



**MARINE FISHERIES ADVISORY COMMISSION
BUSINESS MEETING AGENDA**

8:30 AM

December 2, 2021

Held Virtually Via Zoom

Webinar Link: <https://bit.ly/3DOEkOZ>

Dial In: 1-312-626-6799

Webinar ID: 865 6660 0673

Webinar Passcode: 323761

1. Introductions and Announcements (8:30 – 8:45)
 - a. Review and Approval of the December 2, 2021 Business Meeting Agenda
 - b. Review and Approval of the November 10, 2021 Draft Business Meeting Minutes
2. Comments (8:45 – 9:15)
 - a. Chairman
 - b. Commissioner
 - c. Law Enforcement
 - d. Director
3. Action Items (9:15 – 10:00)
 - a. Declaration to Increase Period I Summer Flounder Trip Limit for 2022
 - b. 2022 Winter I Scup Trip Limit
4. Items for Future Public Hearing (10:00 – 11:00)
 - a. Adjustments to Commercial Summer Flounder Limits for 2022
 - b. Adjustments to Commercial Black Sea Bass Limits for 2022
 - c. Establishing a Commercial Menhaden Season for 2022
5. Discussion Items (11:00 – 12:00)
 - a. Shellfish Advisory Panel Meeting
 - b. Law Enforcement Sub-Committee Meeting
 - c. Review of Atlantic Mackerel Sub-Committee Meeting
 - d. Updates from the Atlantic States Marine Fisheries Commission
6. Presentations (12:00 – 12:45)
 - a. Seafood Value Trends by Species
 - b. New Cat Cove Laboratory and Facility
7. Other Business (12:45 – 1:00)
 - a. Business Meeting Schedule for 2022
 - b. Commission Member Comments
 - c. Public Comment
8. Adjourn (1:00)

Future Meeting Dates

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.

FISHERIES ADVISORY COMMISSION

November 10, 2021

Held Virtually via Zoom

In attendance:

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

Division of Marine Fisheries: Daniel McKiernan, Director; Michael Armstrong, Assistant Director; Kevin Creighton, CFO; Story Reed; Jared Silva; Julia Kaplan; Nichola Meserve; Kelly Whitmore; Melanie Griffin; Maggie Nazarenus; Bob Glenn; Scott Schaffer; Nick Buchan; Derek Perry; Steve Wilcox; Maren Budrow; Stephanie Cunningham; Matt Duggan; Thomas Shields; Kim Fine; and Anna Webb

Department of Fish and Game: Daniel Koch

Massachusetts Environmental Police: Lt. Matt Bass

Members of the Public: Chet Van Dellen; Matt Holden; and Patrick Paquette

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Ray Kane called the November 10, 2021 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

REVIEW AND APPROVAL OF November 10, 2021 BUSINESS MEETING AGENDA

There were no amendments to the November 10, 2021 MFAC draft business meeting agenda.

Chairman Kane asked for a motion to approve the draft November 10, 2021 business meeting agenda. Bill Amaru made a motion to approve the draft agenda. The motion was seconded by Shelley Edmundson. The November 10, 2021 MFAC business meeting agenda was approved by unanimous consent.

REVIEW AND APPROVAL OF SEPTEMBER 22, 2021 DRAFT BUSINESS MEETING MINUTES

No amendments were made to the September 22, 2021 draft business meeting minutes.

Chairman Kane asked for a motion to approve the September 22, 2021 MFAC business meeting minutes. Kalil Boghdan made motion to approve the September 22, 2021 business meeting minutes with his amendments. Bill Amaru seconded the motion. The motion was approved by unanimous consent.

CHAIRMAN'S COMMENTS

Chairman Kane thanked everyone for their attendance. Ray stated an in-person meeting may be possible for January.

LAW ENFORCEMENT COMMENTS

Lt. Matt Bass handled the comments for the Massachusetts Environmental Police (MEP). MEP were involved with a search team operation looking for a missing aircraft off the coast of the Cape. The recent nor'easter had also produced a large amount of gear loss. On personnel, MEP planned to hire one more officer and four officers recently graduated from the academy.

Ray Kane asked about current and target field officer numbers. Lt. Bass reported there are currently about 80 officers and the target number is about 130.

DIRECTOR'S COMMENTS

Director Dan McKiernan thanked the MFAC for their willingness to postpone the October 28 business meeting in response to the recent nor'easter's impacts on utility services.

DMF staff were working on new infrastructure projects, such as commercial and recreational permitting systems. Story Reed would present on the new system later in the meeting. Dan went on to discuss the status of DMF's Boston headquarters. In anticipation of moving in 2022 and having the physical footprint downsized, staff were sorting through files and working to archive historic documents. With the reduced physical footprint, Dan expected most staff currently housed in the Boston office would be relocated to field stations. This included the recently remodeled Cat Cove field station in Gloucester. Dan briefly described the history of this building and its recent renovations.

The Director briefed the MFAC on DMF's ongoing Incidental Take Permit (ITP) application. On the subject of protected species management, DMF participated in a rope-less fishing workshop in October. The workshop was funded by NFWF and the goal was to determine the hurdles and the possible benefits of rope-less fishing.

Dan then noted the MFAC was formed by the legislature on July 23rd 1962 and stated his intention to organize an event next summer to celebrate the Commission's 60th birthday and their various accomplishments over the years.

The Shellfish Advisory Panel (SAP) was scheduled to meet on November 18 at 10 AM in Plymouth. The SAP was established to provide a forum for state agencies and the public to discuss and debate issues pertinent to shellfish resources and shellfish

fisheries. The SAP does not have any regulatory authority and any regulatory adjustments brought forth through the SAP would have to be approved by the MFAC.

Ray Kane questioned if there would be financial relief available to fixed gear fishermen who lost their gear during the recent nor'easter. Dan stated that the Massachusetts Lobsterman's Association was working to take stock of how much gear was actually lost and this would be used to quantify the value of the loss.

2021 QUOTA MONITORED SPECIES UPDATE

Anna Webb and Story Reed provided an update on quota monitored species. Data was updated as of November 3.

Striped Bass. 99.7% of the striped bass commercial quota was landed. Ray Kane commended DMF and the MFAC for liberalizing the fishing limits to allow the quota to be utilized.

Bluefish. Massachusetts landed 94.5% of the state's quota, which was increased through a 50,000 pound transfer in September. There was some discussion about geographic shifts in the bluefish fishery in 2021. As spatial data is obtained through commercial fisherman reports, and these reports are submitted on a monthly basis, this data would not be available until mid-2022.

Mike Pierdinock asked if the landings for bluefish have increased north of the Cape. Anna Webb stated the majority of the landings are not from the north shore but added a precise spatial analysis will not be available until next summer. Dan reminded the MFAC spatial data is derived from commercial fisherman trip level reports which are submitted on a monthly basis and audited during the winter period.

Black Sea Bass. Massachusetts has landed 89.9% of its black sea bass quota. Landings had tapered off in recent weeks and given the seasonality of this fishery, the quota would not likely be achieved. There was some discussion about how to better utilize the quota moving forward, particularly with the expected quota increase in 2022. Director McKiernan stated he intended to present a draft proposal to adjust commercial black sea bass limits at the upcoming December MFAC meeting.

Summer Flounder. Massachusetts has landed 64.5% of its summer flounder meeting. Given the seasonality of this fishery, DMF expected about 25% of the quota would be left unharvested. Given this underutilization, and the expected quota increase in 2022, DMF was hosting an industry scoping meeting on November 17.

Bill Amaru opened the in-season adjustment to the summer flounder fishing limits likely came a week or so too late. Jared Silva agreed. Jared then noted the in-season adjustment process was cumbersome and DMF intended to use built in quota triggers to adjust fishing days in the future.

Mike Pierdinock stated that summer flounder is another example shifting spatial distribution overtime, likely due to climate or environment. Mike described the catches of the for-hire fleet and stated there were not as many legal-sized fish this year and the past several years. During this period he and others have also observed increased water temperatures in Buzzards Bay and Vineyard Sound to Noman's Island and that may be driving fish further offshore into federal waters.

Tautog. Massachusetts landed 103.2% of its commercial tautog quota. The overage would come off the 2022 quota. Ray Kane and Dan McKiernan discussed the most recent stock assessment and how this may impact commercial and recreational fishing limits moving forward. Dan stated this would have to be discussed with RI, as the fishery is jointly managed by the two states. There was then some discussion about the tautog tagging program and a recent enforcement incident in New York that demonstrated the program's usefulness.

Horseshoe Crabs. Massachusetts landed 89.5% of its horseshoe crab quota.

Mike Pierdinock and Bill Amaru discussed how climatic shifts were likely affecting the spatial distribution of many of these species and the performance of these quota managed fisheries.

ITEMS FOR FUTURE PUBLIC HEARING

State Waters Groundfish Management

Director McKiernan and Jared Silva gave a presentation regarding overarching management measures affecting commercial state waters groundfish. Jared Silva then reviewed the various regulatory adjustments being proposed for public hearing. It was noted that these proposals were developed with input from the MFAC's State Waters Groundfish Sub-Committee, which met in September 2021.

- DMF is proposing to expand the January 1 – May 15 sink gillnet closure in Cape Cod Bay to include all state waters. This was being done to reduce the risk of right whale entanglements. Similar to the seasonal trap gear closure, this proposed gillnet closure could be extended or rescinded based on the presence or absence of right whales.
- DMF proposed adopting an April 15 – April 30 commercial groundfish closure from Plymouth to MA/NH border west of 70° 30'W to protect spawning cod. This would prohibit commercial groundfish fishing and the use of certain gears capable of catching groundfish. The prohibition would not apply to sea scallop dredges.
- DMF proposed to rescind the conditional April 1 – April 30 commercial groundfish closure from Plymouth to Marblehead west of 70 30' contingent on the adoption of the above described gillnet and spawning cod closures.
- To provide access to groundfish stocks in times and places where right whales and spawning cod are of less concern, DMF proposed to eliminate the May 15 –

October 31 gillnet closure off Boston Harbor and liberalize the GOM cod trip limit from 200 to 300 pounds and the GOM yellowtail flounder trip limit from 250 to 350 pounds.

Lou Williams expressed his objections to the proposed closures. He noted the small size of the state waters fleet and opined it likely had a nominal impact on right whale and cod conservation. He also argued the state's approach was disjointed as it attempted to follow common pool rules, sector rules, and ALWTRP rules and this was unduly impacting the small state waters fishery. Lastly, Lou also advocated that the southern boundary of the May commercial groundfish closure be moved from Boston to Nahant to provide additional access to winter flounder.

Mike Pierdinock and Bill Amaru expressed concern over the impacts cormorants, grey seals, and dogfish were likely having on fishery resources, including groundfish. Mike also expressed concern over cod worms being found in both cod and haddock and now black sea bass in areas where there is a high abundance of grey seals.

DISCUSSION ITEMS

State and Federal Protected Species Management Updates

Robert Glenn provided the MFAC with a brief update regarding state and federal protected species. He stated that NOAA Fisheries published the 2022 draft List of Fisheries (LOF) under the Marine Mammal Protection Act. Massachusetts' lobster, whelk, and fish pot fisheries were separated out from the broader regional fisheries and a new Massachusetts Mixed Species Trap fishery was proposed. NOAA Fisheries is currently in the process of reviewing public comment and finalizing the LOF. If the new Massachusetts Mixed Species Trap fishery is adopted in the 2022 LOF, it would advance DMF's ITP application. However, for it to be adopted, the fishery needs to be distinguishable from other fisheries in other jurisdictions and there are concerns that DMF has not adopted a unique gear marking system for its whelk and fish pot fisheries. With this in mind, DMF intends to go out to public hearing this winter with a proposal to adopt the new lobster/crab trap buoy line marking scheme to the fish and whelk pot fisheries for 2022.

Bob then moved on to discuss an updated right whale population estimate. The 2020 estimate is 336 whales and with the updated population estimate, NMFS now projects that a 92% reduction in the risk of SIM is necessary to achieve PBR.

Bob stated that DMF is investigating options/approaches to removing abandoned gear prior to the closure. He described the short term and long-term approaches to hauling abandoned gear. Bob then moved on to discuss the rope-less fishing workshop, and described the major takeaways from the meeting. Overall, there is much more work needed to fully understand the potential for gear conflict and how to resolve it. There are also major concerns on scalability of rope-less fishing – how would rope-less fishing

impact small owner/operator businesses. Bob went on to discuss other concerns that arose as a result of the rope-less workshop.

Atlantic States Marine Fisheries Commission Updates

Nichola and Dan summarized the recent October ASMFC meeting and highlighted areas of interest for Massachusetts.

- Development of Lobster Addendum XXVII and Lobster/Jonah Crab Addendum XXIX continues. Addendum XXVII's objective is to address declining trends in survey abundance for the Gulf of Maine and Georges Bank lobster stock and build in resiliency measures to increase spawning stock biomass. This includes standardizing certain rules within or across Lobster Conservation Management Areas and adopting management triggers for gauge size revisions. DMF anticipated the draft addendum would be finalized for public comment at the winter ASMFC meeting. Addendum XXIX's objective is to enhance spatial data regarding where the offshore lobster/Jonah crab fishery occurs by requiring electronic monitoring. A special Board meeting will be held on December 6 to finalize the draft addendum for public comment.
- The 2021 regional tautog stock assessments showed that stock status had improved across all stock areas since 2016. For the MA/RI region the spawning stock biomass was estimated to be 44% above its target. While the stock assessment results were strong, they did not automatically prompt a responsive management action, such changes will have to be considered on a regional basis with MA and RI having to agree on what, if any, management actions are warranted.
- The release of Striped Bass Draft Amendment 7 for public comment was delayed in order to have the Plan Development Team incorporate options addressing year class protection in the Chesapeake Bay recreational fishery and the adoption of a rebuilding plan that assumes a low recruitment regime. Despite this delay, the amendment is still on schedule for implementation in 2023. The Board also refined the options addressing the management triggers; year class protection along the coast; recreational release mortality; and the use of conservation equivalency measures.
- The ASMFC was in the preliminary stages of developing Menhaden Addendum I. This addendum is expected to consider changes to commercial state-by-state quota allocations, adjusting how the episodic event set-aside is utilized, and limiting how menhaden may be targeted when fishing under the incidental catch and small-scale fishery allowance.
- DMF also reviewed the sub-ACL management for Atlantic sea herring in Area 1A for 2022, an anticipated increase to the spiny dogfish trip limit, and the ongoing development of harvest control rules in the annual management of the recreational summer flounder, black sea bass, scup, and bluefish fisheries.

New England Fishery Management Council Updates

Melanie Griffin provided an update for the commission regarding the NEFMC. Melanie discussed new leadership at the NEFMC with a new Chair and Vice-Chair and new

appointments to the Executive Committee. At the September meeting, the NEFMC finalized a rebuilding plan for Atlantic sea herring; finalized 2022-2023 specifications for skates; and approved 2023 catch limits for transboundary groundfish stocks. Looking forward to the December meeting, the NEFMC was expected to review 2022 management priorities and pending scallop and groundfish frameworks. Lastly, DMF highlighted several federal fisheries management initiatives of interest to Massachusetts. This included the management strategy evaluation on cod stock structure; the reauthorization of the Magnuson-Stevens Act; ecosystem-based fishery management workshops; climate change scenario planning; and the development of a mackerel rebuilding plan. DMF and the MFAC established a Mackerel Sub-Committee to advise DMF on how to respond to a Mid-Atlantic Fishery Management Council request for northeast states to regulate recreational mackerel fishing in state waters.

Dan McKiernan asked Ray to form a sub-committee to respond to the letter received regarding the Atlantic herring disaster declaration.

Ray Kane congratulated Melanie on her appointment to the Executive Committee and asked Melanie if the NEFMC is planning to have her work as a liaison to the MAFMC.

Bill Amaru emphasized the importance of rebuilding the mackerel stock and was happy to hear it is high on the list for the Council.

Mike Pierdinock stated that climatic shift has potentially impacted mackerel distribution, with the resource moving northward and fewer fish available in the Mid-Atlantic. There is concern the stock is managed by the MAMFC with no votes by the NEFMC. Melanie noted there were high-level discussions among MAFMC and NEFMC staff on the management of this species.

PRESENTATIONS

New Recreational Fishing Permit Program

Story Reed introduced the new vendor partner for the updated permitting system, Kalkomey. The project kicked off in March after extensive RFI and RFR process in 2020 and 2021 led by the Department of Fish & Game in collaboration with DMF and MassWildlife. Story then discussed the customer transaction fees and how the anticipated changes with the new vendor and new and improved functionality, interfaces, and analytics. Story moved on to discuss next steps and the go-live date of December 1, 2021.

Story turned the floor over to Dan Koch from DFG and staff from Kalkomey. Dan Koch introduced himself and described the long-term partnership DFG will have with Kalkomey going forward. Chet Van Dellen from Kalkomey gave a high-level overview of Kalkomey and what they do as a company. Chet stated Kalkomey will be on-site at DFW's Westborough headquarters on the go-live date, and Kalkomey will be working with vendors across the state that sell DMF permits. Chet welcomed any questions from the commission.

Dan McKiernan stated he expects this new product will give DMF new responsiveness from customers. Story added by saying this new program should be a one stop shop for Massachusetts outdoorsmen.

Ray Kane asked if Kalkomey will be able to collect data from recreational lobster fishermen. Story stated this hasn't been discussed yet, but there will be more opportunity for that going forward.

Ray Kane then asked about the length of the contract with the new vendor. Story stated it was 3 years, and potential for 7 one-year extensions. Dan Koch confirmed this. Story concluded by saying there will be a more in-depth presentation at the recreational panel meeting in December.

CARES Program Review and Seafood Processing Grant

Kevin Creighton presented on the second round of the CARES Act Fisheries Relief Program. Kevin reviewed the timeline for the Round 2 program, and noted checks were mailed out on October 7, 2021. Kevin then compared the budgets for Round 1 and Round 2 and presented a table that compared the number of applicants and recipients between Round 1 and Round 2. Kevin then described the payment per share for each of the sectors and compared the payment amounts in Round 2 to Round 1.

Kevin then described the Seafood Processors Pandemic Response and Safety Program. Unlike CARES, which provided direct payments to industry members, this program would partially reimburse capital investments by seafood processors into infrastructure to prepare for, prevent, and respond to COVID-19. Massachusetts was expected to receive about \$1.1M.

OTHER BUSINESS

Commission Member Comments

Ray Kane asked Dan about the harbor dredging issues on Cape Cod. Dan stated he would like to set up a meeting between DMF's Habitat Program staff and interested MFAC members. Ray and Dan then discussed on going DNA work designed to better inform temporal dredging windows.

Ray and Jared then discussed scheduling future meetings and the interest among MFAC members to find a balance between virtual and in-person meetings in 2022.

PUBLIC COMMENTS

No public comments were made.

ADJOURNMENT

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

DRAFT

MEETING DOCUMENTS

- November 10, 2021 Business Meeting Agenda
- September 22, 2021 MFAC Draft Business Meeting Minutes
- Quota Managed Species Update
- State-Waters Groundfish Public Hearing Proposal
- Protected Species Update
- October 2021 ASMFC Meeting Summary and Presentation
- NEFMC Update
- MA Fish-Hunt Update
- Cares and Seafood Grant Update

UPCOMING MEETINGS

December 2, 2021
TBD



The Commonwealth of Massachusetts

Division of Marine Fisheries

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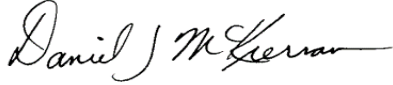
KATHLEEN A. THEOHARIDES
Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director 

DATE: November 26, 2021

SUBJECT: **Recommendation to Increase 2022 Summer Flounder Commercial Period I Trip Limit**

Recommendation

I recommend that the MFAC vote in favor of increasing the summer flounder commercial trip limit from 1,000 pounds to 2,500 pounds for the extent of the 2022 Period I fishery (January 1–April 22). This recommendation responds to recent quota increases and wintertime fishery performance. It is designed to enable the offshore fleet to better achieve its 30% target allocation of the annual quota. If approved, DMF would implement this trip limit by Declaration for the 2022 season.

DMF also intends to consider this trip limit modification as a regulatory amendment this winter for 2023. This would increase the regulatorily set limit from 1,000 pounds to 2,500 pounds and avoid having to take a similar action in future years if the summer flounder quota remains at elevated levels. This discussed further in my November 26, 2021 memorandum to the MFAC on future public hearing proposals affecting the commercial summer flounder fishery.

Management Background

The commercial summer flounder management program was developed in the early-1990s. The system was designed to preserve and support the state's small boat fleet that participates in the inshore directed fishery. Accordingly, the annual quota is allocated among the Period I fishery (January 1 – April 22) and the Period II fishery (April 23 – December 31), with Period I receiving up to 30% of the annual quota and Period II receiving at least 70%.

Each period's allocation is then managed through a series of controls, such as trip limits and closed fishing days. The primary harvest control for the Period I fishery is a regulatorily set 1,000-pound possession and landing limit, which may be annually adjusted by declaration. The trip limit is reduced to 100 pounds when 25% of the overall quota. This prevents the Period I fishery from exceeding its allocation resulting in less quota available to the Period II fishery and is preferred to a quota closure that may result in enhanced regulatory discarding. There are no closed fishing days during this period.

Quota and Fishery Performance

DMF anticipates the 2022 summer flounder quota will be set at 1.39 million pounds (mlb), which is 37% higher than the 2021 quota of 1.02 mlb.¹ The reason for this 2022 quota increase is two-fold. First, there is a 24% increase to the overall coastwide quota, from 12.49 mlb to 15.53 mlb.² Second, Massachusetts' state quota share of the coastwide quota is again increasing in 2022 under the new allocation approach implemented in 2021.³

The state's commercial quota has increased steadily over the past six years (2017–2022), as it has risen from an all-time low of 385,988 pounds in 2017 to its current level (an amount not seen since 2011). Additionally, 2022 is the second straight year with a substantial quota increase, as the state's quota increased by 29% from 2020 to 2021. In response to these quota increases, modest increases were made to baseline regulatory limits in 2020 and 2021⁴, but DMF has also relied on the Director's declaratory authority to make in-season adjustments to commercial fishing limits in reaction to quota availability and fishery performance.

For the 2021 Period I fishery, DMF and the MFAC increased the trip limit from 1,000 to 2,000 pounds. Increasing this trip limit was designed to encourage Massachusetts' permit holders fishing in federal waters to land their catch in Massachusetts ports and not steam to other states where they may be permitted to offload their catch. This better aligned the landing limit (and profitability) to the overhead associated with having to steam to offshore fishing grounds, allowing for greater quota utilization and the promotion of local seafood. As a result, the wintertime fishery landed approximately 85% of its 304,554-pound quota allocation. Compare this to 2020, when the Period I fishery opened with a trip limit of 1,000 pounds before increasing to 2,000 pounds (by declaration) on February 23 and landed only about 78% of its 238,675-pound quota allocation.

With the expected 37% increase in the 2022 quota, the Period I quota will be about 417,000 pounds (about 113,000 pounds higher than it was in 2021). Given recent performance, increasing the Period I limit by 25% should provide fishery participants with the opportunity to land their seasonal quota allocation.

¹ The 2021 commercial summer flounder quota was initially set at 1,015,179 pounds. Earlier this year, DMF accommodated a safe harbor request from a NC vessel which resulted in landings totaling 9,980 pounds. NC then transferred this quota to MA to cover the landings. The quota figures on DMF's website and quota monitoring reports include these safe harbor landings and quota transfer.

² The most recent stock assessment (2021) 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.

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.

⁴ For the winter and fall time fisheries, January 1–April 22 and November 1–December 31 respectively, DMF established a 1,000-pound trip limit and allowed the harvest, possession, and landing of summer flounder seven days per week. For the directed summertime fishery (June 10–October 31), the trip limit for trawlers was increased from 300 to 400 pounds and for hook and liners from 200 to 250 pounds; the five-day fishing week (Sunday–Thursday) was maintained.

Public Comment

Consistent with 322 CMR 6.41(2)(d), DMF may make in-season adjustments to the manner, times, size limits and quantities of fish to be taken to increase landings to ensure available quota is taken. The process for making such adjustments requires DMF conduct a two-week public comment period and obtain approval of the MFAC.

On November 12, 2021, DMF initiated a public comment period on increasing the Period I summer flounder trip limit from 1,000 pounds to 2,500 pounds for the 2022 season. This public comment period concluded on November 26, 2021. DMF received nine public comments. This limited public comment is typical for this action. It reflects the understanding that this action is being taken to allow fish being taken offshore to be landed in Massachusetts ports and against Massachusetts quota.

Four of the commentors favored the proposed increase. The other five objected to it. Most of the comments objecting to it were from recreational fishermen concerned about summertime inshore fishing conditions and drawing a correlation between increased offshore fishing effort during the winter period and degraded inshore fishing conditions in the summer. Another commentor preferred DMF pursue opening permitting access to this fishery instead of providing additional access.

In recent years, there has been strong anecdotal evidence that suggests inshore summertime fishing conditions for summer flounder have been sub-optimal. This is an opinion shared by many in the inshore recreational fishery and the inshore commercial fishery. However, there is a lack of evidence to suggest this is caused by offshore fishing effort during the winter period. I tend to think this is caused by environmental conditions, as the stock assessment is demonstrating the biomass is shifting geographically to the north and the east. Consistent with this, we were also hearing reports of good fishing off Nantucket Shoals and east of Chatham last summer.

With regards to permitting, eliminating the limited entry program and establishing this permit as open entry would require additional rule making and is not something that can be considered under my declaratory authority. However, it should be noted that the “fluke endorsement” is transferable for all gear types.

For these reasons—and given the stock assessment demonstrates the summer flounder stock is in good shape and can be harvested at higher levels than are currently occurring—I do not support continuing to constrain Period I trip limits. Rather, I maintain we should increase the trip limit to 2,500 pounds to allow the fishery to access their seasonal allocation. This is consistent with DMF’s mission to manage our marine fisheries in a manner that balances sustainable fisheries with local seafood production.

Renewing the Period I Summer Flounder Pilot Program

Additionally, I intend to renew the Period I Summer Flounder Pilot Program for 2022. In 2020 and 2021, DMF—along with the states of Rhode Island, Connecticut, and New York—established a pilot program that allowed the possession of multiple states’ landing limits.

Effectively, if a vessel held permits to offload summer flounder in multiple states, they could fish in federal waters, retain a landing limit for each state they are permitted in, come into a state's port in possession of non-conforming quantities of fish, offload the legal landing limit for that state, then embark to the next state and do the same. This program has enhanced regulatory flexibility and increased the profitability of eligible participants. In 2020, 26 vessels participated in the pilot program and in 2021 there were 23 participating vessels. Nearly all of these vessels were dual Massachusetts and Rhode Island permit holders.

In combination, the renewal of the pilot program and the recommended trip limit increase will help ensure the Period I fishery has more of an opportunity to take their quota allocation. In turn this reduces the likelihood that Massachusetts commercial summer flounder quota is under-utilized for a fourth straight year.

Attachments

Public comment



November 22, 2021

Re: Mass Fluke Quotas

Hello,

We have a few comments.

- 1) We believe the state has an obligation to set rules that will lead to the **full harvest** of our quota. The businesses of Massachusetts need this revenue and we consider it a loss if it is left in the ocean. We are also wasting potential food for the people of Massachusetts. This needs no further explanation.
- 2) If the summer participants want to keep the limits small, then an **expanded winter fishery** should get the opportunity to harvest the quota. Again, this should go without saying.
- 3) We feel very strongly that the **Director should have the flexibility** to make immediate changes during all fishing seasons. There are three variables that determine the harvest of a quota: 1) participants, 2) daily limits, 3) ability to catch a limit. By far the most impactful variable in the formula is the participants, and this is impossible to predict. Without the ability to change limits while we are fishing we will forever be inefficiently handling the harvest of sustainable seafood. This would be sad.
- 4) We should stop pretending draggers land exactly on the nose daily limits and **allow some overage** that would carry over to the next day. This is better for everyone and better for the sustainability of the fishery.

Thank you for all of the work you do and for listening to our comments.

Best regards,

Jared Auerbach, CEO

From: [JD](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Commercial Flounder Limit
Date: Friday, November 12, 2021 2:48:45 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.

Hi there,

I got your email about the commercial flounder limit and I'd like to offer my opinion that we should not raise the limit.

I am, as you may suspect, someone who enjoys fishing. I've personally seen that fish populations are dwindling, fishing seasons never seem to get markedly *better* than whatever baseline we used to have thirty years ago, not to mention prior to that.

I've thought of this issue for years - it seems like you have the commercial fishers on one side, and the hobbyists on the other, each pointing the finger at one another. However - and you may have data I do not - I find it *incredibly* hard to believe that hobbyist fishing is the major threat to our waters.

Allowing an increase of commercial fishing in waters that are not recovered will not do anything other than hasten the arrival of the inevitable. Alternatively, we can choose as a species - truly we can! - to allow for some short term limitations and lack of access to a fish species. As they say, there are many fish in the sea (less than there used to be, though) and you can just eat a different, more plentiful one. You do not *need* to eat flounder, striper, etc. It is not a *need*.

Nor is hobbyist fishing a need. I am more than happy to do my part, but when it seems unevenly weighed towards forcing personal responsibility on individual hobbyist fishermen vs. controlling the industry that is *actually* causing the problem is likely the better idea.

What *is* a need is having water with fish in it.

In an ideal world, I would see some kind of incentive for the commercial fishermen, because frankly, we *told* them to do this, and we're getting mad now that they spent their entire life giving us what we asked for even though it was a stupid thing for us to do. They should not bear the brunt because we as a society chose to be irresponsible and greedy.

Somewhat of a parallel: it isn't *my* recycling that is changing the world, it's the scale of large commercial operations that is. I'm just kind of helping on the side. We need to stop pretending that my not using a straw, for instance, is having a tangible impact when we are doing *virtually nothing* to tangibly stem the danger that corporations who *by design have to keep doing what it is that they are doing or go out of business*. This is built-in. Companies will not regulate themselves, because a capitalist business model is directly at odds with ethical decisions that require the loss of profit to execute. I guess this is a long way of saying that profits matter paramount, and in a capitalist system, without incentives to do so, profit will trump nearly any ethical concern when put up against a wall.

My suspicion is that this will get lost, but regardless of whether or not this email has an impact, I would love to hear your thoughts.

Thanks,
Jon

From: [Matt Fitzgerald](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Dan McKiernan
Date: Saturday, November 13, 2021 9:20:39 AM

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Please reduce the summer flounder commercial trip limit and stop selling our public resources before it's too late. We all know the public comment period means nothing and you are going to increase it anyways because you simply do not care about our fisheries. So sad.....

From: [Edward Fabian](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Flounder increase
Date: Friday, November 12, 2021 2:41:44 PM

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Any increase in any fishing is an absolute mistake. As you know , but in my opinion you are all on the take. It's the only way to explain the deplorable way the entire industry is regulated. Let's let the stocks get down to 1 percent like the cod. You all should be fired and put in prison as far as I am concerned. Oh and you are well on your way to destroying the stripper fishing as well. You al should be ashamed. What took just a month to fill the quota just a few years ago now takes a whole season. And what moron decided it was a good idea to let commercial fishermen literally only target , keep and kill breeding females. Wow ! You are either on the take or just way to uneducated to be doing your job. Maybe both.

Keep up the good work

Ed Fabian

From: [Mark Mattson](#)
To: [Fish, Marine \(FWE\)](#)
Subject: flounder quota increase comment
Date: Saturday, November 13, 2021 5:18:40 PM

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Dear Daniel,
why do you bother asking for comment? It seems that the proposals always go through despite the public comment. I have repeatedly commented on the lack of fluke south of cape cod for years, yet you still increase quotas for commercial. Very disappointing. I have not caught more than a total of 4 legal fluke in past 4 years.
Mark Mattson

From: [Bill Amaru](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Fluke public comment
Date: Friday, November 12, 2021 5:24:59 PM

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I strongly support the period one quota increase for fluke.

For many years the industry has sacrificed to make this kind of increase a reality. I am glad to say it was finally worth it. I fully expect and will strongly advocate for a commensurate increase for the summer State Waters fluke fishery as well. For many years the inshore trawl vessels have been able to catch their possession limit in the first one or two tows. An increase of the kind anticipated will bring a much needed boost and interest in this fishery.

I only regret I am no longer able to participate in the trawl sector fishery for fluke. However, my son and grandsons are... That makes it all worth while.
to me.

Sincerely, Bill Amaru

From: [Frank Torbey](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Period I Summer Flounder Limit
Date: Saturday, November 13, 2021 11:45:37 AM

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To Management:

Why is Period I not controlled to federal waters only?

Trawler fishing destroyed the recreational fluke fishing south of Nantucket in 2021. Why isn't a 7 mile off-limit boundary for trawling fluke and Black Sea bass put in-place to provide an adequate recreational area.

Will the trawlers be able to fish in the same areas as 2021? How is the bottom environment managed?

Frank Torbey
Recreational Fluke fisherman

Frank Torbey
508.420.5484 mobile
ftorbey@icloud.com

From: [Marine Engine & Gear: Steve Lynch](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Public comment on summer flounder fishery
Date: Sunday, November 14, 2021 10:06:28 AM

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it is clear that for the last few years and the foreseeable future that current participates struggle to meet the summer flounder quota, maybe instead of increasing the allowable daily ketch which just lowers the value of fish. Open the fishery to new entrees. Issue more permits, Open Access. !!

Stephen Lynch Marine Services:
Marine Engine & Gear
63 Central Street / P.O.B 412
Brant Rock, MA 02020-0412
(617) 448-0812 twindiscgears@aol.com

From: [Leah Barton](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Summer Flounder Increase
Date: Friday, November 12, 2021 7:03:19 PM

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Hello,

I am writing in FAVOR of increasing the limit of summer flounder from 1,000 pounds to 2,500 pounds; increasing odds of Mass landings, quota utilization and local seafood promotion.

Thank you for your time.

Any questions please call, anytime.

Best,

Leah Barton
7816644632

Sent from my iPhone



The Commonwealth of Massachusetts

Division of Marine Fisheries

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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: November 26, 2021

SUBJECT: **Recommendation to Set 2022 Winter I Scup Limit**

Recommendation

I recommend the MFAC vote in favor of adopting a 50,000-pound commercial scup trip limit for the 2022 Winter I period (January 1–April 30). This is consistent with the anticipated federal limit for this quota management period. Note, we will not likely have to take this action in 2023 should the pending proposal to streamline the setting of the Winter I and Winter II scup limits be adopted in 2022 (see [August 13, 2021 memo](#))

Background

The annual coastwide commercial scup quota is divided into three seasonal quota management periods: Winter I (January 1–April 30) receives 45.11% of the overall quota; Summer (May 1–September 30) receives 38.95% of the overall quota; and Winter II (October 1–December 31) receives 15.94% of the annual quota, plus any underage that occurs during Winter I.

As the fishery predominately occurs offshore in federal waters during the Winter I and Winter II periods, these fisheries are managed at the federal level with a coastwide trip limit. DMF has historically matched the federal trip limit for these periods to allow vessels fishing offshore to possess and land lawfully harvested scup in our ports. Fishing during the Summer period occurs predominately inshore. Accordingly, this seasonal quota share is further allocated to the states and managed at the state level. MA receives a 21.6% share of this period's quota.

The 2022 coastwide commercial scup quota is expected to be set at 20.38 million pounds (mlb), only a slight decrease from the 2021 quota of 20.50 mlb. Based on the above-described allocation of the coastwide quota, the Winter I period quota allocation will be about 9.19 mlb. Given this quota level, the Mid-Atlantic Fishery Management Council did not recommend any changes to the 50,000-pound Winter I trip limit. The Winter I trip limit has been set at 50,000 pounds since 2012. It was increased that year (from 30,000 pounds) in response to a significant quota increase the prior year. The coastwide quota has stayed at an elevated level (between 18 and 28 million pounds) since then. The Council chose the 50,000-lb limit as an appropriate balance between the economic concerns of the industry (i.e., landing enough scup to make the

trip economically viable) and the need to ensure the equitable distribution of the quota over the period. The 50,000-pound limit has not resulted in early closure of the Winter I directed fishery.

Public Comment

Consistent with 322 CMR 6.27(3)(c), DMF is to set the Winter I trip limits annually via the declaration process at 322 CMR 6.41(2)(d). This requires DMF conduct a two-week public comment period and obtain approval of the MFAC. On November 8, 2021, DMF initiated a public comment period on establishing a 50,000-pound state's possession and landing limit for the Winter I fishery. This limit is consistent with the anticipated federal trip limit for this period and with DMF's historic approach to mirror state possession and landing limits to federal trip limits during the Winter I fishery.

DMF has only received four comments on this proposal. Two comments objected to the proposal on the grounds of conservation, a third comment supported the action, and the fourth comment provided an anecdotal report of summertime recreational fishing. This limited public comment is typical for this action. It reflects the understanding that scup are highly abundant (about two times the spawning stock biomass target) and this action is being taken to match the federal limit for this quota period and allow vessels to land scup that was lawfully taken offshore in our ports. Moreover, even if conservation were needed, the state should not constrain the ability for offshore vessels to land lawful quantities of fish taken in federal waters. This would not effectively promote conservation, but instead negatively impact our seafood industry by forcing vessels to land the product in other states along the coast where they may be permitted.

Attachment

Written public comment

November 8, 2021 DMF Advisory

From: [Timothy Sullivan](#)
To: [Fish, Marine \(FWE\)](#)
Date: Monday, November 8, 2021 3:51:21 PM

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I'm an avid sportsman and when I find myself down along the waters Cape cod and South shore a lot of the fish that I like to take home are Scup and I found that a lot of the Scup this year were a little bit bigger, fatter and more bountiful. I don't think they're overfished. I think maybe they're taking more for sport and bait rather than for commercial fishing. I can remember days where I'd step off a boat with a 55 gallon barrel full of Scup. When we got home and cleaned the boat the girls would clean the fish and we'd have ourselves a fish fry for the whole neighborhood. And we still do today.
Good luck I hope this helps.

From: [Leah B](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Scup limit
Date: Friday, November 12, 2021 7:10:17 PM

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Hi,

I am in favor of setting the state's commercial scup possession and landing limit for the 2022 Winter I at 50,000 pounds. While scup may not available in those amounts during the winter, allowing this gives vessels fishing in federal water to land scup here, in our ports.

Thanks for your time.

Any questions please let me know.

Best,

Leah Barton
7816644632

From: [John Curry](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Winter Scup Limit / Landings in MA ports
Date: Monday, November 8, 2021 7:17:06 PM

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Dear Marine Fisheries;

I am opposed to this new proposed regulation change regarding the Scup landings increase.

This sets a bad precedent in regards to shifting the focus on each state's allotted allowance for any species during any season. If we allow any fisheries to collect product from another jurisdiction and then steam back to their home port to report / sell their catch it's just an opening for other species to be exploited.

And yes I'm referring to our seriously declining Striped Bass stocks!

Please do not allow this proposal to be approved as it will finish each states scientific research results. Basically making any research or input from user groups null and void.

Best,

Capt John Curry

Sent from my iPhone

From: [Brian Wolff](#)
To: [Fish, Marine \(FWE\)](#)
Subject: Winter scup possession limit
Date: Wednesday, November 10, 2021 8:14:12 AM

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Scup are an extremely important fish to recreational anglers, particularly young anglers, those new to the sport and shore bound anglers. They are also an important baitfish. A robust population of scup is far more valuable to the ecology of our waters, recreational fisherman and children than their value in commercial landings. I opposes the winter scup possession limit proposal.

Dr. Brian Wolff



The Commonwealth of Massachusetts

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Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director 

DATE: November 26, 2021

SUBJECT: **Proposal to Adjust Commercial Summer Flounder Limits for 2022**

Given the underutilization of the commercial summer flounder quota over the most recent three years (2019 – 2021), and in anticipation of a substantial (37%) increase to the state's commercial summer flounder quota for 2022, I am proposing several regulatory changes affecting the Period I (January 1 – April 22) and Period II (April 23 – December 31) commercial summer flounder fisheries.

Period I:

- Increase the period's quota allocation from 30% of the annual quota up to either 40% or 50% of the annual quota.
- Increase the seasonal trip limit from 1,000 pounds to at least 2,500 pounds.
- Maintain a trip limit reduction trigger as landings approach the seasonal allocation threshold (e.g., ~45% of annual quota if allocated 50% or ~35% of annual quota if allocated 40%).
- Codify the pilot program allowing vessels permitted to land summer flounder in multiple states to possess non-conforming quantities of summer flounder when offloading in Massachusetts provided the non-conforming quantities of fish are properly labeled, remain on the vessel, and are offloaded in the other states where they are permitted.

Period II:

- Adjust the timing of the summertime fishery, allowing it to open for all gear types as early as April 23, as opposed to the current start date of June 10.
- Reduce or eliminate closed fishing days during the summertime fishery. Currently the closed fishing days are Fridays and Saturdays. Options include beginning the season with seven open fishing days or phasing in additional open fishing days at dates certain within the season based on quota utilization.
- During the summertime fishery, increase the trip limit for fishermen using large mesh nets from 400 pounds to 500 pounds and the trip limit for fishermen using hooks from 250 pounds to 300 pounds. Additionally, I intend to take comment on adopting a

regulatory provision that would allow for the trip limit to be automatically increased should a prescribed amount of quota remain at a date certain.

- On October 10, increase the trip limit to 1,500 pounds for all gears should less than 15% of the quota remain or 2,500 pounds should more than 15% of the quota remain.

Anticipated Rule Making Timeline

I anticipate these regulatory adjustments will go out to public hearing in February 2022. I will then provide the MFAC a final recommendation at their March business meeting. Those measures that are then approved will then be promulgated for implementation in late-April or early-May 2022.

Management Background

The commercial summer flounder management program was developed in the early-1990s. The system was designed to preserve and support the state's inshore summertime small boat fishery while allocating quota to the winter fishery prosecuted by larger vessels. In addition, the so-called "fluke endorsement" was made limited entry in 1999 to preserve the viability of the participating vessels given low and declining quotas.

The annual quota is currently allocated between the Period I fishery (January 1 – April 22) and the Period II fishery (April 23 – December 31). Period I receives up to 30% of the annual quota and Period II receives 70% of the annual quota plus any unused quota from Period I. Each period's allocation is then managed through a series of controls, such as trip limits and closed fishing days.

The primary harvest control for the Period I fishery is a regulatorily-set possession and landing limit; since 2019, this limit has been set at 1,000 pounds. The Period I trip limit is then reduced to 100 pounds when 25% of the overall quota is landed. This trigger prevents the Period I fishery from exceeding its allocation and reducing the quota available to the Period II fishery. This is preferred to a period quota closure, as a closure may result in enhanced regulatory discarding. There are no closed fishing days during Period I.

Over the past two years (2020 and 2021), DMF has run a Period I pilot program in conjunction with Rhode Island, Connecticut, and New York. The pilot program allows vessels permitted in multiple states to possess multiple states' landing limits when offloading in a participating state. This fishery occurs offshore in federal waters where there is no federal trip limit for summer flounder. Therefore, through this program, a vessel permitted in multiple states can fish in federal waters, retain a landing limit for each state they are permitted in, come into a state's port in possession of non-conforming quantities of fish, offload the legal landing limit for that state, then steam to the next state to do the same. It is my view this program has enhanced regulatory flexibility and increased the profitability of eligible participants. In 2020, 26 vessels participated in the pilot program, and in 2021, there were 23 participating vessels. Nearly all of these vessels were dual Massachusetts and Rhode Island permit holders.

The Period II fishery is then sub-managed as three discrete seasonal fisheries. This springtime (April 23 – June 9) fishery provides a bycatch allowance for the small mesh trawl squid fishery; the summertime (June 10 – October 31) fishery is managed principally as a directed inshore

fishery; and the fall fishery (November 1 – December 31) primarily accommodates vessels fishing offshore in federal waters as summer flounder migrate offshore.

During the spring fishery season matches the inshore small mesh squid fishery season. The 100-pound limit primarily allows for a bycatch of summer flounder in the squid trawl fishery.¹ This trip limit matches the federal and interstate management plan's allowance for the retention of summer flounder in small mesh fisheries. Additionally, should other flounder species be caught and retained (e.g., winter flounder) state regulations governing the inshore squid fishery limit the aggregate possession of all flounder species (including summer flounder) to 100 pounds. As the squid fishery may occur seven days per week, there are no closed fishing days during this season. Commercial hook-and line fishing is prohibited.

The summertime fishery is managed to support the inshore directed fishery. This fishery is comprised of small boat trawlers and hook-and-line fishermen. During this season the fishery is closed on Fridays and Saturdays. Closed days were historically adopted to slow quota consumption; Fridays and Saturdays were selected in response to dealer concerns regarding the staffing and marketability concerns related to shipping fish over the weekend. In 2020, the trip limits during this period were increased from 300 to 400 pounds for net fishermen and 200 to 250 pounds for hook-and-line fishermen. While infrequent, these trip limits have been adjusted periodically since the 1990s to respond to fishery performance and quota utilization, but typically remain at lower levels (500 pounds or less) to preserve the small boat composition of the summertime fishery.

Since 2019, DMF has accommodated a pilot program for trawlers participating in the summertime fishery. This program allows trawlers to stay at sea over two consecutive days and possess and land two trip limits of summer flounder provided no more than one limit is taken in a single day and catch from the first day is stored in a sealed container. This pilot program was initiated in response to the eastward movement of summer flounder during the summertime from out of Vineyard Sound and Nantucket Sound to the cooler waters along Nantucket Shoals, which increased the distance trawlers needed to travel to from the fishing grounds to offload fish with buyers at mainland ports². The pilot program allowed the trawl fleet to reduce steaming time and associated overhead to more efficiently and safely target the available quota.

The fall fishery is managed similarly to the Period I fishery. This reflects the fact this fishery occurs primarily offshore following the species seasonal migration out of our inshore waters. The regulatorily-set trip limit is 1,000 pounds and there are no closed fishing days. DMF began to manage the fall fishery separately from the summertime directed fishery in 2020, in response to quota continuing to remain available in November and December. In prior years, the fishery would typically close by the late-summer, particularly when the quota was at or near all-time lows.

¹ The regulation also accommodates a 100-pound trip limit for longlines. This was done to accommodate a level of bycatch in historic longline fisheries, which no longer occur to the same extent in our nearshore waters.

² In the past some dealers have arranged for a transport vessel ("buy boat") to accept fish in Nantucket Harbor from multiple trawlers; the buy boat then transported the fish in discrete containers to mainland. Buy boat arrangements have not been made for many years likely related to the diminished number of participating trawlers.

DMF may make in-season adjustments to both the Period I and Period II limits to better utilize available quota. Such adjustments are made through the declaration process, which requires a two-week comment period and approval of the MFAC. If approved, the adjustments are implemented through a combination of a legal notice and permit conditions.

In 2020 and 2021, DMF increased the Period I trip limits through this process. For 2020, the trip limit was increased from 1,000 pounds to 2,000 pounds on February 23. Then in 2021, the trip limit was similarly increased to 2,000. However, this action was taken at the January 1 start of the period. DMF has recommended increasing the trip limit to 2,500 pounds effective January 1, 2022.

DMF similarly adjusted the Period II limits in recent years. For 2019, closed fishing days were eliminated on November 1. In 2020, three changes were made. First, on August 23, the trip limit was increased from 400 pounds to 600 pounds for net fishermen. Then on October 4, the trip limit was increased to 1,000 pounds for all gear types and closed fishing days were eliminated, effectively starting the fall season a month earlier. Lastly on November 1, the trip limit was increased from 1,000 pounds to 2,000 pounds. In 2021, two adjustments were made. On September 26, the trip limit was increased to 800 pounds for all gear types and closed fishing days were eliminated. Then on October 10, the trip limit was increased to 2,000 pounds for all gear types.

Lastly, both the Period I and Period II fisheries are subject to a landing window. This regulation requires summer flounder be landed only during the period of 6AM to 8PM. This is an enforcement mandate dating back to 1995. It was implemented to prevent fishermen and dealers from colluding to offload non-conforming quantities of summer flounder under the cover of night to prevent inspection and detection.

Quota Outlook and Utilization

DMF anticipates the 2022 summer flounder quota will be set at 1.39 million pounds (mlb), which is 37% higher than the 2021 quota of 1.02 mlb.³ The reason for this 2022 quota increase is two-fold. First, there is a 24% increase to the overall coastwide quota, from 12.49 mlb to 15.53 mlb.⁴ Second, Massachusetts' state quota share of the coastwide quota is again increasing in 2022 under the new allocation approach implemented in 2021.⁵ Massachusetts quota is expected to remain at this elevated level through at least 2023.

³ The 2021 commercial summer flounder quota was initially set at 1,015,179 pounds. Earlier this year, DMF accommodated a safe harbor request from a NC vessel which resulted in landings totaling 9,980 pounds. NC then transferred this quota to MA to cover the landings. The quota figures on DMF's website and quota monitoring reports include these safe harbor landings and quota transfer.

⁴ The most recent stock assessment (2021) 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.

⁵ 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.

It is noteworthy that the state's commercial quota has increased steadily over the past six years (2017–2022). During this six-year period, the quota has risen from an all-time low of 385,988 pounds in 2017 to its current level (an amount not seen since 2011). Additionally, 2022 is the second straight year with a substantial quota

Table 1. Quota, Landings, and Percent Utilized 2017 - 2022

Year	Quota (lb)*	Landings (lb)	Percent Utilized
2017	389,573	419,714	108%
2018	413,361	427,167	103%
2019	741,532	551,267	74%
2020	795,584	700,390	88%
2021	1,025,159	679,464**	66.3%
2022	1,391,379	TBD	TBD

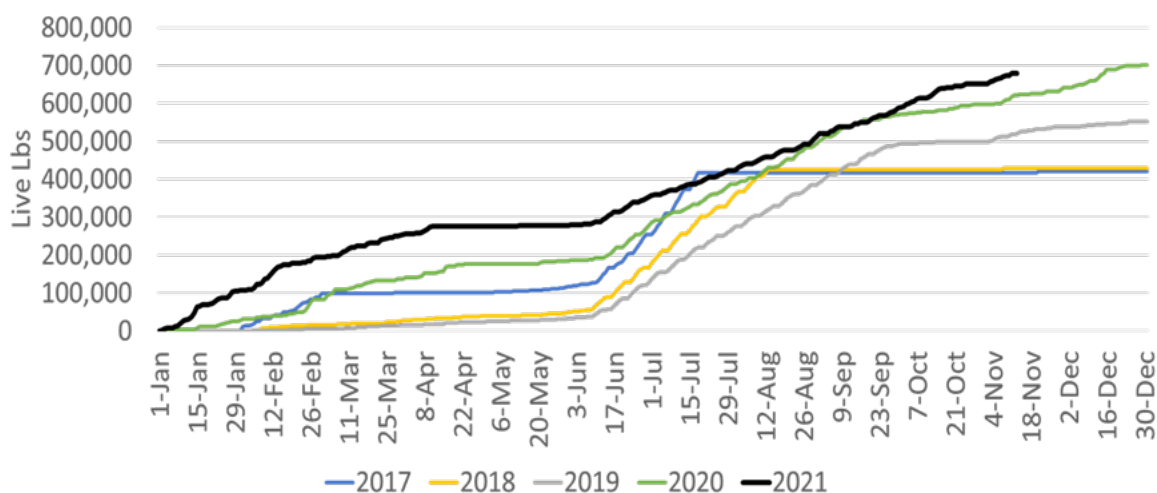
* Quota as adjusted by transfers; **Preliminary data as of November 17, 2021.

increase, as the state's quota increased by 29% from 2020 to 2021. While DMF made minor regulatory adjustments to the Period I fishing limits in 2019 and the Period II fishing limits in 2020, these adjustments were not commensurate with quota increases. Instead, given the uncertainties created by the pandemic, DMF preferred to use in-season adjustments to respond to quota utilization. Despite these changes, the quota was underutilized in 2019 and 2020 and DMF anticipates it will be similarly underutilized in 2021 (Table 1).

Period I Fishery Performance

Commercial landing trends over the past five years (Figure 1) demonstrate the Period I fishery is capable of landing summer flounder at elevated levels provided the landing limit is sufficient. In 2020 and 2021, trip limits in the Period I fishery were increased by declaration. In 2021, the trip limit was set at 2,000 pounds to start the period on January 1, and the fishery landed approximately 85% of its 304,554-pound quota allocation. Compare this to 2020, when the Period I fishery opened with a trip limit of 1,000 pounds before increasing to 2,000 pounds (by declaration) on February 23 and landed only about 78% of its 238,675-pound quota allocation⁶. Had these trip limits been set a higher-levels or implemented earlier in the season, it is likely the Period I fishery would have achieved its allocation.

Figure 1. Annual Landings of Summer Flounder for 2017 - 2021



Data Source: SAFISeDR, November 2021

⁶ A State of Emergency was declared on March 12, 2020 in response to the COVID-19 pandemic.

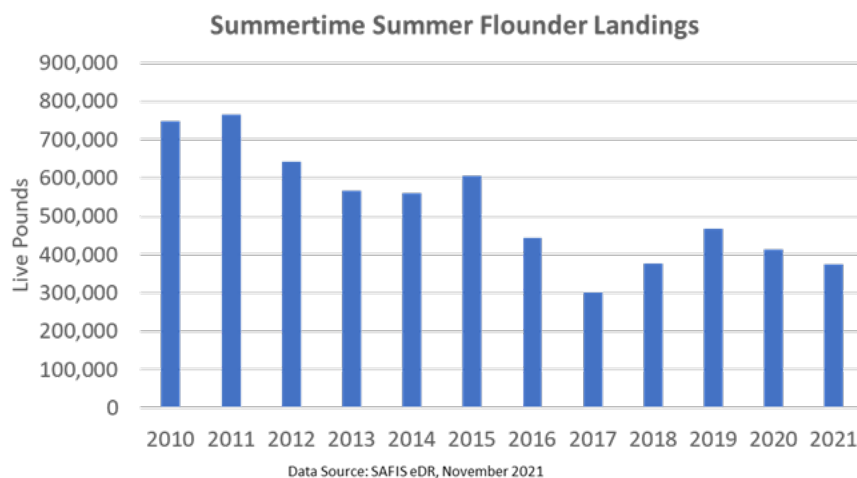
When considering these data, I think the offshore fishery should be able to land larger quantities of summer flounder quota provided the trip limit is set sufficiently high. Quota utilization during this period is also aided by the Period I pilot program, as it provides vessels with the flexibility to land fish in all states where permitted, rather than having to choose a single state to land fish in.

Period II Fishery Performance

Figure 1 shows that while landings occur during the spring squid fishery and the fall offshore fishery, a vast majority of the Period II landings occur during the summertime directed inshore fishery. Therefore, for the purpose of this narrative, my discussion of the Period II fishery will focus primarily on the summertime fishery.

Performance during the Period II fishery, specifically the summertime fishery, is in stark contrast to the Period I fishery. From 2010 to 2021, we have observed a near 50% decrease in landings during the summertime fishery (Figure 2). For instance, in 2011 when the quota was at 1.13 mlb—similar to the 2021 quota—landings from the summertime fishery were almost 750,000 pounds. Whereas this year, landings from the summertime fishery are under 375,000 pounds. Given this substantial decline in seasonal performance, DMF analyzed fisherman and dealer data to better understand performance trends in the summertime directed inshore fishery.

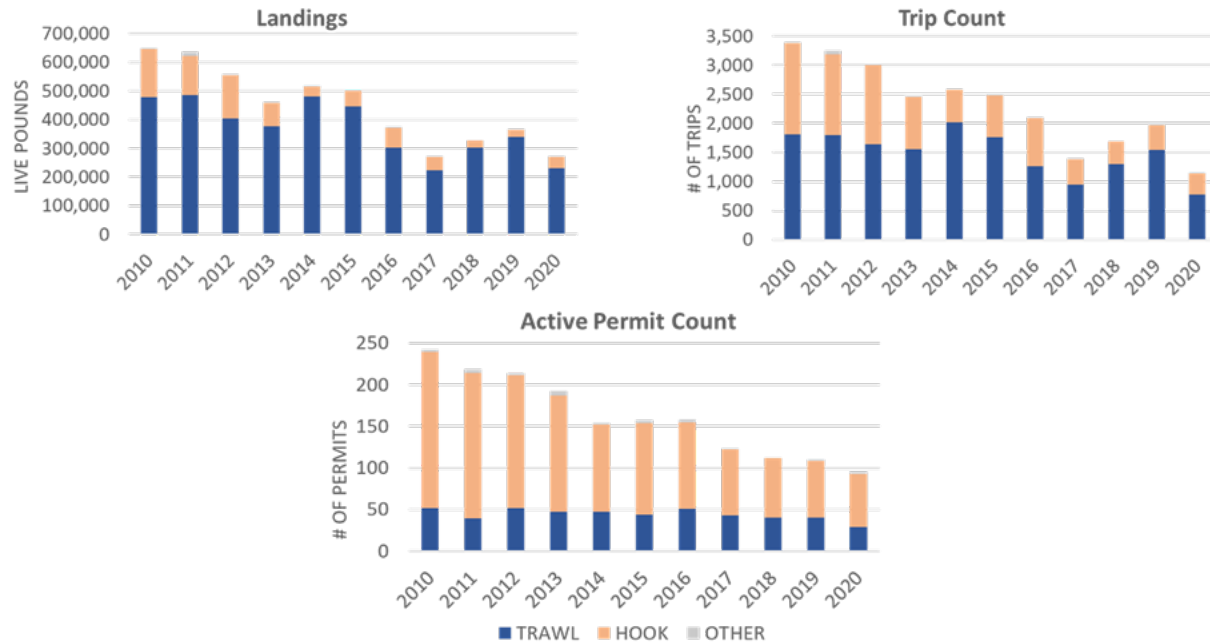
**Figure 2. Cumulative Annual Landings for the Summertime (June to October)
Summer Flounder Fishery 2010-2021)**



This analysis has informed us of several trends affecting the performance of this fishery. One of the major factors influencing this decline in landings is reduced effort. While this decline has occurred across both gear types (trawl and hook), it is most pronounced in the hook fishery. This trend is best observed in the data regarding landings, trips, and active permits by gear and Massachusetts Statistical Reporting Area (SRA) from 2010 to 2020⁷ (Figure 3 and 4).

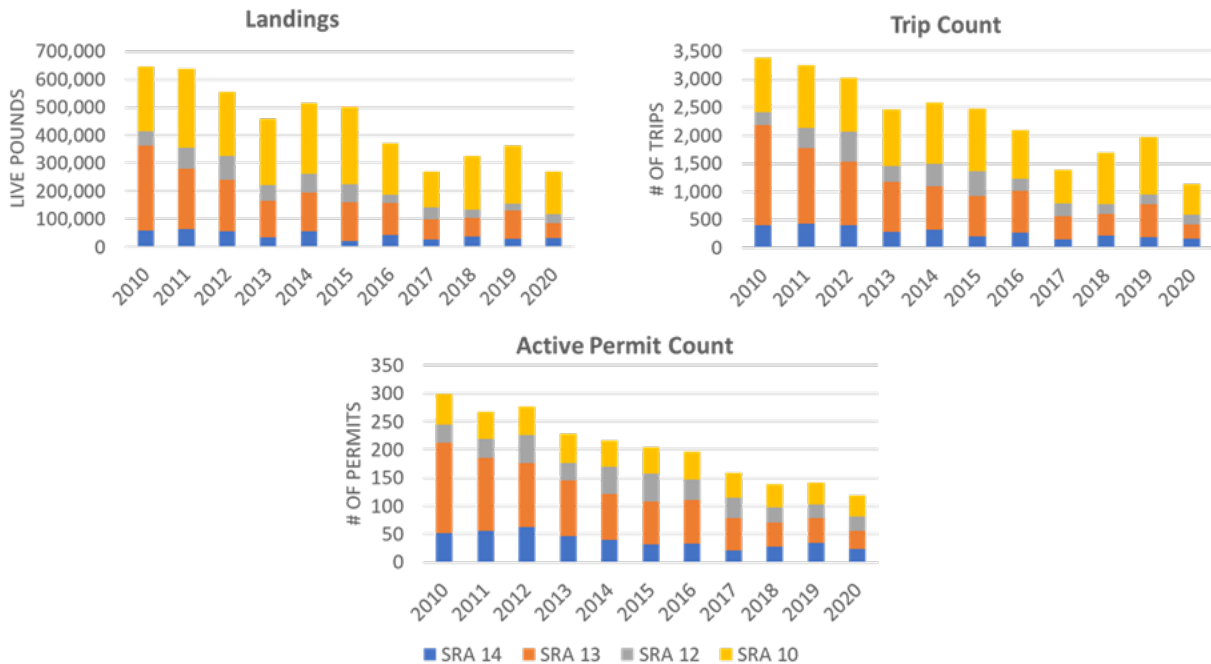
⁷ The time series for these data concludes in 2020. Gear type and area data are acquired from commercial fisherman trip level reports. Given the reporting schedule, these data have not yet available for 2021.

**Figure 3. Landings, Trips, and Active Permits for Summertime (June to October)
Summer Flounder Fishery (2010-2021)**



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

**Figure 4. Summertime (June to October) Directed Inshore Landings, Trips, and Active Permit Count
by SRA and Year (2010 – 2020)**



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

In Figure 3, you can observe how seasonal landings have decreased from about 650,000 pounds in 2010 to less than 300,000 pounds in 2020. While this decrease has occurred across both gear types, the decline in hook fishery landings is more substantial. In 2010, the hook fishery landed about 170,000 pounds of summer flounder, now it lands about 40,000 pounds. This trend is supported by decreasing effort observed through a reduction in the both number of trips taken and the number of active permits. In the trawl fishery, we are seeing the number of active permits fluctuate between around 50 permits from 2010 to 2016 before seeing a steady decreasing trend from 2017 to 2020 when there were about 30 active permits. Over this time series, we also see the number of trawl trips be reduced from about 2,000 (2014) to a nadir of about 775 in 2020. The trend in the hook fishery is even more pronounced. The number of active hook fishermen decreased from about 200 to about 65 over this time series, and consequentially, the number of hook trips decreased from about 1,600 to about 400.

The loss of the hook fishery is perhaps better observed through reviewing state waters landings and effort data by SRA. The trawl fishery has historically dominated landings and effort within SRA 10 (Nantucket Sound), whereas the hook fishery drove landings and effort in SRA 13 (Vineyard Sound) and SRA 14 (Buzzards Bay). Figure 4 demonstrates there are declining landings and effort within SRA10, but the most dramatic decrease in landings and effort has occurred in SRA13. In summary, the declining performance of the summertime inshore directed fishery is driven by a reduction in effort, particularly among hook fishery participants.

This analysis matches observations provided by the industry over the past several years. Fishermen have reported declining effort and participation. This is likely the result of several complicated socio-economic factors. The fleet is greying, with the average age for permit holders being about 60. In response to this, DMF made the “fluke endorsement” transferable⁸ for commercial anglers in 2021 (historically the endorsement was only transferable for trawlers or with a federal fluke endorsement). Overhead costs are also increasing overtime, this requires more capital be invested in dockage, fuel, maintenance, and labor. There have also been opportunistic shifts in commercial fishing effort, as fishermen are pursuing other profitable fisheries, particularly lobsters and sea scallops which are experiencing record highs in ex-vessel values⁹. Lastly, the loss of other seasonal inshore trawl fishing opportunities (e.g., groundfish) is likely affecting the overall profitability of certain trawl fishing business affecting both fishing effort and activity.

There are also environmental factors to consider. The summer flounder stock assessment shows a shift in the geographic distribution of this fishery towards the north and the east. Concurrent with this, there are anecdotal reports of the inshore commercial fishery shifting away from the warmer waters of Vineyard and Nantucket Sound and towards the cooler waters along Nantucket Shoals and into the federal zone. Shifts of the fishery towards the east increase steaming time and fuel costs for vessels fishing out of ports along Cape Cod and Buzzards Bay. Additionally, such geographic shifts make it more difficult for smaller vessels to consistently access the resource, particularly those open boats commonly used by anglers. This may be contributing to the

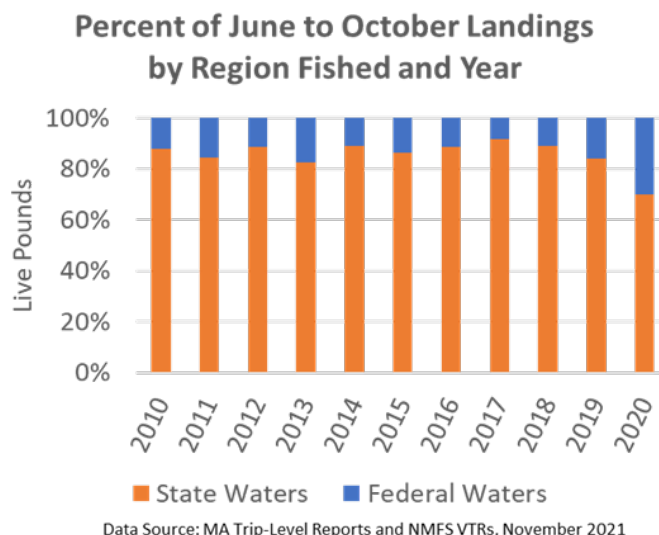
⁸ Commercial anglers may now transfer their fluke endorsements. This permit may be transferred individually if it was actively fished (at least one pound sold) in four out of the past five years. If the permit is not actively fished, it may be bundled with black sea bass or tautog endorsements, if one of those endorsements are actively fished.

⁹ SAFIS dealer data demonstrates the average ex-vessel value for lobster and shucked sea scallop meats in 2021 is \$7.48 per pound and \$15.25 respectively.

observed shifts in participation and effort seen in Figures 3 and 4, as well as the proportional shift in landings of catch taken from state and federal waters shown in Figure 5.

In recent years, industry has also reported a shift in size structure of the fish being caught in the Sounds and Buzzards Bay during the summertime fishery. Specifically, it is being reported that there are fewer large and jumbo market grades fish but more medium market grade fish. During past Commission discussions, some Commission members have similarly reported recreational fishermen are also catching fewer legal sized fish (17" or greater) in these areas as well.

Figure 5. Percent of Landings by State and Federal Region and Year (2010 – 2020)



Interestingly, these observations are supported by our trawl survey data¹⁰. Figure 6 shows that both our spring and fall trawl surveys are observing an increased abundance of summer flounder in state waters and abundance is at a time-series high. However, Figure 7 demonstrates this increase in abundance is driven by smaller fish, including those medium market grade fish our commercial fleet would be catching. The abundance of large and jumbo grade fish observed in our spring and fall trawl surveys has been sharply declining since the time-series peak in the mid-2000s and we are now observing abundances that are below the time series mean for these market grades.

However, this trend is not apparent in our commercial landings data (Figure 8). The proportion of catch by market category has remained relatively stable since 2015. The geographic shift of the fishery towards federal waters may help explain why landings data do not similarly demonstrate a shift towards medium grade fish.

¹⁰ The data from the spring trawl survey may be particularly informative for this particular discussion regarding the catch composition by market grade observed by our inshore summertime directed fishery. The spring survey occurs in mid-to-late May. Therefore, these data are likely representative of what would be available to and observed by our commercial fishery when it opens in early-June. The fall trawl survey data, while showing similar trends to our spring trawl survey, may generally be less informative. The fall trawl survey occurs in mid-to-late September. By this time summer flounder have typically begun their migration offshore and the commercial fishing activity likely moves along with it. As a result, there may be a disconnect between what is being observed in the fall trawl survey and what is being observed in the commercial fishery.

Figure 6. MADMF Trawl Survey Abundance Data for Summer Flounder

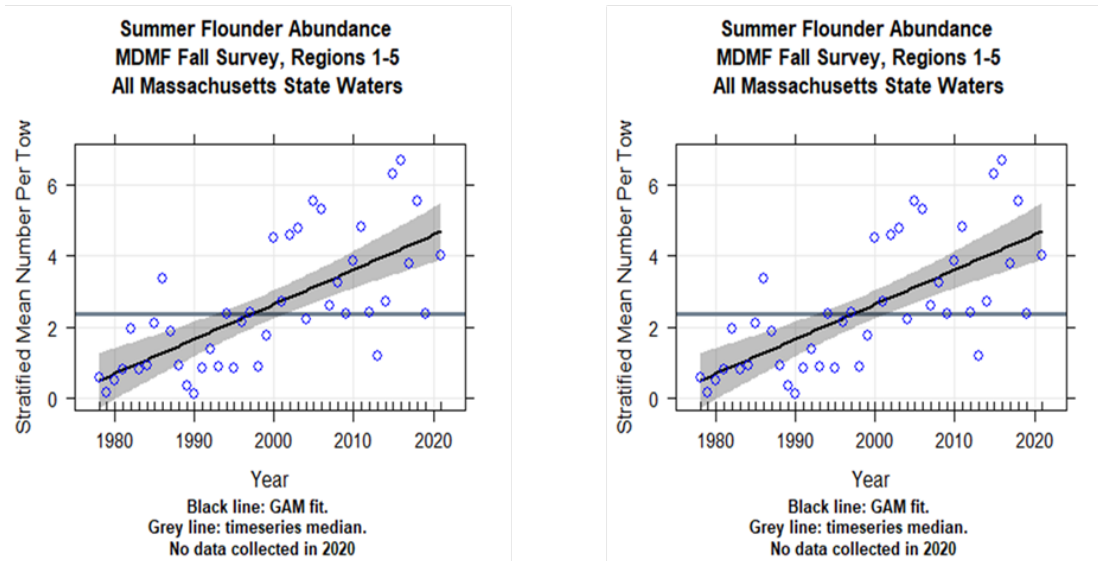


Figure 7. MADMF Spring and Fall Trawl Survey Abundance by Market Grade for Summer Flounder

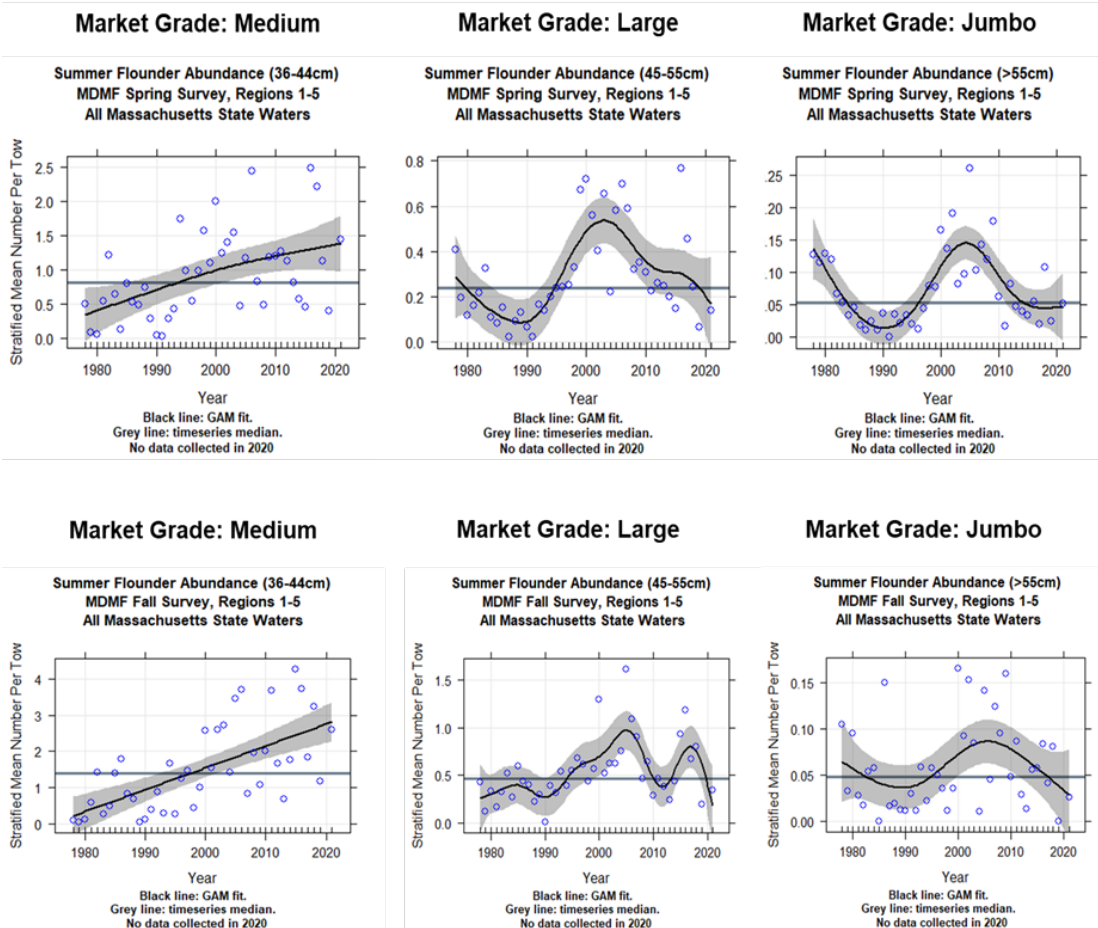
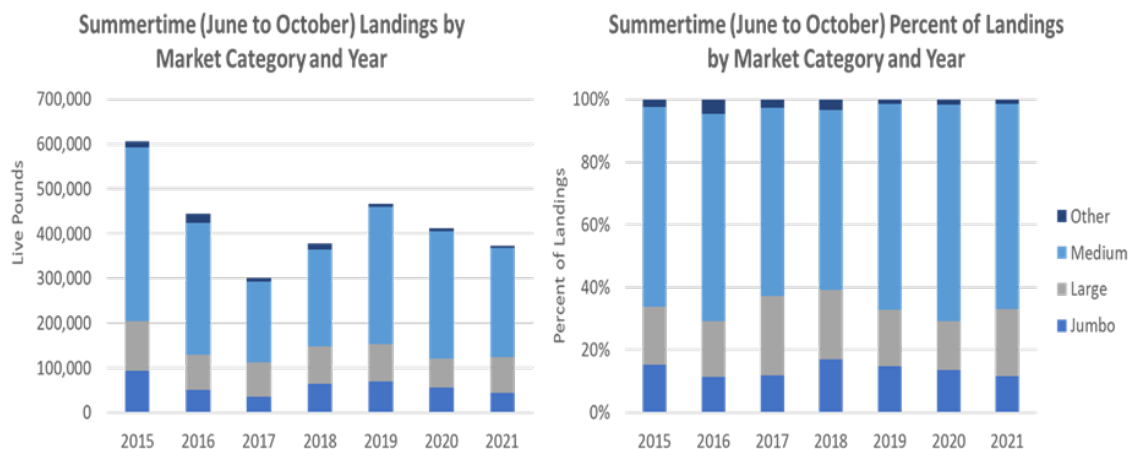


Figure 8. June to October Summer Flounder Landings and Percent of Landings by Market Category and Year



Industry Input

On November 17, 2021, DMF held a virtual industry meeting to discuss summer flounder fishery performance, quota utilization, and management; a recording of this meeting is available via [YouTube](#). DMF presented much of the information provided in the above analysis and then took comments from industry members on their observations regarding the fishery and opinions on how they would like to see the management system adjusted. The meeting was principally attended by participants in the summertime directed inshore fishery; no comments were received from fishermen who participate in the Period I fishery; and a representative of one of the larger seafood dealers and primary buyers of summer flounder was also in attendance.

The dealer in attendance supported shifting quota to the Period I fishery. Fishermen generally did not object to such an action, provided it did not alter the fishery to favor larger, offshore vessels at the expense of the inshore fishery.

Participants in the summertime directed inshore fishery favored several actions to enhance their access to the available quota. The two actions with the broadest support were starting the directed fishing season earlier than June 10 and eliminating the Friday and Saturday closed fishing days during it. There was also some support for providing some flexibility to accommodate the landing of trip limit overages to reduce regulatory discarding. While there was some interest in this, there remains a prevailing concern among summertime directed inshore fishery participants that increasing trip limits too high will shift the fishery towards a larger, offshore vessels at the expense of the small boat inshore fishery. There was also some discussion about reducing the mesh size for the state waters mixed trawl fishery south and west of Cape Cod from 6.5" to 5.5" diamond or 6" square, as allowed in Rhode Island state waters.

Rationale for Period I Proposals

With an anticipated 1.39 mlb pound quota, an increase from 30% to 50% of the quota would still provide the Period II fishery (including the summertime fishery), with an allocation of about 700,000 pounds (plus any potential underage from Period I) at the level of quota expected for

2022 and 2023. This is just less than double what the Period II fishery has been landing in recent years. Accordingly, there is still ample quota available to adjust the Period II fishing limits to provide these fishery participants with access to the available quota and the proposed shift in quota allocation towards the Period I fishery should not negatively impact the Period II fishery. Moreover, should the overall quota be reduced after 2023 to more modest levels (e.g., below 1 million pounds), it may be appropriate to reset this seasonal quota allocation back towards the historic 30/70 split.

During Period I, the trip limit is the principal tool to control landings and quota consumption. To address a shift in quota allocation towards the Period I fishery, an increase to the Period I trip limit needs to be considered. The regulatorily set trip limit is currently 1,000 pounds. In 2020 and 2021, it was increased to 2,000 pounds via an in-season adjustment, and the Period I fishery nearly achieved its 30% quota allocation in both years. With another increase in the quota and a proposed increase in the seasonal allocation, a trip limit of at least 2,500 pounds should be considered. This is consistent with what is being proposed as an in-season adjustment for 2022¹¹. Accordingly, the performance of the 2022 fishery will help inform my final recommendation (that I will set forth at an early spring business meeting) on the appropriate trip limit for this period moving forward.

Depending on the final quota allocation split, I am also proposing to maintain a trigger whereby the Period I trip limit is reduced to 100 pounds when a certain proportion of the period's allocation is taken. Historically, this trigger was set at 25% of the overall quota with the Period I fishery being allocated 30% of the overall quota. Since this trigger was implemented, federal reporting protocol has been enhanced and now federal dealers are required to report their summer flounder landings on a nightly basis. This more-timely reporting allows for DMF staff to better monitor Period I landings in real-time. Considering this improved reporting, as well as the magnitude of the state's quota, we likely do not need a 5% buffer and could consider a buffer of 2 or 3%.

Lastly, DMF has run the Period I summer flounder pilot program for the past two years and I intend to renew it for 2022. This program is strongly supported by industry, as it provides them with the regulatory flexibility to profitably target summer flounder offshore during the winter. In doing so, the Period I fishery can better achieve its quota allocation. Additionally, the program has not produced notable non-compliance incidents. For these reasons, I intend to implement this pilot program in regulation.

Rationale for Period II Proposals

Historically, most inshore trawlers would target squid with small mesh during the spring run and then switch over to large mesh to target summer flounder in mid-to-late June. This resulted in a seasonal management structure whereby a summer flounder bycatch (100 pounds) was allowed during the spring small mesh squid trawl fishery and then the directed fishery opened on June 10. At the November 17 industry meeting, fishermen and dealers supported starting the directed

¹¹ Given the anticipated rule making timeline, the proposed regulatory amendments shifting the quota allocation and increasing the limit will not go into effect until 2023. Therefore, the 2022 Period I allocation will be set at 30%, which equates to approximately 417,000 pounds; this is about 113,000 pounds higher than it was in 2021. Accordingly, I am seeking to set the 2022 Period I trip limit at 2,500 pounds on January 1 via an in-season adjustment.

fishery earlier and having it overlap with the spring small mesh squid trawl fishery. This would provide industry with the flexibility to target summer flounder with large mesh nets or squid with small mesh nets when they arrive in our waters based on availability and economics.

I agree with industry's perspective on this and am proposing to open the directed fishery at the start of Period II on April 23. This would enhance the inshore fleet's access to available quota by allowing directed fishing with large mesh nets during the spring months. For rod and reel fishermen, it would also have the added benefit of providing them with springtime commercial fishing opportunities, which were reduced when the black sea bass quota was moved to the summer period in 2013 due to trip limit compliance and quota utilization issues.

Another option strongly supported by industry at the November 17 meeting was eliminating Friday and Saturday closed fishing days during the directed fishery. It was argued this would provide them with more time to target the summer flounder quota. Additionally, it would ameliorate the limiting impact weather and seas may have of the fleet, particularly if they are fishing further offshore to the east.

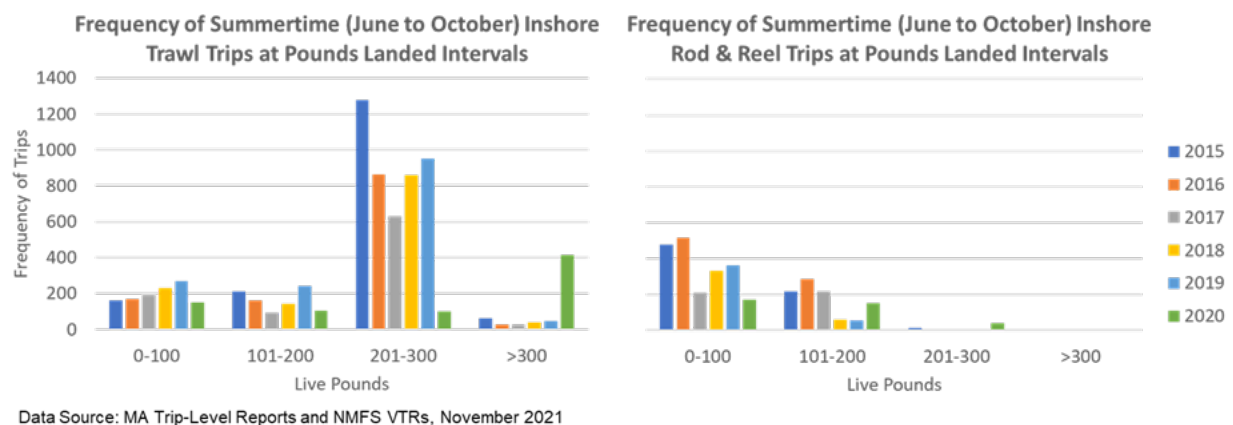
Historically, the closed fishing days exist to slow quota consumption. Fridays and Saturdays were selected as the closed days based on feedback from dealers who were concerned about staffing and the marketability of fish over weekend. The dealer who attended the industry meeting acknowledged his perspective on these closed fishing days has evolved. While he noted it was difficult to move fish into interstate commerce during the weekends, summer flounder hold up well and can be maintained in a fresh condition for several days.

There was some discussion about maintaining a five-day per week fishery but allowing fishermen to select which of the seven calendar days they would fish on. While this is an interesting idea, boutique rules like this (or weekly aggregate limits) are effectively unenforceable without real-time trip reporting and vessel monitoring requirements. This may be something we want to consider as part of a future pilot program to advance improved fisheries data collection, but it is not something I can address as part of this regulatory proposal. With this in consideration, I support going to public hearing to take comment on reducing or eliminating the closed fishing days (or establishing date certain quota triggers to take such actions). I think increasing the number of open fishing days per week will provide fishermen with greater access to the quota and allow them to fish more safely through the season.

The Friday and Saturday closures have the added benefit of reducing user group conflicts with the recreational fishery, which is most active during the weekends. Based on prior public comment on in-season adjustments, I anticipate there will be push back from the recreational fishery to eliminating closed fishing days. I recognize the contention and understand how it is exacerbated by the anecdotally reported lack of large legal sized fish (17" or greater) inshore. However, the magnitude of the summertime fishery has changed with participation and effort dramatically decreasing over the past decade. Adding up to two extra fishing days per week is going to result in less overall effort than would occur if participation was comparable to what it was 10-years ago when the number of active permits fished was about 150% higher (Figure 3 and Figure 4).

A trip limit increase for the trawl fishery is also justifiable based on a review of landings data. Figure 10 demonstrates that from 2015 – 2019 a large majority of trawl trips landed up to the 300-pound trip limit; then in 2020, when the trip limit was increased to 400 pounds, a majority of trawler trips landed up to the 400-pound trip limit. Despite whatever factors may be affecting the summertime directed trawl fishery more broadly, active trawlers are still capable of catching their lawful limits of summer flounder. Therefore, I am proposing to increase the trawl fishery trip limit to either 500.¹² Additionally, I would like to take comment on establishing a regulatory provision allowing the trip limit to be automatically increased at a date certain should a prescribed amount of the annual quota remain available¹³. For example, if at least 25% of the quota remains available on August 31, the trip limit will be automatically increased to 600 pounds for all gear types on September 1.

Figure 10. Frequency of Trips by Gear Binned by Pounds for June to October Fishery (2015 – 2020)



This trip limit increase is also supported generally by comments received at the industry meeting. Certain fishermen requested additional flexibility to accommodate the landing of trip limit overages to reduce regulatory discards and sought a more a more boutique approach that allows for some threshold of overages to be tolerated or for a weekly landing limit. I support initiatives to increase retention and reduce regulatory discarding. However, like selecting your open fishing days during any week, these boutique solutions are not viable or enforceable at this time. While I recognize there is a hesitancy among small inshore vessel operators to increase the trip limit too high due to concerns it may result in shifting the composition of the summertime fishery towards larger offshore vessels, a trip limit adjustment is my preferred means of addressing this issue. I am also doubtful that a nominal increase in the trip limit will alter the composition of the summertime fishery towards the offshore fishery.

¹² The federal and interstate fishery management plan for summer flounder limits the retention and landing of summer flounder caught in small mesh gear to 100 pounds. Accordingly, during any segment of the spring season that overlaps with the inshore squid fishery, I intend to retain the 100-pound summer flounder trip limit for vessels in possession of squid. Moreover, the state's squid fishery regulations also limit the retention of all flounder species—including summer flounder—to 100 pounds of all species in aggregate when fishing with small mesh.

¹³ Similarly, should my proposal to eliminate closed fishing days at the start of the directed fishery not be approved, I would seek a similar date certain provision to add open commercial fishing days based on available quota.

On the rod and reel side, Figure 10 shows that most trips are not achieving the current 250 trip. Accordingly, there is not a burgeoning need to increase the trip limit for this gear. However, given the magnitude of the available quota, I would not want to restrict highliners from taking fish at a higher level. For this reason, I would support increasing the trip limit for the rod and reel fishery from 250 pounds up to 300 pounds. This proposed 50-pound increase for hook gear is about proportionate to the 100-pound increase being proposed for trawlers. Historically, when these gear specific trip limits have been adjusted it has been done proportionally.

With regards to the fall fishery, in 2021, the MFAC approved an in-season adjustment to eliminate closed commercial fishing days (Fridays and Saturdays) and establish a 2,000 pound trip limit beginning on October 10. This effectively started the offshore wintertime fishery following the end of the recreational summer flounder fishery on October 9. I think this is an appropriate approach moving forward should a sizeable quantity of quota remain. This action timely responds to the shift of this fishery from the inshore region to the offshore region, the seasonal deterioration of weather conditions, and resulting fishery economics.

Considering the above, I am proposing to move the start date of the fall fishery from November 1 to October 10. Then, if more than 15% of the quota remains, a 2,500-pound trip limit will be enacted (matching the proposed Period I trip limit), but if less than 15% of the quota remains, a 1,000-pound trip limit will be enacted. At a 1.4 mlb quota, the 15% threshold equates to 210,000 pounds. At a 1,000-pound trip limit this would accommodate about 210 trips, whereas a 2,500-pound trip limit would accommodate 84 trips. This would provide reasonable access to offshore fleet during fall period, likely allowing them to fish into November or December.



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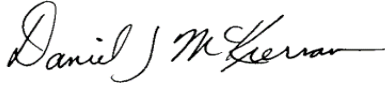
KATHLEEN A. THEOHARIDES
Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director 

DATE: November 26, 2021

SUBJECT: **Proposed Amendments to Commercial Black Sea Bass Regulations**

Proposal

DMF intends to go to public hearing this winter with a proposal to adjust the regulations for the directed summertime commercial black sea bass fishery as follows:

- 1) Move the season start date from July 8 to July 1;
- 2) Increase the daily possession and landing limits by 25%, from 400 pounds to 500 pounds for pot gear and from 200 pounds to 250 pounds for other gear (principally hook & line);
- 3) Add Monday and Wednesday to the open fishing days, making it a 5 day/week fishery (Sunday–Thursday) through September 30, then add Friday and Saturday for a 7 day/week fishery beginning October 1;
- 4) Add a provision that if 10% or more of the quota remains on October 1, the possession and landing limit for pots will increase to 600 pounds and for other gears to 300 pounds; and
- 5) Should the MFAC approve proposed adjustments to the summer flounder fishing season and open fishing days for trawlers, I propose to similarly adjust the black sea bass fishing days and seasons for trawlers to allow for the retention of black sea bass bycatch.

These proposals respond to an increase in Massachusetts' share of the coastwide commercial black sea bass quota. Based on past fishery performance, such liberalizations are necessary to utilize MA's duly allocated quota while alleviating the need for in-season adjustments.

Background

DMF helped successfully argue for the adoption of a new state-by-state commercial quota allocation approach for black sea bass that takes into consideration the species' shifting spatial distribution. With the implementation of this approach in the interstate plan in 2022, Massachusetts will see its share of the coastwide quota increase from 13% to 15.4% for 2022–

2023.¹ Taken together with a 6% increase in the coastwide quota for 2022 (from 6.09 million pounds to 6.47 million pounds), Massachusetts' quota is expected to increase 26%, from 791,700 pounds in 2021 to 998,901 pounds in 2022.

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. Given the expectation for continued high abundance of black sea bass particularly in the northeast in at least the near-term and my preference to limit the use of the declaration process to make in-season adjustments whenever possible, I am proposing the above suite of liberalizations as regulatory adjustments. It is important that we respond appropriately to this quota increase in support of the Commonwealth's commercial fisheries. It is expected that allocation approaches will be reviewed with more frequency moving ahead, and state quota utilization will undoubtedly be a factor in such discussions.

Figure 1 below demonstrates the Massachusetts fishery's performance with the quota since 2016. The year 2016 marks the last year catch limits were set based on data-poor precautionary approaches due to uncertainty with respect to stock status brought on by the protogynous life history and structure-orienting behavior of black sea bass making them a difficult species to assess with traditional analytical stock assessment models. The 2016 benchmark stock assessment was successful at evaluating, addressing, and incorporating many of the concerns and greatest sources of uncertainty that had plagued prior stock assessments, and provided a new model approach from which biological reference points and catch limits could be developed. This provided for a 52% increase in the coastwide quota in 2017, which was followed by another 59% increase in 2020 due in large part to the incorporation of revised recreational catch data from MRIP in the 2019 operational stock assessment.

These large-scale quota increases provided roughly 180,000 and 270,000 pounds of additional quota to Massachusetts, respectively. A combination of regulatory changes and in-season adjustments has been needed for the fishery to keep pace (Table 1). In 2017, the season opening date was moved up several weeks by regulation, although an in-season adjustment to increase the trip limits by about 30% was still needed to achieve the quota. In 2018 and 2019, similar trip limit increases were not required as the fleet hit the quota by early September, likely due to a combination of factors including the 15% reduction in quota² amidst enhanced availability of the large 2015 year class to the fishery, and better spacing of the open fishing days (a 2018 rule-change). For 2020's quota increase, the ~30% in-season trip limit adjustments from 2017 were instituted by regulation for the season's start (Table 1). However, for both 2020 and 2021, additional trip limit and open fishing day liberalizations were needed mid-season and implemented by declaration. This included liberalizing the trip limits by 25% and going to a 5 day/week fishery at the end of August and opening all days to harvest for the start of October.

¹ 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.

² 2019's quota in Figure 1 reflects a 75,000-lb post-season transfer to cover a quota overage.

Despite these adjustments, the 2020 and 2021 fisheries went into November, and in 2021, about 8% of the quota will be forgone due to the departure of fish prior to the quota being filled.

Assuming similar fishing conditions and effort levels in 2022, adopting only the same in-season adjustments as in 2020–2021 would leave nearly 30% of the 2022 quota uncaught. 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 being implemented. Adjustments so late in the season can only enhance landings so much as poor weather days become more frequent and the fish disperse and head to deeper water. Accordingly, I am proposing that the 5 day/week fishery and 25% increase in trip limits commence at the start of the directed summertime fishery season in July rather than at the end of August. My proposal also includes two automatic liberalizations for the start of October (after the conclusion of the recreational season), which tends to be the last month for dependable inshore availability but also more unfishable days. This includes adopting the last two-years' in-season adjustment for a 7 day/week fishery on October 1 as a rule, and an additional possession limit increase provided a certain amount of quota remains (e.g., 10%) on October 1. We have recently instituted a similar quota-dependent “trigger” approach for fluke in the latter months of the year that reduces dependency on use of the declaration process for in-season adjustments.

In addition, I am proposing that the directed summertime fishery open one week earlier, at the start of July rather than July 8. This will provide the opportunity for locally-caught black sea bass to be part of the 4th of July holiday market. I will not consider an opening date prior to July 1 due to the same reasons that caused DMF to eliminate the spring season in 2013, namely protection of spawning fish during their May/June spawning season and unmanageable catch rates and non-compliance with limits related to these dense aggregations. Table 2 provides the running tally of landings from 2017–2021; the trajectories suggest that a one-week earlier opening may have achieved the 2021 quota but would not augment the landings sufficiently to achieve the 2022 quota without the additional measures described above.

Lastly, I have set forth an extensive proposal to amend the commercial summer flounder limits to better utilize the quota. These proposed summer flounder adjustments will go out to public hearing at the same time as these proposed black sea bass adjustments. Should the MFAC approve changes to the spring and summertime summer flounder seasons and open fishing days for trawlers, I would recommend the spring and summertime trawl fishery limits for black sea bass be similarly adjusted. This will allow trawlers to retain black sea bass caught incidentally in their nets when participating in the mixed-species trawl fishery south and west of Cape Cod.

These proposals address the directed summertime fishery only, which is largely pot and hook and line gear (Table 2). Several revisions were made to the trawl limits in 2020 to avoid potential regulatory discarding in the spring squid fishery and summertime fluke fishery that appear to be working well. The weir fishery's aggregate catch cap was last increased to 24,000 pounds in 2020 and the landing data do not suggest a need to increase it further at this time.

Tables & Figures

Table 1. Modifications to fishing rules for directed summertime black sea bass season, 2017–2021

Year	Regulation Change	In-season Adjustment by Declaration
2017	Season start moved from first Tues in August to July 8	9/18: Possession limits increased from 300 lb to 400 lb for pots and from 150 lb to 200 lb for hook/other
2018	Replaced Wed with Thurs for Sun/Tues/Thurs open days	n/a
2019	n/a	n/a
2020	Possession limits increased from 300 lb to 400 lb for pots and from 150 lb to 200 lb for hook/other	8/30: Possession limits increased from 400 lb to 500 lb for pots and from 200 lb to 250 lb for hook/other 8/31: Monday & Wednesday added as open fishing days (for Sun–Thurs fishery) 10/2: Friday & Saturday added as open fishing days (for Sun–Sat fishery)
2021	n/a	8/30: Possession limits increased from 400 lb to 500 lb for pots and from 200 lb to 250 lb for hook/other 8/30: Monday & Wednesday added as open fishing days (for Sun–Thurs fishery) 10/1: Friday & Saturday added as open fishing days (for Sun–Sat fishery)

Table 2. Massachusetts Commercial Black Sea Bass Regulations and Proposed Revisions

Fishery	Season & Open Days	Possession Limit	Min. Size
Winter Allowance (All Gears)	Jan 1–Mar 31: Sun–Sat	100 lb	12"
Weirs	Apr 1–Dec 31: Sun–Sat	No daily limit; 24,000-lb aggregate cap	12"
Spring Trawl Fishery	Apr 23–Jun 9*: Sun–Sat	100 lb daily; 50,000-lb aggregate cap	12"
Summertime Trawl Fishery	Jun 10–Fluke Quota*: Sun–Thurs*	100 lb	12"
Directed Summertime Fishery	Jul 8–Quota: Sun/Tue/Thu Jul 1–Sep 30: Sun–Thurs Oct 1–Quota: Sun–Sat	400 lb for pots, 200 lb for hook/other 500 lb for pots, 250 lb for hook/other. If ≥10% Quota Remains on Oct 1: 600 lb for pots, 300 lb for hook/other	12"
* These seasons and open fishing days may be subject to change pending potential changes to the commercial seasons and open fishing days for summer flounder.			

Figure 1. MA Commercial Black Sea Black Quota Utilization

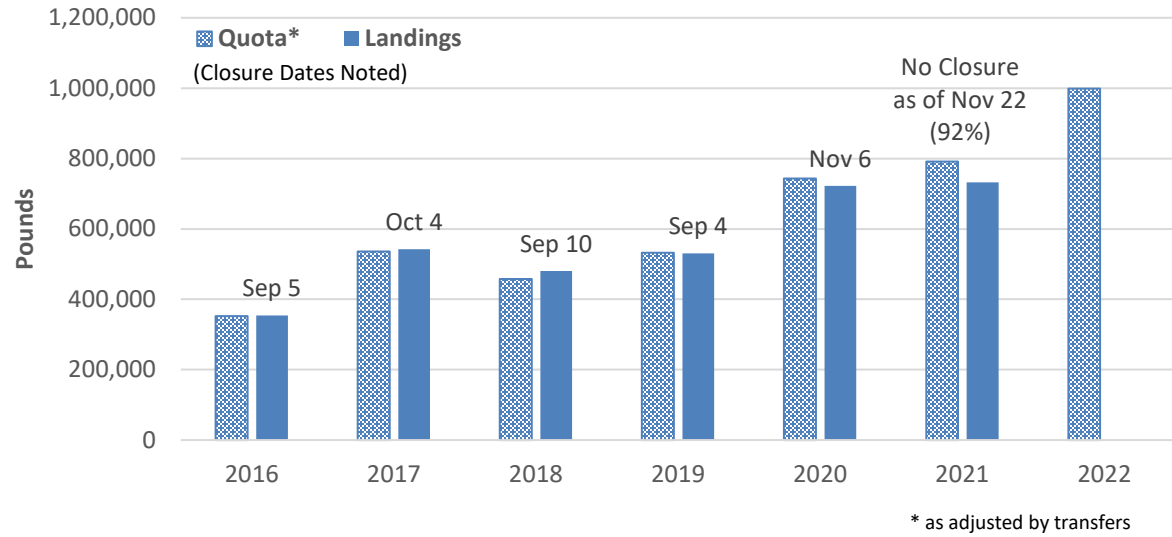
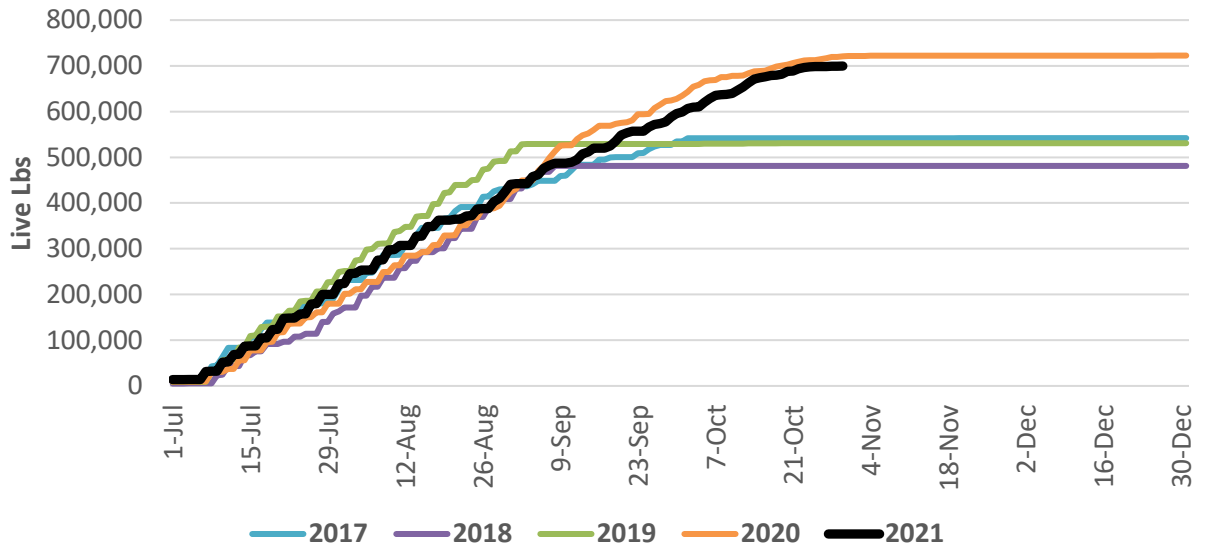


Figure 2. Annual Running Totals of Landings, Black Sea Bass





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DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission

FROM: Daniel McKiernan, Director 

DATE: December 1, 2021

SUBJECT: **Proposal to Adopt a Commercial Menhaden Season for 2022**

Proposal

DMF intends to go to public hearing this winter with a proposal to adopt a June 1 season start date for the commercial menhaden fishery. Weirs would be exempt from this rule. This proposal responds to industry interest to align the timing of menhaden landings with that of peak bait demand.

Background

The state's commercial menhaden fishery has been regulated through a combination of permitting, quota management, and trip limits since 2013 (in response to the interstate management plan). The current regulations are shown in Table 1. Landings are predominantly by purse seine (typically 95% or more), with minor amounts of gillnet, weir, cast net, and occasional mid-water trawl landings.

There is no regulated season start date, meaning the onset of landings is driven by the seasonal availability of menhaden in conjunction with fishery participant interest. However, the latter is likely influenced by the longstanding June 1 start date for purse seine fishing to occur in the Inshore Net Areas. The past two years (2020–2021) have seen the purse seine fishery seaward of the Inshore Net Areas commence in earnest much earlier than in prior years. Whereas purse seine landings have typically begun in early to mid-July, significant landings began in early June in 2020 and in 2021 this moved up to early May (Figure 1). The increased price/pound for menhaden has undoubtedly been among the driving factors and is expected to continue for some time amidst other bait fish shortages.

This trend caused several menhaden harvesters and bait dealers (sellers of menhaden to the commercial lobster industry specifically) to contact DMF with an interest to limit these early season landings, such that the fishery occurs in tandem with the greatest regional bait demand in later summer into early fall. The state regulations were modified recently to encourage full utilization of the quota and access to the episodic event set aside (via modification to the trip

limit triggers), but this brings with it more potential for an earlier seasonal closure, when bait demand is still high. Although interstate quota transfers have been used to avoid this, these industry members favored preserving more or all of the quota being taken in May this past year for later in the season. The State of Maine has similarly found itself with a need to balance access and season length and implemented a June 14 season opening date for this past year.

The simplest approach would be to adopt a season start date for the menhaden fishery, hence I'm proposing June 1 to align with the inshore net area restriction on purse seining, although I would consider other (later) dates as well. My proposal does include an exemption from this season for the weir fishery, which is prosecuted by only a handful of harvesters (generally 1-3 per year). This multi-species gear tends to be set in April and catch of menhaden is dependent on seasonal migration timing. An exemption is warranted given the small contribution of weir landings to total landings and interest to avoid unnecessary discarding. Consideration could also be given to allowing small-scale landings (i.e., under the 6,000-lb limit) to occur prior to June 1; these would still be quota managed landings.

It is notable that several key components of the interstate plan's commercial management measures are under consideration for change, including the state-by-state quota allocations, episodic event set aside allocation, and the incidental catch/small-scale fishery provision, with a likely implementation date of 2023. Consequently, it's possible that a more exhaustive review of our state menhaden regulations may be needed within the next year; however, I believe that it is a reasonable request to consider a season start date to preserve the more typical seasonality of the state's menhaden fishery for the 2022 season.

Anticipated Rule Making Timeline

I anticipate this regulatory adjustment will go out to public hearing in February 2022. I will then provide the MFAC a final recommendation at their March business meeting. Approved measures would then be promulgated for implementation in late-April or early-May 2022.

Table 1. 2021 Commercial Menhaden Regulations Summary

Fishery	Season	Access Level	Possession Limit
Quota Managed	January 1 – State Quota Closure	Limited Access ¹	<85% Quota Use: 125,000 lb ≥85% Quota Use: 25,000 lb
		Open Access ²	6,000 lb
Incidental Catch/Small-Scale	After State Quota Utilized (and not in EESA)	Limited Access ^{1,2} & Open Access ²	6,000 lb
Episodic Event Set Aside (EESA)	Upon Permission from ASMFC after State Quota Utilized (must be prior to September 1)	Limited Access ¹	120,000 lb
		Open Access ^{1,2}	6,000 lb

¹ Daily reporting requirement

² Purse seine size restricted to 450' long by 48' deep. All menhaden must be brought aboard the vessel, and upon retention, be immediately stored in level filled barrels or fish totes. Volumetric equivalencies for level filled barrels and fish totes apply for determining compliance with the possession limit.

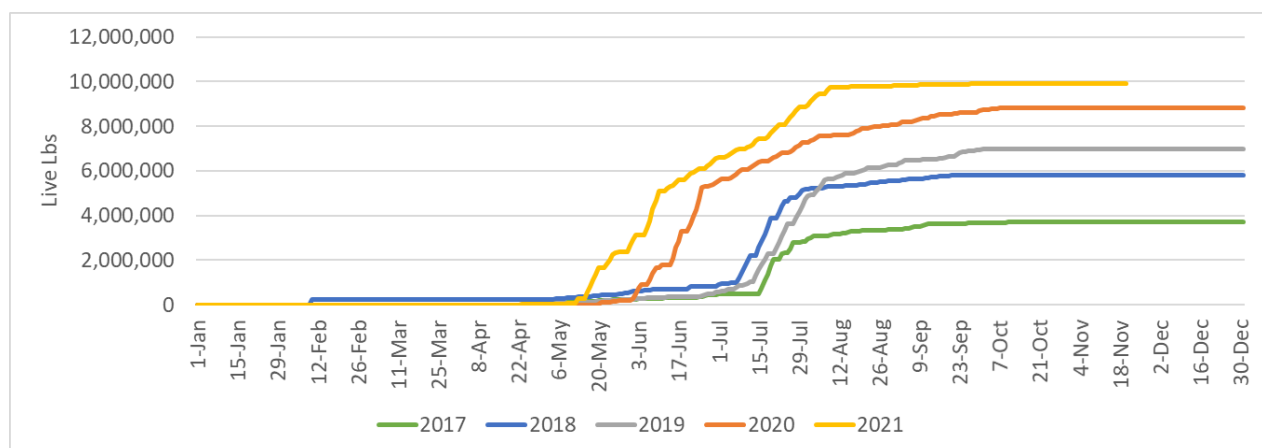


Figure 1. Running total of Massachusetts commercial menhaden landings, 2017–2021
(Data source: SAFIS eDR, November 2021)

Action Items

1. 2022 Winter I Scup Trip Limit
2. 2022 Period I Summer Flounder Trip Limit

Timeline:

- Approval today by MFAC for implementation by Declaration for Jan 1, 2022

Items for Future Public Hearing

1. Adjustments to Commercial Summer Flounder Limits for 2022
2. Adjustments to Commercial Black Sea Bass Limits for 2022
3. Establishing a Commercial Menhaden Season for 2022

Timeline:

- Discussion today by MFAC
- Public hearings in Feb 2022
- Final recommendation to MFAC in Mar 2022
- Approved measures to be implemented by Apr/May 2022



2022 Winter I Scup Trip Limit

Recommendation:

- Establish the 2022 Winter I (January 1 – April 30) trip limit at 50,000 pounds by Director's Declaration.

Rationale:

- Limit is consistent with retention and possession limit established by NOAA Fisheries for 2022.
- Allows vessels fishing in federal waters to land scup in MA ports.

Background

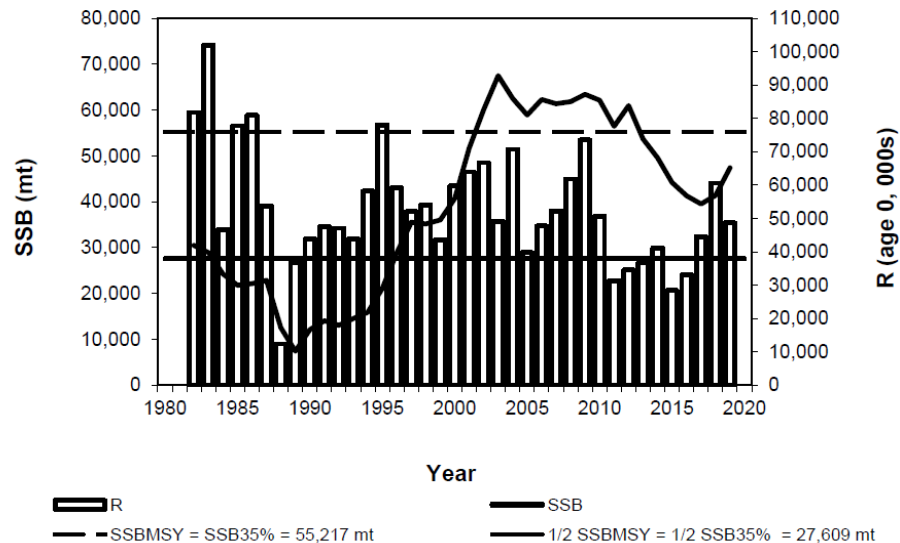
- NOAA has set Winter I trip limit at 50,000 lbs since 2012
- 2012 – 2022 quota ranged from 18 to 28 mlbs; Winter I allocation (45.11%) ranged from 8.1 mlbs to 12.6 mlbs
- 2022 quota to be set at ~20.4 mlbs; Winter I will be allocated ~9.19 lbs.
- Annual quota, including Winter I allocation is largely underutilized.
- Unused Winter I quota is rolled over to Winter II.



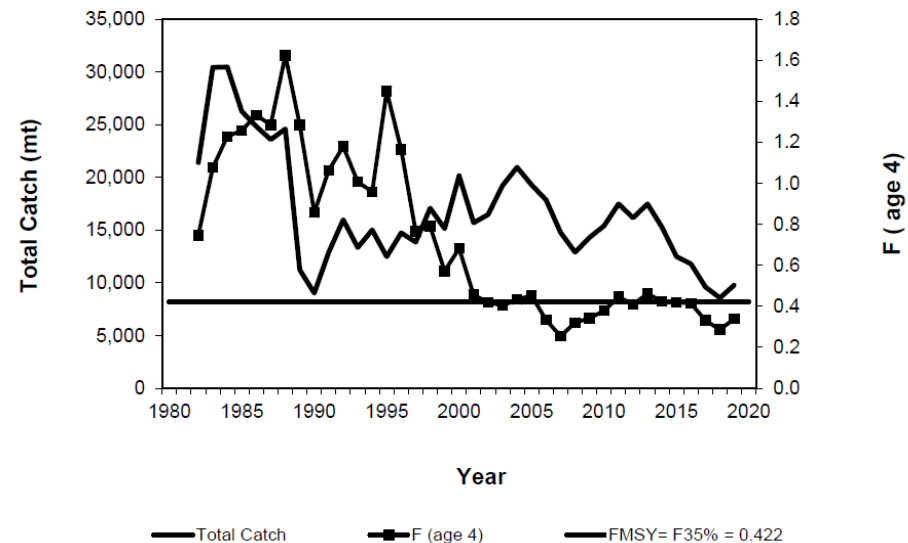
Summer Flounder Stock Status

- Source: 2021 Management Track Assessment (data through 2019)
- Not overfished. $SSB_{2019} = 47,397$ MT, or 86% of biomass target. Note recent upward trend.
- Recruitment: below average 2011-2017 caused recent decline in SSB (driver of pattern unknown); 2018 year class above average, 2019 below average but above 2011-2017.
- Not experiencing overfishing. $F_{2019} = 0.34$, 81% of threshold.
- Northward & eastward shift in spatial distribution over last four decades.

Spawning Stock Biomass (SSB) and Recruitment (R)



Total Catch and Fishing Mortality (F)



Summer Flounder Quota & Utilization

- MA commercial quota expected to be set at 1.39 million pounds for 2022.
- This is a 37% increase from the 1.02 million pound quota in 2021.
- 2022 quota increase due to 24% increase in the coastwide quota and an increased state quota share for MA under the new allocation approach implemented in 2021.
- 2nd consecutive year with substantial quota increase (2021 quota was +28% increase).
- Quota has steadily been increasing since all-time low in 2017.
- For the past three years (2019 – 2021), the quota is underutilized.

Year	Quota (lb)*	Landings (lb)	Percent Utilized
2017	389,573	419,714	108%
2018	413,361	427,167	103%
2019	741,532	551,267	74%
2020	795,584	700,390	88%
2021	1,025,159	679,464**	66.3%
2022	1,391,379	TBD	TBD

* Quota as adjusted by transfers; **Preliminary data as of November 17, 2021.



Summer Flounder Management System

Period	Allocation	Season	Fishing Days	Trip Limits	Minimum Size
Period I	30%	Jan 1 – Apr 22	Sun – Sat	1,000 pounds (all gear)*	14"
Period II	70%	Apr 23 – Jun 9	Sun – Sat	100 pounds (nets) 0 pounds (hooks)	14"
		Jun 10 – Oct 31	Sun – Thu	400 pounds (nets) 250 pounds (hooks)	
		Nov 1 – Dec 31	Sun – Sat	1,000 pounds (all gear)**	

* Trip limit is reduced to 100 pounds once 25% of quota is taken

** Trip limit is set at 500 pounds if less than 5% of quota remains.

- Allocation system designed in 1990s. Most of quota to directed inshore summertime fishery.
- Period I: Fishery occurs offshore during winter period. Limits designed to manage quota allocation throughout period and avoid allocation overage and reduction in quota available to inshore fishery.
- Period II: Fishery occurs inshore during summertime period.
 - Apr 23 – Jun 9: No directed fishing. Allows retention of bycatch by net fishermen in springtime small mesh squid fishery.
 - Jun 10 – Oct 31: Directed inshore fishery. Trip limits set to match economics of small vessel inshore fleet and keep fishery open through period. Closed fishing days address marketability of fish on weekends and user group conflict with recreational sector.
 - Nov 1 – Dec 31: Fishery moves offshore. Trip limits set to match economics of offshore fleet and utilize remaining quota.
- Minor adjustments made to Period I limits 2019 and Period II limits 2020 to account for recent quota increases.
- Adjustments made in 2019 and 2020 were not commensurate with level of quota change.



Future of Summer Flounder Management

Action Item:

- Increase Period I trip limit by declaration for 2022 to immediately and timely react to additional quota.

Public Hearing Proposals:

- Consider more extensive changes to summer flounder management program.
- Quota Allocation: Adjusting 30/70 split between Period I and Period II to provide Period I with additional quota.
- Period I: Formalize Multi-State Pilot Program as regulation and increasing trip limit.
- Period II: Changes to timing of sub-seasons, open fishing days, trip limits and building in in-season adjustments based on quota availability on dates certain.
- Timeline: Public hearing expected for Feb 2022. Final recommendations to MFAC in March 2022. Approved items to be implemented in April 2022.



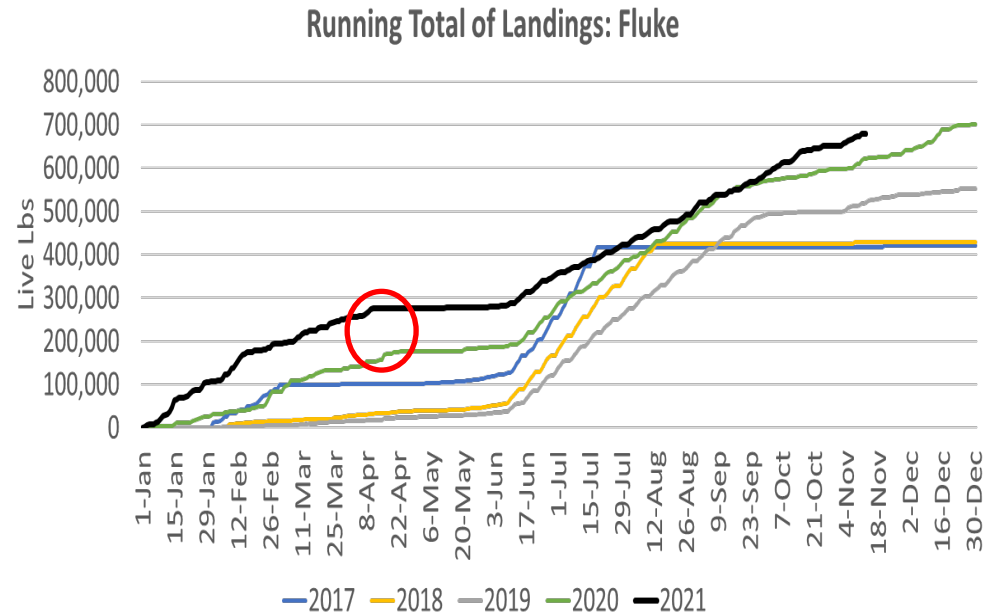
2022 Period I Summer Flounder Trip Limit

Recommendation:

- Increase the Period I (January 1 – April 22) summer flounder trip limit from 1,000 lbs to 2,500 lbs for 2022 by Declaration.

Rationale:

- Summer flounder quota is increasing to 1.39 mlbs, a 37% increase from 2021 to 2022.
- Second consecutive year of substantial increases. Quota increased by 28% from 2020 to 2021.
- Annual quota has been underutilized for past three year (2019-2021).
- Period I in 2020 & 2021 demonstrated ability to take most of its 30% allocation.
- Quota utilization in 2020 and 2021 driven by establishing a sufficiently elevated trip limit (2,000 lbs) & accommodating multi-state landing through pilot program (will be renewed for 2022).
- Given past performance & quota increase, 2,500 lb trip limit is recommended.



Summer Flounder Public Hearing Proposals

Quota Allocation

- Adjust the 30/70 quota allocation split between Period I and Period II; provide Period I with up to 50%
- Reconsider this allocation split should the annual quota decrease below 1 mlbs.

Period I (January 1 – April 22)

- Increase the regulatorily set trip limit from 1,000 pounds to at least 2,500 pounds. Final recommended trip limit will be informed by performance of this year's fishery.
- Maintain a trip limit reduction trigger as Period allocation is approached but set that limit consistent with new allocation split.
- Formalize the multi-state pilot program in regulation.

Period II (April 23 – December 31)

- Open the directed trawl and hook & line fishery as soon as April 23. Currently closed until June 10.
- Reduce or eliminate closed fishing days during the directed trawl and hook & line fishery. Options include seven open days throughout the season or phasing in additional open days at dates certain based on quota utilization.
- Increase the directed trawl trip limit from 400 lbs to 500 lbs and the directed hook & line fishery trip limit from 250 lbs to 300 lbs. Consider additional trip limit increases at dates certain based on quota utilization.
- During periods overlapping with state squid fishery, maintain 100-lb flounder limit if squid are possessed.
- On October 10, increase the trip limit to 1,500 pounds for all gears should less than 15% of the quota remain or 2,500 pounds should more than 15% of the quota remain.



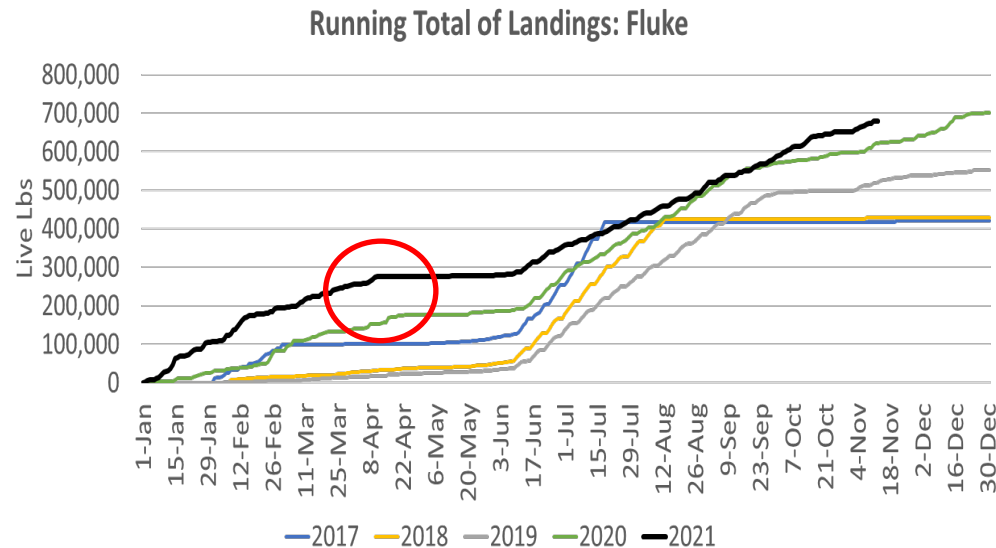
Proposals Affecting Period I

Recommendation:

- Increase Period I quota allocation from 30% up to 50%.
- Increase the Period I trip limit from 1,000 lbs to at least 2,500 lbs.
- Maintain a trip limit reduction trigger based on new quota allocation (e.g., @ ~45% reduce to 100 lbs)
- Codify multi-state pilot program as regulation.

Rationale:

- Period I in 2020 & 2021 demonstrated ability to take most of its 30% allocation.
- Quota utilization in 2020 and 2021 driven by establishing a sufficiently elevated trip limit (2,000 lbs) & accommodating multi-state landing through pilot program (will be renewed for 2022).



December 2, 2021

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Permitting Trends

Annual Activity Levels for the Fluke Endorsement

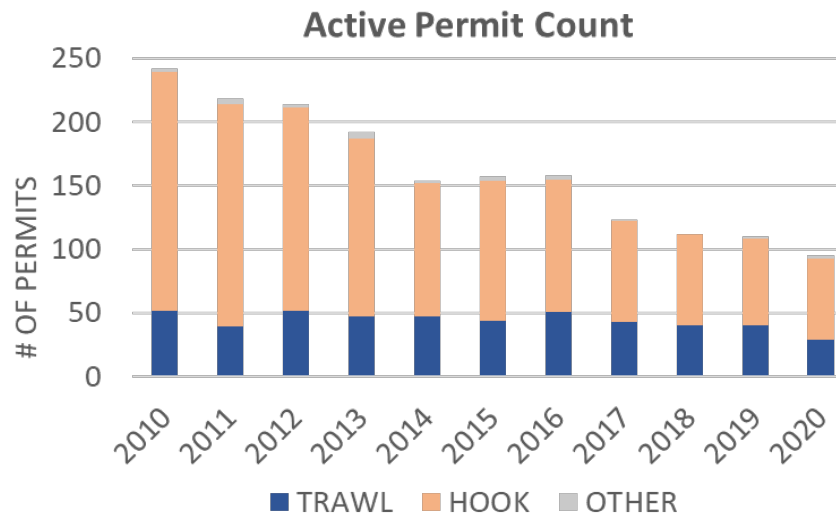
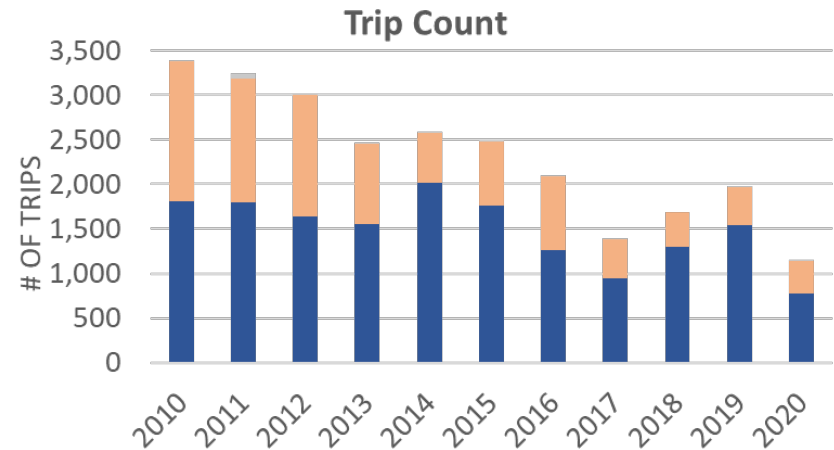
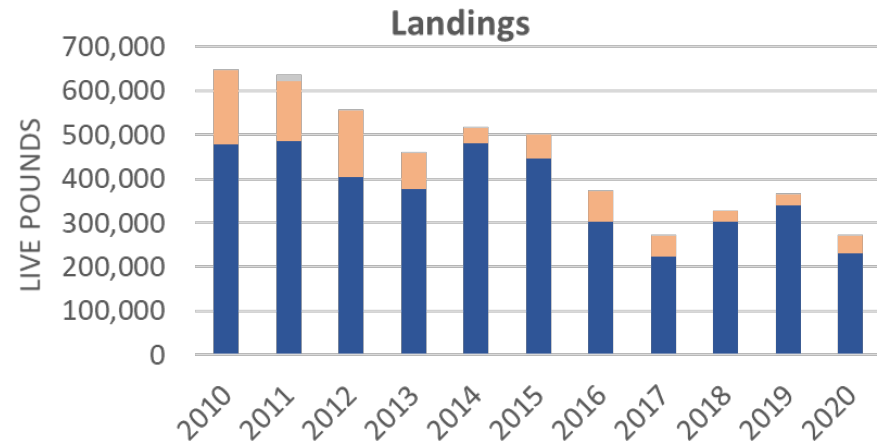
Year	Number of Endorsements Issued	Total Active Permits	% Active
2017	697	135	19.4%
2018	674	121	17.8%
2019	656	119	18.1%
2020	635	103	16.2%
2021	610	TBD	TBD

Average age of active participants at the end of 2020 was 60 years old. This is slightly higher for the summertime Rod & Reel fishery and slightly lower for the summertime trawl fishery.

Data Source: MA Permitting Database, October 2021



Commercial Gear Trends for Inshore Summertime (June to October) Fishery



Note: The trawl fishery occurs primarily in SRA 10 while the Rod & Reel fishery is a strong driver of SRA 13 and 14.

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



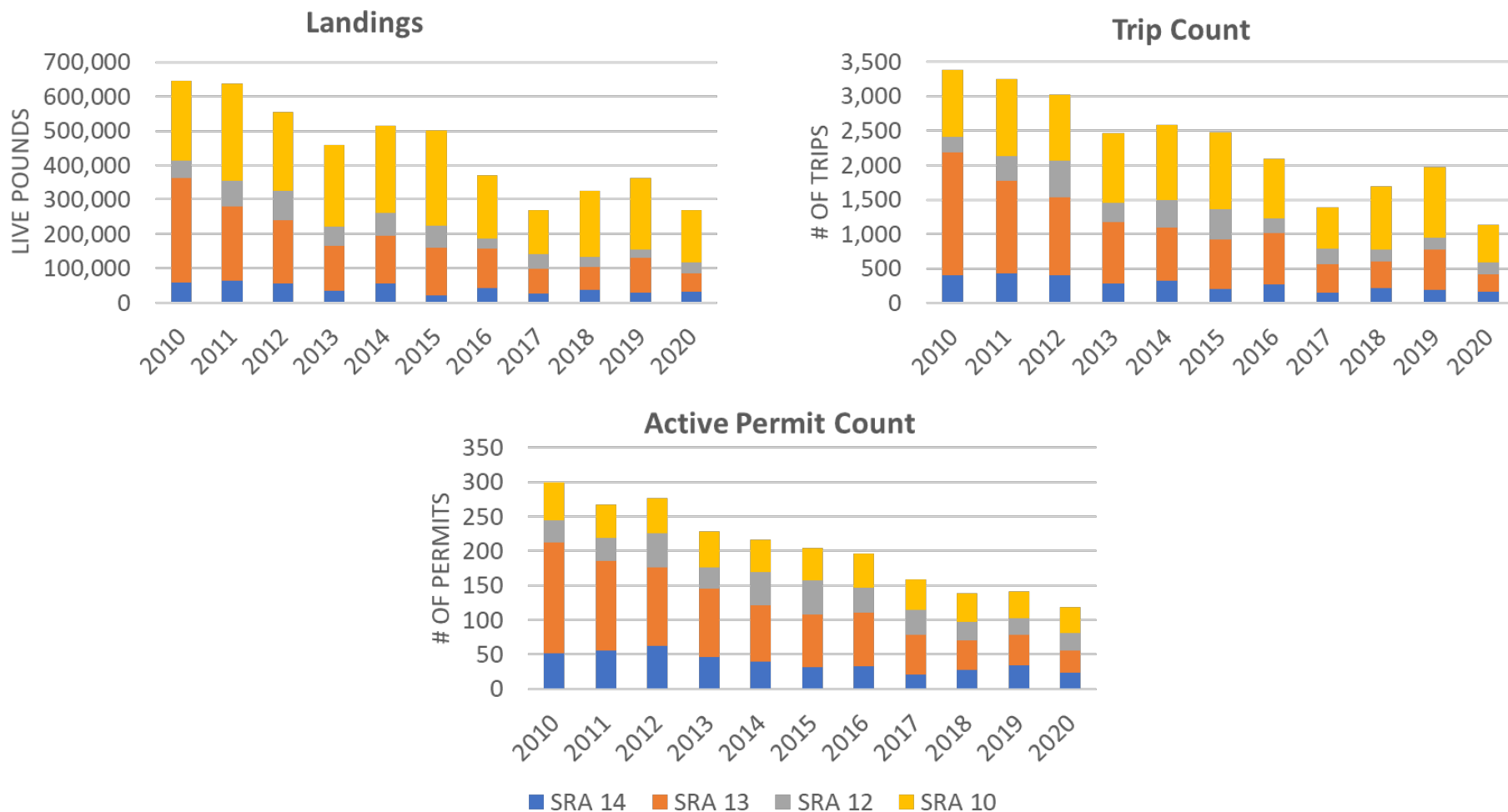
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Commercial Statistical Reporting Area Trends for Inshore Summertime (June to October) Fishery



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



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Proposals Affecting Period II

Proposals:

- Decrease Period II quota allocation from 70% to no less than 50%.
- Adjust timing of directed fishery to start as early as April 23, rather than June 10.
- Eliminate closed fishing days during directed fishery. Options include starting season with no closed days, one closed fishing day or phasing in additional open days based on quota availability at dates certain.

Rationale:

Quota Allocation: Period II fishery cannot achieve allocation with current levels of participation.

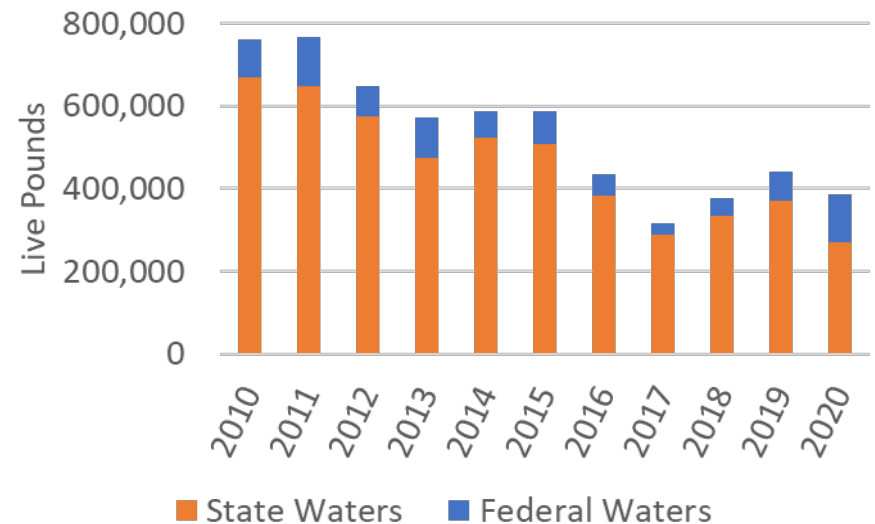
Start Date:

- Provides trawlers with alternative to squid fishing should squid run be late or poor.
- Gives hook and line fishermen a profitable spring fishery option; sought this since sea bass quota was moved to summer in 2013.

Open Days:

- Additional open fishing days will allow fleet to better pick their fishing days and take advantage of good weather.
- May enhance safety considering reports of fleet having to travel further into and towards federal waters to target fish, particularly for small trawlers and open boats.
- May result in increasing number of overall trips to compensate for loss of active permits.

**June to October Landings by Region
Fished and Year**



Proposals Affecting Period II (cont.)

Proposals:

- During the directed fishery, increase trip limits from 400 to 500 lbs for trawlers and 250 to 300 lbs for hook and line gear. During period overlapping with state squid fishery trawl limit would be 100 if in possession of squid.
- Establish built in trip limit increases in-season based on dates certain and quota utilization (e.g., Sept. 1 increase to 800 lbs for all gears should >75% of the quota remain.
- On Oct. 10, increase trip limit to 1,500 lbs for all gear types if <15% of quota or 2,500 lbs if >15% of quota.

Rationale:

Trawler Trip Limits:

- Data demonstrates trawlers continue to take their limits. Supported by desire of industry to retain additional fish to decrease regulatory discards.
- Balances interest of maintaining small boat fleet.
- Squid limit consistent with FMP

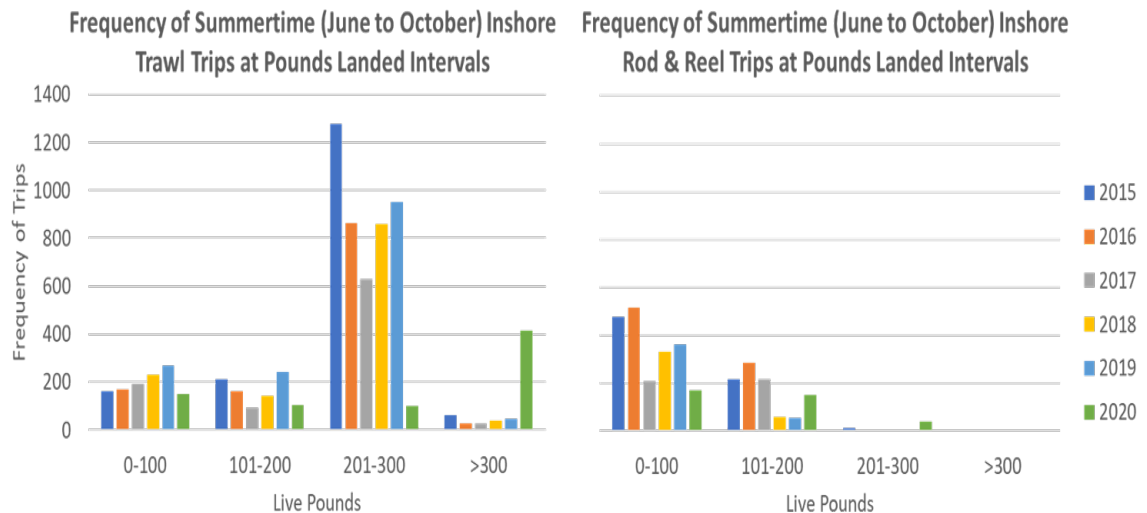
Hook and Line Limits

- Allows highliners to take additional available quota.

Date Certain Approach

- Builds in adjustments to increase access to quota considering quota utilization and seasonal weather.
- Avoids in-season adjustments.

Fall Fishery. Allows for start of fall fishery immediately after rec fishery closes.



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

* Note in 2020 the regulatory set trip limit increased from 300 – 400 lbs for nets and 200 to 250 lbs for hooks.



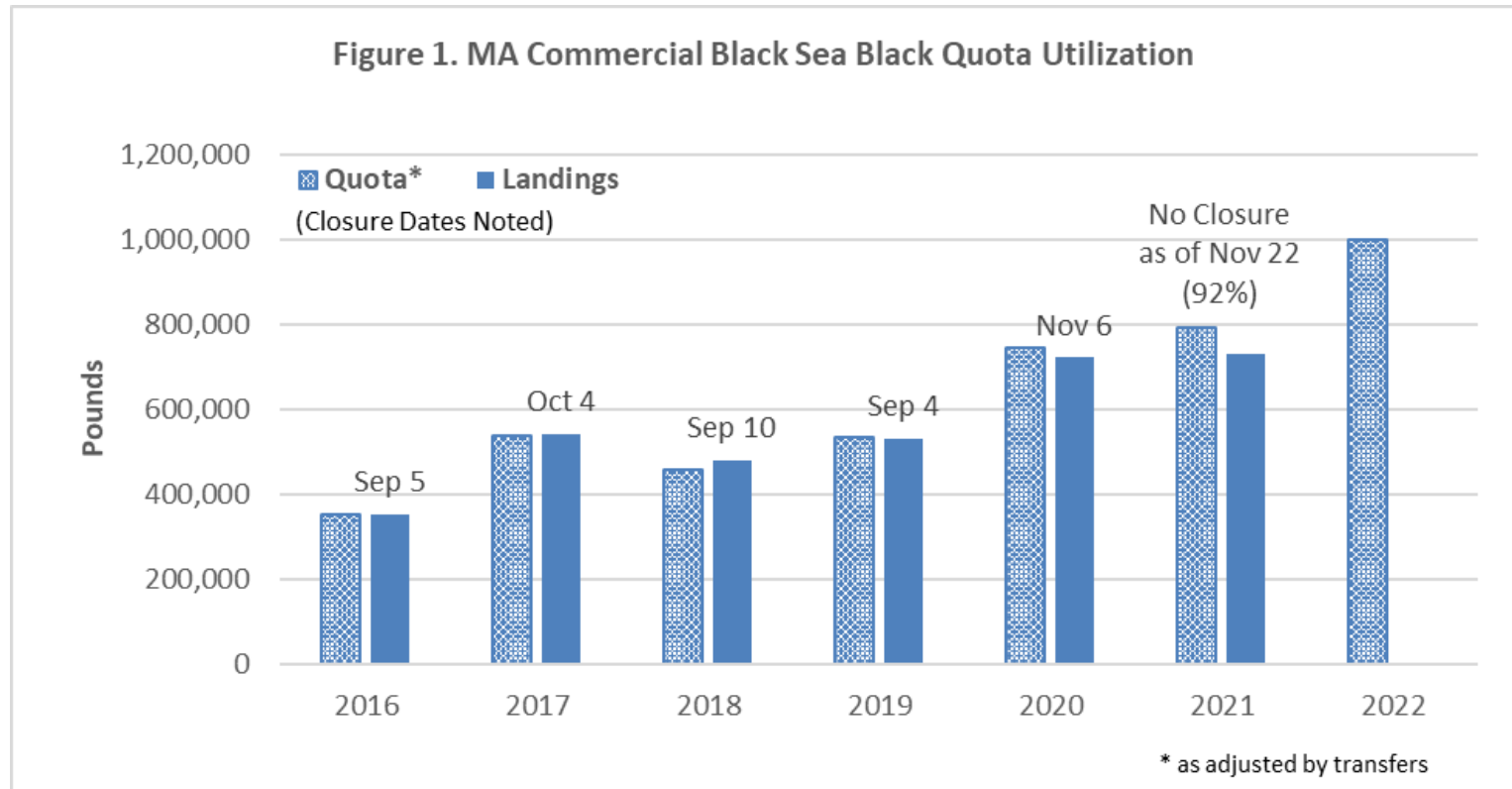
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Black Sea Bass Quota & Utilization



Black Sea Bass Management Changes (2017 – Present)

Year	Regulation Change	In-season Adjustment by Declaration
2017	Season start moved from first Tues in August to July 8	9/18: Possession limits increased from 300 lb to 400 lb for pots and from 150 lb to 200 lb for hook/other
2018	Replaced Wed with Thurs for Sun/Tues/Thurs open days	n/a
2019	n/a	n/a
2020	Possession limits increased from 300 lb to 400 lb for pots and from 150 lb to 200 lb for hook/other	<p>8/30: Possession limits increased from 400 lb to 500 lb for pots and from 200 lb to 250 lb for hook/other</p> <p>8/31: Monday & Wednesday added as open fishing days (for Sun–Thurs fishery)</p> <p>10/2: Friday & Saturday added as open fishing days (for Sun–Sat fishery)</p>
2021	n/a	<p>8/30: Possession limits increased from 400 lb to 500 lb for pots and from 200 lb to 250 lb for hook/other</p> <p>8/30: Monday & Wednesday added as open fishing days (for Sun–Thurs fishery)</p> <p>10/1: Friday & Saturday added as open fishing days (for Sun–Sat fishery)</p>



Black Sea Bass Public Hearing Proposals

Proposals

Season Start Date:

- Move season start date from July 8 to July 1.

Open Fishing Days

- Add Mondays and Wednesdays as open fishing days, allowing fishing Sunday – Thursday.
- October 1 go to seven days per week.

Trip Limits

- Increase possession and landing limit by 25%, from 400 to 500 lb for pots and from 200 to 250 lb for other non-trawl gears (mostly hook and line).
- If more than 10% of quota remains on October 1, increase trip limits to 600 lb for pots and 300 lb for hook and line.

Trawler Bycatch Limits

- Should MFAC adjust summer flounder season and open fishing days, trawler rules for black sea bass would be adjusted accordingly to allow for retention of bycatch.

Rationale

Season Start Date:

- Additional week of access to the quota.
- Makes product marketable for 4th of July.
- Maintains post-spawning fishery.

Open Fishing Days

- Increases weekly access to fishery to allow for better quota utilization.
- Allows fishermen to take better advantage of good days. May in turn enhance small boat safety.
- Maintains weekends for recreational fishery and mitigates potential user group conflicts.

Trip Limits

- Increases daily landing potential to allow for better quota utilization.

Trawler Bycatch Limits

- Reduces regulatory discarding.



Menhaden Season Start Date

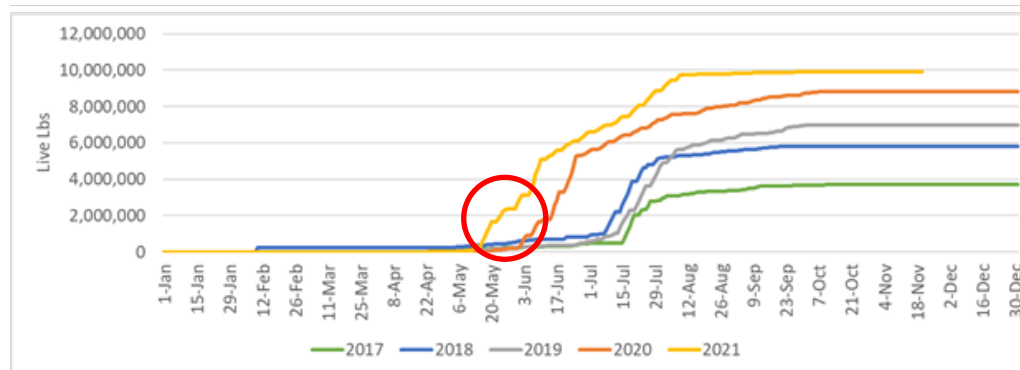
Proposal:

- Adopt a June 1 start date for the commercial menhaden fishery.
- Exempt weirs from this start date to address multi-species nature of this gear. Consider similar exemption for small-scale fishery too.

Rationale:

- 2021 fishery began in earnest in late-May, increasing reliance on EESA and state transfers later in the season to keep fishery open during summer when bait demand is higher.
- June 1 start date allows for quota utilization to better fit seasonal bait demands. Maine took similar action to establish a June 14 start date in 2021.
- A June 1 start date also aligns with the opening of the inshore net areas to purse seining.
- Weir fishery is an opportunistic, seasonal, multi-species fishery that begins in April. Menhaden catch is based on seasonal timing. Allowing landings before June 1 is warranted given small contribution to overall landings, overall interest and participation in the weir fishery, and to avoid unnecessary discarding.

Running total of Massachusetts commercial menhaden landings, 2017–2021
(Data source: SAFIS eDR, November 2021)



Shellfish Advisory Panel

- SAP established on ad-hoc basis in 2014 by DMF to address emerging shellfish related issues.
- Primary MSI Strategic Plan recommendation was to adopt this Panel more formally to enhance government-to-stakeholder communication on a wide array issues.
- Legislature adopted the SAP as a formal public body in the Acts of 2021.

Chapter 130, Section 1C. There shall be established in the division of marine fisheries a shellfish advisory panel to: (i) advise the director on matters of concern relevant to shellfish fisheries; (ii) provide a forum for governmental entities to receive and disseminate information relevant to shellfish resources and shellfish management; and (iii) allow members of the public and representatives of governmental entities to bring forth emerging issues in shellfish fisheries.

Members appointed by the chair shall serve for terms of 3 years and may be eligible for re-appointment by the chair. Members of panel shall serve without compensation. The panel shall meet not less than 2 times annually to address issues of substance related to shellfish resources, fisheries and management and assist in the dissemination of information to stakeholders. The chair shall consider the input of the panel.



Shellfish Advisory Panel

- Statute appoints eight state representatives from state government and requires Director appoints 14 members of public of a certain diverse geographic and stakeholder representation

Legislative Appointed Members

- DMF Director, Chair
- Commissioner of Department of Agricultural resources
- Commissioner of Department of Environmental Protection
- Director of Department of Public Health Food Protection Program
- Director of Coastal Zone Management
- Executive Director of Commission on Indian Affairs
- House Chair of Joint Committee on Environment, Natural Resources, and Agriculture.
- Senate Chair of Joint Committee on Environment, Natural Resources, and Agriculture.

DMF Appointed Members

- 1 representative from the National Sea Grant College Program.
- 2 seafood dealers involved in the wholesale or retail sale of shellfish.
- 1 commercial fisherman involved in a state managed wild harvest shellfish fishery.
- 2 commercial fishermen involved in a municipally managed wild harvest shellfish fishery.
- 3 shellfish aquaculturists.
- 1 person involved in the recreational harvest of a municipally managed shellfish resource.
- 2 municipal shellfish officers.
- 1 member of the Marine Fisheries Advisory Commission.
- 1 member from a NGO involved in shellfish conservation.



SHELLFISH ADVISORY PANEL
Draft Meeting Minutes
November 18, 2021 10:00am
Held In-Person at the Hampton Inn, Plymouth

In attendance:

Shellfish Advisory Panel: Sean Bowen; Seth Garfield; Allen Rencurrel; Amy Croteau; Renee Gagne; Ron Bergstrom; Alex Hay; Dale Leavitt; Josh Reitsma; Jim Abbott; Jim Peters; Lisa Rhodes (proxy for DEP Martin Suuberg); Michael Moore; Mike Trupiano; Carolyn Dykema. [see website for member bios and industry segment they represent]

Division of Marine Fisheries: Daniel McKiernan, Director; Kevin Creighton, CFO; Story Reed; Jared Silva; Thomas Shields; Julia Kaplan; Chrissy Petitpas; Greg Bettencourt; Greg Sawyer; Jeff Kennedy; and Mark Rousseau

Members of the Public: Jude Ahearn; Mark Begley (Grower/MAA EB); Scott Soares (MAA); and Peter Prime

INTRODUCTIONS AND ANNOUNCEMENTS

DMF Director Daniel McKiernan called the November 18, 2021 Shellfish Advisory Panel business meeting to order. Dan introduced various DMF staff and provided some background on the formation of the Shellfish Advisory Panel (Panel). Dan then discussed the formation of the Massachusetts Shellfish Initiative, as well as the Assessment Report and Strategic Plan which were products of the work stemming from the Initiative, and how codifying the Panel and its makeup was a major recommendation of the MSI Strategic Plan.

The Director then moved on to discuss the future of the Panel and described what he hopes the Panel will accomplish based on the strategic plan. Dan closed his remarks by thanking the attendees of today's meeting.

Review of the Enabling Statute

Dan then discussed the enabling state statute for the Panel. He went into detail regarding the representation that ultimately makes up the Panel.

INTRODUCTION OF SHELLFISH ADVISORY PANEL MEMBERSHIP

Dan then facilitated discussion from each member of the Panel having them introduce themselves, as well as give a brief overview of their priorities. Many members provided a background of their education and work experience relating to shellfish and added their expectations for the Panel.

These are the November 18, 2021 Shellfish Advisory Panel Draft Business Meeting Minutes. Draft business meeting minutes are subject to changes and amendments following review and approval of the Shellfish Advisory Panel. This review and approval process will occur at their next business meeting and the Final meeting minutes for the November 18, 2021 business meeting will be available shortly thereafter.

Some members of the public were able to introduce themselves as well. Dan then welcomed any questions from Panel members. There were no questions, so he turned the floor over to Jeff Kennedy.

SHELLFISH PROGRAM UPDATES AND EMERGING ISSUES

Shellfish Program Manager Jeff Kennedy provided the Panel with a presentation regarding shellfish program updates and emerging issues. Jeff started his presentation by discussing classification issues within – and adjacent to – designated mooring areas. Jeff provided an overview of what goes into a mooring area assessment. He discussed how the mooring area pollution assessments are conducted and how classification assignments are determined. Jeff then displayed a list of new areas recently reclassified, most of which are closed during boating season due to the new mooring area designation. He stated DMF has not completed the process of identifying and delineating areas and conducting pollution assessments for those areas.

Renee Gagne asked that the list of closed and open areas be posted to the website. Jeff Kennedy stated the list along with the presentation will be posted to the website.

Dan McKiernan asked Jeff to go into further detail about the delineation process. Jeff described how DMF identifies mooring areas based on National Shellfish Sanitation Program (NSSP) model ordinance (MO) criteria and what needs to be present (i.e. pump out boats and pump out data; is the area an EPA No Discharge Zone, patrol/enforcement logs, etc.) to understand whether an area can stay open. Jeff fielded some questions from Panel members regarding the specifications on what would close an area to shellfishing, how the dilution is calculated, and whether an area could remain open if the dilution remains below 14 CFU/100 ml. Jeff closed his comments regarding the mooring area delineating and pollution assessment process by stating it could be an issue of focus for the Panel.

Jeff then moved on to discuss classifications adjacent to wastewater treatment plants. Jeff went into detail regarding the NSSP mandates, guidance, and impacts. Jeff displayed a map of the coast of Massachusetts which showed the different shellfish sanitary classifications across the state. Jeff explained these classifications, as well as the process of depuration for new Panel members.

Jeff discussed the NSSP and why it's crucial the state comply with the NSSP MO criteria. Jeff then discussed the three-bay system (Duxbury, Kingston, & Plymouth), its current classifications along with work to determine the proper classification around wastewater treatment plant outfalls state-wide, including the contract DMF has recently established with Dr. Chen at SMAST/UMass Dartmouth modeling flows around

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wastewater treatment plant discharges impacting Commonwealth shellfish growing areas.

A member of the public brought up the difficulty concerning shellfish classification area status for recreational harvesters, specifically knowing if an area is open or closed when in the field. Jeff stated this is something DMF is actively working on – easing the access to know which shellfish areas are safe to harvest. Jeff welcomed questions from the Panel. Panel members asked if the reclassification stems from public health issues or requirements/interpretations from the FDA. Jeff stated that it stems from changes in the NSSP.

MASSACHUSETTS SHELLFISH INITIATIVE STRATEGIC PLAN

Jeff Kennedy provided the Panel with an overview of the of the Massachusetts Shellfish Initiative (MSI). He described purpose and vision of the MSI going into detail about the objectives and recommendations developed in the MSI Strategic Plan.

WORK PRIORITIES & DELIVERABLES FOR NEXT PANEL MEETING

Dan asked Panel members to discuss their priorities and what they would like to address going forward. Below is a brief summary of the priorities of the individual members:

Ron Bergstrom: would like to see a program to market shellfish while maintaining the public health aspect. Wants to keep areas that are currently open to shellfish harvest open and ensure that private aquaculture sites do not take productive shellfish areas away from the wild harvesting public.

Renee Gagne: mooring issues are her number one priority, and would like to get more support for the shellfish officers training course administered by MSOA. For example, she would like to get an outside entity to conduct the constable training program/more professional development.

Amy Croteau: would like to see DMF Shellfish Program not be understaffed, and communication gaps repaired between industry and local and state enforcement authorities.

Mike Trupiano: would like to see the depuration plant be used for other species besides softshell clam, as well as conditioning services such as de-sanding. He was also curious as to where we stand with trade with Europe and asked about commercial access to oysters on the North Shore.

These are the November 18, 2021 Shellfish Advisory Panel Draft Business Meeting Minutes. Draft business meeting minutes are subject to changes and amendments following review and approval of the Shellfish Advisory Panel. This review and approval process will occur at their next business meeting and the Final meeting minutes for the November 18, 2021 business meeting will be available shortly thereafter.

Jim Abbott: expressed concern over accessibility to the resources for recreational fishermen, especially disabled persons, and general education/access to the water as recreational fishermen.

Mike Moore (DPH): boost consumer confidence in regards to seafood safety within Massachusetts.

Lisa Rhodes (DEP): DEP is looking for areas to assist DMF, Director Dan McKiernan connected Lisa to Allen Rencurrel as he would like to go surf clamming north of P-Town and the town has used the Wetlands Protection Act to prevent commercial surf clamming in municipal waters.

Carolyn Dykema: wants to learn more about the shellfishing industry in Massachusetts as well as the day-to-day challenges the industry faces.

Dale Leavitt: streamline permitting process for aquaculture, would like to expand bulk tagging to harvesters who are not also wholesale dealers.

Allen Rencurrel: would like to see Hatches Harbor in Provincetown open to surf clamming.

Alex Hay: wants the state to continue to be proactive working with the Interstate Shellfish Sanitation Conference (ISSC), he reiterated the importance of growing area classifications and communicating open or closed status with industry. As another priority, he would like dealers to be copied on closure notices and if possible, would like DMF to notify dealers as soon as possible when planning on a weather related precautionary closure.

Seth Garfield: agreed with Dale's bulk tagging opinion, get better handle on value of recreational harvest, and better communications with recreational harvesters. He would also like to see more consistency between towns on local aquaculture regulations and agreed that the issue of aquaculture license transferability should be revisited.

Sean Bowen: ensure regulatory framework for aquaculture that ensures economic efficiency and sustainability; support hatchery and veterinary resources for aquaculture industry.

Josh Reitsma: would like to see sufficient ISSC representation by industry and finding ways to financially support industry presence at ISSC biennial meetings; increasing opportunities for direct sales of shellfish to the public. Emphasized HAB testing as a huge limitation because states do not have capacity to test emerging biotoxins of concern.

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Jim Peters: water quality and environmental protection (preventing habitat loss) are his top priorities. Would like to see better communication/relationships between tribe and towns. Dan McKiernan noted there is a desire to clarify native fishing rights in relation to state and local regulations.

Bill Doyle: expressed concern over water quality and invasive species. Home rule standardization to ensure a more balanced playing field between coastal municipalities. Would like to see more equitable/balanced local management of shellfisheries.

Tom Shields, DMF-SAP Liaison, then provided the Panel a presentation which summarized the top priorities submitted by members prior to the meeting. He placed the priorities of the Panel under certain goals of the MSI Strategic Plan.

OTHER BUSINESS & PANEL MEMBER COMMENTS

Dan discussed his priorities, as being bulk tagging, 208 plans (Cape Cod area-wide water quality management plans), and the “Cutler Bill”. Dan then asked Alex Hay to speak to certain videos he found helpful training his employees. Alex stated having a training resource widely available for growers and dealers to view would be very valuable. Chrissy Petitpas, DMF Aquaculture Coordinator, discussed a possible video module tool that could be provided by DMF. The idea would be to have an interactive video module which growers or harvesters could complete online, that once completed a DMF certification would be issued verifying the permit holder had successfully completed all training. A testing component in the training module would help DMF identify areas where additional education and outreach are needed.

Renee Gagne stated she would like to have a virtual meeting to discuss the ramifications of amendments to the law governing transfers of license sites by growers (Cutler Bill) to maximize attendance and input from the public.

Dan would like to have a white paper drafted examining issues relating to the transfer of aquaculture sites and how each town handle it – to determine if there is variability among municipalities. Bill Doyle suggested when DMF starts the process to produce a white paper, DMF should send a letter to stakeholders notifying them of the process.

Dan then moved on to ask the panel about harvest data collection challenges within the recreational fishery. Amy Croteau discussed the system that her town of Barnstable uses to collect data for the recreational fishery. Ron Bergstrom stated the recreational shellfish economic value is difficult to capture. Renee Gagne emphasized the importance of understanding the abundance of recreational shellfishing.

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Tom Shields and Renee Gagne discussed possibility of surveying the MSOA membership regarding how individual municipalities collect and track recreational harvest data. Josh Reitsma discussed a project funded by Sea Grant which will have a report on the recreational harvest data in Barnstable County and possibly Plymouth/Duxbury. He expects the data to be available sometime in the Spring.

Dan and Jeff suggested that DMF take some time to figure out what to tackle and then invite some members of the Panel to be on a sub-committee to add guidance on other details to be included within the white paper. Josh Reitsma suggested the document be referred to as “a review” rather than white paper.

There was discussion amongst Panel members about automated rain gauges, and closure notices. Members requested the closure notices be sent to dealers. Seth Garfield requested that a rain gauge be set up in Cuttyhunk. There was continued discussion among the Panel as to when the next meeting will be. Dan opined the next two meetings will be in February and May.

Renee Gagne requested that the list of towns and shellfish growing areas slated for the upcoming FDA growing area evaluations be provided to the Panel.

PUBLIC COMMENT

Scott Soares thanked DMF staff for their work. Scott then briefly discussed the issue concerning transfers of municipal site licenses, and concurred with Alex Hay’s comment that in order to maintain objectivity in public sentiment we should assess the primary issues surrounding the legislation regarding municipal site license transfers without continuing to make reference to the legislation’s sponsor from three years ago.

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The Commonwealth of Massachusetts

Division of Marine Fisheries

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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)
THRU: Daniel J. McKiernan, Director
FROM: Jared Silva, Policy Analyst
DATE: November 26, 2021
SUBJECT: Summary of Law Enforcement Sub-Committee Meeting

The MFAC's Law Enforcement Sub-Committee (LESC) met on November 17, 2021. In attendance were Raymond Kane (Chair), Michael Pierdinock (Vice-Chair), Shelley Edmundson (MFAC), and Bill Doyle from the MFAC; Daniel McKiernan, Mike Armstrong, Jeff Kennedy, Bob Glenn, Story Reed, Jared Silva, Nichola Meserve, and Julia Kaplan from DMF; and Lt. Col. Pat Moran, Lt. Matt Bass, Lt. James Cullen, and Ofc. Dave Marrocco from the Massachusetts Environmental Police (MEP). This memorandum summarizes this LESC meeting and outlines the deliverables DMF will work with the MFAC and MEP on during the upcoming calendar year.

Compliance Updates

Striped Bass Fishing on Cape Cod Canal

The LESC discussed the closure of the Cape Cod Canal to commercial striped bass fishing. MEP stated there was good compliance with the regulation during the 2021 season. However, it was noted there were fewer blitzes of large fish this past year compared to other recent years. Notably, MEP also reported they were receiving more accurate reports of non-compliance from the public regarding the retention of commercial sized fish along the Canal. In turn, this allows them to efficiently allocate resources and effectively respond to potential violations.

The LESC also discussed the impacts of a potential increase in the striped bass possession and landing limit for commercial shore fishermen. The current limit is two-fish. This limit was put in place in 2017 as a means of better controlling illegal fishing activity along the Canal. Given ongoing compliance along the commercial fishing prohibition at the Canal, the LESC did not object to potentially increasing the shoreside commercial striped bass limit. This item will be discussed further with the MFAC's Striped Bass Sub-Committee this winter and a rule change may be considered for 2022.

Blue Crab Trapping

DMF provided an overview of the prohibition on trapping for blue crab implemented in 2021. MEP stated they did not encounter many instances of non-conforming gear this year. However, they issued a substantial number of citations for undersized blue crabs taken by hand gear. The LESC discussed improving outreach to enhance compliance, including improving the language in the recreational fishing guide abstract on blue crab trapping, increasing signage in certain areas, and reaching out to certain ethnic communities. There was also some interest in permitting this activity, but DMF thought this would likely require a change to the implementing statute governing the issuance lobster and crab permits.

South Coastal For-Hire Fisheries

MEP reported on compliance in the south coastal for-hire fisheries for black sea bass, scup, summer flounder, and tautog. Over the past decade, there have been a number of considerable non-compliance incidents involving this fishery. MEP informed the LESC that compliance has improved in recent years. The adjudicatory hearing process has played a substantial role in this, as permit sanctions—including revocations—have been enacted against several head boats and charter boats who were persistently cited for violating the state’s fishing limits.

However, MEP reported there are a number of individuals who hold both the for-hire permit and the commercial permit, and to avoid restrictive recreational fishing seasons and bag limits, make claims that their for-hire patrons are “commercial crew” in order to fish under higher commercial trip limits. The fish is then handed off to their patrons often under the guise of a retail boat permit. DMF and MEP agreed this activity is already prohibited and would have to be handled on a case-by-case basis. DMF was uncertain to what extent this catch was being reported under the commercial fisherman permit or the retail boat permit. However, catch records could be audited and permits immediately suspended should DMF detect fraudulent reporting. DMF encouraged MEP to pursue adjudicatory proceedings when these incidents occur.

Not involving the for-hire fleet, MEP also briefed the LESC on an incident this fall where there were substantial violations of recreational tautog and black sea bass limits. DMF intended to seek an adjudicatory hearing on the recreational fishing permits involved in this incident.

Tautog Tagging Program

The LESC discussed the commercial tautog tagging program. There was agreement that this program has enhanced enforcement and compliance in the tautog fishery.

Recreational Edible Crab Trap Configuration

With the prohibition on blue crab trapping, the only edible crabs that may be trapped in Massachusetts are *Cancer* crabs. These crabs are not commonly targeted in state waters, but may be retained as bycatch in lobster traps. Accordingly, DMF was interested in pursuing a rule whereby all traps used to catch edible crabs would have to be configured as a lobster trap and match the lobster trap configuration rules for that management area.

Other Compliance Issues

MEP raised several additional issues with the LESC. First, they advocated DMF work towards developing more consistent lobster conservation management rules across LCMAs and state and

federal waters. This included minimum and maximum carapace size regulations and v-notch regulations. Second, MEP requested DMF address the use of “go-deep” buoys in trap fisheries, particularly the Gulf of Maine lobster trap fishery. While commonly used, these buoys are not frequently configured with sticks and flags, as required by DMF’s surface marking regulations. This does not present a conservation challenge and is instead a gear marking and identification issue. DMF indicated they would work with trap fishermen to develop a consistent approach to configuring these “go-deep” buoys so that they could be readily identifiable at the surface, and then this approach could be codified into regulation as an alternative to the current surface gear marking requirements.

Clarifying and Improving Existing Regulations

Extending “Owner-Operator” Provision to Cover Landing and Sale

At present, the state’s trap fisheries are subject to an “owner-operator” provision. This provision requires the permit holder to be present when commercial fishing is occurring. MEP sought a regulatory clarification to define commercial fishing as inclusive of the landing and sale of the product.

Additionally, MEP sought clarification on what certain commercial base permits allow, in terms of who may fish the permit and onboard what vessels such a permit may be fished. DMF will review its permitting rules and may develop a policy that describes these activities. There was also some interest in having the rod and reel fisheries become regulated as owner-operator.

Surface Marking Requirements to Identify Whelk or Fish Pot

To improve targeted enforcement of fish pot and whelk pot rules, MEP sought a surface identification tool that would identify the type of trap gear below (i.e., scup pot, black sea bass pot, conch pot). It was suggested that a certain colored tie wrap could be affixed to the eye of buoy. DMF indicated it would review this alongside the go-deep buoy issue, as they both address surface marking in trap fisheries.

Delivery of Shellfish and Time-to-Temperature Windows

MEP expressed concern over the wording of the time-to-temperature regulations for shellfish. Specifically, the regulation toggles between the use of the word “deliver” and “sold” when referring to the exchange of product between a fisherman and dealer. The meanings of these words could be construed differently depending on the context of the situation and could lead to shellfish being temperature abused. DMF reviewed the language in the National Shellfish Sanitation Program’s Model Ordinance on this subject and indicated a regulatory amendment would likely be necessary to conform state regulations to these overarching federal requirements and such a change would address MEP’s concerns.

Officer Discretion Language in For-Hire Liability Rule

G.L. c. 130, s. 1 holds that any person who knowingly assists in a marine fishery violation or shares in the proceeds of a violation may incur the penalties for the violation. With regards to for-hire fishing, it has been the state’s position that this allows MEP to cite the patron, captain, or permit holder for non-compliance onboard a vessel, and for DMF to sanction a for-hire permit for non-compliance onboard the vessel. Several years back, to address persistent non-compliance

issues in the south coastal for-hire fleet, DMF and the MFAC moved to promulgate a regulation that addressed the matter of for-hire liability directly. Certain head boat operators were concerned this rule would result in more actions being taken against them for violations onboard their vessel, as it can often be difficult to detect non-compliance on a head boat given the number of patrons onboard. Accordingly, the final regulation contained language encouraging MEP to use their discretion in citing the permit holder when best industry practices are adhered to. Citing a recent adjudicatory hearing, DMF explained this language has created more confusion than it has resolved. Given officer discretion is implicit in the enforcement of any rule, DMF may seek to eliminate the language addressing it in the regulation.

Gear Hauling and Removal

DMF and the MFAC discussed three items relative to the hauling and removal of gear. First, was DMF and MEP's annual initiative to remove lost or abandoned gear from the right whale trap gear closure. Given the anticipated gear loss from recent storms and the spatial extent of the closure, DMF was planning to hire lobstermen for about 20-25 sea days to assist in removing this gear. Second, DMF was working to develop a long-term solution to assist in the removing of derelict and abandoned gear. This will likely require changes to state law. To this goal, DMF had scheduled a meeting with colleagues in other coastal states to determine how such programs work in their jurisdictions. Lastly, as more work was being done to inspect, haul and remove gear, DMF may seek to work with MEP to develop standard protocols for inspection, inventorying, and storing gear.

Other Business

There was interest in providing the Director with additional discretion to adjust open fishing days for fish pot fisheries to address weather events. DMF did not think it could accommodate this type of discretion in regulation. However, if there was a pending severe weather event and gear needed to be hauled and moved, DMF could accommodate this by permit condition. Additionally, with the anticipated increase in black sea bass quota, DMF expected there would be more open fishing days per week, so pot fishermen could better manage their gear around weather events.

MEP raised concerns regarding the recreational bluefish limit. They were finding fishermen were obtaining a commercial fishing permit to avoid the three-fish recreational bluefish limit and retain large numbers of bluefish for personal consumption, particularly snapper blues. DMF and the MEP speculated that it is unlikely this fish is being sold or properly reported by the harvester. To address this, there was interest in developing a commercial bluefish minimum size.

Attachments

November 17, 2021 LESC Agenda



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

2:00 PM

November 17, 2021

Held Virtually Via Zoom

Webinar Link: <https://bit.ly/3ovBt7d>

Dial In: 1 929-436-2866

Webinar ID: 858 1554 6621

Webinar Passcode: 536010

1. Introductions
2. Compliance Updates
 - a. Striped Bass Fishing on Cape Cod Canal
 - b. Blue Crab Trapping
 - c. South Coastal For-Hire Fisheries
 - d. Tautog Tagging Program
 - e. Other Updates
3. Clarifying and Improving Existing Regulations
 - a. Recreational Crab Trap Configuration
 - b. Extending "Owner-Operator" Provision to Cover Landing and Sale
 - c. Surface Marking Requirements to Identify Whelk or Fish Pot
 - d. Delivery of Shellfish and Time-to-Temperature Windows
 - e. Officer Discretion Language in For-Hire Liability Rule
4. Gear Hauling and Removal
 - a. Derelict Gear Removal Initiative
 - b. Seasonal Abandoned/Lost Gear Removal to Protect Right Whales
 - c. Inspection, Inventory, and Seizure of Non-Compliant Fixed Gear
5. Other Business

MFC Sub-Committee on Atlantic Mackerel



Concerns highlighted in draft response to Mid-Atlantic Council's request for state action (MA, ME, NH) to reduce recreational mackerel catches:

- Basis for request is lacking quantitative/formal rationale
- Lack of outreach despite contentiousness; suggest information-gathering hearings first
- Rapid timeline (final action Apr 2022, implementation Jan 2023) leaves limited opportunity for input and development of appropriate response
- Lack of tools for accounting of and managing shifting stocks due to climate
- Unprecedented local availability of mackerel, thus contradictory perceptions of stock status
- Need to better understand MRIP recreational catch estimates
- Need to consider potential loopholes in permitting/reporting of various reduction strategies
- Need for formal engagement by NE states in MAFMC regulatory process

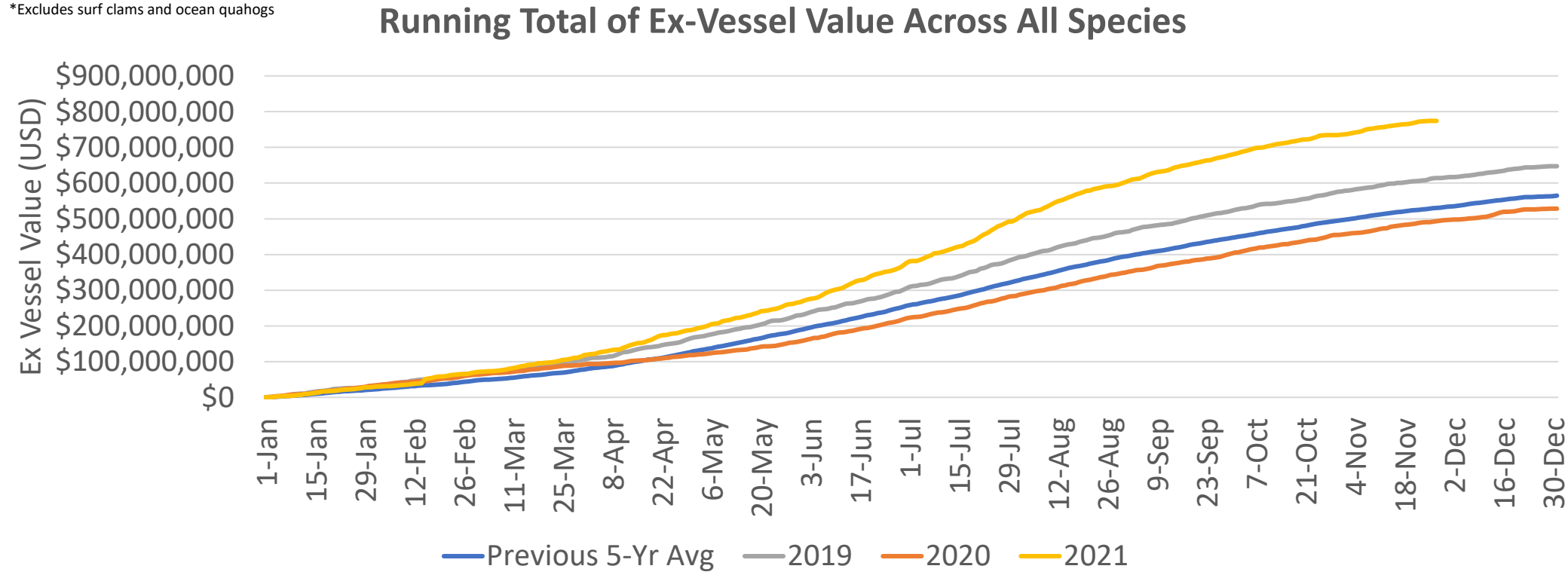


2021 Ex-Vessel Value Overview

Comparison to 2019, 2020, and the average value for 2015-2019 where applicable

Running Total of Ex-Vessel Value Across All Species

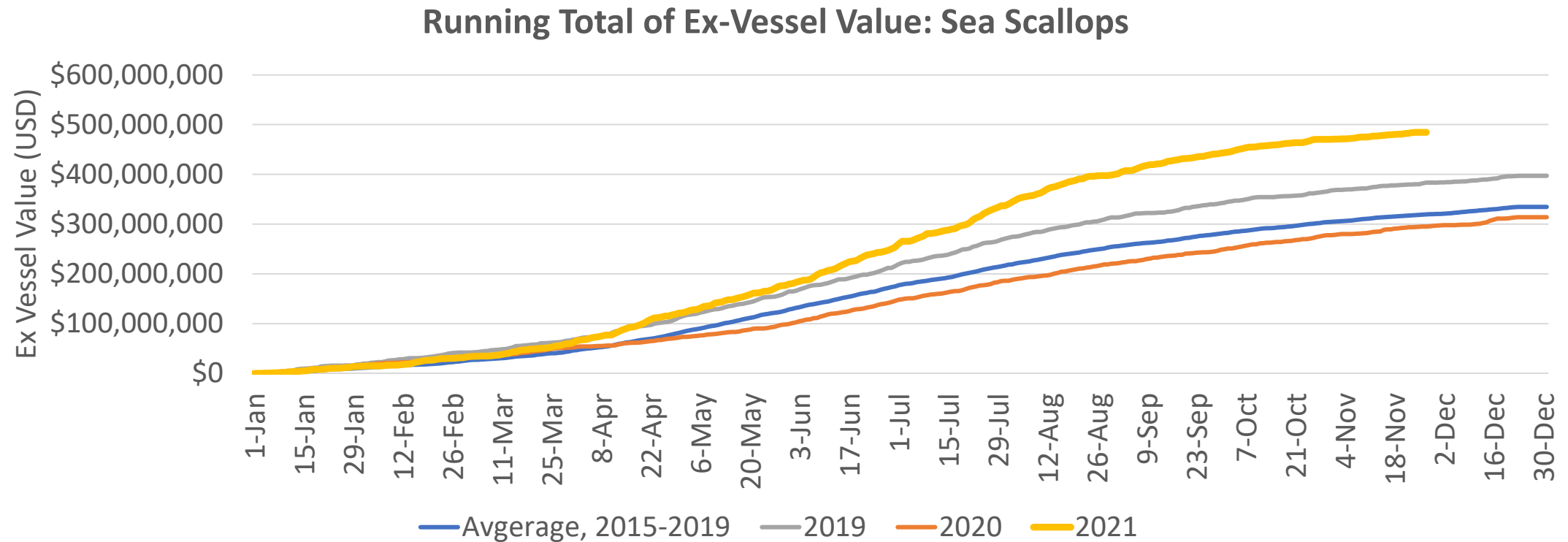
*Excludes surf clams and ocean quahogs



Data Source: SAFIS eDR as of 12/1/21
*2021 Data are preliminary
Some species with closed days may drive up the totals in the average



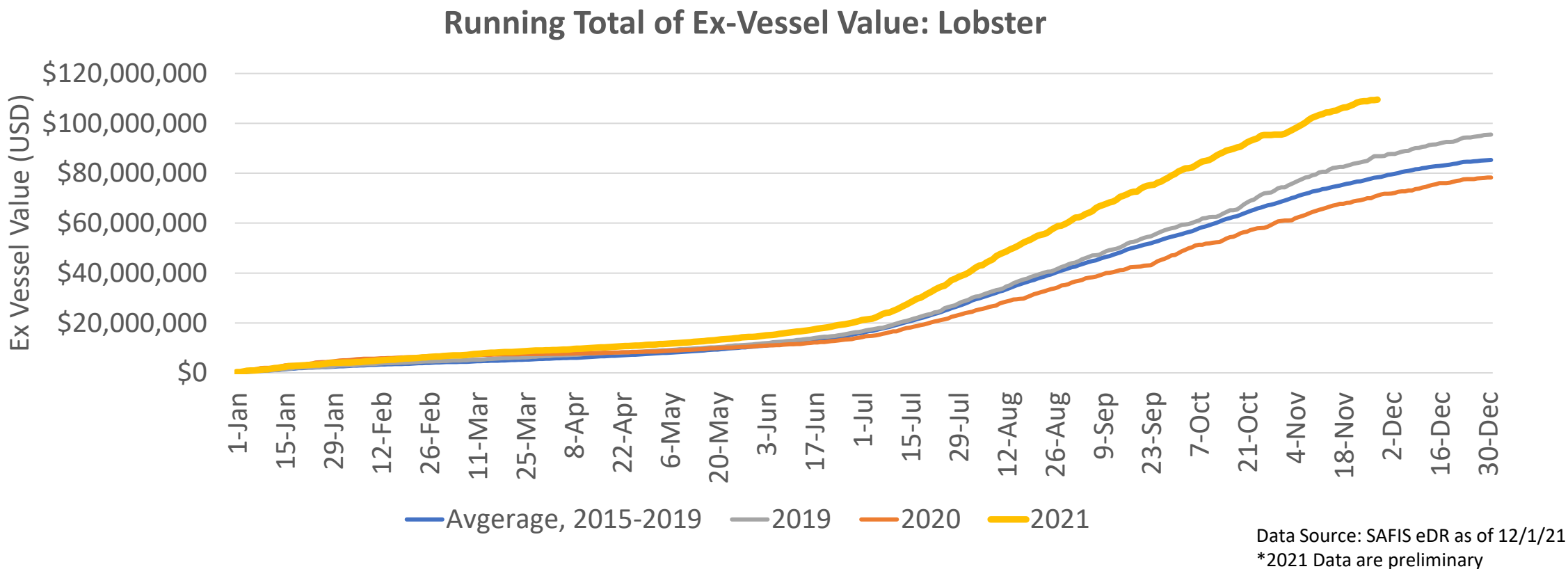
Running Total of Ex-Vessel Value: Sea Scallops



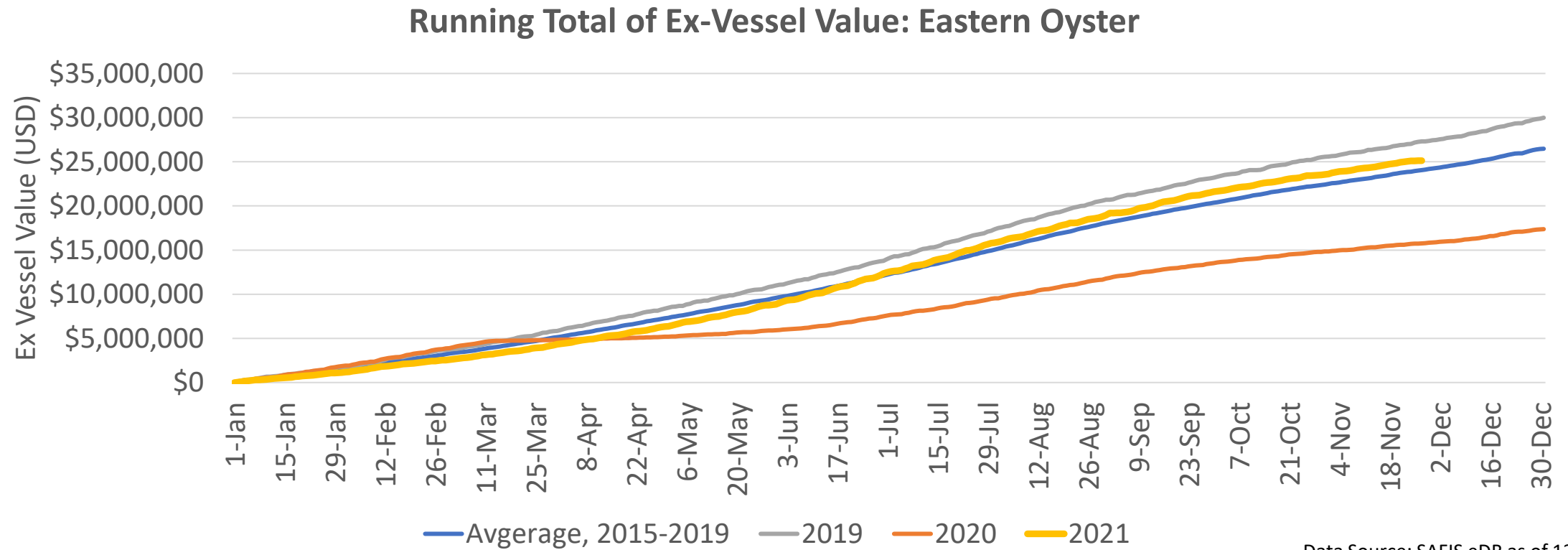
Data Source: SAFIS eDR as of 12/1/21
*2021 Data are preliminary



Running Total of Ex-Vessel Value: Lobster



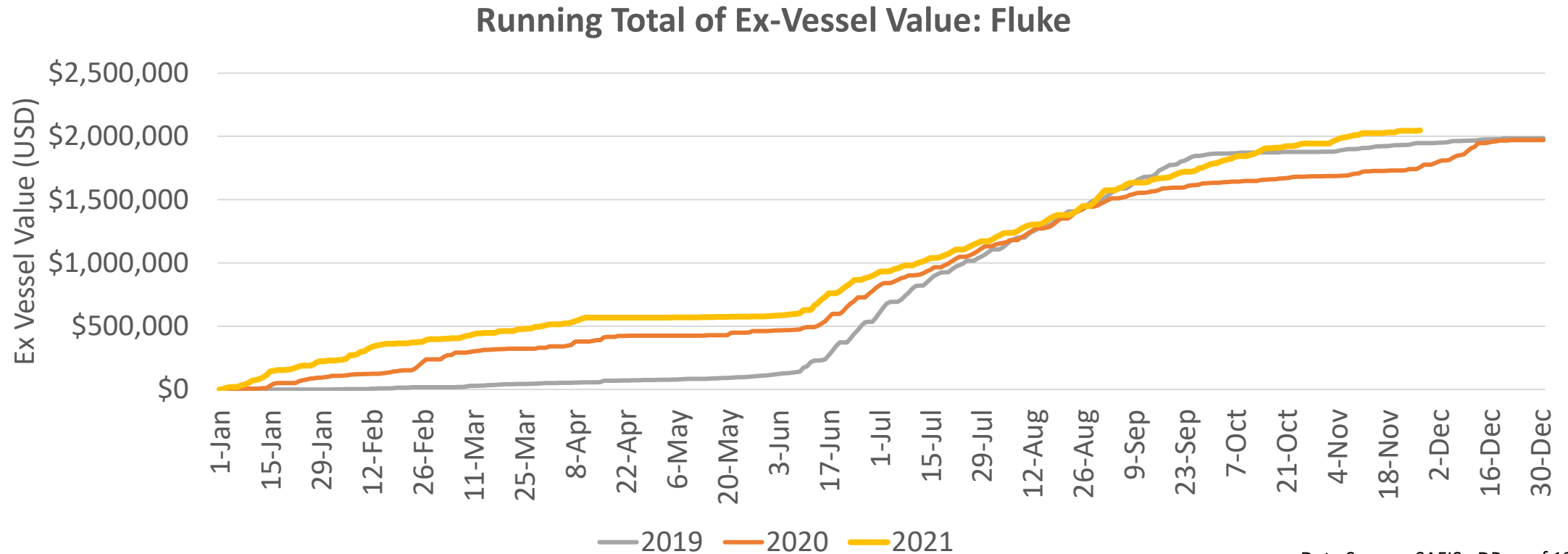
Running Total of Ex-Vessel Value: Eastern Oyster



Data Source: SAFIS eDR as of 12/1/21
*2021 Data are preliminary



Running Total of Ex-Vessel Value: Fluke



Data Source: SAFIS eDR as of 12/1/21
*2021 Data are preliminary
Note that daily averages cannot be
calculated for fluke due to the closed days



Cat Cove Marine Laboratory

92 Fort Ave, Salem, MA

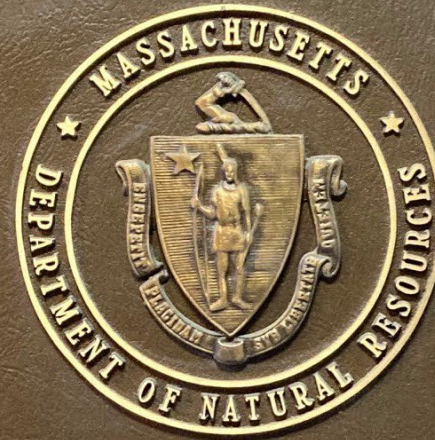


- 1970 – built by MADMF as a field station
- 1996 – MADMF moved to Gloucester
- 1997- loaned to Salem State University for use as the Northeast Aquaculture Center
- 2021- given back to MADMF

CAT COVE MARINE LABORATORY

DEDICATED AS A MEMORIAL TO JOHN C.B. SMITH
AND TO THE CITY OF SALEM WHICH GENEROUSLY
DONATED THE LAND FOR THE BENEFIT OF THE
CITIZENS OF THE COMMONWEALTH

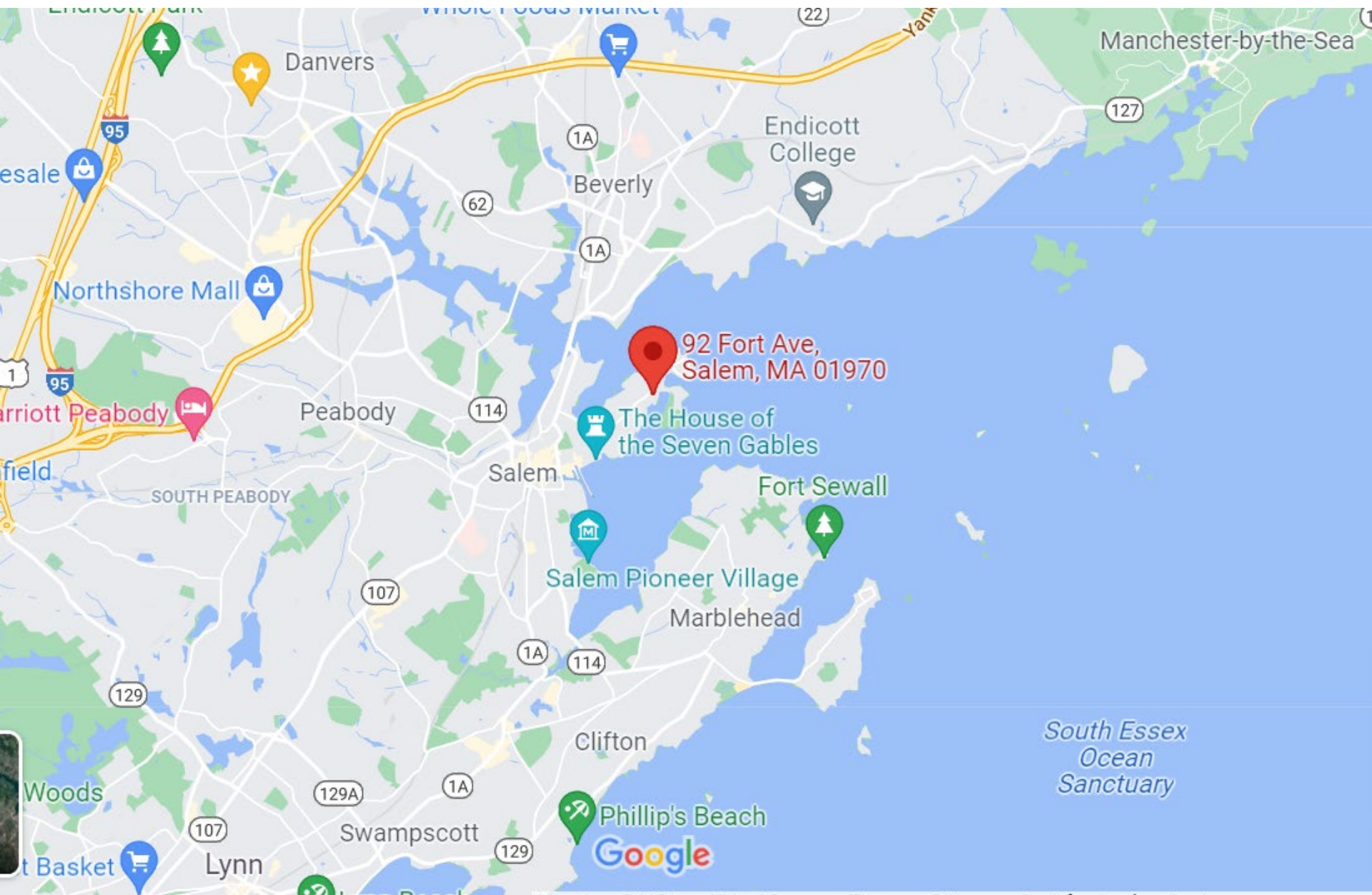
DECEMBER · 1970

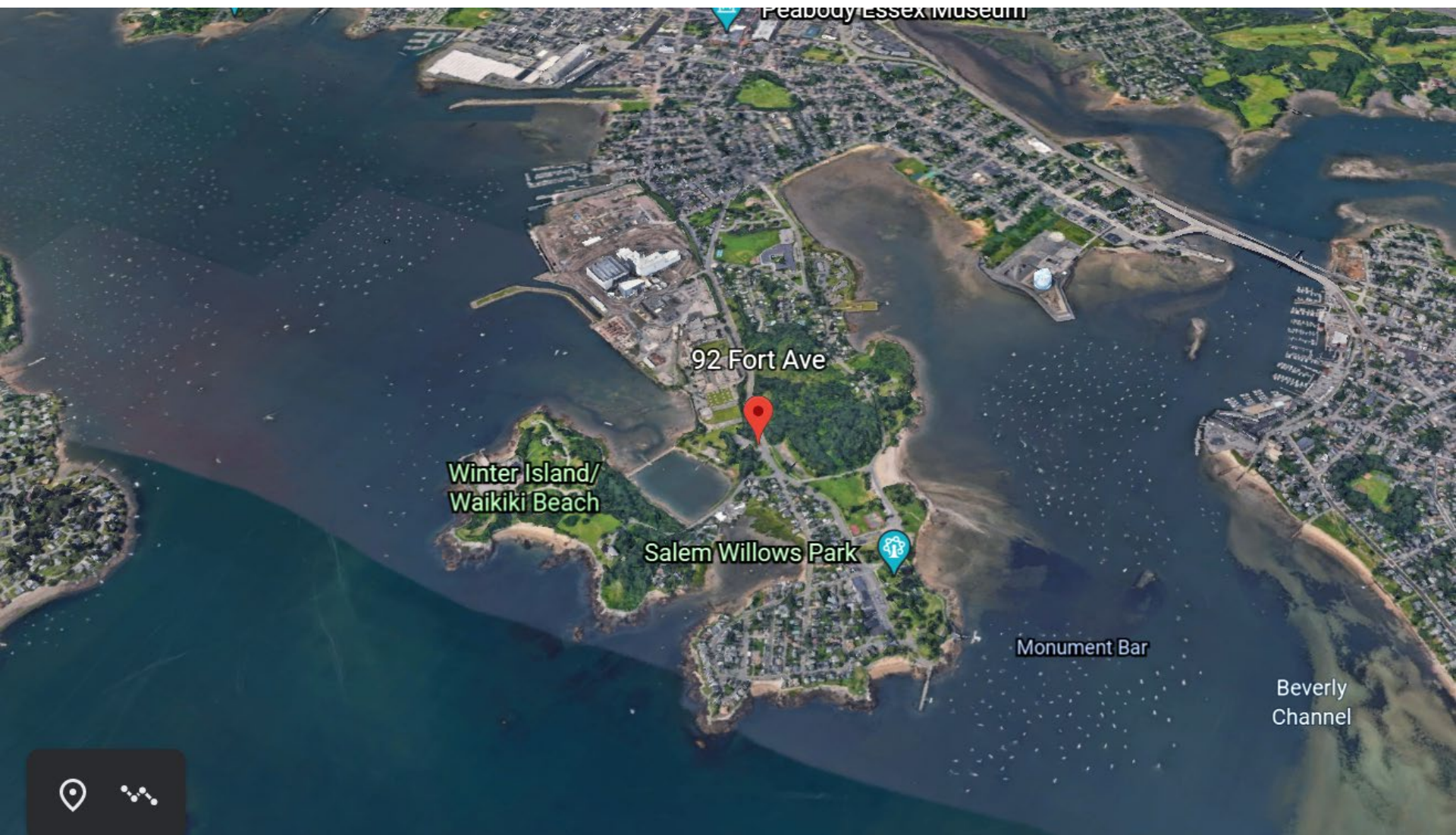


COMMONWEALTH OF MASSACHUSETTS
FRANCIS W. SARGENT, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
ARTHUR W. BROWNELL, COMMISSIONER

DIVISION OF MARINE FISHERIES
FRANK GRICE, DIRECTOR































<EXIT>



EXIT



CAUTION



The Future

- **Build out offices to house the Stock Assessment and Management Group (about 7-8 staff)**
- **Possible expansion to house other staff**
- **Some possible future work: winter flounder hatchery, eelgrass seed harvest, striped bass studies in the Smith pool, shellfish hatchery**
- **Collaborations with Umass- Boston and Amherst, Salem State Internship program, collaborations in the Blue Economy**

