



**MARINE FISHERIES ADVISORY COMMISSION  
BUSINESS MEETING AGENDA**

**9:00 AM**

**June 18, 2020**

**Held Virtually Via Zoom**

**Webinar Link: <https://bit.ly/2Y1PPQI>**

**Webinar Passcode: 168697**

**Webinar ID: 824-0971-4974**

**Dial In: 1-929-436-2866**

1. Introductions and Announcements (9:00 – 9:15)
  - a. Review and Approval of the June 18, 2020 Business Meeting Agenda
  - b. Review and Approval of the May 21, 2020 Draft Business Meeting Minutes
2. Comments (9:15 – 9:45)
  - a. Chairman
  - b. Commissioner
  - c. Director
  - d. Law Enforcement
3. Optional Break (9:45 – 10:00)
4. Discussion Items (10:00 – 11:15)
  - a. Emergency Action to Close Cape Cod Canal to Commercial Fishing
  - b. Update on Issues Related to COVID-19 and the Seafood and Fishing Industry
    - i. CARES Act Fisheries Relief in MA
    - ii. DMF Seafood Marketing
    - iii. CE Proposal to Extend For-Hire Black Sea Bass Fishery
    - iv. Updates from Commission Members
  - c. Update on Offshore Wind Energy Development
5. Optional Break (11:15 – 11:30)
6. Other Business (11:30 – 12:00)
  - a. Commission Member Comments
  - b. Public Comment
7. Adjourn (12:00)

**Future Meeting Dates**

**9AM  
August 20, 2020  
Location TBD**

**9AM  
September 24, 2020  
Location TBD**

**9AM  
October 29, 2020  
Location TBD**

**9AM  
November 19, 2020  
Location TBD**

**9AM  
December 10, 2020  
Location TBD**

All times provided are approximate and the meeting agenda is subject to change. The MFAC may amend the agenda at the start of the business meeting. Due to constraints imposed by virtually meeting capabilities, public comment may not be accommodated. However, the public may log into the meeting virtually and follow the proceedings.

**MARINE FISHERIES ADVISORY COMMISSION**  
**Business Meeting Minutes**  
**May 21, 2020**  
**Held Virtually via Zoom**

**In attendance:**

*Marine Fisheries Advisory Commission:* Raymond Kane, Chairman; Michael Pierdinock, Vice-Chairman; William Doyle, Clerk; Arthur “Sooky” Sawyer; Kalil Boghdan; Tim Brady and Lou Williams. Absent: Charlie Quinn.

*Division of Marine Fisheries:* Daniel McKiernan, Acting Director; Michael Armstrong, Assistant Director; Kevin Creighton, CFO; Jeff Kennedy, Shellfish Program Chief; Jared Silva; Nichola Meserve; Story Reed; Melanie Griffin; Julia Kaplan; Jeff Kennedy, Brad Schondelmeier, Robert Glenn, Kathryn Ford, Chrissy Petitpas, Erin Burke and Bill Hoffman.

*Department of Fish and Game:* Ron Amidon, Commissioner; Mary Lee King, Deputy Commissioner; Mark Reil, Director of Legislative Affairs.

*Massachusetts Environmental Police:* Colonel Shaun Santos; Lt. Colonel Pat Moran; and Lt. Matt Bass.

**INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane called the May 21, 2020 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

**REVIEW AND APPROVAL OF MAY 21, 2020 BUSINESS MEETING AGENDA**

No changes to the May 21, 2020 MFAC business meeting agenda were proposed.

**Bill Doyle made a motion to approve the draft agenda. The motion was seconded by Mike P.**

**REVIEW AND APPROVAL OF APRIL 1, 2020 DRAFT BUSINESS MEETING MINUTES**

Chairman Kane asked if there were any amendments to the April 1, 2020 MFAC draft business-meeting minutes. Mike Pierdinock requested a minor revision be made (p 5) with regards to a comment he made on potential unintended consequences related to the potential use of commercial permits by recreational fishermen to retain bluefish as bait. There were no objections to this amendment. **Sooky Sawyer made a motion to approve the minutes as amended. Lou Williams seconded the motion. The motion was approved unanimously.**

## **ACTION ITEMS**

### Officer Elections

Chairman Kane requested guidance on how to proceed with officer elections. Jared Silva stated that if sitting officers wished to retain their seat, then to ask if Commission members objected to this. If there were no objections, then the Chairman could proceed to a motion and vote by unanimous consent.

There were no objections to Ray Kane retaining his seat as Chairman. **Bill Doyle made a motion to reappoint Ray Kane as Chairman. The motion was seconded by Lou Williams. The motion passed by unanimous consent.**

There were no objections to Mike Pierdinock retaining his seat as Vice-Chairman. **Lou Williams made a motion to reappoint Mike Pierdinock as Vice-Chairman. The motion was seconded by Kalil Boghdan. The motion passed by unanimous consent.**

There were no objections to Bill Doyle retaining his seat as Clerk. **Kalil Boghdan made a motion to reappoint Bill Doyle as Clerk. The motion was seconded by Lou Williams. The motion passed by unanimous consent.**

### Appointment of DMF Director

Commissioner Ron Amidon recommended Dan McKiernan be appointed Director of DMF. As former Director Pierce moved to retire last year, he transitioned a lot of his workload to Dan. Following David's retirement in November 2019, Ron appointed Dan Acting Director. Ron felt strongly regarding Dan's capabilities as Director. He had built a strong working relationship with him and respected that Dan accepted challenge of the job and worked hard for the agency. Ron thanked Ray Kane and Bill Doyle for sitting on the interview panel.

Chairman Kane called for motion for the Commissioner's recommendation. **Sooky Sawyer made a motion to appoint Dan McKiernan as the new DMF Director. The motion was seconded by Kalil Boghdan. The Chairman called for a roll call vote, which resulted in unanimous approval of the motion. Dan McKiernan was appointed DMF Director.**

Dan thanked Commissioner Amidon and the MFAC. Dan then provided some brief remarks regarding his appointment, the role of the Director, and the importance of DMF's working relationship with the MFAC. In conclusion, he pledged to work with stakeholders and ensure DMF delivers the best programs, policies, and regulations.

## **CHAIRMAN'S COMMENTS**

The Chairman congratulated Dan on becoming the new DMF Director.

## **COMMISSIONER'S COMMENTS**

Commissioner Amidon congratulated Dan McKiernan on his appointment.

Ron's comments then focused on DFG's work surrounding the COVID-19 pandemic. He noted that DMF and DFG were working to develop a spending plan for the federal CARES Act relief funding. Concurrently, there were also efforts across the Baker Administration focused on re-opening sectors of the economy. Ron and Mike Pierdinock served on a working group focused on reopening the for-hire and charter boat industry. He was happy that a segment of the for-hire population would be able to get back to work on May 25. However, the head boat industry would likely remain constrained by capacity controls and business may still be impacted by cancellations.

## **DIRECTOR'S COMMENTS**

Director Dan McKiernan started his comments by focusing on issues related to the COVID-19 pandemic. Dan noted DMF focused on developing a spending plan for the CARES Act federal relief monies. Dan provided some background on the program and noted Massachusetts received \$28M of the \$300M allocated to coastal states for fisheries and seafood industry economic relief. State agencies were working with ASMFC and NOAA Fisheries to obtain more information about how the federal government allocated the funding to better determine how to develop spending plans for affected industry sectors. Dan noted a major challenge was determining loss mid-year, particularly given the uncertainty facing the second half of the year. This was even more challenging when working to address the seafood processing and for-hire sectors, as DMF does not have good, verifiable, economic data. Additionally, DMF was working to promote the local marketing of local seafood and released a brief YouTube video on the subject.

Sooky Sawyer appreciated DMF's seafood marketing video and felt it did a good job at underscoring the importance of buying local. Dan gave credit to Story Reed and Wendy Mainardi.

Dan then turned to staffing and noted several new hires across the agency, including Julia Kaplan who will serve as the Director's assistant and communication's specialist. She would be working closely with the DMF Boston staff and would likely interact with the MFAC.

DMF is renewing its Period II Summer Flounder Pilot Program for 2020. This pilot program allows trawlers to fish consecutive days without returning to port and land summer flounder caught across these days. Summer flounder caught on the first day is to be segregated and tagged. Daily trip limits for other species incidentally caught in this trawl fishery still apply. DMF anticipated getting out tags and Letters of Authorization by early June.

DMF's discussion with MEP and ACOE regarding the commercial fishery along the Cape Cod Canal had gained attention on social media and recreational angler message boards. Dan stated that DMF was exploring a potential emergency action to close the shoreline of the Cape Cod Canal to commercial fishing as a means of ameliorating ongoing poaching and public nuisance activities. However, a final decision would not be made until early June. There were some concerns that this ban would eventually extend to the recreational fishery, but felt those concerns were not justified.

Mike Pierdinock was contacted by recreational and commercial fishermen regarding the rumored closure. He was surprised to hear about it because he left the February meeting with ACOE thinking DMF would see how the issue played out in 2020 and consider action for 2021 if problems persisted. He liked the wait-and-see approach because it would allow DMF and the MFAC to understand how disparate size limits for each sector influenced compliance issues along the Canal. Pierdinock urged DMF to be cautious in their approach. He argued that it was generally difficult to regain access once a prohibition was implemented. Moreover, he was skeptical as to whether a prohibition would have a demonstrable impact on poaching if ex-vessel values remained high, and felt that the pandemic's negative impacts on seafood markets may curb poaching this summer by diminishing profit motive.

Mike P. the asked if there were any other discrete locations within the Commonwealth where commercial fishing is prohibited. Dan stated that commercial fishing is banned within fish weirs and adjacent buffer zones, as well as on the Harwich reef. Additionally, municipalities restrict commercial shellfish fishing on certain flats for management purposes. Lt. Matt Bass added that certain fishing piers and boating access sites are off limits to commercial fishing.

Ray Kane asked about potential improvements to the MRIP program. In the past, he had suggested a 4-tier approach to the MRIP data collection (e.g., observer, interview passengers, interview crew, interview captain). He was curious if any measures had been taken to improve the data collection methodology. He noted that the program was under increasing scrutiny given its use in potential reallocation proposals.

Mike Armstrong stated that MRIP is a federally designed program with very tight controls. As a result, the program is highly standardized and it is difficult to quickly change data collection methodologies. Dan McKiernan added individual states (or regions) are not able to implement novel data collection approaches that differ from the federally standardized approach because it may skew the data. Armstrong stated that despite these realities, there are efforts being made to analyze potential improvements. A recent study was conducted on charter boats involving observer coverage. This allowed for the comparison of catch information across three data streams: observer reports; captain's report; and angler intercept. He expected the results would be made available soon.

Mike P. commended DMF for their work to improve data collection with the for-hire fleet in Massachusetts. However, he expressed a continued frustration that VTR data

provided to NOAA Fisheries by the for-hire fleet is only used to calculate effort. He noted a sentiment among for-hire operators that they are investing the time and effort to provide the data and are frustrated it is not being used to estimate harvest. Armstrong noted statistical issues with using this data to estimate harvest, including the fact that it is self-reported and cannot be independently verified. However, efforts are being made to address these challenges as mandatory reporting in the for-hire fleet becomes more commonplace.

## **LAW ENFORCEMENT COMMENTS**

Lt. Colonel Patrick Moran introduced Colonel Shaun Santos. Col. Santos was brought on to lead the MEP over the winter. The Col thanked the MFAC for their work in managing the state's marine fisheries and looked forward to a continued working relationship with the MFAC and DMF. Col. Santos then congratulated Dan on his appointment.

Lt. Bass stated that since the pandemic began MEP efforts were focused on individuals visiting DCR parks that were closed due to the pandemic. As the parks begin to reopen, MEP are refocusing on their more typical enforcement duties. He noted it was timely, as it appears that recreational boating and fishing activity appears to be up this year.

With regards to fisheries enforcement, there were several striped bass violations, a for-hire black sea bass violation, and several horseshoe crab cases. Additionally, there were a number of conflicts between the general public and tribal members regarding indigenous hunting and fishing rights, particularly regarding striped bass and river herring. MEP has been working to educate the public and post more signage around herring runs and fishing access sites, including the Canal.

MEP was also anticipating a final decision from DMF on emergency action to address commercial fishing along the Cape Cod Canal. He noted that the feedback he and his officers have received from the public on a potential action to prohibit commercial fishing in the area was positive.

With regards to personnel, three officers are due to graduate from the Academy in June. Two of the officers will be reporting to the Coastal Bureau, which will result in a net gain of two officers.

## **DISCUSSION ITEMS**

### Review of Recent ASMFC and Council Meetings

#### *Atlantic Sea Herring*

Dan McKiernan covered DMF's comments on sea herring. The ASMFC's Sea Herring Board reviewed Addendum III to the FMP, which proposed options to adjust the management of the Area 1A quota. However, at the time, the NEFMC had not published

the final rule for Amendment 8 to the federal FMP, which considers and ABC control rule and MWT buffer zones. Accordingly, the Board postponed action on Addendum III.

Following the Board meeting, the states of Maine, New Hampshire and Massachusetts met to set effort control measures for Area 1A. These measures are designed to control the harvest of area's quota to ensure lobster bait availability throughout the season. For the period of June 1 – September 30, the directed fishery will open on July 20. The Category A purse seine fleet will be subject to a 6-truck limit and days-out on Fridays-Sundays; the use of carrier vessels is also prohibited. The Category C and D fisheries will be subject to their federal trip limits and Category C small mesh bottom trawl vessels will take days out on Saturdays and Sundays. These measures will be reviewed throughout the season.

#### Atlantic Menhaden

Nichola Meserve reminded the Commission that the Menhaden Board had approved the first ecological reference point (ERP) assessment for menhaden at the February 2020 meeting. At that time, the Board requested the ERP workgroup conduct sensitivity analyses regarding the assumptions on certain predator and prey species' levels. The Board reviewed the results at the May meeting which indicated a need for further analysis. One area of analysis was to be the possibly overestimated influence of herring abundance on the amount of menhaden needed to support striped bass at target levels. Ray Kane and Nichola discussed the inclusion of river herring and sea herring in the ERP assessment. Nichola noted that both were included, but sea herring was modeled as a focal species and was what was being further analyzed. Nichola indicated that the Board could be in position to adopt ecological reference points for menhaden at the August meeting.

Nichola also noted that the ASMFC had recently dropped its non-compliance finding against Virginia. Management of menhaden had transferred from the state's legislature to the state's fisheries agency, which had adopted compliant Chesapeake Bay cap rules.

#### Tautog

Director McKiernan stated that RI provided the Tautog Board with a conservation equivalent proposal to increase their for-hire trip limit from 5-fish to 6-fish during the fall season. Their argument was that MA maintains a 1-fish limit during the summer months, when spawning is occurring, and as RI does not allow the retention of tautog during the spawning period they should be able to recoup this potential lost harvest later in the year. The proposal was ultimately voted down because it was viewed as a departure from the regional management approach for MA and RI, and should be considered regionwide.

Dan reminded the MFAC that when the regional approach was adopted, RI and MA blended their regulations. RI historically closed their fishery in the summer months. However, DMF did not support a summertime closure because it would coincide with the peak of the tourist and recreational fishing season and would force anglers to

discard any tautog they may catch. Instead, DMF opted to pursue a 1-fish summertime limit; RI chose maintain their closed season. Now they were trying to use this action to justify providing additional fish to their for-hire fleet in the fall.

### Striped Bass

Mike Armstrong stated the Striped Bass Board covered two primary items. First, they reviewed an analysis of the potential expected reduction in striped bass mortality through the final regulations set forth by the states as part of Addendum VI. Considering the regulations approved through conservation equivalency, the analysis showed the final rules will likely achieve a 15% reduction in fishing mortality, rather than 18%, but with a similar confidence of achieving the F target. Armstrong noted that it was assumed that effort would be the same in 2020 as it was in 2017 (the year used in the initial analysis) and he was interested in how this would play out given the pandemic. The second item was the development of the next Amendment. A six-member working group was established and is tasked with considering the range of issues to be included (e.g., a rebuilding plan for SSB; SBB targets and thresholds; area-specific management; commercial quota allocations). The working group will present its findings at the August meeting.

Mike P. asked about working group membership. Mike A. stated the members were Marty Gary (Potomac River Fisheries Commission); Megan Ware (ME DMR); Ritchie White (NH delegate); John McMurray (NY for-hire captain); Mike Luisi (MD DNR); and himself. The goal was to provide a geographically diverse set of stakeholders with differing views.

### *Bluefish, Summer Flounder, Scup and Black Sea Bass*

Nichola Meserve reported that the ASMFC management boards for these species had met jointly with the MAFMC to provide direction on the range of issues and alternatives to be developed in draft amendments following recent public scoping hearings. Both amendments were initiated to address the commercial/recreational fishery allocations, with bluefish also addressing the state-by-state commercial allocations, due to these allocations being based on 1980s data that may no longer reflect the performance of the fisheries, especially after the revision to MRIP estimates. Based on public input, mode-specific allocations or regulations within the recreational fishery (i.e., for-hire vs private anglers) would also be considered for inclusion after further development. The plan development teams will be working throughout the summer and fall with Board and Council input on the draft amendment, with the goal of having public hearings this winter for a potential implementation date of 2022.

Director McKiernan recognized that the for-hire fleet was struggling this year on account of the pandemic and supported creative solutions to provide them with opportunities to stay afloat. He felt it was most appropriate to examine policies that would consider days lost and provide additional flexibility this year. However, he was concerned about long-term changes to management, particularly the increasing trend to establish disparate limits for the for-hire fishery. He argued the issue of disparate limits should be



addressed separately and policies should be developed on when such limits should be implemented if they are to be implemented.

Mike P. asked if - in response to the pandemic - DMF was considering liberalizing recreational fishing limits in the fall (particularly for black sea bass and tautog). He noted that this could provide substantial relief to the for-hire fishery. Dan stated that this was a topic of discussion at recent meetings of the state directors. Nichola anticipated that DMF would be pursuing efforts to recoup lost black sea bass fishing opportunities for the for-hire sector.

Mike P. commented that at a recent HMS Advisory Panel meeting it was projected that Atlantic bluefin tuna landings coastwide would be down about 60%. Ray Kane noted that MRIP evaluates recreational fisheries based on two-month waves and speculated we would not have catch estimates for the current Wave 3 (May – June) until early-to-mid August. Nichola confirmed this but noted DMF could likely pursue potential season extensions in exchange for delayed season openings if warranted more quickly.

Ray noted that North Carolina had experienced much greater than anticipated recreational black sea bass harvest in its special February fishery. Nichola added that the states that opt to participate in this February fishery have to offset the harvest elsewhere in the normal season. NC's February estimate being more than their typical annual harvest would require a closer look at the estimate and how the usual accounting process occurs.

#### May Groundfish Closure in Gulf of Maine: Industry Requests and DMF Response

Director McKiernan mentioned that with the disruption caused by the pandemic and its impact on the seafood industry, DMF was evaluating how best to provide regulatory relief while also maintaining conservation goals. In April, DMF received requests to amend the May groundfish closure in MA Bay by either rescinding it or moving its southern boundary from Boston north to Marblehead. However, DMF decided to not pursue any action. This was principally due to spawning and mortality concerns.

Lou Williams spoke to the few fishermen who were pushing for the opening and understood their interest in the request. However, he ultimately agreed with Dan's decision.

#### Ongoing Review of Local Shellfish Aquaculture Regulation

At the February MFAC meeting Bill Doyle raised concerns about the local management of shellfish aquaculture negatively impacting growth and stability in the state's shellfish aquaculture industry. He moved a motion forward to keep this issue on monthly agendas until the MFAC came to a position on it. For the April 1 meeting, Bill provided his synopsis of local management. Dan tasked his staff with reviewing the document and teasing out potential areas for further analysis. Dan presented a memorandum based on staff's analysis and acknowledged Jeff Kennedy, Kathryn Ford, Chrissy Petitpas and Jared Silva for their contributions.

Dan introduced Jeff Kennedy to the MFAC. Jeff currently serves as DMF's Acting Shellfish Program Chief. Jeff noted that home rule is a core component of shellfish and aquaculture management in Massachusetts and given the joint state-local management system it creates a lot of complexity. Jeff reviewed the various local and state shellfish aquaculture controls outlined in the memo.

Dan noted that as a result of this home rule system, there were stark differences between how certain municipalities manage shellfish resources and fisheries. For instance, Wellfleet embraces shellfish farming while Chatham tends to favor the wild harvest fishery. He added that any move away from home rule would be challenging given it would require the legislature amend the statute and move control away from municipalities and to the state. He favored an analysis of existing municipal rules affecting shellfish aquaculture to potentially inform state guidelines on best practices. This could then help municipal shellfish aquaculture programs evolve and grow.

Jeff also noted that the home rule issue and best local aquaculture management practices were being addressed through the MSI. Jeff Kennedy mentioned that the MSI is not a DMF initiative. However, Dan is the Chair of the Task Force and staff are involved in the development of critical documents.

Jared Silva provided an update on the MSI. He stated that the MSI Scoping Committee report was finalized and the MFAC received this report at their February meeting. This report established several areas of public interest for the MSI Task Force to consider in the development of their Strategic Plan, including home rule and aquaculture permitting. Additionally, DMF staff were finalizing their edits to the MSI's Assessment Report. This report reviews the various shellfish resources and stakeholders in the Commonwealth and outlines how shellfish and shellfish aquaculture are managed.

Dan then introduced Kathryn Ford, DMF's Shellfish Habitat Program Manager. Kathryn works with shellfish aquaculture staff on issues pertaining to environmental permitting. Accordingly, she was heavily involved with the Massachusetts Aquaculture Permitting Plan (MAPP), which was a project among various EEA agencies and offices to streamline environmental permitting for aquaculture in Massachusetts. Kathryn noted that MAPP was designing a web-based tool to navigate the various permitting requirements and hoped the resource would be available to the public this summer. Additionally, NOAA's SeaGrant was funding the development of the MA-ShellFAST project, which was developing an aquaculture grant siting tool. The project was expected to be funded through 2021 to catalogue municipal aquaculture siting regulations. Kathryn was working with them to include information regarding license transferability.

Bill Doyle asked he would like to continue to work with DMF on these projects as they move forward. Dan questioned if this would be a good topic for the SAP as the appropriate body to move this issue forward. Bill felt the SAP was too large and diverse to serve as a working group. Instead, he felt a sub-committee of the MFAC would be more suitable. Dan stated that he would discuss this with staff and provide further information at the next meeting.

Mike P thanked DMF and Bill Doyle for continuing to push this issue forward. He noted that oyster farmers reached out to him regarding concerns about the sale of municipally propagated shellfish affecting commercial market supply and value. Jared Silva noted this was a concern raised in the MSI Scoping Report.

### Impacts of COVID-19 on Seafood and Fishing Industry

#### **CARES Act**

Director McKiernan stated that that Congress appropriated \$300M in COVID-19 related fisheries disaster relief across the country. NOAA Fisheries allocated funding to individual states based on revenues from their for-hire, aquaculture, commercial fishing and seafood processing sectors. MA received \$28M, the third highest allocation.

At present, DMF was requesting NOAA Fisheries provide them with a breakdown of how they developed MA's allocation. This will inform DMF's eventual spending plan. Dan noted that there is a focus on getting the money out quickly to eligible seafood businesses. Eligible businesses need to be able to demonstrate a 35% loss related to the pandemic and cannot be made more than whole by the various federal relief mechanisms.

Dan identified several factors that complicate the distribution of this funding. These factors include the ability to demonstrate loss rather than project loss, lack of data for certain sectors, and the fact that the funding was allocated based on revenue not loss. However, DMF would not have to conduct the audits necessary to determine compliance with these federal guidelines; instead applicants would be able to self-certify and audits would be done by the federal government.

Dan anticipated establishing working groups to assist DMF in developing spending plans for each sector. Once finalized, DMF would submit a spending plan to the ASMFC. From there, fishermen would be able to apply.

Dan envisioned that most relief would come as direct checks to fishermen, there was some interest in exploring a program that would buy standing stock from aquaculturists. This shellfish could then be planted on municipal grants for public fisheries. In turn, this could reduce the market gluts that are expected to occur when the oyster market rebounds.

Dan noted that it was important to understand that this aid would likely not cover the losses being incurred by the state's seafood and fishing industries. The state received only \$28M and once this money is divided up among eligible recipients, the individual payments will likely only be a fraction of the actual loss incurred.

Ray Kane stated that most fishermen he speaks with understand the limits of this disaster relief. He requested DMF consider looking at tax and enforcement records and potentially withholding payments from non-compliant entities.

Mike P. was concerned about how that 35% loss threshold may impact the for-hire industry. He noted that depending on the business model, certain segments of the industry will be able to demonstrate a 35% loss straight out of the gate, but other segments may not be able to demonstrate a loss until later in the year. Accordingly, he was interested in potentially delaying for-hire payouts or developing a potential tiered approach.

Dan added that he is relying on public input and guidance from the Baker Administration to make these types of decisions. He noted that the focus has been on getting the money out to affected parties. He had heard from his federal counterparts that there may be another relief package later in the year.

Among the for-hire sector, Mike P. stated VTRs could be provided for certain entities. However, other criteria for demonstrating loss would have to be developed for those entities who do not fill out VTRs. Dan noted that his Sportfish Program staff were looking into what tools are available to verify activity and loss.

Mike P. asked whether freshwater fishing guides would be eligible for funding. He noted that several contacted him on the subject. Dan stated the CARES Act funding was only for marine coastal fisheries. Ray Kane concurred.

Bill Doyle agreed that managing this disaster relief program was a daunting task. He encouraged DMF to take a look at what the bigger states are doing. He also suggested that Dan allow the MFAC to vote on his plan to provide him a backstop against potential pushback.

#### DMF Seafood Marketing Promotion

Story discussed DMF's Seafood Marketing strategies. Due to COVID-19 there has been a shift to more online content. DMF was maintaining a list on its website of retail seafood dealer locations that remain open. A promotional YouTube video featuring the Director encouraging local seafood demand and Wendy Mainardi was developing a chef series to highlight local seafood recipes and potentially feature videos of chefs preparing these dishes. These are expected to be released sometime in June. With guidance from the Seafood Marketing Steering Committee, species-specific videos featuring the fisheries and fishermen themselves are also in the works. Wendy Mainardi DMF's website of retail locations that are open.

#### Increase in Retail Boat Permits and Challenges

Story discussed the increase in requests for Retail Boat Permits. To make the application and issuance process easier, the \$65 retail boat permit fee was waived. DMF worked with DPH to develop a Letter of Authorization to allow the sale of scallops off the back of the boat.

As the sale of seafood straight from boat to the consumer was becoming more popular, there were a number of challenges. First, there are concerns regarding being able to

maintain social distancing guidelines at the marinas, particularly as we move into the busier summer months. There were also requests to consider allowing seafood being sold in separate parking lots in close proximity to the marina to avoid social distancing issues. DMF is working closely with MEP and DPH to determine what is allowed under the authority of the boat retail permits as there are strict requirements dealers need to abide by (e.g. temperature restrictions).

Director McKiernan stated that given the circumstances of the pandemic with numerous seafood processors and dealers being closed, selling seafood right off the boat is an appropriate method. However, as we move forward and dealers start re-opening, a movement back towards more traditional seafood distribution model is necessary to serve the demands of the broader seafood economy. This has to be done through the dealer/processor infrastructure due to the HACCP investment needed to process fish.

Story discussed several emerging local seafood distribution models occurring along the Cape. The first involves a fishermen who brings his scallops to a wholesale dealer where it is re-packaged and in some cases frozen, and then he services local demand (e.g., farmers market) from a refrigerator truck. There is also interest in a fishermen co-op where a HACCP establishment could be shared to process and package their catch.

#### *Procurement by State Agencies*

Due to timing issues this agenda item was not addressed.

#### Updates from Commission Members

Lou Williams stated that this year was trying for his business. He was planning on conducting an experimental whelk fishery, but that was put on hold due to loss of markets. Lou was also not gillnetting or lobstering, as he did not have crew. His crew member decided not forgo working this spring due to familial concerns related to the risk of contracting COVID-19. Sooky added that some crew have been apprehensive to return to work, in part because of the substantial compensation provided by the pandemic unemployment benefits. Mike P. agreed and noted this was also occurring in marinas and other shoreside businesses.

Mike Pierdinock stated that due to the closure of the for-hire industry in April and May and persistent concerns about the pandemic, the for-hire industry was facing substantial cancellations throughout the spring and summer. Pierdinock thanked Ron Amidon for his work to re-open the for-hire fishery and hoped it would offer some relief to charter boat captains. However, he expected cancellations would continue to occur, and noted the party boat fleet remained effectively closed due to the social distancing guidelines and limitations of 10 people per vessels.

Mike thanked Ron, Dan, and the DMF staff for fielding questions about COVID restrictions, as there were discrepancies in what local authorities were implementing versus what the state was implementing. He was concerned that some of these discrepancies were being implemented by municipal officials that further constrained activity and congestion at boat ramps and parking areas.

Sooky Sawyer asked if it was possible for DMF to amend the actively fished criteria for the transfer of limited entry permits to not include 2020 in the lookback period. He noted that some older fishermen were apprehensive about having to work during the pandemic to keep their permit active for a transfer. Dan supported this and stated he would work with staff to develop a policy on this issue.

On the topic of permits, Mike P. stated that given the loss of for-hire fishing opportunities some operators were looking to commercially fish. However, select captains no longer hold certain commercial permits, which are now limited access. He was curious if DMF would be able to issue limited access permits or LOAs on a controlled basis to provide these operators with access to these fisheries. Dan stated he would review this with staff and would let Mike know if any such options exist.

Tim Brady stated that the for-hire fleet was tied up through Memorial Day. Moreover, the reopening guidelines restrict operations to 10 people and this effectively kept the head boat sector closed. He was very concerned that the pandemic would force many operations out of businesses.

Kalil Boghdan stated that several guides out of Plum Island Sound and the Essex River have filed for unemployment. Given concerns about the spread of the pandemic, they likely will not re-open due to the close quarters associated with these operations.

### **LONGFIN SQUID FISHERY PRESENTATION**

Director Dan McKiernan stated that the legislature commissioned DMF to produce a report on the longfin squid small mesh trawl fishery through the FY19 budget. This report arose to further investigate concerns that were driving interest in a bill to ban mobile gear fishing in Nantucket town waters. DMF's Fisheries Dependent Investigation Project was tasked with reviewing state and federal sea sampling data and provide an analysis. Dan then introduced Brad Schondelmier. Brad was the main author of the report along with Bill Hoffman. DMF intended to release the report to EEA by the end of the week and from there it would be submitted to the legislature.

Brad presented a preliminary analysis of the report. The presentation focused on how the fishery is managed and how data is collected; where the fishery is conducted in state-waters and adjacent federal waters; fleet composition across areas; catch, bycatch and discards; and areas where additional research is needed. Following the presentation, Brad took questions.

Chairman Kane recognized Pat Johnson. Pat is the Chief of Staff for Julian Cyr, the state senator from the outer Cape and Islands. Senator Cyr was among the legislators who were primarily responsible for obtaining funding for this report.

Pat thanked Brad for his presentation. He noted Senator Cyr was very interested to read over the report. Pat then asked if DMF felt past extensions of the squid fishery

impacted the viability of the squid resource, particularly as mobile gear may dislodge squid egg mops from the ocean floor and damage them before they hatch.

Brad noted that this was an area where additional research was needed. There was no scientific literature regarding what, if any, impact mobile gear fishing activity had on squid egg mops and squid reproductive capacity.

Director McKiernan discussed to the management aspects of the question. Regulations close the fishery on June 9, but allow the Director to extend the season. The June 9 day was chosen because it historically coincided with increasing recreational fishing effort and when inshore catch tends to become more mixed species. The June 9 date was therefore chosen to satisfy concerns about user group conflicts and bycatch. However, in some years the squid run may occur late (usually due to water temperature) and catch remains strong into June. To provide the fleet with access to this squid resource, DMF may extend the season and such extensions are generally only for one week.

Dan was confident that these short-term extensions were not having a demonstrable impact on the squid resource. Moreover, he noted that trawlers typically fish in several hot spots south of Cape Cod. This was in part because they were restricted from fishing in other areas because of shoal or rock bottom, the presence of fixed gear (e.g., fish pots or whelk pots), or regulatory factors (e.g., spatial closures). Accordingly, most of the area south and west of Cape Cod where squid are seasonally present are not being fished and any squid egg mops laid in this area would not be subject to potential impacts associated with mobile gear fishing effort.

Pat thanked Dan, Brad, and DMF staff for their work and added that Senator Cyr would be interested in working with the agency to better understand the squid mop disruption issue.

Kalil applauded Brad and Bill's work. He asked for more clarification on the reasons why squid may be discarded. Brad stated that a majority of squid that were observed being discarded were discarded because they too small to be marketable. In some instances this may be coded as "no market" because it is based on comments from the captain to the observer and is open to interpretation. Brad explained that squid spawn throughout the year, as a result there are micro-cohorts within the population that exist at different sizes. Therefore, it is common that throughout the season the fishery may encounter smaller runs of squid. Brad added that overall the average poundage of squid discarded compared to pounds per haul was very small.

Director McKiernan thanked Brad S. for a great presentation, the depth of the analysis, and all the work that went into the squid project.

## **OTHER BUSINESS**

### MFAC Meeting Schedule for Remainder of 2020

Jared Silva reviewed the MFAC meeting schedule for the rest of 2020. He stated that the meeting scheduled for June 18<sup>th</sup> meeting will be held via Zoom, as DFW's Westborough Headquarters remains closed until further notice. Then for the remainder of the year, Jared laid out August 20<sup>th</sup>, September 24<sup>th</sup>, October 29<sup>th</sup>, November 19<sup>th</sup>, and December 10<sup>th</sup> as potential meeting dates. He asked MFAC members to contact him if they had any conflicts with those dates.

### **COMMISSION MEMBER COMMENTS**

Kalil Boghdan thanked Dan McKiernan on his appointment as Director and wishes him the best of luck. Kalil noted that he has gotten to know Dan over his 4-year on the MFAC and thinks he has a tremendous leadership style and is a great fit for the position. Kalil then asked about the appointment of the 9<sup>th</sup> MFAC member. Commissioner Amidon was optimistic there would be an appointment by the June meeting. Kalil then asked a procedural question about what constitutes a forum. Jared Silva stated that state law establishes a quorum of the MFAC as 5 members.

Mike P. and Ray Kane also congratulated Dan.

### **PUBLIC COMMENTS**

There were no public comments.

### **EXECUTIVE SESSION**

Chairman Kane moved for the MFAC to go into Executive Session in accordance with G.L. c. 30A s. 21(3). The purpose of this executive session was to discuss with legal counsel a May 15, 2020 Notice of Intent to bring suit against the MFAC for alleged violations of the Endangered Species Act and that having such a discussion will have a demonstrably likely detrimental impact on the MFAC's position in any resulting litigation. The May 21, 2020 MFAC meeting will adjourn from Executive Session.

**A motion to move to Executive Session was made by Bill Doyle. This motion was seconded by Tim Brady. The motion was approved unanimously by a roll call vote.** An Executive Session was held from 1PM to 2PM.

### **ADJOURNMENT**

The May MFAC meeting adjourned from Executive Session. Chairman Ray Kane requested a motion to adjourn both the May MFAC meeting and the executive session. **Sooky Sawyer made a motion to adjourn both sessions. The motion was seconded by Kalil Boghdan. The motion was approved by unanimous consent.**



## **MEETING DOCUMENTS**

- May 21, 2020 MFAC Business Meeting Agenda
- April 1, 2020 MFAC Business Meeting Draft Minutes
- ASMFC Spring 2020 Meeting Summary
- DMF's Response to Industry Request to Adjust May Groundfish Closure
- DMF Overview of Shellfish Aquaculture Permitting and Regulation
- Characterization of Longfin Squid Trawl Fishery Presentation

## **FUTURE MEETINGS**

**9AM**  
**June 18, 2020**  
**Zoom**

**9AM**  
**October 29, 2020**  
**TBD**

**9AM**  
**August 20, 2020**  
**TBD**

**9AM**  
**November 19, 2020**  
**TBD**

**9AM**  
**September 24, 2020**  
**TBD**

**9AM**  
**December 10, 2020**  
**TBD**



# The Commonwealth of Massachusetts

## Division of Marine Fisheries

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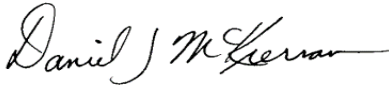
KATHLEEN A. THEOHARIDES  
Secretary

RONALD S. AMIDON  
Commissioner

DANIEL J. MCKIERNAN  
Director

### MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Acting Director 

DATE: June 2, 2020

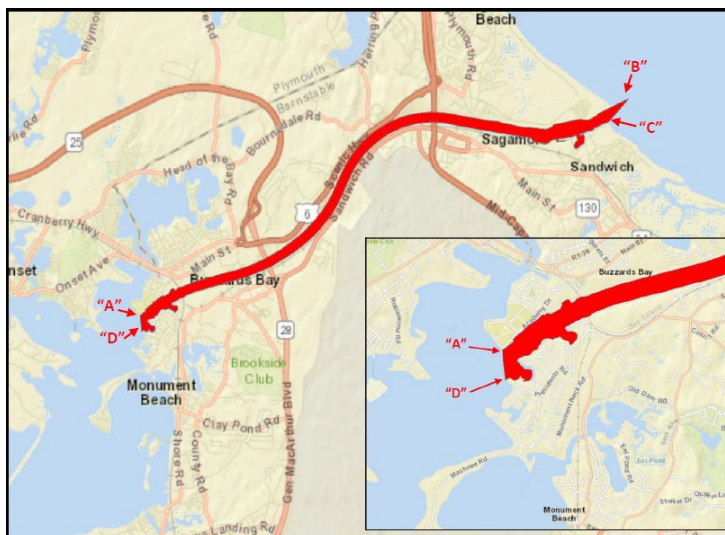
SUBJECT: **Emergency Action Closing the Cape Cod Canal to Commercial Striped Bass Fishing**

#### Emergency Action

DMF intends to file and announce emergency regulations aimed at prohibiting commercial striped bass fishing along the Cape Cod Canal (Fig. 1) on June 3, 2020. The Canal is defined as all waters and shoreline extending bounded by the seawardmost extent of the state pier at Taylor's Point to the seawardmost extent of the northern breakwater jetty at the east end to the seawardmost extent of the southern breakwater jetty at the east end to the northernmost tip of the peninsula at the end of President's Road in Bourne. The DMF advisory that will be sent out on this matter is attached.

Fig. 1

Map of Cape Cod Canal Commercial Striped Bass Closure



This action will effectively prohibit the retention of any striped bass that do not conform to the recreational fishing slot limit (28" to less than 35") and bag limit (1-fish per angler) while fishing along the Cape Cod Canal. Additionally, it will make it unlawful to possess any commercial sized striped bass (35" or greater) when fishing along the Canal or within 1,000 feet of the Canal, unless that fish was lawfully caught elsewhere and is being actively transported to a seafood dealer for sale. It should be noted that all fishing (commercial or recreational) from a vessel within the Canal project's boundaries is currently prohibited pursuant to the Army Corps of Engineers (ACOE) navigation regulations.

This action will go into effect immediately upon filing and will remain in place for a period of 90-days. The regulation may then be made permanent if a public hearing is held and the MFAC votes up a final regulatory recommendation. At this time, DMF seeks to make this action permanent. Accordingly, a

public hearing will be scheduled for this summer (late-July to early-August) and DMF intends to provide a final recommendation to the MFAC at their August 20<sup>th</sup> business meeting. Given the current public health circumstances, the public hearing will likely be held virtually. I look forward to discussing this action further at our scheduled June 18 MFAC business meeting.

### **Outreach**

I recognize that this is an issue of public importance and notification and outreach is critical. I intend to take several measures to ensure that the public is properly notified of this rule change in advance of the 2020 commercial striped bass fishing season, which is scheduled to begin on June 24.

An e-mail advisory has been drafted and will be sent out via the agency's e-mail list serve program (Granicus). This notice will be sent to all current subscribers, which number over 100,000. Additionally, we will be posting the same notice on our website and social media accounts. We will also provide the notice, through DFG, to local media outlets including local Bourne newspapers, the Cape Cod Times, the Standard Times and On the Water.

DMF will also be notifying commercial striped bass permit holders directly through e-mail. This e-mail notification will serve two purposes. First, it will relay information regarding this emergency action to close the Canal to commercial striped bass permit holders. Second, it will remind them of the commercial fishing limits in place for the 2020 season. I recognize that this action may restrict or eliminate the commercial fishing activities of some individuals. Accordingly, I will be offering refunds to those commercial fishermen who hold commercial rod and reel or individual permit holders with a striped bass permit endorsement and have not sold any fish so far in 2020.

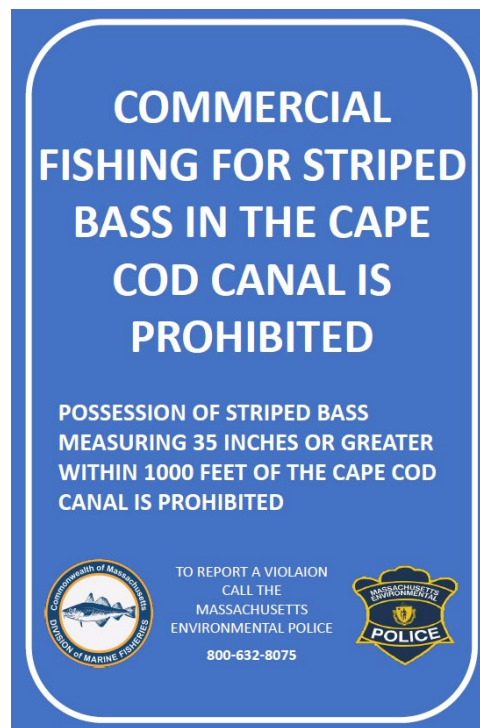
We will also be placing signage along the Canal. This past spring, we posted 49 signs along the Canal as part of our outreach regarding the new recreational striped bass slot limit. There will now be companion signage posted at the same locations as the current signage notifying the public that commercial striped bass fishing along the Canal is prohibited (Fig 2). This signage makes clear that this is a DMF regulation and how to contact MEP should a violation be observed.

I have also contacted local authorities directly to notify them of our intent to take this action. This includes ACOE, Bourne and Sandwich Police Departments, the Department of Conservation and Recreation (Scussett Beach), and the MA Maritime Academy.

### **Background**

In late February 2020, DMF met with ACOE, MEP, Bourne PD, and select members of the MFAC to discuss how commercial striped bass fishing along the Canal was contributing to poaching and public nuisance activities. This meeting was described in a March 5, 2020 memo from me to the MFAC. The

**Fig 2.**  
**New Signage for Canal Closure**



ACOE then followed up with a letter to DMF further documenting this and describing how commercial fishing activity was negatively impacting the ability for ACOE to meet its mission to provide recreational opportunities.

Based on this record, I determined it was appropriate to consider prohibiting commercial striped bass fishing along the Canal. This is documented in an April 14, 2020 memorandum from myself to Commissioner Amidon, which I have attached. After a review of this memorandum, the Commissioner and I agreed to move forward an emergency regulatory proposal, and this proposal was approved to be filed on May 29.

It is noteworthy that this is not the first restricted fishing area in the Commonwealth. DMF has historically prohibited fishing activity within and adjacent to fish weirs and commercial fishing is prohibited on the Harwich recreational fishing reef. Additionally, commercial fishing is also restricted on state-controlled fishing piers and access sites.

**Attachments**

Draft June 3, 2020 DMF Advisory on Cape Cod Canal Closure  
Emergency Regulatory Language  
April 14, 2020 Memorandum to Commissioner Amidon



# The Commonwealth of Massachusetts

## Division of Marine Fisheries

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Secretary

RONALD S. AMIDON  
Commissioner

DANIEL J. MCKIERNAN  
Director

June 3, 2020

### Marine Fisheries Advisory

#### **Cape Cod Canal Closed to Commercial Striped Bass Fishing**

The Division of Marine Fisheries announces the closure of the Cape Cod Canal to commercial striped bass fishing. Effective immediately, all striped bass retained from the Cape Cod Canal or possessed within 1,000 feet of the Canal’s shoreline must adhere to the recreational fishing limits of one fish of at least 28” total length but less than 35” total length. An exception is made for the possession of striped bass 35” or greater legally caught elsewhere for commercial purposes and being actively transported through the 1,000-foot buffer area to a primary dealer.

This action has been taken to address numerous and worsening public nuisance and safety problems arising from increased fishing activity along the Canal. These problems, including anglers conducting themselves in threatening and unruly manners, parking illegally on adjacent roads, trespassing over private property, and interfering with other recreational activities, have been especially acute on open commercial striped bass fishing days. Although the primary mission of the Canal is navigation, a secondary objective of the U.S. Army Corp of Engineer’s management of the surrounding area is to provide recreational opportunities for the public. Accordingly, it is appropriate for the Division of Marine Fisheries to prohibit commercial striped bass fishing along the Canal in order to return the area to its recreational purposes.

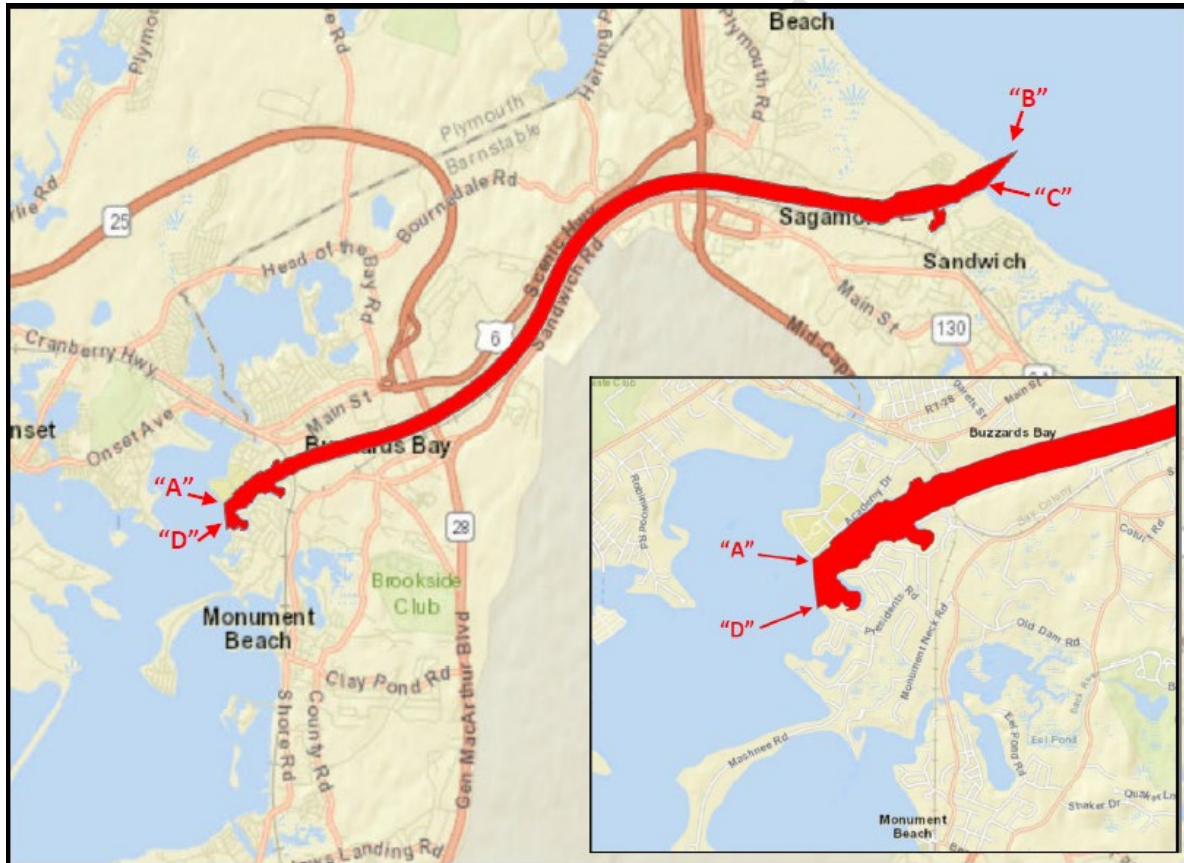
This regulation is also expected to greatly enhance compliance and enforcement with this year’s recreational striped bass conservation rules (i.e., the 28” to less than 35” slot limit, circle hook requirement when fishing with natural bait, and prohibition on gaffs and other injurious removal devices) at one of the most productive fishing locations for large bass. Given the Canal’s great popularity as a shore fishing location for striped bass, the Massachusetts Environmental Police and local police departments rely heavily on public tips of illegal fishing activity; however, these tips have previously been hindered by the virtual indistinguishability of recreational and commercial striped bass fishermen. The closure of the Canal to commercial striped bass fishing (in combination with the new 35” commercial minimum size) will enhance the ability of anglers to see and accurately report illegal striped bass fishing activity. Such tips can be called into the Environmental Police at 800-632-8075.

For the purpose of this closure, the Cape Cod Canal is defined as all waters and shoreline bounded by (refer to map): the most seaward extent of the state pier at Taylor’s Point (“A”) to the most seaward extent of the northern breakwater jetty at the east end (“B”) to the most seaward extent of the



southern breakwater jetty at the east end ("C") to the northernmost tip of the peninsula at the end of President's Road in Bourne ("D").

This closure of the Cape Cod Canal to commercial striped bass fishing has been adopted as an emergency regulation, pursuant to M.G.L. c. 30A, §2, for the preservation of public safety and the general welfare of the community. As such, it shall remain in effect for 90 days, unless adopted as a final regulation. It is anticipated that a public hearing will be scheduled for this summer and a final regulation could be voted on by the Marine Fisheries Advisory Commission at their August 20 business meeting.





**Daniel J. McKiernan**  
*Acting Director*

# *Commonwealth of Massachusetts*

## **Division of Marine Fisheries**

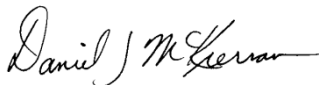
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*Secretary*  
**Ronald S. Amidon**  
*Commissioner*  
**Mary-Lee King**  
*Deputy Commissioner*

### **MEMORANDUM**

TO: Ronald Amidon, Commissioner  
FROM: Daniel J. McKiernan, Acting Director   
DATE: April 14, 2020  
SUBJECT: Closure of Cape Cod Canal Area to Commercial Striped Bass Fishing Activity

---

#### **Summary**

The Cape Cod Canal ("Canal") is one of the most popular fishing locations in the Commonwealth. However, in recent years the convergence of fishermen on the Canal has contributed to public nuisance and illegal activity. In terms of fisheries management, the area has become the state's hotspot for poaching of striped bass. Additionally, there are reports of anglers conducting themselves in threatening and unruly manners, parking illegally on adjacent roads, trespassing over private property, and interfering with other recreational activities (biking, hiking, jogging, etc.). DMF has been informed by the Army Corps of Engineers (ACOE), the Massachusetts Environmental Police (MEP), and the Bourne Police Department that these problems are greatly exacerbated on open commercial striped bass fishing days. Although the primary mission of the Canal is navigation, a secondary objective of the ACOE's management of the surrounding area is to provide recreational opportunities for the public. Accordingly, it is appropriate to prohibit commercial striped bass fishing along the Canal in order to return the area to its recreational purposes.

Considering the above, this rule is warranted for the upcoming commercial season, which is scheduled to open on June 24. As there is insufficient time to conduct normal rulemaking, it is appropriate to use the regulatory authority at G.L. c. 30A, §2 to implement this closure on an emergency basis; such an emergency regulation will remain in effect for a period of 90 days and may be promulgated as a permanent rule following a public hearing. The emergency authority at G.L. c. 30A, §2 provides regulatory agencies with the ability to enact emergency regulations in those instances when the "immediate implementation are necessary for the preservation of the public health, safety or general welfare and the observance of notice and public comment requirements are contrary to public interest." Given the recent history of commercial fishing along the Canal contributing to poaching and other illegal and public nuisance activities, such a closure is justified for the preservation of public safety and the general welfare of the community.

#### **Background**

The Cape Cod Canal is operated and maintained by the ACOE. Their primary mission at the Canal is to provide safe navigation for commercial and recreational vessels transiting the waterway. However, the surrounding 1,100-acre area is designated as a public recreation facility and provides the opportunity to conduct a diversity of recreational activities, including fishing from

shore. Indeed, the Canal is likely the preeminent shore fishing location in Massachusetts. This is because the Canal provides anglers with unique shoreside access to productive deep-water fishing sites and the Canal itself functions as a “fish highway” for many migratory species (particularly striped bass). Additionally, there are numerous designated parking lots along the Canal and nearly seven miles of paved public access roads along each side making fishing spots easy to access by foot or by bike.

Striped bass is the most sought-after species by anglers fishing at the Canal. The striped bass resource and fishery is managed pursuant to G.L. c. 130 and 322 CMR 6.07. G.L. c. 130, §100B that mandates that striped bass only be taken by hook and line gear. As a result, recreational and commercial striped bass fishermen are virtually indistinguishable from one another when fishing from shore (or from a vessel).

The commercial striped bass fishery is an open-entry fishery. DMF issues 4,000 to 5,000 commercial striped bass permit endorsements annually and about 1,000 of these are actively fished in any given year. The fishery is subject to a quota allocated by the Atlantic States Marine Fisheries Commission (ASMFC). For 2020, the quota is expected to be about 735,000 pounds. DMF manages this quota through a commercial fishing season, open and closed fishing days, trip limits and a minimum size. In recent years, the commercial fishery opened on June 23, with open fishing days on Mondays and Thursdays, a 15-fish limit for commercial fishing activity onboard a vessel and a 2-fish limit for shore-based fishermen, and a 34” minimum size. In 2020, DMF amended these rules by making the open fishing days Mondays and Wednesdays and increasing the commercial minimum size to 35”. These tools are designed to control harvest so that fresh fish are available to the markets throughout the summertime. Because of the low investment (relative to other fisheries), many commercial striped bass fishermen are simply highly skilled anglers who capitalize on this open access fishing opportunity to supplement their income fishing for and selling striped bass when the regulations allow it.

We estimate the number of recreational anglers in Massachusetts is about 300,000 and striped bass is the most popular target species. Recreational striped bass fishing occurs throughout the state, but the Canal represents the most popular shoreside fishing location (note: fishing from a vessel within the Canal is prohibited by federal regulations). The recreational fishery is managed in accordance with the ASMFC’s Interstate Fishery Management Plan for Striped Bass, which establishes coastwide possession and size limits. In recent years, the minimum size was 28” and the per angler bag limit was 1 fish. However, in 2020 the 28” minimum size limit was eliminated in favor of a 28” to less than 35” slot limit in order to reduce fishing mortality; the 1-fish bag limit remains in place. The implementation of this slot limit encouraged DMF to increase the commercial minimum size to segregate the commercial and recreational fisheries based on the size of the fish they may retain; this should help improve enforcement and compliance and assist in differentiating between the two sectors.

Given its unique features and accessibility, the Canal has always been a popular shore fishing location for striped bass. However, the ACOE has reported a surge in angling activity over the past few years. It is thought that this surge in activity is driven both by increased social media and cell phone usage by anglers, as well as the commercial market for striped bass. It is important to point out that in 2018 and 2019 the ex-vessel value for striped bass was frequently in excess of \$5.00 per pound and DMF’s market sampling indicates that the average commercial sized fish is



over 20 pounds, resulting in each fish being worth more than \$100 in value. This elevated value per fish drives commercial fishing activity at the Canal and contributes to competition among anglers resulting in aggressive behaviors and illegal fishing activity.

The increase in Canal fishing activity, driven by the value of the commercial fishery, has resulted in numerous public nuisance and safety problems for anglers, adjacent property owners, and federal rangers managing the activity. These problems include overcrowding among anglers on the rip rap and on the service roads, littering and degradation of natural resources, poaching, noise complaints, aggressive and unruly behavior, and parking congestion at access points and local roads. (See letter dated 3/31/20 from Canal Manager John McPherson.) In an attempt to mitigate these problems, ACOE hired paid police details on open commercial fishing days (Monday and Thursdays in 2019) during the commercial season that began on June 23. The MEP have also invested heavily in patrolling the area to address illegal fishing. These violations are well documented in local press. (See articles attached, especially the Cape Cod Times 8/10/19 article, “Police struggle to reel in illegal fishing.”) Despite these efforts, the MEP have advised me that they are unable to dedicate sufficient man-hours to effectively deter poaching. Compliance and enforcement would be improved by getting accurate and more frequent tips from law-abiding recreational anglers who may observe and report illegal fishing. However, when commercial angling and recreational angling co-occur on the banks of the Canal, many of the “tips” called into the MEP represent activity that was actually lawful.

To address these various issues, DMF met with ACOE, MEP, Bourne Police, and certain members of the Marine Fisheries Advisory Commission on February 27, 2020. During the meeting, there was consensus that DMF was the appropriate authority to regulate the activity in this discrete location with Environmental Police enforcing the state regulations. Federal ACOE rangers are not authorized to enforce state fishing rules; cannot inspect catch; do not have the powers of arrest and detention; do not carry weapons; and do not patrol after midnight. A meeting summary dated March 5, 2020 is attached. A follow-up letter was sent by ACOE’s Canal Manager John MacPherson on March 31, 2020. This letter provides in some detail the challenges ACOE staff face due to the excessive fishing and associated behaviors. Mr. MacPherson concludes, “*we have concerns that our mission to provide various types of recreational opportunities and the overall satisfaction of our non-fishing visitor is being overshadowed by those who commercially fish the Canal.*”

Because the problems have been especially acute on open commercial fishing days, it is appropriate to close the area to the taking of striped bass for commercial purposes. To effectively enforce the regulation, not only does the harvest and possession of 35” and larger bass need to be prohibited, but possession of that sized fish needs to be prohibited within a certain distance of the canal shoreline (e.g., 1,000 feet). Past violations have shown that poachers routinely place the fish in their vehicles parked nearby and return to the shoreline to continue to fish and harvest.

This action would allow the recreational fishery to continue to have access to this popular shore fishing site, but without the added pressure brought on by anglers seeking to take striped bass for commercial purposes. In turn, this would reduce congestion and alleviate some of the documented illegal and nuisance activity. With the enactment of this year’s striped bass conservation rules, we have a unique opportunity to further enhance enforcement and compliance, because if the ban on commercial striped bass fishing were enacted, all anglers in the Canal would be abiding by

common rules: 1 fish per angler per day within the newly enacted slot limit of 28 inches to less than 35". No striped bass measuring 35" and larger could be lawfully removed from the area, nor would any angler be lawfully allowed to retain more than one fish. This scenario would enhance the ability of recreational anglers to see and report poachers taking commercial-sized fish (35" and greater) and more than 1 fish per day to the MEP.

It is difficult to project what type of impact this action would have on the commercial striped bass fishery. DMF trip level harvester reports (from 2018) indicate that only 5% of the annual commercial striped bass landings were attributable to shore-based commercial fishing, with about 60% likely coming from the Canal. That said, these data do not tell the whole story and likely reflects only the lawful shoreside harvest of striped bass. Those fishermen who are conducting illegal fishing activities are likely either misreporting their landings data (e.g., attributing it to vessel-based fishing to obscure trip limit violations) or not reporting it at all (e.g., direct sales to entities not authorized to purchase striped bass from fishermen). Therefore, with available data, it is difficult to describe the scope of illegal fishing activity along the Canal and how this rule may impact the commercial fishery.

Restricting fishing in a discrete area to a single user group has precedent in Massachusetts. First, in 1991, DMF enacted a fish weir buffer zone (322 CMR 4.03) preventing any fishermen other than the weir owner and crew from fishing within 150-200 feet of a fish weir. This was enacted after commercial fishermen who erected their weirs found anglers casting—and operating vessels—so close to the weir that it was disrupting fish from being captured. Second, in 2016, DMF enacted a ban on commercial fishing and the setting of any vertical lines from fish or lobster trap (including recreational trap fishing) within the zone of the Harwich artificial reef in Nantucket Sound (322 CMR 8.09). Because the reef was constructed with funds from the Sportfish Restoration program, this area was reserved exclusively for recreational hook and line fishing. The ban on deploying vertical lines was adopted because recreational fishing is best accomplished by drifting over the reef and vertical buoy lines would result in snarled lines. Finally, in 2018, as a result of harbor masters reporting that commercial striped bass fishery participants were displacing other recreational boating activity at boat ramps around summer holidays, DMF enacted a ban on commercial striped bass fishing on July 3, July 4, and Labor Day (322 CMR 6.07).

### **Proposed Draft Regulatory Language**

I have provided draft emergency regulations below for your consideration:

#### **6.07(2) Definitions**

Cape Cod Canal shall be defined as those waters and the shoreline—including all adjacent jetties, wharfs, docks, ripraps and beaches—extending from the most seaward extent of the state pier at Taylor's Point on the campus of the Massachusetts Maritime Academy in Bourne; thence extending in an easterly direction to the end of the seaward end of the northern breakwater jetty at the eastern entrance to the waterway at Scusset Beach in Sandwich; thence in a southerly direction across the eastern entrance of the waterway to the seaward end of the southern breakwater jetty in Sandwich; thence in a westerly direction to the northern most tip of the peninsula at the end of President's Road in Bourne.

6.07(4)(m) Commercial fishermen are prohibited from harvesting striped bass from the Cape Cod Canal for commercial purposes or possessing any striped bass 35” total length or larger in any container or vehicle within 1,000 feet of the shoreline of the Cape Cod Canal unless the fish is being actively transported to a primary dealer and was lawfully taken in a location other than the Cape Cod Canal as defined in this section.

6.07(7) Prohibitions

(nn) Any person to retain or possess striped bass from the Cape Cod Canal that measure 35” total length or larger.

(oo) Any person to retain or possess more than one striped bass during any calendar day taken from the Cape Cod Canal.

(pp) Any person to possess any striped bass measuring 35” total length or larger within 1,000 feet of the Cape Cod Canal unless the fish was lawfully harvested in a location other than the Cape Cod Canal and is being actively transported to a primary buyer.

(qq) Any person to possess more than one striped bass at any time within 1,000 feet of the Cape Cod Canal unless the fish was lawfully harvested in a location other than the Cape Cod Canal and is being actively transported to a primary buyer.

(rr) Any commercial fisherman to retain or possess any striped bass for sale or attempted sale that was taken from the Cape Cod Canal.

**Attachments**

1. DMF meeting summary dated 3/5/20
2. ACOE letter to DMF dated 3/31/20
3. Local news coverage



**Daniel J. McKiernan**  
*Acting Director*

# *Commonwealth of Massachusetts*

## **Division of Marine Fisheries**

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**Mary-Lee King**

*Deputy Commissioner*

### **MEMORANDUM**

TO: Marine Fisheries Advisory Commission (MFAC)  
THRU: Daniel J. McKiernan, Acting Director   
FROM: Jared Silva, Policy Analyst  
DATE: March 5, 2020  
SUBJECT: Summary of Interagency Meeting Regarding Fishing Related Issues on the Cape Cod Canal

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On February 27, 2020, DMF and DFG staff met with members of the MFAC, the MA Environmental Police (MEP), Army Corps of Engineers (ACOE) and the Bourne Police Department. The purpose of the meeting was to discuss issues related to fishing along the Cape Cod Canal ("Canal"). In attendance were: DFG Commissioner Ron Amidon; DMF Acting Director Dan McKiernan, DMF Assistant Director Mike Armstrong, and DMF policy analysts Jared Silva and Nichola Meserve; MFAC members Mike Pierdinock, Bill Doyle, and Kalil Boghdan; MEP Major Pat Moran, Captain Kevin Clayton, Lt. Matt Bass, Lt. Pat Grady, and Ofc. Michael Cole; ACOE representatives Joe Mazzola, John MacPherson and Michele Breen, and Bourne Police Sgt John Stowe.

ACOE opened the meeting by discussing their regulatory authority. Park regulations are located at 36 CFR and rangers are allowed to enforce these park rules. However, they do not have the powers of arrest and detention; if an incident escalates they must involve law enforcement. Rangers are also not allowed to patrol after midnight for self-defense and safety purposes (they do not carry weapons). Rangers also do not have the authority to inspect for or enforce state and local laws or regulations, including fishing rules. Lastly, ACOE legal counsel indicated that the project's prohibition on unpermitted commercial activity does not extend to commercial fishing because there is no on-site commerce occurring.

ACOE went on to discuss their mission at the Canal. The Canal is primarily a shipping and transit corridor. However, the adjacent property is to be used to provide the public with access to a diversity of recreational opportunities. While fishing has always been a popular activity at the Canal, effort has increased in recent years. This was thought to be driven by social media, an abundance of large fish in the area, and the commercial value of striped bass. ACOE expressed strong concern regarding how fishing activity on commercial days and illegal commercial fishing activity on closed commercial fishing days was becoming incompatible with other recreational activities. Of particular concern, were user group conflicts, threats of violence, noise complaints, littering, public defecation, trespassing, parking shortages, and other nuisance activities. The

problems have become so acute that the ACOE has hired police details (Bourne Police Department and MEP) to patrol the area during times of peak activity.

DMF reviewed the management of striped bass in Massachusetts and the status of the resource. Mike Armstrong stated that striped bass tend to set up in certain areas within state waters in response to forage and water temperature. In recent years, striped bass did not aggregate in many of the usual areas, except for the Canal. This likely intensified fishing effort in the area. Dan McKiernan explained that the current ex-vessel value for striped bass is about \$5 per pound, making a commercial-sized fish worth about \$100. This has created a profit motive that may encourage some illegal fishing activity for striped bass. Dan then explained that DMF may manage the times, manner, and places where fishing may occur pursuant to the authority at G.L. c. 130 s. 17A. This authority is not limited to managing for conservation, but may also be used to manage user group conflicts. In fact, there was precedent for creating recreational only zones (e.g., Harwich reef) and managing the commercial striped bass fishery to minimize conflicts with other recreational activities (e.g., July 3<sup>rd</sup> and 4<sup>th</sup> closures).

The MEP then provided some insight into the various illegal fishing activities that they have encountered along the Canal. This includes the possession of undersized fish, possession of fish in excess of recreational and commercial limits, high-grading, sale of fish to entities that are not primary buyers, front loading before commercial days. MEP opined that the harvest of fish intended for sale was driving most of this illegal fishing activity. It was noted that the proposed recreational slot limit (28" to less than 35") provided a unique opportunity to address commercial fishing on the Canal. If this slot limit is adopted, and DMF increases the commercial minimum size to 35", then the recreational and commercial fisheries become segregated based on size. This will allow MEP to better differentiate between commercial and recreational fishing activity.

Given this, there was also support among attendees to consider making the Canal a "recreational only fishing area". If the Canal were to become such an area, then any angler retaining striped bass that measure 35" or larger or more than the one fish recreational bag limit would be in violation of the recreational only rule. This should improve enforcement and compliance and help validate enforcement tips from other anglers. Additionally, such an area would be compatible with the ACOE's mission at the Canal and would likely help to reduce some of the ongoing user group and public nuisance issues. Representatives from DMF, DFG, and the MFAC stated that strong documentation of these issues would be needed to justify any additional regulation.

ACOE indicated that they would internally discuss providing DMF and DFG with a letter providing incident documentation and the challenges fishing intensified. Both Bourne PD and MEP also stated they would review their records from prior years regarding Canal incidents and determine if there were trends that pointed to elevated activity on commercial fishing days. DMF asked that this documentation be provided to the agency by mid-March. This would allow for DMF to discuss this with the MFAC at their March meeting and weigh the appropriateness of taking any emergency action (if warranted) to address this issue in 2020.

## **Attachments**

Meeting attendance roster

Meeting agenda

# Meeting Agenda

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Location: USACE Cape Cod Canal Project Office. 40 Academy Drive Buzzards Bay, MA 02532

Date: Thursday, February 27, 2020

Time: 10:30 am

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## **Issues related to fishing at the Canal Project**

- Overcrowding on the rip rap and on the service roads
- Littering and degradation of natural resources
- Noise complaints
- Parking congestion at access points and local roads

## **Fisheries Management Issues**

- State recreation fishing and commercial fishing regulations
- Commercial fishing from shore
- Illegal fishing activity particularly on commercial days
- Challenge of enforcing state regulations

## **Jurisdiction and Authority**

- USACE – Title 36 CFR
- MEP
- BPD
- DMF

## **Potential Solutions**

## **Measuring Success**

# NAME / ORGANIZATION / Contact info

1	JOE MAZZOLA	USACE	978-318-8545
2	John MacPherson	USACE	978-318-8176
3	John Stowe	BOURNE PD	508-759-4420 X203
4	Mike Arns from	MA DMF	978-888-6525
5	Daniel McKiernan	MA DMF	617 413-2374
6	Jared Silva	MA DMF	<del>508</del> 617-626-1534
7	Nichola Meserve	MA DMF	617-626-1531
8	MICHAEL PIERDINOCH	MASS MFAC	617 291 8914
9	KALIL BOGH-DAN	MASS-DMF-MFAC	978-407-7901
10	Matt Bass	MEP	774-836-8081
11	Patrick Grady	MEP	774 487-0086
12	Michael Cole	MEP	617-416-9522
13	CAPT. KEVIN CLAYTON	OELE	617-626-1665 RANK Room
14	Bill Doyle	MFAC	508 244 7441
15	Patrick Moran	MEP	857-202-8391
16	Ronald Amidon	OF&G	857-286-5379
17	Michele Breen	USACE	978-318-8636

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**DEPARTMENT OF THE ARMY**  
**NEW ENGLAND DISTRICT, CORPS OF ENGINEERS**  
**CAPE COD CANAL FIELD OFFICE**  
**PO BOX 1555 BUZZARDS BAY, MA 02532**

31 March 2020

Daniel J. McKiernan  
Acting Director  
MA Division of Marine Fisheries  
251 Causeway St. Boston, MA 02114

Mr. McKiernan,

I'd like to thank you for your participation in our recent stakeholder coordination meeting at the Cape Cod Canal that focussed on exchanging information on fishing activity at the Canal. The presentation given by the Department of Marine Fisheries on Striped bass management authority and rules enhanced our understanding of both the conservation effort and state regulations. Overall, I think it was a productive meeting to exchange information and understand the capabilities and authorities of each stakeholder group.

As we discussed at the meeting, the Cape Cod Canal is a federal civil works navigation project which receives approximately 3 million visitors per year. The Canal is comprised of the navigational waterway and over 1,100 acres of land rich in valuable natural resources which provide recreational opportunities to the public. Although the primary mission of the Cape Cod Canal is navigation, the Corps also has a mission to provide safe, healthful recreation opportunities for the public. Recreational activities on Canal property include camping, sightseeing, swimming, picnicking, boating, fishing, biking, in-line skating and hiking. We have fourteen recreation areas situated along the Canal, nine operated by the U.S. Army Corps of Engineers and four operated under lease agreements. Two paved service roads run parallel to the waterway on both the north and south side. The primary purpose for the service roads is to support navigation and allow trucks and equipment access for maintenance purposes but the public is invited to also use the service roads for recreation. The service roads are extremely popular with the public year-round.

The Canal offers a unique experience for saltwater anglers. Easy access to deep water fishing without a boat attracts thousands of fishermen to the Canal each year. Within the past three years, we have noted a marked increase in fishing activity at the Canal. When the fishing is good it is not uncommon to see fishermen lined up along the rip-rap almost



shoulder-to-shoulder for long stretches. During such times the service roads become very crowded and user groups often compete for space. On commercial fishing days, Mondays and Thursdays, the population of fishermen increases and thus, competition for space along the service roads intensifies significantly. This surge in visitation brings with it specific issues the U.S. Army Corps of Engineer Rangers struggle to keep up with. An increase in overcrowded conditions, litter, erosion, complaints of fishermen making loud noises, public urination/defecation, illegal parking, reports of theft, fishermen casting at boats, verbal altercations between members of the public, in addition to aggressive behavior amongst fishermen are all problems that our Park Rangers contend with regularly during Striped bass season. Rangers have witnessed and received public complaints about violations of Striped bass regulations including; the taking of too many fish, size violations, high-grading, hiding fish in the bushes or in vehicles, fileting fish before transport, fishing without the proper license, and illegal sales. Rangers have found trash bags filled with whole Striped bass carcasses hidden in the woods and our trash cans regularly contain fileted carcasses disposed in them. Public complaints from abutters at Tidal Flats Recreation Area regarding noise levels at night have caused the Rangers to increase patrols and hire additional detail officers to concentrate specifically on that area. The overcrowding has also interfered with our ability to use official vehicles on the service roads and affects our ability to perform maintenance work during commercial fishing days.

As discussed at the meeting, Army Corps Park Rangers do not have the authority to enforce Massachusetts state laws or fish and game regulations, we rely on the Bourne Police Department and the Massachusetts Environmental Police to provide law enforcement services on Canal property. Each year we contract with both the Bourne Police and the Environmental Police to hire officers to patrol the Canal. For the past three years, the Army Corps has increased the number of contracted police officer details in an effort to mitigate the issues associated with fishing violations observed and reported. We schedule Mass Environmental Police details to cover striped bass commercial days and the days immediately prior due to the illegal practice of “stockpiling” or “ice-fishing”. In 2019, 23 out of 49 total details were dedicated to commercial days and 10 details were scheduled for the day before a commercial day. During the height of the fishing season, Environmental Police Officers reported they observed many potentially citable commercial fishing violations during details at the Canal.

During the 2019 summer season we also altered our patrol boat operations at the Canal to include more time during commercial fishing days. This additional patrol coverage was needed to keep boats from fishing within the navigation channel in an effort to avoid potential collisions with large commercial ships. Several Massachusetts Environmental Police boat details were also contracted to assist our patrol boats on commercial days.

The Cape Cod Canal is a popular destination spot for visitors who enjoy many types of recreational activities. We have concerns that our mission to provide various types of recreational opportunities and the overall satisfaction of our non-fishing visitor is being overshadowed by those who commercially fish the Canal. We understand that the State of Massachusetts is considering several changes to regulations for both recreational and commercial fishing. We understand and support that the proposed changes have the potential to help alleviate some significant ongoing enforcement and compliance issues, particularly in fishing hot spots like the Cape Cod Canal. We appreciate and support your efforts to manage the fishery and look forward to continued cooperation with our Federal, State and Local stakeholders.

Feel free to reach out to Michele Breen or I if any questions or followup discussions.

Sincerely,

A handwritten signature in black ink that reads "John C MacPherson". The signature is written in a cursive, flowing style.

John MacPherson  
Canal Manager  
Cape Cod Canal Project  
U.S. Army Corps of Engineers

Copy Furnished to:

Massachusetts Department of Fish and Game  
Mr. Ronald Amidon – Commissioner

Massachusetts Marine Fisheries Advisory Commission  
Mr. Raymond Kane - Chairman  
Mr. Michael Pierdinock - Vice Chairman



## Police struggle to reel in illegal fishing

**By Doug Fraser**

Posted Aug 9, 2019 at 9:20 PM

Updated Aug 10, 2019 at 6:22 AM

### Environmental officers outnumbered by complaints of poaching.

BOURNE — Matt Bass drove across the Cohasset Narrows bridge, swung hard left off Route 6 into a bait and tackle shop parking lot and doubled back toward the water. He picked his way past a ragtag assemblage of boats in a dirt parking lot, then stopped and shut off the truck's lights.

A half-moon drifted in and out of low scudding clouds, and the bridge over the narrows ran overhead like a ceiling. It was late on a summer night Wednesday, and people were still fishing off the bridge, but Bass, a lieutenant in the Massachusetts Environmental Police, was focused on the bridge abutment.

Bass, who has been with the environmental police since 2001, is fond of saying that fish, deer and ducks don't dial 911. He relies heavily on tips from fishermen to catch those fishing illegally for striped bass, the region's top recreational species, pursued by tens of thousands of fishermen from Maine to North Carolina.



From The Newsroom: Cape Cod Times

## Weekly news roundup on Cape: Aug 2-A

00:00 / 20:48

But he also knows his territory, the dozens of paths, dirt roads, parking lots and pullovers that give fishermen access to the Cape Cod Canal and the opportunity to do something illegal — catch too many fish, keep undersized fish or catch bass on days prohibited for commercial fishing — away from prying eyes.

Normally, Bass works alone, and during striped bass season he can be anywhere on the Cape where he believes the fish are biting and illegal fishing may be occurring.

Anticipating that a blitz of fish and fishermen might happen last weekend, he put out the word for additional officers for Sunday and a few days following. There was a lot of baitfish in the canal and he hoped that by targeting Sunday, the day before one of the two days each week open to commercial fishing, the officers might nab any commercial fishermen trying to catch and hold fish overnight to sell on Monday, when it was legal to do so.

Using two undercover officers posing as fishermen, environmental police focused their efforts on the canal, and on Sunday they seized 50 illegally caught striped bass and issued \$8,000 in citations to 14 anglers.

“The violators are both recreational and commercial fishermen,” said Environmental Police Maj. Patrick Moran, who said the sheer numbers for a one-day action were incredible.

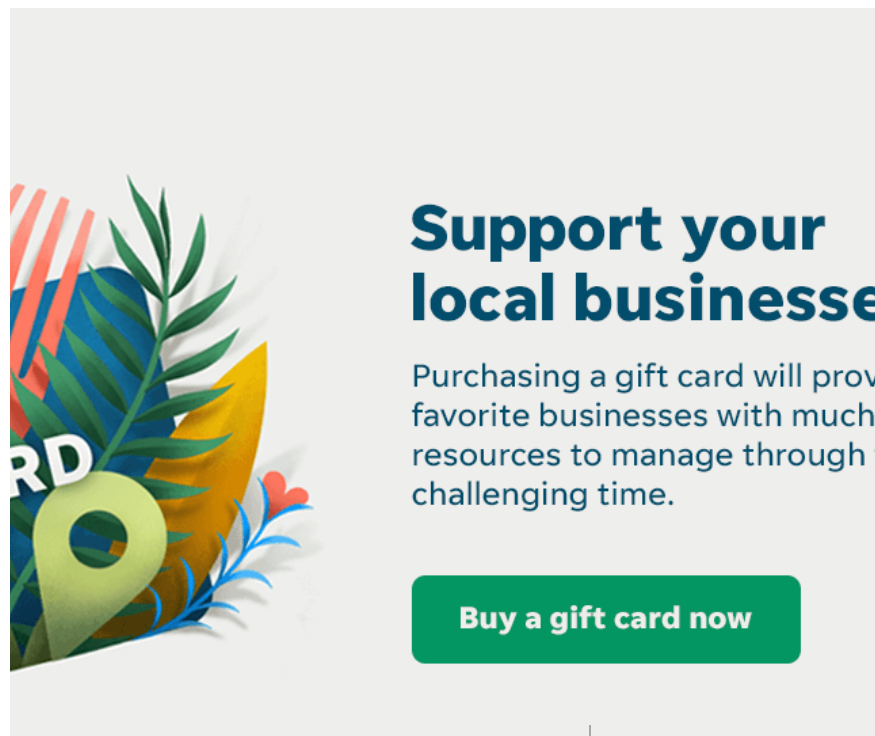
“Poachers are becoming more daring, devious and furtive, and it’s a daily struggle to figure out the newest scheme to skirt the fisheries laws,” Moran wrote in an email.

Fishing was slow Wednesday, and as Bass said, there’s no violation until a fish is landed. But later that night, at the Cohasset Narrows bridge abutment, acting on a tip from a plainclothes officer, Bass caught three men stashing undersized fish in the rocks, a favorite hiding place for poachers. The three men each received a \$600 fine, a lot to pay for a 2-foot-long fish and reflective of a doubling of fines last year that many had lobbied for for years. Violators also can face up to \$10,000 in fines and a 2½-year prison term for criminal violations.

But do police presence and higher fines actually work in deterring illegal fishing?

“We are few and far between,” said Bass, who is frustrated that staff limitations prevent them from getting to every call complaining of illegal activity. “I’d love to make more of an impact, but every complaint we get that goes unanswered is a sign we need more help and didn’t get the job done.”

Lou MacKeil, a longtime fisherman and vice president of the Cape Cod Salties, a recreational fishing organization, said he thought the number of fishermen targeting striped bass, particularly along the canal, was increasing, and they were not discouraged from cheating by heightened fines and sanctions.



“If they cared, or were afraid or cautious, I don’t think that (the busts Sunday) would have happened,” MacKeil said. “It’s pretty bad down there.”

It’s not just striped bass. Marcia Morse, who lives on the canal, said her family used to fish with lobster pots tied to rocks along the water, but they were broken into too many times.

“I see the disregard everywhere,” she said.

Part of the problem, said Philip Coates, former director of the Division of Marine Fisheries, is the internet. People post photos and locations of where they caught fish, and others flock to that spot. The attraction of the canal is the relatively rare opportunity to catch a large fish from the shore, Coates said. He worries that illegal fishing may undercut efforts to reverse a decline in striped bass populations that resulted in quota cuts this year and more reductions next year.

“This is a major problem, the lack of enforcement because of the overwhelming number of people fishing,” Coates said. He said there needed to be more education for fishermen, especially more signs at piers and other fishing spots advertising the regulations, including size and possession limits, in several languages.

Bass and Coates said the environmental police staffing levels were still below what was recommended in a 2004 report.

“To take action on the Cape Cod Canal that will make any dent, I have to pull bodies from other areas, sort of robbing from Peter to pay Paul,” Moran wrote in an email.

“I don’t know the answer, except to keep conducting these stings,” MacKeil said.

On Wednesday, while waiting for a tip to come in from one of the plainclothes officers, Bass did what he always does: pulled over in the big parking lots along the canal and walked. He checked out fishermen loading fish into vans, sedans or SUVs. He greeted those fishing off piers and riprap, inquired how the fishing was going, and then politely asked to look in coolers, bags or other places where fish might be stowed. In one case, he knocked on the door of a house and had the fisherman show him the bass he had caught that day.

“He did it right,” Bass said, returning to his truck, noting the man was a commercial fisherman who had followed regulations and removed a pectoral fin so the fish could not be sold.

Plugging a license plate into an onboard computer brings up the vehicle owner and any past interactions with the environmental police, positive or negative. Often Bass will give out a warning to first-time offenders, hoping education will prevent a second offense.

Environmental police officers have many other duties, even during the fishing season. They generally work independently and call for help as needed. They may be patrolling in a truck one day and conducting boardings at sea the next. On Thursday, Bass thought he was headed to Martha's Vineyard but was called to New Bedford to assist with the confiscation of sea clams that may have been harvested illegally.

"When the fishing gets really good, and a ton of complaints come in, and the pressure is on to enforce that, it's just a fraction of what we should be doing," he said. "We want to catch those people, but everyone gets frustrated when we don't have enough people."

— *Follow Doug Fraser on Twitter: [@dougfraserccct](https://twitter.com/dougfraserccct).*





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## Cape Cod Canal patrols cite fishing violations

**By Doug Fraser**

Posted Aug 5, 2019 at 12:49 PM

Updated Aug 5, 2019 at 12:49 PM

BOURNE — Massachusetts Environmental Police officers seized more than 50 striped bass, issued nearly \$8,000 in citations and made one arrest Sunday as uniformed and plainclothes patrols targeted the Cape Cod Canal throughout the day, looking for fishermen in violation of state fishing regulations, according to a statement from the agency.

Confiscated fish that could be salvaged were donated to the Plymouth Area Coalition for the Homeless, the statement says.

## Police report blitz of fishing violations along Cape Cod Canal

**By Ethan Genter / Cape Cod Times**

Posted Aug 19, 2018 at 8:30 PM

Updated Aug 19, 2018 at 8:30 PM

BOURNE — A blitz of striped bass at the Cape Cod Canal has brought a swarm of fisherman looking to take home a “keepa.”

But with the crush of fishermen, there has been a surge in calls about fishing violations and a flurry of citations handed out by the state environmental police.

“We receive at least 10 calls a day and sometimes 10 calls an hour reporting violations at various locations along the canal,” Massachusetts Environmental Police Maj. Patrick Moran wrote in an email.

Over the past week, as giant schools of mackerel have packed the canal from the east end as far west as the Hog Island Channel, with stripers right behind them, police have seen an increase in fishermen and violations.

Hundreds of fisherman are following the stripers up and down the canal, and police have dolled out numerous court summons and more than 50 citations just last week. Environmental police have brought officers to the canal from other areas to help with the increased workload.

Most of the violations have been for catching over the legal limit of striped bass, according to Moran. Recreational fishermen are allowed to take one striped bass per day. Other citations have been for keeping undersized stripers —

fisherman can only take a striper if it's at least 28 inches long. Fishermen have also been cited for failing to display their catch.

"In those cases we find stripers hidden in the rocks, the woods and garbage bags hidden in discrete locations," Moran wrote.

Police also have found many stripers belly-up or barely alive floating in the canal.

"From what we have observed they appear to have hook marks, indicating this is poor catch-and-release practice or people are (high-grading), which is also prohibited in Massachusetts," according to Moran. "Either way it's a terrible waste of the resource."

High-grading is when a fisherman catches a fish and sets it aside until he or she catches a bigger fish. The fish caught earlier is then thrown back, even though it is unlikely to survive.

At least one case is expected to go before a judge soon. Police saw a person buying fish from recreational fishermen and then driving to a campground and selling the fish to campers at an inflated price, Moran wrote.

"So we are writing violations and seizing fish and gear," Moran said. "It just continues to go on and on with no end in sight."



# Uniformed and Undercover Patrols of the Cape Cod Canal Land Big

BY MASSACHUSETTS ENVIRONMENTAL POLICE AUGUST 6, 2019



On Sunday, August 4, 2019, **Massachusetts Environmental Police** Officers conducted uniformed and plain-clothes patrols of the Cape Cod Canal area, targeting striped bass violations. Throughout the early morning and into Sunday night, Officers seized in excess of 50 striped



Homeless.



Massachusetts Environmental Police Dispatch can be reached 24 hours a day, 7 days a week at 1-800-632-8075.

**Violations can also be reported online here:**

[www.mass.gov/forms/report-a-violation-online](http://www.mass.gov/forms/report-a-violation-online)

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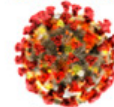




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## Mass Environmental Police find bass fishing violations at Cape Cod Canal

August 24, 2017

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**BOURNE** – Earlier Thursday morning, Massachusetts Environmental Police Officers were patrolling the Cape Cod Canal in response to numerous complaints regarding striped bass violations. Officers encountered a high level of compliance; however, there were also numerous violations of individuals over the recreational limit. Officers observed violators loading their vehicles, hiding fish within the rocks and bushes, as well as filleting fish. Criminal summonses were issued to five individuals, several civil citations were issued as well.

A total of 332-pounds of striped bass were seized and subsequently donated to the New Bedford-area Salvation Army. A total of 16-pounds of fillets were seized, but due to their condition were found not suitable for human consumption and were ultimately destroyed. Fishing gear was seized as well.

*Media release and photo furnished by Mass Environmental Police*

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Fishing Violations Skyrocket Along Cape Cod Canal

# FISHING VIOLATIONS SKYROCKET ALONG CAPE COD CANAL

AUGUST 21, 2018

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The *Cape Cod Times* reports that the fishing scofflaws are back in action along the Cape Cod Canal. Officers with the Massachusetts Environmental Police have been busy responding to calls about illegal harvesting of striped bass by shore fishermen and handing out dozens of citations for violations of fishery regulations.

"We receive at least 10 calls a day and sometimes 10 calls an hour reporting violations at various locations along the canal," Massachusetts Environmental Police Maj. Patrick Moran wrote in a recent email to the Times.

Moran reports that his officers are finding stripers hidden among the rocks or in the nearby woods. In one case, EPO arrested a person who was buying fish from recreational fishermen then driving to a campground and selling the fish to campers at an inflated price.

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# 332 lbs. of striped bass seized on Cape Cod Canal, donated to Salvation Army

By **Ben Thompson** Globe Correspondent, August 25, 2017, 10:48 a.m.



Massachusetts Environmental Police officers seized the striped bass seized Thursday. MASSACHUSETTS ENVIRONMENTAL POLICE

More than 300 pounds of striped bass were seized on the Cape Cod Canal Thursday because of recreational limit violations, according to the Massachusetts Environmental



Police. But rather than throwing the fish away, the fish was donated to the Salvation Army, which turned it into a meal for clients.

The bass were seized while environmental police officers were patrolling the waterway Thursday morning “in response to numerous complaints regarding striped bass violations,” the police said.

While there was a “high level of compliance” from most bass anglers, officers found “numerous violations” of individuals surpassing the state’s possession limit of one fish.

“Officers observed violators loading their vehicles, hiding fish within the rocks and bushes, as well as filleting fish,” police said.

A total of five criminal summonses and “several civil citations” were issued to violators.

Officers seized a total of 332 pounds of striped bass, which were donated to the New Bedford Salvation Army.

Sixteen pounds of striped bass fillets that were seized were not suitable for consumption and were destroyed. Fishing gear was also seized.

Police have been donating fish from seizures to the New Bedford nonprofit’s food pantry for around four years, Salvation Army Major Gilbert Parkhurst said, giving his clients a meal they might not usually be able to enjoy.

“It’s fantastic because otherwise it would’ve just been disposed of. It’s nice because now it’s getting put to use,” he said. “The price of fish has gone up, so most of our clients can’t go in the store and buy the fish.”

He said that the bass were larger than usual.

“Those things are huge,” he said. “I think one of them weighed 50 pounds.”

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# Falmouth District Court Fines Northfield Man \$600 for Poaching Stripers

Caught by Environmental Police back in August...

ARTICLE | [Court News](#) | December 15, 2018 05:12 PM | By [CapeCodToday Staff](#)



Striped bass seized from a Northfield man in August along the Cape Cod Canal.  
(MEP evidence photo)

From the Mass. Environmental Police:

On Friday, December 14, 2018, a Northfield man appeared in Falmouth District Court and was found responsible for various marine fisheries violations occurring on August 15, 2018 at the Cape Cod Canal; he was subsequently ordered to pay \$600 in fines.

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On Wednesday, August 15, 2018, Environmental Police Officers responded to complaints of striped bass poaching along the Cape Cod Canal.

An Officer patrolling the Canal observed an individual, who was not carrying a fishing rod, rush to his vehicle and stow a striped bass. The Officer conducted a fisheries inspection and found that the individual was in possession of two striped bass, both with their right pectoral fin intact. The inspection further revealed that the individual was a permitted commercial angler with a striped bass endorsement; however, Wednesday is a closed fishing day for the striped bass commercial fishery. All commercial permit holders are required to immediately remove the entire right pectoral fin on a closed commercial day if the fish is 34 inches or greater. The removal of the pectoral fin marks the fish so that it cannot be sold or enter commerce.

The striped bass were seized and donated to the Plymouth Area Coalition; the individual was criminally summonsed for multiple marine fisheries violations.

6.07: Striped Bass Fishery (*Morone Saxatilis*)

(1) Purpose and Scope. Since approximately October 1981 the Atlantic coastal states, through the auspices of the Atlantic States Marine Fisheries Commission (ASMFC), have been developing conservation and management measures to arrest the severe decline in the stocks of striped bass and to manage restored stocks. This cooperative management effort has been successful and as a consequence, the Chesapeake Bay Stock of the Atlantic Coast striped bass resource has been declared recovered as of January 1, 1995.

The following regulations represent the Commonwealth's response to this cooperative and joint coastal state conservation management effort. The objective of 322 CMR 6.07 is to allow controlled sustained recreational and commercial fishing for striped bass pursuant to the provisions of the ASMFC striped bass Fishery Management Plan.

322 CMR 6.07 is designed to identify the various user groups, implement conservation and management measures tailored to each group, and collect accurate statistics on striped bass catch levels. Persons intending to fish for striped bass have the option of classifying their activity as recreational or commercial. If a person intends to catch striped bass only for personal consumption and not for sale, that person must have a recreational saltwater fishing permit, and may fish year round, and retain striped bass that measure between 28 inches and less than 35 inches, but may not retain more than one striped bass within any 24-hour period.

Any person intending to catch and possess striped bass for the purpose of sale, barter or exchange must be fishing under the authority of a commercial permit and a regulated fishery permit for striped bass. However, 322 CMR 6.07 establishes a commercial fishing season that closes upon reaching the commercial catch quota, establishes a minimum commercial size of 35 inches, and requires fish to be sold only to dealers licensed and authorized by the Commonwealth.

Finally, 322 CMR 6.07 allows wholesale and retail dealers to purchase and sell striped bass under certain conditions. To purchase striped bass directly from commercial fishermen, wholesale and retail dealers must be authorized as primary buyers of striped bass and must affix a Striped Bass ID Tag to all striped bass at the time of primary purchase from the commercial fisherman. Striped bass imported into the Commonwealth must be marked with a numbered tag that identifies the state of origin and must be accompanied by documents that verify state of origin. Nonconforming (undersized) striped bass that were caught in the wild may be imported into the Commonwealth provided those fish were legally taken, shipped and meet documentation requirements of the state-of-origin.

(2) Definitions. For purposes of 322 CMR 6.07, the following words shall have the following meanings:

**Actively Transport** means the movement of lawfully caught striped bass by a commercial fisherman permit holder in a motor vehicle or a vessel. For purposes of this regulation, this shall include the movement of lawfully caught striped bass by a motor vehicle along the roads adjacent to the Cape Cod Canal, and also the landing of striped bass lawfully caught aboard a vessel and brought ashore at Taylor Point Marina in the town of Bourne or in Sandwich Marina.

**Cape Cod Canal** means those waters and the shoreline – including all adjacent jetties, wharfs, docks, ripraps and beaches – extending from the most seaward extent of the state pier at Taylor's Point on the campus of Massachusetts Maritime Academy in Bourne; thence extending in an easterly direction to the seaward end of the northern breakwater jetty at the eastern entrance at Scusset Beach in Sandwich; thence in a straightline in a southerly direction across the eastern entrance of the waterway to the

**seaward end of the southern breakwater jetty in Sandwich; thence in a westerly direction to the northernmost tip of the peninsula at the end of President's Road in Bourne.**

Circle Hook is defined as a fishing hook designed and manufactured so that the barb of the hook is not offset from the plane of the shank and bend and is turned perpendicularly back towards the shank to form a circular or oval shape.

Closed Commercial Fishing Day means any Sunday, Tuesday, Thursday, Friday and Saturday within the commercial season, as well as any Monday or Wednesday that falls on July 3<sup>rd</sup>, July 4<sup>th</sup> and Labor Day.

Commercial Fisherman means any person who may catch, possess and land striped bass for the purpose of sale, barter, or exchange or keeps for personal or family use taken under the authority of a commercial fishing permit issued by the Director under the authority of 322 CMR 7.01: *Form, Use and Contents of Permits*.

Commercial Quota means the allowable annual Massachusetts commercial harvest of striped bass pursuant to the ASMFC Interstate Striped Bass Management Plan, reduced by any overage incurred in the previous year.

Commercial Season means that period when commercial fishing is allowed beginning on the first open fishing day on or after June 23<sup>rd</sup> and ending when the quota is reached or on December 31<sup>st</sup>, whichever occurs first. The commercial season shall be further regulated by open and closed fishing days.

Consumer means any individual who obtains striped bass for personal use, rather than resale.

Dealer means any wholesale or retail seafood dealer permitted by the Director pursuant to M.G.L. c. 130 § 80 and 322 CMR 7.01(3): *Dealer Permits*.

Director means the Director of the Division of Marine Fisheries, 251 Causeway Street, Suite 400, Boston, Massachusetts 02114.

For-hire Vessel means any vessel that holds a for-hire permit, issued in accordance with M.G.L. c. 130, § 17C and 322 CMR 7.10(5): *Permit Requirements Applicable to For-hire Vessels*, that is carrying paying customers for the purpose of recreational fishing.

Gaff means a pole with a hook on the end that is used to lift a fish out of the water and onto a vessel or the shore.

High-grading means the discarding of a smaller legal-sized fish (previously captured and retained) in favor of a larger legal-sized fish.

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

Non-Lethal Device means any tool used in the removal of striped bass from the water or to assist in the releasing of striped bass that does not pierce, puncture, or otherwise cause invasive damage to the fish that may result in its mortality.

Open Commercial Fishing Days means Mondays and Wednesdays within the commercial season, excluding Labor Day, when commercial fishermen may harvest or attempt to harvest striped bass. Open fishing days shall not apply to any Monday or Wednesday that falls on July 3<sup>rd</sup> or July 4<sup>th</sup>.

Person means any individual, firm, corporation, association, partnership, club, bar, restaurant, supermarket, food warehouse, or private body.

Primary Buyer means any dealer authorized by the Director, pursuant to M.G.L. c. 130, § 80 and 322 CMR 7.07: *Dealers Acting as Primary Buyers*, to purchase striped bass directly from a commercial fisherman.

Primary Purchase means the first commercial transaction by sale, barter or exchange of any striped bass after its harvest.

Recreational Fisherman means any person who harvests or attempts to harvest striped bass for personal or family use, sport or pleasure, and which are not sold, traded or bartered.

Recreational Fishing means the non-commercial taking or attempted taking of striped bass for personal or family use, sport, or pleasure and which are not sold, traded or bartered.

Striped Bass ID Tags means the lockable, single-use, tamper evident, and non-transferable tags issued by the Director to Primary Buyers for affixing to striped bass. Striped Bass ID Tags are imprinted with the species, year, state, and unique identification number traceable to the Primary Buyer to whom they are issued.

Total Length means the greatest straight line length in inches as measured on a fish with its mouth closed from the anterior most tip of the jaw or snout to the farthest extremity of the tail. For fish with forked tails, the upper and lower fork may be squeezed together to measure the tail extremity.

(3) Regulated Fishery Permit. The following special permit shall be required:

(a) A commercial fisherman shall have issued to him or her by the Director a regulated fishery permit for striped bass, in addition to any other permits required by the Massachusetts General Laws, in the following categories:

1. resident; and
2. non-resident.

(b) A striped bass regulated fishery permit authorizes the named individual and/or a commercial fishing vessel to engage in the harvest, possession, and landing of striped bass for commercial purposes in compliance with 322 CMR 6.07, 7.01: *Form, Use and Contents of Permits* and 7.04: *Commercial Fisheries Control Date*.

(c) A striped bass regulated fishery permit shall be valid only during the striped bass commercial season as provided for in 322 CMR 6.07(4)(b).

(d) A striped bass regulated fishery permit shall be carried by the holder at all times when catching, taking, possessing or selling striped bass, and shall be displayed forthwith on demand of any Environmental Police officer or other official authorized to enforce 322 CMR 6.07.

(e) All persons must apply for or apply to renew their striped bass regulated fishery permit endorsement by the last day of February in the effective permitted fishing year.

(4) Commercial Management Measures. For purposes of conservation and management of the resource the following measures shall apply to commercial fishermen who harvest, catch or take, and/or sell, barter or exchange, or attempt to sell, barter or exchange any striped bass:

(a) Massachusetts commercial striped bass harvest will be limited annually by the commercial quota less any amount deducted to compensate for the previous year's overage.

(b) Commercial fishermen may fish for striped bass only during the commercial season and open fishing days within said season beginning on the first open fishing day on or after June 23rd and ending when the commercial quota is taken or on December 31<sup>st</sup>, whichever occurs first.

(c) Commercial fishermen engaged in commercial fishing for striped bass may not possess striped bass less than 35 inches in total length. If the number of striped bass aboard a vessel is greater than the number of fishermen, then all striped bass in possession must be greater than 35 inches in total length, and all fishermen must be commercially permitted as described in 322 CMR 6.07(3). Striped bass less than 35 inches in total length shall be returned immediately to the waters from which taken.

(d) Commercial fishermen engaged in striped bass fishing under the authority of a Commercial Fisherman Coastal Lobster, Offshore Lobster or Boat Permit, issued in accordance with 322 CMR 7.01(2) and on the registered vessel listed on the permit, may not possess, land, offer for sale or sell more than 15 striped bass per day on open commercial fishing days, as set forth at 322 CMR 6.07(2). This limit applies to the individual fisherman regardless of the number of commercial striped bass regulated fishery permit endorsements held by the individual or number of trips taken in a day and the vessel regardless of the number of individual commercial striped bass regulated fishery permit endorsement holders onboard or the number of trips taken in a day.

(e) Commercial fishermen engaged in striped bass fishing under the authority of a Commercial Fisherman Individual or Rod and Reel permit, issued in accordance with 322 CMR 7.01(2) or under the authority of a Commercial Fisherman Coastal Lobster, Offshore Lobster or Boat Permit, issued in accordance with 322 CMR 7.01(2), while fishing from shore or any location other than the registered vessel listed on the permit may not possess, land, offer for sale or sell more than two striped bass per day on open commercial fishing days, as set forth at 322 CMR 6.07(2). This limit applies to the individual fisherman whether fishing from shore or a vessel, regardless of the number of commercial striped bass regulated fishery permit endorsement assigned to the individual fisherman or the number of trips taken in a day.

(f) All striped bass which are the subject of a first sale shall be in the round, with the head, body and tail fully intact.

(g) Except as provided for in 322 CMR 6.07(5)(f), no striped bass may be filleted or processed in any manner except by evisceration. In all prosecutions or non-criminal citations issued, mutilation of a striped bass which interferes with or affects a proper or adequate measurement of the fish shall be *prima facie* evidence that the striped bass was or is less than 35 inches in total length.

(h) Commercial fishermen shall sell striped bass only to Primary Buyers.

(i) Commercial fishermen shall sell striped bass only during the commercial season and only during the open commercial fishing days within the commercial season.

(j) Commercial fishermen may harvest, catch, or take striped bass by rod-and-reel or handline only.

(k) Commercial fishermen engaged in commercial fishing for striped bass may not fish aboard the same vessel at the same time as recreational fishermen.

(l) In accordance with the Declaration Procedure set forth at 322 CMR 6.41(2), the Director may make in-season adjustments to the commercial fishing limits as established



in 322 CMR 6.07(4), including but not limited to the open commercial fishing days and the commercial fishing limits as set forth at 322 CMR 6.07(4)(b), (4)(d) and (4)(e).

**(m) Commercial fishermen are prohibited from harvesting striped bass from the Cape Cod Canal for commercial purposes or possessing any striped bass 35" total length or larger in any container or vehicle within 1,000 feet of the shoreline of the Cape Cod Canal, unless the fish is being actively transported to a primary dealer and was lawfully taken in a location other than the Cape Cod Canal.**

(5) Recreational Management Measures. For purposes of conservation and management of the resource the following measures shall apply to recreational fishermen who harvest, catch, take or possess or attempt to harvest, catch, take or possess any striped bass:

(a) Only striped bass measuring at least 28 inches and less than 35 in total length may be retained. Striped bass measuring less than 28 inches or 35 inches or greater in total length shall be released immediately to the waters from which taken. Recreational fishermen shall not mutilate any striped bass in a manner that prevents the accurate measurement of the fish.

(b) Recreational fishermen may retain no more than:

1. one striped bass per day; and
2. may possess no more than one striped bass at any one time.

(c) Recreational fishermen may not sell, barter or exchange any striped bass.

(d) Recreational fishermen may not discard dead striped bass that measure between at least 28 inches but less than 35 inches in total length.

(e) To prohibit the practice of high-grading as defined in 322 CMR 6.07(2), recreational fishermen may not retain legal-sized striped bass and release said fish in favor of another larger legal-sized striped bass captured subsequently. Any legal-sized fish not immediately released into the water and held by stringer, live-well or another means shall be considered intent to high-grade.

(f) Mandatory Use of Circle Hooks. Recreational fishermen fishing from shore or private vessels shall use circle hooks when fishing for striped bass with whole or cut natural baits. This shall not apply to any artificial lure designed to be trolled, cast and retrieved, or vertically jigged with natural bait attached.

(g) Rules Specific to For-hire Vessels.

1. At-sea Filleting. Operators and crew onboard for-hire vessels permitted under the authority of 322 CMR 7.10(5): *Permit Requirements Applicable to For-hire Vessels* may fillet or process legal sized striped bass for their recreational customers at sea provided that:

- a. The skin is left on the fillet; and
- b. Not more than two fillets taken from legal striped bass are in the possession of each customer of that trip, representing the equivalent of one fish per angler.

2. Use of Circle Hooks. Recreational fishermen fishing onboard for-hire vessels permitted under the authority of 322 CMR 7.10(5): *Permit Requirements Applicable to For-hire Vessels* are not subject to the provisions set forth at 322 CMR 6.07(5)(f) and therefore are not required to use circle hooks during for-hire trips when fishing with whole or cut natural baits.

(6) Dealer Management Measures. For purposes of conservation and management of the resource, the following measures shall apply to any dealer who possesses, sells or offers to sell any striped bass:

(a) Only Primary Buyers shall purchase striped bass directly from fishermen.

(b) Primary Buyers shall report all striped bass purchases from commercial fishermen based on schedules and on forms to be provided by the Division.

- (c) Primary Buyers may not purchase or receive from a commercial fisherman any striped bass which is less than 35 inches in total length.
- (d) Primary Buyers may not purchase, receive or possess from a commercial fisherman any striped bass which has been mutilated in such a way as to interfere with or affect a proper or adequate measurement of the fish.
- (e) Primary Buyers may not purchase or receive from a commercial fisherman any striped bass during the closed fishing days within the commercial fishing season.
- (f) Primary Buyers may not purchase more than a single commercial trip limit of striped bass from any commercial fisherman regardless of the number of commercial striped bass regulated fishery permit endorsements in the possession of the commercial fisherman.
- (g) Dealers may purchase and offer for sale whole striped bass that were caught in the wild and imported into Massachusetts from states where they have been lawfully landed provided that the fish comply with the size limit for the jurisdiction of origin and are individually tagged with the jurisdiction of origin. If fish are filleted after importation, all containers of fillets shall be accompanied by records describing the jurisdiction of origin, the name of the Massachusetts dealer that processed the fish, the quantity of fillets and the species. A copy of these records shall be kept on the dealers premises for 30 days after processing. Original tags shall remain with the fish or the fish fillets, as required at 322 CMR 6.07(6)(h)2.
- (h) Primary Buyers shall tag each striped bass with a Striped Bass ID Tag in accordance with the following provisions:

1. Issuance of Striped Bass ID Tags.

- a. The Director shall annually issue Striped Bass ID Tags only to Primary Buyers.
- b. The annual quantity of tags issued shall be determined by the Director based on the commercial quota.

2. Use and Disposition of Striped Bass ID Tags.

- a. Prior to departing any ramp, pier, parking lot or other location of primary purchase, the Primary Buyer shall affix a Striped Bass ID Tag through the mouth and gills or through the lower jaw of each striped bass and lock the Striped Bass ID Tag into place.
- b. Striped Bass ID Tags shall remain affixed through the mouth and gills or lower jaw of any whole striped bass or accompany any processed or filleted striped bass while in the possession of any person for the purpose of re-sale.
- c. If a person intends on selling portions of processed or filleted striped bass to a consumer, the tags shall remain on the premise of the seller until all portions are sold to a consumer.
- d. Once all portions of a striped bass are sold, a person shall cut the Striped Bass ID Tag into two pieces and discard it.

3. Striped Bass ID Tag Accounting.

1. Within 30 days of a written request by the Director, following the close of the commercial season, the Primary Buyer shall:
  - a. return all unused Striped Bass ID Tags issued to the Primary Buyer by the Director for that year; and
  - b. submit a Striped Bass ID Tag Accounting Report, on forms provided by the Director, which documents the disposition of all Striped Bass ID Tags.
2. The Director may restrict a dealer from future participation as a Primary Buyer for failure to return all unused Striped Bass ID Tags or submit the Striped Bass ID Tag Accounting Report in accordance with 322 CMR 6.07(6)(g)3.i.

(7) Prohibitions. It shall be unlawful for:

- (a) a recreational fisherman to retain more than one striped bass per day;
- (b) a recreational fisherman to possess more than one striped bass at any one time;
- (c) a recreational fisherman to sell, barter or exchange or offer to sell, barter or exchange any striped bass;
- (d) a recreational fisherman to retain or possess any striped bass less than 28 inches or 35 inches or greater in total length;
- (e) a recreational fisherman to mutilate any striped bass in a manner that prevents the accurate measurement of the fish; such mutilation shall be *prima facie* evidence of a violation of 322 CMR 6.07(7);
- (f) a recreational fishermen to discard dead striped bass that measure between 28 inches but less than 35 inches or longer in total length;
- (g) a recreational fisherman to “high-grade” striped bass or to keep striped bass alive in the water by attaching a line or chain to the fish or placing the fish in a live-well or holding car;
- (h) any person(s), whether from shore or onboard a vessel, to possess striped bass in any quantity exceeding one striped bass per person without a commercial striped bass regulated fishery permit and for those striped bass to violate the commercial management regulations at 322 CMR 6.07(4);
- (i) a for-hire vessel, permitted in accordance with 322 CMR 7.10(5): *Permit Requirements Applicable to For-hire Vessels*, during a for-hire trip to retain more than one striped bass for each person onboard;
- (j) a commercial fisherman to sell striped bass to any person other than a Primary Buyer.
- (k) a non-resident commercial fisherman to possess more than one striped bass upon leaving Massachusetts;
- (l) a commercial fisherman to catch, take, possess, sell, barter, exchange or attempt to sell, barter or exchange any striped bass without having issued to him or her a valid permit to do so;
- (m) a commercial fisherman to catch, take, possess, sell, barter, exchange or attempt to catch, take, possess, sell, barter or exchange any striped bass for commercial purposes once the commercial quota is reached and the commercial fishery is closed, or to retain, possess or land more than one striped bass during the closed commercial fishing days;
- (n) a commercial fisherman to sell, barter, exchange or attempt to sell, barter, exchange any striped bass during the closed commercial fishing days within the commercial season;
- (o) a commercial fisherman to catch, take, possess, sell, barter, exchange or attempt to sell, barter or exchange any striped bass less than 35 inches in total length;
- (p) any commercial fisherman fishing under the authority of a Commercial Fisherman Coastal Lobster, Offshore Lobster or Boat Permit, issued in accordance with 322 CMR 7.01(2)(a), (c), (d) and (e) and onboard the registered vessel listed on the permit, to take, possess, land, offer for sale or sell more than 15 striped bass during a single open commercial fishing day. This shall apply to the individual fisherman regardless of the number of commercial striped bass regulated fishery permit endorsements held by the individual or number of trips taken in a day and the vessel regardless of the number of commercial striped bass regulated fishery permit endorsement holders aboard;
- (q) any commercial fisherman fishing under the authority of a Commercial Fisherman Individual or Rod and Reel Permit, issued in accordance with 322 CMR 7.01(2)(h): *Individual*, (i): *Shellfish/Rod and Reel* and (j): *Rod and Reel*, or under the authority of a Commercial Fisherman Coastal Lobster, Offshore Lobster or Boat Permit, issued in accordance with 322 CMR 7.01(2)(a), (c), (d) or (e), while fishing from shore or anywhere other than the registered vessel listed on the permit, to take, possess, land, offer for sale or sell more than two striped bass during a single open commercial fishing day. This shall apply to the individual commercial fisherman whether fishing from shore or from a vessel

regardless of the number of commercial striped bass regulated fishery permit endorsement holders aboard or trips taken in a day;

(r) a commercial fisherman to fillet or process any striped bass other than by evisceration;

(s) a commercial fisherman to mutilate any striped bass in such a way as to interfere with or affect a proper or adequate measurement of the fish;

(t) a commercial fisherman to participate in the primary purchase of any striped bass which is not in the round, or which has had the head or tail removed;

(u) a commercial fisherman to possess or land striped bass once the Director has determined that 100% of the commercial quota has been reached;

(v) any Primary Buyer to purchase or receive during a primary purchase any striped bass which has been mutilated in such a way as to interfere with or affect a proper or adequate measurement of the fish;

(w) any Primary Buyer to purchase or receive from a commercial fisherman any striped bass which is less than 35 inches in total length;

(x) any Primary Buyer to purchase or receive from a commercial fisherman any striped bass after the open commercial season has closed or on any calendar day that is not an open commercial fishing day;

(y) any Primary Buyer to fail to report all striped bass purchases from commercial fishermen as prescribed by the Director;

(z) any commercial fishermen to harvest, catch, or take striped bass by longlines or tub-trawls;

(aa) any vessel rigged for otter trawling, hauling sink gillnets, purse seines, or possessing baited or unbaited longline or tub-trawl gear to possess striped bass;

(bb) any wholesale or retail dealer to possess, sell, barter or exchange or offer to sell, barter or exchange any whole striped bass imported into Massachusetts unless such fish so imported is tagged as specified by 322 CMR 6.07(6);

(cc) commercial fishermen to discard dead striped bass that are 35 inches or greater in total length;

(dd) any person to receive during a primary purchase any striped bass unless permitted as a wholesale or retail dealer pursuant to 322 CMR 7.01(3): *Dealer Permits* and authorized as a Primary Buyer pursuant to 322 CMR 7.07: *Dealers Acting as Primary Buyers*;

(ee) any person involved in the resale of striped bass to fail to furnish, upon request of the Director or the Environmental Police, receipts documenting the purchase of striped bass;

(ff) any person to apply a Striped Bass ID Tag to a striped bass harvested for commercial purposes without being a Primary Buyer;

(gg) a Primary Buyer to tag a striped bass with a Striped Bass ID Tag that was not issued to said Primary Buyer by the Director for the current year or that has been defaced or modified in any manner;

(hh) any person, other than the original harvester, to possess striped bass or portions thereof for the purpose of sale without the striped bass or portions thereof being tagged in accordance with 322 CMR 6.07(6)(g);

(ii) any person to fail to surrender Striped Bass ID Tags to the Director or the Environmental Police upon request;

(jj) any person to sell, trade, loan or gift or offer to sell, trade, loan or gift to another person any Striped Bass ID Tags;

(kk) a Primary Buyer to file a false claim of Striped Bass ID Tag loss for purposes of obtaining additional Striped Bass ID Tags.

(ll) a dealer to purchase a striped bass that has had its right pectoral fin entirely removed.

(mm) for any recreational angler to use any device other than a non-lethal device to remove a striped bass from the water or assist in the releasing of a striped bass.

(mm) for any commercial fisherman fishing on an open commercial fishing day to gaff a

striped bass or attempt to use a gaff to remove a striped bass from the water that is less than 35 inches total length.

(nn) for any recreational fishermen fishing from shore or a private vessel to use any type of hook other than a circle hook when fishing for striped bass with whole or cut natural baits. This prohibition shall not apply to any artificial lure designed to be trolled, cast and retrieved, or vertically jigged with a natural bait attached.

**(oo) any person to retain or possess striped bass taken from the Cape Cod Canal that measure 35" total length or larger.**

**(pp) any person to retain or possess more than one striped bass taken from the Cape Cod Canal during any calendar day.**

**(qq) Any person to possess any striped bass measuring 35" total length or larger within 1,000 feet of the Cape Cod Canal unless that fish was lawfully harvested in a location other than the Cape Cod Canal and is being actively transported to a primary buyer.**

**(rr) Any person to possess more than one striped bass at any time within 1,000 feet of the Cape Cod Canal unless the fish was lawfully harvested in a location other than the Cape Cod Canal and is being actively transported to a primary buyer.**

**(ss) Any commercial fisherman to retain or possess any striped bass taken from the Cape Cod Canal for sale or attempted sale that was.**



# The Commonwealth of Massachusetts

## Division of Marine Fisheries

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### June 2, 2020 CARES Act Relief Advisory Panel Meeting Notes

#### Background

The federal government provided \$300 million in disaster relief through the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") for those seafood and fishing industry sectors negatively affected by the COVID-19 pandemic. \$28M of this funding was allocated by NOAA Fisheries to the Commonwealth of Massachusetts. This was the third largest portion of funding distributed to a state behind AK and WA. In determining state-by-state disaster relief allocations, NOAA Fisheries used multi-year averages of resident "fishery participants" to estimate total average annual revenues for each state and sector. Massachusetts \$28M value was derived from revenues from the seafood processing sector (51.2%); the commercial fishing and aquaculture sectors combined (47.3%), and the for-hire sector (1.5%). Note that allocations were driven by past revenues and not estimated scale of loss.

Given that DMF has distributed federal aid to commercial fisheries during five previous programs, DMF is the appropriate state agency for the distribution of this funding in MA. DMF is now tasked with distributing \$28 million dollars over four affected sectors: seafood processing, commercial fishing, aquaculture, and for-hire (party and charter). DMF estimates that current economic impacts for the year could approach \$500M and the \$28M of disaster funding allocated to the state is estimated to only cover a portion of the losses. The losses to the commercial fishing sector alone are approximately \$28 million in March-April, 2020.

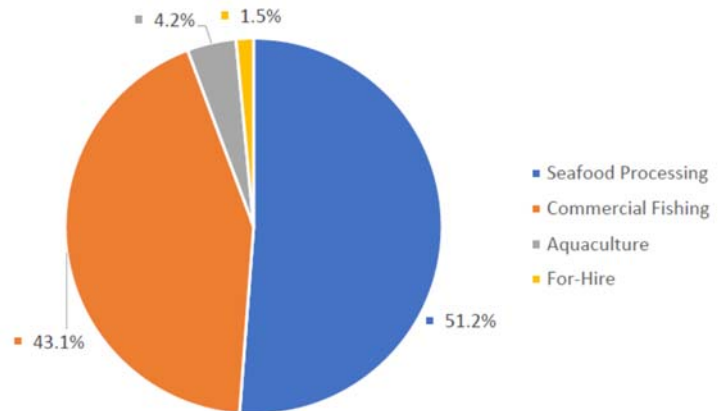
#### Advisory Panel Meeting

Over the past 20-years, DMF has been involved with six disaster relief programs. Based on experience with these programs, DMF assembled an industry-based advisory panel to guide the development and administration of the relief program. The advisory panel members are representatives from the various affected industry fishing sectors. The advisory panel held their first meeting virtually on June 2, 2020 to discuss eligibility criteria, proposed allocations of relief monies by sector, potential challenges in qualifying businesses and distributing funding, and the development of sector-specific working groups to develop spending plans.

Under federal guidelines, only those businesses that suffered a 35% loss caused by COVID-19 relative to previous years will qualify for these funds. Additionally, recipients may not be made more than whole through this funding and other forms of pandemic related aid. As NOAA Fisheries used residency to derive state-by-state allocations; non-residents who participate in Massachusetts' seafood economy should be eligible for relief in their home state. The CARES Act relief does not include coverage for seafood retail markets, restaurants, boat yards, and freshwater industries.

The advisory panel reviewed DMF’s proposal to divide the state’s disaster relief funding among four industry sectors (Fig 1). Sector-specific allocations would largely be driven by NOAA Fisheries revenue calculations. However, DMF proposed modifying the percent shares provided to the aquaculture and for-hire sectors. The for-hire sector would have their percent share increased by DMF forgoing charging of allowable administrative fees and the aquaculture sector would have their percent shared doubled through minor adjustments to the funding allocated to commercial fisheries and seafood processors. These modifications were being considered because - while losses have been severe across all sectors - the aquaculture industry has seen an 80% loss of revenue due to restaurant closures and the for-hire industry was closed by the Governor’s orders through May 24 and party boats remain tied up due to limits on number of passengers per vessel (10) and physical distancing restrictions. Additionally, due to interest from state and federal government to get payments out the door, DMF was looking to qualify entities based on lost income for the period of March 1 – June 30.

**Fig 1. Proposed Aid Allocations by Sector**



DMF and the advisory panel discussed certain challenges facing the program. This includes general challenges across all sectors, such as the development of minimum thresholds for eligibility; the establishment caps on total payments received; the use of scalers or multipliers based on activity or revenue thresholds; allowing applicants to receive funding from multiple sectors; and to address funding received from other pandemic related relief packages. There were also sector-specific challenges. For the processing sector and for-hire industry, DMF had incomplete activity level data and it could be difficult to calculate and scale payments. For the aquaculture sector, there was interest in using funds to purchase this year’s crop from growers and re-purpose those living shellfish to seed publicly available beds, although funds may be insufficient to accomplish this.

Industry members provided useful feedback on various subjects and challenges. Laura Ramsden indicated that seafood processor payments could be scaled based on the size of business as determined by the number of employees. Tory Bramante, Dan Orchard, and Laura Ramsden discussed other federal relief programs and the need to distinguish between direct relief payments and business loans. This led to some questions on ineligibility and how certain sectors allocations may be underutilized. Ed Barrett and Beth Casoni highlighted concerns about the seasonality of the state’s fisheries and how this may result in some potentially affected fishermen not qualifying based on the March 1 – June 30 eligibility criteria. There was

also some discussion regarding self-attestation for determining loss and acceptance of other sources of CARES relief.

#### Next Steps

DMF will create working groups for each of the four sectors to develop sector specific spending plans. The working groups will consist of the advisory panel members from that sector, as well as additional industry representatives. DMF staff will chair these working groups. The working groups will meet over the next two-to-three weeks, with the goal of having a formal programmatic spending plan for the advisory panel to vet by the end of the month. Once reviewed by the advisory panel, DMF would submit the plan to NOAA Fisheries and begin the application process.





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### **CARES Act Relief Seafood Processing Working Group**

#### **Meeting #1 Summary**

#### **June 8, 2020**

Industry members present: Tory Bramante, Ed Washburn, Laura Ramsden, Gordon Carr, Jared Auerbach, Nick Giacalone, Jim Saxonis, Pamela Lafreniere

DMF members present: Director Dan McKiernan, Story Reed (Chair of Working Group), Kevin Creighton, Anna Webb, Wendy Mainardi, Tom Shields, Julia Kaplan, Jeff Kennedy, Melanie Griffin, Stephanie Cunningham, Erich Druskat

#### Introduction

The federal government provided \$300 million in disaster relief through the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") for those seafood and fishing industry sectors negatively affected by the COVID-19 pandemic. Approximately \$28M of this funding was allocated by NOAA Fisheries to the Commonwealth of Massachusetts and was derived from revenues from the seafood processing sector (51.2%), the commercial fishing and aquaculture sectors combined (47.3%), and the for-hire sector (1.5%).

DMF has distributed federal aid to commercial fisheries during five previous programs over the last 20 years and therefore has valuable previous experience about distribution of funding in MA. That being said, this is particularly complex because it spans four different sectors where the data quality varies greatly. It is expected this seafood processors sector will be just shy of \$14 million.

#### Eligibility

Businesses will need to have held a 2019 and 2020 permit with at least a 35% loss in revenue compared to the average of the previous five years solely due to the impacts of the Covid-19 pandemic to be eligible for funds. Currently DMF is considering the eligibility period to be from mid-March through June, but this will be decided on by the working group. Timing needs to be factored into the discussion as the larger the eligibility timeframe is, the longer it will take to distribute money. It was suggested that the timeframe be marked by government actions (state of emergency to phase one re-open). The working group will also need to figure out when applications will be due. DMF wants to keep this process moving quickly and send guidance from this working group to DMF to aggregate to be sent to the advisory panel to be sent to NOAA by the end of June.

There are 361 permitted wholesale dealers and processors, seven of which are 'non-residents,' and may be able to qualify within their own state. The industry asked what the residence is defined as and mentioned that if they are doing business in MA they have to pay taxes in MA as well as the state they reside in. There are only seven business so DMF suggests that the working group not get bogged down with these outliers.

### Metrics and Tiered Payments

About two thirds of the 361 permitted wholesale dealers are primary buyers of seafood. DMF co-permits with DPH, but still does not have data on the secondary buying level, and these can be some of the most prominent business in the State. This process will have to rely on criteria that companies will self-attest to knowing that this can lead to fraud, but data should also be auditable. Submission of redacted tax documents from previous years will probably be used in some way. DMF is encouraging the working group to do the best they can given this challenge and understand that timing is of the essence.

With no scale of payment, \$39,000 would be the payment to each business. If there is a scale, should tiers be based on revenue, poundage, or number of employees? The working group agreed that it would have to be a combination of at least two of these attributes. Only using revenue as a metric would not work, because of the labor to profit ratio; only using poundage would not work, because it is highly subject to fraud; and only using employees would not work, because some companies use hiring agencies. The working group and DMF generally agreed that employee count would factor into the fairness plan, poundage is important, and revenue does not fully describe losses. PPP applications made everyone report employees so there is a path of least resistance in place.

Stratification, multiple locations, minimums and maximums were also discussed. More stratifications were suggested because the difference between the gap between big and small seafood business in the state is so large. It was also brought up that it's possible that companies will settle into tiers naturally as volume, employee number, and revenue are usually related. It was suggested that businesses with multiple locations should not double dip. There is concern based on past experiences that very small dealers will receive funds even though they are not full-fledged businesses, so a minimum was requested to put in place (it is possible that revenue can be used for eliminating these from being eligible).

### Next Steps

There seemed to be a consensus that number of employees in combination with a measurement of poundage/volume will demonstrate both impact and cost. DMF wants to reach a conclusion about this in about two weeks, and the importance of simple and verifiable parameters to ensure fairness was noted. The working group will draft: recommendations for eligibility, scaling factors for payouts, recommendations whether payment minimum or maximum should be considered, and establish an application period for each sector or fishery to apply. There will be a second working group meeting possibly next Monday, Story will follow up with details. DMF will work on creating a model that shows a tiering system before next meeting.



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### CARES ACT Relief For-Hire Fishing Working Group Meeting #1 Summary: June 10, 2020

#### Attendees

*Industry Members:* Mike Pierdinock (F/V Perseverance), Willy Hatch (F/V Machacha), Don Cianciolo (F/V Laura-Jay), Tim Brady (F/V Mary Elizabeth), Joe Huckemeyer (Helen H Fleet), Chris Charos (Captain's Fishing Parties).

*DMF Staff:* Dan McKiernan, Director; Mike Armstrong, Co-Chair; Nichola Meserve, Co-Chair; Kevin Creighton; Stephanie Cunningham; Maren Budrow; Anna Webb; Erich Druskat; Melanie Griffin; Jared Silva; Story Reed; Matt Ayer; John Boardman; Dave Martins; Greg Skomal; Julia Kaplan.

#### Background

The Division of Marine Fisheries (DMF) has been tasked with distributing \$28M in fisheries disaster relief from the Coronavirus, Aid, Relief, and Economic Securities Act ("Cares Act") to four affected sectors: seafood processing, commercial fishing, aquaculture, and for-hire fishing (party and charter). DMF assembled an industry advisory panel to guide the development and administration of the relief program. In addition, DMF formed working groups for each of the four sectors to develop sector-specific spending plans. Some of the considerations for each working group include minimum eligibility criteria; whether and how to tier payments to the eligible applicant pool; and any further restrictions on payments. The For-Hire Working Group held its first meeting on June 10, 2020. Presentations and meeting summaries for all related meetings are available at: <https://www.mass.gov/service-details/mass-cares-act-fisheries-relief>.

#### For-Hire Sector Allocation

In the development of the state allocations of the \$300M in total funding, NOAA Fisheries used a five-year average (2015–2019) of for-hire angler trip expenditures to estimate for-hire fishing revenue. This resulted in a \$21M revenue estimate for the Massachusetts for-hire fishing industry, or 1.5% of the state's total revenue estimate. If the funds were parsed consistent with the estimated value of each sector, this would provide roughly \$416,000 for the for-hire fishery. In considering the actual losses occurring in each sector, DMF's initial proposal to the industry advisory panel on June 2 was to increase the for-hire funding to roughly \$728,000 by DMF forgoing charging of allowable administrative fees.

Following additional guidance from the Administration, DMF's subsequent proposal for the working groups is to further increase the for-hire funding to \$1,000,000 by pulling 2% from the seafood processing sector. Of this, \$416,000 would be paid out to the head boat fleet in an expedited manner through an advance from the Commonwealth, while the remaining \$584,000 would be paid out to the charter fleet after approval of the state's spend plan. This proposal reflects the social distancing restrictions on for-hire vessels (10-customer maximum) that continue to restrict head boat operations in particular. The working group was supportive of the increase to the for-hire sector and prioritization of payments to head boats.

### Data Availability

The working group reviewed the types and completeness of data that could be used to determine an applicant's eligibility and payment amount. Notably, DMF does not have a comprehensive accounting of for-hire trips conducted, clients, revenues or catch for the roughly 850 for-hire permits issued annually (about 50 head boat and 800 charter). However, a suite of data sources provide information on the fleet, including: self-reported activity levels for charter vessels collected through the permit application questionnaire; self-reported activity and catch data via vessel trip reports (VTRs) for holders of federal permits; presence of for-hire activity from being sampled for effort or catch through the MRIP telephone and intercept surveys; permitting data such as the number of years a permit has been obtained; vessel size information; advertising data including having a business website and being listed in the MA Saltwater Guide; and DMF staff knowledge of the fleet. Through the application process, additional data could be collected such as from vessel logbooks or tax returns.

The working group commented on the strength of some of these data sources, with most speaking in favor of VTRs, tax returns (Schedule C), and logbooks for head boats (required for USCG inspection) in determining vessel activity levels. There was discussion about the vagaries of these data sources (e.g., differentiating reported income from each vessel in a multi-vessel business or from each activity on a multi-purpose vessel). The Panel supported allowing several options for potential applicants to use to document their activity level if necessary.

### General Eligibility Criteria

DMF presented eight criteria that it proposed to use for general eligibility for both head boats and charter boats. These include: 1) must hold a current 2020 for-hire permit as of June 1; 2) must have held a 2019 for-hire permit; 3) must meet a minimum threshold of activity, with the eligible pool's activity to be tiered (specifics to be developed individually for head boats and charter vessels); 4) must be 18 years of age or older by the end of the application period, per NOAA guidance; 5) must not be in violation of specific federal laws, per NOAA guidance; 6) must be a MA resident or not be receiving CARES Act for-hire fishing aid from another state; 7) must have suffered 35% revenue loss during March–June compared to a prior 5-year average; 8) and must not exceed normal revenue through the receipt of various CARES Act relief programs, per NOAA guidance. Criteria #5–8 would be self-attested to in an affidavit within the application.

The working group had some discussion about the March–June period for revenue loss accounting and the potential to include later months given the seasonality of fisheries. DMF supported this period because the inclusion of additional months would further delay payments to all applicants (the applicant pool has to be set before any payouts can be made) and Congress' intent was for these payments to reach the affected parties as soon as possible. It was noted that trips scheduled for later in the year but cancelled during those months could be considered, and if there were to be additional funding available from Congressional action, priority would be given to those individuals not eligible for this funding because of losses occurring outside the evaluated period. It was also clarified that an operator in business for less than five years could be eligible. Overall, the working group did not oppose these criteria, and spoke in favor of specific elements including the June 1 date for Criteria 1, the eligibility and tiering concepts of Criteria 3, and the treatment of non-resident permit holders in Criteria 6.

### Head Boat Tiering Proposal

Given the prioritization of head boat payments, DMF staff had invested most of its meeting preparation into gathering the available for-hire fishing data for both modes and focusing on a proposal for head boat payment tiering. Based on the data review, DMF proposed to bin head boat permit holders by a combination of vessel size and activity level.

Head boats would be classified by their size (as reported on permit applications) into three tiers: small ( $\leq 40'$ ), medium ( $41'$  to  $\leq 65'$ ), and large ( $66'$  and up). These size classes were based on the quartiles of the head boat fleet's vessel length frequency distribution, with the first quartile assigned to small, the second and third quartiles assigned to medium, and the fourth quartile assigned to large.

Head boats would be classified by their activity level (as based on a combination of all data sources) into three tiers: inactive, limited, and active. Inactive vessels were defined as those non-residents that are active in another state and expected to receive payment there, as well as vessels whose primary purpose is not for-hire fishing activity (e.g., dive boat, ecotourism boat). Limited activity vessels were defined as those for which DMF has no specific data on activity levels or whose data indicates a lower activity level. Active vessels were defined as those whose data support a full-scale for-hire fishing operation.

Based on these criteria, the potential applicant pool (estimated at  $\sim 35$ ) would be pre-assigned a bin and receive a letter indicating their bin assignment. This could be appealed with supporting documentation. DMF provided four examples for how payment shares could be apportioned to the bins and the potential payment amount. These differed on how quickly the shares depreciated within the tiering categories (e.g., a limited activity vessel receiving either  $\frac{1}{2}$  or  $\frac{1}{4}$  of what an active vessel receives).

The workgroup supported the use of both activity level and vessel size to tier head boat permits. The group supported a tiering plan that would provide the bulk of funding to those permit holders whose primary purpose is for-hire fishing and who have consequently suffered the greatest for-hire fishing revenue loss. The Panel also discussed how the social distancing measures are affecting the various vessel size classes, with large vessels being inoperable and small and medium vessels ranging between having all trips cancelled to still managing to attract the avid fishing public. There is some geographic component to these effects as well.

There was support among the work group for using head boat logbooks to validate appealed activity levels, given the requirement to show these during USCG vessel inspections of permitted head boats. The discussion also indicated a need to be specific about which record of vessel length would be used. With regards to potentially capping payments for holders of multiple permits, the discussion amongst the workgroup was in opposition so long as each vessel qualified for the 35% revenue loss. There was some sentiment towards recipients of for-hire relief funding being ineligible for funding under the other sectors (e.g., commercial fishing).

DMF indicated that it would be moving forward with the proposed tiering plan and one of the example payment share options, with the hope of sending out applications within the week. However, this could be delayed by the availability of NOAA Fisheries' pending affidavit language to self-certify to several of the eligibility criteria. The timeline would then include one-week periods for applicant appeals and DMF review of them. The overall goal is to have head boat payments issued by electronic funds transfer near the end of the month of June.

#### Next Steps

DMF's next steps will focus on completing the head boat payments and assessing the data on the charter boat fleet to develop a proposal for eligibility and tiering. The workgroup provided some initial comments for consideration in development of the proposal, including using similar metrics of activity levels and vessel size; the use of an additional income qualification (e.g., 51% of income derived from for-hire fishing); and selecting tiering thresholds that will focus the available funding on those suffering the greatest loss to their livelihood.



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### CARES Act Relief Aquaculture Working Group Meeting #1 Summary Wednesday June 10, 2020

#### Attendees

Industry: Mark Begley, Jack Blake, Aaron Brochu, Bill Doyle, Josh Reitsma, and Scott Soares.

DMF: Director Dan McKiernan, Jeff Kennedy (Co-chair), Tom Shields (Co-chair), Story Reed, Jared Silva, Stephanie Cunningham, Anna Webb, Chrissy Petitpas, Erich Druskat, Gabe Lundgren, and Julia Kaplan.

#### Overview

The federal government provided \$300 million in disaster relief through the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") for those seafood and fishing industry sectors negatively affected by the COVID-19 pandemic. Approximately \$28M of this funding was allocated by NOAA Fisheries to the Commonwealth of Massachusetts and was derived from revenues from the seafood processing sector (51.2%), the commercial fishing and aquaculture sectors combined (47.3%), and the for-hire sector (1.5%).

Oyster landings account for 97% of the value of all aquaculture landed product, and most of the product ends up at restaurants. The closure of restaurants - both nationally and internationally - has resulted in severe losses for the sector, with estimates as high as 80% reduction from the previous five years.

DMF has distributed federal aid to commercial fisheries during five previous programs over the last 20 years and therefore has valuable previous experience about distribution of funding in MA. This program is particularly complex as it spans four different sectors where the data quality varies greatly. It is expected the aquaculture sector will be approximately \$1.1M.

The Division wants to keep this process moving quickly and send guidance from this working group to DMF in aggregate to be sent to the advisory panel and to NOAA Fisheries by the end of June.

#### Eligibility

Consolidating permits under single aquaculture operations to represent landings value per business is on-going. Aquaculture permit holders will need to be Massachusetts residents, be 18 years old, hold a 2020 permit with at least a 35% loss in revenue compared to the average of the previous five years solely due to the impacts of the Covid-19 pandemic and have no federal violations. Currently DMF is considering the eligibility period to be from March through June, but this will be decided on by the working group.

## **Presentation and Discussion**

In total there are 391 Propagation and Aquaculture permits issued yet many of those are employees of larger operations. An initial analysis to provide a strawman for discussion lowered the number of eligible permits to 272. Utilizing the Standard Atlantic Fisheries Information and Statistics (SAFIS) dealer database then filtering for qualifying criteria DMF has developed various scenarios. The DMF presentation and preferred approach mirrored the commercial fisheries presentation. This plan set a needed minimum of \$15K ex-vessel value which equals approximately 29% of the 272 permit holders. The remaining cohort was divided into quartiles, shares calculated and payments per tier assigned. Calculated payments for Tier 1-\$2382; Tier 2-\$4763; Tier 3-\$7145 and Tier 4-\$9526. Each tier represents 48 growers with the max value of Tier 4 over \$1.2M ex-vessel value.

This conceptual approach is preferred by DMF as it uses: SAFIS data; likely auditable/audit-proof; a consistent approach in the combined Commercial Fisheries/Aquaculture sector; conceptually simple and transparent; easily protects confidentiality; uses the highest 3-year SAFIS derived ex-vessel value per grower; directs funds to productive operations; and due to simplicity allows for near immediate qualification and relatively quick delivery of funds.

An alternative approach was presented by a workgroup member advocating for payments to all aquaculturists based on current year landings and percent income loss based on recent historical landings. This worksheet would assign losses per permit holder, then allocate payments based on current year reductions. Several members supported this approach.

## **Next Steps**

Considerable work remains for the workgroup. The timeline for the entire program needs to be considered as the longer the eligibility timeframe becomes, the later the payment will ultimately arrive. Milestones to be considered include spending plan development, NOAA approval, application period, DMF review, appeals, DMF review, and finally award. The working group will need to set an application duration and due dates.

Decisions to be resolved at next meeting include; 1) Finalize time period for loss -March thru June; 2) Set historical activity timeframe for eligibility; 3) Evaluate setting minimum landed value needed for inclusion in program; 4) Adopt a modified DMF approach retaining distinct bins but with smaller landed-value ranges and fewer growers per bin, OR adopt an approach based on individual calculated losses; 5) Evaluate setting maximum allocation; 6) Evaluate payment reduction based on receipt of pandemic relief; 7) Set an application duration and due date.

The next workgroup meeting is tentatively scheduled for Thursday June 18, at 3PM.



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### **CARES Relief Commercial Fishing Working Group Meeting #1 Summary June 11, 2020**

Industry Members: John Pappalardo (Cape Cod Commercial Fishermen's Alliance); Ed Barrett (Massachusetts Fishing Partnership); Dan Orchard (Massachusetts Fishing Partnership); Beth Casoni (Massachusetts Lobstermen's Association); Ed Washburn (Port of New Bedford); Jackie Odell (Northeast Seafood Coalition); Drew Minkiewicz (Fisheries Survival Fund); Ron Bergstrom (Chatham wild shellfish fisherman); Albert Cottone (Gloucester Fisheries Commission).

DMF Staff Present: Daniel McKiernan, Director, Jared Silva, Co-Chair; Melanie Griffin, Co-Chair; Kevin Creighton; Stephanie Cunningham; Story Reed; Jeff Kennedy; Tom Shields, Kelly Whitmore; Maren Budrow; Julia Kaplan.

#### Introduction

The federal government provided \$300 million in disaster relief through the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") for those seafood and fishing industry sectors negatively affected by the COVID-19 pandemic. Approximately \$28M of this funding was allocated by NOAA Fisheries to the Commonwealth of Massachusetts and was derived from revenues from the seafood processing sector (51.2%), the commercial fishing and aquaculture sectors combined (47.3%), and the for-hire sector (1.5%).

DMF has distributed federal aid to commercial fisheries during five previous programs over the last 20 years and therefore has valuable previous experience about distribution of funding in MA. That being said, this is particularly complex because it spans four different sectors where the data quality varies greatly. It is expected the commercial fishing sector will be allocated just shy of \$12 million. DMF projected losses in revenue from March and April for commercial fisheries alone to approximate \$28 million.

#### Eligibility

At 3PM on June 11, 2020, the CARES Act Commercial Fishing Industry Sector Working Group met for the first time to review the CARES Act relief funding and DMF's strawman spending plan for the commercial fishing sector. This strawman spending plan was consistent with federal CARES Act guidelines from NOAA Fisheries and included: having to demonstrate a 35% loss from the pandemic in 2020 based on commercial fishing revenues from the past 5-years (2015 – 2019); not being made more than whole for 2020 based on receipt of various pandemic relief funds; having no outstanding federal fisheries violations; being a MA resident; and being 18



years of age or older. It is noteworthy that for the March – April period, losses across most of the state’s fisheries exceeded 35% (Table - Right).

In developing the strawman, DMF also established certain baseline eligibility criteria. This included holding a 2020 commercial fishing permit; having wild harvest commercial fisheries landings during March – July in any year from 2017 – 2019; and having commercial fisheries landings valued at more than \$15,000 annually for 2017 – 2019. The working group concluded that a timeframe of March 1 to July 15<sup>th</sup> or 30<sup>th</sup> was appropriate to allow for more losses to accrue in our seasonal fisheries that do not normally open until mid-summer.

COMPARING MARCH - APRIL 2020 TO THE PREVIOUS 5 YEAR AVERAGE			
SPECIES GROUP	Previous 5-year Average Value	2020 Value	% Change Value
SEA SCALLOP	\$55,730,539.53	\$38,644,785.33	-30.66%
GROUND FISH	\$11,056,584.64	\$7,862,477.87	-28.89%
LOBSTER/CRAB	\$5,127,781.16	\$2,969,270.46	-42.09%
OYSTER	\$4,009,609.15	\$1,255,585.79	-68.69%
OTHER FINFISH	\$2,516,837.81	\$1,879,032.17	-25.34%
SOFTSHELL & RAZOR CLAM	\$1,313,647.76	\$716,432.02	-45.46%
QUAHOG	\$479,427.28	\$309,407.20	-35.46%
OTHER BIVALVE	\$358,716.96	\$148,379.36	-58.64%
OTHER INVERT	\$57,243.54	\$27,316.75	-52.28%
SURFLAM/OCEAN QUAHOG*	N/A	N/A	N/A
<b>TOTAL</b>	<b>\$80,650,387.83</b>	<b>\$53,812,686.95</b>	<b>-33.11%</b>

Data Source: SAFIS Dealer Reports, May 21, 2020  
\*Fisheries Statistics Project does not yet have access to 2020 data for this group

### Metrics and Tiered Payments

The strawman proposals were then developed by querying the Standard Atlantic Fisheries Information and Statistics (SAFIS) dealer database and filtering for the above stated qualifying criteria. DMF’s preferred approach was to take the qualifying 1,571 permit holders, rank them by their best annual revenues for 2017 – 2019 and then divide them into even quartiles of permit holders by count, effectively establishing four tiers for payment. Individual payments would then be calculated based on the tiering (Tier 1 = 1 share, Tier 2 = 2 shares, Tier 3 = 3 shares, and Tier 4 = 4 shares). DMF favored this approach (Table - Above) because it was conceptually simple, allowed for expedient qualification and payment, balanced relative loss and total loss, and protected data confidentiality.

PREFERRED STRAWMAN APPROACH				
Tier	Count of Harvesters	Min Value	Max Value	Estimated Payment Per Permit
0	2067	\$1	\$15,000	\$0
1	392	\$15,000	\$30,550	\$3,011
2	393	\$30,550	\$67,330	\$6,021
3	393	\$67,330	\$197,000	\$9,032
4	393	\$197,000	\$8,000,000	\$12,042

A second alternative strawman was also presented. This strawman used equal valued tiers based on the best annual revenues for 2017 – 2019. The working group favored DMF’s preferred approach. However, they requested DMF consider additional tiers within Tier 3 and Tier 4 to close the fairly sizeable revenue windows for these tiers.

The Working Group supported DMF’s preferred approach. However, there was interest in DMF creating additional tiers among Tier 3 and Tier 4 to close the gap between the minimum and maximum revenue values in each tier. There was also some discussion about more closely aligning relief payments to revenue lost on an individualized basis based on 2020 data. However, this approach was ultimately not supported because it would overly complicate qualifying applicants and administering the program, likely resulting in delaying relief payments.

Overall, the working group did not support the development of an alternative minimum revenue threshold; tiering down payments based on receiving other forms of aid; maximum caps on payments to a single entity; and caps on the ability to participate in multiple sector relief programs.

There was also some discussion regarding the federal requirement that individuals sustain a 35% loss, not be made more than whole for 2020 by the various federal relief programs and that recipients not have federal fisheries violations. DMF was seeking further clarification from NOAA Fisheries on these requirements and noted that these criteria would be clearly stipulated on the relief application.

#### Next Steps

The next meeting will be held on Wednesday, June 17<sup>th</sup> at 3 PM. DMF will revise the strawman proposal and present it to the working group during this time. Based on today's conversation, DMF will work with NMFS to figure out what the procedure will be if a commercial fishermen cannot show a full 35% loss because they had increased volumes of fish but meanwhile, the fish was sold at a lower price which equated to a 35% loss.



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### Massachusetts Black Sea Bass For-hire Fishery Conservation Equivalency Proposal

May 22, 2020

Revised June 8, 2020

#### Overview

The Massachusetts Division of Marine Fisheries (DMF) submits this conservation equivalency proposal to extend the end of the state's for-hire recreational black sea bass season in 2020 to account for days closed to for-hire fishing at the beginning of the season due to the COVID-19 pandemic (Table 1). Two alternatives are presented: one extends the season 53 days (Option A) and one extends the season 13 days (Option B). The methods followed for Option A best represent expected values for a conservationally equivalent exchange for days lost in the beginning of the season; however, the MRIP data have high PSEs. Option B uses lower PSE data instead as a proxy.

*Table 1. Massachusetts status quo and proposed rules for recreational black sea bass fishing aboard for-hire vessels in 2020 via conservation equivalency due to COVID-19 for-hire activity closure.*

	Season	Daily Bag Limit	Minimum Size Limit
Status Quo	May 18 – September 8	5 fish	15"
Option A	May 25–October 31	5 fish	15"
Option B	May 25 – Sep 21	5 fish	15"

#### Introduction

Under executive order of the Governor of Massachusetts in response to the COVID-19 pandemic, for-hire fishing activity was prohibited in Massachusetts during March 24–May 24, 2020.<sup>1</sup> For-hire fishing operators were authorized to resume operations on May 25, 2020, provided they comply with specific conditions and safety standards.<sup>2</sup> DMF submits this conservation equivalency proposal to amend the Massachusetts black sea bass for-hire fishing season in response to this closure of the for-hire fishery. Private recreational fishing, while likely impacted by social distancing measures, was not prohibited during the same period.

The ASMFC's Summer Flounder, Scup, and Black Sea Bass Management Board discussed the potential for states to make regulatory adjustments in response to COVID-19 impacts at its May 6 meeting. This proposal follows the first approach described by ASMFC leadership during the Board's meeting: to request a conservationally equivalent season extension for a delayed opening of a fishery. It applies standard, previously approved methods and data to support the proposal.

<sup>1</sup> Executive Order closing non-essential services: <https://www.mass.gov/doc/march-23-2020-essential-services-and-revised-gatherings-order/download>. List of essential services: <https://www.mass.gov/info-details/covid-19-essential-services>

<sup>2</sup> Phase 1 Re-opening Guidelines: <https://www.mass.gov/doc/for-hire-and-charter-fishing-application-of-guidelines-5-18-20/download>

DMF may seek additional modification to 2020 recreational fishery measures (private and/or for-hire) following expected forthcoming guidance from ASMFC about potentially accounting for COVID-19 impacts on harvest during the open fishing season. The Commonwealth's phased re-opening plan is expected to continue to have grave impacts on for-hire activity for the foreseeable future. Given that the timing of this guidance is uncertain, and in order to provide for-hire fishery participants—both business operators and prospective clients—with as much advance notice as possible of changes in fishing access, DMF is submitting this proposal to revise the for-hire season under the first approach so that it may be reviewed by the Board as soon as possible.

### **Analysis**

On December 10, 2019, the Summer Flounder, Scup, and Black Sea Bass Management Board approved status quo recreational black sea bass management measures in state and federal waters for 2020. This meant a May 18–September 8 open season, 5 fish limit, and 15" minimum size limit for Massachusetts. As a consequence of the Governor's for-hire fishery closure, the Massachusetts for-hire fishery missed seven open fishing days of the 2020 recreational black sea bass season (i.e., May 18–May 24).

MRIP data for the past two years were used to estimate lost for-hire harvest due to the fishery closure and determine the conservationally equivalent number of days that could be added to the end of the season for for-hire activity (Tables 2–3). The average daily harvests per wave were calculated for both the most recent year (2019) and a two-year average (2018–2019). The premise of the analysis was to add an equivalent of seven Wave 3 days (the number of days lost) to the end of the season during Wave 5. Notably, Wave 3 had the highest daily catch rates, meaning that the equivalent number of Wave 5 days was larger than seven in all cases. Two options for season extensions are given below (Option A and Option B). Note that 2018 and 2019 are the only recent years in which the fishery was open during Wave 5 to provide harvest data. Less than a quarter of Wave 5 was open in either year which helps explain the high PSE values. During Wave 5 in 2018, 47 intercepts encountered black sea bass and 19 intercepts encountered black sea bass during 2019.

#### **Option A**

This option compares daily harvest rates in Wave 3 to rates in Wave 5 to determine the number of equivalent Wave 5 days to add at the end of the season (Tables 2–3). Using the 2-year average approach, closing seven days in Wave 3 provides for opening 65 days at Wave 5 harvest. This is more than the number of days that could possibly be opened in Wave 5 (53 days remaining). Massachusetts has no Wave 6 data with which to produce a daily harvest rate, but it can be assumed to be—at most—equal to Wave 5 given declining seasonal availability of black sea bass and fishing effort. Extending equally into Wave 6 would result in a conservationally equivalent season of May 25–November 12. Using 2019 data alone, closing seven days in Wave 3 provides for opening 39 days at Wave 5 harvest. This would result in a conservationally equivalent season of May 25–October 17.

Under Option A, DMF is proposing a season extension until October 31 to account for the seven lost days in May. This is mid-way between the 2-year and 1-year approaches' results. The Technical Committee has in recent years supported an averaging approach for seasonal revisions through conservation equivalency (which would provide for additional open days). However, opening in Wave 6 is not anticipated to provide much benefit to the industry and could provide for spurious MRIP harvest estimates with few intercepts. This choice also recognized the high PSE values for the Wave 5 harvest estimates used for analysis. Extending the season further into Wave 5 should help improve the precision of the estimates.

While the Wave 3:5 exchange rates are substantial, differential harvest between the waves is not unexpected. The commencement of the recreational black sea bass season in Massachusetts in mid-May is much anticipated, with large aggregations of fish available nearshore and favorable weather producing high effort and high catch rates. Delayed season openings in several other northeast states until mid-June further drives for-hire business in May and early June in Massachusetts. Harvest rates in Wave 5 are also not anticipated to be constant throughout the proposed season extension, but rather drop off steeply with declining local availability of fish and fishing effort at the onset of fall. While there are no data that explicitly describe the expected harvest rates through the end of Wave 5 (the fishery has not been open), weekly harvest rates across modes are typically near annual lows at the beginning of Wave 5 (Figure 1). Also of note is that for-hire activity contributes less than 15% to the state's total recreational black sea bass harvest on average for 2017–2019.

#### Option B

An alternative approach is also proposed as a strategy to avoid using the Wave 5 data with high PSEs. The assumption under this approach is that Wave 4 daily catch rates during 2018 and 2019 serve as representative proxies for the Wave 5 rates during 2020. The Wave 4 data had lower PSEs than Wave 5 (55.2 in 2018 and 34.1 in 2019; Table 2). The Option B analysis estimated that 13 additional days could be added to the end of the season using the average 2018-2019 daily harvest rates and 8 days could be added using the 2019 rates alone (Table 3). Massachusetts proposes 13 additional open days under Option B, representing the average daily harvest rate from 2018 and 2019; in the past, averaging years has been supported. The Option A proposed extension of 53 days was between the 2018/2019 average daily harvest rate and the 2019 rate alone (Tables 2 and 3). Option A did not propose to use the 2018/2019 average because there was little benefit to the fishery of remaining open into November and because the end of a wave was a convenient marker for closing the fishery; these factors did not apply to the Option B proposal.

#### **Summary**

Options A and B represent alternative approaches for extending Massachusetts' for-hire fishing season during Wave 5 by the equivalent of seven Wave 3 days that were closed due to the Covid-19 pandemic. Option A used the most applicable expected values for a conservationally equivalent season extension (i.e., Wave 5 data), however the PSEs were higher than traditionally acceptable for management. Option B had lower PSEs and instead assumed Wave 4 daily harvest rates to be a useful proxy for Wave 5 rates. The proposed season extension under Option A is 53 days (May 25<sup>th</sup> – Oct 31<sup>st</sup>) and under Option B is 13 days (May 25<sup>th</sup> – Sep 21<sup>st</sup>).

*Table 2. Massachusetts wave-specific daily for-hire harvest rates, # of fish (MRIP query date 5/18/20)*

	Wave 3	Wave 4	Wave 5
2018 For-hire Harvest, # fish (PSE)	36,083 (22.2)	13,659 (55.2)	455 (80)
# Open Days (May 19–Sep 12)	43	62	12
Daily Harvest Rate	839	220	38
2019 For-hire Harvest, # fish (PSE)	30,685 (24.1)	34,040 (34.1)	1,001 (106)
# Open Days (May 18–Sep 8)	44	62	8
Daily Harvest Rate	697	549	125
2018–2019 Avg. Daily For-hire Harvest	768	385	82
2019 Avg. Daily For-hire Harvest	697	549	125

Table 3. Calculation of conservationally equivalent for-hire season lengths for Options A and B.

	Exchange Rate	Days added in Wave 5 to account for 7 fewer days in Wave 3	Resulting Season Length
<i>Option A (Waves 3:5 Exchange Rate)</i>			
Two-year Average	9.424	65	May 25 – November 12
Most Recent Year	5.574	39	May 25 – October 17
Proposed	-	53	May 25 – October 31
<i>Option B (Waves 3:4 Exchange Rate)</i>			
Two-year Average	2.00	13	May 25 – Sep 21
Most Recent Year	1.27	8	May 25 – Sep 16
Proposed	-	13	May 25 – Sep 21

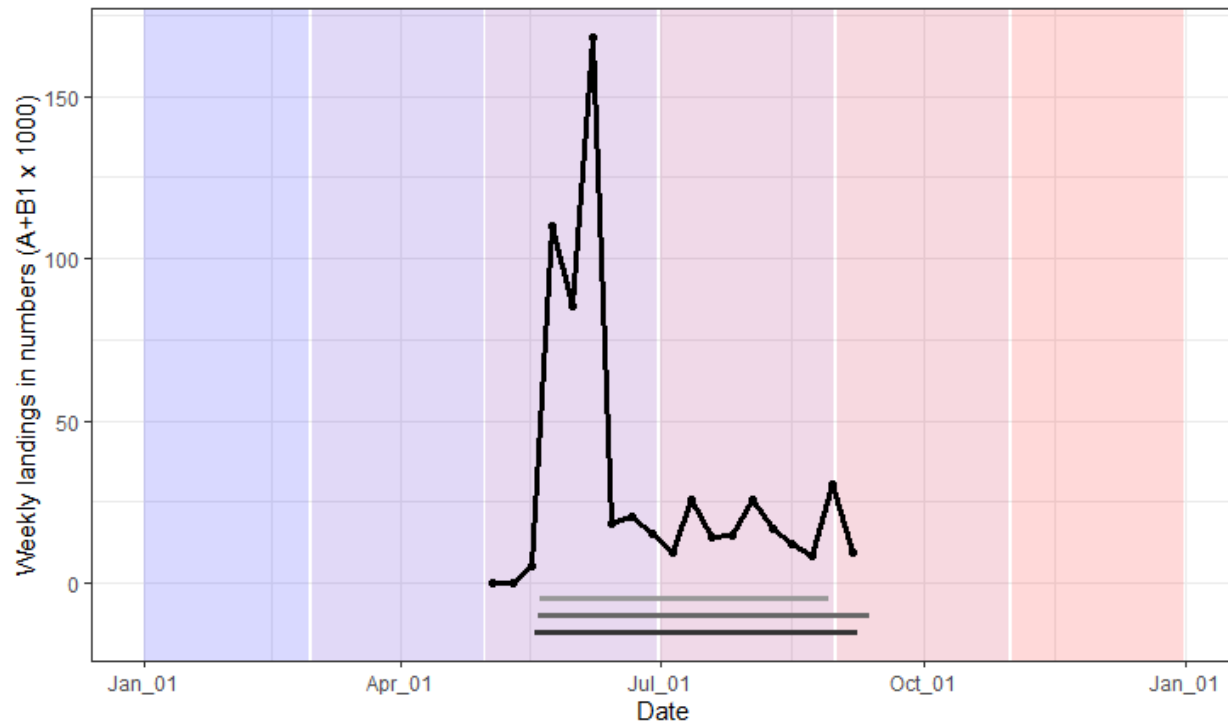


Figure 1. Average black sea bass harvest in numbers (given in thousands) by week over 2017-2019. Horizontal lines at the bottom of the figure indicate the season length in 2017 (top), 2018 and 2019 (bottom). Vertical rectangles indicate waves. Note that the harvest quantities provided are across all modes to increase the sample size.

## Appendix 1.

**Methods.** The steps below outline the methodology used in this proposal for calculations leading to a conservationally equivalent season extension. Subscripts in the table below refer to the Option A approach; for Option B the reference to Wave 5 can be replaced with Wave 4.

Steps	Equation		Definitions
(1) Calculate the average daily harvest rate by wave for each year by dividing the total harvest in numbers in each year and wave by the number of days that were open in that year and wave.	$r_{w,y} = \frac{h_{w,y}}{d_{w,y}}$	$r_{w,y}$ $w$ $y$ $h_{w,y}$ $d_{w,y}$	Average daily harvest rate by wave and year. wave. Year. Total harvest in numbers during wave $w$ of year $y$ . Number of open days during wave $w$ of year $y$ .
(2) Calculate the average of the average daily harvest rates by wave across all years in the set.	$\bar{r}_w = \frac{1}{Y} \sum_{y=1}^Y r_{w,y}$	$\bar{r}_w$ $Y$	Average harvest rate by wave over all $y$ years Total number of years
(3) Calculate the exchange rate – the ratio of average daily harvest rate in wave 3 to average daily harvest rate in wave 5.	$x_{w3w5} = \frac{\bar{r}_{w=3}}{\bar{r}_{w=5}}$	$x_{w3w5}$	Exchange rate ratio (waves 3:5)
(4) Determine the number of additional days in wave 5 that account for the days lost during wave 3 (7 days were lost).	$\tilde{d}_{w5} = 7x_{w3w5}$	$\tilde{d}_{w5}$	Number of additional days during wave 5

# CARES Act Relief Commercial Working Group

## Commercial Sector Working Group Members:

### DMF Staff

Jared Silva, Co-Chair

Melanie Griffin, Co-Chair

### Industry Members

Ed Barrett, President of MA Fishing Partnership

Dan Orchard, MA Fishing Partnership Support Services

Beth Casoni, Executive Director of MA Lobstermen's Association

John Pappalardo, CEO of Cape Cod Commercial Fishermen's Alliance

Ed Washburn, Port Director for Port of New Bedford

Jackie Odell, Executive Director of Northeast Seafood Coalition

Drew Minkiewicz, Fisheries Survival Fund

Albert Cottone, Executive Director of Gloucester Fisheries Commission

Ron Bergstrom, Chatham-based shellfish fishermen

## Commercial Working Group Meetings

- Meeting 1: June 11, 2020
  - Vetted & approved eligibility criteria
  - Reviewed initial spending proposal
  - Requested refinements to spending proposal
- Meeting 2: June 17, 2020
  - Reviewed and adopted refined spending proposal.





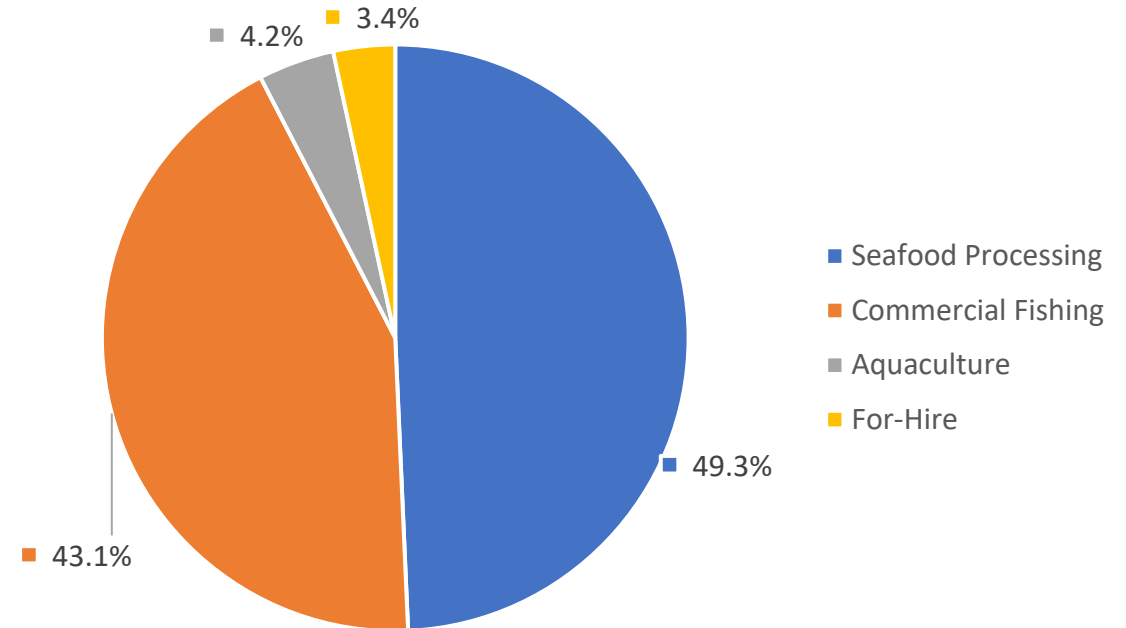
# Sector Allocation Proposal

## Sector

- Total Allocation: \$27.8M
- Seafood Processing: \$13.8M
- Commercial Fishing: \$11.8M
- Aquaculture: \$1.2M
- For-Hire Industry: \*\$1M

\*This value is 1.5% of available + \$316K from DMF admin funds + \$271,586 (~2%) from Seafood Processing sector

% of Estimated Annual Revenue by Sector -  
for Massachusetts



# Eligibility Criteria

- Use of attestations to meet federal mandates
  - 35% loss in revenue due to pandemic compared to 2015-2019 time-period
  - Aggregate pandemic relief funds received will not make you more than whole for 2020
  - No outstanding federal violations
- Other federal criteria
  - Minors not permitted to receive funding.
  - Only MA resident permit holders are eligible for funding
- Additional sector eligibility criteria supported
  - Qualify commercial sector as a whole, rather than on a fishery specific basis
  - 2020 commercial permit held
  - Landings from March 1 – July 31 during any calendar year from 2017 – 2019
  - Sold at least \$15,000 of fish in any calendar year from 2017 – 2019 (SAFIS dealer data)
- Support for DMF's preferred tiering approach
  - Payments scaled based on revenue from best year from 2017 – 2019 (SAFIS dealer data)
  - Tiering based on dividing eligible permit holders into equal quartiles.
- Other items
  - Did not support tiering down payments based on receiving other aid or capping payments to a single entity
  - Supported allowing entities to receive funding from other programs (seafood processing, aquaculture, for-hire) if eligible



# Initial Preferred Tiering Approach

Tier	Count of Harvesters	Min Value	Max Value	Estimated Payment Per Permit
0	2067	\$1	\$15,000	\$0
1	392	\$15,000	\$30,550	\$3,011
2	393	\$30,550	\$67,330	\$6,021
3	393	\$67,330	\$197,000	\$9,032
4	393	\$197,000	\$8,000,000	\$12,042

## Tiering Methods:

- 1) Remove anyone earning less than \$15,000 (tier 0).
- 2) Place harvesters into quartiles based on annual ex-vessel income.
- 3) Estimated payments are based on the projected Commercial Sector allocation of \$11,828,404.

## Estimated Payment Per Permit Methods:

- 1) Basic concept: T1= 1 share, T2 = 2 shares, T3= 3 shares, etc.
- 2) Calculate the total number of shares (count of harvesters in tier 1 + (count of harvesters in tier 2)\*2 + (count of harvesters in tier 3)\*3 + (count of harvesters in tier 4)\*4
- 3) Divide sector allocation by total number of shares to calculate amount in a single share.
- 4) Calculate an individual payment for each tier; tier 1 = 1 share, 2 = 2 shares, 3= 3 shares, 4 = 4 shares

## Why is this approach preferred?

- 1) Conceptually simple.
- 2) Estimated payments do not exceed 35% of tier's minimum value.
- 3) Graduated payment based on total annualized revenue.
- 4) Attempts to balance relative loss against total loss.



# Revised Tiering Approach (“Option 2”)

Min of \$15K, 4 + 2 ADD’L TIERS; TOTAL SHARES: 4,967				Estimated Payment PER PERMIT			
TIER	# Permits	Min of DOLLARS	Max of DOLLARS	Paid per Permit	% of min	% of max	% MEDIAN
0	2163	\$0	\$15,000	\$0	0.00%	0.00%	0.00%
1	413	\$15,000	\$31,050	\$2,381	15.88%	7.67%	10.34%
2	414	\$31,050	\$70,500	\$4,763	15.34%	6.76%	9.38%
3	207	\$70,500	\$119,000	\$7,144	10.13%	6.00%	7.54%
4	207	\$119,000	\$217,275	\$9,526	8.00%	4.38%	5.67%
5	207	\$217,275	\$521,500	\$11,907	5.48%	2.28%	3.22%
6	207	\$521,500	\$8,100,000	\$14,288	2.74%	0.18%	0.33%

## Takeaways:

- 1) Reduces revenue gap at higher tiers compared to Option 1.
- 2) Keeps higher payout by percentage at lower tiers.
- 3) Tiers 4-6 receive more in Option 2 than Option 1, but Tiers 1-3 receive less.
- 4) Tightens the median percentage of estimated payments across all tiers.

## Methods:

- 1) Similar baseline tiering approach as Option 1, except that Tier 3 and 4 are evenly halved resulting in six tiers.
- 2) Same payout approach as Option 1, but with 6 tiers and more overall shares.
- 3) New eligible permit holders included .



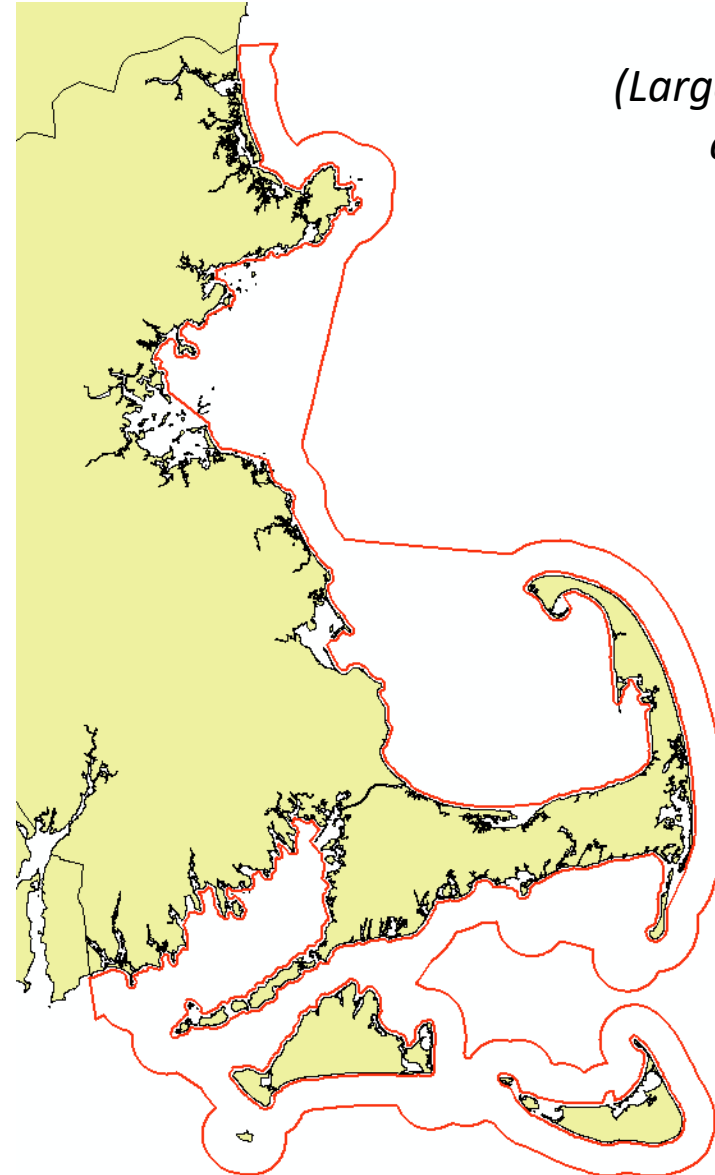
# Recreational Fisheries Layer in Mass Ocean Plan

MFAC June 18 2020

# Mass Ocean Plan

- Sets out siting and performance criteria for certain construction projects in Mass waters
  - Renewable energy
    - Offshore wind, tidal, wave
  - Offshore sand mining for beach nourishment
  - Cables
  - Pipelines
- Doesn't change existing permitting
- Tells developers up front what and where our concerns are
- First OP was 2009, 1<sup>st</sup> review was 2014, this is the 2<sup>nd</sup> review period.

- Planning area is offshore Mass waters:



*(Larger harbors are excluded)*

# Ocean Plan Protected Resources

- Special, Sensitive, or Unique Areas (SSUs/SSU resources)

North Atlantic Right Whale Core Habitat
Humpback Whale Core Habitat
Fin Whale Core Habitat
Roseate Tern Core Habitat
Special Concern (Arctic, Least, and Common) Tern Core Habitat
Sea Duck Core Habitat (formerly mapped as Long-tailed Duck Core Habitat in 2009 ocean plan)
Leach's Storm-Petrel Important Nesting Habitat
Colonial Waterbirds Important Nesting Habitat
Hard/Complex Seafloor
Eelgrass
Intertidal Flats
Important Fish Resources (IFRA)

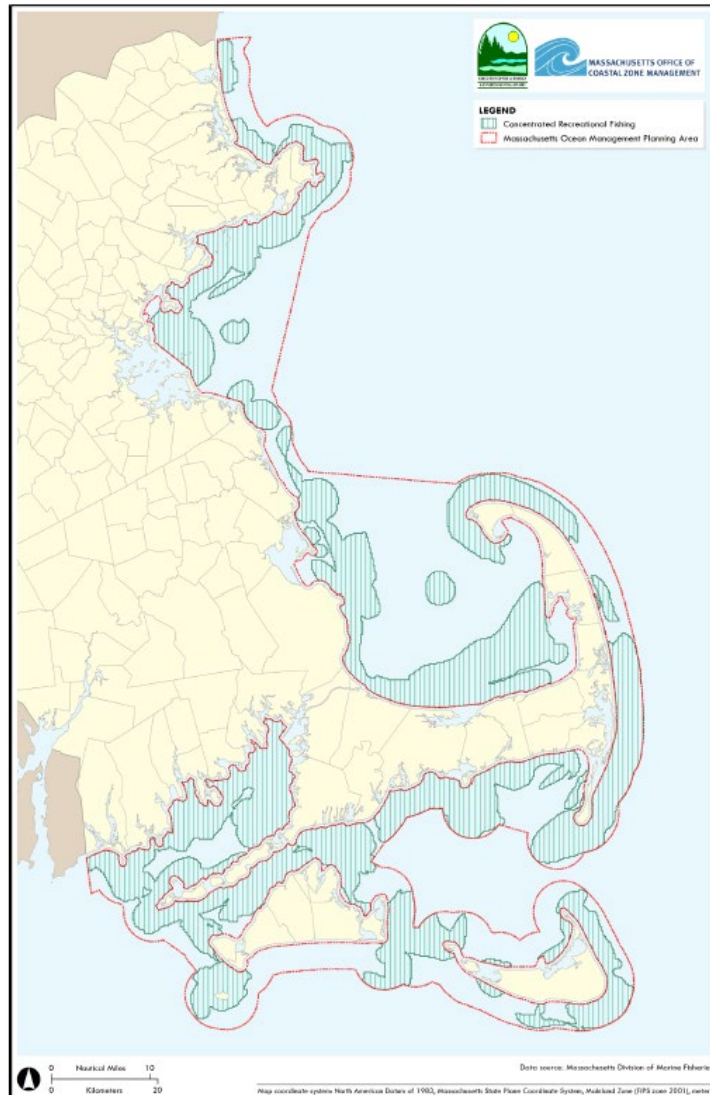
- Areas of existing water-dependent uses

High Commercial Fishing Effort and Value
Concentrated Recreational Fishing
Concentrated Commerce Traffic
Concentrated Commercial Fishing Traffic (Nav workgroup)
Concentrated Recreational Boating

These all have maps, developers must avoid these areas based on what type of development they are proposing. For example, pipelines have to avoid concentrated rec fishing but cables don't.



# Concentrated recreational fishing

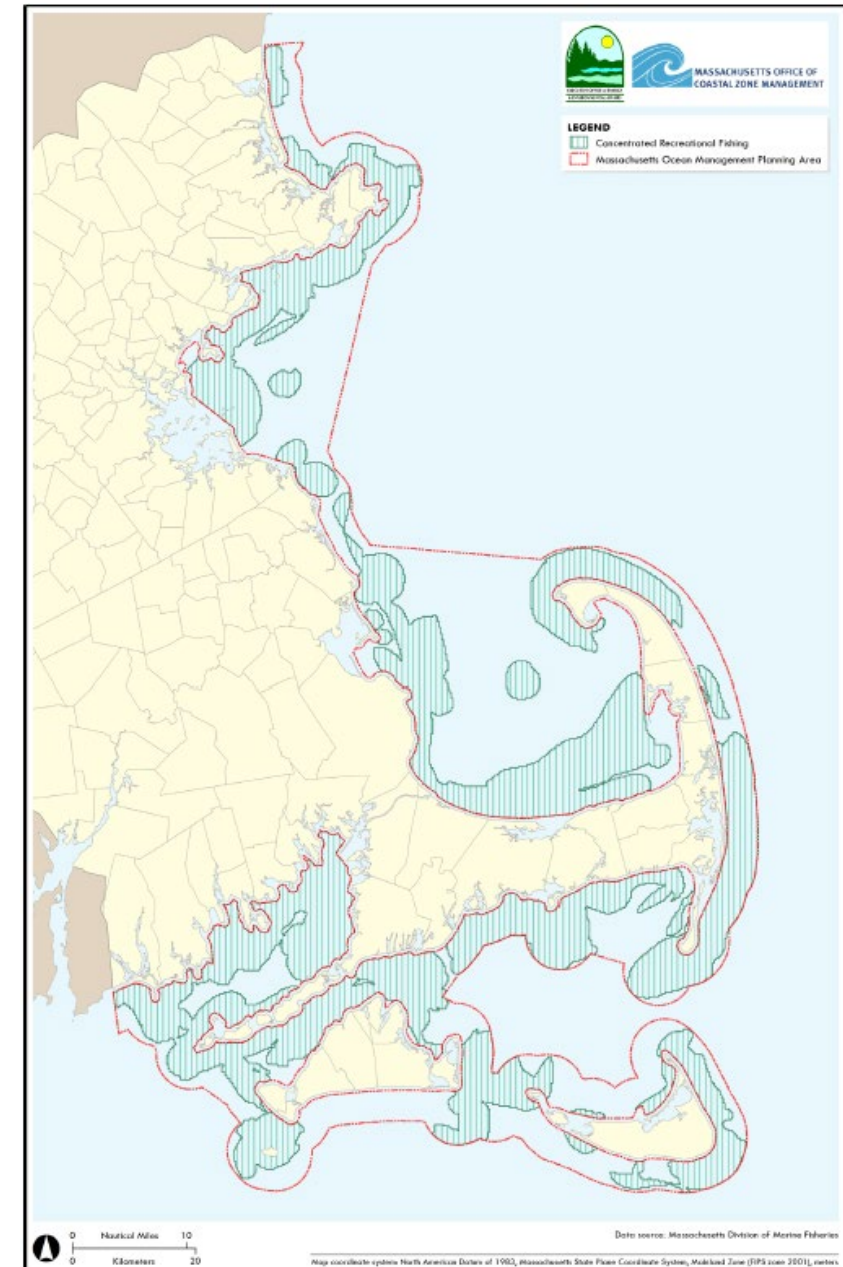


- Must be avoided to the extent practicable by
  - Commercial-scale tidal energy
  - Offshore sand mining for beach nourishment
  - Pipelines
- Map was made as follows:
  - 1) survey of experts (drawing areas on maps)
  - 2) survey of rec boaters done by SeaPlan for MOP (identifying boating routes and purposes on maps; used areas identified as fishing areas)Areas identified by >1 survey respondent were included in the final map.



# Discussion

- Fisheries Working Group thought a resurvey wasn't necessary, but that MFAC should review and provide guidance
  - Should the map change or should we stick with what we have?
    - Would you narrow it down to highlight even more important places?
  - If it should change how?
    - MFAC provide changes?
    - Use other existing map that is better?



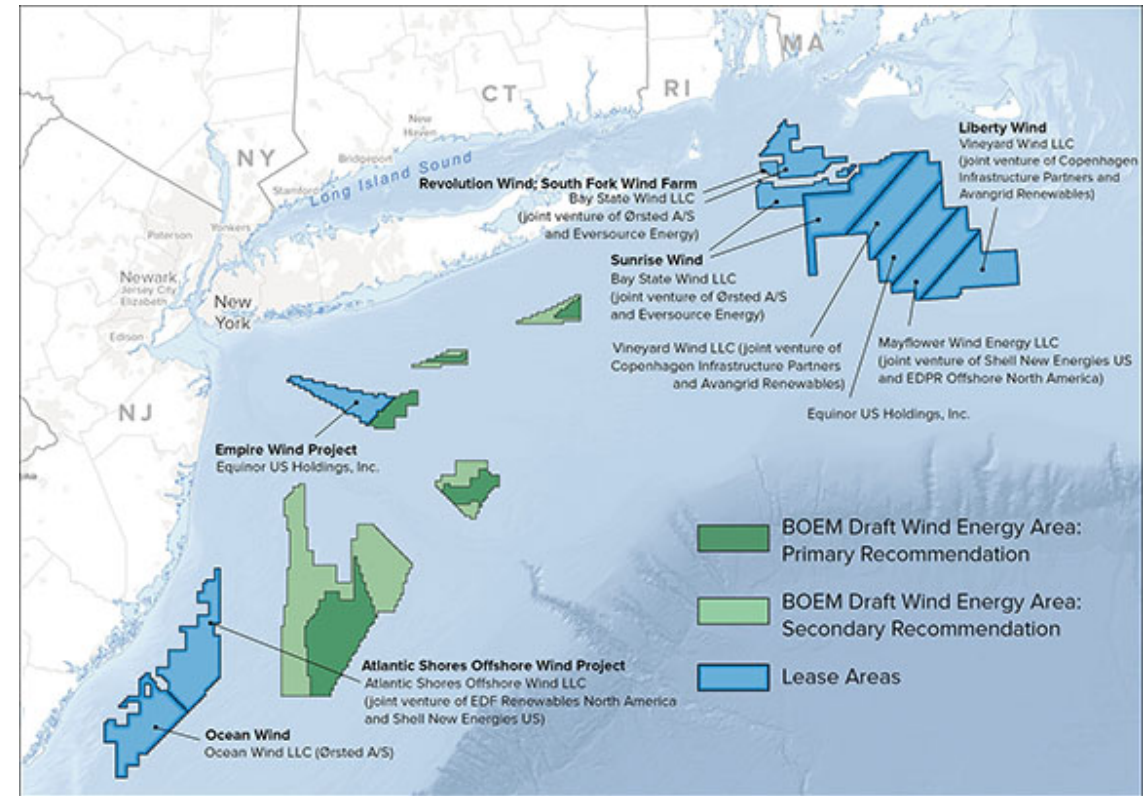
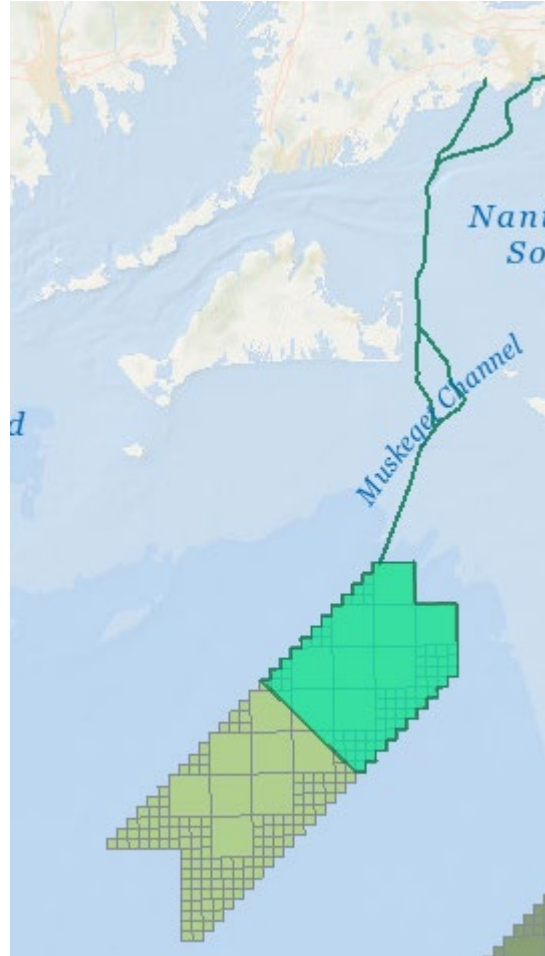
# VW Update

MFAC June 18 2020

The Vineyard Wind project is now split into 2 projects: VW-1 and VW-2.

VW-1 is the original, 100 turbine/800 MW project that is in advanced stages of permitting.

VW-2, also known as Park City Wind, is in the south side of the lease area. It will be 50-100 turbines/804 MW.



# Fed Consistency

- VW-1 has federal consistency concurrence in Rhode Island, granted Feb 28, 2019
- Mass issued federal consistency on May 21, 2020.
- In the consistency agreement is a fisheries mitigation plan with 2 parts
  - Compensatory Mitigation Fund
  - Innovation Fund

# RI Fisheries Mitigation

- Two Funds
  1. Direct Compensation Fund: “to compensate for any claims of direct impacts to RI vessels or RI fisheries in the project area”
    - First payment of \$1 million; \$76,000 per year, escalating 2.5% per year for 29 years. Total amount is \$3.2 million.
    - Administered by third party
  2. RI Fishermen’s Future Viability Trust: “to address concerns raised about safety and effective fishing in and around ... wind farms”
    - 5 annual payments of \$2.5 million per year
    - The trust will be set up by the FAB as a RI non-profit

# MA Fisheries Mitigation

- Two Funds

1. Compensatory Mitigation Fund: “Will offset potential direct, indirect, and cumulative economic impacts to Massachusetts fishing businesses”
  - First payment of \$1.3 million; ~\$300,000 per year, escalating 2.4% per year for 29 years. Total amount is \$19.2 million.
  - Administered by third party
  - Unclaimed funds go to the Innovation Fund
2. Innovation Fund: “Will facilitate innovation that supports the co-existence of the fishing and wind sectors in the offshore environment”
  - Initial payment of \$1 mil, then \$250,000 per year for 3 years to DMF Trust. Total amount is \$1.75 million
  - Will be overseen by board led by Director of DMF.

Total MA: \$19.2 mil + \$1.75 mil  
Total RI: \$3.2 mil + \$7.5 mil

# Response from Mass Fishermen's Partnership, 5/29/2020

- “it fails to mitigate the predicted damage to the marine environment, our coastal communities, and the supply of fresh seafood to the residents of Massachusetts”
- No “legitimate effort effort to involve the input of the commercial fishing industry”
- This plan “may not be used as a model or precedent for future mitigation agreements”
- “Commit the proper time and resources to the Fisheries Working Group”
- Have “officials within EEA develop a basic understanding of the Massachusetts fishing industry”

# VW-1 Supplemental EIS

- Released June 12
- Comments due July 27
- 5 virtual public meetings
  - Friday, June 26, 2020 at 5 p.m.
  - Tuesday, June 30, 2020 at 1 p.m.
  - Thursday, July 2, 2020 at 5 p.m.
  - Tuesday, July 7, 2020 at 1 p.m.
  - Thursday, July 9, 2020 at 5 p.m.

The SEIS analyzes reasonably foreseeable effects from an expanded cumulative activities scenario for offshore wind development. It also considers previously unavailable fishing data, a new transit lane alternative, and changes to the Construction and Operations Plan since publication of the Draft EIS.

# Other Wind

- South Fork Fisheries Monitoring Plan
- Revolution Wind Fisheries Monitoring Plan
- Vineyard Wind eelgrass survey
- Ocean Energy Systems Environmental Report
- Mass CEC Fisheries Studies
  - \$1.1 million for regional fisheries studies to guide offshore wind development
  - three priority areas of research: fishery resource studies, seafloor habitat studies, and technical studies



- **INSPIRE Environmental** – Acoustic Telemetry for Highly Migratory Species, with the New England Aquarium and Standard Approaches for Acoustic and Imagery Data - \$443,450
- **University of Massachusetts Dartmouth (UMD)** – Net Survey for Larval Lobster and Fish Neuston, with Massachusetts Lobstermen's Association - \$278,592
- **University of Rhode Island (URI)** – Fishing Status Using Vessel AIS Data and Machine Learning, with Rhode Island DEM - \$249,646
- **New Bedford Port Authority** – Comparative Analysis of Regulation in Europe and Japan - \$125,000
- Total: \$1.1 million