



**MARINE FISHERIES ADVISORY COMMISSION
BUSINESS MEETING AGENDA**

8:00AM

April 7, 2022

Via Zoom

Link: <https://bit.ly/3DzOWIx>

Dial-In: 1-301-715-8592

Webinar ID: 881 7745 1124

1. Introductions, Announcements and Review of Agenda (8:00 – 8:05)
2. Review and Approval of the March 10, 2022 Draft Business Meeting Minutes (8:05 – 8:15)
3. Comments (8:15 – 8:30)
 - a. Chairman
 - b. Commissioner
 - c. Law Enforcement
 - d. Director
4. Action Items (8:30 – 10:00)
 - a. Commercial Limits for Quota Managed Species
 - i. Summer Flounder Limits
 - ii. Black Sea Bass Limits
 - iii. Menhaden Season
 - iv. Bluefish Minimum Size
 - v. Spiny Dogfish Limits
 - b. Regulatory Housekeeping
 - i. For-Hire Liability Clarification
 - ii. Recreational Lobster and Edible Crab Trap Configuration
5. Consultation on Commercial Permitting Decisions (10:00 – 10:30)
 - a. Commercial Striped Bass Control Date
 - b. Owner-Operator Clarification
 - c. Limited Entry Permit Endorsement Clarification
6. Discussion Items (10:30 – 11:30)
 - a. Protected Species Update
 - b. Updates Concerning the Atlantic States Marine Fisheries Commission
 - c. Updates Concerning Federal Fisheries Management
7. Other Business (11:30 – 11:45)
 - a. Commission Member Comments
 - b. Public Comment
8. Adjourn (11:45)

Future Meeting Dates

**May 12, 2022
Location TBD**

**June 9, 2022
Location TBD**

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

MARINE FISHERIES ADVISORY COMMISSION

March 10, 2022

Held Virtually via Zoom

In attendance:

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

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

Department of Fish and Game: Ron Amidon, Commissioner

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

Members of the Public: Beth Casoni; Eric Morrow; Heather Haggerty; Bob DeCosta; Philip Coates; Jim; and Janet.

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Ray Kane called the March 10, 2022 Marine Fisheries Advisory Commission (MFAC) business meeting to order. He stated there will be a roll call vote taken for all MFAC votes, including the meeting minutes. Additionally, he will not call for a vote on the monthly agenda unless amendments are proposed.

REVIEW AND APPROVAL OF JANUARY 21, 2022 DRAFT BUSINESS MEETING MINUTES

Kalil Boghdan requested a typographical error be corrected on page 6. No further comments were made and no further edits were provided.

Chairman Kane asked for a motion to approve January 21, 2022 MFAC business meeting minutes as amended by Kalil Boghdan. Sooky Sawyer made the motion to approve the amended January 21, 2022 business meeting minutes as amended. Shelley Edmundson seconded the motion. A roll call vote was taken and the motion passed unanimously 8-0 with Chairman Kane abstaining.

CHAIRMAN’S COMMENTS

Chairman Kane did not provide any comments.

COMMISSIONER’S COMMENTS

Commissioner Amidon spoke to the MFAC reappointment process. He recommended the Governor reappoint all current members to another term. Three members have been reappointed and should have been so notified. He was hopeful the remaining six would be reappointed within the month.

LAW ENFORCEMENT COMMENTS

Capt. Clayton and Lt. Bass handled the comments for the Massachusetts Environmental Police (MEP). Lt. Bass discussed the coordinated efforts between DMF and MEP to remove gear left in the state waters closure to protect right whales. Capt. Clayton spoke to personnel and informed the MFAC that MEP was hiring to fill the Coastal Major position.

DIRECTOR'S COMMENTS

Director Dan McKiernan spoke to a petition by the MA Conch Association to amend the state's schedule for whelk gauge width increases. The current schedule increases the gauge size by 1/8" every other year until there is a terminal gauge width of 3 5/8" in 2029. The petition seeks for these 1/8" gauge width increases to occur once every three years. DMF was reviewing the petition, and once the internal review is complete, DMF would bring it to the MFAC for more formal discussion. Dan speculated this would likely occur during a late-spring or early-summer meeting. Based on this timeline, if DMF were to support changes to the regulation such changes could be implemented prior to the 2023 season when the next gauge width increase is scheduled.

Ray Kane and Director McKiernan discussed minimum size standards and methods of measurement in neighboring states. Director McKiernan noted that absent an interstate fishery management plan for whelks, each state has its own conservation rules. Massachusetts uses a gauge width standard and any orientation method of measurement; this approach was found to produce an accurate measurement and is a repeatable standard. Other states use a total length measurement (apex of shell to terminus of siphonal canal), which DMF does not favor because shells frequently break during handling. Additionally, given environmental conditions, there are differences in size-at-maturity across the range of the species, resulting in differing minimum size standards across the Atlantic coast. Massachusetts is at the northern and easternmost extent of the species range and it has the highest size-at-maturity. Accordingly, Massachusetts has the largest minimum size. Dan reminded the MFAC that VIMS held a symposium last year regarding whelk management across the states. He expected a report would be produced to capture these differences in the coming months and he would forward it to the MFAC.

Ray Kane asked Shelley Edmundson about the status of her whelk study. Shelley Edmundson stated the project will begin this season and will focus on testing the at-sea

data tablet and collecting measurements such as size ratios and other fishery-dependent data.

Shelley asked about potential research from SMAST regarding whelks. Bob Glenn stated there is a pilot effort to conduct a size-at-maturity study, similar to the two studies previously conducted by DMF. He was unsure if SMAST had obtained any additional funding for this.

EMERGENCY REGULATIONS TO SET 2022 RECREATIONAL FISHING LIMITS

Black Sea Bass

DMF proposed establishing a May 21 – September 4 season with a four-fish per angler bag limit and a 16” minimum size. This represents a seven-day reduction in season length (from May 18 – September 9), a one-fish decrease in the bag limit (from five-fish), and a one-inch increase in the minimum size (from 15”). These reductions were necessary for Massachusetts to achieve the mandatory 20.7% reduction in recreational harvest. This reduction in harvest is a product of the federal management system which compares estimated harvest in prior years (from MRIP data) to the recreational harvest limit for the current year; for 2019 – 2021, recreational harvest exceeded the 2022 recreational harvest limit by 20.7% coastwide. This necessitated a commensurate cut in anticipated harvest using models approved by the MAFMC and ASMFC.

Dan stated MEP was consulted and they recommended having a consistent bag limit throughout the season. Dan stated the ultimate goal is more compliance and opined that simpler rules may equate to more compliance. Dan welcomed questions from the commission.

Mike Pierdinock, Kalil Boghdan, and Tim Brady discussed DMF’s proposal. Mike P. and Tim expressed frustrations with the federal management system, the need to reduce harvest given the biomass of the stock, and the use of MRIP data in management. All three commission members noted the negative impact the annual yo-yoing of recreational fishing regulations (particularly seasons and bag limits) have on for-hire businesses. Mike P. and Tim also shared their concerns about the accuracy of MRIP data and frustrations among the for-hire fleet regarding NOAA Fisheries only using eVTR data to calculate effort.

Director McKiernan understood their frustrations with the broader management system. He noted Nichola Meserve was working with her counterparts at the MAFMC and ASMFC to develop the so called “Harvest Control Rule”. This action seeks to change the process by which recreational management measures are set for black sea bass (as well as scup, summer flounder and bluefish) by allowing for more explicit consideration of the stock status in order to provide greater stability in management from year-to-year. The MAFMC and ASMFC would be hosting public hearings along the coast on this in late-March and early-April. F

Dan the welcomed comments on his proposal.

Ray Kane stated his support for the proposal.

Mike P. stated that despite his frustration with the management system, he supported the proposal. He thought it was the best of options, as it was the fairest for all anglers.

Kalil Boghdan echoed Mike's comments. He added that while he would prefer status quo he understands that is not an option for this year and supported the proposal.

Summer Flounder

DMF proposed a May 21-Sept 29 season, 5 fish, and a 16.5" minimum. For 2022, states were allowed to increase the summer flounder harvest by 16.5% for 2022. Dan and Nichola discussed the proposal and public comments received. Nichola noted there was general interest in decreasing the minimum size. However, the models show a decrease in the minimum size by ½" would result in more than the allowed increase in harvest. Therefore, to accommodate a minimum size decrease, DMF would have to shorten the season. Nichola added that DMF did not receive comment requesting the season remain open into October or in support of a bag limit change.

Dan noted that DMF consulted MEP when developing this proposal. MEP's preference is for minimum sizes to be set at whole inches rather than half inches. DMF modeled reducing the size limit to 16". This would require a closure during the second week of September or a reduction in the bag limit to 4-fish to keep the season open into the third week of September. He did not favor a mid-September closure and felt it would be better to maintain a longer season. Therefore, he proposed going to a 16.5" minimum size.

Lt. Bass noted MEP's preference for whole inch minimum size numbers. Cpt. Clayton suggested that regulatory consistency across seasons, bag limits, and size limits enhances compliance and benefits law enforcement. Lt. Bass then stated his support for DMF's action to align the opening of the summer flounder season with the opening of the black sea bass season, as these fish are frequently caught together during the spring.

Kalil Boghdan asked why DMF did not prefer to increase maintain the minimum size at 17" but provide a 6-fish bag limit and a longer season. Nichola stated anglers were most interested in a minimum size decrease. Few anglers are taking advantage of the existing 5-fish bag limit and recreational fishing activity for summer flounder wanes in the fall.

Mike P. agreed with Nichola's assessment. He noted there are not a lot of summer flounder that are 17" or greater in state waters and opined this was likely due to environmental factors (e.g., water temperature).

Chairman Kane similarly agreed with DMF's preference for a minimum size decrease. Both he and Kalil were interested in pursuing a shorter fall season in favor of a 16" minimum size.

Dan thought fishing conditions remained good along the eastern Cape and islands into late-September. Given this area is not afforded a fall season for black sea bass, he did not want to deny them the opportunity to target summer flounder when they remain locally available, particularly as some of the best fishing has been along Monomoy and Nantucket shoals.

Dan then asked Chairman Kane to recognize a member of the public, Robert DeCosta. Dan thought Mr. DeCosta could better speak to the seasonality of the summer flounder fishery, as he runs a charter boat out of Nantucket. Chairman Kane agreed. Mr. DeCosta stated larger fish are available to the east on Nantucket Shoals but are generally less available in the Sound. Therefore, he understood the desire to reduce the minimum size. However, he supported trying to extend the season throughout September, particularly off Chatham and the islands where fish are available and targeted throughout the month.

Captain Clayton, Director McKiernan, and Chairman Kane discussed Rhode Island's expected limits and how having differing limits across states may impact enforcement along the state waters line of Gosnold. Captain Clayton reiterated his earlier points regarding consistency enhancing enforcement and compliance. Director McKiernan explained that state specific rules provide the flexibility to build season, bag limits, and size limits that most benefit the individual state's fishery and this flexibility needs to be balanced against enforcement and compliance issues.

After this discussion the MFAC's consensus was to support DMF's proposal.

Scup

DMF was proposing a 1" increase in the scup minimum size from 9" to 10". The season and bag limit would remain status quo. This action was being taken across the coast. Nichola the provided some background information on the change.

Gulf of Maine Cod and Haddock and Georges Bank Cod

Jared Silva noted DMF was proposing to adjust the Gulf of Maine cod and haddock and Georges Bank cod limits to complement the anticipated (FY2022) federal fishing limits for these stocks. This will allow recreational fishermen fishing in state-waters to have the same limits as those fishing in adjacent federal waters and for recreational fishermen to possess and land fish in Massachusetts that were lawfully taken in the federal zone.

For Gulf of Maine cod, the size limit will be increasing one inch to 22". The open season for both private anglers and for-hire vessels will be September 1 – October 7 with a bag limit of 1 fish per angler per day. For Gulf of Maine haddock, the bag limit will increase from 15 to 20 fish but the minimum size and season will remain the same. For Georges Bank cod there will be an open season of August 1 – April 30 with a bag limit of 5 per angler per day. The size limit will now be a slot limit from 22" – 28".

CONSULTATION ON RESIDENCY ISSUES REGARDING STUDENT LOBSTER PERMIT

Director McKiernan discussed a draft policy affecting the student lobster permit. At a recent public hearing, DMF sought to make the student lobster permit “resident-only” in an attempt to clarify whether the residency requirements at G.L. c. 130, §38 apply to this permit. DMF received public comment arguing the residency requirements should not apply because the permit is for “lobsters only” and not “lobsters and crabs” and the residency requirement applies only to the permits for “lobsters and crabs.” Additionally, the commercial fishermen who attended the hearing supported DMF issuing the student lobster permit to non-residents.

In response, DMF was not moving forward with a regulation to make the student lobster permit “resident only”. Rather, the agency had drafted a policy document to: (1) clarify that non-resident students may obtain a student lobster permit; (2) clearly establish the student lobster permit is for the catch of commercial lobsters only (edible crabs may not be retained or sold); and (3) defines a full-time student as any person 12 years of age or older enrolled in middle school, high school, or in a full-time college or post-graduate education program as defined by their institution.

Sooky Sawyer asked why DMF did not pursue an upper age limit on the permit. Dan McKiernan stated the permit was effectively self-limiting given the definition of a full-time student.

DISCUSSION ITEMS

Protected Species Update

Bob Glenn provided the MFAC with an update discussing ongoing protected species issues.

On the Incidental Take Permit application, the agency is progressing in the development of its Habitat Conservation Plan. Bob expected the application would be complete and ready for submission to NOAA Fisheries by July.

He then moved on to discuss gear distribution events. In 2021, DMF held several events to provide the fleet with weak rope and weak inserts. For 2022, he was hopeful to hold similar events to provide weak rope, weak inserts, and buoy line marking devices. However, due to supply chain issues, DMF did not yet have the gear in hand. Once in possession of the gear, DMF would schedule the events.

DMF and MEP were also engaged in a project to remove trap gear from the state waters trap gear closure. DMF contracted six commercial lobstermen to assist in the hauling of the gear. Bob then gave an overview of the gear hauled to-date and the compliance issues encountered.

Sooky Sawyer asked if the governor was going to provide funding for supplies for fishermen to who need to switch their buoy lines over in federal waters. Director McKiernan stated DMF has purchased and intends to hand out weak rope, weak inserts, and buoy line marking devices. Additionally, there was a federal pending bill expected to provide \$14M to coastal states to help commercial fishermen comply with the new Atlantic Large Whale Take Reduction Plan regulations. However, he was unaware of any money specifically allocated for dual-state federal permit holders to address the competing gear marking requirements across jurisdictions.

Upcoming Public Hearing on Quota Managed Species

Jared Silva reminded the MFAC of the upcoming commercial fishery public hearings on March 14 and March 16. On March 14, DMF will take comment on a bluefish minimum size, menhaden season start date, and striped bass permit control date. On March 16, DMF will take comment on commercial fishing limits for black sea bass, summer flounder, and dogfish. Final recommendations would then be made to the MFAC at their April 7 business meeting for implementation in May 2022. Jared highlighted a recent meeting DMF held with the fluke industry and most of the industry members are expected to be in attendance of the public hearing to provide further input.

Sooky Sawyer asked where he could find the Zoom information for the public hearings. Jared stated he will send along the notices to the commission after the meeting.

Summary of March 1, 2022 Shellfish Advisory Panel Meeting

Director McKiernan discussed the second Shellfish Advisory Panel meeting (held virtually on [March 1](#)). The Panel formed two sub-committees; the first would review the local bylaws and regulations governing the transfer of municipal aquaculture licenses; and the second would address bulk tagging by all aquaculturists.

DMF, MEP, and MSOA designed and scheduled a virtual training course for shellfish officers. The course would occur throughout March with a final exam on March 28. This virtual course fills the void left by the cancelation of the annual in-person training sessions held by Massachusetts Maritime Academy which had been cancelled since 2020 due to the pandemic. If Commission members were interested in attending, staff could provide meeting links.

Bill Amaru opined on the importance of local control over the transferability of the aquaculture licenses and was concerned about potential efforts to move this authority from local government to state government. Director McKiernan recognized these concerns and noted they were widely shared. The scope and authority of the sub-committee investigating this question is limited. Its purpose is to examine local regulations and describe what is and what is not being done. At a minimum, an index of existing municipal regulations may help inform local decision making when drafting or amending their rules. He added the sub-committee process would be transparent.

Updates Concerning the Atlantic States Marine Fisheries Commission

Nichola discussed the ASMFC winter meeting which was held January 25-27. She explained that lobster Draft Addendum XXVII (increased protection of spawning stock in GOM/GBK) was approved for public comment with hearings delayed until June. There are potential revisions to gauge sizes, v-notch definitions, and reissuance of lost trap tags. Nichola reported how the recreational harvest reduction for black sea bass had been revised from 28% to 20.7% through an outlier analysis of the MRIP data, and that final approval of the states' proposals for both black sea bass and fluke was scheduled for a March 24 meeting. Regarding spiny dogfish, the Northern Region trip limit for the upcoming season was set equal to the pending federal waters limit (7500 lb expected for May 1). Comments are due March 14 on the federal waters proposed rule for the 7500-lb limit. For menhaden, the board continued to work on a draft addendum that could revise the states' commercial allocations, the episodic event set-aside program, and incidental catch/small-scale fishery allowance. If approved for public comment at the next meeting, public hearings on the document will likely be held in June or July. Nichola reviewed the major changes that the Striped Bass Board had made to Draft Amendment 7 prior to approving it for public comment, including removal of the year-class protection options and addition of a mechanism for the Board to swiftly respond to the results of the 2022 stock assessment. Lastly, she reminded the MFAC of the dates for Massachusetts' virtual ASMFC public hearings on both Striped Bass Draft Amendment 7 (March 21 at 6PM) and the Recreational Harvest Control Rule addenda for black sea bass, scup, fluke, and bluefish (April 13 at 6PM).

Ray Kane asked for clarification on whether management changes can be made at the October meeting in regards to striped bass. Nichola stated that this is likely the case, but there will likely be options brought to the table during the August meeting.

Updates Concerning Federal Fisheries Management

Melanie Griffin briefed the MFAC on the February NEFMC meeting that focused on skates (Amendment 9), Southern New England Habitat Areas of Particular Concern, surfclam access to the Great South Channel Habitat Management Area, and recreational groundfish management. Looking forward to the April NEFMC meeting, DMF briefed the MFAC on pending actions regarding habitat and scallop leasing. Lastly, DMF provided the MFAC with an update on recent legal decisions on the Atlantic sea herring buffer zone (Amendment 8), Atlantic mackerel management, and upcoming Council appointments. Melanie welcomed questions from the commission.

Bill Amaru stated he was happy to see the results of the egg larvae maps for mackerel, and is glad to see it will lead to a more comprehensive management plan in the future.

Mike Pierdinock thanked Melanie and DMF staff for leading the way on mackerel. Mike stated that using eVTR data from for-hire and commercial vessels could prove very useful. Melanie hopes that this is not a single FMP or species issue and hopes this will

be part of conversations at the summit. Mike stated he would be in attendance at the summit and will voice his concerns.

OTHER BUSINESS

Commission Member Comments

Sooky Sawyer asked about the proposed ropeless fishing project and the status of the requested Letter of Authorization. Director McKiernan stated that all listed participants are dual state-federal permit holders. As such, DMF could not make a decision on the state Letter of Authorization until NOAA Fisheries made a decision regarding the federal Exempted Fishing Permit. At present, NOAA Fisheries had not yet published the Exempted Fishing Permit request in the Federal Register.

Shelley Edmundson thanked Dan and Bob for hosting a meeting to hear the concerns of Buzzards Bay and Vineyard lobstermen regarding the lifting of the trawl prohibition in Gosnold.

Tim Brady thanked everyone involved in making the season for cod a bit longer. Tim expressed frustration over the fact that the eVTR data they report is only used for calculating effort and is not used in management.

Bill Amaru thanked DMF for hosting a meeting with the fluke industry and hearing their concerns.

Mike Pierdinock thanked Dan and his staff for all their work and added on to Tim Brady's point - not only for-hire, there are commercial and recreational interests who want to help in being more transparent when it comes to reporting.

Ray Kane thanked the commission for their attendance and thanked DMF staff. Ray Kane stated he would like to hold MFAC meetings on Tuesday mornings, rather than Thursday mornings. After speaking with DMF, he felt Tuesday mornings would better accommodate the schedules of those involved at the NEFMC. He asked if any MFAC members objected to this change. Tim Brady noted he has teaching conflicts on Tuesdays this semester, but may be able to address this for the next semester. Chairman Kane indicated the April meeting would remain scheduled for Thursday the 7th and then future meetings would be scheduled for Tuesdays. This would likely begin with the June MFAC business meeting and he anticipated the May meeting will be cancelled.

PUBLIC COMMENTS

Phil Coates was happy to see the Division is addressing striped bass management issues. Phil closed his comments by commending the DMF staff for their hard work.

Beth Casoni thanked DMF for their efforts in getting the weak rope and gear marking supplies out to the industry. She would like to see the north shore events for gear

distribution set up since the lobstermen are anxious to get their gear squared away for the season. Beth stated MLA has submitted comments in regards to Pilgrim releasing contaminated water into the CCB.

ADJOURNMENT

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

DRAFT

MEETING DOCUMENTS

- March 10, 2022 Business Meeting Agenda
- January 21, 2022 Draft Meeting Minutes
- Recreational BSB, Fluke, and Scup Limits Emergency Regulations Memo
- Recreational GOM Cod and Haddock Emergency Regulations Memo
- Recreational GB Cod Emergency Regulations Memo
- Student Lobster Permit Determination Memo and Policy
- Quota Managed Species Public Hearing Notice and Draft Regulations
- March 1 Shellfish Advisory Panel Meeting Materials
- ASMFC Meeting Summaries
- Whelk Petition
- Issue Brief Amendment 8 Suit and Inshore Buffer Zone

UPCOMING MEETINGS

April 7, 2022
Location TBA

May 12, 2022
Location TBA

June 9, 2022
Location TBA



The Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400, Boston, MA 02114
p: (617) 626-1520 | f: (617) 626-1509
www.mass.gov/marinefisheries



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor


KATHLEEN A. THEOHARIDES
Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director 

DATE: April 1, 2022

SUBJECT: Cover Memo for Recommendations on Commercial Quota Managed Species and Housekeeping – March 2022 Public Hearings

On February 18, 2022, DMF announced public hearings and a public comment period on a variety of amendments to the state's commercial fishing regulations for quota managed species and several housekeeping adjustments. This included proposed changes to the commercial fishing limits for summer flounder, black sea bass, and spiny dogfish to enhance the utilization of available quota; a commercial menhaden season start date to better align the harvest of bait with local bait demand; a commercial bluefish minimum size to address enforcement and compliance concerns; a updated commercial striped bass regulated fishery permit endorsement control date; and clarifications to rules relevant to owner-operator requirements, limited entry permit endorsement renewals, officer discretion and violations onboard for-hire vessels, and recreational trap gear for cancer crabs.

Public hearings were held on March 14 and March 16 via Zoom. The public hearings were recorded and posted to our [YouTube channel](#). Written public comment was accepted through March 20 and all written public comment received is attached for your consideration. Additionally, on March 8, DMF held an in-person industry meeting with the inshore trawl fleet to discuss their positions on the variety of proposals affecting the summer flounder fishery. This meeting was well attended, and the feedback provided at was given ample consideration in the drafting of these final recommendations.

These proposals were previously reviewed by the MFAC at their November, December, and January business meetings. Now, following the public hearing and public comment process, I am coming back with final recommendations on each item. Pursuant to G.L. c. 130, s. 17A all recommendations governing the times, places, quantities, sizes, and manner of taking fish are subject to a vote by the MFAC. Those recommendations governing permitting do not legally require a MFAC vote, but my intention is to consult you and obtain your feedback prior to implementing them.

Enclosed you will find the various recommendation memorandum for these items, as

well as the written public comment. I look forward to our discussion of them at the April 7, 2022 business meeting.

From: [Capt Bill K](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Attention Daniel McKiernan
Date: Thursday, March 17, 2022 12:51:09 PM

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

I sat in on the Zoom meeting on the 16th for Fluke, Sea Bass, and Spine Dogfish. I am a hook and line fisherman primarily for the summer flounder with Sea Bass as a secondary. I am on board with your recommendations. Seven days a week is an important change. Most of the hook fisherman fish from smaller boats this will allow us to pick and choose the days due to weather conditions. Not only for safety but out productivity goes down as the wind picks up. As for 300 lbs we're good with this number.

As for starting April 23 I am not against this we will see if the fish are in our waters.

I am good with your Sea bass recommendations.

As for Dogfish I have no opinion.

Thank you for the chance to comment I am looking forward to your changes.

Bill Killen ID 086283

From: fvfishbone@gmail.com
To: [Fish, Marine \(FWE\)](#)
Subject: Black Seabass proposals
Date: Thursday, March 10, 2022 10:07:59 AM

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

Hi Dan,

After much consideration and consulting with my fish buyers I need to write you in opposition to a five day fishing week for black seabass. We all fear the market will flood and the price will drop considerably. Unfortunately the market for Black Seabass is pretty inconsistent as it is, as we face \$5+ a gallon for fuel this season I think a drop in price due to a flooded market would leave a lot of us at the dock.

I (we) think a more sensible solution would be 250 or even 300 lbs per day 3 days a week wouldn't really dent the price and provide an opportunity for us to cover the fuel expenses.

I would love to see an increase in revenue from black seabass fishing as its one of my primary sources of income in the summer but for 2022 I'd be happy with it being worth it to fish.

Also i thinks it's important to consider the value of seabass is quite high in the fall months. Catching a few while commercial togging and being able to sell them is always a nice bonus

Please consider my opinion in your decision making,

Best regards
John Crobar
FV Fishbone

Sent from my iPhone

From: [Roger Whitten](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Comments on commercial fluke proposals
Date: Saturday, March 19, 2022 8:50:41 AM

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

I am a commercial rod and reel fluke fisherman. All of the proposals are good. Expanding the fishing days per week is excellent for the small boats for safety reasons.

From: [McKiernan, Dan \(FWE\)](#)
To: [Fish, Marine \(FWE\)](#)
Subject: FW: March 16,2022 Public Hearing on Commercial Summer Fluke and Black Sea Bass I would like to memorialize my commentary during the recent Zoom meeting.
Date: Monday, March 21, 2022 8:44:40 AM

-----Original Message-----

From: Brian Curry <bcwashashore@gmail.com>
Sent: Monday, March 21, 2022 12:09 AM
To: McKiernan, Dan (FWE) <dan.mckiernan@mass.gov>
Subject: March 16,2022 Public Hearing on Commercial Summer Fluke and Black Sea Bass I would like to memorialize my commentary during the recent Zoom meeting.

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

Summer Flounder: I support the 8 proposals as presented.

Black Sea Bass: I support the 5 proposals. Also, I recommend that consideration be given to a September 1 start date for adding additional fishing days and increasing total catch limits to 300 pounds.

Captain Brian Curry

Bcwashashore@gmail.com

From: [Kurt Martin](#)
To: [Fish, Marine \(FWE\)](#)
Cc: [Kurt Martin](#)
Subject: Housekeeping and sea bass comments
Date: Thursday, March 17, 2022 3:43:47 PM

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

To Whom It May Concern:

I'd like to express opposition to #1 of housekeeping. As a commercial fisherman, sometimes crew, hired help or a significant other will take catch to the market after a day of fishing. This allows me time to clean up and put away the boat or drive half the catch to another location. Adding this regulation would add time, potentially decrease profit and add a burden to my day.

If you are still accepting comments regarding commercial sea bass catch. I am in favor of a July 500 pound, 5 day a week limit.

Sincerely,
Kurt Martin

From: cryonic316@aol.com
To: [Silva, Jared \(FWE\)](#)
Subject: Re: DMF to Host Industry Meeting to Discuss Potential Adjustments to Summer Flounder Limits Affecting Inshore Trawl Fishery
Date: Thursday, March 10, 2022 9:33:18 AM

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

comments on fluke for P1andP2 should stay the same at 30%/70% I support seven days a week but suggest starting at 400lbs because of market prices. also,lbs can increase in July if not on right track. I also would like to apply for a loa on horseshoe crab or medical crab permit. I also support the pilot program of 2-day retention of fluke. And changing mesh sizes for summer flounder. thank you Phil Brazao f/v Sarah Ann

-----Original Message-----

From: Silva, Jared (FWE) <jared.silva@mass.gov>
To: Silva, Jared (FWE) <jared.silva@state.ma.us>
Sent: Fri, Feb 25, 2022 9:44 am
Subject: FW: DMF to Host Industry Meeting to Discuss Potential Adjustments to Summer Flounder Limits Affecting Inshore Trawl Fishery

Good afternoon,

I just wanted to make sure you were aware of an upcoming industry meeting to discuss the inshore summer flounder trawl fishery. This meeting is scheduled for 6PM on March 8 at Hotel 1620 in Plymouth. The purpose of the meeting will be to review fishery performance, informally discuss pending DMF proposals to adjust commercial summer flounder regulations, and hear from the fleet on other issues. Below find the announcement that went out last week on the subject. Feel free to contact me directly on the subject.

Take care,

Jared

.

Having trouble viewing this email? [View it as a Web page.](#)

February 18, 2022

DMF to Host Industry Meeting to Discuss Potential Adjustments to Summer Flounder Limits Affecting Inshore Trawl Fishery

DMF has scheduled an industry meeting for March 8, 2022 at 6PM. The meeting will be held in-person at Hotel 1620 in Plymouth, MA. The purpose of this meeting will be to discuss the inshore summertime trawl fishery for summer flounder. In particular, DMF seeks to engage the industry on recent fishery performance and the regulatory adjustments being proposed for 2022.

This meeting will provide industry members with additional background information in advance of the March 16, 2022 public hearing (see [Notice](#)) on proposed adjustments to commercial summer flounder limits. Additionally, it will provide industry with the opportunity to raise their concerns about this fishery to DMF to help inform current and future decision making regarding this fishery.

Meeting Schedule

6PM

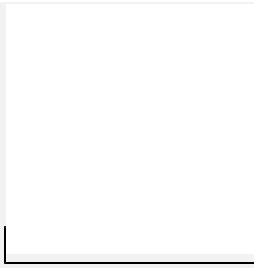
March 8, 2022

Hotel 1620

180 Water Street

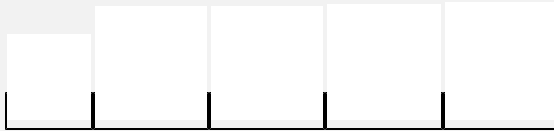
Plymouth, MA 02360

For more information, please contact Jared Silva (jared.silva@mass.gov).



Massachusetts Division of Marine Fisheries

251 Causeway Street, Suite 400, Boston, MA 02114
(617) 626-1520 | [Contact Us](#) | [Find a Location](#)



Manage Subscriptions

[Update Preferences](#) | [Unsubscribe](#) | [Subscriber Help](#)

From: [Paul Unangst](#)
To: [Fish, Marine \(FWE\)](#)
Cc: [Silva, Jared \(FWE\)](#)
Subject: Summer Flounder Limits
Date: Thursday, March 10, 2022 3:01:02 PM

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

Dan & Jared,

Thank you for hosting the meeting on March 8th to adjust the summer flounder limits.

I am writing this email to share my opinion of possible changes to the Summer Flounder regulations.

1. Quota Allocation- As far as changing the winter quota from 30% to as much as 50%, this is worrisome to me. If the quota someday gets reduced to numbers like we've seen in the past, we would be back to not having enough fish to catch. In my opinion, it may be valuable to have a slight increase in order to see how it goes for one year. I'm afraid if the quota gets decreased we will not have enough fish to catch.

4. Period II Directed Fishery Season- I agree with the earlier start date of April 23rd rather than June 10th. I am thankful for this wider season, although, I would like you to know in years past I have tried fishing down there around the 3rd week in May and there is very little Fluke in Nantucket Sound.

5. Period II Inshore Directed Fishery Open Fishing Days- *I believe having the opportunity to fish 7 days a week is the most important change to catching more fish. I fish alone on a 36 ft boat. Being able to pick days according to safe weather conditions will make a big difference.*

6. Period II Inshore Directed Fishery Trip Limits- = The change from 400 to 500 pounds is appreciated by me. On a typical day I was happy to catch 400 lbs, but to have the opportunity to catch 500 lbs would be great. It is important to ensure the limit doesn't increase too much more and drive the price of fish down. There are so few boats left fishing, I don't think that would matter.

7. In-season Adjustment to Period II Inshore Directed Fishery Trip Limits- I believe the change to increase to 600 pounds to be a fair limit. This is appreciated by me. Typically the weather begins getting windy in September. If I have the chance to fish that time of the year, I'm thankful to have the 600 lb. limit.

I also wanted to take time to discuss the horseshoe crabs. I have landed horseshoe crabs for over 30 years, so I am very familiar with the stock abundance. In my opinion, the overall horseshoe quota could easily be increased with the number of crabs I see throughout the Nantucket Sound. As I stated at the March 8th meeting, over the last few years there seems to be a lot more horseshoe crabs throughout the Sound. I always had to fish on a Letter of Authorization to land these crabs. The last two years, it has been frustrating to be forced to throw them over on a daily basis, while the medical field is begging for them. Last year, I received the LOA to catch 400 crabs (effective August 1st). Unfortunately, this was too late due to Covid-19. The demand from the medical field was no longer there. I was told many of their medical students returned to the classroom.

At this time I would truly appreciate the opportunity to obtain a Medical Permit to land 300-400 crabs at the beginning of the season. I believe this has been done in years past.

Thank you for taking the time to thoughtfully consider an increase in catch limits. The fishermen have experienced years of increased regulations without regards to our livelihood, so I personally want to thank you.

Thank you,
Paul Unangst

F/V Destiny
Marshfield, MA

From: [John Torosian](#)
To: [Fish, Marine \(FWE\)](#)
Subject: attn: Daniel McKiernan menhaden start date comments
Date: Saturday, March 12, 2022 12:07:20 PM

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

Hello dan

I am writing in support of the proposal to start the limited access menhaden fishery June 1st or later. I fish commercial striped bass in the north shore area and noticed a large decrease in the menhaden in this area during the past year. The Salem Sound area had far fewer than past years and they were almost entirely absent from Ipswich Bay. I believe the menhaden were mostly caught in the open ocean before being able to come inshore.

thank you dan for your hardwork and fairness
john torosian F/V Mya Marie

From: [John Torosian](#)
To: [Fish, Marine \(FWE\)](#)
Subject: attn: Daniel McKiernan striped bass control date comments
Date: Saturday, March 12, 2022 12:19:18 PM

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

Hello dan

I am writing in support of the proposal to move the striped bass control date to June 14, 2022. My permit was first purchased after the current control date and this proposal would be a relief to me because I have been worried about my future in the fishery. I am very active in this fishery landing over 4,000 pounds last season. I also believe that participation in this fishery may increase after the success of last years season in which significant money was made by some people.

thank you dan

John Torosian F/V Mya Marie

From: [Philip G Coates](#)
To: [McKiernan, Dan \(FWE\)](#); [Silva, Jared \(FWE\)](#)
Subject: Comments regarding DMF proposals
Date: Sunday, March 20, 2022 10:38:22 PM

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

I'm providing comments on two of the proposals contained in the recent virtual public hearing on March 14th 2022.

Concerning the proposed 18" size limit for commercially caught bluefish, I fear this implementation may create the same dilemma that confronts commercial bass fishers who utilize undersize scup as bait for stripers. As several commenters noted, bluefish are a favorite bait in the bluefin tuna fishery and while the absence of a minimum size limit for recreational bluefish would allow the recreational 3 fish per angler on commercial tuna rod and reel boats, I doubt the these fishers would want to pack their vessels with extra crew so they can possess enough <18" bluefish for bait.

Regarding the proposed implementation of a new control date in the commercial bass fishery, we support the rationale offered by DMF to protect new active participants in the areas where there has been an apparent shift of bass. Should progress toward limited entry finally move forward, we would strongly urge DMF to equally protect the long standing traditional, productive bass fishers in other areas who have left the bass fishery for a number of reasons including targeting other species, concern for the declining striper population, etc.

In that regard, we would like to call your attention to our petition submitted over two years ago which calls for a new control date, a lengthy and significant performance minimum standard to continue participation and protection of the waning population of commercial fishers who derive a significant proportion of their earned income from fishing and other related activities.

We earnestly hope that this new control date initiative signals DMF's intent to fineally move forward toward professionalism in the striped bass fishery.

Thank you,
Phil Coates

From: [Scott Jolly](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Commercial menhaden and striped bass
Date: Monday, March 14, 2022 4:07:55 PM

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

As a commercial striped bass fisherman who got his permit after the current control date I am very much in favor of this proposal. I personally don't agree with a control date at all. I believe there are better ways to limit the amount of fishing if necessary. There could be a large number of pre-control date fisherman who barely fish or don't fish at all. I also know for a fact there are a lot of guys who always report late and do not pay taxes! There are also a lot of guys fishing multiple permits some of which are registered to "ghost boats" or they have permits in all their family members names but only actually have one boat. Weeding out these people is necessary to sustain this fishery. It would be a real bummer for guys who take this seriously to lose their permit because of a control date and then have guys like I described above continue to fish.

Thanks for all you do for our fishery!
Sincerely (and concerned)
Scott Jolly

P.S. I know it's not a topic for this hearing but netting for menhaden needs to be banned in the harbors again. Striper dead loss in the nets and decimating the stripers food source is a huge problem and needs to stop.

From: [Mike Alesse](#)
To: [Fish, Marine \(FWE\)](#)
Subject: dmf write in for 2022 bass and blue fish and menhaden
Date: Monday, March 7, 2022 1:29:45 PM

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

let me start with congratulating dan and the whole board and team with a complete quota for bass in 2021 !

1) cmr 6.43

I agree with the hold for menhaden till june 1. what i noticed was the lack of these fish in salem sound when in past years it was loaded. Could the dmf also look into pushing the "inshore" line to bakers island. Also more enforcement on "inshore" boats taken fish from inside salem and beverly harbor. I know there was non permit holders taken from these areas because lack of enforcement.

2) cmr 6.18

no comment

3) cmr 7.04

Full agreement, I would not be holding a permit if the control date was activated 2013. I also agree in making it closed to new permits after the new date in 2022. as far as criteria to hold one in 2023 start small with just landing 1 fish that would eliminate alot of the people just using the permit to get no tax on tackle.

looking forward to the future of commercial if new control is in effect the meetings and rules should be only be permitted holders. please separate any useless comments from recreational non permit holding fishing.

thanks from team mako fishing we look forward to filling out trip reports and the quota again!!

Sent from my iPhone

From: [fuegodemon](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Notice of March 16, 2022 Virtual Public Hearing and Public Comment Period: Draft Regulatory Proposals Affecting Commercial Summer Flounder, Black Sea Bass, and Spiny Dogfish Fishery Limits and Regulatory Housekeeping
Date: Friday, February 18, 2022 10:34:23 AM

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

Im a citizen in massachusetts and am concerned about the raising commercial limits. As a recreational fisherman and being limited in my catch is absurd to hear the tons of fish being raised once again. Im tired of being out bought by commercial fisherman then once the species is in danger i and my family will not be able to catch as many of any of these species just like with striped bass. Please vote no in raising commercial limits for the sake of recreational fisherman every where.

Sent from my Verizon, Samsung Galaxy smartphone

From: [Paul Tokarz](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Striped bass and all future commercial fishing permit
Date: Sunday, March 6, 2022 5:48:34 PM

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

Due to the recent climate changes in geographic changes limited permits to individuals to a catch limit I believe is not effective most fishermen use this type of fission with rod and reel as a part-time job and can be very successful when catching fish but recent trends in climate have made fish geographically challenging permitting should be at if you use it you don't lose it but it shouldn't be a limit to how much one should catch there is no housekeeping done religiously it's all computerized and far as policing the industry limiting the amount of fishermen still was no of no affect on how to manage a fisherman's through policing

A person or persons that fish illegally weather permitted or not will always Do so illegally

Perfect example is your recent to tog tagging proud policy there are still a ton of fisherman catching to talk illegally so why not re-open it back up to people that have a license so they get caught it gets shut down faster that way there the police officers can concentrate on their resources elsewhere like as the hunting season opens up

I also would suggest if an individual still wants to maintain their purse permits then just upped the fee everything is computerized so there is nothing being done in the main office as far as permitting just validations please pass this on to the entire committee thank you for your time have a nice day and be safe

Sent from my iPhone

From: [F.Kudarauskas](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Striped Bass Permitting Change
Date: Monday, February 21, 2022 10:35:57 AM

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

Mr. Daniel McKiernan

Re: Striped Bass Permitting Change

Please do not change the control date for the commercial striped bass permits.

Currently there are more than enough fishermen targeting fewer and fewer striped bass.

The striped bass population is trending downward and instead of allowing more fishermen to target the species, regulations should be changed to decrease the daily take a fisherman could harvest to 10 or less.

Thank you for your consideration,

Frank J. Kudarauskas

EastDennis, MA

From: [Tom Bolinder](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Striped Bass
Date: Friday, February 18, 2022 10:26:33 AM

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

As a lifetime resident of Massachusetts, a twice wounded 100% disabled Marine Vietnam Veteran. And catch and release fisherman, I urge you to stop all commercial fishing for stripers. Most of those guys get a license to pay for their recreational boat and related expenses. It is not their primary income. They catch and keep all breeder fish. I remember the day when it was nearly impossible to catch a striper don't want to return those days. I implore you to stop commercial fishing for this magnificent creature.

Tom Bolinder
Cape Cod

Sent from my iPhone



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

Officers

Capt. Michael J. Pierdinock
President

Capt. Timothy Brady
Vice President

Capt. Rick Golden
Secretary

Capt. Stew Rosen
Treasurer

Board of Directors

Capt. John Bunar

Capt. Jeff Depersia

Capt. William Hatch

Capt. Eric Morrow

Capt. Damon Sacco

Capt. Mike Delzingo

Trustees

Capt. Tom Depersia

Capt. David Waldrip

Capt. Charlie Wade

Capt. Peter Murphy

Capt. Brian Curry

Capt. Robert Savino

Capt. John Richardson

March 18, 2022

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

RE: Recommendation Prohibiting Friday Commercial Seining Inside Boston Harbor

Dear Mr. McKiernan:

On behalf of the Stellwagen Bank Charter Boat Association (SBCBA) whose membership includes the for hire fleet, recreational anglers and commercial fisherman that fish in Boston Harbor and Massachusetts state and federal waters, we offer the following comments recommending prohibiting Friday commercial menhaden seining inside Boston Harbor:

- Fishing on Fridays by the commercial purse seine fleet has led to select conflicts with the recreational and for hire fleet that resulted in one purse seine vessel being banned from commercially fishing for menhaden in Boston Harbor.
- Typically one commercial fishing vessel would fish in Boston Harbor prior to opening Fridays to commercial menhaden fishing (Monday, Tuesday, Wednesday and Thursday) in 2021. When the Friday prohibition was lifted in 2021, up to five commercial vessels would fish these waters removing menhaden five straight days a week.
- The purse seine vessels typically arrive at sunrise and by the time the recreational and for hire fleet with clientele arrive all five purse seine vessels have caught their entire limit of menhaden. This pulsed commercial fishing pressure results in the striped bass and bluefish leaving the area until conditions stabilize after a few days that not only impacts fishing on Fridays but also the weekend. Fridays and the weekends are key to the recreational and for hire fleet and for all that rely on such to make a living.
- As a result the SBCBA request that MassDMF restrict and not allow Friday commercial purse seine fishing in Boston Harbor.



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

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

Very truly yours,

Capt Rick Golden

Capt. Rick Golden
SBCBA, Secretary
1620anglers@gmail.com

Capt Mike Delzingo

Capt. Mike Delzingo
SBCBA, Board of Directors
ff_boston@yahoo.com

Capt Damon Saco

Capt. Damon Saco
SBCBA, Board of Directors
captdamon@gmail.com

Capt Rob Savino

Capt. Rob Savino
SBCBA, Trustee
robsavino@mac.com

Capt David Waldrip

Capt. David Waldrip
SBCBA, Trustee
captdave@relentlesscharters.com

Capt Paul Diggins

Capt. Paul Diggins
SBCBA, Trustee
captain_paul@bostonfishing.com

Cc: Ron Amidon, MassF&G

From: [Mike Bousaleh](#)
To: [McKiernan, Dan \(FWE\)](#); [Fish, Marine \(FWE\)](#)
Subject: Boston harbor Menhaden
Date: Tuesday, March 15, 2022 12:10:15 PM

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

Mr. Dan McKiernan, and all members of the Massachusetts DMF advisory panel:

Summer 2021 saw a relentless conflict of user groups focusing on the menhaden schools inside Boston harbor. Every sunrise like clockwork there were FIVE sein boats converging inside of deer island and systematically removing one entire menhaden school after another. Day after day, FIVE straight days a week.

This led to daily conflict from user groups and even resulted in one boat getting banned from netting in Boston all together, after numerous complaints.

Our fears with June of 2021's letter campaign were spot on, where out of town boats would all converge inside Boston daily, and this would not be just a "one boat operation"

I am asking the DMF to "once again" restrict FRIDAY inshore netting inside of Boston inner harbor, to allow the local charter boats and recreational fishermen to operate unimpeded by the sein boats. This is not a fishery that can coincide with each other in such a small area and leads to too much conflict on the water, as seen in 2021.

Perhaps a no netting line from inside deer island to hull (on Fridays) would appease both user groups?

These bait fish are just as valuable to the local charter boat operators along with recreational fishermen for our striped bass and bluefish fishery, then they are as lobster bait or to be sold for less than 18 cents a pound.

The sein boat can fish on Monday, Tuesday, Wednesday and Thursday. I am asking once again to please do not allow Fridays.

Let the local menhaden populations and striped bass and bluefish that feed on them have a day of rest after FOUR continuous days of harvest.

Thank You!
Captain Mike Bousaleh

From: [Jonathan Foley](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Concerns action should be taken
Date: Tuesday, March 15, 2022 1:03:13 PM

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

Mr. Dan McKiernan, and all members of the Massachusetts DMF advisory panel:

Summer 2021 saw a relentless conflict of user groups focusing on the menhaden schools inside Boston harbor. Every sunrise like clockwork there were FIVE sein boats converging inside of deer island and systematically removing one entire menhaden school after another. Day after day, FIVE straight days a week.

This led to daily conflict from user groups and even resulted in one boat getting banned from netting in Boston all together, after numerous complaints.

Our fears with June of 2021's letter campaign were spot on, where out of town boats would all converge inside Boston daily, and this would not be just a "one boat operation"

I am asking the DMF to "once again" restrict FRIDAY inshore netting inside of Boston inner harbor, to allow the local charter boats and recreational fishermen to operate unimpeded by the sein boats. This is not a fishery that can coincide with each other in such a small area and leads to too much conflict on the water, as seen in 2021.

Perhaps a no netting line from inside deer island to hull (on Fridays) would appease both user groups?

These bait fish are just as valuable to the local charter boat operators along with recreational fishermen for our striped bass and bluefish fishery, then they are as lobster bait or to be sold for less than 18 cents a pound.

The sein boat can fish on Monday, Tuesday, Wednesday and Thursday. I am asking once again to please do not allow Fridays.

Let the local menhaden populations and striped bass and bluefish that feed on them have a day of rest after FOUR continuous days of harvest.

From: [Dan Parma](#)
To: [Fish, Marine \(FWE\)](#); [McKiernan, Dan \(FWE\)](#)
Subject: Medhaden seining inside Boston harbor on Friday's
Date: Tuesday, March 15, 2022 11:27:43 AM

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

Mr. Dan McKiernan, and all members of the Massachusetts DMF advisory panel:

Summer 2021 saw a relentless conflict of user groups focusing on the menhaden schools inside Boston harbor. Every sunrise like clockwork there were FIVE sein boats converging inside of deer island and systematically removing one entire menhaden school after another. Day after day, FIVE straight days a week.

This led to daily conflict from user groups and even resulted in one boat getting banned from netting in Boston all together, after numerous complaints.

Our fears with June of 2021's letter campaign were spot on, where out of town boats would all converge inside Boston daily, and this would not be just a "one boat operation"

I am asking the DMF to "once again" restrict FRIDAY inshore netting inside of Boston inner harbor, to allow the local charter boats and recreational fishermen to operate unimpeded by the sein boats. This is not a fishery that can coincide with each other in such a small area and leads to too much conflict on the water, as seen in 2021.

Perhaps a no netting line from inside deer island to hull (on Fridays) would appease both user groups?

These bait fish are just as valuable to the local charter boat operators along with recreational fishermen for our striped bass and bluefish fishery, then they are as lobster bait or to be sold for less than 18 cents a pound.

The sein boat can fish on Monday, Tuesday, Wednesday and Thursday. I am asking once again to please do not allow Fridays.

Let the local menhaden populations and striped bass and bluefish that feed on them have a day of rest after FOUR continuous days of harvest.

Thank you and I trust you will take my comment in consideration.

Dan Parma

978-412-6375

Parma81@hotmail.com

From: [zachary greenberg](#)
To: [McKiernan, Dan \(FWE\)](#); [Fish, Marine \(FWE\)](#)
Subject: Medhaden seining inside Boston harbor on Friday's
Date: Tuesday, March 15, 2022 11:42:30 AM

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

Mr. Dan McKiernan, and all members of the Massachusetts DMF advisory panel:

Summer 2021 saw a relentless conflict of user groups focusing on the menhaden schools inside Boston harbor. Every sunrise like clockwork there were FIVE sein boats converging inside of deer island and systematically removing one entire menhaden school after another. Day after day, FIVE straight days a week.

This led to daily conflict from user groups and even resulted in one boat getting banned from netting in Boston all together, after numerous complaints.

Our fears with June of 2021's letter campaign were spot on, where out of town boats would all converge inside Boston daily, and this would not be just a "one boat operation"

I am asking the DMF to "once again" restrict FRIDAY inshore netting inside of Boston inner harbor, to allow the local charter boats and recreational fishermen to operate unimpeded by the sein boats. This is not a fishery that can coincide with each other in such a small area and leads to too much conflict on the water, as seen in 2021.

Perhaps a no netting line from inside deer island to hull (on Fridays) would appease both user groups?

These bait fish are just as valuable to the local charter boat operators along with recreational fishermen for our striped bass and bluefish fishery, then they are as lobster bait or to be sold for less than 18 cents a pound.

The sein boat can fish on Monday, Tuesday, Wednesday and Thursday. I am asking once again to please do not allow Fridays.

Let the local menhaden populations and striped bass and bluefish that feed on them have a day of rest after FOUR continuous days of harvest.

Sincerely,
Zack Greenberg recreational fisherman

From: [Daniel Hermann](#)
To: [Fish, Marine \(FWE\)](#); [McKiernan, Dan \(FWE\)](#)
Subject: Medhaden seining inside Boston harbor on Friday's
Date: Tuesday, March 15, 2022 8:24:11 PM

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

Mr. Dan McKiernan, and all members of the Massachusetts DMF advisory panel:

Summer 2021 saw a relentless conflict of user groups focusing on the menhaden schools inside Boston harbor. Every sunrise like clockwork there were FIVE sein boats converging inside of deer island and systematically removing one entire menhaden school after another. Day after day, FIVE straight days a week.

This led to daily conflict from user groups and even resulted in one boat getting banned from netting in Boston all together, after numerous complaints.

Our fears with June of 2021's letter campaign were spot on, where out of town boats would all converge inside Boston daily, and this would not be just a "one boat operation"

I am asking the DMF to "once again" restrict FRIDAY inshore netting inside of Boston inner harbor, to allow the local charter boats and recreational fishermen to operate unimpeded by the sein boats. This is not a fishery that can coincide with each other in such a small area and leads to too much conflict on the water, as seen in 2021.

Perhaps a no netting line from inside deer island to hull (on Fridays) would appease both user groups?

These bait fish are just as valuable to the local charter boat operators along with recreational fishermen for our striped bass and bluefish fishery, then they are as lobster bait or to be sold for less than 18 cents a pound.

The sein boat can fish on Monday, Tuesday, Wednesday and Thursday. I am asking once again to please do not allow Fridays.

Let the local menhaden populations and striped bass and bluefish that feed on them have a day of rest after FOUR continuous days of harvest.

Thank you for hearing us.

Dan Hermann

From: [Phil Buzby](#)
To: [Fish, Marine \(FWE\)](#)
Cc: [McKiernan, Dan \(FWE\)](#)
Subject: Menhaden Fishing Boston Harbor:. Stop Friday Commercial Seining
Date: Saturday, March 19, 2022 5:16:00 PM

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

Mr. Dan McKiernan, and all members of the Massachusetts DMF advisory panel:

Summer 2021 saw a relentless conflict of user groups focusing on the menhaden schools inside Boston harbor. Every sunrise like clockwork, there were FIVE sein boats converging inside of Deer Island and systematically removing one entire menhaden school after another. Day after day, FIVE straight days a week.

This led to daily conflict from user groups and even resulted in one boat getting banned from netting in Boston altogether after numerous complaints.

Our fears with June of 2021's letter campaign were spot on, where out-of-town boats would all converge inside Boston daily, and this would not be just a "one boat operation"

I am asking the DMF to "once again" restrict FRIDAY inshore netting inside of Boston inner harbor, to allow the local charter boats and recreational fishermen to operate unimpeded by the sein boats. This is not a fishery that can coincide with each other in such a small area and leads to too much conflict on the water, as seen in 2021.

Perhaps a no netting line from inside deer island to hull (on Fridays) would appease both user groups?

These bait fish are just as valuable to the local charter boat operators along with recreational fishermen for our striped bass and bluefish fishery, then they are as lobster bait or to be sold for less than 18 cents a pound.

The sein boats can fish on Monday, Tuesday, Wednesday, and Thursday. I am asking once again to please do not allow Fridays.

Let the local menhaden populations and striped bass and bluefish that feed on them have a day of rest after FOUR continuous days of harvest!!!

Philip R. Buzby
Recreational Striper Fishing
Boston Harbor
Boston, MA

From: [Jaron Frieden](#)
To: [Fish, Marine \(FWE\)](#); [McKiernan, Dan \(FWE\)](#)
Subject: Menhaden Seining Fridays in Boston Harbor
Date: Tuesday, March 15, 2022 11:27:48 AM

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

Mr. McKiernan and Mass DMF Arvisory Panel,

Thank you for the opportunity to speak last night. As indicated, the change to allow Menhaden Sein net boats in Boston Harbor last year did not work out the way DMF had hoped. Opening Sein netting on Fridays completely disrupted recreational and charter fishing on Fridays, created unsafe conditions and had a substantial impact to fish behavior in the harbor.

Fridays are a very popular day for recreational fishing in Boston with many people choosing to extend weekends given the short fishing season. 4 days of netting Menhaden in the inner harbor is already disruptive to the Striper fishery, adding Friday created havoc with anglers with competing interests. Several pictures were sent to Mass DMF to show rod and reel as well as sein netting happening on the same school creating an unsafe condition and diminished catches for recreational and charter anglers as the schools of Menhaden were scooped up and Stripers scattered.

I request that seining be banned in Boston Harbor on Fridays as it was previous to 2021.

Thank you,

Jaron J Frieden
US Coast Guard Licensed Captain

Lucky 7 Fishing Charters
781-710-1190
www.fishlucky7.com

From: [Paul Diggins](#)
To: [Fish, Marine \(FWE\)](#); [McKiernan, Dan \(FWE\)](#)
Subject: Menhaden seining inside Boston harbor
Date: Friday, March 18, 2022 6:31:49 AM

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

These photos were taken by me on August 9th 2021. Location lower middle
Paul Diggins
Reel Pursuit Charters
Charlestown, Ma



Sent from my iPad

From: trevcast@gmail.com
To: [Fish, Marine \(FWE\)](#)
Subject: Netting of menhaden balls Aton harbor and north!
Date: Saturday, March 19, 2022 10:20:13 AM

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

It took decades to get the great schools of menhaden (pogies) back here in our mass and Nh waters. The betters started in Mid may in 2021 and you allowed them to net out the major migration runs now leaving us with little hope of any return this summer in 2022. They easily and dis honestly kill way more than the stated quota as they see millions to their friends lobster co ops and there is never one single watcher on any of their boats. Now bigger boats from out of state have joined the pack. Those schools of pogies brought in tuna, pilot and grey whales, dolphin, Stripers by the thousands daily.....to our shorelines!!! All gone and destroyed now. Great job everyone... let the millions of dollars for a Few shady stealing net boats who pay no attention to state laws or quotas keep up their greed! Wake up! Protect what we have and protect all of our species here in mass. It truly disgusts me.... How do I know this? I personally know several of these netters and hear their bragging of how much money they are making! We are talking about ten boats! Start off with the kingfisher out of Gloucester!! He reports half his load. Wake up... you already have allowed this amazing and once healthy ecosystem here fall into ruins.

Sent from my iPhone

From: [Vic Montoya](#)
To: [McKiernan, Dan \(FWE\)](#); [Fish, Marine \(FWE\)](#)
Subject: No Menhaden seining inside Boston harbor on Friday's
Date: Tuesday, March 15, 2022 11:13:39 AM

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

Mr. Dan McKiernan, and all members of the Massachusetts DMF advisory panel:

Summer 2021 saw a relentless conflict of user groups focusing on the menhaden schools inside Boston harbor. Every sunrise like clockwork there were FIVE sein boats converging inside of deer island and systematically removing one entire menhaden school after another. Day after day, FIVE straight days a week.

This led to daily conflict from user groups and even resulted in one boat getting banned from netting in Boston all together, after numerous complaints.

Our fears with June of 2021's letter campaign were spot on, where out of town boats would all converge inside Boston daily, and this would not be just a "one boat operation"

I am asking the DMF to "once again" restrict FRIDAY inshore netting inside of Boston inner harbor, to allow the local charter boats and recreational fishermen to operate unimpeded by the sein boats. This is not a fishery that can coincide with each other in such a small area and leads to too much conflict on the water, as seen in 2021.

Perhaps a no netting line from inside deer island to hull (on Fridays) would appease both user groups?

These bait fish are just as valuable to the local charter boat operators along with recreational fishermen for our striped bass and bluefish fishery, than they are as lobster bait or to be sold for less than 18¢ a pound, not dollars cents.

The sein boat can fish on Monday, Tuesday, Wednesday and Thursday. I am asking once again to please do not allow Fridays.

Let the local menhaden populations and striped bass and bluefish that feed on them have a day of rest after FOUR continuous days of harvest.

Thank you,

Vic Montoya

From: [Ed](#)
To: [Fish, Marine \(FWE\)](#)
Cc: [McKiernan, Dan \(FWE\)](#)
Subject: Opposed to Inshore Menhaden Seining
Date: Friday, March 18, 2022 10:57:23 PM

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

The menhaden populations, striped bass and bluefish were wiped out in Lynn Harbor in a single day by seiners this summer. The seiners should not be able to fish inside Broad Sound. The limited inshore season for recreational and charter fishermen get shut down each year by these boats.

Edward Miles
Lynn, MA

From: [petesantini](#)
To: [Fish, Marine \(FWE\)](#)
Cc: dan.mkiernan@mass.gov
Subject: Pogie netting on Fridays
Date: Sunday, March 20, 2022 8:36:44 AM

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

Please close Friday's to pogie netting inside Borton harbor. The local recreational fishermen are dependent on these baitfish for their striper & bluefish.

Thank you
Peter Santini
Fishin Finatics
Everett.ma

From: steve.phil.mclaughlin@gmail.com
To: [Fish, Marine \(FWE\)](#)
Subject: Pogies
Date: Tuesday, March 15, 2022 1:27:45 PM

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

Subject Menhaden seining inside Boston harbor on Friday's

Mr. Dan McKiernan, and all members of the Massachusetts DMF advisory panel:

Summer 2021 saw a relentless conflict of user groups focusing on the menhaden schools inside Boston harbor. Every sunrise like clockwork there were FIVE sein boats converging inside of deer island and systematically removing one entire menhaden school after another. Day after day, FIVE straight days a week.

This led to daily conflict from user groups and even resulted in one boat getting banned from netting in Boston all together, after numerous complaints.

Our fears with June of 2021's letter campaign were spot on, where out of town boats would all converge inside Boston daily, and this would not be just a "one boat operation"

I am asking the DMF to "once again" restrict FRIDAY inshore netting inside of Boston inner harbor, to allow the local charter boats and recreational fishermen to operate unimpeded by the sein boats. This is not a fishery that can coincide with each other in such a small area and leads to too much conflict on the water, as seen in 2021.

Perhaps a no netting line from inside deer island to hull (on Fridays) would appease both user groups?

These bait fish are just as valuable to the local charter boat operators along with recreational fishermen for our striped bass and bluefish fishery, then they are as lobster bait or to be sold for less than 18 cents a pound.

The sein boat can fish on Monday, Tuesday, Wednesday and Thursday. I am asking once again to please do not allow Fridays.

Let the local menhaden populations and striped bass and bluefish that feed on them have a day of rest after FOUR continuous days of harvest.

Sent from my iPhone

From: [Mike Delzingo](#)
To: [Fish, Marine \(FWE\)](#); [McKiernan, Dan \(FWE\)](#)
Subject: Restricting Friday commercial menhaden seining inside Boston harbor
Date: Tuesday, March 15, 2022 7:57:37 AM

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

Mr. Dan McKiernan, and all members of the Massachusetts DMF advisory panel:

Summer 2021 saw a relentless conflict of user groups focusing on the menhaden schools inside Boston harbor. Every sunrise like clockwork there were FIVE sein boats converging inside of deer island and systematically removing one entire menhaden school after another. Day after day, FIVE straight days a week.

This led to daily conflict from user groups and even resulted in one boat getting banned from netting in Boston all together, after numerous complaints.

Our fears with June of 2021's letter campaign were spot on, where out of town boats would all converge inside Boston daily, and this would not be just a "one boat operation"

I am asking the DMF to "once again" restrict FRIDAY inshore netting inside of Boston inner harbor, to allow the local charter boats and recreational fishermen to operate unimpeded by the sein boats. This is not a fishery that can coincide with each other in such a small area and leads to too much conflict on the water, as seen in 2021.

Perhaps a no netting line from inside deer island to hull (on Fridays) would appease both user groups?

These bait fish are just as valuable to the local charter boat operators along with recreational fishermen for our striped bass and bluefish fishery, then they are as lobster bait or to be sold for less than 18 cents a pound.

The sein boat can fish on Monday, Tuesday, Wednesday and Thursday. I am asking once again to please do not allow Fridays.

Let the local menhaden populations and striped bass and bluefish that feed on them have a day of rest after FOUR continuous days of harvest.

Respectfully,
Captain Mike Delzingo
Fishbucket Sportfishing
Boston

From: [Brad Delzingo](#)
To: [Fish, Marine \(FWE\)](#)
Cc: [McKiernan, Dan \(FWE\)](#)
Subject: Sein boats in Boston harbor
Date: Saturday, March 19, 2022 3:25:27 PM

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

I am asking that you remove Friday fishing days for sein boats as the sein boats are always there at sunrise, and by the time the rec boats and charter boats full of clients get out on the water, the five sein boats have already locked up 5 schools of pogies.

The sein boats are not supposed to set in areas of recreational fishing activity, but how about that by the time the recreational boats arrive, there is no room for us.

Whatever bite was going to happen, has already been shut off

This will greatly reduce the conflict between fisheries

Thank you
Bradley Delzingo

From: [Mike Jones](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Support of Friday Boston Harbor Commercial Purse Seining
Date: Thursday, March 17, 2022 12:19:38 AM

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

Mr. Dan McKiernan, and members of the Massachusetts DMF Advisory Commission

I am commenting my **support** for the continuance of "Friday commercial Purse Seining" within the Boston Harbor vicinity. I realize not all of the permitted Purse Seiners operated in a civil manner in 2021 and I see they have been dealt with by the DMF. One bad apple should not spoil the livelihood's of others struggling to make a honest living in an over regulated industry. The 2021 season had more than enough menhaden present to support all interest groups on the water. I never had a problem with any of the seiners encroaching too close or easy access to the bait.

Any permitted Fishing Vessel meeting the the conditions of a permit should be able to fish where ever and whenever they need to, whether it be the Purse Seiner, For Hire and Recreational.

Thank You

Mike Jones
Carver Mass
Avid Angler & Advocate for fair access to our

Resources.



The Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400, Boston, MA 02114
p: (617) 626-1520 | f: (617) 626-1509
www.mass.gov/marinefisheries



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor


KATHLEEN A. THEOHARIDES
Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director 

DATE: April 1, 2022

SUBJECT: Recommendation to Amend Commercial Summer Flounder Limits

Recommendation

My recommended changes to the commercial summer flounder limits are described in a strikethrough format in Table 1 below and then enumerated in greater details on the following page. These recommendations are very much consistent with the proposals set forth in the November 26, 2021 memorandum to the MFAC¹, but further informed by the public comment received.

Table 1. Summary of Recommended Changes to Commercial Summer Flounder Limits for 2022

Period	Allocation	Season	Open Days	Trip Limits	Min. Size
Period I	30%	Jan 1–Apr 22	Sun – Sat	1,000 lb, reduced to 100 lb at 25% quota use (all gear) 3,000 lb, reduced to 100 lb at 30% quota use (all gear) Multi-state possession limit program	14"
Period II	70%	Apr 23–Jun 9	Sun–Sat	100 lb (nets), 0 lb (hooks)	14"
		Jun 10–Oct 31	Sun–Thu	400 lb (nets), 250 lb (hooks)	
		Apr 23–Aug 31	Sun–Sat	500 lb (nets)*, 300 lb (hooks)	
		Sept 1–Sept 30	Sun–Sat	800 lb (all gears) if $\geq 20\%$ quota remains	
		Nov 1–Dec 31 Oct 1–Dec 31	Sun – Sat	1,000 lb (all gear) if $\geq 5\%$ quota remains, otherwise 500 lb 3,000 lb if $\geq 5\%$ quota remains; 800 pounds if $\leq 5\%$ of quota remains Multi-state possession limit program	

* 100-lb limit applies if more than 250 lb of squid in possession or if fishing with small mesh.

¹ More background information on fishery performance is available in my November 26, 2021 public hearing proposal memo.
<https://www.mass.gov/doc/december-2-2021-mfac-meeting-materials-0/download#page=32>

Period I (January 1–April 22)

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

Period II (April 23–December 31)

1. Move the opening of the directed inshore summer flounder fishery from June 10 to April 23.
2. For April 23–September 30:
 - a. Eliminate the closed fishing days on Fridays and Saturdays allowing commercial fishermen to fish for, retain, and land summer flounder seven-days per week. Concurrent with this change, DMF will eliminate the corresponding closed fishing days for black sea bass and horseshoe crabs affecting trawlers.
 - b. Increase the commercial trip limit for hook fishermen from 250 pounds to 300 pounds (20% increase).
 - c. Increase the commercial trip limit for net fishermen from 400 pounds to 500 pounds (25% increase).
 - d. For trawlers, establish a 100-pound trip limit for vessels in possession of more than 250 pounds of squid or fishing with small mesh.
 - e. Establish an automatic trip limit increase to 800 pounds for all gear types on September 1, provided at least 20% of the quota is projected to remain available to harvest.
3. For October 1–December 31:
 - a. Establish a 3,000-pound trip limit on October 1, provided at least 5% of the quota is projected to remain available to harvest. If less than 5% of the quota is available then the trip limit will remain at 800 pounds.
 - b. Allow the pilot program authorizing the possession of multiple states landing limits when offloading in Massachusetts to also occur during this season.

I view these elements as a single recommendation. Therefore, I recommend the MFAC move to make a motion to adopt this recommendation in its entirety, rather than voting on each specific element. If there are strong objections to any single element being recommended, I may consider amending the element in a revised recommendation. Please note I am not making a recommendation to adjust the current 70/30 split of the annual quota.

Rationale

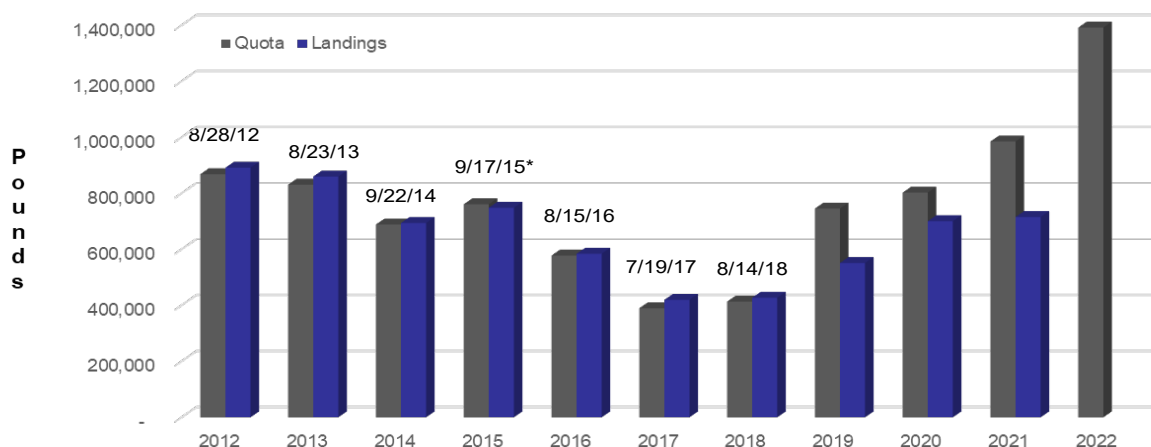
Massachusetts' 2022 commercial summer flounder quota is set at 1.39 million pounds. The quota has steadily been increasing since its all-time low in 2017. Substantial increases occurred in 2021 (24%) and 2022 (37%) due to increases in the coastwide quota² and a change in how the

² The 2021 summer flounder stock assessment demonstrates summer flounder are not overfished and overfishing is not occurring. Spawning stock biomass (SSB) was estimated to be 86% of the SSB target and trending upward while fishing mortality (F) was estimated to be 19% below the F threshold.

coastwide quota is allocated among the states³. DMF has modified the management of this commercial fishery in recent years to enhance landings in response to quota increase. However, these changes have not been commensurate with the quota increases. Due in part to management, as well as a series of complicated factors influencing catch and effort, the annual summer flounder quota has been underutilized in each of the last three years three-years (2019-2021).

Under status quo regulations, DMF anticipates the 1.39 million pound quota for 2022 will be underutilized by about 50% (Figure 1). With the ex-vessel value for fluke being about \$3.00 per pound on average, a potential quota underutilization of about 700,000 pounds represents approximately \$2.1M in unrealized ex-vessel value. The overall economic impact of this unrealized ex-vessel value on the Massachusetts seafood economy may be four-to-fives times that figure. The recommendations described above seek to address this underutilization while not substantially departing from how this fishery has been traditionally managed.

Figure 1. Summer Flounder Quota Utilization (2012 – 2021) and 2022 Quota



* 2015 quota was projected to be taken on September 17. Following accounting, fishery reopened on October 12 and quota was not fully taken.

Period I Recommendations

Quota Allocation

My public hearing proposal included options to increase both the Period I allocation (to up to 50% of the annual quota) and the Period I trip limit (to at least 2,500 lb). This was proposed in recognition of the offshore fishery's ability to land elevated levels of summer flounder provided

³ In 2020, the Mid-Atlantic Fishery Management Council and Atlantic States Marine Fisheries Commission approved Amendment 21 to the Summer Flounder Management Plan. This amendment modified the allocation of the commercial coastwide quota among the states beginning in 2021 in a manner meant to increase equity when the stock is in better condition. Under this new allocation system, when the coastwide quota exceeded 9.55 mlb, all additional quota above this level is allocated in equal shares of 12.375% to all states (except ME, NH, and DE which share 1% of the additional quota). Quota up to 9.55 mlb is allocated under the historic shares based on 1980–1989 landings. Massachusetts' baseline quota share is 6.82% of the coastwide quota. Based on the size of the coastwide quota, Massachusetts' quota share was increased to 8.13% in 2021 and to 8.96% for 2022.

the landing limits are sufficiently high, coupled with an apparent inability of the Period II fishery to hit its 70% target allocation at the current elevated quota levels.

However, at a March 8 industry meeting in Plymouth, DMF received substantial feedback from the inshore trawl fishery participants. They requested the existing quota allocation split be maintained and preferred torquing the regulations during the winter to allow the offshore fishery to fully utilize their existing quota allocation and during the fall to access any quota that remains available. This comment strongly influenced the arrangement of this Period I recommendation, as well as my recommendation for the Period II fall season (October 1–December 31). Additionally, I did not receive any comment from the offshore fleet requesting a higher seasonal allocation. Considering this public comment, I am not recommending any changes to the quota allocation split and am instead focusing my recommendations on the scale of the trip limit and how it is applied.

Trip Limits

Based on the performance of the 2022 fishery at the 2,500-pound trip limit (increased from 1,000 pounds on January 1 via an in-season adjustment)⁴, I recommend the trip limit for this period be set at 3,000 pounds for 2023. This is similar to what is occurring in neighboring states (e.g., New York and Rhode Island) and it should enhance the ability of the fishery to land the available quota. Additionally, DMF and the MFAC may make in-season adjustments to this trip limit should we suspect the fishery is underperforming the quota.

I also recommend adjusting the trip limit trigger rule. At present, the trip limit is reduced to 100 pounds once 25% of the overall quota is taken. While this is designed to prevent the fishery from exceeding the quota allocation, it also prevents the fishery from utilizing the full allocation. My preference is to allow for full utilization and reduce the trip limit to 100 pounds once 30% of the quota is projected to be taken.

Historic concerns regarding the need for a buffer to prevent large overages of the quota allocation should be mitigated by three factors. First, timely reporting allows DMF to accurately project quota utilization and implement resulting trip limit adjustments. Historically, there were time lags in reporting, now most of the fish is being sold to a small number of dealers who report electronically on a nightly basis. Second, given the composition of the fleet—with most participants holding permits in multiple states—once Massachusetts reduces its trip limit to 100 pounds, it becomes economically inefficient to land targeted summer flounder trips in Massachusetts ports. Therefore, whatever landings do come in after the allocation is reached will be nominal and likely limited to bycatch in non-target fisheries. Lastly, given the magnitude of the quota, the small quantity of landings that may come in after the 30% allocation is reached will not have a substantive effect on the quota available to the Period II fishery.

Pilot Program

Since 2020, DMF has authorized a pilot program during Period I in cooperation with the states of New York, Connecticut, and Rhode Island. This pilot program authorized vessels permitted to land summer flounder in multiple states to possess quantities of summer flounder that exceed a

⁴ As of March 30, 2022 the Period I fishery has landed 226,700 pounds. This is 16% of the overall quota and about 50% of the Period I allocation.

state's trip limit provided only a lawful limit is offloaded in a state and the non-conforming fish remains on the vessel until it is offloaded in another state where the vessel is permitted. This means a vessel permitted in Massachusetts and Rhode Island could come into New Bedford in possession of both a Massachusetts limit of summer flounder and a Rhode Island limit, offload the Massachusetts limit, keep the Rhode Island limit on the vessel, and then steam to Point Judith to offload the Rhode Island limit.

This pilot program successfully allowed the offshore fleet to operate more efficiently to target available quota. Additionally, the Massachusetts Environmental Police have reported compliance with the program is generally good. For these reasons, I seek to adopt the allowance afforded by the pilot program as a regulation. This allowance would be subject to an annual authorization by DMF. This annual authorization will continue to provide the Massachusetts Environmental Police with an opportunity to advise DMF as to whether an authorization should be issued to a permit holder based on prior enforcement history. Additionally, it allows DMF to terminate a vessel's ability to possess non-conforming fish should an enforcement incident occur without having to initiate an adjudicatory proceeding and sanction their commercial fishing permit.⁵

There were no objections to this action during the public comment and public hearing process.

Period II Recommendations

Inshore Directed Fishery Season

Consistent with my public hearing proposal, I am recommending to eliminate the springtime bycatch season (April 23 – June 9) and allow the directed fishery to open on April 23. This was supported in public comment and during the industry meeting as a meaningful approach to provide harvesters more access to the quota and additional flexibility. Rod and reel fishermen have been interested in DMF accommodating a profitable springtime fishery since the black sea bass quota was moved to the summer in 2013 and this could be the fishery should summer flounder be available inshore. For trawlers, if squid fishing is delayed/poor or summer flounder become available in the early spring, they will be able to access the summer flounder resource at the directed fishery trip limits.

Open Fishing Days

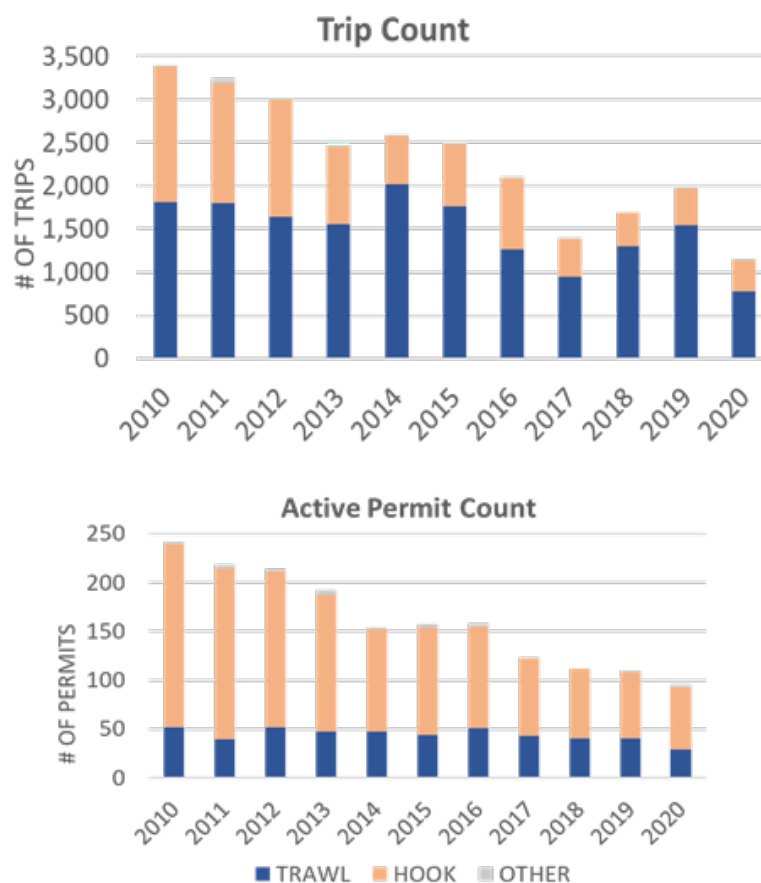
Also consistent with my public hearing proposal, I am recommending the elimination of Fridays and Saturdays as closed fishing days. These closed days were adopted in the 1990s for reasons no longer germane to the current state of the fishery (i.e., to slow the utilization of the quota). With the fleet moving further offshore in response to unfavorable inshore conditions (including fewer larger fish and more eutrophication-caused macroalgae fouling nets), flexibility for the small-to-medium sized vessels in this fleet to operate on the better weather days has taken priority over concerns about early quota closures and fishing on what were traditionally perceived as bad market days.

⁵ This is informed by a 2022 enforcement incident involving a vessel landing non-compliant catch while participating in the Period I pilot program. Rather than initiate a lengthy adjudicatory proceeding to suspend or revoke the commercial fishing permit in Massachusetts, I immediately terminated their Letter of Authorization. Adopting this program by regulation but maintaining the need for an annual authorization allows DMF to retain this flexibility in addressing enforcement and compliance issues.

Providing fishermen with additional flexibility to choose the days when they fish will enhance fisherman safety and provide additional access to the resource. This was strongly supported in public comment and at the industry meeting. I do not anticipate this will result in fishermen fishing seven-days per week. Rather, I think it will allow fishermen to better choose the days they fish. This may result in fishermen going from fishing two or three days a week to fishing four or five days per week. In turn, this may help increase the total number of trips taken, which has been steadily declining over the past decade due to reduced participation and is a contributing factor to Period II underutilizing its quota allocation in recent years (Figure 2).

Note that the directed inshore trawl fishery is a mixed trawl fishery with an incidental catch of horseshoe crab, whelk, scup, and black sea bass. If the recommendation to adjust the commercial fishing days for summer flounder is approved, I also recommend similarly adjusting the open fishing days for horseshoe crabs and black sea bass. The regulations governing the trawl fishery for these species currently prohibit possession and landing by trawlers on Fridays and Saturdays. Removing these prohibitions will prevent unnecessary regulatory discarding. Note, the lunar spawning closures for horseshoe crabs would continue to apply to trawlers. Similar changes are not necessary to the scup or whelk regulations (open seven days/week).

Figure 2. Total Trips Taken and Permits Fished by Year and Gear for 2010 to 2020



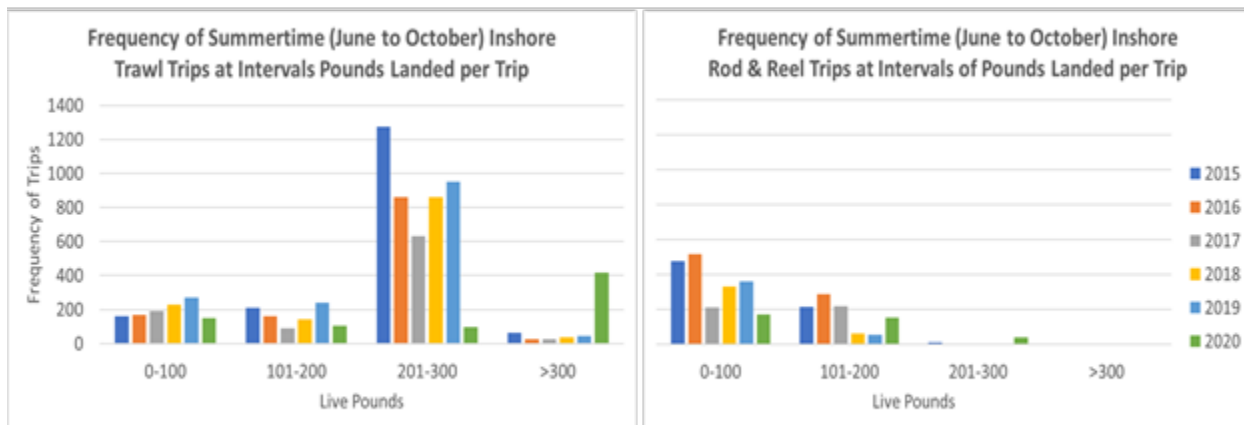
Data Source: MA Trip-Level Reports and NMFS VTRs, November 2021

Trip Limits

I am recommending a 20% increase to the directed fishery trip limits. This would result in the hook trip limit increasing from 200 pounds to 300 pounds and the net trip limit increasing from 400 pounds to 500 pounds. The primary purpose of this recommendation is to provide higher landing limits to increase quota utilization. With the likelihood that fishing activity is occurring further offshore this action should also mitigate associated overhead costs. These

recommendations are consistent with my public hearing proposal and it was supported in public comment and during the industry meeting. Based on an analysis of landings by gear type, I

Figure 3. Distribution of Summer Flounder Landings by Gear for June to October (2015 – 2020)



Data Source: MA Trip-Level Reports and NMFS VTRs, November 2021

* In 2020, the regulatorily set trip limit increased from 300 to 400 lbs for nets and 200 to 250 lbs for hooks.

expect the trawl fishery will be the primary beneficiary of this recommendation (Figure 3).

By early September, summer flounder typically begin their seasonal migration offshore. In continuing to follow the logic of providing high trip limits to address increases in overhead resulting from further steaming times, I am also recommending to increase the trip limit for all gear types to 800 pounds on September 1 should DMF project less than 80% of the quota is taken on August 31. This recommendation is also informed by the in-season adjustments taken in 2020 and 2021⁶, and based on this experience, it may help retain effort in the fishery by enhancing landings and potentially profitability at a time when fishermen may pursue other fisheries (e.g., lobster).

Note that participants in the small-mesh squid fishery would still be held to the 100-pound trip limit to maintain compliance with the federal fishery management plan's mesh size requirements.⁷ While I initially proposed this 100-pound trip limit apply to trawl vessels in possession of any quantity of squid, I am instead recommending it apply to any trawler fishing with small mesh or in possession of more than 250 pounds of squid. This responds to industry interest to allow for a nominal bycatch of squid when fishing under the directed summer flounder limits, particularly with the creation of more temporal overlap for small mesh and large mesh fishing. This 250-pound threshold corresponds to the squid bycatch limit established in the federal Squid, Mackerel, and Butterfish FMP, and as such, is an adequate limit to differentiate between a directed squid trip using small mesh and the indirect harvest of squid in large mesh.

⁶ In 2020, the MFAC approved an in-season adjustment to increase the trip limit to 600 pounds for net fishermen on August 23. Then in 2021, the MFAC approved an in-season adjustment to increase the trip limit for all gear types to 800 pounds on September 26.

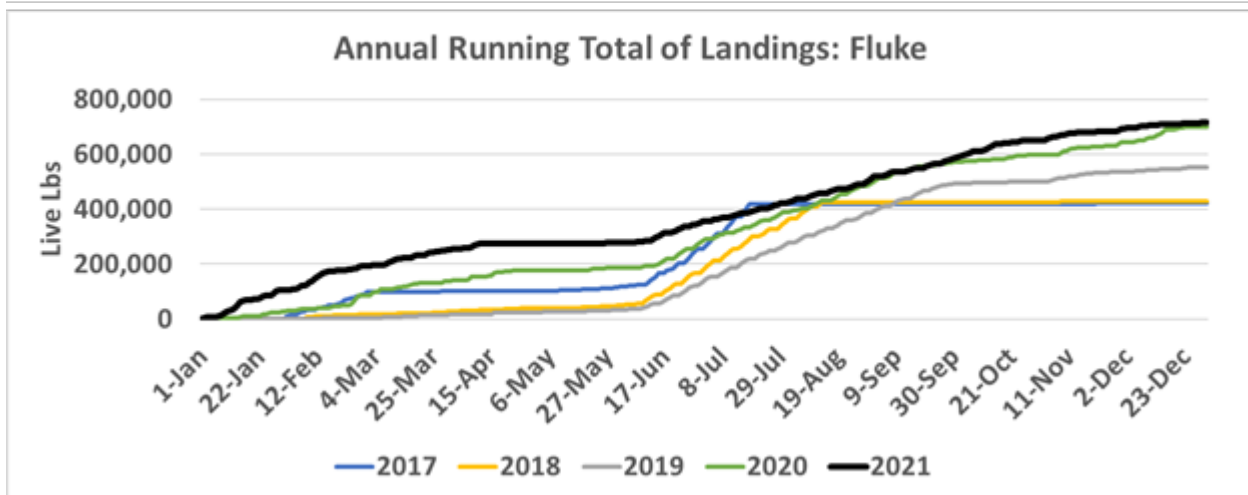
⁷ Under the federal and interstate fishery management plan for summer flounders, vessels fishing with small mesh (i.e., less than 6" diamond) are prohibited from possessing more than 100 pounds of summer flounder.

Offshore Fall Fishery

My three recommendations for the fall fishery are designed to enhance quota utilization during the fall period in the likely event it remains available. Moreover, they are consistent with the advice provided by the inshore fleet to torque the regulations to provide additional fall fishing opportunities rather than adjusting the quota allocations.

I recommending moving the start of the offshore fall fishery from November 1 to October 1. Adding October to the fall fishery is important because it will provide a month of fall fishing when market conditions are strong. SAFIS landings data for 2019-2021 (Figure 4) demonstrates that in years when quota remains available into the fall, landings wane by early-to-mid November. Dealers have indicated this is likely driven by market conditions in response to the high volume mid-Atlantic states' fisheries openings. This recommendation does not substantially differ from my public hearing proposal. My public hearing proposal listed October 10 as the start date for this sub-period. This date was proposed at the time because it corresponded with the expected closure of the recreational fishery on October 9; however, for 2022, the recreational fishery is scheduled to end on September 29 (and should the recreational fishing season be extended in the future, actual recreational fishing effort is minimal after October 1).

Figure 4. Annual Summer Flounder Landings 2017 – 2021



Additionally, I am recommending to increase the regulatorily set trip limit for the fall fishery from the 1,000 pounds to 3,000 pounds if more than 5% of the quota remains available to harvest. This considers waning fishery participation during the early winter and the resulting interest in taking this quota as expediently as possible. It also follows the logic of treating the fall fishery as an offshore fishery, as the recommended 3,000-pound limit is consistent with the Period I trip limit. It is also informed by in-season adjustments made in 2020 and 2021 to increase the trip limits to 2,000 pounds⁸.

⁸ In 2020, the MFAC approved an in-season adjustment to increase the trip limit to 2,000 pounds on November 1 for all gear types. In 2021, the MFAC approved an in-season adjustment to increase the trip limit to 2,000 pounds on October 10 (following the October 9 closure of the recreational fishery).

The 5% trigger will prevent potential quota overages by ensuring a viable quantity of quota remains when the trip limits are increased to this elevated level. Given fish caught during the fall is typically sold to a small number of dealers, and dealer reporting is timely among these entities, I think a 5% buffer is sufficient particularly given the magnitude of the quota. Additionally, I do not anticipate an October quota closure will increase regulatory discarding. Vessels participating in the fall fishery are typically permitted in other states where they can land summer flounder should they continue to target them.

Lastly, I recommend the Period I pilot program also be accommodated during the fall fishery. This recognizes the fall and winter fisheries have a similar fleet composition. With many participants being permitted in multiple states, it makes sense to allow this activity during the fall. This is also something being discussed among the other cooperating states (RI, CT, and NY).

Other Considerations

I intend to renew the Period II pilot program for this year. As you are aware, the pilot program allows trawlers to fish consecutive days, retain a trip limit each day, and land a double limit on the second day, provided the trip limit from the first day is segregated in a sealed container. I believe this pilot program has allowed participating trawlers to be more efficient. Moreover, should the recommendation to eliminate closed fishing days be adopted, this program may help trawlers avoid potential market issues (e.g., soft market or limited access to buyers) that may occur with weekend fishing. At this time, I will not be recommending to codify this pilot program in regulation because I prefer the flexibility provided by the current system, as it allows for me to respond to fishery performance in real time.

As has occurred in prior years, the pilot program will be extended to other species commonly caught in the inshore mixed trawl fishery. The 2022 pilot program will allow fishermen to similarly retain consecutive daily limits of black sea bass and whelks. The limits for scup are already sufficiently high to accommodate any incidental catch in large mesh, so the program need not be extended to this species. For horseshoe crabs, I am concerned about quota utilization and the availability of crabs to the biomedical industry throughout the summer,⁹ particularly given the extensive changes to increase trawl fishing activity during the Period II fishery. Therefore, I am not including horseshoe crabs in this program to start the season, but may consider a change to the program in-season.

During the March 8 industry meeting, I received several comments that were outside the scope of what I can legally do as part of this rule making process.

The first comment was to reduce the mesh size for the summer flounder trawl fishery. The current regulations require a 6.5" square or diamond net mesh in the cod end and 6" square or diamond

⁹ In 2019, the horseshoe crab quota was taken for the first time ever. As a result, DMF stopped issuing horseshoe crab LOAs allowing trawlers without a horseshoe crab endorsement to land up to the 300 crab limit afforded endorsement holders and instead implemented an open access limit of 75 crabs. Then in 2020, 99% of the horseshoe crab quota was landed, and in 2022, 95% of the quota was landed. With the recommended change to the Period II season and open fishing days, we should expect additional horseshoe crab landings if participation does not change. Additional harvest may produce an early quota closure for horseshoe crabs, the ability for biomedical firms to borrow horseshoe crabs from the bait fishery for bleeding may be reduced and negatively impact the biomedical industry. For these reasons, I prefer the wait and see approach.

throughout the net. This is a historic requirement that aimed at creating a single net mesh requirement for large mesh fisheries in state waters, and is consistent with the federal requirement for the multi-species groundfish fishery. However, the minimum net mesh requirement in the FMP for summer flounder is 5.5" diamond or 6" square throughout the net. It was suggested that DMF reduce the net mesh consistent with the FMP. At present, the regulation governing trawl gear and mesh size (322 CMR 4.00) is not open for public comment. It would take a separate regulatory action to consider this change. Given the timing, this is not something that can be accommodated for this upcoming season. However, I will consider it as part of potential regulatory changes for 2023 (should they be warranted).

The second comment was to provide trawlers who do not hold a horseshoe crab permit endorsement with access to a permit or a higher bycatch limit (currently 75 crabs). It was argued that this would reduce regulatory discarding and make the fishery more profitable for the remaining participants. Given my above stated concerns regarding the horseshoe crab quota, I cannot accommodate such a request at this time. However, as horseshoe crab endorsements are transferable, I recommend active trawl fishery participants seek out a transfer of an active permit. Moreover, I anticipate there may be emerging opportunities for bio-medical horseshoe crab trawl fisheries moving forward (particularly during the late summer) given bio-medical demand and the timing of the utilization of the horseshoe crab quota.



The Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400, Boston, MA 02114

p: (617) 626-1520 | f: (617) 626-1509

www.mass.gov/marinefisheries



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor


KATHLEEN A. THEOHARIDES
Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director 

DATE: April 1, 2022

SUBJECT: Recommendation to Amend Commercial Black Sea Bass Limits

Recommendation

My recommended changes to the commercial black sea bass limits are enumerated below. These recommendations are very much consistent with the proposals set forth in the November 26, 2022 memorandum to the MFAC¹ but further informed by the public comment received. I view these six elements as a single recommendation. Therefore, I recommend the MFAC move to make a motion to adopt this recommendation in its entirety, rather than voting on each specific element. If there are strong objections to any single element being recommended, I may consider amending the element in a revised recommendation.

1. Move the directed fishery open season start date from July 8 to July 1.
2. Add Mondays and Wednesdays as open fishing days, allowing commercial fishing to occur Sundays–Thursdays.
3. Increase the trip limits by 25%, from 400 pounds to 500 pounds for pot gear and from 200 pounds to 250 pounds for the other non-trawl gear (e.g., hooks).
4. Effective September 15, eliminate the Friday and Saturday no fishing days to allow fishing seven days per week.
5. Establish an automatic trip limit increase to 600 pounds for pots and 300 pounds for other non-trawl gear on September 15, provided at least 15% of the quota is projected to remain available to harvest.
6. Should the MFAC approve changes to the summer flounder trawl fishing days during the directed inshore fishery, then similarly amend the days where trawlers may retain and land black sea bass.

¹ For more details regarding background, please refer to the November 26, 2022 public hearing proposal memorandum: <https://www.mass.gov/doc/december-2-2021-mfac-meeting-materials-0/download#page=47>

Table 1. Summary of recommended regulatory changes for the 2022 commercial black sea bass fishery

Fishery	Season	Gear	Open Days	Trip Limit	Min. Size
Winter	Jan 1–Mar 31	All	Sun–Sat	100 lb	12"
Weirs	Jan 1–Quota	Weir	Sun–Sat	No limit (24,000-lb annual cap)	12"
Spring Trawl	Apr 23–Jun 9	Small Mesh Trawl	Sun–Sat	100 lb (50,000-lb annual cap)	12"
Summer Trawl	Jun 10–Quota	Large Mesh Trawl	Sun–Thurs	100 lb	12"
Trawl*	Apr 23–Quota	All Mesh	Sun–Sat	100 lb	12"
Directed Summer	July 8–Quota July 1–Sept 14	Fish Pot	Sun/Tue/Thurs Sun–Thurs	400 lb 500 lb	12"
		Hooks/Other		200 lb 250 lb	
Fall	September 15–Quota	Fish Pot	Sun–Sat	600 lb if ≥ 15% quota remains	12"
		Hooks/Other		300 lb if ≥ 15% quota remains	

* Contingent on changes to trawl fishery season and open days for summer flounder

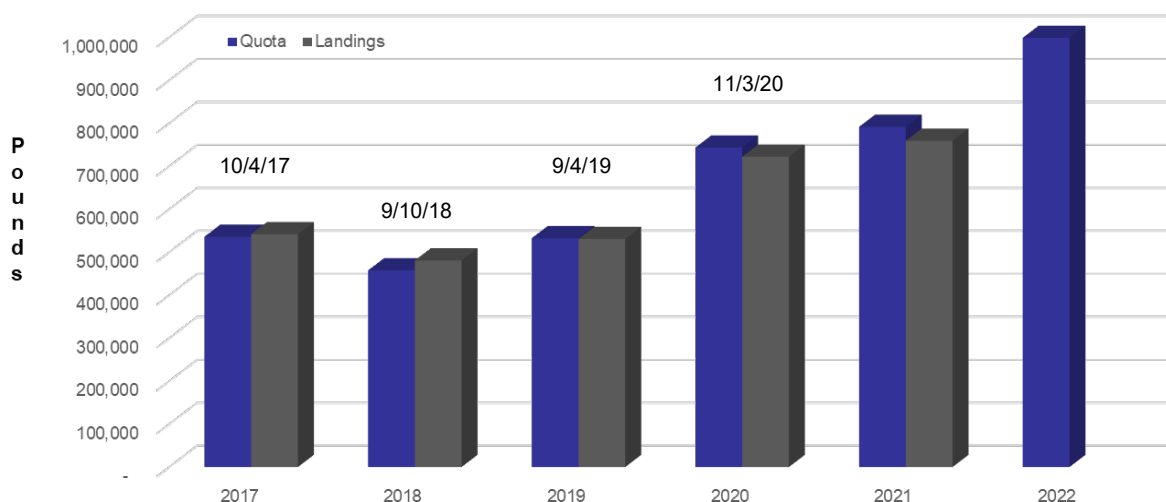
Rationale

For 2022, the black sea bass quota is set at 998,901 pounds; a 26% increase in quota from 2021 driven principally by an increase in Massachusetts' quota share². The fishery last year did not close, utilizing about 93% of the 791,700 pound quota with DMF and the MFAC implementing

² Note that the 15.4% quota allocation for MA is specific to 2022–2023 because under the new allocation approach 25% of the coastwide quota allocation is based on the regional biomass distribution from the most recent stock assessment (scheduled for every two years). The 2021 assessment, which will inform the allocations for 2022–2023, estimated that 85% of the spawning stock biomass is in the “northern region” and 15% in the “southern region.” While not fixed, it is of note that the biomass distribution changed very little from the prior assessment (2019) which indicated an 84/16 split of the biomass, suggesting some stability in our allocation in the near-term.

in-season adjustments to increase limits and open fishing days during the fall. With this elevated and no changes in performance or regulation, I would anticipate a quota underage of about 30%, or ~300,000 pounds (Figure 1). The 2021 ex-vessel value for black sea bass was about \$3.00 per pound. Therefore, I would estimate that such an underage may result in an approximate \$900,000 worth of unrealized value to the commercial fishery and perhaps four-to-five times that to the Massachusetts seafood economy. Recent years' fishery performance (and the fishing limit adjustments required to achieve the quota) demonstrate a need for less restrictive measures to match the 2022 quota increase.

Figure 1. Black Sea Bass Quota Utilization (2017 – 2021) and 2022 Black Sea Bass Quota



* Quotas as adjusted by interstate transfers.

Open Season

With the increase in the 2022 quota, I recommend beginning the season on the first open fishing day on or after July 1 (moved up from July 8). This will provide an additional week's worth of fishing opportunity during the summertime period and allow commercial fishermen to provide black sea bass to the 4th of July market. Moreover, our survey work demonstrates the inshore spring spawning aggregations break-up by the last week of June. Maintaining this directed fishing season during the post-spawning period is a critical management approach given the variety of biological, management, and enforcement issues that occurred during the spring fishery prior to its elimination in 2013 (e.g., derby conditions, high non-compliance, low ex-vessel value). This current action continues a gradual shift towards an earlier opening date since then in response to increased quota availability (early August, to July 8, and now to July 1). No objections were raised to this action in the public comment.

Open Fishing Days and Trip Limits

The last two years' data depict daily harvest rates that decline significantly (e.g., by 50% or more) in early to mid-September, despite the in-season adjustments that were implemented. Adjustments so late in the season can only enhance landings so much, as this small boat fishery

is constrained by more frequent poor weather days and the species seasonal migration. Therefore, to provide additional opportunities to harvest the available quota during the summertime directed fishing season, I am recommending increasing trip limits and eliminating closed fishing days to start the directed fishing season in July. I am also recommending certain automatic and quota-dependent liberalizations in mid-September.

With regards to the summertime period, I recommend eliminating Mondays and Wednesdays as closed fishing days (beginning on July 1)—allowing commercial fishing Sunday through Thursday—and to increase the trip limits to 500 pounds for potters and 250 pounds for other non-trawl gears (e.g., hooks). This is consistent with the late-August in-season adjustments made over the last two years. I expect the trip limit increase will mostly benefit pot fishermen, who have demonstrated the ability to land up to the trip limit (Figure 2). For the other primary gear—hook and line—the benefits will likely be limited to highliners, as the distribution of landings by pounds per trip is diffuse (Figure 3). However, I suspect the hook and line fishermen will benefit from having more open fishing days to target black sea bass, whereas this benefit may be more limited to potters because of soak times. I expect both gears to benefit from having more open fishing days to the extent that weather and sea state may be a limiting factor in this small boat fishery.

Public comment on this proposal was split. Some fishermen favored it for the above stated reasons. Others were concerned about the impact increased supply may have on the ex-vessel value. Interestingly, we did not receive any comments from seafood dealers to this effect. Ultimately, if we do end up with a market glut, the trip limits and open fishing days can be reconsidered for 2023. Moreover, DMF's Seafood Marketing Program continues to promote this species in an effort to develop a strong local summertime market—particularly in the tourist centers of the Cape and Islands regions where the fish is principally caught—as it is one of the best tasting, local finfish.

For the fall, I recommend further adjusting the open fishing day schedule and trip limits, effective September 15. First, I seek to eliminate the two closed fishing days thereby allowing commercial fishing seven days per week. As we are aware, fall weather undeniably influences fishing effort in small boat fisheries, particularly as the fish also tend to move offshore to deeper waters during this period. Allowing a seven day per week fishery would enable fishermen to better choose their fishing days enhancing landings and promoting safety. Second, I seek to increase the trip limits to 600 pounds for potters and 300 pounds for other non-trap gear (e.g., hooks). This increase is contingent on DMF projecting the fishery taking less than 85% of the annual quota. This trigger approach allows for an early fall liberalization aimed at increasing landings if fishery performance is such that we are unlikely to take the quota but retains existing limits should we expect to take the quota to allow for this fishery to remain open into the fall. I do not find it necessary to take all this quota by the end of the summer and see the benefit of allowing this fishery to continue into the fall, as the resource remains available in our waters and is commonly caught as a bycatch in the commercial tautog fishery. I had initially recommended these changes for October 1, but I believe October 1 may be too late in the season should a sizeable amount of the quota remain. I think September 15 is a more suitable start date and this is consistent with some of the public comment received, particularly as it relates to eliminating open fishing days. There was no public comment objecting to this action.

Figure 2. Distribution of Trap Fishery Landings by Pound for 2020 Black Sea Bass Pot Fishery

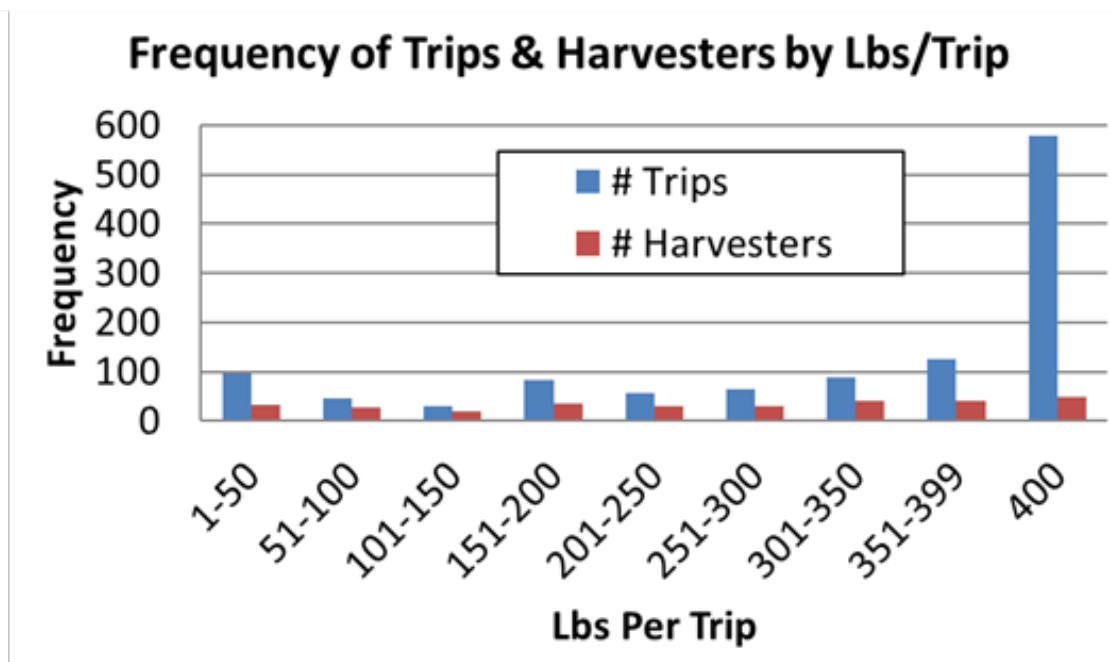
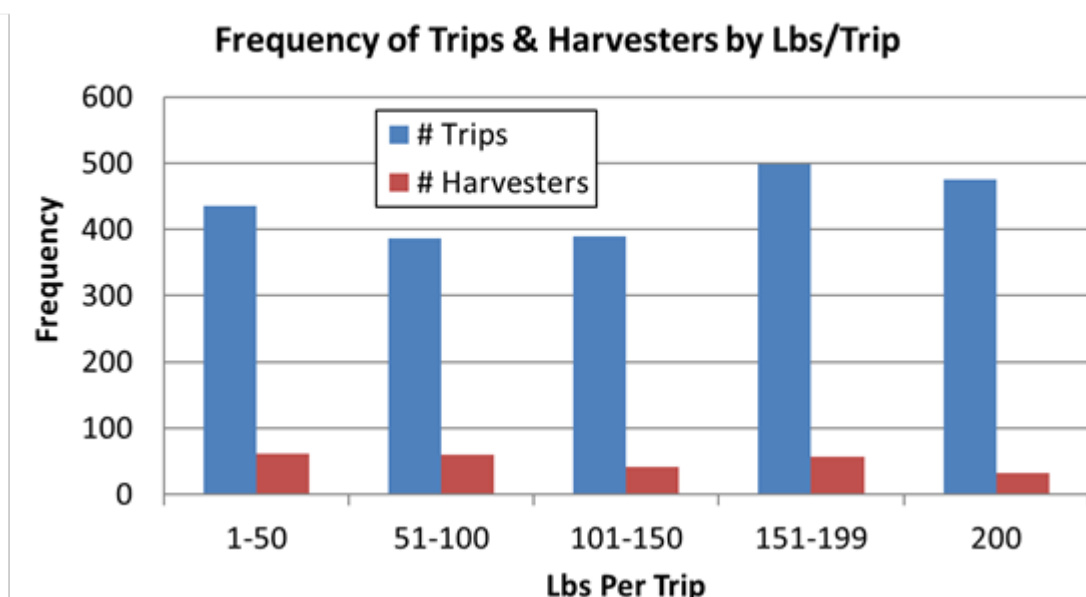


Figure 3. Distribution of Trap Fishery Landings by Pound for 2020 Black Sea Bass Hook Fishery



Other Considerations

Currently, DMF regulations allow a 100-pound black sea bass bycatch during the spring small mesh and summertime large mesh trawl fisheries. This bycatch limit recognizes two factors. For the small mesh trawl fishery, 100 pounds is the maximum allowed bycatch using small mesh (less than 4.5" diamond in the cod end) allowed by the FMP during the April 1–December 31

period. For the large mesh trawl fishery, 100 pounds approximates the high end of what trawlers may encounter as bycatch using 6.5" mesh in this fishery.

The spring fishery has their aggregate bycatch limit capped at 50,000 pounds and the summertime fishery is subject to closed fishing days on Fridays and Saturdays (consistent with summer flounder). Given the various adjustments being recommended for the summer flounder limits, I want to eliminate these features and simplify the management of this bycatch by having a 100-pound limit for trawlers with consistent open fishing days while the black sea bass quota is available. With regards to the small mesh bycatch cap, it becomes unenforceable if large mesh and small mesh fisheries are occurring concurrently because the resolution of the available data does not allow for DMF to monitor catch at this granular of a level, and notably, this cap has never been met. In 2021, approximately 11,000 pounds were caught against the bycatch cap.

On the subject of open fishing days, having closed fishing days for black sea bass that are not closed fishing days for summer flounder will only result in unnecessary regulatory discarding. I am not concerned this will result in directed trawl fishing effort on black sea bass given the 100-pound catch limit, seasonal net mesh size requirements, and the ability for trawlers to access the hard bottom where these fish tend to aggregate.

As described in the summer flounder memorandum, I am seeking to include black sea bass as part of the Period I and Period II pilot programs. This is consistent with what DMF has done in the past. This will allow offshore trawlers fishing during the winter period to possess non-conforming quantities of black sea bass when offloading in Massachusetts, provided only a Massachusetts limit is offloaded in state, and all other fish is destined for a state where the vessel is permitted. Then during the summertime fishery, trawlers will be able to fish two consecutive days, retain a trip limit each day, and land a double limit on the second day, provided the trip limit from the first day is segregated in a sealed container.



The Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400, Boston, MA 02114

p: (617) 626-1520 | f: (617) 626-1509

www.mass.gov/marinefisheries



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor


KATHLEEN A. THEOHARIDES
Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director 

DATE: April 1, 2022

SUBJECT: Recommendation on a Commercial Bluefish Minimum Size

Recommendation

I recommend the adoption of a 16" total length minimum size for the commercial bluefish fishery. This recommendation differs from my public hearing proposal for an 18" minimum size in response to the comment received. Please refer to my January 14 public hearing proposal memo for more background on this issue.¹

Rationale

At the November MFAC Law Enforcement Sub-Committee, the Massachusetts Environmental Police (MEP) discussed an ongoing enforcement issue regarding the bluefish fishery. They reported that many anglers were obtaining a commercial fishing permit to retain snapper blues in excess of the recently reduced recreational possession limits and that they were doing so exclusively for personal consumption.²

This concerned me because it is not consistent with the common and historic "fish for the plate" practice in which commercial harvesters exercise an allowance to keep for personal use fish taken under the authority of a commercial permit. Instead, it is a clear misuse of the commercial fishing permit to circumvent recreational fishing limits. As the fish is not being sold, it does not count against the quota. Moreover, I'm unconvinced these fishermen are properly reporting this catch on trip level catch reports as required, so as to be factored into stock assessments.

In response to these MEP reports, I proposed a minimum size be adopted for the commercial fishery. This minimum size would prevent anglers from obtaining a commercial fishing permit to circumvent recreational fishing limits in order to retain snapper blues for personal consumption. I initially supported an 18" minimum size for several reasons. I thought it would have a negligible

¹ <https://www.mass.gov/doc/january-21-2022-mfac-meeting-materials-final/download#page=71>

² In 2020, the state's 10-fish recreational possession limit was reduced to 5 fish for anglers aboard for-hire vessels and 3 fish for all other anglers, consistent with coastwide action to avoid a recreational harvest limit overage for the recently declared "overfished" bluefish stock. These new rules effectively eliminated an element of the recreational fishery. Snapper bluefish are juvenile fish typically six-inches to one-foot in length. Anglers target these fish for the fight on light tackle and are a common fish for young anglers to target. They are also considered good eating and anglers frequently seek to retain a large number of fish for consumption. With the new recreational limits, the ability to retain snapper blues for consumption was severely constrained.

impact on the commercial fishery based on available (albeit limited) port sampling data for Massachusetts bluefish gillnet landings and our understanding of the market's size preference. Moreover, it would be consistent with Rhode Island's commercial limit.

At the public hearing on March 14, I heard comments from several commercial fishermen. While not opposed to a commercial minimum size, they were concerned an 18" minimum could result in regulatory discarding. The commercial bluefish gillnetter was concerned it may exclude bluefish around 4-pounds, which is the smallest grade fish he typically catches given the 5" net mesh rules. In response, I asked staff to look at weight-at-length frequencies available through MRIP and DMF trawl survey data. Both sources produced similar results, showing an 18" fish weighs about 2.5 pounds and a 4-pound fish is typically about 22" long.

Despite these findings, I do not want a minimum size to cause regulatory discarding. A 16" minimum size may help mitigate this issue and it would be sufficient to constrain individuals from obtaining a commercial fishing permit to circumvent recreational fishing limits. Adopting a minimum size is considerably less hindering on commercial harvesters than another option that was suggested at the hearing, which would be to require all fish harvested under the authority of a commercial permit be sold.

Another concern raised was how this would impact the retention of bluefish for bait in the bluefin tuna fishery. This was an interesting discussion and it is worth memorializing here. Under state regulations you cannot recreationally fish and commercially fish on the same trip. For instance, if you are a dual recreational/commercial permit holder and you are commercially fishing for striped bass (i.e., in possession of one fish with a length 35" or greater on an open day during the open season), then all the catch on your boat must conform to the state's commercial fishing regulations. Therefore, any bluefish bycatch you retain must conform with the commercial rules (e.g., recommended 16" minimum size). Considering this, there were concerns that fishermen targeting giant bluefin tuna would not be able to retain small bluefish for bait.

However, in consideration of the opportunistic nature of the giant bluefin tuna fishery, and that many for-hire operations offer combined tuna and striped bass trips, the regulation prohibiting mixing recreational and commercial trips explicitly exempts the bluefin tuna fishery. A consequence of this is that anglers targeting tuna would have greater flexibility with regards to retaining bluefish for bait. They can retain fish of any size provided it is consistent with the recreational limit (i.e., three-fish for private anglers and five-fish for for-hire anglers) or they can retain more than the recreational limit provided all fish exceed the commercial minimum size.

Given this nuance, a commercial minimum size for bluefish will not prevent bluefin tuna fishermen from using small bluefish as bait. However, if they retain fish less than recommended 16" bluefish minimum size, the number of fish they can retain as bait will be constrained by the recreational bag limits. The anglers at the public hearing thought this would be sufficient to meet potential bait needs. However, if this not the case in some instances, fishermen may have to rely on other local bait fisheries (e.g., menhaden and mackerel).



The Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400, Boston, MA 02114
p: (617) 626-1520 | f: (617) 626-1509
www.mass.gov/marinefisheries



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor


KATHLEEN A. THEOHARIDES
Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director 

DATE: April 1, 2022

SUBJECT: Recommendation on Menhaden Season Start Date and Decision on 2022 Inshore Net Permit Conditions

Overview

The purpose of this memorandum is two-fold. First, I am going to provide you with a recommendation on a menhaden season start date. This recommendation requires an affirmative MFAC vote to be adopted by regulation for 2022. Second, I am going to explain my decision regarding purse seining on Fridays in Boston Harbor. This decision does not require a MFAC vote¹. However, I seek your input and discussion on this important management issue, particularly as it addresses the times, places, and manner of taking fish.

Recommendation

I recommend the MFAC vote in favor of adopting a June 1 start date for the commercial limited entry menhaden fishery. Weir fishermen participating in the limited entry fishery would be exempt from this regulation. The regulation would not apply to any commercial fishing activity being conducted in the open entry fishery regulated under the 6,000-pound trip limit. This recommendation does not differ from what was discussed at the December 2021 MFAC business meeting² and taken out to public hearing on March 14.

Rationale

Since 2013, the state's commercial menhaden fishery has been regulated through a combination of permitting, quota management, and trip limits (Table 1 provides those in place in 2021). The

¹ [G.L. c. 130, §17A](#) requires the MFAC vote in favor of certain marine fishery regulations. However, DMF—with the consultation of the MFAC—has promulgated regulations at [322 CMR 7.01\(7\)](#) to allow the Director to “attach any written conditions or restrictions to the permit deemed necessary or appropriate for purposes of conservation and management or to protect public health, welfare, and safety.” The use of purse seines in inshore restricted waters requires an Inshore Net Permit [[322 CMR 4.02](#)] and the use of the gear is subject to annually-issued Inshore Net Permit Conditions. DMF has historically managed the small-scale purse seine fishery occurring in harbors and embayments through the use of permit conditions to provide the agency with the flexibility necessary to timely respond to conservation and management issues. As a result of this preference, DMF does not file regulations to manage this fishery and an affirmative vote is not required by the MFAC.

² For more background, refer to the MFAC's December 2, 2021 meeting materials:

<https://www.mass.gov/doc/december-2-2021-mfac-meeting-materials-0/download#page=52>

purpose of these management measures is to control the consumption of the state's annual quota and make bait available to meet local demand. Landings are predominantly by purse seine (typically 95% or more), with minor amounts of gillnet, weir, cast net, and occasional mid-water trawl landings.

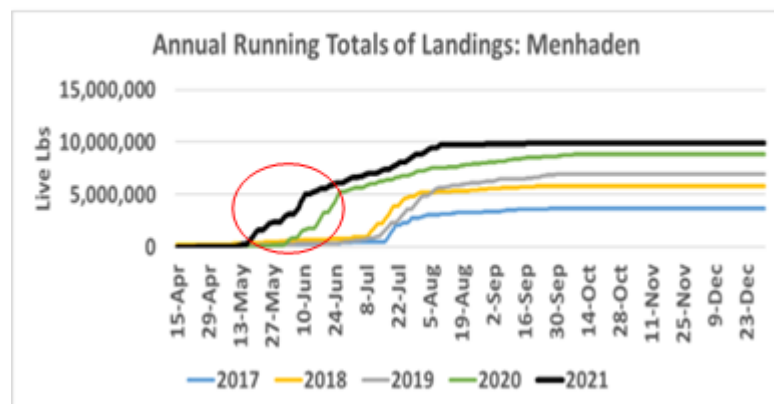
Table 1. Commercial Menhaden Fishery Regulations Summary

Fishery	Season	Trip Limit
Open Access	January 1 – Quota Closure	6,000 pounds*
Limited Access	January 1 – Quota Closure	125,000 pounds until 85% of quota 25,000 pounds until 100% of quota
Episodic Event	N/A**	Limited Access: 120,000 pounds*** Open Access: 6,000 pounds*
Incidental Catch / Small-Scale****	Quota Closure – December 31	6,000 pounds*

* When fishing at 6,000-pound limit, fish must be stored upon retention in barrels or totes. A maximum purse seine size of 450' long by 48' deep applies.
 ** ME-NY may annually apply to ASMFC to participate in EESA once quota is taken (if prior to September 1). EESA is a 1% set-aside of the coastwide quota. State waters harvest only.
 *** Max trip limit allowed by FMP is 120,000 pounds. MA frequently adopts a lower limit (e.g., 25,000 lb in 2021).
 **** Incidental catch/small-scale fishery occurs after quota is taken. Landings do not count against quota but are factored into stock assessment.

Historically, the fishery begins during the summer when the menhaden arrive in our waters, the demand for bait increases, and the Inshore Net Permit Conditions allow fishing inside the harbors and embayments where menhaden are most accessible. In 2020, and more so in 2021, commercial fishing activity has begun as early as mid-May (Figure 1). This harvest mostly came from purse seiners working seaward of the Inshore Net Restricted Areas, as the Inshore Net Restricted Areas remain closed by permit condition until June 1. This springtime fishing effort was likely driven by the early arrival of menhaden in our waters.

Figure 1. Commercial Menhaden Landings, 2017 - 2021



As a result of this early-season fishing activity, DMF has become increasingly reliant on the Episodic Event Set-Aside (EESA) and state quota transfers to allow the commercial menhaden fishery to operate into the late summer³. We should expect this fishery to perform similarly in

³ In 2020, the directed fishery was extended by state quota transfers totaling 2.35 million pounds and access to roughly 361,000 pounds of EESA. In 2021, the directed fishery was extended by state quota transfers totaling 2.49 million pounds and access 1.96

2022 under status quo regulations, particularly when considering coastwide bait shortages driven by the status of the Atlantic sea herring and mackerel stocks.

The state's commercial lobster industry is a primary consumer of locally caught menhaden. The state's lobster fishery does not begin in earnest until June, a result of both inshore lobster availability and overarching regulations closing most of state waters to lobster fishing until early-to-mid May to protect right whales. Catch and effort then peak during the late summer and early fall. In a quota managed fishery—even with allowances like the EESA and state quota transfers—early season landings on menhaden impact the availability of fish on the bait market later in the season. This is evidenced by Massachusetts quota managed fishery closing on August 10 last year⁴.

This has caused several menhaden harvesters, bait dealers (sellers of menhaden to the commercial lobster industry specifically), and lobstermen to contact DMF. There is a seeming interest in temporally aligning the harvest of menhaden with the local lobster bait demand to allow fresh bait to be available into the late summer and early fall. Further, several key components of the interstate plan's commercial management measures are under consideration for change for 2023. This includes state-by-state quota allocations, the EESA, and the incidental catch/small-scale fishery provision. Consequentially, opportunistic allowances to continue to harvest menhaden once the state's quota is taken may be restricted moving forward and Massachusetts should start to think about how this may impact the management of its fishery.

As a result of this, I am recommending a June 1 start date for the limited entry menhaden fishery. This start date will prevent the early season harvest on menhaden—when local bait demand is low—and shift the quota towards the summertime period. This will better align the commercial menhaden fishery with the local market for menhaden. This is similar to an action taken by the state of Maine, who found itself with a need to balance access and season length and implemented a June 14 season opening date in 2021.

I am also recommending exempting the weir fishery operators who participate in the limited entry fishery from this season start date. On an annual basis, there are only a small number of weir operators (about 1-3). This multi-species gear tends to be set in late April. The catch of menhaden is opportunistic and dependent on the local availability of menhaden in times and places where the weirs are set. I do not want to require weir operators to release their catch of menhaden (if it occurs) from a mixed species catch. Instead, I would rather exempt this possible opportunistic catch from the season start date.

I considered applying this season start date to the open entry fishery, which operates under the 6,000-pound trip limit and whose landings count against the quota during the quota management period. However, I decided against this, as it would prevent harvesters from catching quantities

million pounds of EESA. The directed fisheries would have closed in early-July 2020 and mid-June 2021 without these flexibilities afforded by the management plan.

⁴ The state's initial 5.42 million pound quota was taken on June 17. Fishermen were then afforded the ability to fish under the EESA at a 25,000-pound trip limit beginning on June 18. The EESA was exhausted on July 17. DMF then obtained state quota transfers to allow the quota managed fishery to reopen on July 19 with a 25,000-pound trip limit. This quota managed fishery then remained open until August 10. After August 10, the commercial harvest of menhaden was limited to 6,000-pound incidental catch and small scale fishery allowance.

of menhaden for personal use and meeting highly local, seasonal bait needs. This is an area I may revisit in 2023 depending on quota utilization in 2022 and changes in the FMP.

Inshore Net Permit Conditions

Saturdays and Sundays are closed to purse seine fishing in most of the Inshore Net Restricted Areas where purse seining is allowed, as well as those waters seaward of these areas. These weekend closures were designed to prevent user group conflicts with recreational anglers. Historically, Boston, Beverly, and Salem Harbors were also closed to seining on Fridays. About a decade ago, the Friday ban was lifted in Salem Harbor. Then last year, (2021), I lifted the Friday closure for Boston Harbor. This allowed additional purse seining activity in these areas and reflected the fact the local seiners had developed strong reputations for working cooperatively with other user groups to minimize potential on-the-water conflicts.

In 2021, anecdotal evidence suggests there was an increase in participation in the Boston Harbor purse seine fishery across all open fishing days, as several vessels who commonly fish elsewhere (e.g., Salem Sound, Ipswich Bay, Gloucester Harbor) were reported fishing in Boston. This heightened user group conflicts between purse seiners and the local recreational fishing community, and DMF received correspondence regarding these conflicts, particularly from local charter boat captains. In one egregious incident, a fisherman recorded a seiner steaming down on an aggregation of recreational fishing boats to set its net. I was sent the video and I view it as clear evidence of a violation of the Inshore Net Permit Condition requiring seiners avoid concentrations of recreational fishing activity. As a result, I have informed this seiner their permit conditions will be amended in 2022 to prohibit that vessel from fishing inside Boston Harbor.

Due to this user group conflict, I also committed to taking public comment on allowing seining in Boston Harbor on Fridays. The public comment was dominated by local recreational fishing interests who roundly objected to the continuation of this activity in Boston Harbor (and elsewhere). The two seiners who attended the public hearing supported continuing the allowance for Friday fishing in Boston. I understand the concerns and objections raised in these public comments and share their frustrations with certain seining activity in Boston Harbor last summer. In addition, I appreciate their concerns about the incompatibility of large-scale seining operations working among recreational fishing interests in a tight urban harbor.

For these reasons, I have taken several actions for 2022. As stated above, I have informed the seiner who fished aggressively within recreational fishing concentrations that they will not be allowed back in Boston Harbor in 2022. I will also take similar punitive actions against other permit holders who violate this permit condition moving forward. Additionally, in recognition of spatial usage concerns, I will prohibit the use of carrier vessels in Boston Harbor. This should reduce vessel traffic in the area and may also disincentivize opportunistic effort.

Given these additional conditions, I think it is reasonable to continue to allow Inshore Net Permit Holders with the ability to seine in Boston Harbor on Fridays. Prior to 2021, effort inside the harbor was typically limited to one local seiner, who by all accounts has a strong working relationship with the recreational fleet. Last year was seemingly unique because menhaden were concentrated in this area and not as abundant in other areas where they are frequently targeted

causing boats hailing from other ports to steam to Boston. This shift in fishing effort was likely opportunistic and may not continue this year. However, I encourage the user-groups to manage potential conflict and expect seining operations will avoid concentrations of recreational fishing vessels. I will closely monitor the situation and expect I will hear from constituents if the situation becomes untenable.



The Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400, Boston, MA 02114
p: (617) 626-1520 | f: (617) 626-1509
www.mass.gov/marinefisheries



CHARLES D. BAKER
Governor


KARYN E. POLITO
Lt. Governor

KATHLEEN A. THEOHARIDES
Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)
FROM: Daniel J. McKiernan, Director 
DATE: April 1, 2022
SUBJECT: Recommendation on a Commercial Spiny Dogfish Trip Limit

Recommendation

I recommend the commercial spiny dogfish trip limit be increased from 6,000 pounds to 7,500 pounds contingent upon NOAA Fisheries' approval and implementation of the same limit for federal waters. I expect the final federal specifications—including the coastwide quota and federal trip limit—to be filed within the next month. This recommendation is consistent with my proposal for public hearing. Please refer to my January 14 public hearing proposal memo for more background on this issue.¹

Rationale

DMF did not receive any comments objecting to this action. This is unsurprising, as the action matches state limits to those expected under the federal and interstate FMPs. Effectively, adopting this recommendation will allow Massachusetts fishermen to fish for spiny dogfish in state waters at the same level as fishermen throughout the Northern Region (assuming all states adopt the increase) and in federal waters. The latter will allow fishermen fishing in federal waters to land the full limit of lawfully harvested fish in Massachusetts ports.

NOAA Fisheries' proposed rule on the trip limit adjustment did receive a handful of comments in opposition. These were driven by concern about stock status and/or the effect on market price. The coastwide quota is the key management tool to preserve stock sustainability not the trip limit, and while the anticipated trip limit adjustment may increase harvest, it would still be within the scientifically-established quota. A research track assessment is underway for spiny dogfish this year and will form the basis for any necessary revision to the quota in future years. In addition, analysis of the prior two trip limit increases (of similar magnitude) did not suggest a negative effect on ex-vessel price would occur from this incremental increase. For these reasons, I expect NOAA Fisheries will approve the 7,500-pound trip limit as recommended by both the New England and Mid-Atlantic Fishery Management Councils, and as supported by the Atlantic States Marine Fisheries Commission in its vote to adopt the same limit for the Northern Region's state waters.

¹ For quick access, refer to the MFAC's January 21, 2022 meeting materials:
<https://www.mass.gov/doc/january-21-2022-mfac-meeting-materials-final/download#page=66>



The Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400, Boston, MA 02114
p: (617) 626-1520 | f: (617) 626-1509
www.mass.gov/marinefisheries



CHARLES D. BAKER
Governor


KARYN E. POLITO
Lt. Governor

KATHLEEN A. THEOHARIDES
Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)
FROM: Daniel J. McKiernan, Director 
DATE: April 1, 2022
SUBJECT: New Control Date for Commercial Striped Bass Endorsement

I intend to update the control date for the commercial striped bass regulated fishery permit endorsement (“striped bass endorsement”). The current control date is September 8, 2013 and it will be revised to June 14, 2022. This new date is the day before the start of the 2022 commercial striped bass fishery.

This is a permitting regulation and therefore does not require MFAC approval¹. However, I do seek your consultation on this matter and your feedback will inform my final decision making.

Rationale

The prior control date was the last day of the commercial fishery in 2013. It was adopted in 2014 alongside various adjustments to the commercial striped bass limits to slow the consumption of the annual quota to allow the fishery to remain open through the summer season and the adoption of the state’s point-of-sale tagging program. With the control date being almost a decade old, it has become stale and updating the control date at this time is important.

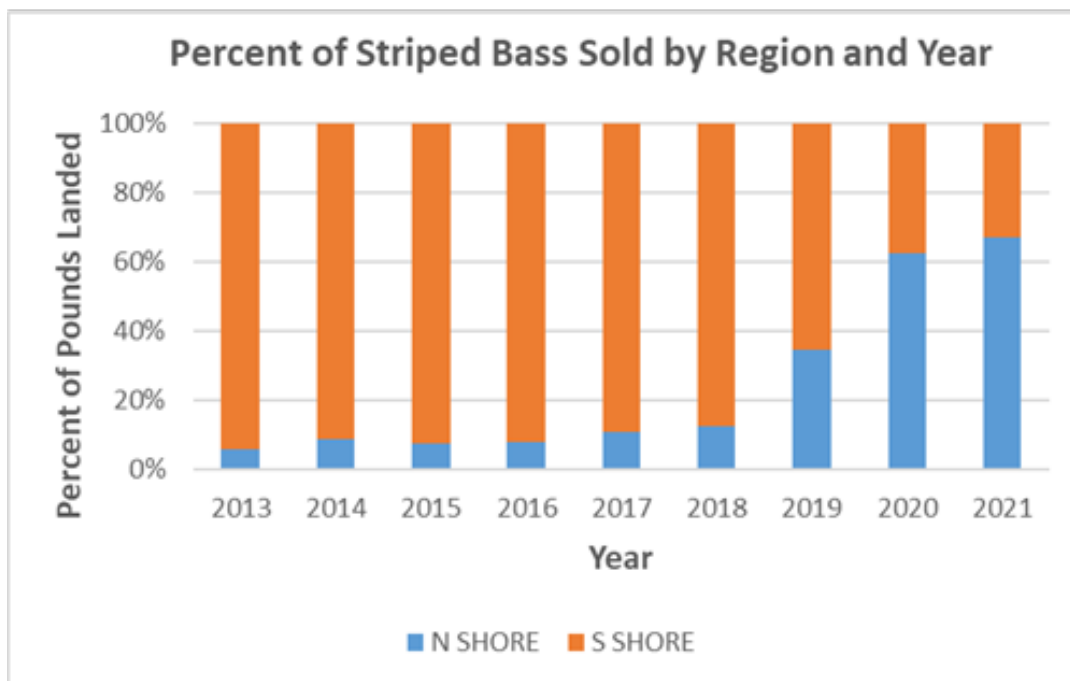
The 2018 benchmark stock assessment for striped bass indicated the stock has been overfished (below its threshold biomass level) since 2013 and subject to overfishing since 2010. This shifted the perception of the stock and resulted in the implementation of Addendum VI to Amendment 6 and the development of Draft Amendment 7. The next benchmark stock assessment is scheduled to be released this year and I anticipate it may trigger additional management measures, particularly given the recent poor young-of-the-year surveys coming out of the Chesapeake Bay. Additionally, there is continued interest among stakeholders in having Massachusetts adopt a point-of-harvest tagging program and I expect these calls will be amplified if further conservation is required.

¹ [G.L. c. 130, §17A](#) requires the MFAC vote in favor of certain marine fishery regulations, not including regulations governing the permitting of commercial fisheries. Rather, the regulation of commercial fisheries permitting is authorized pursuant to [G.L. c. 130, §80](#). This section provides the Director with exclusive regulatory authority over these matters, as it states “The Director shall promulgate rules and regulations relative to the form, contents, and use of all permits...” However, consistent with the mission of the MFAC ([G.L. c. 130, §1B](#)) to advise the Division on the “proper management and development of the marine fisheries of the Commonwealth” it is critical to the agency to consult the MFAC on all matters relevant to permitting.

Having a (more) current control date may prove useful if we decide to limit future participation, especially if drastic reductions in harvest are warranted. Working from a decade old control date is impractical because it is not inclusive of recent entrants into the fishery, as was pointed out by multiple attendees of the public hearing on March 14 and in written comment. This is of particular importance given the geographic shift in this fishery in recent years. Figure 1 shows a clear trend in ports of landing shifting over the past decade from the southern region (i.e., Plymouth, Bristol, Barnstable, Dukes, and Nantucket counties) to the northern region (i.e., Essex, Suffolk, and Norfolk counties). In 2020 and 2021, most landings were coming from the northern region. These data match anecdotal reports from the waterfront about local fishing conditions. The only public comment that clearly opposed the control date update did so in the interest of reducing participation in the fishery, which would be achieved in how the control date is applied.

At this time, I am uncertain as to whether DMF will utilize the control date or how it may be utilized. This will be driven by the results of the next stock assessment, the management actions that may precipitate, and then policy decisions stemming from that. Regardless, it will be the subject of a future regulatory action, which the MFAC (and its Striped Bass Sub-Committee) will be asked to debate and provide DMF with advice.

Figure 1. Commercial Striped Bass Landing Trends by Region



Source: SAFIS Dealer Reports as of October 27, 2021.

*2021 data are preliminary.



The Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400, Boston, MA 02114

p: (617) 626-1520 | f: (617) 626-1509

www.mass.gov/marinefisheries



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor


KATHLEEN A. THEOHARIDES
Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director 

DATE: April 5, 2022

SUBJECT: Recommendations on Regulatory Housekeeping and Permitting Clarifications

This memorandum addresses four proposals taken out to public hearing on March 14 and March 16. These four proposals are clarifications of existing regulations. Two of these items address fishing activity and require the approval of the MFAC. The other two items address permitting issues and do not require MFAC approval; however, I seek your consultation¹.

Recommendation to Clarify Regulations Affecting For-Hire Liability

Recommendation

I recommend the MFAC vote in favor of rescinding language regarding officer discretion in the for-hire liability regulation at 322 CMR 6.41(3)(c). DMF did not receive any public comment objecting to this action.

Background and Rationale

In 2014, DMF and the MFAC adopted a regulation to clarify that for-hire permit holders, for-hire vessel operators, and individual patrons may each be held liable for violations of the recreational fishing limits observed on a for-hire trip. While this was historically enforceable through G.L. c. 130, §1, the Massachusetts Environmental Police (MEP) sought and explicit regulation in response to enforcement and compliance challenges (particularly in the south coastal fisheries for scup, black sea bass, and tautog). Consequentially, DMF drafted and proposed such a regulation.

During the public process, concerns about the regulation were expressed by some for-hire vessel owners, particularly the head boat fleet. Head boats are required by regulation to announce the rules to their patrons, conspicuously post the rules on the vessel, and ensure accessible measuring devices are available. However, given the scale of these operations, they are challenged to effectively monitor the catch of each angler for compliance. Therefore, they were concerned they

¹ [G.L. c. 130, §17A](#) requires the MFAC vote in favor of certain marine fishery regulations, not including regulations governing the permitting of commercial fisheries. Rather, the regulation of commercial fisheries permitting is authorized pursuant to [G.L. c. 130, §80](#). This section provides the Director with exclusive regulatory authority over these matters, as it states “The Director shall promulgate rules and regulations relative to the form, contents, and use of all permits...” However, consistent with the mission of the MFAC ([G.L. c. 130, §1B](#)) to advise the Division on the “proper management and development of the marine fisheries of the Commonwealth” it is critical to the agency to consult the MFAC on all matters relevant to permitting.

may be cited for violations by a small number of non-compliant anglers. While assurances were made that MEP officers would use their discretion when issuing citations to for-hire operations, these concerns were not mitigated. As a compromise measure, DMF added language about officer discretion to the proposed regulation and it was approved by the MFAC.

Officer discretion is a complex concept in law enforcement, but it essentially affords officers the flexibility to determine how they enforce the law on a situational basis. With regards to fisheries enforcement, this may include issuing a verbal warning, a written warning, a non-criminal citation, or filing a criminal complaint. DMF regulates fisheries with the implicit understanding that officers' discretion will be applied in the field. Accordingly, with the exception of this regulation, DMF does not address the concept at 322 CMR.

This select reference to officer discretion creates awkwardness around the regulation. This came to light during a 2021 adjudicatory hearing when Respondent's attorney extensively cross-examined agency witnesses regarding the purpose of this regulation, why special attention was paid to this specific area of regulation, and if operators should be cited at all if best practices are followed. The narrow purpose of the regulatory language regarding discretion was to mitigate concerns coming from a certain segment of the for-hire fleet. However, it was now being used to muddy the waters as to whether the rule should be enforced at all provided the for-hire operation claims they announced and/or posted the rules. While DMF ultimately prevailed in the adjudicatory proceeding, I remain concerned the awkwardness of this regulation may obscure its intent and enforceability.

With this in mind, I recommend rescinding the language regarding officer discretion from the regulation. With this language rescinded, officers will still utilize their enforcement discretion. To this point, I am confident this recommended rescission will not have any effect on how the rule is enforced and that head boat operators will not be cited if observed violations onboard their vessel are limited in scope (or not otherwise warranted). Rather, this will only limit the ability to muddy the waters in criminal, civil, and administrative matters.

Recommendation on Recreational Lobster and Crab Trap Gear Configuration

Recommendation

I recommend adopting a regulation that sets forth all traps set by recreational lobster and crab trap fishermen comply with the recreational lobster trap configuration requirements (e.g., escape vent, ghost panel) regardless of whether they are being fished for lobsters or edible crabs. DMF did not receive any public comment objecting to this action.

Rationale and Background

G.L. c. 130, §38 establishes a non-commercial ("recreational") lobster and crab permit for the harvest of lobsters by any lawful gear and the harvest of edible crabs² by traps. With the 2021 implementation of a prohibition on blue crab trapping to protect diamondback terrapins, the only

² 322 CMR 6.19 defines the term edible crab as meaning, "blue crabs, *Cancer* crabs, and other non-native species of crabs that are suitable for human consumption. This shall not include species of non-native crabs including, but not limited to, the European green crab or the Asian shore crab.

remaining edible crabs that are caught by traps in state waters are *Cancer* crabs (rock crabs and jonah crabs).

The commercial fishery for lobsters and *Cancer* crabs are managed jointly. As a requirement of the ASMFC's FMP, the trap used to fish for *Cancer* crabs must be the same as the trap used to catch lobsters. This was done to prevent the proliferation of new trap gear. Consistent with this logic, I am recommending we apply the same requirement to the state's recreational trap fishery.

Owner Operator Clarification

Intended Action

I intend to amend DMF's permitting regulations at 322 CMR 7.03 and 7.06 to clarify that the owner-operator provision applies to commercial fishing activity only and does not extend to the transport or sale of fish. DMF received one comment on this clarification. This comment objected to the extending the owner-operator requirement to the transport and sale of fish and it influenced my final decision making on this regulatory item.

Background and Rationale

At the November 2021 MFAC Law Enforcement Sub-Committee meeting, the MEP requested DMF clarify whether the owner-operator provision extends to the transport and sale of fish caught under the permit. Consequentially, DMF sought to clarify this and proposed the most restrictive option for public comment, which would require the named permit holder to be the individual present at the sale of fish and during any overland transport of fish for sale.

DMF received one comment on this proposal. This individual participates in the coastal lobster fishery and state fish pot fisheries, all of which are owner-operator. He opposed the recommendation because it would limit flexibility. In instances when his catch has to be trucked to market, he frequently assigns this task to the deckhand and he will spend this time tending to the vessel. If he were required to bring the fish to market himself, he would no longer be able to assign this to his deckhand and it would extend his day.

I found this to be a straightforward and sensible objection to the proposed clarification. In turn, DMF consulted those MEP officers who serve on the MFAC Law Enforcement Sub-Committee. MEP did not object to the regulation allowing deckhands to transport and sell catch taken under an owner-operator permit. Based on this feedback, I intend to instead clarify owner-operator provisions apply only to commercial fishing activity and not the transport and sale of fish.

Limited Entry Permit Endorsement Renewal Deadline Clarification

Intended Action

I intend to amend DMF's permitting regulations at 322 CMR 7.06 to clarify a provision regarding the renewal of limited entry fishery permit endorsements. The current regulation reads "Limited entry fishery permit endorsements that are not postmarked or received by the Division of Marine Fisheries prior to 12:00AM on the last day of February *may* be approved by the Director" (*emphasis added*). My intention is to have the regulation instead read, "*may not* be approved by the Director." DMF did not receive any public comment objecting to this action.

Background and Rationale

In 2021, there was an instance of an individual who did not submit a complete application to renew their limited entry regulated fishery permit endorsements until October, well past the February deadline. DMF denied this renewal application. They were informed that because they did not meet the renewal deadline, they had forfeited their permit to DMF and their permit was retired, as required by regulation³.

In the ensuing communications regarding this decision questions as to the phrasing of the regulation were raised. Of specific interest was the regulation read “may be approved by the Director” rather than “may not be approved by the Director.” While the language has the exact same meaning, I agree the intent is clearer when it reads “may not”. For this reason I am pursuing this clarification.

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

Final Recommendation for Commercial Summer Flounder

Period	Allocation	Season	Open Days	Trip Limits	Min. Size
Period I	30%	Jan 1–Apr 22	Sun – Sat	1,000 lb, reduced to 100 lb at 25% quota use (all gear) 3,000 lb, reduced to 100 lb at 30% quota use (all gear) Multi-state possession limit program	14"
Period II	70%	Apr 23–Jun 9	Sun – Sat	100 lb (nets), 0 lb (hooks)	14"
		Jun 10–Oct 31 Apr 23–Aug 31	Sun – Thu Sun–Sat	400 lb (nets), 250 lb (hooks) 500 lb (nets)*, 300 lb (hooks)	
		Sept 1–Sept 30	Sun–Sat	800 lb (all gears) if ≥20% quota remains	
		Nov 1–Dec 31 Oct 1–Dec 31	Sun – Sat	1,000 lb (all gear) if ≥5% quota remains, otherwise 500 lb 3,000 lb if ≥ 5% quota remains; 800 pounds if ≤ 5% of quota remains Multi-state possession limit program	

* 100-lb limit applies if more than 250 lb of squid in possession or if fishing with small mesh.



Final Recommendation for Commercial Black Sea Bass

Fishery	Season	Gear	Open Days	Trip Limit	Min Size
Winter	Jan 1 – Mar 31	All	Sun – Sat	100 lb	12"
Weirs	Jan 1 – Quota	Weir	Sun – Sat	No limit (24,000-lb annual cap)	12"
Trawl*	Apr 23 – Jun 9	Small Mesh	Sun – Sat	100 lbs (50,000 annual cap)	12"
	Jun 10 – Quota	Large Mesh	Sun – Thur	100 lbs	
	Apr 23 - Quota	Trawl	Sun – Sat	100 lbs	
Directed Summer	July 8 – Quota	Fish Pot	Sun/Tue/Thur	400 lbs	12"
	July 1 – Sept 14		Sun - Thur	500 lbs	
Directed Summer	July 8 – Quota	Hooks/Other	Sun/Tue/Thur	200 lbs	12"
	July 1 – Sept 14		Sun - Thur	250 lbs	
Fall	Sept 15 – Quota	All (Non-Trawl)	Sun – Sat	600 lbs if ≥ 15% of quota remains	12"

* Contingent on changes to trawl season and open fishing days approved for summer flounder.



Final Recommendation for Commercial Bluefish Size Limit

Recommendation

- Adopt a 16" commercial minimum size for bluefish.

Rationale

- Will constrain use of commercial permit to keep bluefish in excess of recreational limit (particularly snapper blues) for personal use.
- Commercial catch for personal use does not count against quota and likely under reported.
- Addresses public comment regarding regulatory discards.
- Should allow retention of small bluefish as tuna bait under recreational fishing limits.



Final Recommendation for Menhaden Season

Recommendation

- Start limited entry quota managed fishery on June 1.
- Allow exemption for fish weirs and open access fishery.

Rationale

- Extend season later into the summer.
- Better align with lobster fishery and bait demand.
- Reduces reliance on EESA & ICSSF; ICSSF may be restricted in 2023
- ME adopted June 15 opening date for similar reasons in 2021.



Friday Seining in Boston Harbor

Action

- Continue to allow seining on Boston Harbor on Fridays.
- Prohibit use of carrier vessels.

Rationale

- Vessel that did not avoid "concentrations of recreational fishing vessels" in 2021 is excluded from Boston Harbor fishery in 2022.
- Similar loss of access will occur if permit conditions are violated.
- Restriction on use of carriers may reduce opportunistic effort and boat traffic.
- Allows local operators to continue to access local resource.
- Will closely monitor situation with user groups.



Final Recommendation for Spiny Dogfish

Recommendation

- Adopt 7,500 pound trip limit

Rationale

- NOAA adopted 7,500 pound trip limit for 2022 FY on April 6.
 - MAFMC and NEFMC recommended this incremental trip limit increase in recognition of quota underutilization and a trip limit analysis (showing many trips maxing out and that recent limit increases had not reduced price/pound), with eye towards balancing different industry perspectives.
 - ASMFC followed suite for Northern Region to allow for consistent state/federal regulations (allow dogfish caught in federal waters to be landed in NR states).



Final Recommendation on Regulatory Housekeeping

Recommendation

- Eliminate language regarding officer discretion in for-hire liability regulation.

Rationale

- Officer discretion is used in enforcement of all laws/regulations.
- Specific reference to discretion in this regulation creates confusion.
- May potentially undermine enforcement of regulation.



Final Recommendation on Regulatory Housekeeping

Recommendation

- Require all recreational lobster and crab traps be rigged in conformity with recreational lobster trap configuration requirements.

Rationale

- Blue crab trapping is now prohibited.
- Only edible crabs that may be caught are *Cancer* crabs.
- *Cancer* crabs are caught as bycatch in lobster trap fishery.
- Commercial fishery manages lobster and Jonah crab traps as a single unit.
- Avoids having proliferation of new trap gear to target crabs.



Striped Bass Control Date

Recommendation

- Adopt a June 14, 2022 commercial striped bass control date.

Rationale

- Current control date is almost a decade old.
- Proposed control date would be inclusive of recent season and northward shift in landings since 2019.
- Anticipates potential effort and access control measures resulting from upcoming stock assessment.



Photo credit: On The Water

Permitting Clarifications

Owner Operator

- Owner-operator requirement does not extend past commercial fishing activity on the vessel. Permit holder is not required to bring fish to market for sale.

Renewal of Limited Entry Endorsements

- Implement more precise language so that regulation reads “limited entry regulated permit endorsements that are not post marked or received by DMF prior to 12:00AM on the last day of February may **not** be approved.”





The Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400, Boston, MA 02114
p: (617) 626-1520 | f: (617) 626-1509
www.mass.gov/marinefisheries



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor

KATHLEEN A. THEOHARIDES
Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

April 1, 2022

Lori Caron, Administrator
Pioneers for a Thoughtful Coexistence, Inc.
392 Route 6A
Sandwich, MA 02537

RE: Denial of Application for Letter of Authorization

Dear Ms. Caron,

Thank you for your submission of a request for a Letter of Authorization (LOA) (“proposal”) on behalf of the “Pioneers for a Thoughtful Co-existence.” Your proposal sought to fish with—and test the efficacy of—on-demand access trap fishing gear (“ropeless”) between February 1, 2022 and May 15, 2022 in certain waters under the jurisdiction of the Commonwealth seasonally closed to all trap gear fishing to protect right whales. As you know, DMF held a virtual informational public meeting on January 12th on the proposal and accepted written comments on it as well. The public comment was widely disparate making this decision a challenging one. Ultimately, my decision considered the thoughtful input the agency received and my own perspective on best approaches to managing lobster fisheries and fixed gear in state waters while continuing to minimize risk of entanglements of protected species.

I am denying your proposal and the issuance of the requested Letter of Authorization at this time and for the following reasons:

- A. The proposal lacks a study design that will contribute meaningfully to further understanding the efficacy of ropeless fishing technology and addressing the key research questions necessary to determining the commercial viability and broader development of this gear.**

The Ropeless Consortium¹ has recently identified six key research questions for the development and application of ropeless gear in the New England lobster fishery. These questions include: (1) can on-demand systems meet the efficiency of current fishing operations; (2) can electronic gear marking be used to avoid gear conflicts within and between fisheries; (3) can on-demand systems meet and/or exceed safety of current practices; (4) can scalability result in affordability; (5) can on-demand systems reduce

¹ https://ropeless.org/wp-content/uploads/sites/112/2022/01/01_14_22-On-Demand-status-report-1.pdf

gear loss; and (6) can through hull transducers improve the time of retrieval. These key research questions clearly identify and enumerate the various longstanding complexities fisheries managers have grappled with when addressing this emerging technology.

Research proposals into the efficacy of ropeless fishing technologies must attempt to meaningfully contribute to the knowledge base regarding one or more of these critical areas (or other well defined questions critical questions regarding the efficacy of this gear). Your research proposal fails to do this with any specificity. Rather, the objectives of your proposal focus principally on the efficacy of the gear in terms of deployment, location, and retrieval. This would only serve to reinforce what we already know—the gear can be successfully deployed, located, and retrieved. Such research goals can be readily achieved through testing this gear in times and spaces currently open to commercial lobster trap fishing in Massachusetts. Further, by testing this gear in times and in spaces where other fishing activity is occurring (both fixed and mobile gear) research projects would be able to collect data that would help answer key questions regarding gear efficiency, electronic gear marking and gear conflicts, safety, and gear loss.

B. Given the proposed research areas are closed to all lobster fishing, this proposal does not contribute to further risk reduction of entanglement and improve right whale conservation.

Through time/area closures and gear modifications, Massachusetts has reduced right whale entanglement risk by more than 90% compared to levels in 2014. Accordingly, with regards to risk reduction, the state's right whale conservation program is ahead of all other jurisdictions, including the requirements of the federal Atlantic Large Whale Take Reduction Plan. If additional right whale conservation is needed, DMF will scope the options available to the state to achieve the requisite risk reduction, as we have done over the past 25-years. Because your proposed work is planned for the winter/early spring period, when the Massachusetts trap gear closure to protect right whales is in effect, allowing this proposed research will not provide any additional or immediate conservation benefit to right whales.

C. There is no significant lobster fishery management issue this proposal would solve concerning the state waters lobster trap fishery.

Overall lobster landings and revenues have not suffered from the 7-year closure of the Massachusetts Restricted Area. In fact, 2021 was the best year on record for the commercial lobster industry in Massachusetts in terms of value. Additionally, as established by testimony at public hearing and in written public comment, commercial lobster fishers either generally support the state's current right whale conservation management program or prefer it to other potential risk mitigation strategies. Plainly, outside of a small number of fishers, there is very little interest among the broader industry within state waters in adopting new risk mitigation strategies to accommodate year-round fishing opportunities. As such, I cannot identify an emerging lobster fishery management issue this proposal seeks to address.

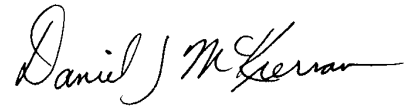
In summary, deploying this gear in a highly controlled setting may advance advocacy for this technology. However, such activities do not necessarily constitute a viable research project. A viable research project would meaningfully advance research into the development and application of ropeless gear in the New England lobster fishery or addresses specific critical questions related to lobster trap fishery management in Massachusetts state waters. For the reasons described above, your proposal does not accomplish these goals and I am denying your requested Letter of Authorization.

I am in favor of research and development of ropeless fishing technologies. I welcome organized gear trials wherever (state or federal waters) it would be conducive to successful testing—even if the gear testing locations may not be the locations where the gear would be fished in the future. If gear trials are to be conducted in state waters (presumably for geographic convenience), I urge the principal investigators to collaborate closely with gear technologists and professional researchers to develop sufficiently robust study designs that will provide data necessary to answering key questions regarding the development and application of ropeless gear in the New England lobster fishery or as a means of addressing specific critical questions related to lobster trap fishery management in Massachusetts' state waters.

Finally, DMF has just released the report “Assessing the Feasibility of On-Demand Gear in New England Lobster Fisheries.” This report will be invaluable to guide future research for all involved in the development of this new technology.

I will reach out to our federal partners to assure them that we strongly support research designed to resolve some of the critical questions warranted to determine appropriate times and places for on-demand fishing gear. DMF has issued Letters of Authorization to the Northeast Fisheries Science Center in the past to test on-demand gear in state waters and I will gladly continue to issue them in the future with an expectation that the work is coordinated by the federal gear technologists with a well-crafted study design.

Sincerely,

A handwritten signature in black ink, reading "Daniel J. McKiernan". The signature is fluid and cursive, with the first name "Daniel" and last name "McKiernan" clearly legible.

Daniel J. McKiernan, Director

CC: Michael Pentony and Colleen Coogan, NMFS GARFO
Massachusetts Marine Fisheries Advisory Commission
Commissioner Ronald Amidon, Department of Fish and Game
Secretary Kathleen Theoharides, Executive Office of Energy and the Environment



The Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400, Boston, MA 02114

p: (617) 626-1520 | f: (617) 626-1509

www.mass.gov/marinefisheries



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor


KATHLEEN A. THEOHARIDES
Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission

FROM: Daniel McKiernan, Director 

DATE: April 1, 2022

SUBJECT: **Decision to deny the request to fish on-demand lobster trawls during the seasonal trap gear closure in Massachusetts Bay**

This memorandum provides background and a detailed explanation as to why I decided to not issue a Letter of Authorization (LOA) for the Pioneers for a Thoughtful Co-existence (“Pioneers”) to deploy on-demand (“ropeless”) trap gear in state waters during the current February 1 – May 15 seasonal trap gear closure. I found the proposal: (1) lacked a study design that would meaningfully contribute to the further understanding the efficacy of ropeless fishing and addressing key research questions necessary to determining the commercial viability and broader development of this gear; (2) did not contribute to further reduce the risk of right whales becoming entangled in fixed fishing gear; and (3) did not address a significant lobster fishery management issue involving the state waters trap fishery.

The public meeting and comment period we held on this issue revealed much division among the industry and stakeholders. The concerns raised by many lobstermen about the utility, cost, and unintended consequences deserve to be investigated through more formal research and development than what was proposed by the Pioneers. DMF looks forward to contributing to those discussions with our NOAA Fisheries colleagues and the members of the Ropeless Consortium to devise future study designs that will address some of the unanswered critical questions.

General Background on Proposal and MFAC Role

In my view, the potential transition to ropeless fishing is one of the most challenging and controversial fisheries management issues of our time. The North Atlantic right whale is critically endangered and there is a need to reduce the anthropogenic risk of injury and mortality to these animals throughout its range. As fisheries managers, we must strategize how to further reduce entanglement risk to meet the mandates of the federal Marine Mammal Protection Act and the Endangered Species Act while also allowing the time-honored profitable and safe fishing practices that are the hallmarks of the inshore lobster fishery. This small boat, owner-operator industry is the dominant fishing activity along our working waterfronts.

The Pioneers for a Thoughtful Co-existence are a small group of commercial lobster fishermen hailing from ports along the Massachusetts' South Shore and Cape Cod. The Pioneers seek to develop and advance trap fishing gear that substantially reduces the risk of right whale entanglements to re-obtain access to seasonal fishing grounds and reduce the need for spatiotemporal closures. To this end, these individuals have a strong track record of collaborating with researchers on gear trials to enhance right whale conservation. This includes developing the "South Shore Sleeve" buoy line modification, as well as recent collaborations with the Northeast Fisheries Science Center to test the efficacy of deploying and retrieving ropeless gear. As a next step in their ropeless gear investigations, they sought an LOA to allow five fishermen to each deploy five 20 pot trawls within two defined areas of state waters during the state's February 1 – May 15 trap gear closure. The purpose of the proposed research plan was to work exclusively with acoustic releases and electronic gear marking and collect data on wintertime use, gear location awareness, and operational efficiency.

On January 12, DMF hosted a virtual public hearing on the proposal where we heard from various stakeholders with strong and divergent opinions on this project. Then on January 21, I discussed this proposal with you at your monthly business meeting. As I noted in my January 22, 2021 memorandum describing the challenges of ropeless fishing, LOAs and associated pilot programs are typically the origins of regulatory amendments and shifts in policies.

Under state law¹, the Commission has a clear role in creating future regulations governing lobster fishing in state waters, and as such, the Commission should give these programs substantial oversight and attention. Your active engagement on this issue is important, especially given the high stakes of this potential change to how the state's lobster fishery is conducted. I appreciated the comments you provided at the January 2022 MFAC business meeting and these comments were helpful in my decision-making process.

Recent Research Activity into the Potential for Ropeless Technology

The research and development of ropeless fishing technology has been a multi-year ongoing initiative involving many scientific institutions, government agencies and gear manufacturers. In the past two years, DMF issued LOAs to the National Marine Fisheries Service Northeast Science Center gear team stationed in Woods Hole that named the commercial fishing vessels and captains participating the federally overseen gear testing trials. This allowed NOAA gear specialists to coordinate investigations into the efficacy of ropeless gear location and retrieval with members of the Massachusetts' lobster fishery during the open trap fishing season. The work had fishermen fish one end of a trawl with an on-demand system and another with a normal buoy line and the gear was then fished alongside other vessels fishing with traditional buoyed gear. This demonstrated the functionality of the on-demand systems and evidenced it could be successfully deployed, marked, re-located, and retrieved. The Pioneers were active industry participants in this research.

¹¹ G.L. c. 130, §§ 1B and 17A. The Commission is responsible for advising the DMF Director on the proper management and development of marine fisheries of the Commonwealth and is required to approve all regulations of DMF regarding the manner of taking fish, legal size limits, seasons and hours for taking fish, quantities of taking fish, and opening and closing of waters to fishing.

In 2021 DMF was awarded a grant by the National Fish and Wildlife Foundation (NFWF) to study the technological, operational, and economic challenges associated with ropeless fishing in New England. DMF hired the consultant services of Noah Oppenheim’s Homarus Strategies to conduct this study. Noah conducted research and interviewed stakeholders; this past October he hosted a two-day workshop with over 60 participants to facilitate discussions about the potential for ropeless fishing. The report was released today, April 1, and it is comprehensive and thought provoking. It helps us better understand the technical requirements of widespread deployment of ropeless technologies and better identify critical research needs and questions to define next steps for overcoming likely obstacles.

NOAA Fisheries has also worked to enhance the potential for more ropeless fishing activities through recent amendments to the Atlantic Large Whale Take Reduction Plan. Rather than having closures apply to lobster trap gear, they creatively prohibited the use of “persistent buoy lines”. This new management approach applies to both the new Southern New England and coastal Maine closure areas, as well as the longstanding Massachusetts Restricted Area (MRA). In implementing this change, NOAA Fisheries clearly stated a federal Exempted Fishing Permit (EFP) would be required of any federally permitted vessel fishing in MRA, and those permits would be issued only to vessels deploying on-demand buoy line retrieval systems to conduct research and enhance understanding of the technology in these applications. NOAA Fisheries is not allowing the deployment of lobster trawls without any buoy lines where “grappling” for the groundline would be the routine method of trap retrieval.

Massachusetts did not similarly amend the state regulations governing the state waters seasonal trap gear closure, which overlaps with the MRA in Cape Cod Bay and east of Cape Cod but also extends north to the New Hampshire border. As a result, state regulations continue to have the closure apply to all trap gear—not just persistent buoy lines—and we did not establish a specific process for researching on-demand systems. Rather, we are currently relying on existing authorities² to accommodate on-demand fishing on a case-by-case basis. In the future if there is a need for broadscale usage of ropeless fishing technologies in closed areas DMF will rely on formal rulemaking to adopt regulations.

The Pioneer’s Application

DMF staff worked with the Pioneers to develop a proposal format that addressed the specifics of their requested proposed activity. This included spelling out the details of who, what, where, when, a risk management plan, and the research objectives. While the Pioneers did a good job of describing the basic details of the proposed work and a risk management plan, their proposal lacked key details regarding an experimental design and data collection plan aimed at answering key questions about the efficacy of ropeless fishing. Additionally, federal and NGO gear

² G.L. c. 130, §17(3). Powers of the Director. “Investigate questions relating to fish and personally or by assistants, institute and conduct inquiries pertaining to such questions, and conduct such biological research and assist cities and towns in the development of shellfish conservation and management plans as will, in his opinion, tend to conserve, improve and increase the supply of fish in the coastal waters.”

322 CMR 7.01(7). Conditions. The Director may at any time, in his discretion, attach any written conditions or restrictions to the permit deemed necessary or appropriate for purposes of conservation and management or to protect the public health, welfare and safety.

researchers were named as collaborators in the application, but the nature of their involvement was not well described. Despite our back and forth with the Pioneers, the final proposal still lacked specifics regarding experimental design, documented plan of action to execute fishing practices in ways that would scientifically and systematically answer questions on the utility and efficacy of ropeless technology, or the use of onboard and independent observers.

The Ropeless Consortium, within the Woods Hole Oceanographic Institute (WHOI), consists of researchers dedicated to advancing the development of ropeless fishing and addressing the various practical concerns that exist. On January 14, 2022 the Ropeless Consortium published a status report³. In this report they demonstrate these on-demand devices have a successful track record for deploying, identifying, and retrieving the gear. However, the report also highlights there remain serious questions regarding scalability; cost; and the virtual marking, detection, and dissemination of gear locations across all fisheries operating in the area. With this in mind, they identify six critical questions that need to be further studied to properly assess the usefulness of this technology. These questions are:

1. Can on-demand systems meet the efficiency of current fishing operations?
2. Can electronic gear marking be used to avoid gear conflicts within and between fisheries?
3. Can on-demand systems meet and/or exceed safety of current practices
4. Can scalability result in affordability?
5. Can on-demand systems reduce gear loss?
6. Can through-hull transducers improve the time of retrieval

It is my opinion that the Pioneer's application does not meaningfully address any of these six questions with any specificity. The proposal also did not have a study design that meaningfully contributed to further understanding the efficacy of ropeless fishing, to reducing the risk of right whales becoming entangled in fixed fishing gear, or address a significant lobster fishery management questions involving the state waters trap fishery. The objectives of the proposal seemingly only aimed to further document what we already know—the gear can be successfully deployed, located and retrieved. The proposal was their attempt to allow the participants of “fish a portion (200 traps) of their 800 trap allowance with this novel gear.

To make a gear trial like the one the Pioneers proposed successful there should be an experimental design focused on answering critical questions about the usefulness of this technology at scale. For instance:

- Is Trap Tracker a suitable application for marking and disseminating the location of where ropeless gear is being fished? Using Trap Tracker, how close can strings of traps be fished next to other traps already deployed? How does this compare with the close proximity buoyed gear is fished now? How long does it take for Trap Tracker to update the cloud and make other fishers or enforcement aware of where the gear is? Is the lag between virtual gear marking and updating the cloud extended if not in cell phone range? If so, by how much?

³ https://ropeless.org/wp-content/uploads/sites/112/2022/01/01_14_22-On-Demand-status-report-1.pdf

- Is Trap Tracker a suitable application to alert mobile gear fishermen about the presence of the gear and avoid it? How close can mobile gear be fished next to ropeless gear using Trap Tracker? How does this compare to the proximity that mobile gear can be successfully fished to buoyed gear?

My aforementioned concerns about the need for an improved study design were probably not met by the applicants because their goal was primarily to gain access to fish in the closed area with ropeless gear. While the applicants have been collaborating with gear developers, they are primarily professional fishers, not gear technologists. I regret that there has not been a clearer delineation of what the objectives should be.

I do not believe the limited activity described in the proposal is scale-able to the larger fleet and to fishing that occurs in other seasons of the year. Choosing to conduct this activity in discrete areas where other trap gear is prohibited, and mobile gear typically does not operate will likely prevent gear conflicts. However, it does not help provide useful guidance about how these gears can co-exist. Similarly, allowing two fishermen to set up to five 20-trap trawls in the proposed research areas does not simulate trap gear densities that occur during the proposed lobster fishing season (mid-May through January). Therefore, it does not provide useful guidance regarding scalability.

The application requested the opportunity to catch and sell lobsters at a time and from a place no other trap fishermen would have been allowed. While I do not know if this would have resulted in a windfall for the participants, issues of fairness and equity arise and many lobstermen on the outside looking in have raised concerns. Ideally, gear trials should include sufficient funding for the vessel, captain, and observers, and catch could be returned to the sea alive and be available to be caught when the area re-opens in May.

Additional Considerations

DMF has worked with the highly cooperative inshore lobster fleet to accomplish substantial entanglement risk reduction for the past 25 years. Estimates of the mortality and serious injury risk reduction since 2014 now exceed 90% compared to the 2014 baseline. (In 2015, the MA Restricted Area was closed for the first time and has been closed since and the state closure has been expanded north from Scituate to the New Hampshire border). This risk reduction is the highest of any jurisdiction in the geographic range of right whales and was accomplished primarily by the seasonal closures (original and expanded) and the adoption of low-breaking strength (1,700 lbs.) rope and approved contrivances. The affected lobstermen have largely modified their business plans and they have demonstrated widespread cooperation.

DMF has enjoyed unprecedented industry support when adopting these measures and many in the fleet have expressed a strong preference for conservation programs that are affordable and help maintain the traditions of lobstering that include co-existence with other fishing interests. In devising a management scheme to promote co-existence between endangered right whales and the maritime legacy industry of fishing, DMF has been fortunate to have the peak right whale abundance occur from February through mid-May in Massachusetts state waters. This time-period coincides the season of lowest lobster fishing effort and landings. To accomplish this enormous risk reduction and maintain a profitable commercial lobster fishery, we have not had

to require fishing practices be dramatically altered nor did we introduce or mandate sophisticated, expensive, and technologies that are still a work in progress.

Ropeless technology may find a niche in areas where current (and future) closures are economically impactful, and the technology solution is sufficiently affordable to spur investment. However, the inshore Massachusetts state waters fishery during late winter and early spring is not likely such a candidate. Long-term trends demonstrate that only about 1.5 % of the annual landings are derived from the months of February through April (Table 1). Only a small minority of lobstermen (including those who have sought this LOA) formerly fished all year long, and now their business plans have been modified by the late winter and early spring closure. Overall, the industry and the fleet can and has survived the closure as currently constituted.

Table 1. Massachusetts state waters lobster landings by month 2010 through 2019

Inshore Lobster Landings (Live Pounds) from Lobster Pots by Month and Year										
Month	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
1	80,899	85,842	80,460	103,693	70,446	62,611	102,848	71,027	110,612	79,721
2	23,391	27,409	39,623	18,454	30,482	3,948	23,150	20,199	46,793	29,959
3	26,061	38,188	31,394	15,425	27,217	11,596	38,886	17,945	22,854	38,402
4	142,006	104,095	71,331	102,892	77,378	66,127	81,273	74,535	79,886	88,114
5	269,662	244,448	255,406	288,917	329,849	305,584	268,646	282,462	243,296	215,000
6	514,140	538,756	1,223,360	586,599	576,423	548,147	986,889	532,206	512,478	476,997
7	1,199,258	1,315,399	1,742,340	1,686,975	1,099,706	1,817,183	2,044,016	1,683,095	1,623,293	1,609,090
8	1,382,980	1,577,889	1,617,056	2,030,338	1,687,346	1,998,596	2,359,051	2,493,194	2,348,667	2,076,751
9	1,389,108	1,438,104	1,187,635	1,594,513	1,891,035	1,874,477	1,705,059	1,933,717	2,259,944	2,058,897
10	1,339,395	1,528,350	1,084,269	1,619,664	1,969,468	1,858,700	1,914,735	1,853,778	2,049,134	1,909,499
11	1,064,901	1,041,196	886,810	915,770	1,267,068	1,145,354	1,250,379	1,001,181	1,025,207	1,093,044
12	282,294	320,472	373,966	335,988	470,237	432,318	350,752	382,406	404,288	439,331
Total	7,714,094	8,260,149	8,593,649	9,299,227	9,496,655	10,124,641	11,125,684	10,345,744	10,726,452	10,114,804

Source: MA Harvester Reports & VTR's

updated 02/02/2022

If the fundamental purpose of the request is to re-open the closed area to vessels affected by the closure, it is appropriate for the fishery managers to question whether the state waters winter/early spring fishery is a suitable location for pursuing a re-opening. The nearshore waters are cold at this time of year causing most lobsters to migrate to the deeper and warmer water in adjacent federal waters. Those lobsters remaining in state waters are subjected to the coldest temperatures of the year, resulting in reduced lobster metabolism and activity and associated catch rates. DMF has had substantial industry support in closing its inshore waters during this time period—when right whales are super abundant—largely because seasonal environmental factors are such that the closure occurs at a time of year when catch rates and fishing effort are low thereby minimizing the closure's economic impact. This premise does not hold for offshore waters where bottom temperatures are warmer than inshore waters during late winter and early spring and lobster fishing activity is likely more active and profitable.

The heterogeneity of the inshore fisheries needs to be considered by fisheries managers when forecasting the utility of ropeless fishing. Unlike the fishery from 3-12 miles that is predominately larger vessels in the 32-46 foot range, the inshore (0-3 miles from shore) fishery features many smaller vessels that deploy single traps or very short trawls (e.g. 5 or less). These participants include the recreational lobster permit holders, the student commercial lobster permit

holders, and many small-scale commercial lobster permit holders who fish in open boats and cannot fish long strings of traps due to limited hauling power and inadequate deck space. Given the very high cost of ropeless fishing equipment (\$5,000 for acoustic trigger device for the vessel and \$4,000 per pop-up buoy), it is reasonable to forecast that ropeless fishing would be far less affordable—likely unaffordable—for smaller scale fishers. These small-scale operations would likely be eliminated from the fishery or forced to increase the scale of their operations if ropeless fishing were mandated. I have difficulty imagining a fishery management scheme in inshore state waters that treated permit holders differently based on vessel size. For example, larger vessels would be required to fish trawls and to deploy ropeless fishing technology while smaller vessels would be exempt and be allowed to deploy persistent buoy lines. If ropeless fishing could be adopted somewhere, it may be more suitable in a more offshore location (beyond 12 miles) where the fleet is more homogeneous and the number of buoy line release devices needed to operate a profitable business is lower.

Conclusions

In my view, a successful request for authorization to fish with ropeless gear would achieve one or more of the following criteria: (1) reduce entanglement risk to large whales; (2) solve an ongoing or imminent fisheries management problem or threat to the economic viability of the fishery; and (3) contribute significantly to knowledge base on ropeless fishing through structured scientific research. The request for an LOA from the Pioneers did not achieve any of these criteria.

I believe there is minimal need to make substantial investments to re-open this fishery during the closed fishing months if it cannot satisfy the needs of a broad range of participants and if doing so will not result in substantial quantitative information on the efficacy of ropeless fishing being collected. If we envision preserving a heterogeneous fleet, a ropeless mandate in state waters year-round is highly unlikely. Alternatively, if further risk reduction is mandated, I would seek input from the industry participants to decide how best to further reduce entanglement risk in Massachusetts state waters. To date and based on the written and oral comments we received from the informational meeting on January 12th, it appears the vast majority of the fleet prefers to use a combination of weak rope and seasonal closures over more technological solutions.

The development of this gear will truly be revolutionary if embraced and adopted fishery-wide. I am struck by the high level of advocacy for ropeless fishing among many of the conservation organizations and the low level of suitable funding to research and develop it. Adequate funding is needed to conduct proper research and development to determine the utility of ropeless technology for various locations, seasons, and fleet segments. Although I denied the current proposal from the Pioneers, I am willing to invest DMF's staff time to work cooperatively with industry, NGOs, NOAA Fisheries and other gear researchers to devise effective gear trials for more appropriate times and places. Through such collaboration, I am confident DMF can meaningfully contribute to investigating whether ropeless fishing is a means to mitigate entanglement risk to right whales during times or at locations where other more practical methods are not feasible.

Protected Species Update

- **Ropeless Fishing LOA decision**
- **ALWTRT Meeting – Phase 2**
- **Incidental Take Permit**



Ropeless Fishing

Letter of Authorization Request

- Request denied
 - Lack of scientifically robust research plan to answer key questions about ropeless fishing
 - Does not address a Right whale conservation issue
 - Does not address an acute lobster fishery management problem
- DMF will consider issuing future authorizations to parties (such as NMFS,WHOI) to conduct ropeless research
- DMF recently release our report – ‘Assessing the Feasibility of On-Demand Gear in New England Lobster Fisheries’
- DMF will continue to work with NMFS and fishing industry to support ropeless fishing research and development



Atlantic Large Whale Take Reduction Team

- Meeting Philadelphia – May 9 - 13
 - NOAA Fisheries initiating Phase 2 of conservation framework
 - Goal: Reduce the risk of serious injury and mortality to NARW by 90%
 - Mid-Atlantic Lobster Fishery
 - East Coast Multispecies Trap/Pot – (whelk, fish pot, blue crab)
 - East Coast Gillnet Fisheries
 - Team will evaluate and develop risk reduction measure for NOAA Fisheries to initiate rule making



Incidental Take Permit Update

- DMF making strong progress
- Plan to submit to NOAA Fisheries in July 2022
- We are currently mapping out our request for allowable takes of NARW and Leatherback sea turtles



ASMFC Updates

Marine Fisheries
Advisory Commission
April 7, 2022

Massachusetts Division
of Marine Fisheries



Summer Flounder, Black Sea Bass & Scup Board: March 24

- MFAC-endorsed recreational management options approved by ASMFC
- Emergency rule-making in progress; Advisory released on March 25

	Summer Flounder	Black Sea Bass	Scup
MA Approved Option	May 21–Sept 29 5 fish 16.5” minimum	May 21–Sept 4 4 fish 16” minimum	January 1–December 31 30 fish except 50 fish for-hire during May/June 10” minimum



Lobster/Jonah Crab Board: March 31

- Lobster Addendum XXIX Approved
 - Electronic vessel tracking requirement for Federal lobster & Jonah crab fisheries
 - Postponed from prior meeting to address lingering implementation questions
 - Multi-year federal funding expected to support state efforts beginning July 1
 - Request NMFS publish final rule by May 1, 2023, with an implementation date by December 15, 2023
 - ASMFC will develop an implementation plan during 2022, including a standard operating procedure and the request for quotes from vessel tracking companies
 - A review of the program will occur, including the collected data's uses and utility, 2 years post-implementation



Open Public Comment Periods

- Striped Bass Draft Amendment 7
 - Management triggers, recreational release mortality, rebuilding plan, CE
 - MA Hearing on March 21; written comment due April 15
 - Recorded presentation on ASMFC's YouTube page
 - Board final action on May 4
- Recreational Harvest Control Rule for fluke, scup, sea bass, and bluefish
 - Approaches to account for recreational data uncertainty and consider B/Bmsy, F/Fmsy, R, and/or biomass trend in measure setting, providing for more stability & predictability
 - MA Hearing on April 13; written comment due April 22
 - Recorded presentation on ASMFC's YouTube page
 - ASMFC/MAFMC final action at June Council meeting (June 7-9)



Spring Meeting Preview

May 2-5; Hybrid in Arlington, VA

www.asmfc.org/home/2022-spring-meeting

- Tuesday, May 3
 - Menhaden: consider Draft Addendum I for public comment
- Wednesday, May 4
 - Tautog: review dealer input on live market price & tagging
 - Striped Bass: consider final approval of Amendment 7
- Thursday, May 5
 - Policy Board:
 - East Coast Climate Change Scenario Planning (June 21-23 workshop)
 - Status of mode-split working group



Striped Bass Next Steps

(after Amendment 7 is approved)

- September-October
 - Stock Assessment Update finalized (data through 2021)
 - Projections will use recruitment assumption selected in Amendment 7
 - First look at Chesapeake Bay Recruitment
- October Board meeting
 - Consider accepting stock assessment for management purposes
 - If necessary, craft regulations to address fishing mortality either by Addendum or, if approved in Amendment 7, “specification”
 - Under specification, implementation of measures possible for at least part of 2023



Spiny Dogfish & MSC Certification

- U.S. Atlantic (northwest) spiny dogfish fishery certified since 2012
- Most EU buyers require MSC certification
- MSC proposed revision to Fisheries Standard may jeopardize certification
 - Automatic designation of species as Endangered, Threatened, Protected if on certain international conservation lists; modification allowed based on life history, stock status, management status, except for sharks
 - Entire northern hemisphere population on spiny dogfish on CMS Appendix II
- Comment letter submitted & meeting with MSC requested





The Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400, Boston, MA 02114
p: (617) 626-1520 | f: (617) 626-1509
www.mass.gov/marinefisheries



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor

KATHLEEN A. THEOHARIDES
Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

March 31, 2022

Rohan Currey, PhD
Science and Standards Director
Marine Stewardship Council
Via email: rohan.currey@msc.org

Re: Proposed Revised MSC Fisheries Standard v. 3.0

Dear Dr. Currey:

I am contacting you with the following comments in opposition to the adoption of the proposed revised MSC Fisheries Standard (Proposed Standard) to the extent it may cause the U.S. Atlantic spiny dogfish fishery to lose its MSC certification.

The U.S. Atlantic spiny dogfish fishery was first certified by MSC as a sustainable fishery in August of 2012 and it is still certified as sustainable. However, it is my understanding that the certification is in jeopardy due to the Convention on the Conservation of Migratory Species of Wild Animals (CMS) listing the entire Northern Hemisphere populations of spiny dogfish on CMS Appendix II and how that is applied within the Proposed Standard.

As a result of appearing on CMS Appendix II, the Proposed Standard at SA3.1.7 would automatically classify a species as Endangered, Threatened or Protected (ETP) or Out of Scope (OOS). While the team may make modifications based on criteria relevant to a species' life history characteristics, management status, and stock status, sharks are excluded from this provision. In addition, the standard does not make any exceptions for particular stocks within a listed species that are not endangered, threatened, or protected.

It is settled science that the Northeast and Northwest Atlantic spiny dogfish stocks are separate and should not be viewed as a collective in this instance¹. Furthermore, the Northwest Atlantic stock of spiny dogfish are not endangered, threatened or protected. Based on the most recent scientific information available, NOAA Fisheries considers the US Atlantic spiny dogfish fishery to be sustainably managed in accordance with applicable laws and regulations for sustainable harvest. The stock is currently at a level that supports sustainable fishing and no overfishing is occurring.²

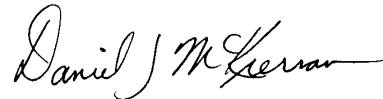
¹ Pawson, M.G., and J.R. Ellis. 2005. Stock Identity of Elasmobranchs in the Northeast Atlantic in Relation to Assessment and Management. J. Northw. Atl. Fish. Sci., 35: 173-193. doi:10.2960/J.v35. m480

² Refer to: <https://www.fisheries.noaa.gov/species/atlantic-spiny-dogfish>

The U.S. Atlantic spiny dogfish fishery is a prime example of a successful wild-caught fishery whose sustainability is due in large part to compliance with the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The U.S. Atlantic spiny dogfish fishery is harvested under a science-based fishery management plan designed around the 10 National Standards of the MSA that includes sustainable harvest rates and ecosystem-based conservation requirements to minimize bycatch and habitat impacts and address social and economic impacts. This science-based management process has been evolving since 1976 when the MSA was enacted and the eight regional Fishery Management Councils were established to manage fisheries based on peer-reviewed science of the agency.

I urge the MSC Board of Trustees to modify the Proposed Standard at SA3.1.7 such that the sustainably managed US Atlantic spiny dogfish fishery can maintain its certification. Thank you for your consideration of this comment.

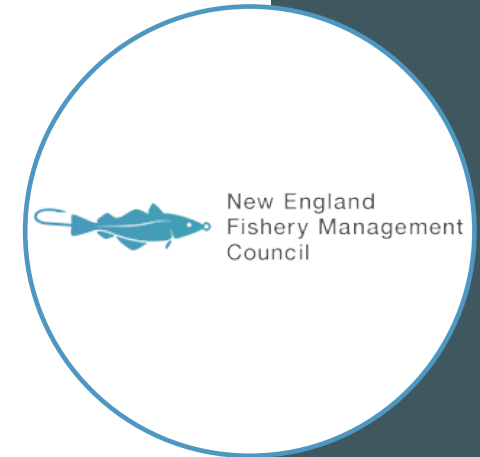
Regards,

A handwritten signature in black ink, reading "Daniel J. McKiernan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Daniel J. McKiernan
Director

New England Regional Fishery Updates

- April 12-14 meeting in Mystic, CT
- MAFMC Atlantic Mackerel Decisions



April NEFMC Agenda

- Initiate Frameworks for Monkfish and Groundfish
- Final Action on Southern New England Habitat Area of Particular Concern (SNE HAPC)
- Approval of Scallop Limited Access Leasing scoping document
- Approval potential change to groundfish priorities

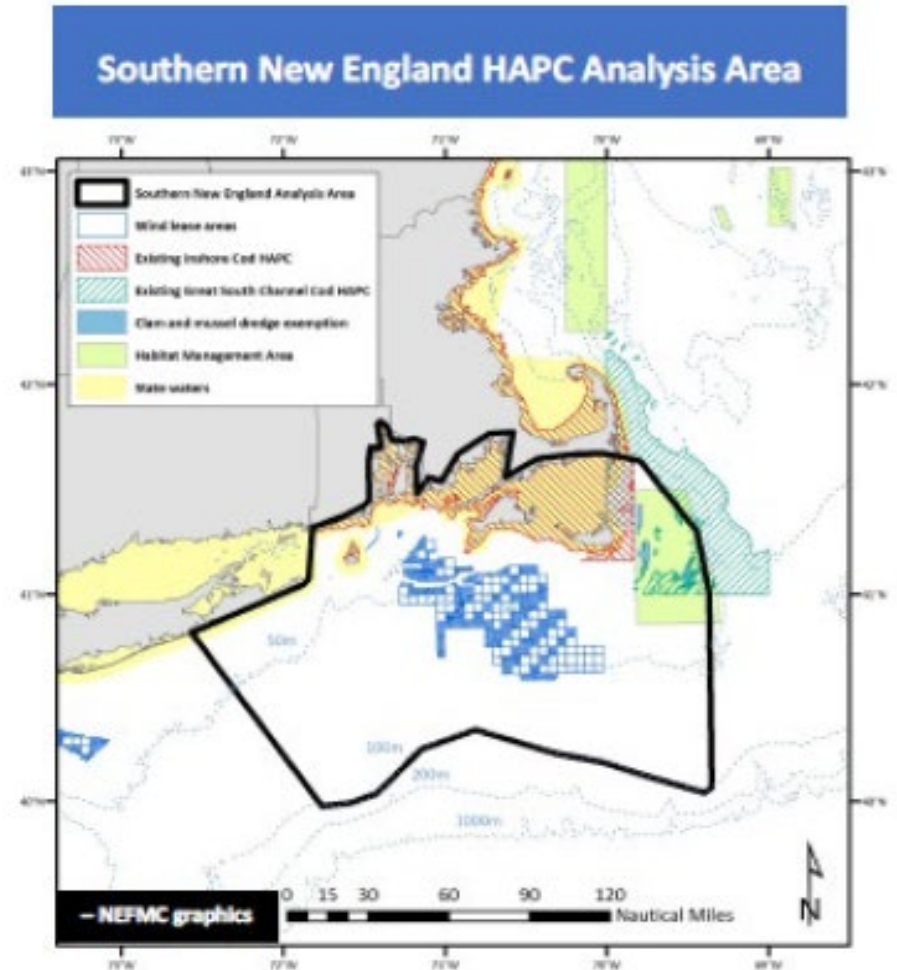
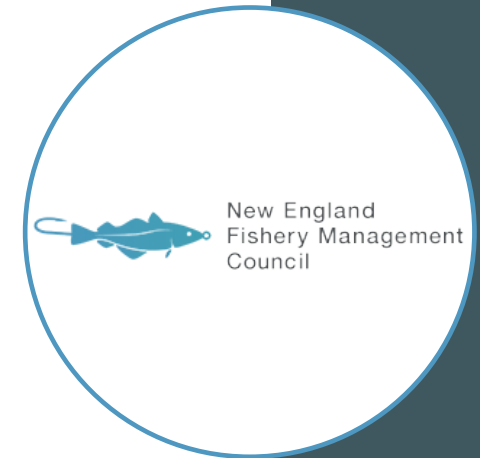


Figure 1. The NEFMC is proposing to develop a clearly defined HAPC within the black outlined analysis area in the map above.

April NEFMC Agenda

- **Updates and Discussions**
 - **NOAA Fisheries/BOEM survey mitigation plan**
 - **Scallop Evaluation Rotational Management**
 - **Sea turtle bycatch in trawl fisheries**
 - **Northeast Trawl Advisory Panel**
 - **Maximized Retention Electronic Monitoring**
 - **State of the Ecosystem**
 - **EBFM public information workshops**
 - **Atlantic herring Industry Funded Monitoring**



MAFMC Mackerel Action

- **Approved Amendment public hearing document**
 - Rebuilding Alternatives
 - Management Measures
- **Public hearings scheduled in New England**
 - April 25th – New Bedford (6PM)
 - April 26th – Plymouth (6PM)
 - May 2nd – Webinar (6PM)





March 11, 2022

Dr. Christopher M. Moore
Executive Director
Mid-Atlantic Fishery Management Council
800 North State Street, Suite 201
Dover, DE 19901

Re: Atlantic mackerel recreational measures

Dear Dr. Moore:

Since the States of Maine, Massachusetts and New Hampshire last wrote to you in December 2021, we have continued to advance analyses in support of Atlantic mackerel recreational fishing rulemaking. The Mid-Atlantic Fishery Management Council's Mackerel, Squid, and Butterfish Committee took up feedback from recent public informational webinars on March 2nd and we too have reflected on those comments. In the vein of collaborative, sustainable management we are writing to provide both insight on the states' next steps and feedback on potential regulatory action by the Mid-Atlantic Council.

Recreational Bag Limit vs. Seasonal Closure

As noted in our December 2021 letter, the states do not support a seasonal closure as an effective option for reducing recreational catch of Atlantic mackerel. We understand that the Mid-Atlantic Council will consider a tabled motion to remove this option at its next Mackerel, Squid, and Butterfish Committee meeting in March 2022 and we support the removal of this management tool from consideration. The intricacies of the fishery, especially as used for bait, create complex connections between subsistence, recreational and commercial fishing activity that, along with the use of frozen bait and other practical considerations, make a seasonal closure an inappropriate tool. The Mid-Atlantic Mackerel, Squid, and Butterfish Committee's tasking of staff to analyze compliance gaps in Atlantic mackerel permitting and reporting reflect such intricacies; we fully support gaining clearer insight into the fishery and improving compliance.

The Mid-Atlantic Mackerel, Squid, and Butterfish Committee's tasking of staff to develop a range of recreational Atlantic mackerel trip limit options dovetails with the intent of the states to propose Atlantic mackerel recreational bag limits for public comment in the summer of 2022. We heard support during the Mid-Atlantic's informational webinars for a bag limit approach to reducing catch. The Mid-Atlantic Committee's tasking to analyze various recreational bag limits provides an opportunity for the management approach for Atlantic mackerel recreational fishing to be consistent between state and federal waters, a boon to anglers, regulators, and enforcement, alike.

Split Modes

Based on discussion by the Mid-Atlantic Mackerel, Squid, and Butterfish Committee, it appears the Mid-Atlantic Council may consider disparate trip limits between private and for-hire recreational fishing

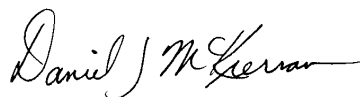
modes (i.e., split modes). The states generally disagree with split mode regulation of individual, recreational anglers depending on whether they fish aboard a private or for-hire vessel. Disparate rules among recreational anglers are not a best practice in support of recreational surveys and collection of best scientific information available. The Marine Recreational Information Program (MRIP) is not designed for such parsing, neither in terms of gathering reliable information on a sub-set of actors nor in terms of providing guidance on potential catch by such sub-sets. Split mode can also undermine effective enforcement, reduce compliance, and blur the lines between recreational and commercial fishing. As a result, the states are passing along our concerns regarding a split mode approach for the Council's consideration.

Regulatory Timeline

It remains our understanding that the Mid-Atlantic Council will take final action in June 2022 for implementation by January 1, 2023. This aligns with the three states' rulemaking timelines; effective public process will require several months but should allow for a January 2023 implementation date of any new state Atlantic mackerel recreational rules.

We look forward to continued work with you. As always, please reach out with any questions to Melanie Griffin of the Massachusetts Division of Marine Fisheries (melanie.griffin@mass.gov; 978.853.1196), Megan Ware of the Maine Department of Marine Resources (megan.ware@maine.gov; 207.446.0932) and Cheri Patterson of the New Hampshire Fish and Game Department (cheri.patterson@wildlife.nh.gov; 603.868.1095).

Sincerely,



Dan McKiernan
Director
MA DMF



Pat Keliher
Commissioner
ME DMR



Cheri Patterson
Chief, Marine Division
NH FGD

cc: Robert Beal, ASMFC
Jason Didden, MAFMC
Tom Nies, NEFMC
Eric Reid, NEFMC
Michael Pentony, GARFO