



SHELLFISH ADVISORY PANEL BUSINESS MEETING AGENDA

9:00 AM

March 1, 2022

Held via Zoom

1. Introductions and Announcements (9:00 – 9:30)
 - a. Review and Approval of March 1 Agenda
 - b. Review and Approval of November 18 Draft Meeting Minutes
 - c. Opening Statement from DMF Director
2. DMF Update Including Personnel Changes (9:30 – 9:45)
3. Shellfish Constable Appointments and Training (9:45 – 10:45)
 - a. Overview of Section 98 and Shellfish Constable Training
 - b. Police Reform and Impacts on Shellfish Constables
 - c. Update on Virtual Shellfish Constable Training Course
 - d. Overview of New Shellfish Constable Database
4. Sub-Committee and Survey of Municipalities on Transfer of Aquaculture Licenses (10:45 – 11:00)
5. SMAST Modeling of Wastewater Treatment Plants (11:00 - 11:15)
6. DMF Policy Clarifying Value Added Processed Non-Conforming Quahogs (11:15 –11:30)
7. Other Business (11:30 – 12:00)
 - a. Panel Member Comments
 - b. Public Comments
8. Adjourn (12:00)

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

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.

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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.

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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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[ALM GL ch. 130, § 98](#)

Current through Chapter 21 of the 2022 Legislative Session of the 192nd General Court

Annotated Laws of Massachusetts > PART I ADMINISTRATION OF THE GOVERNMENT (Chs. 1 - 182) > TITLE XIX AGRICULTURE AND CONSERVATION (Chs. 128 - 132B) > TITLE XIX AGRICULTURE AND CONSERVATION (Chs. 128 — 132B) > Chapter 130 Marine Fish and Fisheries (§§ 1 — 106)

§ 98. Shellfish Constables.

In each city and town bordering on coastal waters the mayor or the selectmen, as the case may be, shall appoint a person or persons, qualified by training and experience in the field of shellfishery management, as shellfish constables or deputy shellfish constables. A person having successfully completed the shellfish wardens training course at the Massachusetts Maritime Academy as certified by said academy, shall be considered qualified by training and experience in the field of shellfishery management and shall be eligible for appointment as a shellfish constable or deputy shellfish constable. Such shellfish constables and deputy shellfish constables shall be appointed for terms of three years, and may be reappointed. They shall, subject to the appointing authority, initiate, promote and manage shellfisheries in such city or town and shall make or cause to be made such studies as may be necessary to enhance the value of such shellfisheries. They shall enforce all statutes, ordinances, by-laws, rules and regulations relative to shellfish in such city or town. They shall, for the enforcement of sections thirty-one, thirty-seven, forty-one, forty-three and forty-four, have the authority granted to natural resource officers, subject to written rules and regulations of the commissioner. In the performance of his duties, a shellfish constable or deputy shellfish constable may request any person who he has cause to believe is engaged in unlawful shellfishing, is in unlawful possession of shellfish, or is in possession of shellfish unlawfully taken, to display forthwith for inspection all shellfish in his possession, and he may arrest without a warrant any person refusing or failing to comply with such request.

Upon the appointment of a shellfish constable or deputy shellfish constable under this section, the appointing authority shall forthwith notify the director of the division of marine fisheries and the director of the division of law enforcement.

History

1941, 598, § 1; 1965, 439; 1972, 34; 1974, 209; [2004, 197](#).

ALM GL ch. 130, § 98

Annotations

Notes

Amendment Notes

The **1965 amendment** rewrote this section to provide that the shellfish constable is to be appointed, to fix his term of office, and to set forth more fully his duties and authority.

The **1972 amendment** inserted a sentence after the fourth sentence, relative to the authority of the shellfish constable in the enforcement of §§ 31, 37, 41, 43, and 44 of this chapter.

The **1974 amendment** provided for the appointment of more shellfish constables for coastal cities and towns.

The **2004 amendment**, effective Oct 19, 2004, in the first paragraph, added the second sentence.

Research References & Practice Aids

Research References and Practice Aids

Cross References

Atlantic States Marine Fisheries Compact (Acts 1941, 489, § 1), see ALM Spec L c S134, §§ 1 et seq.

Hierarchy Notes:

[*ALM GL Pt. I, Title XIX, Ch. 130*](#)

Annotated Laws of Massachusetts

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CITY OF GLOUCESTER

SHELLFISH DEPARTMENT

MEMORANDUM

To: Shellfish Advisory Panel
From: Peter Seminara, Gloucester Shellfish Constable
Date: 23 February 2022
Re: Shellfish Constable Power of Arrest MGL 130/98

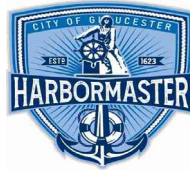
Dear Panel Members,

I would like to recommend that the statutory power of arrest granted Shellfish Constables in Mass. General Law Chapter 130 Section 98 be left unchanged. As Paul Bagnall mentioned at the last Massachusetts Shellfish Officers Association meeting, while most of us as Shellfish Constables do not actually place people under arrest for failure to display shellfish, it is an effective tool to ensure compliance when encountering otherwise uncooperative offenders.

I would also like to note that when conducting administrative inspections, permit checks etc. that the person we are interacting with is not free to leave and therefore could be considered detained for the purposes of investigation. The power of arrest granted Shellfish Constables enables us to ensure that we are able to perform our duties with non-compliant persons who we may encounter. I personally detain over 100 people each summer, and my deputies more for the purposes of checking permits, inspecting catches and ensuring that shellfish are harvested from open areas and are safe to consume.

I, personally, have never placed an individual under arrest and taken them into custody, however, I have used the risk of arrest to gain compliance from persons who otherwise were uncooperative. We, as Shellfish Constables, enforce the law in order to protect the public health and preserve the shellfish resources of our communities. As law enforcement officers, the power of arrest granted in section 98 is necessary to allow us to perform our duties to the best of our abilities. The relationship between Gloucester's shellfish officers and local police and Environmental police allow me to utilize the threat of arrest to great effect.

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CITY OF GLOUCESTER

SHELLFISH DEPARTMENT

In Gloucester, we use verbal and written warnings, non-criminal citations and criminal complaints extremely frequently. Between 2019 and 2022 Gloucester Shellfish Constables have written over 400 citations with fines amounting to approximately \$45,000 primarily during the summer months and primarily for harvest from closed areas or taking prohibited shellfish. A great majority of the offenders we encounter are not compliant or cooperative, especially during the summer when large amounts of tourists visit our beaches. Oftentimes we encounter persons intoxicated with drugs or alcohol. As officers empowered to enforce state statute and local ordinances pertaining to shellfish, we cannot simply “walk away” if a person decides they do not want to interact with us. The power of arrest granted in section 98 is perhaps our most effective tool for performing our duties as expected.

In my tenure as a Deputy Shellfish Constable and as Gloucester’s Shellfish Constable I have had only two incidents where the person I was interacting with failed to comply after being advised of the potential of arrest. One gave false information and did not have identification and the second ran and escaped into the woods, however discarded his shellfish that we were able to recover. Police response at that time was slow due to a serious accident in another part of the city.

In Gloucester, the Shellfish Department is a division of the Harbormaster’s Department. All sworn Shellfish Constables and Deputy Constables in Gloucester are also sworn Assistant Harbormasters with the power of arrest granted to them in Section 13 of Chapter 90B.

To remove the statutory power of arrest of Shellfish Constables would severely handicap us in preventing illegal harvest in Gloucester and I am sure in other cities and towns where shellfish poaching, whether for personal or commercial use, is rampant.

Respectfully

Peter Seminara
Gloucester Shellfish Constable

2022 constable training session modified syllabus for virtual presentations

Sessions 1 through 15

Last Update - 1/25/22

SESSION	Time	Topic	Speaker	TIME
WEEK 1 (March 7 - 11)				
Session #1 Monday, March 7th	9:00-9:30	Introduction, Housekeeping, overview goals & objectives	Henry Lind MSOA (ret)	30
	9:30-10:15	History of Shellfish Constable / Constable relationship with DMF	Paul Bagnall, MSOA President & Renee Gagne, Chatham Shellfish Constable	45
	10:15-10:20	Q & A		5
	10:20-11:05	ISSC,NSSP Shellfish Section Overview	Jeff Kennedy, DMF	45
	11:05-11:15	Q & A		10
	11:15-11:45	DPH HACCP REGS	Eric Hickey, DPH	30
	11:45-12:15	Harvester to Wholesaler	Eric Hickey, DPH	30
	12:15-12:25	Q & A		10
	12:25-12:55	Shellfish Planting Guidelines	Tom Shields, DMF	30
	12:55-13:00	Q & A		5
Total				240
Session #2 Tuesday, March 8th	9:00-9:30	MSI Background and Current Status	Mel Sanderson, CCCFA & Steve Kirk, TNC	30
		Q & A		5
	9:30-10:00	DMF Shellfish Advisory Panel	Dan McKiernan & Jeff Kennedy	30
		Q & A		5
	10:00-11:00	Ocean & Coastal Acidification	Jennie Rheuban, WHOI	60
		Q & A		5
	11:00-11:45	Nitrogen remediation and shellfish	Josh Rietsma CCCE /WHOI	45
		Q & A		5
	11:45-12:45	PEER Food safety	Amy Fitzpatrick, FDA	60
	12:45-13:15	Q & A		5
Total				250
Session #3 Wednesday, March 9th	9:00-9:45	DMF Shellfish Program Overview	Jeff Kennedy, DMF	45
	9:45-9:55	Q & A		10
	9:55-10:25	Classification of Shellfish Growing Areas	Terry O'Neil, DMF	30
	10:25-10:30	Q & A		5
	10:30-11:00	Sanitary Surveys - purpose, steps, outcomes	John Mendes, DMF	30
	11:00-11:05	Q & A		5
	11:05-12:05	Recent changes to NSSP MO-Mooring Areas and WWTP's	Jeff Kennedy, DMF	60
	12:05-12:15	Q & A		10
Total				195
Session #4 Thursday, March 10th	9:00-9:30	Contaminated Relays	Tom Shields, DMF	30
	9:30-9:35	Q & A		5
	9:35-10:20	Shellfish Management Plans	Ryan Joyce,DMF	45
	10:20-10:25	Q & A		5
	10:25-11:10	Lab analysis for classification of growing areas	Florence Cenci, DMF	45
	11:10-11:15	Q & A		5
	11:15-11:45	Depuration Plant Operations, Analyses and Criteria	Greg Bettencourt, DMF	30
		Q & A		5
	11:45-12:30	Shellfish Landings data collection & storage	Anna Webb,DMF	45
	12:30-12:35	Q & A		5
Total				220
Session #5 Friday, March 11th	9:00-9:45	Biology of Shellfish	Dale Leavitt RWU	45
	9:45-9:55	Q & A		10

March 11	9:55-10:55	Shellfish diseases	Roxanna Smolowitz RWU	60
	10:55-11:05	Q & A		10
	11:05-11:50	Razor Clam Biology and Culture	Josh Reitsma/Abigail Archer, CCCE/WHOI	45
	11:50-11:55	Q & A		5
	11:55-12:40	Pests and Predators	Harriet Booth, CCCE/WHOI	45
	12:40-12:45	Q & A		5
			Total	225
WEEK 2 (March 14-18)				
Session #6 Monday, March 14th	9:00-9:30	Herring Management in MA Waters	Brad Chase, DMF	30
	9:30-9:35	Q & A		5
	9:35-10:05	Eel Biology and Management	Brad Chase, DMF	30
	10:05-10:10	Q & A		5
	10:10-10:55	Lobster biology, Management & regulations	Tracy Pugh, DMF	45
	10:55-12:00	Q & A		5
	12:00-13:00	Ecology of Harmful Algal Blooms	Chrissy Petitpas, DMF	60
	13:00-13:05	Q & A		5
	13:05-13:35	DMF Biotxin Monitoring Program	Terry O'Neil DMF	30
	13:35-13:40	Q & A		5
			Total	220
Session #7 Tuesday, March 15th	9:00-10:00	Aquaculture and Municipal Propagation Management & Permitting	Chrissy Petitpas, DMF	60
	10:00-10:10	Q & A		10
	10:10-10:55	Vibrio Control Program	Chrissy Petitpas, DMF	45
	10:55-11:00	Q & A		5
	11:00-11:30	Traditional gear & upwellers for shellfish growout	Dale leavitt RWU	30
	11:30-11:35	Q & A		5
	11:35-12:20	Coastal Processess	Greg Berman, CCCE / WHOI	45
	12:20-12:25	Q & A		5
	12:25-13:10	Expected coastline changes	Greg Berman CCCE / WHOI	45
	13:10-13:15	Q & A		5
			Total	255
Session # 8 Wednesday, March 16th	9:00- 9:45	Docks and Piers	Mark Rousseau or appointee, DMF	45
		Q & A		5
	9:45-10:30	CZM Waterways management	Steve McKenna CZM	45
		Q & A		5
	10:30-11:15	Fisheries Habitat/ EIR Process	Mark Rousseau or appointee, DMF	45
		Q & A		5
	11:15-12:00	Dredging Issues	Mark Rousseau or appointee, DMF	45
		Q & A		5
	12:00-12:45	Marine Mammals and Turtles	Erin Burke, DMF	45
	12:45-13:15	Q & A		5
	13:15-13:45	Mid Term Review		30
			Total	280
Session 9 Thursday, March 17th	9:00 - 10:00	Laws Pertaining to Shellfish Constables	LT Desroches, OLE	60
	10:00-10:10	Q & A		10
	10:10-11:10	State & Local Jurisdiction	LT Desroches, OLE	60
	11:10-11:20	Q & A		10
	11:45-12:45	Contaminated Areas & Harvest of Shellfish	DMF & OLE, TBD	60
	12:45-12:50	Q & A		5
	12:50-13:35	CMR's and DMF adjudicatory hearings	Jared Silva, DMF	45
	13:35-13:40	Q & A		5
			TOTAL	255
Session 10 Friday, March 18th	9:00-9:30	Local Bylaws and Regulations	Paul Bagnall, MSOA	30
	9:30 -9:35	Q & A		5
	9:35-10:20	Interaction with DPH, Constables, Other Agencies	LT Bass , OLE	45
	10:20- 10:25	Q & A		5
	10:25-11:25	Boat Handling / Boarding /radio procedures	A. Pierce & C. Haynes, OLE	60

	11:25-11:30	Q & A		5
	11:30-12:30	Chapter 90 B overview	A. Pierce & C. Haynes, OLE	60
	12:30-12:35	Q & A		5
	12:35-13:20	Focus on North Shore shellfish enforcement issues	Peter Seminara, Gloucester & EPO's Ryan Lennon and /or Joe Gray	45
	13:20-13:40	Q&A		10
			TOTAL	270
WEEK 3 (March 21 - 24)				
Session 11 Monday, March 21st	9:00-9:45	Non-Criminal Citations	Paul Bagnall, MSOA	45
	9:45-9:50	Q&A		5
	9:50-10:50	Interview & interrogation	LT Gamache, OLE	60
	10:50-10:55	Q&A		5
	10:55-11:55	Property Custody	LT Gamache, OLE	60
	11:55-12:05	Q&A		10
	12:05-13:05	Court Procedures	LT Gamache, OLE	60
	13:05-13:15	Q&A		10
			TOTAL	255
Session 12 Tuesday, March 22^{ed}	9:00-10:00	Report Writing	LT Cullen, OLE	60
	10:00-10:05	Q&A		5
	10:05-10:35	Intro to Criminal Justice System	CPT Clayton, OLE	30
	10:35-10:40	Q&A		5
	10:40-11:55	Search & Seizure / Boarding	CPT Clayton, OLE Aiken, OLE	75
	11:55-12:05	Q&A		10
	12:05-13:05	Processing the Arrestee	Lt. Bass, OLE	60
	13:05-13:15	Q&A		10
			TOTAL	255
Session 13 Wednesday, March 23^{ed}	9:00-10:00	DEP, Emergency Response Unit	Dan Crafton, DEP	60
	10:00-10:10	Q&A		10
	10:10-10:55	DEP Oil Spill Prevention, Response	Julie Hutcheson, DEP	45
	10:55-11:05	Q&A		10
	11:05-12:05	USCG Oil/HAZMAT Response	LTJG Adam Kosen/ENS Carli Moore	60
	12:05-12:20	Intro to Incident Command System	LT Desroaches	15
	12:20-12:30	Q&A		10
			TOTAL	210
Session 14 Thursday, March 24th	9:00-9:40	Intro to Various Species	Lt. Bass, OLE	40
	9:40-9:45	Q&A		5
	9:45-10:25	Horseshoe Crabs, Blue Crabs & other	Derek Perry & Steve Wilcox, DMF	40
	10:25-10:30	Q&A		5
	10:30-11:10	State Managed Shellfish and Other Invertebrate Fisheries	Jared Silva, DMF	40
	11:10-11:15	Q&A		5
	11:15-11:45	Recreational Programs	Amy Croteau, Barnstable & Renee Gagne, Chatham	30
	11:45-11:50	Q&A		5
	11:50-12:20	Upweller Propagation	Rachel Hutchinson, Chatham	30
	12:20-12:25	Q & A		5
			TOTAL	205
WEEK 4 (March 28)				
Session 15 Monday, March 28th	9:00-9:45	First year as a constable	Nancy Civetta, Wellfleet	45
	9:45-9:55	Q & A		10
	9:55-10:40	Real world experience of a shellfish constable	Henry Lind, Paul Bagnall, Renee Gagne, Peter Seminara	45
	10:40-10:50	Q & A		10
	10:50-11:50	Final Course review	Henry Lind	60
	11:50-12:05	Final Exam Instructions	Details TBD	15
			Total	185

[ALM GL ch. 130, § 58](#)

Current through Chapter 21 of the 2022 Legislative Session of the 192nd General Court

Annotated Laws of Massachusetts > PART I ADMINISTRATION OF THE GOVERNMENT (Chs. 1 - 182) > TITLE XIX AGRICULTURE AND CONSERVATION (Chs. 128 - 132B) > TITLE XIX AGRICULTURE AND CONSERVATION (Chs. 128 — 132B) > Chapter 130 Marine Fish and Fisheries (§§ 1 — 106)

§ 58. Transfer or Renewal of Licenses.

Any license granted under section fifty-seven or corresponding provisions of earlier laws may be transferred with the approval of the city council or selectmen to any person to whom it might originally have been granted, and, whether or not so transferred, may, within two years before the expiration of its then current term, be renewed from the expiration of the original term for a further term or terms, each term not to exceed fifteen years. The provisions of this chapter or of corresponding provisions of earlier laws applicable to the original issuance of such license shall, so far as apt, apply to a transfer or a renewal thereof hereunder.

History

1941, 598, § 1; 1973, 931, § 3; 1986, 692.

Annotations

Notes

Amendment Notes

The 1973 amendment after “transferred” where it first appears in the section, inserted “with the approval of the city council or selectmen.”

The 1986 amendment in the first sentence, deleted the phrase “for a further term of not exceeding fifteen years” and, after “term” at the end of the first sentence, inserted “for a further term or terms, each term not to exceed fifteen years.”

Research References & Practice Aids

Research References and Practice Aids

Cross References

Atlantic States Marine Fisheries Compact (Acts 1941, 489, § 1), see ALM Spec L c S134, §§ 1 et seq.

Annotations—

Constitutionality of state laws which discriminate against nonresidents or aliens as to fishing and hunting rights. [52 L Ed 2d 824](#).

Hierarchy Notes:

[ALM GL Pt. I, Title XIX, Ch. 130](#)

Annotated Laws of Massachusetts

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Massachusetts Division of Marine Fisheries

Daniel J. McKiernan, Director

Policies, Procedures, and Guidelines

Importation, Possession, and Processing of Non-Conforming Quahogs

Introduction and Purpose:

At 322 CMR 6.20(2), the Division of Marine Fisheries (DMF) establishes a minimum size for quahogs (*Mercenaria mercenaria*) of 1" shell thickness (hinge width). This minimum size applies as a possession limit and therefore can be interpreted as applying to harvesters, seafood dealers, and consumers. Exempt from this are Massachusetts' aquaculture raised quahogs, which are subject to a 7/8" shell thickness minimum size and must be sold outside of the Commonwealth following the initial sale to a Massachusetts primary buyer, consistent with DMF regulations at 322 CMR 14.03(3).

The 1" shell thickness minimum size standard is a historic, biologically based metric designed to sustain wild quahog populations. Certain state jurisdictions allow quahogs to be harvested and sold at sizes smaller than Massachusetts' 1" shell thickness standard, particularly aquaculture-reared product. Moreover, seafood production and consumer markets are dynamic and there are emerging markets that favor value-added, frozen quahogs measuring less than 1" shell thickness. In a state like Massachusetts that is both a major seafood producer and a major seafood processor, DMF must balance resource conservation with the interests of our fishing industry and the broader seafood processing economy.

The National Shellfish Sanitation Program (NSSP) is a cooperative state-federal-industry program for the sanitary control of shellfish produced for human consumption. To safeguard public health the NSSP's Model Ordinance establishes a shellfish traceability program through harvester and dealer tagging requirements. This traceability also benefits enforcement and conservation, as it allows for the shellfish to be traced back to its area of harvest allowing for the enforcement of public health as well as shellfish conservation regulations. Accordingly, this

allows for the interstate shipment of shellfish without negatively impacting local shellfish conservation and enforcement efforts. This policy to allow the possession of non-conforming quahogs relies on the tagging requirements of the NSSP's Model Ordinance to ensure there remains compliance with and enforcement of state conservation management regulations governing quahogs.

As a state with a large seafood processing sector, Massachusetts seafood dealers have an interest in obtaining non-conforming sized quahogs for processing into frozen, value-added products to be sold into commerce. This policy seeks to differentiate between the possession and sale of quahogs as raw shellstock and the possession and sale of frozen quahogs. In doing so, it describes the narrow circumstances whereby frozen quahogs that do not conform with the state's minimum size standard at 322 CMR 6.20(2) may be possessed and sold in Massachusetts.

Policy: The quahog minimum size regulation at 322 CMR 6.20(2) shall apply to all quahog shellstock and processed inshell quahogs except as enumerated below:

1. Packaged, frozen, value-added, inshell quahogs may be possessed, offered for sale, and sold in Massachusetts. This shall be inclusive of wholesaling, retailing, and possession by end-consumers.
2. Consistent with 322 CMR 6.20(2) and 14.03(3), Massachusetts wholesale dealers who are primary buyers ("primary buyer") of shellfish may purchase quahog shellstock at a shell thickness of 7/8" from lawfully permitted Massachusetts aquaculturists and shall only sell this quahog shellstock outside of Massachusetts. However, the primary buyer may process the shellstock into packaged, frozen, value-added, inshell quahog product and this product may be sold in Massachusetts consistent with this policy.
3. Massachusetts wholesale dealers may obtain frozen, inshell, aquaculture-reared quahogs from another jurisdiction that do not conform to the state's minimum size regulations at 322 CMR 6.20(2), provided they were lawfully harvested in the jurisdiction of origin. The wholesale dealer may then process the frozen, inshell quahogs into packaged, frozen, value-added, inshell quahog product and this product may be sold in Massachusetts consistent with this policy.
4. To conduct the value-added processing activities described in #2 and #3 above, the Massachusetts wholesale dealer shall obtain a Letter of Authorization and Statement of Permit Conditions issued by the Division of Marine Fisheries in accordance G.L. c. 130, §80 and 322 CMR 7.01(7). This Letter of Authorization will set forth the conditions by which the non-conforming frozen, inshell quahogs may be possessed and imported. This includes but is not limited to the disposition of the product, as well as segregation and tagging requirements. A Letter of Authorization is not necessary for primary buyers to purchase quahog shellstock at a shell thickness of 7/8" from lawfully permitted Massachusetts aquaculturists and to sell this shellstock out of state.

This policy shall not be construed to affect any other laws or regulations of the Commonwealth, including but not limited to all requirements of the Massachusetts Department of Public Health regarding the sanitary control of shellfish produced or sold for human consumption.

DMF - *(Jeff's)* Updates

Personnel



Personnel Changes

- Greg Bettencourt *promoted to Gloucester Shellfish Supervisor*
 - Neil Churchill *rehired as contractor*
 - Brianne Shanks *promoted to New Bedford Lab Supervisor*
 - Jennifer Poniatowski-Bacteriologist I *resigned*
 - Einat Sandbank-Aquatic Biologist I *resigned*
 - Sean Fallon-contractor *resigned*
 - Greg Sawyer *retiring*
 - Matt Camisa *transferred to New Bedford Senior Biologist*
 - Tom Shields *relocated to Boston*
 - Jake Madden *hired as Newburyport Bacteriologist I*
 - Devon Winkler *leaving*
-
- 2 new Bacteriologists I's to be filled for 1 each -> Gloucester and New Bedford
 - 2 backfills for AB II's in Gloucester = Greg, Devon
 - will backfill Einat's position





DMF - (Jeff's)
Updates

SMAST WWTP Modeling
Project

Classification adjacent to Wastewater Treatment Plants

- National Shellfish Sanitation Program (NSSP) Guidance
 - States are required to set-
 - Mandatory Closed Safety Zone = Prohibited -> at 1000 / 1 dilution line
 - Conditional (*Approved or Restricted*) area within 100,000 / 1 dilution line
- Impacts
 - CSZ precludes all harvesting
 - Reclassification to a conditional will impact harvesting during WWTP upset

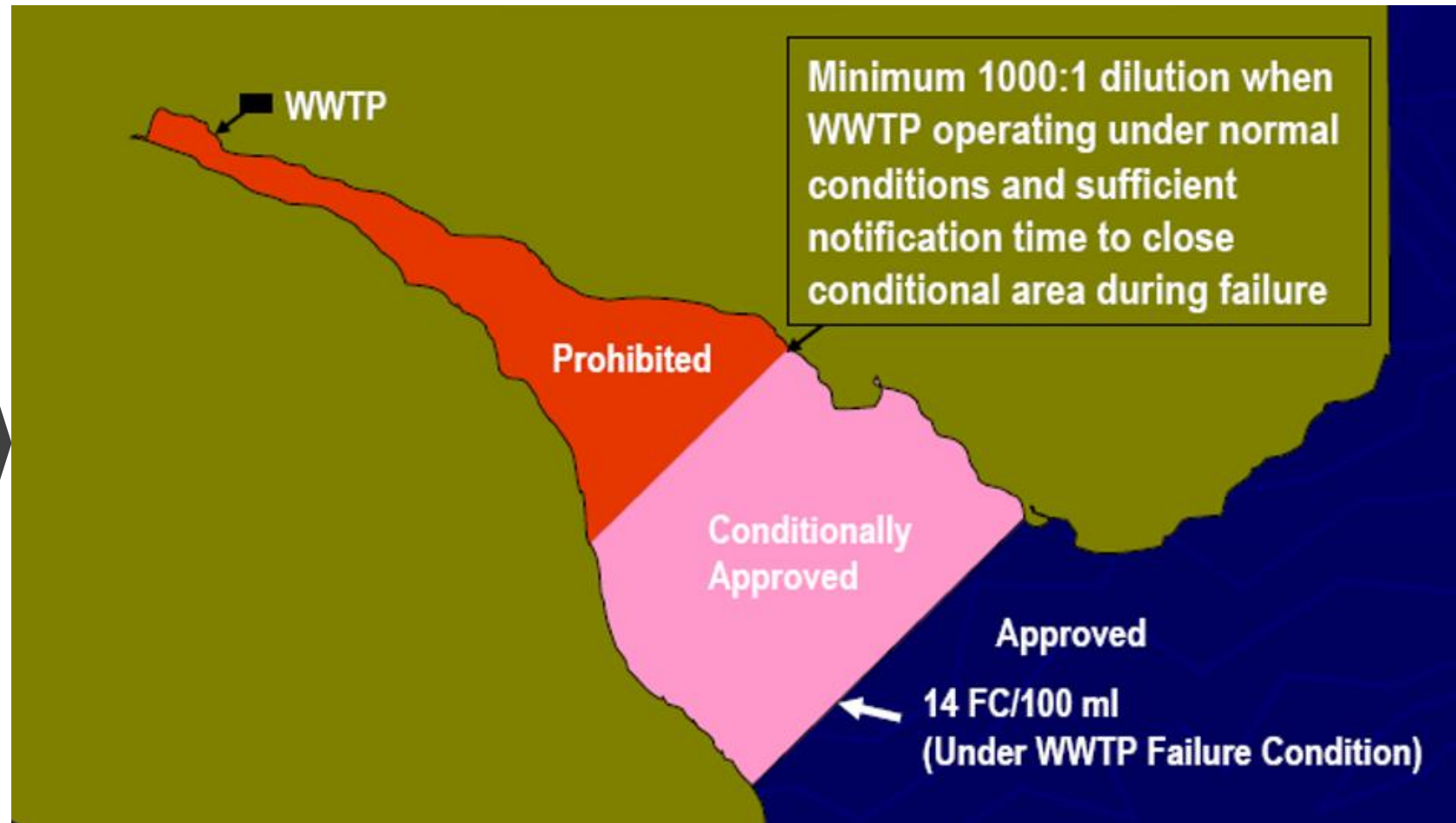


NSSP Sanitary Classifications

- **Approved** Open to shellfish harvesting for direct human consumption subject to local rules and regulations. Closed only during major coast-wide events (e.g., hurricane, oil spill, red tide event).
- **Conditionally Approved** Closed some of the time due to rainfall or seasonally poor water quality or other predictable events. When open, it is treated as an Approved area.
- **Restricted** Contains a limited degree of contamination at all times. When open, shellfish can be relayed to a less contaminated area or harvested for depuration.
- **Conditionally Restricted** Contains a limited degree of contamination at all times, subject to intermittent pollution events and may be closed some of the time due to rainfall or seasonally poor water quality.
- **Prohibited** Closed to the harvest of shellfish under all conditions, except the gathering of seed for municipal propagation programs under a DMF permit.



For Example



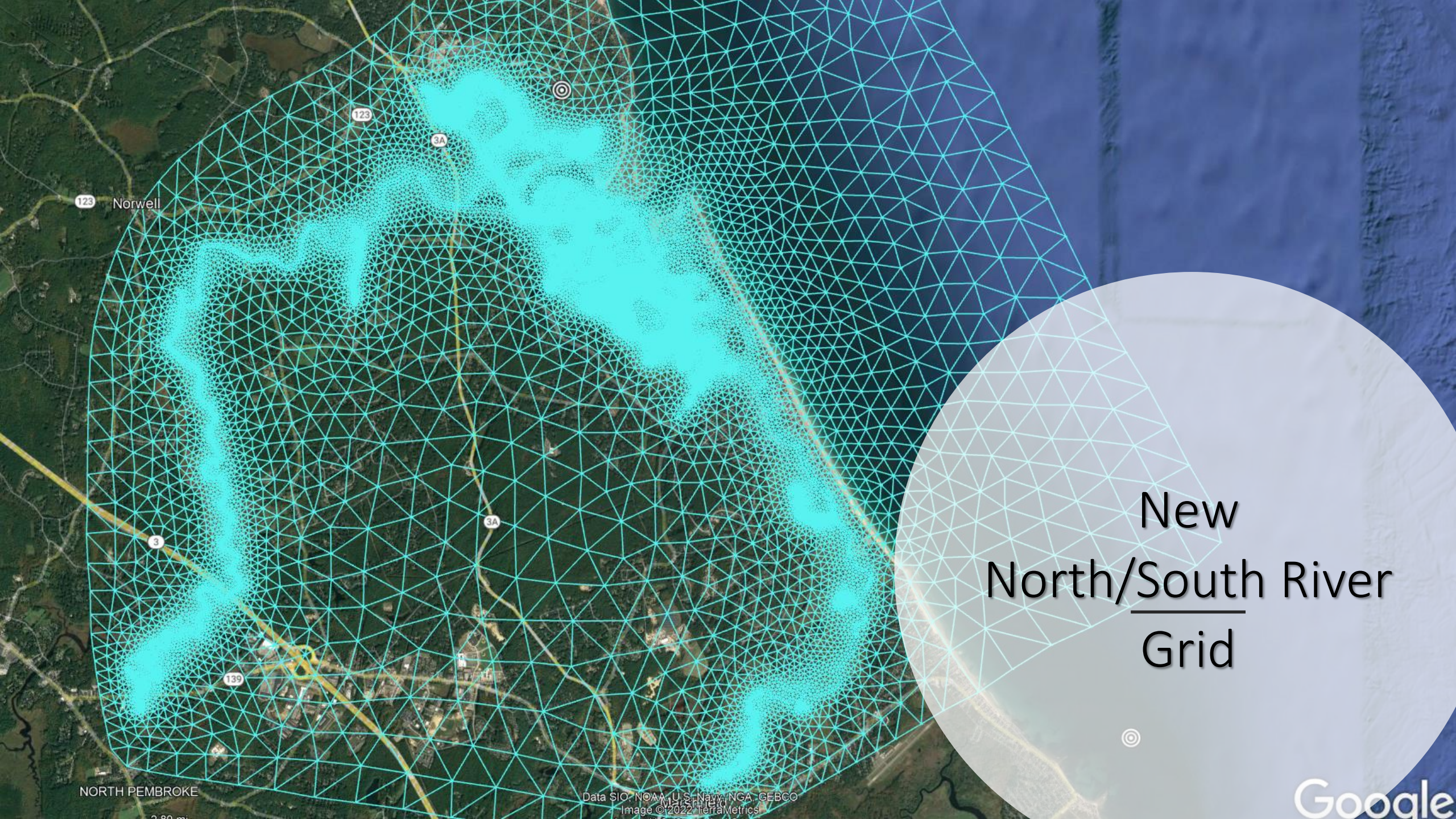
Our Approach

- DMF contract with SMAST @Umass Dartmouth for modeling
\$100K budget earmark
- FVCOM (finite-volume coastal ocean model)
Model WWTP discharges impacting Mass Shellfish Areas
 - 1) DMF provides input parameters for CSZ & Conditional areas
 - WWTP outfall locations
 - Flow rates
 - Concentrations
 - 2) SMAST developing high resolution domain



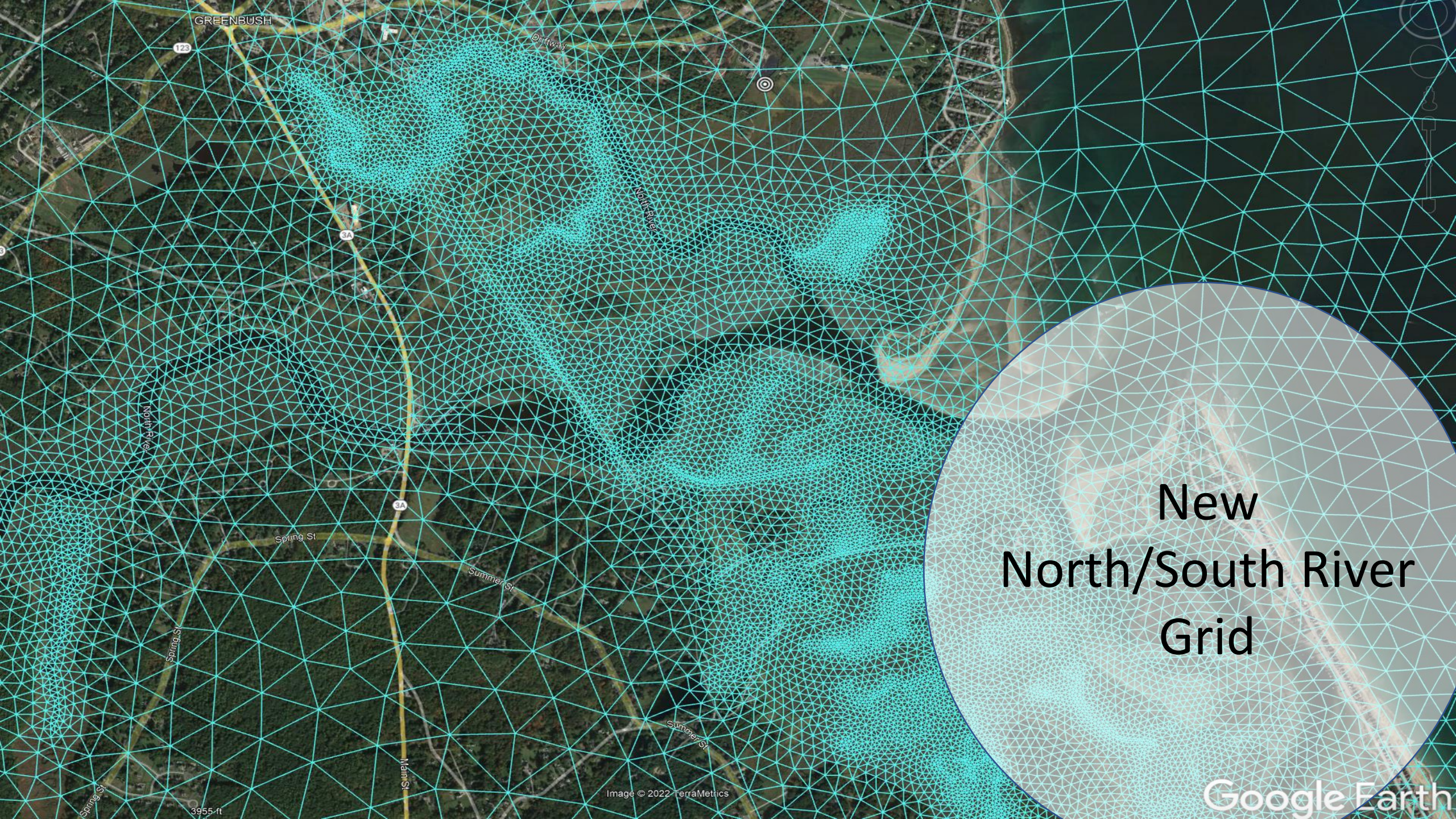


North River Regional Grid



New
North/South River
Grid





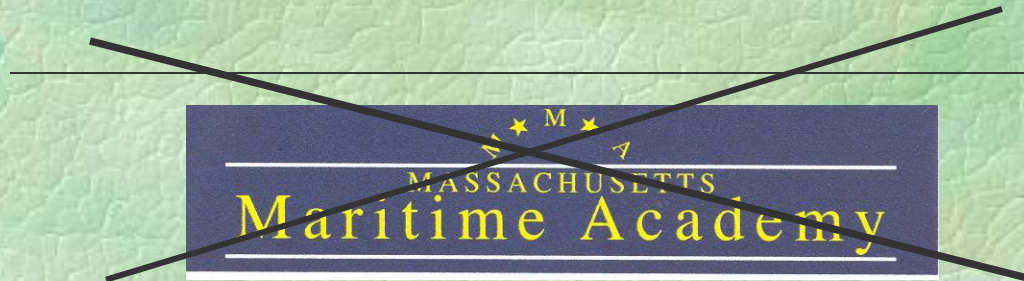
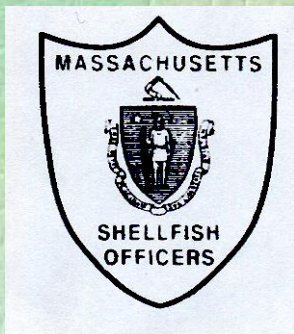
New North/South River Grid

Next Steps

- North South River wrap-up this summer
- \$100K Earmark included in proposed FY23 state budget
- SMAST will continue with list of WWTP model development
 - Faster with ocean outfalls
 - Slower – more labor for inshore/estuarine discharges

Questions?

Massachusetts Shellfish Constable Training Certificate Program 2022



Why are we doing this ?

- Unique management scheme in MA
- Diverse workforce
 - Various conditions of habitat, species
 - Various politics
 - Home Rule rules
- Need for collaboration
- MGL Ch 130 s. 98
 - "shall be deemed qualified ... and eligible

What are the goals ?

- Understanding of the issues
 - Wide range of topics
 - Not all concurrent
- Confidence
 - Personal
 - Public
 - Administration
- Balance
 - Protection, propagation, economic, social, environmental, political
- Resources for future use

History

MSOA initiative 1990s

Mass Maritime ~ Cam Gifford

Utilize Sea term at MMA

1995 first session

Legislative change 2004

Three year intervals thereafter

Who's here and why?

Constables / Deputy constables
Harbormasters / deputy H'masters
Police assigned to Shellfish
Interested persons

What's different this year?

COVID shift to virtual

DMF ZOOM webinar

3 weeks of morning sessions

1 wrapup / final exam

47 participants

51 + presenters

66 presentations

What's Covered?

- Basics of Shellfish Biology
- Challenges of being a clam in an imperfect world
- Tools for meeting the challenge - laws, research, etc
- Contacts, networking, resources, collaboration, cooperation
- Real world stuff

Who is doing this ?

- MSOA
- DMF
- OLE
- USCG
- DEP
- DPH
- Barnstable County Extension
- CZM
- FDA
- WHOI
- TNC
- Constables & retired constables

What is next?

-too soon to tell
- More attendees than in person
- Scheduling is still problematic
- True Learning Management System
 - Would solve some issues
 - \$\$

**Summary of Shellfish
Constable interviews
pertaining to
enforcement of state
statutes, regulations,
and municipal shellfish
regulations.**



Between January 24 and 27, 2022, phone interviews were conducted with shellfish constables in 24 coastal towns

Coastal Municipalities Represented in The Phone Interviews by Region		
Cape Cod & Islands	South Shore & South Coast	Boston Harbor & North Shore
Barnstable	Bourne	Gloucester
Chatham	Duxbury	Hingham
Chilmark	Fairhaven	Hull
Dennis	New Bedford	Ipswich
Falmouth	Plymouth	Newbury
Orleans	Wareham	Newburyport
Provincetown	Westport	
Sandwich		
Tisbury		
Wellfleet		
Yarmouth		



Reported Arrests Related to Shellfish Violations

- 82% of interviewed constables could not recall any shellfish related arrests over at least the last 20 years . Falmouth reported 3-4 arrests since 2013. New Bedford reported approximately 20 shellfish related arrests over the last 10. years.



Compliance to the Request to Display Shellfish Catch for Inspection Over the Past Ten Years

Municipality	Estimated # Incidents
Chatham	2
Fairhaven	2
Gloucester	9
New Bedford	15
Orleans	1
Plymouth	1
Tisbury	3
Wareham	12
Wellfleet	2
Yarmouth	4

- Ten of 24 interviewed constables reported dealing with non-compliance
- Of those 10 constables, no arrests were conducted by constables or deputy constables.
- Most individuals found in violation were issued citations requiring payment of fines
- New Bedford reported that 7-8 individuals were arrested with the assistance of New Bedford Police
- EPO's assisted in the arrest of one individual in each of Wareham, Orleans, and Wellfleet



Other Roles of Shellfish Constables

Municipality	Constable	HbrMaster/ Assist. HbrMaster	DNR Officer	Police Officer	Police Training
Dennis	x		x		
Barnstable	x		x		
Plymouth	x	x			
Westport	x	x			x
Bourne	x	x	x		
Sandwich	x	x	x		
Tisbury	x				
Falmouth	x	x	x		x
Yarmouth	x	x			
Wareham	x	x	x		x
Chilmark	x				
Duxbury	x	x			x
Hingham	x	x		x	x
Hull	x				
Wellfleet	x				
Orleans	x	x	x		
Gloucester	x	x			
Chatham	x				
Newburyport	x	x			x
Ipswich	x				
Provincetown	x				
Fairhaven	x	x			
Newbury	x				
New Bedford	x				x
Totals	24	13	7	1	7

- Constables in 15 towns have additional responsibilities
- Nine towns have Shellfish Constables without any other roles
- Only the Hingham Constable and Deputy Constables are members of the municipal Police Department.
- Constables and Deputy Constables in six other municipalities have received some form of police training.



Summary of Interview Results

1. 82% of interviewed shellfish constables reported that there were no arrests related to shellfish violations in their towns in recent history.
2. 8% of interviewed constables reported arrests related to shellfish violations during the last 20 years.
3. During this period, 4 municipalities reported that arrests were made with the assistance of local municipal police, and EPO's.



Summary of Interview Results...(continued)

4. Ten of the 24 interviewed constables reported they dealt with non-compliance with the request to display their catch for inspection within the last 10 years. Over this period, no arrests were conducted by constables or deputy constables. Most violators were fined in these cases and required to return their catch.
5. Shellfish constables/deputy constables in nine towns have no additional duties. Constables/deputy constables in the remaining 15 municipalities have additional responsibilities.
6. Constables and Deputy Constables in seven of the interviewed municipalities have received some form of police training.



The Takeaway

- Early this year there was growing concern among municipal Shellfish Constables that the Peace Officer Standards and Training (POST) Commission would be requiring mandatory law enforcement training for all Shellfish Constables in the Commonwealth.
- At the same time MSOA, MEP and DMF were designing a virtual Shellfish Constable training course scheduled to begin March 25th.
- Interviews were conducted with 24 Shellfish constables to gather background information for determining constable training requirements and the frequency of exercising their powers of arrest under Chapter 130 Section 98.
- Gathered information could be used to make an informed decision about whether or not to amend Section 98 in light of possible police reform.

Final Analysis

1. Powers of arrest are rarely employed by Shellfish Constables
2. Although rarely employed, many Constables pointed out the importance of maintaining this authority as defined in Section 98. It offers significant leverage to constables in the performance of their routine duties of enforcing state and municipal shellfish regulations.
3. Although nothing has been officially announced, the POST commission will likely exempt Shellfish Constables from mandatory police training.

