



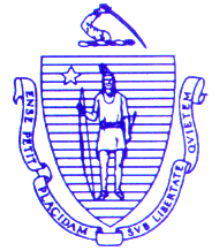
**Daniel J. McKiernan**  
*Acting Director*

# *Commonwealth of Massachusetts*

## **Division of Marine Fisheries**

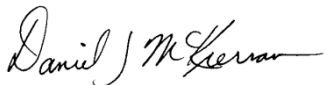
251 Causeway Street, Suite 400  
Boston, Massachusetts 02114

(617) 626-1520  
fax (617) 626-1509



**Charles D. Baker**  
*Governor*  
**Karyn E. Polito**  
*Lieutenant Governor*  
**Kathleen Theoharides**  
*Secretary*  
**Ronald S. Amidon**  
*Commissioner*  
**Mary-Lee King**  
*Deputy Commissioner*

### **MEMORANDUM**

TO: Marine Fisheries Advisory Commission (MFAC)  
FROM: Daniel J. McKiernan, Acting Director   
DATE: March 27, 2020  
SUBJECT: **Final Recommendation on 2020 Commercial Black Sea Bass Management**

---

This memo includes a final recommendation to increase the black sea bass trip limits during the directed summertime fishery; to increase the annual weir set-aside; and to adjust the commercial trawl fishery incidental catch limits. To provide context to these decisions, I have also included a review the public hearing proposal; a summary of public comment; discussion regarding my decision making; and final strikethrough regulations.

#### **Final Recommendation**

I am making the following recommendations regarding the management of the commercial black sea bass fishery beginning in 2020:

1. Increase the weir set-aside from 15,000 pounds to 24,000 pounds.
2. Increase the directed fishery trip limits for potters from 300 pounds to 400 pounds and maintain the existing Sunday/Tuesday/Thursday open fishing day schedule.
3. Increase the directed fishery trip limit for anglers from 150 pounds to 200 pounds and maintain the existing Sunday/Tuesday/, Thursday open fishing day schedule.
4. Increase the trawl bycatch limits during the springtime (April 23 – June 9) small mesh trawl squid fishery from 50 pounds to 100 pounds and maintain the existing 50,000 pound seasonal landings cap.
5. Decrease the summertime large mesh trawl bycatch allowance of black sea bass from 150 pounds to 100 pounds but allow vessels to retain and land black sea bass during open summer flounder fishing days within the directed summer flounder season (i.e., Sundays – Thursdays beginning on June 10) rather than only on open black sea bass fishing days during the directed black sea bass fishery (i.e., Sunday/Tuesday/Thursday beginning on July 8)

These revisions are intended to utilize a substantial 59% increase to the commercial quota while maintaining or increasing value to vessels, reduce regulatory discarding of legal sized fish in squid and summer flounder trawl fisheries, and continue our ongoing management objective of minimizing commercial fishing mortality on spawning fish during late May and June.

#### **Difference from Public Hearing Proposal**

This final recommendation is consistent with the proposal brought to public hearing. Background on the public hearing proposal is described in my December 13 memo to the MFAC, "[Proposed Adjustments to the Commercial Black Sea Bass Limits](#)."

#### **Public Comment**

The [public hearing notice](#) was issued of February 7, with all written comments due by March 16. Hearings in Reading and Vineyard Haven, on March 10 and 12, occurred as scheduled. The hearing scheduled for

March 12 in Buzzards Bay was cancelled due to the developing coronavirus situation. In response, the written comment period was extended two-days until March 18, which was as long as possible while still leaving time for final recommendations to be developed for the then-scheduled March 25 MFAC business meeting. The business meeting was later postponed until April 1 to account for the disruption to normal operating procedures caused by the developing coronavirus situation.

DMF received a diversity of public comment on the state's commercial black sea bass proposals at public hearing and in written public comment. The public comments on each proposal are summarized in the bullets below:

Weir Fishery Set-Aside. Comments received generally either supported this action or did not object to it. There was one written comment in opposition to increasing the weir fishery set-aside as part of a general objection to increasing any limits for 2020.

Directed Fishery Trip Limits and Open Days. Comment on this proposal was diverse. Hook and line fishermen generally supported the trip limit increases and maintaining the existing three-day per week open fishing day schedule. Some pot fishermen, especially those who also pot for whelks and lobsters, preferred having fewer open fishing days per week and higher daily limits, as it would allow them to fish more efficiently. This approach was also supported by one of the more active seafood dealers citing concern about the market's ability to move larger quantities of fish on a weekly basis. Another contingent of comments favored maintaining the status quo limits and making in-season adjustments during the late-summer or early-fall if it was projected that quota would go unharvested.

Trawl Fishery Bycatch Limits. The proposal to adjust the trawler bycatch limits was largely supported among those members of the fleet who commented.

Other Measures. There was also comment in support of starting the directed commercial fishing season earlier in the summer instead of - or in addition to - increasing the directed fishery trip limits. Additional comment supported a new "bycatch allowance" of 100 pounds of black sea bass during the spring scup and fluke rod-and-reel fisheries.

## **Discussion**

The coastwide commercial black sea bass quota is increasing by 59% from 2019 to 2020. Accordingly, Massachusetts commercial black sea bass quota is increasing from 457,600 pounds to 725,400 pounds. As stated in the December 13 memo, if catch rates in 2020 are similar to 2019, it is unlikely that the state's commercial black sea bass fishery will harvest its available commercial quota before the fish begin to migrate out of our water in the fall. Accordingly, there is room to liberalize our existing commercial fishing limits to encourage the utilization of this quota.

Weir Fishery Set-Aside. The commercial weir fishery occurs during the springtime when the fish move into our nearshore waters and concludes in June when the fish move offshore and weirs are dismantled. Activity and landings fluctuate annually in response to the availability of fish in the near shore waters where the weirs operate. In recent years, DMF has allocated the weir fishery a set-aside of 15,000 pounds annually. As there are only a few weir operators, and the weir fishery occurs prior to the start of the directed fishery, landings from this fishery are easy to monitor and the set-aside is enforceable. Any of the set-aside that is not taken by the weirs is automatically rolled over to the directed fishery quota. While the weir fishery has not reached the 15,000 pound set-aside, if conditions are right and effort is high, the potential exists for this to occur. Accordingly, I recommend increasing the weir set-aside to 24,000 pounds, commensurate with the quota increase. Keep in mind that if the set-aside is not taken by weir operators it is automatically available to the directed fishery.

**Directed Fishery Trip Limits and Open Days.** With regards to the directed pot and hook and line fishery, harvester data shows that in 2018 most potters and anglers successfully landed their daily trip limits (Figures 1 and 2). Based on these statistics, it is likely these fishermen can land more black sea bass on a daily basis. This determination was also supported by testimony from fishermen at the December ad hoc industry meetings and in public comment.

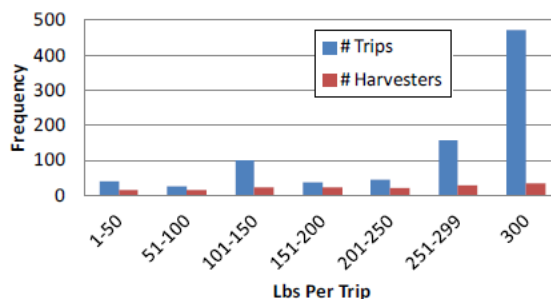
I recommend increasing the directed fishery trip limits by about 30% for both active gear types. If this increases daily landings from their 2019 average of about 21,000 pounds to about 27,000 pounds in 2020, then the quota could be harvested in about 8–9 weeks (assuming the same three-day-per-week schedule). Extrapolating this out, with a current opening start date of Thursday, July 9, we can anticipate a closure in early September. This is a comparable season length to what has occurred in recent years.

During the ad hoc meeting and in public comment, there was some concern expressed regarding the market’s ability to take on additional supply. This concern is likely elevated at present due to the potential loss of demand related to the ongoing coronavirus public health situation. I recognize these concerns and have been working with the seafood industry to enhance marketing strategies to increase seafood demand locally. This situation remains incredibly dynamic and it is difficult to project market conditions this summer. If markets remain soft, ex-vessel value may constrain effort and overall landings. However, if markets rebound, higher trip limits may provide fishermen with the opportunity to land additional fish and generate needed revenues.

There was some support for decreasing the number of open commercial fishing days to two days per week while increasing daily trip limits proportionally to maintain the same potential weekly landings currently allowed under three open fishing days. This was primarily supported by a segment of pot fishermen who also fish seasonally for lobsters and whelks. Reducing the number of days per week allows them to fish more efficiently. However, this alternative was rebutted by other potters and anglers who were concerned about the impact losing a fishing day (e.g., weather, mechanical problems) under a two-day-per-week schedule would have on their potential income and profitability. I tend to agree with these concerns and favor maintaining three open fishing days per week.

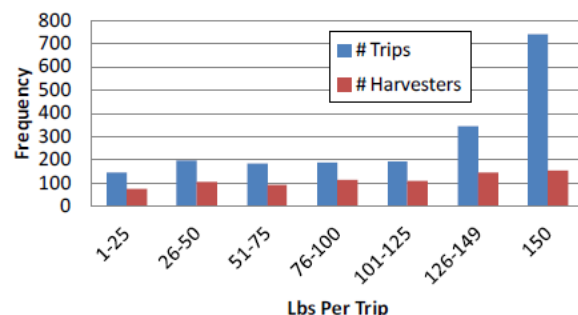
**Trawl Fishery Bycatch Limits.** The springtime small mesh trawl fishery for squid and the summertime large mesh mixed trawl fishery that occur south and west of Cape Cod have an incidental catch of black sea bass. These trawl fisheries are usually responsible for less than 5% of the state’s black sea bass landings on an annual basis. This is because catch is constrained by spatial closures and gear restrictions. With or without the adoption of my recommendation, I expect the trawl fishery’s contributions to the overall annual landings to remain low.

**Fig. 1 – 2018 Trips and Harvesters by Pounds per Trip for Commercial Potters**



SOURCE: MA Trip-Level Reports and federal Vessel Trip Reports, 12/2/19.

**Fig. 2 – 2018 Trips and Harvesters by Pounds per Trip for Commercial Anglers**



SOURCE: MA Trip-Level Reports and federal Vessel Trip Reports, 12/2/19.

During the springtime squid fishery (April 23–June 9), current rules allow trawlers to land up to 50 pounds of black sea bass per trip with total seasonal landings capped at 50,000 pounds. Since this limit was established in 2018, we have not approached the 50,000 pound cap. However, the hearing proposal considered raising this limit to 100 pounds, which is consistent with the maximum small mesh bycatch limit allowed under the ASMFC’s Black Sea Bass FMP. This proposal was moved forward based on a preliminary analysis of observer data that suggested there are some squid trips where black sea bass bycatch exceeds 50 pounds of legal sized fish. Accordingly, with the substantial increase in the quota, I was interested in further reducing the potential regulatory discarding of any legal sized fish (without causing a directed fishery). This proposal was generally supported by the trawl fleet and strong objections were not raised by other stakeholders.

For the summer flounder trawl fishery, fishermen are currently allowed to retain and land up to 150 pounds of black sea bass on open black sea bass days (Sundays, Tuesdays, and Thursdays) during the directed summertime black sea bass season (beginning July 8). These existing rules should be changed for two reasons. First, the summer flounder fishery opens a month prior (on June 10) and has five open fishing days per week (Sundays – Thursdays); the trawl fleet should be able to retain and land a bycatch allowance of black sea bass when fishing for summer flounder and not be constrained by the directed black sea bass fishery schedule. This will prevent the regulatory discarding of otherwise saleable fish. Second, given the minimum mesh size requirements (6.5”) and other gear restrictions (e.g., rock hoppers) black sea bass are not targeted or commonly caught in the summer flounder trawl fishery and it is reasonable to right-size the trawl trip limit to better reflect what may be taken as bycatch. For these reasons, I recommend amending the rules to allow trawlers to retain and land up to 100 pounds of black sea bass on open summer flounder fishing days throughout summertime summer flounder season. This is consistent with the public hearing proposal for which there were limited objections.

Other Measures. While not proposed, there was some comment in favor of starting the season earlier (e.g., May or June) to provide fishermen with additional access to the quota. My rationale against making such a proposal is described in detail in my December 13 and has not been swayed by the public comment. Similarly, I also do not agree with those comments in favor of allowing commercial anglers a 100-pound black sea bass “bycatch allowance” during the spring scup and fluke fisheries. Given the availability of black sea bass during the spring, this requested allowance is essentially a guise to allow directed rod and reel fishing. Accordingly, it is rife with the same concerns described for starting the directed season earlier. Moreover, the justification for allowing trawlers to retain a bycatch of black sea bass during the squid and summer flounder trawl fisheries is driven by the lethality of the gear type. Accordingly, it is sensible to reduce regulatory discarding and allow our small number of trawlers to retain saleable black sea bass that would otherwise likely be thrown back dead. I do not have similar concerns about the discarding of dead black sea bass caught by rod and reel in the scup and summer flounder hook and line fisheries. Hook and line gear is less lethal than trawl gear and the fish are being reeled up from shallow waters where barotrauma is less common. Keeping fishing mortality low during the peak spawning period is still a priority for DMF.

## Final Strikethrough Regulatory Language

### 6.28: Black Sea Bass Fishery Management

#### (1) Definitions.

Black Sea Bass means that species of fish known as *Centropristis striata*.

Black Sea Bass Pot means any pot or trap that has six sides and at least two unobstructed escape vents or openings in the parlor section that are at least 2½ inches diameter, two inches square or 1\_ inches by 5¾ inches, and is set on the bottom of the ocean and designed to capture black sea bass.

Black Sea Bass Pot Regulated Fishery Endorsement means those limited entry regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80, and 322 CMR 7.01(4)(a): *Regulated Fishery Permit Endorsement* and 7.06: *Transfer of Limited Entry Permits*, that authorize a named individual to use black sea bass pots for the taking of black sea bass for commercial purposes.

Black Sea Bass Regulated Fishery Endorsement means those limited entry regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80 and 322 CMR 7.01(4)(a): *Regulated Fishery Permit Endorsement* and 7.06: *Transfer of Limited Entry Permits*, that authorize a named individual to harvest, possess and land black sea bass for commercial purposes.

Commercial Fishermen means any person fishing under the authority of a permit issued in accordance 322 CMR 7.01(2) *Commercial Fisherman Permits* for the purposes of sale, barter, or exchange, or to keep for personal use or family use any fish or shellfish caught under the authority of the commercial fisherman permit.

Commercial Black Sea Bass Quota means the allowable annual Massachusetts commercial harvest of black sea bass pursuant to the ASMFC Interstate Scup, Black Sea Bass and Summer Flounder Management Plan.

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

Director means the Director of the Division of Marine Fisheries.

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

**Mobile gear means any moveable or encircling fishing gear or nets which are towed, hauled, or dragged through the water for the harvest of fish including, but not limited to, pair trawls, otter trawls, beam trawls, mid-water trawls, Scottish seines, Danish seines, pair seines, purse seines or shellfish dredges.**

Recreational Fishermen means any person who harvesters or attempts to harvest fish for personal or family use, sport or pleasure, and which are not sold, bartered or exchanged.

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

**Trawl means any mobile fishing gear or nets which are towed, hauled, or dragged through the water for the harvest of fish including, but not limited to, otter trawls, beam trawls, and pair trawls.**

#### (2) Commercial Fishery Management.

(a) Permit Requirements. A regulated fishery black sea bass permit endorsement or black sea bass pot permit endorsement, issued by the Director pursuant to 322 CMR 7.01(4)(a): *Regulated Fishery Permit Endorsement*, is required to sell black sea bass or to fish for, retain, possess or land black sea bass in accordance with the black sea bass commercial fishery regulations at 322 CMR 6.28(2).

(b) Minimum Size. It is unlawful for any commercial fisherman or dealer to possess black sea bass less than 12 inches in total length, not including the tail tendril.

(c) Possession and Landing Limits. **It shall be unlawful for any commercial fisherman to retain, possess, land or sell black sea bass, except as authorized at 322 CMR 6.28(3)(c)(1)-(5):**

1. Winter Catch Allowance. From January 1<sup>st</sup> through March 31<sup>st</sup>, it shall be unlawful for a commercial fisherman to possess or land more than 100 pounds of black sea bass.

~~2. Closed Season. Except as provided at 322 CMR 6.28(2)(c)3. and 4., it shall be unlawful for any commercial fisherman to possess or land black sea bass from April 1<sup>st</sup> until the summertime commercial fishery opens in accordance with 322 CMR 6.28(2)(c)5.~~

2. ~~3.~~ Weirs. From April 1<sup>st</sup> through December 31<sup>st</sup>, commercial fisherman permitted in accordance with 322 CMR 7.01(4)(a): *Regulated Fishery Permit Endorsement* to operate a fish weir, shall not be subject to daily possession limits or closed commercial fishing days for black sea bass caught in fish weirs. The weir fishery shall close when all permitted weir fishermen have combined to land 24,000 ~~15,000~~ pounds of black sea bass or the commercial black sea bass quota is taken and the fishery is closed in accordance with 322 CMR 6.28(2)(c)6.

3. Black Sea Bass Bycatch Allowance for Trawlers.

a. Small Mesh Trawl Squid Fishery. During the small mesh trawl squid fishery, as established at 322 CMR 4.06(5)(a), commercial fishermen permitted in accordance with 322 CMR 7.01(4)(a) to fish with small mesh trawls for squid and retain black sea bass may retain, possess and land up to 100 pounds of black sea bass per calendar day or trip, whichever period is longer. When the small mesh trawl fishery for squid closes or once aggregate landings by trawlers have combined to land 50,000 pounds of black sea bass, whichever occurs first, it shall be unlawful for trawl fishermen to possess black sea bass until the directed Period II trawl fishery for summer flounder, managed in accordance with 322 CMR 6.22(2)(d)(2), opens on June 10.

b. Summertime Summer Flounder Trawl Fishery. Beginning on June 10, commercial fishermen permitted in accordance with 322 CMR 7.01(4)(a) to fish with trawls and retain black sea bass may retain, possess, and land up to 100 pounds of black sea bass on Sundays, Mondays, Tuesdays, Wednesdays, and Thursdays during the Period II summer flounder fishery, as set forth at 322 CMR 6.22(2)(d)(2).

4. Summertime Black Sea Bass Pot Fishery. During the period beginning on July 8, commercial fishermen permitted to fish black sea bass pots may retain, possess and land up to 400 pounds of black sea bass on Sundays, Tuesdays, and Thursdays.

5. Other Gear Types. During the period beginning on July 8, commercial fishermen using all other authorized gear types, including but not limited to hook and line, may retain, possess, and land up to 200 pounds of black sea bass on Sundays, Tuesdays, and Thursdays.

~~4. Black Sea Bass Allowance in the Small Mesh Trawl for Squid. During the small mesh trawl fishery for squid, as established at 322 CMR 4.06(4), commercial fisherman permitted in accordance with 322 CMR 7.01(4)(a) to fish with small mesh trawls for squid may possess and land up to 50 pounds of black sea bass per day. When the small mesh trawl fishery for squid closes or once aggregate landings by trawlers have combined to land 50,000 pounds of black sea bass, whichever occurs first, it shall be unlawful for trawl fishermen to possess black sea bass until the summertime commercial fishery opens in accordance with 322 CMR 6.28(2)(c)(5).~~

~~5. Summertime Black Sea Bass Fishery. The summertime black sea bass fishery shall begin on the first open fishing day following July 8<sup>th</sup> until the annual quota is reached and the commercial fishery is closed in accordance with 322 CMR 6.28(2)(c)6.~~

~~a. Open Fishing Days. During the summertime black sea bass fishery, commercial fishermen with a black sea bass pot fishery regulated fishery endorsement or black sea bass regulated fishery endorsement may fish for, possess or land black sea bass on Sundays, Tuesdays and Thursdays.~~

~~b. Closed Fishing Days. It shall be unlawful to possess black sea bass on Mondays, Wednesdays, Fridays and Saturdays, except when in compliance with the recreational black sea bass regulations set forth at 322 CMR 6.28(3).~~

~~c. Black Sea Bass Pots. It shall be unlawful for any commercial fishermen with a black sea bass pot regulated fishery permit endorsement to possess or land more than 300 pounds of black sea bass on any open fishing day.~~

~~d. Other Gear Types. It shall be unlawful for any commercial fishermen with a black sea bass regulated fishery permit endorsement to possess or land more than 150 pounds of black sea bass on any open fishing day.~~

6. Quota Closure. It shall be unlawful for commercial fishermen to possess or land black sea bass once the Director has determined that 100% of the annual commercial black sea bass quota has been reached. The quota closure will be enacted and announced in accordance with the procedure set forth at 322 CMR 6.41(2)(c).

(3) Recreational Fishery Regulations.

(a) Minimum Size. It shall be unlawful for any recreational fisherman to possess black sea bass less than 15 inches in total length not including the tail tendril.

(b) Seasonal Possession Restrictions.

1. Closed Season. From September 13<sup>th</sup> through May 18<sup>th</sup>, it shall be unlawful for a recreational fisherman to possess or land any quantity of black sea bass.

2. Open Fishing Season. From May 19<sup>th</sup> through September 12<sup>th</sup>, it shall be unlawful for a recreational fisherman to possess or land more than five black sea bass per calendar day.