan McKiernan started his comments by announcing a June 16th MFAC meeting at DMF's New Bedford office where the 60th anniversary of the MFAC will be celebrated. Dan looked forward to the event and bringing together commission members past and present to celebrate the important work of this public body.

Ray Kane asked Dan to clarify whether this was a business meeting or an event. Director McKiernan and Jared Silva explained it would begin with a short in-person business meeting and then an event would follow the adjournment of the meeting.

Dan discussed the annual Seafood Expo North America in Boston. Thirteen Massachusetts-based seafood businesses attended and he commended DMF's Seafood Marketing Program for their contributions.

Dan had spent considerable time on right whale issues this winter. The Legislature allocated funding for research into on-demand gear, and the purchasing of gear to comply with the gear modification and marking regulations. Dan added that Noah Oppenheim released his report on 'Assessing the Feasibility of On-Demand Gear in New England Lobster Fisheries.' The report addresses on-demand fishing systems and the describes the various challenges to implementation and areas where additional research and work needs to be focused. Dan also informed the MFAC that he issued a

letter to Pioneers for Thoughtful Coexistence denying their request to fish on-demand systems within the seasonal trap gear closure in Cape Cod Bay and Massachusetts Bay. This denial letter will be discussed later in the meeting.

Sooky Sawyer asked if Dan was knowledgeable about the status of NOAA Fisheries 2022 List of Fisheries (LOF) determination. Dan stated NOAA Fisheries had not yet published its final 2022 LOF. DMF anxiously awaited its publication and was optimistic Massachusetts commercial trap fisheries would be listed separate from the regional lobster/crab trap and fish pot fisheries and the state fishery would receive a Category 2 designation. By way of background, NOAA Fisheries annually lists and categorizes fisheries based on their anticipated interactions with marine mammals. Historically, Massachusetts' lobster trap fisheries was included within the Northeast Lobster Trap Fishery and given a Category 1 designation. Based on DMF's ongoing right whale conservation efforts, DMF sought to have its state trap fisheries listed separately from the broader listed trap fisheries and given a Category 2 designation.

Sooky also asked about the May 1 closure in Maine and if it would apply for Massachusetts permit holders fishing in federal waters. Bob Glenn stated NOAA Fisheries had not indicated an intention to delay implementation. The closure would apply to all trap gear set in the area, regardless of where the vessel is permitted.

Dan concluded his comments by stating the trap tag deadline may be extended due to delays in issuance related to work force and supply chain issues.

ACTION ITEMS

Commercial Limits for Quota Managed Species

Summer Flounder Limits

Dan McKiernan discussed the final recommendation for commercial summer flounder. He highlighted feedback received from an industry meeting, as well as at public hearing. The detailed recommendations are described below.

Period I (January 1–April 22)

1. Increase the trip limit from 1,000 pounds to 3,000 pounds.
2. Change the 100-lb trip limit trigger from 25% quota use to 30% quota use.
3. Codify the pilot program allowing the possession of multiple states landing limits when offloading in Massachusetts. Vessels may partake in this allowance subject to an annual authorization by the Director.

Period II (April 23–December 31)

1. Move the opening of the directed inshore summer flounder fishery from June 10 to April 23.
2. For April 23–September 30:
 - a. Eliminate the closed fishing days on Fridays and Saturdays allowing commercial fishermen to fish for, retain, and land summer flounder seven-days per week. Concurrent with this change, DMF will eliminate the

corresponding closed fishing days for black sea bass and horseshoe crabs affecting trawlers.

- b. Increase the commercial trip limit for hook fishermen from 250 pounds to 300 pounds (20% increase).
 - c. Increase the commercial trip limit for net fishermen from 400 pounds to 500 pounds (25% increase).
 - d. For trawlers, establish a 100-pound trip limit for vessels in possession of more than 250 pounds of squid or fishing with small mesh.
 - e. Establish an automatic trip limit increase to 800 pounds for all gear types on September 1, provided at least 20% of the quota is projected to remain available to harvest.
3. For October 1–December 31:
- a. Establish a 3,000-pound trip limit on October 1, provided at least 5% of the quota is projected to remain available to harvest. If less than 5% of the quota is available then the trip limit will remain at 800 pounds.
 - b. Allow the pilot program authorizing the possession of multiple states landing limits when offloading in Massachusetts to also occur during this season.

Dan McKiernan stated this recommendation addressed most of the concerns raised by the inshore trawl fleet during the public process. With this in mind, he highlighted that he was not recommending changing the allocation split between Period I (30%) and Period II (70%).

The Director recommended the MFAC move to adopt this recommendation in its entirety, rather than voting on each specific element. If there were strong objections to any single aspect, he would consider providing a revised recommendation.

Bill Amaru commended DMF for their work crafting the recommendation. Bill asked that the fishery participants be alerted of the quota availability as soon as possible near the trigger date. Bill was not concerned about the fishery being open seven days of week due to weather days.

Based on dealer reporting schedules, Story and Dan believed DMF could provide about a week's notice on quota trigger decisions.

Mike Pierdinock generally supported the Director's recommendation. However, he discussed his desire to balance commercial and recreational fishing interests and ameliorate negative impacts on recreational fishing that increased commercial fishing effort may cause. Accordingly, he asked the Director to speak more to anticipated changes in fishing activity and effort in the summertime inshore fishery.

Dan McKiernan reminded the MFAC that participation in the summertime inshore fishery is at an all-time low. Therefore, any anticipated increase in effort will likely only bring the number of trips back up to recent levels of activity. Dan also underscored the importance of promoting fisherman safety by better allowing fishermen to pick their

fishing days. Jared Silva added the overall effort in the fishery is down 50% compared to effort during the early 2010s. Even if the fishery participation increases 5-10% this year as a result of these recommended changes, overall effort will still be substantially lower than where it was ten years ago.

The Director then discussed ongoing dockage issues and highlighted survey work being conducted by Rachel Bratton, an intern from UMass Boston. Dan stated the results of the survey will be presented at the Working Waterfront Network Conference this July. Story added that the survey has been distributed electronically and has had a great response from the fleet and phone interviews will start soon.

Ray Kane asked about the pilot programs and if the name will be changed from pilot to a regulation. Jared highlighted moving parts in the programs such as getting trap tags to the fishermen that are eased with an LOA. Dan stated that it is likely the regulations can be satisfied under permit conditions.

Chairman Kane asked for a motion to approve the recommendation from the Director. Bill Doyle made a motion to approve the recommendation from the Director. Sooky Sawyer seconded the motion. A roll call vote was taken, the motion was passed unanimously 7-0 with Chairman Kane and Tim Brady abstaining.

Black Sea Bass Limits

Director McKiernan reviewed DMF's recommendation to amend the commercial fishing limits for black sea bass. The recommendation is described in the bullets below.

1. Move the directed fishery open season start date from July 8 to July 1.
2. Add Mondays and Wednesdays as open fishing days, allowing commercial fishing to occur Sundays–Thursdays.
3. Increase the trip limits from 400 pounds to 500 pounds for pot gear and from 200 pounds to 250 pounds for the other non-trawl gear (e.g., hooks).
4. Effective September 15, eliminate the Friday and Saturday no fishing days to allow fishing seven days per week.
5. Establish an automatic trip limit increase to 600 pounds for pots and 300 pounds for other non-trawl gear on September 15, provided at least 15% of the quota is projected to remain available to harvest.
6. Amend the open days for trawlers to retain and land black sea bass to allow fishing seven-days per week, consistent with approved changes to the summer flounder limits.

Dan added these actions were being recommended to utilize the available quota and considers fishery performance in recent years. Similar to summer flounder, he recommended the MFAC move to adopt this recommendation in its entirety, rather than voting on each specific element. If there were strong objections to any single element being recommended, he would consider amending the element in a revised recommendation.

Mike Pierdinock thanked Dan for the presentation and stated his support for the recommendation.

Chairman Kane asked for a motion to approve the recommendation from the Director. Lou Williams made a motion to approve the recommendation from the Director. Bill Amaru seconded the motion. A roll call vote was taken, the motion was passed unanimously 7-0 with Chairman Kane and Tim Brady abstaining.

Menhaden Season

Director McKiernan recommended a June 1 start date be adopted for the commercial limited entry menhaden fishery. Weir fishermen participating in the limited entry fishery are exempt from this recommendation, as is any fishing activity being conducted under the 6,000-pound open entry fishery limit.

Bill Amaru had heard a lot of concerns from lobstermen regarding the anticipated price of bait and potential bait supply issues. Dan had heard similar comments. These concerns underscored the purpose of his recommendation—to better align local bait harvest with local bait demand.

Mike Pierdinock supported the recommendation, as he understood its stated purpose was to better align quota utilization to local bait demand. However, he expressed concerns about increases in overall menhaden harvest in Massachusetts in recent years.

Nichola Meserve explained this increase in harvest is a product of the state participating in the Episodic Event Set-Aside and acquiring quota transfers from other states to keep the fishery open to provide local bait throughout the summer. Nichola added that the ASMFC is considering an addendum that may provide additional quota allocation to the northern states, but may also make other aspects of the plan (e.g., small-scale and incidental catch allowance) more restrictive and accountable.

Mike Pierdinock brought up the issue of allowing seining in Boston Harbor on Fridays. Dan McKiernan stated he wanted to focus discussion on the June 1 start date recommendation and he intended to address the Boston Harbor issue separately.

Chairman Kane asked for a motion to approve the recommendation from the Director. Sooky Sawyer made a motion to approve the recommendation from the Director. Lou Williams seconded the motion. A roll call vote was taken, the motion was passed unanimously 7-0 with Chairman Kane and Tim Brady abstaining.

Discussion on Friday Seining in Boston Harbor

Director McKiernan stated his intent to keep Boston Harbor open to seining on Fridays, but he would prohibit the use of carriers in the harbor fishery. Dan added that if problems persisted he could limit Friday fishing through adjusting permit conditions, and

if vessels were observed violating permit conditions, particularly fishing in aggregations of recreational boats, he may preclude the vessel from fishing in the harbor. He added that in 2021 he received video evidence of a seiner fishing aggressively among recreational fishing boats and that seiner has since been prohibited from fishing in the harbor.

Sooky Sawyer asked if the prohibition on carrier vessels was only on Fridays or at all times in Boston Harbor. Dan McKiernan stated it was at all times.

Mike Pierdinock appreciated DMF's efforts to address user group conflicts within Boston Harbor. Mike opined that when the commercial fishery occurs Monday - Friday, weekend recreational fishing conditions are impacted due to diminished bait availability. Mike stated his support to re-implement the Friday closure and allowing seiners to fish Monday – Thursday instead. Dan stated his intent keep a close eye on conflicts within the fishery and addressing issues if they emerge.

Lou Williams stated prohibiting the use of carriers in Boston Harbor will impact the amount of menhaden harvested the area because it will limit the capacity of the vessels fishing in the area.

Bluefish Minimum Size

DMF recommended adopting a 16" total length minimum size for the commercial bluefish fishery. This recommendation differs from the public hearing proposal for an 18" minimum size in response to the comment received.

Jared Silva provided some background information on the recommendation and clarified how this regulation will impact the retention of bluefish as bait in the bluefin tuna fishery.

Mike Pierdinock highlighted the need for enforcement.

Chairman Kane asked for a motion to approve the recommendation from the Director. Bill Doyle made a motion to approve the recommendation from the Director. Shelley Edmundson seconded the motion. A roll call vote was taken, the motion was passed unanimously 7-0 with Chairman Kane and Tim Brady abstaining.

Spiny Dogfish Limits

Dan McKiernan recommended the commercial spiny dogfish trip limit be increased from 6,000 pounds to 7,500 pounds contingent upon NOAA Fisheries' approval and implementation of the same limit for federal waters. He expected final federal specifications—including the coastwide quota and federal trip limit—to be filed within the next month.

There was no discussion on this recommendation.

Chairman Kane asked for a motion to approve the recommendation from the Director. Lou Williams made a motion to approve the recommendation from the Director. Bill Amaru seconded the motion. A roll call vote was taken, the motion was passed unanimously 7-0 with Chairman Kane and Tim Brady abstaining.

Regulatory Housekeeping

DMF reviewed two regulatory housekeeping items. These actions were being moved forward as a single recommendation.

Jared Silva discussed DMF's recommendation to rescind unnecessary language regarding the use of officer discretion in enforcing recreational fishing regulations against for-hire operators or permit holders. Jared explained that reference to officer discretion in the regulation creates unnecessary confusion and may ultimately undermine enforcement.

Jared Silva then highlighted a recommendation to require all recreational lobster and crab traps to be rigged in conformity with recreational lobster trap configuration requirements. With blue crab trapping now prohibited, *Cancer* crabs are the only edible crabs that may be taken by trap gear. As *Cancer* crabs are commonly caught as bycatch in lobster traps, and the state manages the commercial fishery as a single management unit, it made sense to prohibit the use of traps other than lobster traps to take edible crabs. In doing so, DMF is also preventing the proliferation of new recreational crab trap gear.

Ray Kane asked about the permitting housekeeping items taken to public hearing. Jared stated these items will be discussed under the next agenda item, as they are permitting regulations promulgated pursuant to G.L. c. 130, §80, they do not require a formal MFAC vote.

Bill asked if *Cancer* covers both Jonah and rock crabs; Jared confirmed this.

Chairman Kane asked for a motion to approve both housekeeping recommendations from the Director. Sooky Sawyer made a motion to approve the recommendations from the Director. Bill Amaru seconded the motion. A roll call vote was taken, the motion was passed unanimously 7-0 with Chairman Kane and Tim Brady abstaining.

CONSULTATION ON COMMERCIAL PERMITTING DECISIONS

Commercial Striped Bass Control Date

Dan McKiernan asked the MFAC to support a new striped bass control date of June 14, 2022. This would replace the near decade old existing control date and would be inclusive of recent seasons (2019-2021) where there was an observed northward shift in landings.

Bill Amaru agreed with the new control date. However, he reminded the MFAC to recognize that access may be lost as a result of these control dates and certain individuals may be negatively impacted. That said, he commended DMF's work and potential foresight on this issue on this issue.

Ray Kane and Mike Pierdinock raised the issue of certain anglers obtaining a commercial striped bass permit to take striped bass that do not conform to the recreational limits. Story Reed indicated trip level reports show very little commercial striped bass catch is kept for personal consumption. However, he added the caveat that DMF is uncertain to what extent this personal consumption catch is being accurately reported by harvesters.

Owner-Operator Clarification

Jared Silva discussed the existing owner-operator and described the clarification as setting forth this requirement does not extend past commercial fishing, meaning the permit holder is not required to bring the fish to market for sale.

Lou Williams expressed his support for this clarification.

Limited Entry Permit Endorsement Clarification

Jared then described another permitting clarification to add precise language regarding the non-renewal and retiring of permits applied for after the regulatorily set application deadline.

Ray Kane expressed his support for both these permitting clarifications.

DISCUSSION ITEMS

Protected Species Update

DMF then discussed its recent denial letter to the Pioneers for Thoughtful Coexistence regarding their request for a Letter of Authorization to fish on-demand fishing gear during the winter and early spring trap gear closure. Director McKiernan explained the denial focused on the proposals lack of a scientifically robust research plan to answer key questions about ropeless fishing. Additionally, the proposal did not address a right whale conservation issue or an acute lobster fishery management problem. W Director McKiernan then discussed a Noah Oppenheim's recently released report 'Assessing the Feasibility of On-Demand Gear in New England Lobster Fisheries.' Dan concluded by stating DMF will continue to work with NOAA Fisheries, the fishing industry, and researchers to support ropeless fishing research and development.

Bill Amaru asked why DMF is considering ropeless research if the 90% risk reduction percentage was reached. Dan stated that the 90% risk reduction was for the state waters fishery, but many fishermen in the MA fleet fish in federal and state waters. The federal waters fishery has not been able to meet this level of risk reduction. If further risk reduction is required in the federal waters fishery, ropeless fishing may prove to be a reasonable solution and additional research is necessary to address critical challenges

to implementation. Bill Amaru thanked Dan and Bob and stated that ropeless gear needs to be tested when the mobile gear fishery is open.

Lou Williams stated he was happy to see the denial letter from DMF. Lou opined the research should be conducted in federal waters that are open to buoy lines and other gears and not within a trap gear closure where there is little seasonal overlapping mobile gear fishing.

Sooky Sawyer thanked Dan and Bob for their efforts. He opined that the lobster industry generally did not view ropeless technology as a workable solution to right whale conservation challenges. However, he agreed Lou's comments regarding research needing to occur in areas where trap gear fishing and mobile gear fishing are occurring.

Bob Glenn then provided additional protected species updates. There will be an Atlantic Large Whale Take Reduction Team (TRT) meeting in Philadelphia on May 9-13. NOAA Fisheries is initiating Phase 2 of conservation framework, which will address gillnet and other commercial trap fisheries not including the Northeast Lobster and Crab trap fishery. Bob then gave an update on the status of DMF's Incidental Take Permit application stating he anticipates submitting a draft application plan to NOAA Fisheries by early-July 2022.

Ray Kane asked who from DMF will be attending the TRT meeting. Bob Glenn indicated he would be.

Updates Concerning the Atlantic States Marine Fisheries Commission

Nichola covered the ASMFC updates for the commission. With regards to summer flounder, black sea bass, and scup, she stated the MFAC-endorsed recreational management measures for 2022 were approved by ASMFC. Nichola then discussed the lobster/Jonah crab board meeting held on March 31 at which Addendum XXIX was approved which implements an electronic vessel tracking requirement for federal lobster and Jonah crab fisheries. There is multi-year funding expected to support state efforts beginning July 1. The Board requested that NMFS publish a final rule by May 1, 2023, with an implementation date by December 15, 2023. ASMFC will develop an implementation plan during 2022, including a standard operating procedure and the request for quotes from vessel tracking companies. Dan added that NH and ME had successfully lobbied congress for the funding to help offset the cost of the trackers, which was one of the concerns that had initially delayed final action on the addendum. The other concern was over privacy, as the trackers would always be operating, but these data would be treated according to standard confidentiality procedures and were essential to establish the footprint of the fishery.

Nichola moved on to discuss open public comment periods for the striped bass Draft Amendment 7 as well as the Recreational Harvest Control Rule for summer flounder, scup, sea bass, and bluefish, noting that recordings of the public hearings can be found on the ASMFC website. Nichola then provided a spring meeting preview. The spring

meeting will be held in a hybrid format from May 2-5 in Arlington, VA. She highlighted items that will be discussed such as the menhaden Draft Addendum I, consideration of final approval of the striped bass Amendment 7, the tautog tagging program, and the status of considering recreational sector separation by mode. Nichola turned the floor to Mike Armstrong to further address striped bass.

Mike Armstrong discussed the next steps for striped bass management after Amendment 7 is approved. He briefly discussed the expected timeline, with a stock assessment update with data through 2021 being finalized September/October. Projections will use the recruitment assumption selected in Amendment 7. In October, the Board will consider accepting the stock assessment for management purposes. Mike stated that if necessary, the board will craft regulations to address fishing mortality either by an Addendum or, if approved in Amendment 7, "specification." Under specification, implementation of measures is possible for at least part of 2023.

Nichola then moved on to discuss spiny dogfish and the MSC certification. The MSC's proposed revisions to its Fisheries Standard (i.e., the criteria it uses to certify fisheries) may jeopardize the current certification. This related to how the proposed change would automatically designate a species as endangered, threatened, or protected if on certain international conservation lists, with no option to modify this for sharks based on life history, stock status, or management status (as afforded other animals). Nichola stated that a comment letter had been submitted and a meeting with MSC requested. Nichola welcomed questions from the commission.

Mike Pierdinock asked about the discussions surrounding recreational sector separation and if that related to just different regulations by mode or also separate quotas by mode. Nichola replied that both were the focus on discussion and the need to evaluate the benefits and detriments of different management strategies. Mike stated how it would be imperative to have better recreational data first before a consideration of separate allocations based on catch data.

Bill Amaru asked who will be meeting with the MSC. Nichola stated it's still being set up, but Dan requested the meeting with MSC with John Whiteside, who represents the client group that holds the spiny dogfish certification. Bill Amaru stated that a commercial fishermen involved within the fishery should be invited as well. He asked about buyers who do and do not require the MSC standard. Dan McKiernan clarified that it is the secondary buyers that do not require the MSC standard.

Updates Concerning Federal Fisheries Management

Melanie Griffin discussed updates regarding federal fisheries management, specifically the New England Fishery Management Council. Melanie began by reviewing the April NEFMC agenda, which included the initiation of FMP frameworks for monkfish and multi-species groundfish; a final action on Southern New England Habitat Area of Particular Concern; approval of scallop limited scoping document; and potential changes to multi-species groundfish priorities.

Melanie moved on to discuss the MAFMC's mackerel rebuilding plan. A public hearing document was approved containing rebuilding alternatives and management measures. Melanie then highlighted upcoming public hearings scheduled on April 25th at 6 PM in New Bedford and April 26th at 6 PM in Plymouth. There will also be a webinar held at 6PM on May 2nd for those who cannot attend in person.

Bill Amaru asked Melanie for clarification about changes regarding the summertime mackerel fishery. Melanie stated a final actual action would not be implemented until January 2023.

Mike Pierdinock asked if the mackerel bag limit would apply to state or federal waters. Melanie interpreted the proposed regulation as applying in both jurisdictions. Mike noted that the New England states previously provided a single comment on various mackerel related issues and asked if it was DMF's intent to continue to do so. Melanie noted the state's continue to be in contact on the issue, but was uncertain as to the final product.

Ray Kane and Mike Pierdinock then discussed the complexities of the federal permitting and reporting system.

OTHER BUSINESS

Dan McKiernan stated he would like to cancel the May MFAC meeting and have the MFAC meet on Thursday, June 16, 2022 for a business meeting and celebration of the MFAC's 60th anniversary. This meeting will be held in person at DMF's New Bedford office. The commission had no issues with this change.

Commission Member Comments

Lou Williams is looking for rationale for the April mobile gear closure off Gloucester and Rockport. Jared Silva indicated he would research the subject and get back to Lou.

PUBLIC COMMENTS

Phil Coates expressed concern regarding the management of the commercial striped bass fishery and his longstanding request and petition to limit entry into this fishery.

ADJOURNMENT

Chairman Ray Kane requested a motion to adjourn the April MFAC business meeting. **Sooky Sawyer made a motion to adjourn the meeting. The motion was seconded by Shelley Edmundson. The motion was approved by unanimous consent.**

MEETING DOCUMENTS

- April 7, 2022 Business Meeting Agenda
- March 10, 2022 Draft Meeting Minutes
- Recommendation Cover Memo
- Commercial Summer Flounder Limits Recommendation
- Commercial Black Seas Bass Limits
- Commercial Bluefish Minimum Size Recommendation
- Menhaden Season and Inshore Net Conditions
- Spiny Dogfish
- Commercial Striped Bass Control Date
- Housekeeping Recommendations and Permitting
- DMF Letter on Spiny Dogfish and MSC Certification
- Joint State Letter to MAFMC on Atlantic Mackerel

UPCOMING MEETINGS

**June 16, 2022
SMAST East
New Bedford, MA**



The Commonwealth of Massachusetts

Division of Marine Fisheries

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RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director 

DATE: June 13, 2022

SUBJECT: **Recommendation on Final Recreational Fishing Limits for Black Sea Bass, Summer Flounder, and Scup**

Recommendation

I recommend the MFAC vote to adopt final recreational fishing limits for black sea bass, summer flounder, and scup. These below described limits were adopted via an emergency regulation on April 29, 2022 and are currently in effect during the 90-day emergency period. This final action will codify these limits beyond the 90-day period, which ends on July 29.

1. *Black Sea Bass*. Adopt an open season of May 21–September 4 with a 4-fish bag limit and 16” minimum size.
2. *Summer Flounder*. Adopt an open season of May 21–September 29 with a 5-fish bag limit and 16.5” minimum size.
3. *Scup*. Increase the minimum size by 1” from 9” to 10” while retaining the same seasons and bag limits. For private anglers, the season is January 1–December 31 with a 30-fish bag limit or a 150-fish vessel limit, whichever is most restrictive. For the for-hire fishery, the season is January 1–April 30 and July 1–December 31 with a 30-fish bag limit and a May 1–June 30 bonus season with a 50-fish bag limit.

For additional background information, I have attached the March 8, 2022 memorandum to the MFAC that describes why these changes are being made.

Public Comment

DMF held a public comment period from April 29–June 10 with a virtual public hearing on June 6. A small number of written public comments was received. These comments stated frustration with commercial limits for certain species—particularly black sea bass—being liberalized while recreational harvest opportunities are reduced. As previously discussed, this dichotomy is due to recent underutilization of the commercial quota of which MA has an increased share, in contrast with overages of the coastwide recreational harvest limit.

DMF also received a comment from the Mashpee Wampanoag Tribe expressing concerns that state regulations are used to limit the aboriginal fishing rights. These comments dovetail with a formal request from the Tribe seeking formal consultation on all future fishing regulations.

Additional Information

With regards to scup, it is worth mentioning that the 1” minimum size increase only achieves a projected 33% decrease in harvest. However, when comparing the 2022 coastwide recreational harvest limit for scup (6.08 mlb) to the MRIP estimated coastwide harvest for 2019–2021 (13.9 mlb), a 56% reduction is required. The ASMFC argued such a dramatic reduction in harvest was unwarranted given the status of the stock, the underutilization of the overall annual catch limit for the species, and the socio-economic impacts of such a cut. To achieve the remaining reduction in harvest, NOAA Fisheries proposed closing the recreational scup fishery in federal waters. Agency heads from Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and Delaware signed a joint letter to NOAA objecting to this action. In summary, it reiterated the ASMFC’s rationale for the 1” minimum size increase and highlighted the recreational management challenges with having to cut harvest in recreational fisheries when the stock is at a record biomass and the pending management actions to address these challenges beginning as soon as 2023. I sent you this letter back in May and have attached it here. On June 8, NOAA Fisheries indicated that based on the persuasive arguments set forth by the agency heads, it would not close the recreational scup fishery in federal waters.¹

Status of Gulf of Maine Cod and Haddock and Georges Bank Cod Regulations

NOAA Fisheries has not yet completed its rule making process to implement the Fishing Year 2022 (May 1, 2022–April 30, 2023) limits for recreational Gulf of Maine cod and haddock and Georges Bank cod. DMF anticipates this may be completed by the end of this month and intends to implement emergency regulations to complement the federal rules once finalized.

DMF took public comment on adopting complementary rules during the recent public comment period and public hearing. However, this delay in federal rule making will require DMF hold another public hearing on the subject following the implementation of state emergency regulations. This public hearing will likely occur immediately before a summertime MFAC business meeting.

Attachments

Written public comment

March 8, 2022 Memorandum to the MFAC on Emergency Regulations

May 9, 2022 Letter to NOAA Fisheries

¹ <https://www.federalregister.gov/documents/2022/06/09/2022-12450/fisheries-of-the-northeastern-united-states-recreational-management-measures-for-the-summer-flounder>

From: [BOB AIELLO](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Black Seabass
Date: Monday, May 2, 2022 11:01:40 AM

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So let me get this straight, the quotas and fishing days have been increased for commercial fishermen but the size restriction has been increased and bag limit reduced for recreational fishermen. Is this serious?

Robert Aiello
concerned recreational fisherman

From: [Richard Nardini](#)
To: [Fish, Marine \(FWE\)](#)
Subject: fluke and black seabass
Date: Monday, May 2, 2022 11:50:27 AM

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not enough fish to up the commercial harvest that is for sure.



The Commonwealth of Massachusetts

Division of Marine Fisheries

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Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director 

DATE: March 8, 2022

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

Introduction

For 2022, DMF is required to implement regulations to reduce recreational harvest of black sea bass and scup, and is allowed to implement regulations to increase recreational harvest of summer flounder (Table 1). Due to the timing of the management process, DMF will need to adopt these new regulations by emergency action (G.L. c. 30A, §2). We anticipate filing paperwork in early-April for early-May implementation, followed by final rulemaking with the required public hearing and MFAC approval process after the season has already commenced (likely for the June business meeting). Consequently, DMF held a virtual scoping meeting on February 17 to collect public input that could inform the development of measures for the Atlantic States Marine Fisheries Commission's approval on March 24.¹ While MFAC approval is not required for enacting emergency regulations, I seek to gain your support for the measures that will need your eventual approval during final rulemaking. DMF has selected a preferred set of measures for each species. The background and rationale for each species' recommendation is provided herein.

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

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

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

Summer Flounder (Fluke)

Background

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

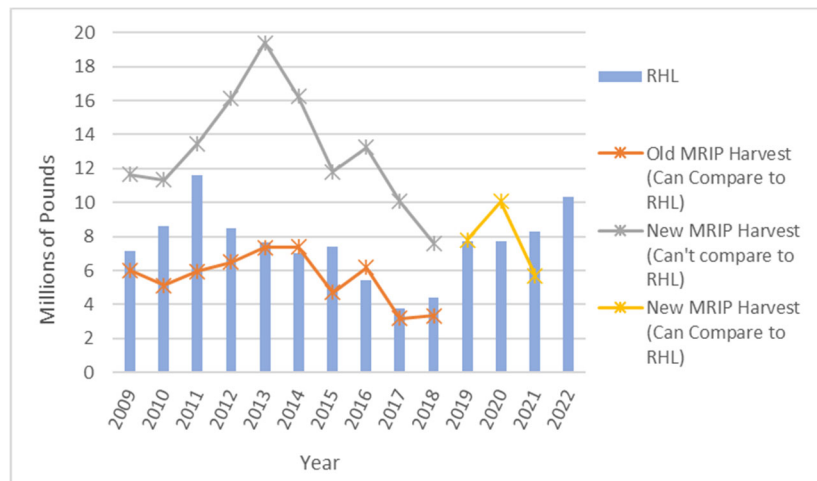


Figure 1. Comparison of the summer flounder RHLs to estimated recreational harvest. 2021 harvest includes a projection for Waves 5-6.

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

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

Liberalization Analyses

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

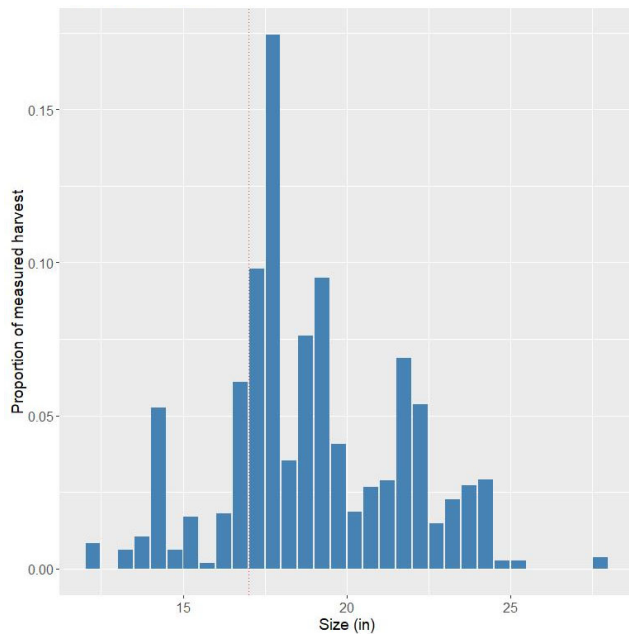


Figure 2. Size distribution of harvested summer flounder in MA, by weight and based on 2018-2021 average data. Red vertical line represents the 17" minimum size.

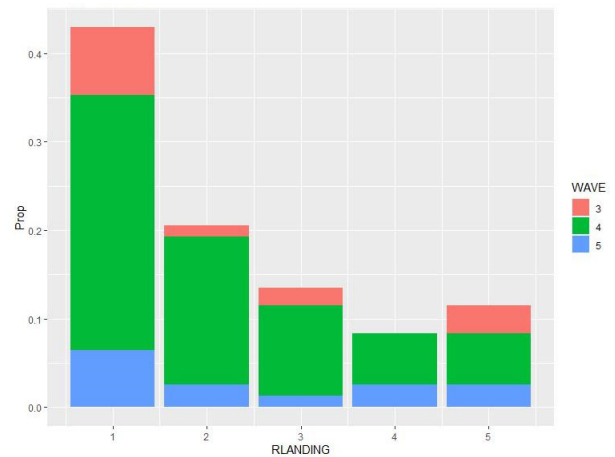


Figure 3. Bag distribution of harvested summer flounder in MA, by angler trip count and based on 2018-2021 average data. Non-compliant bags excluded from analysis.

Scoping Comment

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

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

DMF Preferred Option

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

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

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

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

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

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

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

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

Black Sea Bass

Background

A 20.7% reduction in coastwide recreational harvest of black sea bass is required to not exceed the 2022 recreational harvest limit (RHL). This is based on comparison of the 6.74-million-pound RHL to the past four years' average coastwide harvest of 8.51 million pounds² (Figure 4). These years (2018–2021) reflect a period of nearly uniform regulations, and it is assumed that status quo regulations again in 2022 would cause a 1.77-million-pound overage. This anticipated overage under status quo regulations is not allowed under the federal fisheries management program, and as a result, the ASMFC and MAMFC are requiring this reduction (this action is not being driven by concern regarding the conservation of the stock).

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

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

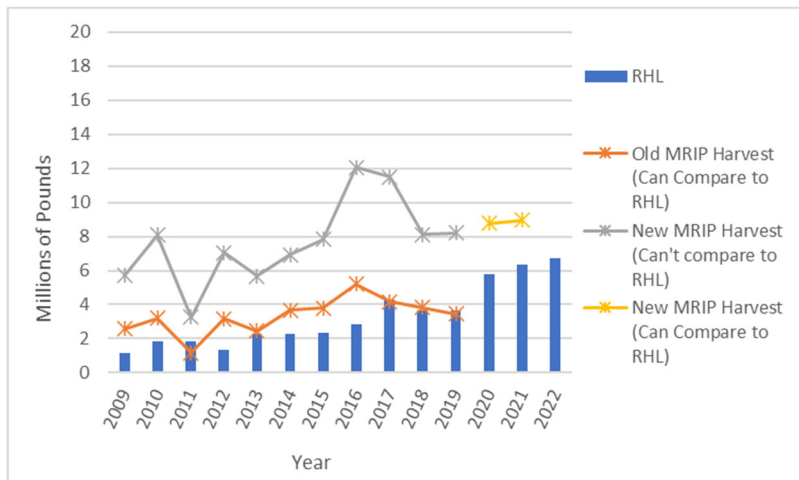


Figure 4. Comparison of the black sea bass RHLs to estimated recreational harvest (as modified by TC outlier analysis for 2018–2021). 2021 harvest includes a projection for Wave 6.

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

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

Reduction Analyses

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

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

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

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

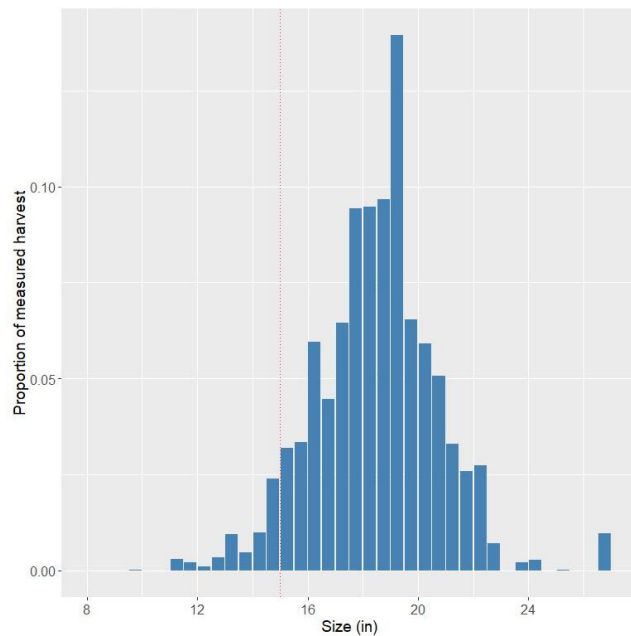


Figure 5. Size distribution of harvested black sea bass in MA, by weight and based on 2018-2021 average data. Red vertical line represents the 15" minimum size.

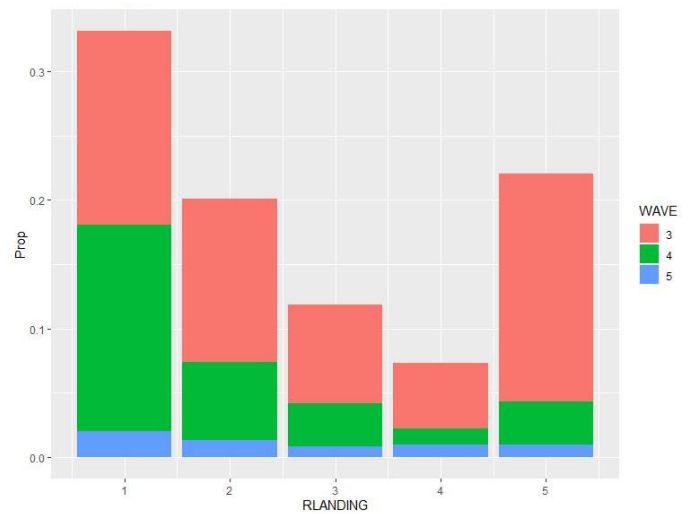


Figure 6. Bag distribution of harvested black sea bass in MA, by angler trip count and based on 2018-2021 average data. Non-compliant bags excluded from analysis.

Scoping Comment

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

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

DMF Preferred Option

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

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

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

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

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

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

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

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

Scup

Background

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

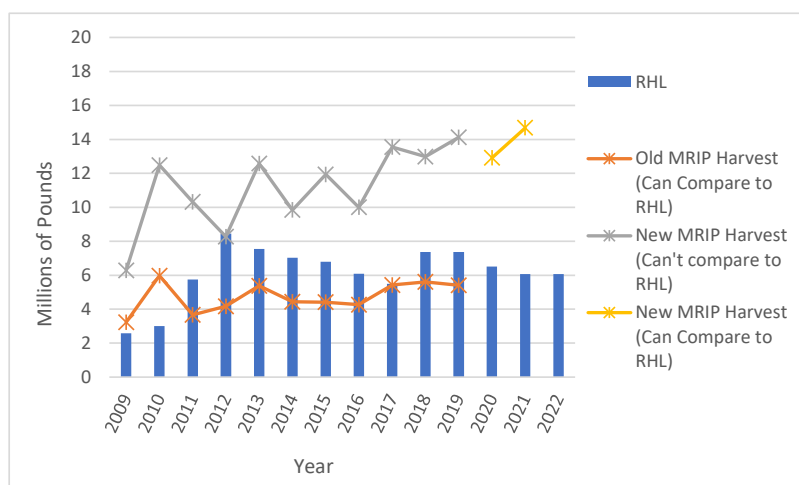


Figure 7. Comparison of the scup RHLs to estimated recreational harvest. 2021 harvest includes a projection for wave 5–6.

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

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

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

Reduction Analysis

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

DMF Preferred Option

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

Outlook for 2023

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

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

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

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

http://www.asmfc.org/uploads/file/621fa4d7pr06HarvestControlRule_PublicComment.pdf

Enclosures

Written scoping comment

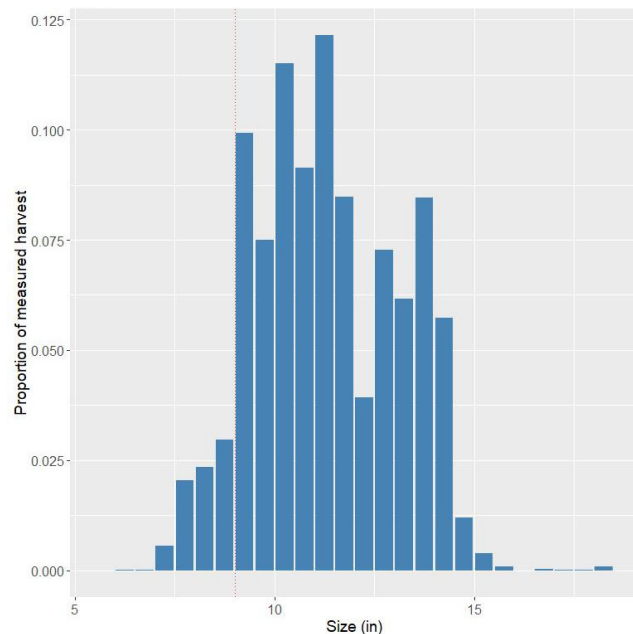


Figure 8. Size distribution of harvested scup in MA, by weight and based on 2019-2021 average data. Red vertical line represents the 9" minimum size.

Appendix

Table A1. 2021 recreational summer flounder regulations by state.

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

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

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

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

Table A3. 2021 recreational scup regulations by state

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

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

Meserve, Nichola (FWE)

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

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

Dear Nichola,

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

Regards,
Jim Tietje

-



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Capt. John Richardson

February 18, 2022

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

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

Dear Mr. McKiernan:

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

Black Sea Bass

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



39 Industrial Park Road, Unit C
Plymouth, MA 02360
www.stellwagenbank.org

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

Summer Flounder

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

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



39 Industrial Park Road, Unit C
Plymouth, MA 02360
www.stellwagenbank.org

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

Very truly yours,

Capt. Eric Morrow

Capt. Eric Morrow
SBCBA, Board of Directors
caperic@fishbountyhunter.com

Capt. William Hatch

Capt. William Hatch
SBCBA, Board of Directors
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Capt Mike Delzingo

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Capt. Jeff Viamari

Capt. Jeff Viamari
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jeff@badinfluencesportfishing.com

Capt. Keith Baker

Capt. Keith Baker
SBCBA Member
capkeith@hotmail.com

Capt Mel True

Capt. Mel True
SBCBA, Member
Capt.meltrue@gmail.com

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

Meserve, Nichola (FWE)

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

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Good Afternoon:

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

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

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

I am reiterating my recommendation:

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

Thank you for your time

Theodore Velsor
Mate
(774)226-3736

Meserve, Nichola (FWE)

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

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Mass Division of Marine Fisheries
Daniel McKiernan

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

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

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

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

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

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

Thank you for allowing my input.

Captain Len Greiner
F/V Magellan
capecodsportsmen.com

Meserve, Nichola (FWE)

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

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

My recommendation:

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

Phil

--

Phil Buzby
617.699.5372

Meserve, Nichola (FWE)

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

Importance: High

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Good morning:

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

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

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

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

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

I am reiterating my recommendation:

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

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

Have a great day!!

Tyler Macallister, Owner/Captain
F/V Cynthia C²

(508) 221-8991 (m)
fcynthiac@comcast.net

Meserve, Nichola (FWE)

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

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Hi

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

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

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

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

I'll stop rambling now.. :-)

Thanks for your consideration, Ray

A "cape Cod Salty"

Meserve, Nichola (FWE)

From: Michael Bady <raceroack166@aol.com>
Sent: Friday, February 18, 2022 4:26 PM
To: Fish, Marine (FWE)
Subject: Public Comment on Proposed Fluke/Black Sea Bass Allocations

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Dear Director
McKiernan,

February 18, 2022

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

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

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

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

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

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

Thank you for your time and consideration.

Sincerely,

Capt. Michael Bady

Captain's Table Charters

Greenport, NY

516-317-5423 cell

raceroack166@aol.com

Meserve, Nichola (FWE)

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

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Director McKiernan,

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

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

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

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

Thank you,

Caleb Slater
Northbridge MA

Meserve, Nichola (FWE)

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

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Preference for seabass:

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

Fluke:

No change to existing regs.

I'm a rec angler.

Matt Robertson

Meserve, Nichola (FWE)

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

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To Daniel McKiernan

Hello Dan,

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

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

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

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

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

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

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

Chris Ricardi
Westport, Massachusetts

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

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Meserve, Nichola (FWE)

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

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

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

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

Thanks again
Jake

Meserve, Nichola (FWE)

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

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Bounty Hunter Charters

1 Union Wharf

Fairhaven, MA 02719

www.fishbountyhunter.com

To: Nichola Meserve

From: Capt. Eric Morrow

RE: Proposed 2022 Black Sea Bass Regulations

Good Day,

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

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

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

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

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

capteric@fishbountyhunter.com or 774-766-1228

Sincerely,

Capt. Eric Morrow



May 9, 2022

Ms. Janet Coit
Assistant Administrator, NOAA Fisheries
1315 East-West Highway
Silver Spring, MD 20910
Via email: janet.coit@noaa.gov

Dear Ms. Coit,

Please consider these comments in response to the April 18, 2022 Proposed Rule on 2022 Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; particularly the proposed closure of the recreational scup fishery in Federal waters.

Recreational scup and black sea bass management has been particularly challenging over the last decade as both stocks have grown to over twice their biomass targets while recreational catch and effort estimates have changed significantly. For scup, the changes made to the Marine Recreational Information Program (MRIP) effort estimation significantly changed our understanding of the magnitude of the recreational fishery by more than doubling catch, instantly creating a management crisis in an otherwise healthy stock. While assessments and some aspects of the specifications process have incorporated these new estimates, many other aspects of management remain challenging due to these changes. We believe the proposed closure of the recreational scup fishery in Federal waters is unnecessary for the short and long-term health of the stock, ineffective and inefficient for controlling recreational harvest and fishing mortality in a meaningful way, and extremely damaging to the public's regard for marine fisheries management by NOAA Fisheries, the Mid-Atlantic Fishery Management Council (MAFMC), and the Atlantic States Marine Fisheries Commission (ASMFC).

There are two separate fishery management plan changes moving through the interstate and Federal process that will improve our ability to manage for the sustainable use of the scup fishery. Sector allocations were updated in the Commercial/Recreational Allocation Amendment to reflect the increased recreational take resulting from the change in MRIP methodologies, which was approved by the MAFMC and ASMFC in December 2021. This Amendment will increase the recreational scup fishery catch-based allocation from 22% of the Acceptable Biological Catch (ABC) to 35%. The second management action underway is referred to as the Harvest Control Rule Framework/Addendum (HCR), which is an important component of the Recreational Reform Initiative. This action seeks to better manage recreational fisheries by appropriately accounting for data uncertainties and incorporating assessment-based metrics into the decision-making process instead of relying almost solely upon past harvest performance (MRIP) comparisons with future recreational harvest limits (RHLs). The HCR could potentially be approved at the joint MAFMC/ASMFC meeting in June of 2022. Unfortunately, neither the revised sector allocations nor the HCR will be in place for the 2022 recreational scup fishing season.

The 2021 Management Track Assessment (data through 2019) for scup determined that the stock was not overfished, that overfishing was not occurring, and that the stock biomass was 1.96 times the biomass target. Yet in its proposed rule, NOAA Fisheries notes that a 56% reduction of the recreational scup fishery is required because harvest projections, based upon MRIP estimates, exceed the 2022 RHL of 6.08 million pounds. This purported need to reduce recreational harvest to avoid overfishing fails to incorporate the consistent underutilization of quota by the commercial sector. The commercial fishery has repeatedly underutilized its allocation, leaving an average of 34% of the coastwide quota over the last 6 years. Preliminary landings from 2021 are 12.93 million pounds of a 20.50 million pounds quota. The 2022 commercial scup quota is 20.38 million pounds and 2022 harvest-to-date during the Winter 1 Quota Period has so far underperformed relative to this time last year. If 2022 commercial landings do manage to match the 2021 landings, that would result in a 7.4 million pound commercial quota underage that would nearly cover the projected recreational overage of 7.8 million pounds under status quo recreational regulations.

Notably, of course, status quo recreational regulations for 2022 are not on the table (with or without NOAA Fisheries' proposed rule). The MAFMC and the ASMFC's approved coastwide 1-inch minimum size increase is projected to reduce recreational harvest by 33%. Taking into account this recreational harvest reduction, recent patterns of commercial landings and projected discards (2018-2019 ratios landings:discards), total catch should remain below the ABC, preventing overfishing and fulfilling the requirements of the MSA without the unnecessary impacts to anglers and dependent small businesses that would be created by a Federal waters closure.

This was believed to be sufficient by the Technical Committee, the Monitoring Committee, the Council and the Commission, especially given pending changes to both sector allocations and general recreational management. If the Federal rule-making process was faster and the revised commercial/recreational allocations were in place for 2022, this year's RHL would have been considerably larger and the "required" reduction would have been much smaller. While the exact values are not currently known, there is an example in the Allocation Amendment of what the revised 35% recreational scup allocation could do for the 2023 RHL; it increases it from 5.41 million pounds to 9.06 million pounds. A similar increase of 67% applied to the 2022 specifications would have produced a 10.1 million pound RHL and depreciated the called-for reduction to roughly 27%. The proposed rule's calculation also does not recognize an analysis conducted by the ASMFC Technical Committee to identify and adjust outliers in the MRIP harvest data for scup, which we understand could further reduce the required reduction. As noted in the proposed rule, a similar analysis was conducted for the MRIP black sea bass harvest data, which dampened that species' recreational harvest reduction for 2022 from 28% to 20.7%.

It is true that the GARFO Regional Administrator stressed that the 1 inch minimum size adjustment would not be sufficient to address the RHL overage at the December 2021 Joint Meeting and on other occasions. However, the imposition of a Federal waters closure of the recreational scup fishery is not only unnecessary for the health of the stock but of highly questionable efficacy. According to the Proposed Rule, the closure would only account for an additional 6% harvest reduction, well short of its goal. The rule further acknowledges that the actual reduction will be less than 6% as anglers switch to targeting scup exclusively in state waters (where the majority of the fishery already occurs) and Federally permitted for-hire vessels drop their open access scup permits to do the same.

While the harvest reduction from a Federal waters closure is unlikely to be realized, the impact to anglers and for-hire operations will be an increase in inefficiency—more time, more fuel, more discards, and less profit (for small businesses). Scup are a very important component of bottom fishing in New England and the Mid-Atlantic, in particular given the relative scarcity of legal sized fluke and highly restrictive black sea bass limits. During many trips targeting mixed bottom fish, anglers would expect to catch scup, fluke and black sea bass as these species often utilize the same bottom. The proposed rule would require anglers pursuing other species in Federal waters to discard all scup caught while fishing greater than 3 miles from shore, only to have those same anglers later fish within 3 miles for scup, likely generating more discards of species targeted earlier in the trip. The result of this rule is more effort and discarded fish and associated mortalities for all three highly sought-after species in the fishery management plan and further eroding of the public's confidence and compliance with marine recreational fishing regulations.

The impact of the proposed closure would be felt disproportionately among various jurisdictions, depending upon how much of their fishery occurs in Federal waters. The proposed rule acknowledges some of the impacts of the Federal waters closure and requested additional or alternative measures in lieu of a closure. We are aware that an 11 inch minimum size implemented throughout most state and Federal waters is projected to achieve the 56% reduction that is expected to restrain harvest to the 2022 RHL. An 11 inch minimum size would have a relatively small impact on anglers fishing from well-equipped private vessels, for-hire vessels, and in most larger bodies of water. However, the size limit change would have significantly greater, unintended impacts on small vessels fishing in sheltered coastal waters and shore-based anglers where the availability of larger fish is reduced. This impact would be felt disproportionately by subsistence fishermen from vulnerable communities, and therefore is a clear environmental justice (EJ) issue. Several states have implemented special shore fishing programs for scup that allow a smaller minimum size, including the state of RI during your tenure as State Director. These programs were developed as EJ initiatives before that term was coined. The states determined that raising the minimum size beyond what was implemented for 2022 would significantly impact the efficacy of these programs. This was a larger factor in the management decisions made for 2022. Additionally, these same communities are a significant component of some of the Party and Charter industry trips that occur, with people from these communities saving up to book trips in the hope of filling a cooler with fresh scup, and in this manner would be directly impacted by the Federal fishery closure.

Reasons for the opposition of the States to NOAA Fisheries' stated aim to reduce recreational scup harvest by 56% and the specific closure of the recreational fishery in Federal waters has been described above. A Federal closure will fail to significantly restrain scup harvest while increasing discards and disrupting fishery operations across multiple states. Consequently, it is with some disbelief among managers that it was included in the proposed rule. The timing of that rule, published on 4/18/2022, is so late as to make it impossible for most states to respond with appropriate, well-conceived measures, formulated with public feedback, that balance the impacts of restrictions among all recreational scup fishery stakeholders. It is also questionable how effective such measures will be in constraining recreational harvest given that a significant portion of the fishery will have been prosecuted before either the final Federal rule or any such late State rulemakings could be implemented.

The approval of a 1 inch minimum size limit increase coastwide for the recreational scup fishery by fishery managers from the MAFMC and ASMFC was a measured response to recent recreational overages, was recommended by State technical expertise given the status of this fish population, was based on current scup quota usage patterns, and also accounts for the uncertainty in MRIP data and its use as a stand-alone tool for fishery management. Pending

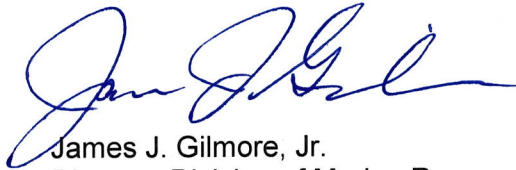
management actions will potentially address both sector quota allocations and recreational fisheries management but will not be implemented for the 2022 fishery. Recreational harvest reductions as a result of the size increase combined with underutilization of quota by the commercial fishery and recent fishery discard rates suggests that the ABC will not be exceeded. The closure of the recreational scup fishery in Federal waters is an unnecessary, ineffective, and disruptive measure that should be eliminated from the final rule. We hope you agree with this conclusion and help the states in seeking relief from the proposed Federal waters closure.

We thank you for your consideration and attention to this matter and we look forward to your prompt response.

Sincerely,



Daniel J. McKiernan
Director, Division of Marine Fisheries
Massachusetts Department of Fish and
Game



James J. Gilmore, Jr.
Director, Division of Marine Resources
New York State Department of
Environmental Conservation



Jason McNamee
Deputy Director, Bureau of Natural
Resources
Rhode Island Department of Environmental
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Joseph Cimino
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Connecticut Department of Energy and
Environmental Protection



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CC:

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Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)
FROM: Daniel J. McKiernan, Director 
DATE: June 10, 2022
SUBJECT: **Atlantic Mackerel Recreational Possession Limit and Commercial Permit**

Overview

I plan to take to public hearing two proposals regarding Atlantic mackerel:

1. Establish a 20-fish per person recreational possession limit for Atlantic mackerel. Exempt from this will be recreational anglers in possession of mackerel lawfully purchased from a bait dealer from which they have a receipt.
2. Establish a commercial open entry regulated fishery permit endorsement for mackerel, which would be required to sell mackerel, as well as catch, possess, and land mackerel in quantities that exceed the recreational possession limit.

Background

Over the past several months, DMF has briefed the MFAC on the Mid-Atlantic Fishery Management Council's (MAFMC) ongoing efforts to develop an Atlantic Mackerel Rebuilding 2.0 Amendment with Specifications. This responds to the 2021 stock assessment that found Atlantic mackerel ("mackerel") was overfished with overfishing occurring and demonstrated the initial rebuilding plan implemented in 2019 was unlikely to meet its goals.

At this week's MAFMC meeting, the Council approved a specification package which establishes a recreational possession limit of 20 fish for Atlantic mackerel, effective in 2023. This possession limit was approved with the expectation that the New England states—who have inshore state-waters fisheries—would adopt a complementary possession limit consistent with their obligation under the Magnuson Stevens Act.

Accordingly, I am taking out to public hearing a proposal to adopt a 20-fish recreational possession limit for mackerel. The possession limit will apply like the recreational lobster limit and the recreational eel limit, meaning it will restrict a person's harvest of mackerel to 20 fish per day and prohibit a person from possessing more than 20 mackerel when fishing. This allows for fishermen to accumulate and store mackerel for later use. I will also propose allowing fishermen to possess non-conforming quantities of mackerel if the fish was bought as bait and the person in possession of the fish can produce a valid receipt documenting it was purchased

from a lawful bait dealer. If a final regulation is approved later this year, the possession limit will go into effect for 2023.

Additionally, I am proposing to establish an open entry regulated fishery permit endorsement for Atlantic mackerel for the 2023 season. This permit will be required for any person to sell mackerel or to harvest, possess, and land mackerel in a manner that does not conform to the recreational possession limit rule. This permit will allow us to better monitor and collect data on the commercial fishery in Massachusetts. As DMF has regulations prohibiting the mixing of recreational and commercial trips, this permit cannot be used by recreational anglers to exceed the recreational possession limit. The one exception to this would be the bluefin tuna fishery. In this situation, a person permitted to commercially and recreationally fish for tuna could use the commercial mackerel endorsement to retain more than the recreational limit and end up retaining a recreational sized tuna. If this is the case, then the mackerel catch is to be reported on the permit holder's commercial trip level reports.

I intend to take these proposals out to public hearing during the late summer period. A final recommendation will likely come back to the MFAC at a September business meeting. If approved, the final regulation will be filed in time to have the new mackerel endorsement listed on the 2023 commercial fisherman permit application. As stated above, the recreational possession limit will not go into effect until January 1, 2023.



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DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director

DATE: June 10, 2022

SUBJECT: **Shortfin Mako Prohibition and Public Hearing**

Overview

I plan to take to public hearing a proposal to ban all retention of Atlantic shortfin mako caught in state waters for compliance with the Interstate Fishery Management Plan. An exemption would be granted for the possession and landing of shortfin mako caught legally in federal waters.

Background

In May, the Coastal Sharks Management Board of the Atlantic States Marine Fisheries Commission approved a zero retention limit in state waters for Atlantic shortfin mako sharks for both recreational and commercial fisheries. This action was taken to compliment NOAA Fisheries' proposed rule¹ for the federal retention limit of shortfin mako, and the states are required to implement this policy for state waters when NOAA Fisheries posts the final rule, which is expected to occur this month. It is understood that the states' rule making processes are not instantaneous and flexibility will be afforded in determining compliance with the implementation date, yet we are expected to act expeditiously.

NOAA Fisheries' proposed rule responds to a recent determination by the International Commission on the Conservation of Atlantic Tunas (ICCAT) that all member countries need to reduce current shortfin mako fishing mortality to accelerate the rate of stock recovery and to increase the probability of rebuilding success. The 2019 Atlantic shortfin mako stock assessment update that indicates the resource is overfished and experiencing overfishing, with a rebuild date of 2070. ICCAT adopted the harvest prohibition but also established a process whereby retention could be authorized in the future subject to the overfishing limit and its technical body's annual calculations of the eligible parties' individual retention allowances. The process and possible retention for 2023 will be discussed at ICCAT meetings this November. NOAA Fisheries has thus proposed a flexible retention limit with a default of zero that would only increase upon an allowable retention being established by ICCAT.

¹ <https://www.federalregister.gov/documents/2022/04/11/2022-07659/atlantic-highly-migratory-species-shortfin-mako-shark-retention-limit>

Shortfin makos are predominantly caught in association with fisheries that primarily target tunas and tuna-like species. Few if any shortfin makos are caught or harvested in MA state waters. It's also highly unlikely that an individual interested in targeting sharks would only want to do so in state waters and thus not have the required federal highly migratory species permit to access these sharks in federal waters. Therefore, I am proposing we prohibit the retention of shortfin mako sharks in state waters by moving the species from the "permitted shark species" list in the regulations to the "prohibited shark species" list, while expanding the exemption for sharks taken lawfully in federal waters to be possessed and landed in MA to both commercial and recreational harvesters (currently only commercial harvests have this allowance under the regulation). This will allow us to avoid the unnecessary administrative burden of annual retention limit changes for a federal waters fishery.



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DANIEL J. MCKIERNAN
Director

May 6, 2022

2022 Statement of Permit Conditions

Use of Purse Seines in Inshore Net Areas

You are receiving this letter because you hold an Inshore Net regulated fishery permit endorsement with the Commonwealth of Massachusetts and have indicated purse seine as a gear type. In accordance with 322 CMR 4.02(6) and (7) and 322 CMR 7.01(7), this **Statement of Permit Conditions** allows the use of purse seine gear in the inshore restricted waters established at 322 CMR 4.02(2). Additionally, it sets forth restrictions necessary for the conservation and management of inshore bait fisheries.

Pursuant to the authority of G.L. c. 130, §80 and 322 CMR 4.02(6) and 7.01(7), the Director of the Division of Marine Fisheries has determined that the **Statement of Permit Conditions** enumerated below shall apply to all 2022 Inshore Net regulated fishery permit endorsements.

General Provisions

1. In accordance with G.L. c. 130, §31, fixed gear shall be avoided.
2. Only species named on the permit may be taken and retained by the permit holder. All other species shall be immediately released alive. Dead fish shall not be discarded.
3. In accordance with G.L. c. 130, §§4A and 9, and 322 CMR 7.01(13), the Director or his agent may board a vessel for the purpose of administrative inspection or sea sampling.
4. The Harbormasters of any of the towns or cities bordering the regulated fishing areas listed on the permit shall have the right to board and inspect purse seiners in the listed areas after consultation with the Director, and may with his approval, suspend fishing operation if warranted.
5. This Statement of Permit Conditions shall be onboard the named vessel when any purse seine fishing activity is occurring.
6. If fishing for menhaden under the authority of a limited entry menhaden regulated fishery permit endorsement, the individual named on the commercial fisherman permit shall be onboard the vessel, as established at 322 CMR 7.06(5).

Reporting Requirements

1. In accordance with G.L. c. 130, §21, and notwithstanding any other requirements set forth by the Director, the permit holder shall report all retained catch at a trip level on monthly reports provided by the Division of Marine Fisheries. These reports shall be submitted to the Division of Marine Fisheries by the 15th of the following month.
2. Permit holders participating in the limited entry menhaden fishery:
 - a. Shall report their menhaden landings in accordance with the menhaden daily catch reporting requirements for bait dealers set forth at 322 CMR 6.43(5).

- b. Shall maintain a daily logbook onboard the vessel. This logbook shall detail the daily harvest; any and all daily sales, including those made at sea; and any and all menhaden kept for personal use.
- c. Are authorized to offload at sea to a carrier vessel that holds a bait dealer permit from the Division of Marine Fisheries and appurtenant carrier vessel bait dealer permit conditions. If a carrier vessel is utilized, the carrier vessel shall report menhaden landings in accordance with the menhaden daily catch reporting requirements for bait dealers set forth at 322 CMR §6.43(5). In this case, the harvest vessel does not need to report the catch to DMF through their bait dealer permit daily reporting requirement.

Conditions Affecting Fishing Activity

1. The use of purse seine gear shall not occur before June 1st.
2. The use of purse seine gear shall not occur within areas where recreational fishing activity is concentrated.
3. The use of purse seine gear shall not occur from ½ hour after sunset until ½ hour before sunrise.
4. The use of spotter planes shall occur only after 8 a.m. and away from residential areas.
5. The use of purse seines larger than 600 feet (100 fathoms) shall be prohibited, and in specific areas, the maximum purse seine size is further restricted. See restricted areas below
6. The use of purse seines shall be prohibited on Saturdays and Sundays inside any inshore net area, as defined as 322 CMR 4.02(2).
7. The use of purse seines shall be prohibited on Memorial Day, the 4th of July, and Labor Day inside any inshore net area, as defined as 322 CMR 4.02(2).
8. The use of purse seines shall be prohibited on Fridays in Beverly Harbor, as defined at 322 CMR 4.02(2).
9. Vessels intending to fish with purse seine gear in Salem Harbor, as defined at 322 CMR 4.02(2), shall contact the Salem Harbormaster's office at (978) 741-0098, prior to setting nets for the first time each year, in order to establish communication with the Harbormaster and receive guidance on restricted fishing areas due to vessel traffic.
10. If a carrier vessel is utilized in the menhaden fishery, the permit holder shall not offload to that carrier vessel more than one trip limit per day, as set forth at 322 CMR 6.43(4).
11. The use of a carrier vessel is prohibited within the waters of Boston Harbor, as defined at 322 CMR 4.02(2).

Restricted Areas. The use of purse seine gear is subject to the following restrictions within the following areas:

1. **Hingham Bay.** Vessels may fish with a hand hauled purse seine net up to 400' x 60' within those waters inside Hull Gut and West Gut. The use of spotter planes, purse seine nets larger than 400' x 60' and mechanically hauled purse seine nets are prohibited.
2. **Quincy Bay.** Vessels may fish with a hand hauled purse seine net up to 400' x 60' within those waters west of a line drawn from the point of rocks on the east side of Squantum Neck to the easternmost end of the Merrymount designated "A Anchorage Area" in Quincy, including that anchorage area. The use of purse seine nets larger than 400' x 60' and mechanically hauled purse seine nets are prohibited.
3. **Winthrop.** Vessels may fish with a hand hauled purse seine net up to 400' x 60' within those waters inside Winthrop Harbor bounded to the east by an imaginary straight line beginning at the southern end of Cottage Park Yacht Club, Winthrop, thence south to the "1" day marker, thence west to the easternmost end of Logan Airport Runway 27, excluding those waters within Winthrop designated "A Anchorage Area". This fishing activity shall only occur from ½ hour before sunrise to 8 a.m. The use of purse seine nets larger than 400' x 60' and mechanically hauled purse seine nets are prohibited.


Prohibited Areas

1. **Charles River.** It shall be unlawful to fish with purse seine gear inside an imaginary straight line drawn from Pier 4 in Charlestown to the easternmost Coast Guard Pier in Boston.

2. Mystic River. It shall be unlawful to fish with purse seine gear upstream of a line drawn from the end of the Massport concrete pier to the white storage tanks at the Exxon Terminal. Fishing may only be conducted above the Mystic River Bridge from ½ hour before sunrise to 8 a.m. Each purse seine operation is allowed to make one successful set when fishing above the Mystic River Bridge between ½ hour before sunrise until 8 a.m.
3. The Chelsea River. It shall be unlawful to fish with purse seine gear upstream of the Andrew McCardle Bridge.
4. Dorchester. It shall be unlawful to fish with purse seine gear inside an imaginary straight line drawn from UMASS to the “Corita” Gas Tank.
5. Neponset River. It shall be unlawful to fish with purse seine gear inside the Southeast Expressway.
6. Marina Bay. It shall be unlawful to fish with purse seine gear inside the break water.
7. Weir River. It shall be unlawful to fish with purse seine gear inside red nun “8”.
8. Quincy Bay. It shall be unlawful to fish with purse seine gear inside the waters west of an imaginary straight line drawn from the point of rocks on the east side of Squantum Neck to the easternmost end of the Merrymount designated “A Anchorage Area” in Quincy, including that anchorage area.
9. Winthrop Harbor. It shall be unlawful to fish with purse seine gear within the area bounded by an imaginary straight line beginning at the southern end of Cottage Park Yacht Club, Winthrop, thence south to the “1” day marker, thence east to Coughlin Park, Winthrop.
10. Designated A Anchorage Areas. It shall be unlawful to fish with purse seine gear within any designated “A Anchorage Area” as described on NOAA Chart #13270.

The Statement of Permit Condition enforceable by law, pursuant to G.L. c. 130 §80 and 322 CMR §7.01(7). Violations of any condition or restriction herein, or any provision of 322 CMR or G.L. 130 may result in the suspension or revocation of the commercial fisherman permit and any other applicable fines and penalties. The Director may revise or discontinue the provisions set forth in this Statement of Permit Conditions any time. For more information, please contact marine.fish@mass.gov.

This Statement of Permit Condition is valid through December 31, 2022, unless sooner revoked for cause.



Daniel J. McKiernan
Director

May 6, 2022

Effective Date



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Director

May 6, 2022

2022 Statement of Permit Conditions for CAP Purse Seine Permit Endorsement

This **Statement of Permit Conditions** applies to all commercial fishermen who hold a Coastal Access Permit (CAP) or CAP-Purse Seine regulated fishery permit endorsement with the Commonwealth of Massachusetts. In accordance with 322 CMR 7.01(7), this **Statement of Permit Conditions** serves to further regulate the use of purse seine gear in the waters under the jurisdiction of the Commonwealth in order to properly conserve and manage inshore bait fisheries.

Pursuant to the authority of G.L. c. 130, §80 and 322 CMR 7.01(7), the Director of the Division of Marine Fisheries has determined that the **Statement of Permit Conditions** enumerated below shall apply to all CAP and CAP-Purse Seine regulated fishery permit endorsements for the 2022 calendar year.

General Provisions

1. In accordance with G.L. c. 130, §31, fixed gear shall be avoided.
2. In accordance with G.L. c. 130, §§4A and 9, and 322 CMR 7.01(13), the Director or his agent may board a vessel for the purpose of administrative inspection or sea sampling.
3. It shall be unlawful to fish with purse seine gear within the inshore restricted waters, as described at 322 CMR 4.02, unless so authorized by an Inshore Net permit issued in accordance with G.L. c. 130, §80 and 322 CMR 4.02(3) and 7.01(4).
4. Night fishing with purse seines is prohibited at 322 CMR 4.06(3). Accordingly, it is unlawful to fish with purse seines within the waters under the jurisdiction of the Commonwealth from ½ hour after sunset to ½ hour before sunrise during the period of March 1 – October 31 and from 6:00PM – 6:00 AM during the period of November 1 – the last day of February.
5. This Statement of Permit Conditions shall be onboard the named vessel when any purse seine fishing activity is occurring.
6. The use of purse seines shall be prohibited on Saturdays and Sundays within the waters under the jurisdiction of the Commonwealth.
7. The use of purse seines shall be prohibited on Memorial Day, the 4th of July, and Labor Day within the waters under the jurisdiction of the Commonwealth.
8. The use of purse seine gear shall not occur within areas where recreational fishing activity is concentrated.
9. If a carrier vessel is utilized in the menhaden fishery, the permit holder shall not offload to that carrier vessel more than one trip limit per day, as set forth at 322 CMR 6.43(4).
10. If fishing for menhaden under the authority of a limited entry menhaden regulated fishery permit endorsement, the individual named on the commercial fisherman permit shall be onboard the vessel, as established at 322 CMR 7.06(5).

Reporting Requirements

1. In accordance with G.L. c. 130, §21, and notwithstanding any other requirements set forth by the Director, permit holders shall report all retained catch at a trip level on monthly reports provided by the Division of Marine Fisheries. These reports shall be submitted to the Division of Marine Fisheries by the 15th of the following month.
2. Permit holders participating in the limited entry menhaden fishery:
 - a. Shall report their menhaden landings in accordance with the menhaden daily catch reporting requirements for bait dealers set forth at 322 CMR 6.43(5).
 - b. Shall maintain a daily logbook onboard the vessel. This logbook shall detail the daily harvest; any and all daily sales, including those made at sea; and any and all menhaden kept for personal use.
 - c. Are authorized to offload at sea to a carrier vessel that holds a bait dealer permit from the Division of Marine Fisheries and appurtenant carrier vessel bait dealer permit conditions. If a carrier vessel is utilized, the carrier vessel shall report menhaden landings in accordance with the menhaden daily catch reporting requirements for bait dealers set forth at 322 CMR §6.43(5). In this case, the harvest vessel does not need to report the catch to DMF through their bait dealer permit daily reporting requirement.

The Statement of Permit Condition enforceable by law, pursuant to G.L. c. 130 §80 and 322 CMR §7.01(7). Violations of any condition or restriction herein, or any provision of 322 CMR or G.L. 130 may result in the suspension or revocation of the commercial fisherman permit and any other applicable fines and penalties. The Director may revise or discontinue the provisions set forth in this Statement of Permit Conditions any time. For more information, please contact marine.fish@mass.gov.

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Daniel J. McKiernan
Director

May 6, 2022

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Director

June 10, 2022

2022 Letter of Authorization and Statement of Permit Conditions **Bait Dealers Acting as Carrier Vessels for Menhaden**

You are receiving this letter because you hold a bait dealer permit with the Commonwealth of Massachusetts and have indicated that you intend to act as a carrier vessel for menhaden. In accordance with 322 CMR §7.01(7), this Statement of Permit Conditions serves to further regulate your activity as a carrier vessel while receiving, carrying and landing menhaden taken by harvesters from the waters under the jurisdiction of the Commonwealth. This is necessary to properly conserve and manage inshore bait fisheries.

Pursuant to the authority of G.L. c. 130 § 80 and 322 CMR §7.01(7), the Director of the Division of Marine Fisheries has determined that the **Statement of Conditions** enumerated below shall apply to the 2021 Bait Dealer permit so that the named carrier vessel may act as a carrier vessel for menhaden:

1. All menhaden received from a menhaden harvester vessel shall be reported to the SAFIS dealer reporting system on a daily basis.
2. A logbook shall be maintained onboard at all times. On a daily basis, the logbook shall detail the harvester vessels providing menhaden to the carrier vessel; the commercial fisherman DMF ID# for each harvester vessel; and the poundage of menhaden provided by each harvester vessel.
3. The carrier vessel shall accept menhaden from no more than two harvester vessels during any calendar day or trip, whichever period is longer. All harvester vessels providing fish to the carrier vessel shall hold a limited entry regulated menhaden fishery permit endorsement with Division of Marine Fisheries.
 - A. For 2022, the carrier vessel has identified the named harvester vessels from which it will accept and carry menhaden. Accepting menhaden from harvester vessels not identified here is prohibited.
4. The carrier vessel shall not accept from any harvester vessel(s), or possess, carry, and offload more than 125,000 pounds of menhaden during any calendar day or trip, whichever period is longer.
5. The carrier vessel shall not accept menhaden within Boston Harbor or any menhaden caught in Boston Harbor by a harvester vessel. Consistent with 322 CMR §4.02, Boston Harbor is defined as those waters inside an imaginary straight line drawn from the tower on Telegraph Hill in the town of Hull to the southernmost point of Lovells Island thence from the northernmost point of Lovells Island to the southeasternmost tip of Deer Island.

This Statement of Permit Condition is enforceable by law, pursuant to G.L. c. 130, §§2 and 80 and 322 CMR §7.01(7). Therefore, violations of any condition or restriction herein, or any provision of 322 CMR or G.L. 130 may result in the revocation of this Statement of Permit Conditions and the resulting prohibition on the use of a carrier vessel in the Massachusetts menhaden fishery, a suspension or revocation of the associated commercial fisherman and dealer permits, and any other applicable fines and penalties. The Director may revise or discontinue the provisions set forth in this Statement of Permit Conditions any time.



Daniel J. McKiernan
Director

June 1, 2022

Effective Date