



**MARINE FISHERIES ADVISORY COMMISSION
BUSINESS MEETING AGENDA**

9:00AM

November 19, 2024

Via Zoom

Link: <https://us02web.zoom.us/j/89518083241>

Call In: 1-929-436-2866

Webinar ID: 895-1808-3241

1. Call to Order and Routine Business (9:00 – 9:15)
 - a. Introductions and Announcements
 - b. Review of November 2024 Business Meeting Agenda
 - c. Review and Approval of October 2024 Draft Business Meeting Minutes
2. Comments (9:15 – 9:45)
 - a. Chairman
 - b. Law Enforcement
 - c. Commissioner
 - d. Director
3. Election for Vice-Chair (9:45 – 10:00)
4. Future Public Hearing Proposals (10:00 – 11:00)
 - a. Menhaden Quota Management Rules
 - b. Summer Flounder Quota Management Rules
5. Discussion Items (11:00 – 12:00)
 - a. Protected Species Update
 - b. November 2024 Shellfish Advisory Panel Meeting
 - c. MFAC Law Enforcement Focus Group Meeting
6. Presentations (12:00 – 12:45)
 - a. Status of Massachusetts River Herring Runs
 - b. Online Permitting System
7. Other Business (12:45 – 1:00)
 - a. Commission Member Comments
 - b. Public Comment
8. Adjourn (1:00)

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.

Future Meeting Dates

9AM

December 17, 2024

via Zoom

MARINE FISHERIES ADVISORY COMMISSION

Draft Business Meeting Minutes

October 29, 2024

DFW Field Headquarters

1 Rabbit Hill Road

Westborough, MA 01581

In attendance:

Marine Fisheries Advisory Commission: Raymond Kane, Chairman; Kalil Boghdan; Shelley Edmundson; Chris McGuire; Tim Brady; Bill Amaru; Arthur “Sooky” Sawyer and Bill Doyle.

Division of Marine Fisheries: Daniel McKiernan, Director; Bob Glenn, Deputy Director; Kevin Creighton, Assistant Director; Story Reed, Deputy Director; Anna Webb, Acting Assistant Director; Jared Silva; Nichola Meserve; and Kelly Whitmore.

Department of Fish and Game: Tom O’Shea, Commissioner.

Massachusetts Environmental Police: Col. Christopher Mason; Lt. Colonel Chris Baker; and Lt. Matthew Bass.

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Ray Kane called the October 29, 2024 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

REVIEW OF OCTOBER 29, 2024 BUSINESS MEETING AGENDA

Chairman Kane asked if there were any amendments to the October 29, 2024 MFAC business meeting agenda. No amendments were sought or made. Note that later in the meeting, the presentation on DMF’s online permitting system was postponed to November 2024 business meeting in the interest of time.

REVIEW AND APPROVAL OF SEPTEMBER 17, 2024 DRAFT MEETING MINUTES

Chairman Kane asked if there were any amendments to the September 17, 2024 draft MFAC business meeting minutes. No amendments were sought or made.

The Chairman requested a motion to approve the September 17, 2024 MFAC business meeting minutes. **Chris McGuire made the motion to approve the September 17, 2024 business meeting minutes as amended. Shelley Edmundson seconded the motion. The motion was approved 7-0-1 with Chairman Kane abstaining.**

CHAIRMAN'S COMMENTS

Chairman Kane recognized that the Vice-Chair seat was now open with Mike Pierdinock concluding his tenure with the MFAC. While elections are typically held at the May business meeting, he felt it was appropriate to have the MFAC vote up an interim-Vice Chair. He asked the MFAC if they wished to proceed with an election at this business meeting or consider this action over the next month and address it at the November business meeting. Bill Amaru stated his preference for holding off on a vote until November which became the consensus position of the other Commission members.

LAW ENFORCEMENT COMMENTS

Colonel Chris Mason introduced himself to the MFAC. Mason is serving as the interim Colonel over the next six months while the agency seeks to find a more permanent replacement. During his tenure, he intends to develop a report that describes the needs and issues facing the agency for the next Colonel to consider.

Sooky Sawyer asked Col. Mason about his background. Mason obtained a BS in Environmental Science and then worked as a game warden on Cape Cod. He sought employment with the Massachusetts Environmental Police (MEP), but ultimately ended up with the Massachusetts State Police. At the State Police he worked on homicide, anti-terrorism, and oversaw investigative services before serving as Colonel for the last three years. He had retired from service before being asked to serve as Interim Colonel with MEP. He jumped at the opportunity given his long standing interest in the field and working with the agency.

Chairman Kane welcomed Colonel Mason. Chairman Kane stated the MFAC has long been a strong supporter of MEP and has advocated for growing their capacity, particularly within the Coastal Bureau.

Kalil touched on MEP's personnel issues as he understood them and his concerns that the agency should be expanding its ranks while it is struggling to maintain status quo levels of employment.

Bill Amaru and Col. Mason discussed his work history as a Game Warden on Cape Cod. Chairman Kane and Bill Amaru stated their interest in MEP having an enhanced on-the-water presence along the Outer Cape during the summertime period given the high level of fishing activity that occurs in this area.

COMMISSIONER'S COMMENTS

Commissioner Tom O'Shea welcomed Col. Mason.

Tom then shifted to discussing personnel. The statewide hiring pause was being lifted. He recognized the strain this pause placed on agencies by requiring they do more with

less, particularly given constraints on backfilling vacated positions. He thanked DMF for their continued hard work and staff's willingness to embrace the additional workload. He was hopeful the agency would now be able to begin hire and backfill key positions.

The Legislature is expected to take up the Environmental Bond Bill in 2025. The Department seeks to leverage the prominence of the Governor's Executive Order on Biodiversity to increase capital funding for its agencies, particularly regarding public access and habitat restoration projects.

O'Shea then discussed three hot-button marine fisheries issues had been engaged on:

- Horseshoe crab management remains a prominent issue within the conservation community. He—along with Director McKiernan, Deputy Directors Story Reed and Bob Glenn, and Jared Silva—visited the Associates of Cape Cod's (ACC) facility in Falmouth. ACC is a longstanding biomedical processor of horseshoe crabs in Massachusetts. The visit included a meeting with ACC senior staff to discuss biomedical demand and expectations moving forward, as well as a facility tour to see how the product is extracted and manufactured. He stated that this meeting really helped him to better understand the biomedical industry and their short and long-term expectations regarding demand for horseshoe crabs.
- Groundfish industry representatives from Gloucester have reached out to Governor Healey with their concerns about the federal government's work to redesignate cod stock areas and the expected setting of low catch limits for cod. DMF and DFG have been meeting with the fishing industry to help clarify certain issues around the stock redesignation work and develop strategies to mitigate potential economic impacts of low catch limits.
- A capital investment study of DMF's Newburyport Depuration Plant was commissioned and completed. The plant became inoperable last November due to coastal flooding and erosion that rendered its seawater wells exposed and inoperable. The study found that new seawater wells could be drilled close to the facility and the facility could be updated for under \$1M. However, the expectation is that this area of Plum Island is going to continue to experience significant flooding and erosion which may result in continued and expensive maintenance. Additionally, moderately contaminated softshell clam throughput from the plant has been decreased dramatically over the past 20-years. This is in part due to the loss of the softshell clam resource affected by disease and changing environment. The resource is expected to continue to diminish; NOAA Fisheries considers this species to have very high vulnerability to climate change. Moreover, the depuration fishery only occurs in waters that are classified as moderately contaminated and thereby subject to state control, rather than open to direct consumption and subject to municipal control. Over the past 20-years, coastal communities have invested in sewage treatment infrastructure in turn improving coastal water quality. As a result, fewer coastal

waters are classified as being moderately contaminated thereby limiting the geographic extent of the depuration fishery. At present, a large majority of the depuration fishery occurs in two areas of Boston Harbor. These areas now have water quality sufficient to reclassify the as open to direct harvest for consumption and return control over of the resource to the municipality. The Healey Administration is reviewing the tradeoffs regarding investing in the Plant and have briefed legislators with impacted constituencies. Next, DMF will meet with fishery participants to describe the study and expectations for the fishery moving forward. O'Shea was hopeful that a final decision regarding the fate of the Plant would be reached by the end of the year.

Bill Amaru discussed the processes underway to investigate the Vineyard Wind blade malfunctions. Tom supported the effort to systematically review defects to retrofit products and prevent similar failures moving forward. Director McKiernan noted the developer would continue to construct turbines but would not turn the array back on until BESSE concludes their engineering and safety review. Amaru was hopeful this failure would result in safer production moving forward, particularly given the intent to build larger floating structures offshore in the Gulf of Maine.

Bill Doyle expressed an interest in potentially using the Depuration Plant as a relay to treat aquaculture reared oysters affected by intermittent rainfall related closures. Of particular interest are those oyster grant sites in Buzzards Bay that are frequently closed due to rainfall triggering discharge by the combined sewage overflows (CSO) for the New Bedford wastewater treatment plant (WWTP). Deputy Director Bob Glenn explained that there is no existing framework with the National Shellfish Sanitation Program's Model Ordinance to accommodate this activity. Director Dan McKiernan agreed with Bob and also noted that updating and maintaining the Depuration Plant for any purpose is challenging given it will continue to be impacted by erosion and flooding. Doyle recognized these constraints; however, given US Food and Drug Administration's increasingly conservative and risk adverse positions regarding shellfish harvest around wastewater treatment plants, DMF needs to evaluate all opportunities and be willing to think outside the box to make sure shellfish harvest can continue. Dan stated that DMF has met with affected Buzzards Bay aquaculturists and local legislators to discuss what potential pathways to reduce the spatial extent and length of CSO-related closures and to raise awareness of how to potentially invest to improve the New Bedford's sewage infrastructure to reduce the impacts of CSO effluent on shellfish harvest.

DIRECTOR'S COMMENTS

Director McKiernan began his comments by stating that the Shellfish Advisory Panel will meet on November 6 to discuss a variety of shellfish and aquaculture related issues, including these CSO related issues. Staff would report back to the MFAC at their November meeting.

Dan then addressed personnel. The agency received federal funding through the Consolidated Appropriations Act to increase its right whale monitoring program. As these positions are federally funded, they were exempt from the hiring pause, and

DMF was in the process of onboarding a spatial analyst and would be moving to fill the other positions. Given all the issues surrounding offshore wind development, the agency was also able to get a waiver to post DMF's wind specialist position during the hiring pause. The agency was accepting applications and would begin the interview process shortly. With the imminent lifting of the hiring pause, DMF would also be able to backfill other positions, including the policy analyst position that would help DMF facilitate its public body work. With Mike Armstrong's retirement, his duties were reassigned to Story Reed and Bob Glenn. Story was also moved from an Assistant Director role to a Deputy Director Role, and Anna Webb was tapped as Acting Assistant Director for Permitting and Statistics. DMF was now looking at a more long-term strategy to address senior leadership.

Seafood Day at the State House was held on October 16 and hosted by the Massachusetts' Fisherman's Partnership and the Gloucester Fisherman's Wives Association. Dan stated that this was a popular and successful annual event to raise awareness among legislators regarding the work and challenges facing the seafood industry. This year's program was focused heavily on federal groundfish issues, particularly as they affect Gloucester.

DMF's Seafood Marketing Steering Committee was scheduled to meet virtually on October 30. Staff would provide the Committee with an update on the work being funded.

DMF staff was also hosting a series of industry meetings to discuss fishery performance in 2024 and potential management changes in 2025. On October 16, DMF met with the menhaden industry. The focus of the meeting was to address end-of-season trip limit triggers to ensure quota utilization, potential access to the Episodic Event Set-Aside, and quota transfers from out of state. Additionally, industry expressed concern about the activation of latent effort in response to diminished herring and mackerel fishing limits. Similarly, DMF would meet with the inshore summer flounder commercial fishery next week discuss quota use, season length, and the multi-day program. DMF will review these issues and develop public hearing proposals for the MFAC to review at upcoming meetings. DMF also met with the Town of Provincetown and surf clam fishing interests to discuss the agency's efforts to modernize its surf clam management program.

Dan anticipated that Deputy Director Glenn would provide a more thorough protected species update at the November meeting, however, he informed the MFAC that NOAA's 2024 population update for right whales shows an increase by 16 animals.

Bill Amaru asked Dan to speak to the passing of former DMF Director Phil Coates. Dan stated that Phil passed quickly after finding out he had late-stage terminal lung cancer. Phil was Director from 1979-2000; a mentor to many at DMF, including Dan; and an integral element of the DMF work culture that persists to this day. He remained involved and interested in the agency and striped bass management well after his retirement and right up to his death. Phil was well respected by his peers and industry alike and was recognized at the recent ASMFC annual meeting. In Phil's memory, Dan

intended to have staff work to analyze how the agency permits the commercial striped bass fishery.

Amaru stated that he began serving on the NEFMC in 1996 and Coates mentored him on all aspects of the Council process. Bill appreciated that Phil deeply understood the seriousness of his work and responsibility of being a public servant. He felt that this sense of public service helped create the DMF work culture that Dan spoke to. He also noted Phil's keen sense of humor and relayed a humorous anecdote regarding the cartoons Phil would draw to capture the debates at Council meetings.

With regards to personnel, Chris McGuire reminded Dan that DMF is also in the process of hiring a restoration specialist. Dan noted that The Nature Conservancy (TNC) has long championed oyster reef restoration projects to enhance habitat and improve water quality. This interest has historically been at odds with DMF's shellfish sanitation work as the agency sought to remove fish from polluted areas to safeguard public health. However, TNC and DMF have evolved cooperatively on this issue and DMF adopted restoration as one of its biodiversity goals in DFG's Biodiversity Plan. Additionally, federal funding was made available for DMF to hire a restoration specialist to facilitate this work. Bob Glenn noted that the position has been listed, DMF hopes to bring someone on by the end of the year, and the goal of this work is to build five reefs in five-years.

Chairman Kane asked if the focus would just be on oyster reef development. Bob stated that the initial focus would be on oyster reefs given benefits to water quality and ecological function. However, if the program is successful there may be opportunity for other restoration efforts in the future. Dan noted that regulations may be required to control the harvest of shellfish around restoration reefs, and this would be done under the purview of the MFAC.

Bill Amaru stated that the Towns of Orleans and Chatham are on the cusp of developing eelgrass restoration programs for Pleasant Bay and the Nauset system.

Bill Doyle asked if these reefs are being built in contaminated areas. Bob stated that DMF and TNC are seeking to build these initial reefs in areas classified as Approved or Conditionally Approved, to avoid the public health concerns related to propagating shellfish in contaminated waters. However, the biggest water quality benefit could be to contaminated waters and this is something DMF and TNC will continue to discuss to try and assess and balance restoration with public health risks. Chris McGuire thought gaining capacity for this work was a strong and early return from Governor Healey's Biodiversity Executive Order and the Department's work to administer it. He also commended DMF's leadership in addressing the need to build habitat to regain ecosystem function.

ACTION ITEMS

Implementation Deadline for Lobster Addendum XXVII Biological Measures

Director McKiernan provided background on Addenda XXVII and XXXII to the Interstate

Fishery Management Plan (FMP) for American Lobster. Addendum XXVII was developed to increase protections for Gulf of Maine/Georges Bank spawning stock. The primary action was to establish a trigger to adjust gauge size and vent size rules should the recruitment abundance index decline by 35% from the three-year average of 2016 – 2018. Additionally, it created common maximum size and v-notch measures for state and federal permit holders in the Outer Cape Cod Lobster Conservation Management Area (LCMA) and restricted the issuance of extra trap tags to commercial trap fishers in LCMA1 and LCMA3. The addendum was approved in May 2023. Then in October 2023, it was reported that the recruitment abundance trigger had been hit thereby requiring management action for June 1, 2024. Due to concerns about gauge production and trade implications with Canada, the Lobster Board agreed to delay implementation until January 1, 2025.

DMF went out to public hearing to implement Addendum XXVII during the winter of 2024 and the MFAC approved DMF's final recommendation in April 2024. However, DMF did not immediately promulgate final regulations anticipating there may be further implementation delays to address international trade issues. During the spring of 2024, the New England states began to hold conversations with the Canadian Department of Fisheries and Oceans and Canadian industry representatives regarding the potential for the Gulf of Maine fishery in the Canadian Maritime Provinces to match the minimum size standard for the LCMA 1 fishery. There was seeming interest, but Canada could not meet the January 1, 2025 implementation date given the timing and their process.

In response, at its May 2024 meeting, the Lobster Board developed Addendum XXXII which delayed the implementation of the biological measures in Addendum XXVII until July 1, 2025, but allowed the trap tag measures to be implemented for January 1, 2025. The Board approved Addendum XXVII at their October measure. Now, DMF was coming back to the MFAC to adopt a complementary implementation schedule. DMF is not reconsidering the Addendum XXVII measures as part of this vote, and should the vote fail, DMF would move forward with the January 1, 2025 implementation date.

Dan noted that he did not expect this delay would negatively impact conservation, as lobster harvest in LCMA1 does not begin in earnest until the late spring and early summer and landings are limited during the first part of the year both because of lobster availability and catchability, as well as trap gear closures to protect right whales.

Charman Kane asked Sooky Sawyer, the President of the Massachusetts Lobstermen's Association, if he had any questions or comments. Sooky did not.

Bill Amaru explained that he voted against the implementation of Addendum XXVII back in April 2024 because he did not think the benefits of standardizing the v-notch and gauge size rules in the OCCLCMA warranted the potential economic impacts to the state-only fleet. While his concerns remain, he would not vote against this recommendation but would instead abstain from voting.

Chairman Kane asked Dan if he anticipated the Board would further delay implementation if Canada opts not to move forward with a standard minimum size. Dan did not anticipate

further delays. Rather, he noted the purpose of Addendum XXXII was to give Canada time to match US rules to reduce the potential burden on Canadian dealers to double gauge lobsters, should Canada opt not to adopt a complementary size limit, then they would be de facto expressing their preference to double gauge.

Chairman Kane and Sooky Sawyer questioned whether Canada would be able to continue to import lobsters between the existing US minimum size of 3 ¼" and the larger minimum size established through Addendum XXVII (i.e., 3 5/16" from July 1, 2025 through June 30, 2027 and 3 3/8" thereafter). Dan stated that they would not, as the ASMFC passed Addendum XXX in August 2024, which increased the national minimum size standard for lobster commensurate with Addendum XXVII.

No further comments or questions were made. Chairman Kane called for a motion on the recommendation. **Shelley Edmundson made a motion to adopt the recommendation as set forth by the Director. Sooky Sawyer seconded the motion. The Chairman called the vote. The motion passed 6-0-2 with Bill Amaru and Chairman Kane abstaining.**

UPCOMING PUBLIC HEARING ITEMS

Use and Sale of Non-Endemic Seaworms

Jared Silva spoke to DMF's public hearing proposal. At the August 2024 MFAC business meeting, DMF raised biosecurity concerns related to the reported importation and use of the Pacific lugworm as bait and the complexities related to managing for biosecurity concerns related to non-native baits generally. Director McKiernan established an internal DMF agency working group to address the Pacific lugworm issue, as well as the broader management concerns. This working group included Story Reed (Deputy Director), Jared Silva (Policy Analyst), Tracy Pugh (Invertebrate Fisheries Project Leader), Kelly Whitmore (Policy Analyst), and Matt Ayer (Senior Recreational Fisheries Biologist).

This working group decided to triage this assignment. First, it developed a straightforward proposal to prohibit the sale and possession of Pacific lugworms by bait dealers and fishers. This was based on the findings of a Maine Department of Marine Resources (DMR) report that outlined the biosecurity concerns related to this species. While the risk of the species becoming naturalized in our waters may be limited given its ecology, there is a risk of pathogen transmission. The pathogens of concern include White Spot Syndrome Virus, which affects crustaceans and could impact lobster populations, and Convert Mortality Nodavirus, which may affect a variety of shellfish, crustacean, and finfish species. Second, DMF will continue to review how the agency should address biosecurity concerns related to the importation and use of non-native baits. This second aspect is complicated by DMF's capacity to address a broader management program, as well as the extent to which the agency has the authority to manage non-native species in Massachusetts.

Bill Amaru noted two potential issues with the DMR report. First, it states the Pacific lugworm is indigenous to the northwestern Pacific and the Indian Ocean. He thought this could be misstated given these a geographically and environmentally discrete areas.

Second, the report states the animal is used as bait in shrimp fisheries and he was unaware of any baited shrimp fishery. Jared Silva did not have enough information on the ecology of this species to speak to the first concern. With regards to Bill's second concern, he noted this was likely a reference this Pacific lugworm being cultured for shrimp aquaculture feed.

Commission O'Shea, Chairman Kane, Kalil Boghdan, Bob Glenn, and Jared Silva discussed the extent to which this bait is currently being used in Massachusetts. Jared Silva stated it is likely an emerging issue as staff found less than a handful of bait shops were selling the product. Accordingly, DMF did not anticipate substantial pushback on its proposal to prohibit its sale by bait dealers and use as bait. However, it can be purchased on the internet through a dealer in New York and shipped to a residence, so managing this prohibition is going to require education and outreach. Boghdan and Glenn then discussed reasons for the emerging marketplace for this bait. Bob opined that bait dealers and fishers are likely looking for a cheaper and more consistently available alternative to the native blood worm.

Chris McGuire asked if these biosecurity issues are being addressed at the interstate level. Dan stated that it is being informally discussed at ASMFC and that he became aware of the issue through conversations at the ASMFC with DMR's Commission, Pat Kelliher. However, formally addressing bait issues through the ASMFC has been challenging given the diverse management challenges it poses (e.g., authorities, capacity, affected fisheries, biosecurity concerns). Dan recalled that the ASMFC established a lobster bait working group, but for these reasons an interstate approach was never developed.

McGuire then raised the issue of Massachusetts adopting a more robust management approach similar to Maine. Director McKiernan explained that historically Massachusetts has taken a piecemeal approach prohibiting certain non-native baits as discrete biosecurity issues arise. Taking a more robust approach is an option but it would require greater capacity than the agency currently has.

Bill Amaru, Bill Doyle, and Tim Brady supported DMF taking a precautionary approach to the Pacific lugworm issue, but also the development of a more robust management approach. Doyle noted concerns about online sales and social media facilitating the introduction of non-natives as bait. With regards to pathogens, Doyle was concerned about the introduction of sea lice from use of farmed Atlantic salmon waste as local lobster bait. Brady described his experience in the shipping industry with zebra mussels and noted that it is critical to preemptively control whatever you can because it is exceptionally time consuming, costly, and destructive to respond to a biosecurity issue once it has taken root.

Bob Glenn agreed that Massachusetts likely needs to adopt a more robust and thorough approach. In the near term, DMF could potentially address some bio-invasive concerns by prohibiting the use and sale of any live non-native or non-naturalized species as bait. However, DMF cannot regulate beyond fishing activity and permit holders. Further, it is even more complicated to address pathogens. DMF needs to more fully flush out how to

respond to these biosecurity issues and from there can discuss what type additional capacity may be needed.

Piggybacking on Bob's comments, Jared Silva explained that Massachusetts is a seafood processing hub that processes native and non-native species. The lobster industry has historically used a variety of fish waste as bait. While we are not certain what the biosecurity risks are, taking a robust precautionary management approach could constrain this historic practice at a time when bait is in short supply. Shelley Edmundson then spoke to the research being conducted into alternative whelk baits to reduce demand for horseshoe crabs. She noted Canadian propeller clams are a promising bait and restricting the use of this processed product as bait would constrain this research and limit the ability to reduce horseshoe crab demand.

Commissioner O'Shea stated that this discussion is consistent with the Governor's Biodiversity Executive Order and the Department's pending Biodiversity Plan. He felt these tools could be leveraged to help DMF flush out management issues, address statewide management authority issues, and potentially build capacity. Chairman Kane appreciated the O'Shea's willingness to support potential capacity building efforts.

DISCUSSION ITEMS

2024 Quota Management Update

Anna Webb provided the MFAC with an update on 2024 quota managed fishery performance. The presentation focused on those fisheries that closed between the September and October MFAC business meetings and those that remain open.

- The summertime scup fishery underperformed its quota with just under 50% being landed for the season. This is typical for this fishery.
- The tautog fishery closed on October 6 after being open for 35-days. This year had the earliest closure ever driven by high daily catch rates. There was an overage of about 10%, which is not uncommon given small quota, high catch rates that typically increase in the early fall, and the practice of carrying fish. The overage will be paid back off next year's quota.
- The black sea bass fishery closed on October 12. On September 15, DMF increased the trip limits and eliminated close fishing days consistent with the regulations. There was a slight quota overage of about 2%. The overage will only be paid back in the coastwide fishery is at or exceeds its quota.
- The bait fishery for horseshoe crabs closed on October 21. With the spawning closure this year, DMF anticipated landings were dominated by the mobile gear sector. With this in mind, catch rates slowed at the end of August when the summer flounder fishery closed. Additionally, the fishery hit 80% of its quota on August 23, resulting in an automatic trip limit reduction from 300 crabs to 200 crabs per day. DMF worked closely with the harvesters and ended up closing the fishery with an overage of only 100 horseshoe crabs.
- DMF received three quota transfers of menhaden from other states allowing the fishery to remain open at the 25,000-pound trip limit into October. DMF was uncertain if the transfer-adjusted quota would be taken this year; while about

250,000 pounds remained available, catch rates had waned consistent with the fish seasonally migrating out of Massachusetts' waters.

- Massachusetts took about 65% of its bluefish quota. While quota remains, fishing activity ceased in mid-September. DMF intends to transfer some quo out of state to North Carolina.

Bill Amaru spoke to the reporting compliance in the horseshoe crab fishery and stated it demonstrates industry's commitment to the management of the resource.

Sooky thanked DMF for their work to get menhaden transfers and keep the fishery open throughout the end of August and September.

Story Reed discussed DMF's October 16 menhaden industry meeting. Story indicated there were two items of particular interest. First, industry provided DMF with a lot of feedback regarding how to best manage the end of the quota. At present, the trip limit is reduced from 25,000 pounds to 6,000 pounds if 90% of the quota is taken by September 1. This is intended to allow purse seining to continue at a low level throughout the season to make bait locally available. However, the 10% set-aside for the 6,000 pound trip limit fishery is likely too large given the current scale of our quota (~10-million pounds). There was some interest in reducing or eliminating the 90% quota trigger and instead going to 100% and entering the Episodic Event Set Aside (EESA) or obtaining transfers from other states or adopting a higher trigger in the range of 95-98%. Second, there is substantial concern among the active fleet regarding the activation of latent effort in 2025 given the anticipated low quotas for sea herring and mackerel and there was some interest in DMF using the control date for this fishery to constrain access.

Director McKiernan explained some of the thinking around how to manage the end of the menhaden quota. One is to manage to slow landings down to allow for continued bait harvest throughout the season and not hit 100% or hit 100% very late in the season. This is currently the strategy DMF employs. However, some would prefer we adopt a system to manage to 100% and then rely on the EESA and transfers from other states to keep the fishery open throughout the season. The issue with the latter strategy is that if these mechanisms for obtaining additional fish are not available to the state the fishery will effectively close for the year because directed purse seining will be prohibited.

Sooky asked two questions. First, he was curious if the EESA was fully utilized in 2024. Nichola Meserve stated that Maine was the only state to enter into the EESA and she had not been informed that Maine exhausted the set-aside. Sooky then asked if any active boats would be affected by the control date. Story explained that DMF had not yet run the analysis, but he expected that any boats that were active this year or last year would not be excluded. The concern is that there are about 40 latent permits that could be activated.

Federal Fisheries Management Update

Kelly Whitmore briefed the MFAC on recent happenings at the New England Fishery Management Council (NEFMC). This included a review of the NEFMC's September 2024 meeting and a synopsis of anticipated issues to be discussed at the NEFMC's December

2024 meeting. The briefing focused on: (1) recent Council elections, including Massachusetts delegates—John Pappalardo and Melanie Griffin—being named to the Executive Committee; (2) Atlantic herring specifications involving an 85% reduction in the Annual Catch Limit (ACL) from 2024 resulting in the lowest ACL in the history of the FMP; (3) actions to incorporate four new stock units for codfish and the initiation of the transition plan to implement these new stock units in the management program; (4) development of groundfish specifications for cod, haddock, plaice, witch flounder, pollock, halibut and yellowtail flounder and concerns regarding the low cod ACLs; (5) declines in sea scallop abundance in Georges Bank and the Mid-Atlantic and the development of a management framework to address access areas, trip limits, seasons, and recruitment closures; and (6) an update on monkfish management and research set aside projects.

Commissioner O'Shea asked about the cause of poor Atlantic herring recruitment. Kelly explained that it has been difficult to identify a reason for the poor recruitment. Dan noted that a prevailing hypothesis is predation of herring eggs by the recently abundant haddock resource.

Chris McGuire, Kalil Boghdan, and Ray Kane then discussed interactions between the sea herring fishery and river herring and shad resources. Kelly noted that the NEFMC is developing Amendment 10 to the FMP to address these issues.

Bill Amaru, Tim Brady, and Chairman Kane speculated that declining trends in the commercial fishery for spiny dogfish may be resulting in increased predation on Atlantic herring and that this could become a more significant factor should the local spiny dogfish processing infrastructure further erode.

Director McKiernan spoke to Gloucester-based concerns regarding codfish in the Gulf of Maine. He explained that the cod stock redefinition issue became politically charged because it was inappropriately linked to the reduction in catch limits. The Director and Commissioner O'Shea met with the Governor's office, Cape Ann legislators, and industry members to clarify these issues. DMF is also working with the industry to consider modifying seasonal closures to protect spawning cod, so as to provide additional access to other groundfish species.

Chris McGuire expressed concerns about modifying cod spawning closures. Chris noted that broadscale closures were initially adopted to buffer incomplete knowledge of where cod spawning may be occurring. Dan noted that the broad scale closures were also adopted for compliance purposes, but these are now minimized with VMS and 100% observer coverage. McGuire noted that observers are not to collect data on cod spawning condition and this should be part of the data being collected, particularly if the size of the cod spawning closures are going to be decreased.

Bill Amaru was surprised that the Gloucester-based industry would want access to cod spawning areas. He thought it was a risky strategy to access areas where cod may be caught in large numbers to try and catch what may amount to a small quantity of low value flounders.

McKiernan and O'Shea noted that current conversations were focused on designing a more surgical spatial management approach to provide the fleet with access to flatfish species. However, federal disaster relief was also being discussed but such programs take several years to administer.

Sooky Sawyer raised concerns regarding effort moving into the state waters sea scallop fishery in the Northern Gulf of Maine area. He noted that a number of new boats were showing up in the fishery and were causing gear and user group conflicts. Story Reed indicated DMF continues to monitor this concern and will be looking into this past year's data. Jared Silva reviewed the sea scallop management rules and opined that some of the fishing effort Sooky observed is likely unlawful. Lt. Col. Baker concurred with Silva and indicated that MEP issued several citations for closed area violations this past season. Story Reed reminded the MFAC that DMF put together a policy document in early 2024 describing how the state waters sea scallop fishery is managed and DMF could circulate this document with the fleet this winter.

Interstate Fisheries Management Update

Director McKiernan noted that with Sarah Peake retiring from the Legislature, she has stepped down as legislative appointee to the Massachusetts delegation at ASMFC. She has been replaced by Jennifer Armini, the State Representative from Marblehead. The recent October ASMFC meeting was Armini's first meeting and Dan was happy to have her as part of the delegation.

Nichola Meserve briefed the MFAC on happenings at the recent October 2024 meeting of the ASMFC. This included a discussion of final actions to: (1) approve Addendum XXXI to the American Lobster FMP (see above); (2) set Atlantic herring specifications for 2025 – 2027 and the 2025 seasonal allocation for Management Area 1A—Inshore Gulf of Maine; (3) revise the 2024 spiny dogfish quota to account for a 2023 ACL overage; (4) reapprove several states' Shad and River Herring Sustainable Fishery Management Plans, including Massachusetts' shad plan that allows limited recreational harvest; and (5) approve a joint interstate-federal management action on the Summer Flounder FMP to expand the Small Mesh Exemption Program area, broaden the Flynet Exemption gear definition, and modernize the annual monitoring approaches for these mesh size exemptions. The ASMFC also finalized draft addenda for public hearing this winter, including a joint interstate-federal action to address the setting of recreational fishing measures for black sea bass, scup, summer flounder, and bluefish, and an addendum to complement federal action to reduce Atlantic sturgeon bycatch in the gillnet fisheries for spiny dogfish.

Meserve also presented on the recent striped bass stock assessment update and responsive management actions. The assessment indicates the stock remains overfished but was not experiencing overfishing in 2023. Projections vary based on assumptions, but under the "most likely" scenario there is a 43% chance of rebuilding the stock by 2029. Because this is less than a 50% probability, the FMP allows the ASMFC to revise measures on an expedited basis to achieve this probability of rebuilding. Of specific concern is that, while 2024 harvest appears to be low enough, this may be driven by a year class effect and harvest may increase in 2025 as the sizable 2018-year class matures into the slot limit. The Striped Bass Board scheduled a meeting in December to

consider management changes for 2025, and in the interim, tasked the technical committee with several analyses to inform management decisions, particularly related to the recreational fishery.

Director McKiernan stated he was uncertain whether or not the Board would move to take an action for 2025 at the December Board meeting. Moreover, even if an action were taken, the Mid-Atlantic states have indicated that they cannot make changes to their commercial fishing quotas or rules for 2025 given this late timing. Chairman Kane expressed his frustration with their inability to timely respond.

Kalil and Nichola discussed the level of certainty around the projections for rebuilding the striped bass stock.

Kalil expressed substantial concern regarding the future of this species given continued poor recruitment and he was dissatisfied with managing for mortality as a proxy to bolster recruitment when declines in recruitment were not due to spawning stock biomass but environmental factors. Chairman Kane stated that management tools are limited and insufficient to address environmental impacts on recruitment. Chris McGuire added that mortality management and recruitment intersect when it comes to protecting strong year classes to sustain spawning stock biomass should environmental conditions for good recruitment occur. However, with six consecutive years of poor recruitment, McGuire opined that we are likely experiencing a regime shift towards lower productivity. Director McKiernan agreed and noted that lower productivity will result in the ASMFC having to manage a vastly diminished stock that cannot support the current level of recreational fishing effort.

Commission O'Shea was concerned that the recreational angling public was not sufficiently aware of the status of the striped bass resource and will likely be very upset by a diminished fishery for this species. He advocated for more aggressive outreach and education. Director McKiernan felt that there was a lot of information and discussion about these issues among the online recreational fishing community. However, with the loss of local sportsmen's clubs, it has become challenging to disseminate information to the recreational fishing community. Bob Glenn stated that controlling the narrative on social media is difficult and there is a segment of the angling public who is convinced that the striped bass resource is in fine shape given their continued ability to catch fish from the large 2015 and 2018 year classes.

Bill Amaru and Nichola discuss release mortality versus harvest mortality. Nichola explained that about 50% of all recreational fishing mortality is now mortality attributed to catch and release fishing. McKiernan and Glenn discuss the challenges related to managing for release mortality. Dan explained that DMF's Recreational Fisheries Project has conducted research into what angling techniques are most harmful and they are now looking to determine what angling techniques are commonly used. The hope is that this will inform both management and behavioral shifts with the goal of having the recreational fishery become more benign.

Efforts to Modernize Management of Surf Clam Fishery

Jared Silva presented on DMF's continued efforts to modernize surf clam management. DMF's goal is to amend the spatial management program for the surf clam fishery through the use of cellular vessel tracking technology and geofencing. This will move management away from contour line management to a fixed series of points that can create a geofence, provide access to the resource, protect critical inshore habitat (e.g., eelgrass), and address local concerns and user group conflicts. DMF will be meeting with communities where surf clam dredging is allowed to review this work and discuss local issues. DMF held the first of these meetings recently with the Town of Provincetown.

Bill Amaru applauded DMF's work to modernize the spatial management program. However, he expressed concerns about some of the discussions regarding potentially allowing nighttime fishing and how this relates to fishing safety issues. Dan explained that at present some vessels are operating throughout the night jogging back and forth because they do not think they can lay on the dredge. With cellular trackers, Dan felt they could accommodate night fishing during the winter in Cape Cod Bay when the lobster trap closure is in effect and allow these boats to be more efficient. Silva also explained that these vessels face unique time-to-temperature challenges given the distance they have to steam to land the product. Dan noted he would

OTHER BUSINESS

Sooky Sawyer raised the issue of draggers targeting lobsters in the federal zone and landing their catch in Massachusetts and that this fishing activity may be occurring in violation of state possession limits and resulting in substantial discarding. Dan noted that staff are working on this issue and have been in consultation with NOAA Fisheries. DMF would likely be able to present to the MFAC on this at an upcoming meeting and will be prepared to speak to it at the 2025 Annual Meeting for the Massachusetts Lobstermen's Association. Dan also spoke to the disconnect between the regulation, which sets the limits in count of lobsters, and the SAFIS data which deals with poundage, and his efforts at the interstate level to discuss evolving the coastwide baseline rule to address bycatch in poundage. Bill Amaru stated that lobster catch has become an increasingly important part of a profitable dragger catch given declining access to groundfish and low groundfish prices. Amaru also added that this fishing activity is occurring primarily east of the Cape with lobster landings occurring in Provincetown and suggested MEP focus enforcement efforts in this area this winter.

Tim Brady asked about the stock assessment update for North Atlantic right whales. Dan explained that the stock assessment was just updated and the population was revised upwards from 356 to 372. Dan also noted that the letter from the Office of Coastal Zone Management to NOAA Fisheries—which DMF contributed to—regarding the proposed vessel speed rule south of Cape Cod was included in this month's MFAC business meeting materials. Tim also stated that he observed less recreational striped bass fishing effort in Cape Cod Bay this summer likely due to the reduced availability of slot limit sized fish.

Shelley Edmundson expressed her support for Seafood Day at the State House and

encouraged MFAC members to attend next year.

Chris McGuire expressed his appreciation for having these recent MFAC business meetings in person meetings, noting the next handful of meetings will be held virtually.

Chairman Kane thanked the MFAC for their time and work and again welcomed Col. Mason from MEP.

PUBLIC COMMENTS

There was no public comment.

ADJOURNMENT

Chairman Ray Kane requested a motion to adjourn the September 17, 2024 MFAC business meeting. **Bill Amaru made a motion to adjourn the meeting. The motion was seconded by Sooky Sawyer. No objections were made to the motion.**

MEETING DOCUMENTS

- October 29, 2024 MFAC Business Meeting Agenda
- September 17, 2024 MFAC Draft Business Meeting Minutes
- Recommendation for Implementation of Addendum XXVII Lobster Rules
- Proposal to Prohibit Possession and Sale of Pacific Lugworms
- Quota Managed Species Update
- Fall 2024 New England Fishery Management Council Update
- October 2024 Atlantic Sates Marine Fisheries Commission Update
- Surf Clam Geofencing Maps
- CZM Letter to NOAA Fisheries on Proposed Speed Limit
- DMF letter to MSOA Regarding Shellfish Warden Responsibilities.

UPCOMING MEETINGS

9AM
November 19, 2024
via Zoom

9AM
December 17, 2024
via Zoom



The Commonwealth of Massachusetts

Division of Marine Fisheries

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Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)
FROM: Daniel McKiernan, Director 
DATE: November 15, 2024
SUBJECT: **Commercial Menhaden Management Proposal for Public Hearing**

Overview

This memorandum serves to advise the MFAC of several proposals to revise the commercial menhaden fishery's management that I plan to take to public hearing this winter for possible implementation in 2025. These proposals consider the following: 1) rescinding or revising the 90% quota use trigger; 2) applying previously-established control dates for participation; and 3) establishing a pilot program for active fishery participants to share their catch. These proposals are informed by an industry scoping meeting held on October 16, 2024.

Trip Limit Trigger Adjustment

Proposal: Rescind the 90% quota-use trigger that drops the limited entry fishery's trip limit from 25,000 lb to 6,000 lb, OR revise it to be in the range of a 95–98% quota-use trigger.

Background/Rationale: DMF's quota management approach includes trip limits for the limited entry fishery that scale down as quota is consumed to prolong the open season. These triggers and limits have been modified over time in response to interstate management plan changes, quota level, and fishery performance. At present, Menhaden Permit Endorsement holders begin the directed fishery with a 120,000-lb trip limit, which drops to 25,000 lb at 50% quota use, then drops to 6,000 lb at 90% quota use (provided these quota-use levels occur prior to August 30).

The 6,000-lb limit for the remaining 10% of quota was added when purse seines were removed from the Incidental Catch/Small-Scale Fishery (IC/SSF) allowance—meaning that purse seines become a prohibited gear once a state's quota is consumed—whereas DMF's goals for the fishery include allowing small-scale purse seining to continue throughout the season of local menhaden availability. This change in the IC/SSF allowance co-occurred with Massachusetts receiving a larger quota allocation, which collectively prompted DMF to revise its quota management approach to try to live within that quota and not rely on other plan provisions to keep the fishery open longer. In making this decision, DMF considered how these other plan provisions—quota transfers from other states and drawing quota through the ASMFC that is reserved in the so-called "Episodic Event Set-aside"—are not guaranteed to be available (i.e., under the interstate quota reallocations, there became less latent quota for possible transfer; and EESA is a shared pool of quota that could be consumed by other eligible state(s) first).

While the 6,000-lb limit is effective at precluding premature cessation of small-scale purse seining, having it occur at 90% quota use at current quota and fishery participation levels is likely to result in unused quota by season's end. Ten percent of our 2023–2025 quota is roughly 1.08 million lb, which at a 6,000-lb trip limit translates to 180 trips (at a minimum), far more than needed to guarantee steady small-scale fishery access. Our history of state landings under the IC/SSF allowance when it included purse seine use is limited (2020–2022) but potentially informative; at most, nearly 600,000 pounds were reported as IC/SSF landings. A 95% trigger would leave about 542,000 lb remaining for the 6,000-lb limit (90 full trips), whereas a 98% trigger would leave about 217,000 lb or 36 full trips (Table 1). In addition to being perceived as “wasted” quota, incomplete quota utilization also sparks industry concerns about future reallocation efforts that could result in a lower share for Massachusetts.

Industry members are also interested in DMF accessing the EESA while it remains a plan provision and other states continue to utilize it. This necessitates the state exhaust its entire quota prior to September 1, which speaks to eliminating the 6,000-lb trip limit entirely. There is some inherent risk in establishing rules aimed to fully utilize the quota earlier in the season and banking on the EESA's availability, i.e., all purse seining must end if the EESA is already used up and a quota transfer isn't offered. However, there is reason to believe that DMF could continue to be successful at getting a transfer to continue small-scale purse seining after the quota is taken. In instances where the EESA is available, DMF could establish trip limits that prolong its consumption and/or seek a quota transfer after the EESA's full utilization.

DMF plans to take both of these options—eliminating the 90% trigger or revising it to within the range of a 95–98% quota use—to public comment before selecting the preferred approach for 2025.

Table 1. Remaining quota and maximum trip count under alternative quota use triggers to reduce trip limit to 6,000 lb.

Quota use trigger to reduce trip limit to 6,000 lb	Remaining quota under expected 2025 quota (10.84 mlb)	Maximum trips at 6,000-lb limit
90% (status quo)	10% = 1.08 mlb	180 trips
95%	5% = 542,000 lb	90 trips
96%	4% = 433,000 lb	72 trips
97%	3% = 325,000 lb	54 trips
98%	2% = 217,000 lb	36 trips

Effort Controls

Proposal:

- Limit the renewal of Menhaden Endorsements in 2026 to those that meet a minimum level of activity prior to the August 1, 2023 control date;
- Limit the renewal of CAP - Purse Seine Endorsements in 2026 to those issued prior to the August 1, 2023 control date;
- Supplement the CAP - Purse Seine Endorsement control date to be able to further affect endorsement holder participation/access level based on landings history (not just issuance date of endorsement) in the future if warranted.

Background/Rationale: In 2023, DMF established an August 1, 2023 control date for the Menhaden Regulated Fishery Permit Endorsement and the Coastal Access Permit (CAP) - Purse Seine

Endorsement.¹ This responded to concerns about the number of latent (limited entry) Menhaden Endorsements and the open access nature of the CAP-Purse Seine Endorsement amidst declining quotas for other bait fisheries (i.e., herring and mackerel) and the prospect of new effort in the menhaden fishery. The adoption of the control date served to: 1) advise all Menhaden Endorsement holders that they may be subject to additional eligibility criteria for determining access to or participation in the fishery after August 1, 2023, and 2) notify all persons that a CAP-Purse Seine Endorsement newly issued after August 1, 2023 may be denied access to the menhaden fishery or subject to eligibility criteria for determining the level of access.

The Menhaden Endorsement is required to participate in the commercial menhaden fishery in excess of the 6,000-lb open access limit. It was created in 2014 and initially offered only to those with at least one recorded trip of 6,000 lb or more of menhaden landed in Massachusetts during 2009–2011 (the interstate plan’s initial reference period for quota allocation), or who held an Inshore Net Permit, or who held a (limited entry) Coastal Access Permit, or who obtained an (open access) CAP-Purse Seine Endorsement before July 1, 2013 (the interstate plan’s implementation deadline). Under these criteria, 60 Menhaden Endorsements were issued in 2014. Issuance has been limited to renewals since then², and has declined over time, with 51 Menhaden Endorsements issued in 2024 (Table 2).

The CAP-Purse Seine Endorsement (distinct from the Coastal Access Permit) is an open entry permit that authorizes the use of purse seines in state waters (exclusive of the Inshore Restricted Waters). There were six issued in 2013 when the decision was made to issue Menhaden Endorsements to such permit holders. Since then, issuance of CAP-Purse Seine Endorsements was relatively steady through 2017 before increasing coincident with the increased availability of menhaden in Massachusetts waters (Table 2). Issuance has plateaued over the past three years, with 72 CAP-Purse Seine Endorsements issued in 2024.

At the industry scoping meeting, active fishery participants reiterated their concern about prospective new effort in the fishery, and asked DMF to consider applying the August 1, 2023 control date. Maintaining the current or similar effort levels serves to preserve our quota management approach, maintain historical user access levels, and limit user group conflict.

To further limit the issuance of Menhaden Endorsements, DMF will propose eligibility criteria for 2026 renewals based on historical landings (taking the form of: X lb landed during X reference period). Table 3 provides potential eligibility levels based on two landings thresholds and two reference period alternatives. Under any eligibility criteria, DMF will consider an exemption for weir permit holders. DMF is unable to effect permit issuance for 2025 at this time, hence the focus on 2026 permitting.

Regarding CAP-Purse Seine Endorsements, based on the regulatory wording of the control date, all DMF can do at this time is affect the participation or access level of such endorsements newly issued after August 1, 2023. Hence, the proposal is to, in 2026, cease the issuance of new CAP-Purse Seine Endorsements and not renew any CAP-Purse Seine Endorsements newly issued after August 1, 2023.

¹ 322 CMR 7.04: Commercial Fisheries Control Date. (2) (g) Menhaden. After August 1, 2023, any person issued a regulated fishery permit endorsement for a named individual and vessel to fish commercially for Atlantic menhaden may be subject to eligibility criteria for determining future access to or participation in this fishery. Future access may be limited based on historic landings by a permit holder or other criteria to be established by the Director.

(2) (h) CAP Purse Seine. Access into the purse seine fishery may be limited in the future. Decisions to limit access may be based on permitting history, fishing activity with purse seine, landings attributable to purse seines, or other criteria to be established by the Director. Commercial fishers are hereby notified that any person obtaining a new CAP-Purse Seine regulated fishery permit endorsement after August 1, 2023 may not be provided future access to this fishery or may be subject to eligibility criteria for determining levels of future access based on this control date.

² In 2017 and 2018, a handful of new Menhaden Endorsements were issued to fish weir operators who were overlooked in the original issuance in 2024.

This will prevent an increase in the number of CAP-Purse Seine Endorsements issued, but do little to reduce the number. Accordingly, DMF will also propose to modify the CAP-Purse Seine Endorsement control date regulatory language to add a second date (e.g., May 14, 2025) that could be used with landings history criteria to further affect effort levels if so needed in the future. For example, a preliminary review of records suggests that about 25 CAP-Purse Seine Endorsements would be eligible for renewal if a 1-lb menhaden landings threshold in any year (2010–2024) were applied.

Table 2. Menhaden Endorsement and CAP-Purse Seine Endorsement Issuance, 2014–2024.

Endorsement Type	Year										
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Menhaden	60	58	58	61	62	62	61	57	55	52	51
CAP-Purse Seine	6	5	8	8	29	52	60	62	76	79	72

Table 3. Preliminary Number of Menhaden Endorsements Eligible for Renewal in 2026 Under Proposed Range of Landings Criteria. Permit holder landings history is based on dealer and harvester records.

Reference Period	Landings Threshold	
	1 lb sold in any year	One ≥6,000-lb trip sold in any year
January 1, 2014–August 1, 2023 (all years of Menhaden Endorsement issuance prior to the control date)	18	17
January 1, 2019–August 1, 2023 (most recent five years of Menhaden Endorsement issuance prior to the control date)	14	13

Menhaden Harvester Designated Partnership Pilot Program

Proposal: Establish a pilot program to authorize two similarly permitted and rigged vessels to share the catch from one of the vessels’ purse seine sets. The pilot program would initially be authorized by Letter of Authorization, but could lead to a regulatory adjustment in the future if program objectives are met.

Background/Rationale: At the industry scoping meetings (this and last years’), DMF received a request to consider an allowance for a second vessel to remove fish from a purse seine set made by another vessel, with each vessel being allowed to take the trip limit. The advocates argue that this will reduce the amount of gear in the water without increasing landings, with benefits of efficiency and minimizing user conflict. DMF has only occasionally authorized such activity on an ad hoc basis upon a call from a harvester to avoid the release of dead fish (“slippage”) near shore. Otherwise, state rules would consider the second vessel to be a carrier vessel for the harvester vessel, and the two vessels combined could not exceed a single trip limit.

The advocates reference the state of Maine’s Designated Partnership Agreement Pilot Program as an example of what DMF could allow. According to Maine DMR³, “the intent of the program is to allow two vessels the opportunity to share a harvest when needed to avoid slippage.” Importantly, each partner to an agreement must be capable of conducting the same level of harvest effort themselves, i.e., have the same level of access to the fishery and be similarly rigged to fish with purse seine gear. Prior authorization is required and permission will be denied if an applicant didn’t land menhaden the prior year themselves or has any menhaden quota violations from the prior season. The pilot program can be paused or terminated by ME DMR based on resulting landings rates or concerns about unlawful use or abuse of the program.

³ ME DMR bulletin: <https://content.govdelivery.com/accounts/MEDMR/bulletins/3959891>

I am willing to consider a similar pilot program in Massachusetts, contingent upon our further limiting the issuance of Menhaden and CAP-Purse Seine Endorsements as proposed above and restricting participation to active fishery participants as done by Maine. Without such controls, such an allowance would invite new effort and increase landings rate (effectively doubling a vessel's limit if any second vessel can be used), undermining our quota management approach and changing the character of the fishery.

Menhaden Trip Limit Proposal

Proposal:

- Rescind the 90% quota use trigger that drops the limited entry fishery's trip limit from 25,000 pounds to 6,000 pounds OR revise it to be in the range of 95-98% quota use.

Background:

- LE trip limit: 120,000 lb → 25,000 lb at 50% quota use → 6,000 lb at 90% quota use (provided by Aug. 31).
- Designed to allow purse seine fishery to continue throughout season of local availability.
- 6,000-lb limit/90% trigger adopted when purse seines removed from FMP's small-scale fishery allowance.

Rationale:

- At current quota and effort levels, 10% (~1 mlb) is more the necessary; concerns about underutilizing quota.
- Industry interest in EESA while remains an option and other states using it (must hit 100% by Sept 1)

Other Considerations:

- Current system is conservative; designed to balance quota use and season length. Risk in going to 100% is that purse seining will be closed once EESA exhausted and if quota transfers are not available.

Trigger to reduce trip limit	Remaining quota (expected 2025)	# trips at 6,000-lb limit
90% quota use (status quo)	10% = 1.08 mlb	180 trips
95%	5% = 542,000 lb	90 trips
96%	4% = 433,000 lb	72 trips
97%	3% = 325,000 lb	54 trips
98%	2% = 217,000 lb	36 trips



Menhaden Effort Control Proposals

Proposal:

- Limit renewal of Menhaden Endorsements in 2026 to those meeting activity criteria prior to 8/1/23 (table)
- Limit renewal of CAP-Purse Seine Endorsements in 2026 to those issued prior to the 8/1/23
- Revise CAP-Purse Seine Endorsement control date to further restrict participation in future is needed

Reference Period	Landings Threshold	
	1-pound sold in any year	One ≥ 6,000-lb trip in any year
1/1/14 – 8/1/23	18 permits	17 permits
1/1/19 – 8/1/23	14 permits	13 permits

Background:

- August 1, 2023 Control Dates adopted in 2023 due to industry concerns about potential new effort amidst declining quotas for other bait fisheries.

Endorsement Issued	Year										
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Menhaden	60	58	58	61	62	62	61	57	55	52	51
CAP-Purse Seine	6	5	8	8	29	52	60	62	76	79	72

Rationale:

- Employ control dates as designed to remove latent effort and limit new entrants, upon urging from industry.
- Quota is manageable and fishery profitable at current level of activity.

Other Considerations

- Interest in maintaining endorsements tied to weir operations given variability in weir fishery.



Menhaden Harvester Partnership Proposal

Proposal:

- Establish a pilot program that authorizes two similarly permitted and rigged vessels to share catch from each others' seine sets.

Background:

- DMF rules limit ability for seiners to transfer catch except to a carrier vessel.
- Aggregate catch held between seiner and carrier vessel cannot exceed applicable trip limit.
- Proponents seek to be able to bridle fish from another vessel's net, such as to reduce potential release of dead fish ("slippage") should a set exceed the trip limit.

Rationale:

- Would improve efficiency in seine fishery and potentially reduce user/gear conflicts.
- ME allows two vessels to enter into a designated partnership to share harvest provided both vessels are rigged for seining at same scale, had menhaden landings the prior year, and are in good standing with Law Enforcement. Program can be suspended based on resulting landings rate or concern about misuse.

Other Considerations:

- Given concerns about activation of latent effort, this could be a backdoor to bringing in new activity.
- DMF would consider pilot program to accommodate this activity contingent upon further limiting access to menhaden fishery.





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Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission
FROM: Daniel J. McKiernan, Director 
DATE: November 15, 2024
SUBJECT: Commercial Summer Flounder Management Proposal for Public Hearing

Overview

The memorandum advises the MFAC of several public hearing proposals to revise the commercial summer flounder (fluke) management program for 2025 along with additional considerations for 2026. These proposals respond to recent fishery performance, quota expectations, and the comments received at the November 4, 2024 industry scoping meeting at DMF's New Bedford office. These proposals are focused on the Period I (January – April 22) and Period II Summertime (April 23 – September 30) fisheries; no proposals are being made to amend the Period II Fall (October 1 – December 31) rules.

Proposals

Period I. For the 2025 Period I fishery, I intend to initiate an in-season adjustment process to reduce the 2025 Period I (January 1 – April 22) trip limit from 5,000 to as low as 2,000 pounds and potentially opt not to authorize the multi-state landing program. The public will be afforded a two-week comment period to provide DMF with feedback on these proposed actions. Then, I will provide you a final recommendation at your December business meeting so that you may vote on any trip limit adjustment and advise me on my decision regarding the multi-state landing program, thereby allowing any changes to go into effect for January 1, 2025.

Subsequently, I intend to go to public hearing this winter to consider amending the management program for this period for 2026 and beyond. This includes potentially codifying any of the changes adopted for 2025, as well as potentially reducing the Period II quota allocation from 30% to as low as 15%.

Period II Summertime. I intend to go to public hearing this winter to consider the following changes for 2025. First, reduce the initial trip limits (effective April 23) from 600 pounds to 500 pounds for net fishers and from 400 pounds to 325 pounds for hook fishers. Second, I seek to amend the existing quota-based trip limit reduction trigger. Currently, if 75% of the quota is taken on or before August 1, then trip limits are automatically reduced to 400 pounds for net fishers and 200 pounds for hook fishers. My proposal would maintain the existing 75% quota use threshold but consider pushing back the use-by date to August 15. Additionally, I propose to adjust the triggered trip limit for hook fishers to be 250 pounds, rather than 200 pounds, which corrects an oversight contained in last year's rule making. Lastly, I want to adopt a new end of season quota-based trip limit reduction trigger. My proposal here would be to establish a trip limit of not more than 200 pounds for all gear types should 90% of the quota be reached on or before September 1.

Additionally, I will consider public comment to eliminate Fridays and/or Saturdays as an open fishing day. While this is not a preferred option at this time, I do want to hear from stakeholders regarding the pros and cons of constraining fishing effort through limiting the number of days per week that summer flounder can be landed.

Lastly, at this juncture, I intend to maintain the multi-day program for trawlers in 2025. This program allows fishers with a Coastal Access Permit and Fluke endorsement to obtain a Letter of Authorization to land two daily limits of lawfully caught and retained summer flounder over consecutive open commercial fishing days. However, during the public hearing process, I intend to take comment on whether or not certain aspects should be modified to enhance accountability, if tagging should continue to be required, and whether the program should be annually discontinued once the end of season quota use trigger is reached and the trip limit becomes an effective bycatch limit (presuming such a quota use trigger is adopted).

Discussion

2025 Quota Expectations

DMF anticipates the 2025 summer flounder quota will again be set at about 600,000 pounds, similar to this year's quota (except with a possible overage deduction of about 20,000 pounds). Note that the quota specifications for 2026 and 2027 will be set in 2025.

Recent Management Changes

The current management program for summer flounder is described in Table 1. However, this management program has evolved over the past several years in response to changing fishery performance and quota availability. These changes are described in Table 2. In summary, from 2019 – 2023, DMF made a series of modifications to liberalize the Period I and Period II rules to enhance landings in response to lower effort and higher quotas. Then in 2024, DMF took several actions to constrain fishing limits in response to a substantial (56%) reduction in the state's quota¹. This included reducing the Period I and Period II Fall fishery trip limits from 10,000 pounds to 5,000 pounds and adopting quota use triggers to slow landing rates during the Period II Summertime fishery with the goal of extending the quota into the later part of the inshore fishing season. DMF opted not to make more robust changes to the 2024 Period II Summertime fishery limits because recent fishery performance indicated that such changes were not likely necessary to extend the inshore fishing season into the early fall and could result in the underutilization of the quota.

2024 Fishery Performance

In late January of 2024, DMF projected the Period I fishery would take its 30% quota allocation by February 5. Accordingly, effective February 6, the trip limit was reduced from 10,000 pounds to 100 pounds. Ultimately, Period I landings came in at about 27% of the overall quota leaving about 73% of the quota available for Period II. The Period II fishery began in earnest in late-May/early-June. Landings slowed in June in response to an increase in coastwide supply depressing the ex-vessel value but picked back up in July with banner weeks in late-July and early-August. While the fishery did not hit the 75% quota use threshold by August 1—which would have reduced the trip limits to 400 pounds for net fishers

¹ The 2023 stock assessment demonstrated that while fluke are not overfished, overfishing was occurring despite recent catch limit underages. This is because the prior assessment overestimated abundance, in large part due to the promising 2018-year class being much smaller than initially assessed. Moreover, recruitment has been below average since 2011. Using the new assessment, the Mid-Atlantic Fishery Management Council (MAFMC) and Atlantic States Marine Fisheries Commission (ASMFC) set the 2024/2025 quota at 8.79 million pounds—a 42% reduction from the 15.27-million-pound coastwide quota in 2023. Because the coastwide quota is dropping below 9.55 million pounds, the level at which quota is reallocated per Amendment 21, Massachusetts will only receive its baseline quota share of 6.82%, rather than the near 9% we received in 2022 and 2023. This brings the Commonwealth's summer flounder quota to about 600,000 pounds for 2024 and 2025.

and 200 pounds for hook fishers—this threshold was reached several days later. The full quota was then taken on August 27 with a closure effective August 28. See Figure 1.

Overall, landings in the 2024 fishery outpaced performance in recent years. This was due to several vessels becoming active in the fishery. Anecdotally, this includes several younger operators obtaining permit transfers from individuals who had retired out of the fishery and several boats who historically participate in the squid fishery opting to target fluke due to poor squid fishing conditions this year. This unanticipated increase in effort drove a faster rate of quota utilization and resulted in the quota being exhausted sooner than DMF had initially anticipated. While the quota lasted until the end of August, DMF (and most fishery participants) had hoped it would be available into September when the summer flounder remain inshore. This would allow trawlers to continue to retain a bycatch of summer flounder when targeting horseshoe crabs in the late summer and early fall² and hook fishers to target this species.

Despite the lower quota, the ex-vessel value of the fishery exceeded \$2 million, which was on par with the total value in recent years when we had higher quotas and more substantial landings (Figure 2). This was driven by a higher-than-normal ex-vessel price that was just over \$3.00 per pound (Figure 3). The average ex-vessel price per pound during the Period II summertime fishery was generally above \$4.00 and exceeded \$5.00 at times but dropped to about \$3.00 several times throughout the season due to coastwide market issues. Based on feedback from the seafood dealer sector, DMF speculates that the enhanced ex-vessel value in 2024 compared to recent years was likely driven by a decrease in the available quota and a reduced coastwide supply.

Industry Concerns

Dating back to the public process last year, there were concerns about quota utilization and an early season quota closure. These concerns persisted throughout the season. As we approached August 1 and it became clear that landings would be near—but not exceed—the 75% quota use trigger, there was substantial interest that DMF intercede in some manner to slow landings and keep the quota available into September. As discussed at the August MFAC business meeting, I considered such an action but decided against it preferring to let the season play out, particularly given the lack of consensus among the industry on whether or not an action was warranted.

On November 4, 2024, DMF held its annual industry meeting to discuss issues this past season and scope management changes for the upcoming year. Staff presented on the fishery management program, recent fishery performance, and industry-driven concerns. The presentation provided is attached to this memorandum. Industry discussion focused on three discrete issues: (1) the late-August closure; (2) effort and the rate of quota consumption; and (3) the multi-day program.

There was some concern that the late-August closure in 2024 limited the ability to access the resource throughout the remainder of the inshore season. This concern was not a consensus position. In fact, many attendees preferred taking the quota during the summer months when the ex-vessel price is generally higher instead of maintaining some quota for September when the ex-vessel price traditionally drops. Several options for maintaining some quota for the late-summer and early fall were also discussed. This included setting aside quota for September and establishing gear-specific quota allocations—neither of these options were supported³. However, there was some consensus to establish a late-season quota-based

² The bait and biomedical horseshoe crab quotas remained available into October. The bait fishery closed on October 21 and while the biomedical quota remains available, landings have begun to wane.

³ The gear-specific quota allocation proposal was one requested to allow continued rod and reel fishing into September to accommodate the Nantucket Shoals fishery. This action was not supported by the industry in attendance. Several hook fishers strongly objected. They argued any quota allocation based on the most recent years would reflect a period of relative low landings by the hook fishery and future access would be capped accordingly. This would ultimately limit the scale of the fishery

trip limit trigger that would allow for the continued retention of a bycatch of summer flounder when vessels continue to fish for horseshoe crab and other species (e.g., scup and whelk).

Performance this season also demonstrated how small changes in effort can substantially impact the rate of quota consumption in this fishery. While it is thought that effort in this fishery primarily increased this year in response to reduced squid availability—which is highly variable interannually—moving forward there was also a concern that the low catch limits for western Gulf of Maine cod expected in 2025 (and beyond) may balloon effort in the fluke fishery. Accordingly, there was some interest in slowing down quota consumption relative to 2024 and several alternatives were discussed, including trip limit reductions, amending trip limit triggers, and adding closed fishing days.

There was some support for adjusting trip limits and trip limit triggers. Regarding trip limits, some preferred a more aggressive approach, for instance returning to the historic limits of 300 pounds for net fishers and 200 for hook fishers given concerns about increasing effort. However, others felt this was unwarranted and an overly cautious approach would make the fishery unprofitable and likely cause quota underutilization. This led to some discussion about adopting a more conservative quota-use trip limit reduction trigger by either moving the use-by date back from August 1 or adopting a lower threshold than 75% quota use.

There was also some discussion about eliminating open fishing days, but this was not preferred among the attendees, as most favored the flexibility provided. It was argued that despite the fishery being open seven days per week, most do not fish more than four or five days per week and the open schedule allows them to choose better weather days to fish.

Lastly, there was ample discussion about the multi-day program, and again, there was little consensus on the subject. The dealer sector supported the program and argued it allows them to predictably pick up more substantial quantities of fish from vessels in the various discrete ports around the South Cape. Should the program be discontinued, it may make it economically challenging for this service to be maintained, particularly if coupled with reduced trip limits. Some permit holders in attendance also supported the continuation of the program given the economic benefits it provides to the industry by allowing it to operate more efficiently. Still, other permit holders expressed reservations about the continuation of the program. They argued this program was initially devised to allow the inshore fleet to more efficiently target fish as the resource has moved eastward and dockage has become less available and more expensive. However, it has evolved beyond its initial purpose and was contributing to expedited quota consumption. Of specific issue was the use of the program by vessels who traditionally fish offshore to trip fish in the Sounds and those federal waters immediately south and east of Nantucket. Some speculated that the fishing behavior of some of these vessels, as observed on AIS, likely indicated they were not complying with the daily trip limit and/or were likely high grading their catch. Accordingly, some attendees thought the program should be discontinued, made unavailable to offshore boats, or amended to more closely uphold its initial purpose.

Public Hearing Proposals

I have developed the above-described public hearing proposals affecting the commercial summer flounder fishery in response to recent fishery performance, quota expectations for the upcoming year, and comment provided by stakeholders. The ultimate goal of my proposals is refine the management program so that we continue to take the preponderance of the quota during the summertime period—when the fish are nearshore, available to most permit holders, and generally are most valuable—but retain some quota,

and devalue the permit. Moreover, there was little interest in protecting quota for September given the low ex-vessel price and declining weather conditions. The mobile gear fleet also objected because they felt it would pit industry against each other in the future and could result in this fishery moving towards IFQ management, which is not traditionally supported.

as we historically have, for the offshore fishery and to ensure quota is available to accommodate bycatch retention by draggers when they target other species during the summer and early fall south and west of Cape Cod (e.g., horseshoe crabs). In doing so, I expect the program will also address interests from MFAC members to provide quota access to the expanding late-summer rod and reel fishery on Nantucket Shoals.

Period I Management

While the recent industry meeting focused on the Period II Summertime fishery, I am setting forth several proposals affecting the Period I fishery that occurs during the wintertime offshore. These proposals are designed to rethink how this quota is consumed and how much quota should be allocated to the offshore fleet.

First, I want to slow the quota consumption rate during Period I to achieve a longer season and limit the risk that we run an overage of the period's 30% allocation. A trip limit reduction will help achieve this goal. Accordingly, for 2025, I intend to immediately initiate the in-season adjustment process to reduce the trip limit for the coming year from 5,000 pounds to as low as 2,000 pounds; following a two-week written comment period, I will return to the MFAC with a final recommendation at your December business meeting allowing an action to be taken for January 1, 2025. Additionally, I am also proposing to proceed to public hearing to take comment on adopting this lower limit as a regulation for 2026 and beyond. Note that this year, the Period I quota allocation was taken in about five weeks and Rhode Island—a state that has more than double our quota—has a weekly wintertime aggregate limit of 4,000 pounds.

In 2020, the northeast states (MA–NY) agreed to allow vessels who hold fluke landing permits in multiple states to possess non-conforming quantities of summer flounder when offloading a state's limit provided fish destined for each state are segregated and clearly labeled and the limit for each state is not exceeded. This program reflects the fact that the wintertime is a federal waters fishery, there is no federal trip limit, and participants are generally permitted in multiple jurisdictions. While this program may have been reasonable when quota levels were substantially higher, I am uncertain it remains warranted. I am also particularly troubled by the lack of permitting reciprocity involved in this program, as Massachusetts vessels generally have less access to land fluke in our neighboring states than they have here. Accordingly, I want to use the in-season adjustment public comment process to review the interest in reauthorizing this program for 2025. Additionally, and similar to the trip limit proposal above, I will also propose at public hearing to potentially eliminate this authorization in 2026 and beyond.

Lastly, I have decided to take comment on potentially reducing the Period I quota allocation from 30% to as low as 15%. Given the late timing, and the fact that quota allocations cannot be adjusted through an in-season adjustment, the existing 30% allocation will remain in effect for 2025 and any change to the allocation would be made for 2026 (or thereafter). My thinking here is that this fish is of greater value during the summer period and the Commonwealth's seafood industry would be better served by having greater access to this quota during the Period II Summertime fishery. Moreover, should the Period II Summertime fishery not be able to take the available quota before September 30, it would then be made available during the Period II Fall fishery, which is generally the same fleet that targets the fish offshore during Period I.

Period II Summertime Fishery Management

In response to concerns about effort, quota usage, and maintaining some quota availability into the early-fall, I have developed a three-pronged proposal.

The first prong of this approach is to drop the initial trip limit from 600 pounds to 500 pounds for net fishers and 400 pounds to 325 pounds for hook fishers. While not all vessels land up to the trip limit,

particularly in the hook fishery, this should slow landings in aggregate (Figure 4). However, this modest trip limit reduction will continue to allow fishers substantial access to the quota during the early part of the summer season when price is generally higher (Figure 3). I anticipate the proposed cut will not erode the profitability of the fishery and lead to the Commonwealth underutilizing the available quota.

The second prong of this proposal is to tweak the initial quota-use based trip limit reduction trigger in two ways. First, move the use-by date back from August 1 to August 15. This is a lesson learned from this past year, whereby had the use-by date been even several days later we would have triggered a trip limit reduction and likely extended the season into early September. I think an August 15 use-by date also finds the sweet spot in the calendar that balances the interest of extending the quota into September with the desire to ensure the summertime fishery can access the quota. The second aspect of this proposal is to correct the trip limits that are triggered at this quota use threshold. The net trip limit will remain 400 pounds, but the hook trip limit will be increased from 200 pounds to 250 pounds. The trip limit for the hook fishery has historically been approximately two-thirds of that afforded to the net fishery and it was an oversight to establish this trip limit at 200 pounds last year. I now seek to correct this for the coming year. I am not proposing to amend the percent quota use figure as I think 75% is an appropriate threshold at which we can slow landings and balance the interest of taking the quota when the ex-vessel value is traditionally elevated and extending the quota into later in the season (particularly if we adopt a late-season trip limit trigger like that described below). If there is interest in taking a more conservative approach than what is proposed, I'd favor reducing the trip limits at this trigger to 300 pounds for nets and 200 pounds for hook and line.

The third and final prong of this proposal is to adopt a late-season trip limit trigger so that should 90% of the quota be taken on or before September 1, the trip limit for all gear types is reduced to no higher than 200 pounds. This should allow the dragger fleet to continue to retain a bycatch of summer flounder when fishing for other species, namely horseshoe crab. It should also allow for continued directed hook and line catch, particularly as the fish hold on Nantucket Shoals later into the season. Note that 10% of the 2025 quota is roughly 60,000 pounds, and such a set-aside would accommodate about 300 trips at a 200-pound trip limit.

At the recent public scoping meeting, there was a discussion about adding back in closed fishing days. As discussed above, there was limited support for it given the flexibility it provides fishery participants to pick and choose their fishing days. However, I believe it remains a viable mechanism to slow quota consumption. Additionally, we have heard some concerns from the recreational fleet about dragger effort on the weekends and I'd like to give this sector a more robust opportunity to state their concerns for our collective consideration. For these reasons, the public hearing notice will also consider comment on adopting weekend closed fishing days.

Lastly, despite the concerns raised about the multi-day program, I continue to view it as critical to the success of the inshore fishery. Comments from seafood dealers regarding servicing ports were particularly persuasive given longstanding concerns around the erosion of shoreline infrastructure for the commercial fishing industry on Cape Cod. Accordingly, I intend to continue this program. However, I recognize that industry has some legitimate concerns surrounding how this program operated in 2024, and I am willing to consider any suggestions they may have about how the program can be improved. Areas of particular interest is how to improve accountability, whether the tagging requirement is unnecessarily onerous, and if the program should be discontinued once we reach a certain threshold of quota use (e.g., the proposed bycatch trigger at 90% by September 1).

Enclosed:

November 4, 2024 Industry Meeting Presentation

Figure 1. Summer Flounder Fishery Performance and Quota Utilization (2019 – 2024). Data Source: SAFIS eDR, as of October 2024

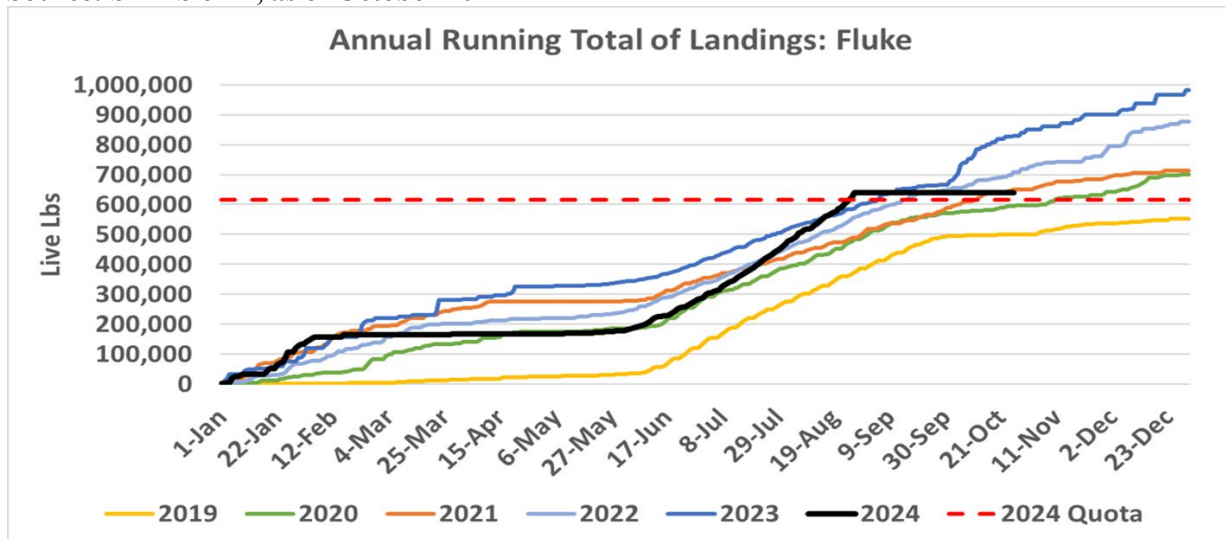


Figure 2. Summer Flounder Cumulative Annual Ex-Vessel Value (2019 – 2024). Data Source: SAFIS eDR, as of October 2024

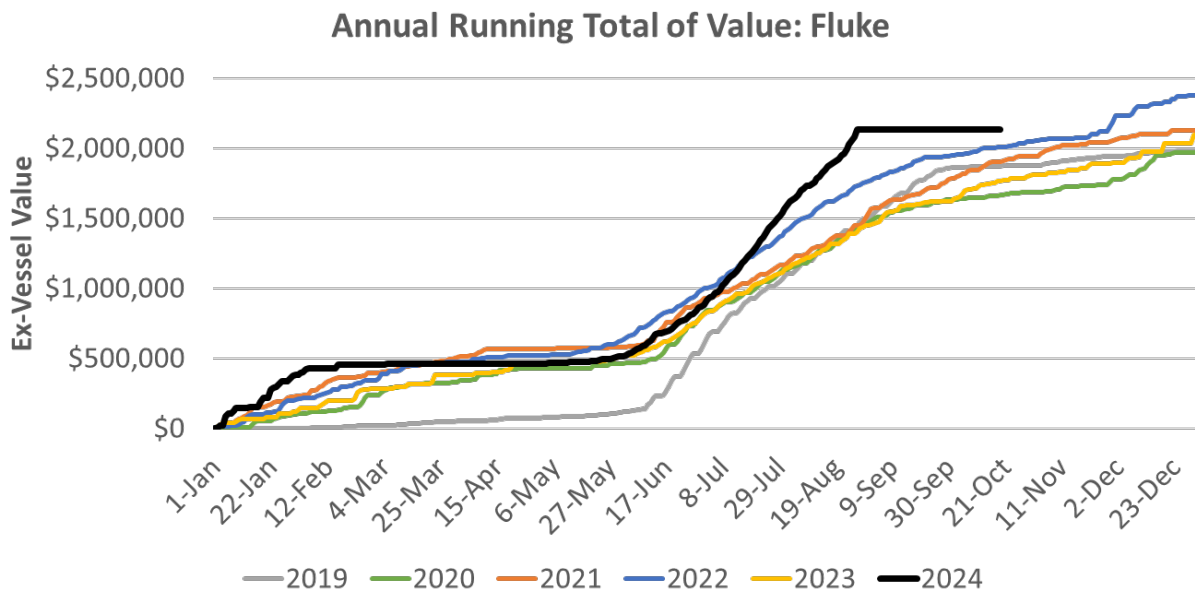


Figure 3. Daily Landings and Average Price (2021 – 2024). Data Source: SAFIS eDR, as of October 2024

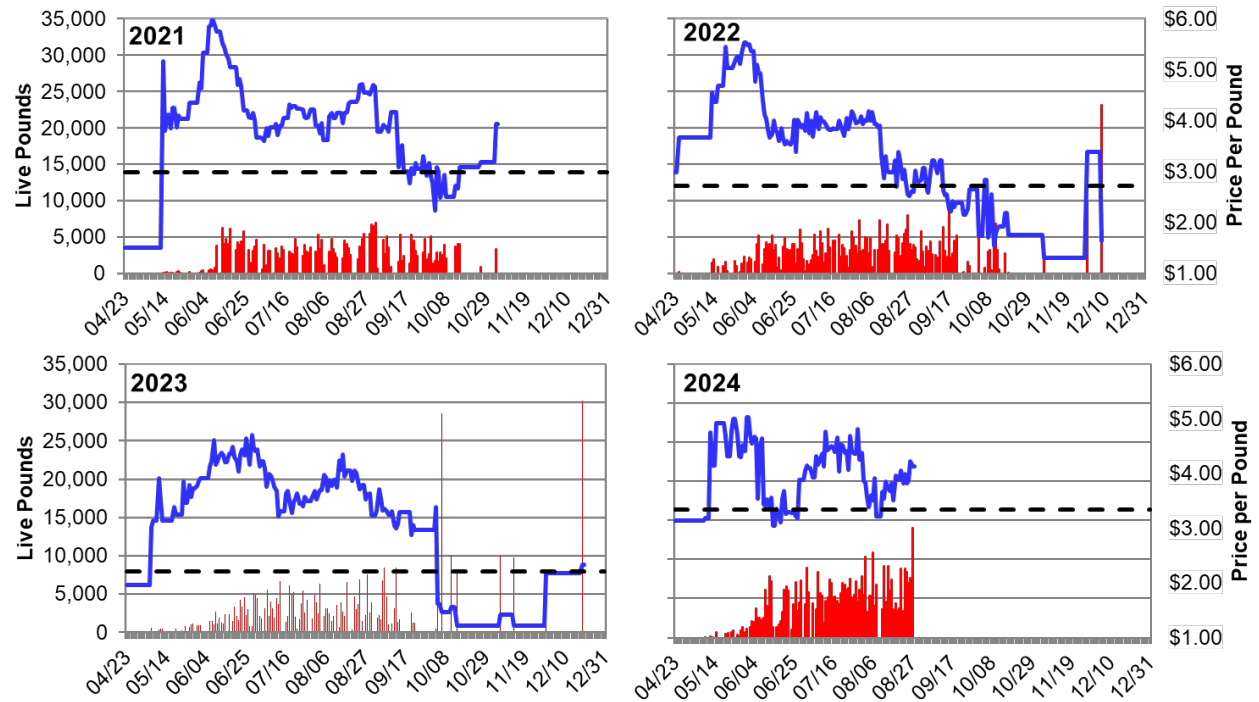


Figure 4. June – September State Waters Pounds per Trip Frequencies (2018 – 2023). Data Source: Massachusetts trip-level reports and GARFO federal vessel trip reports, as of October 2024

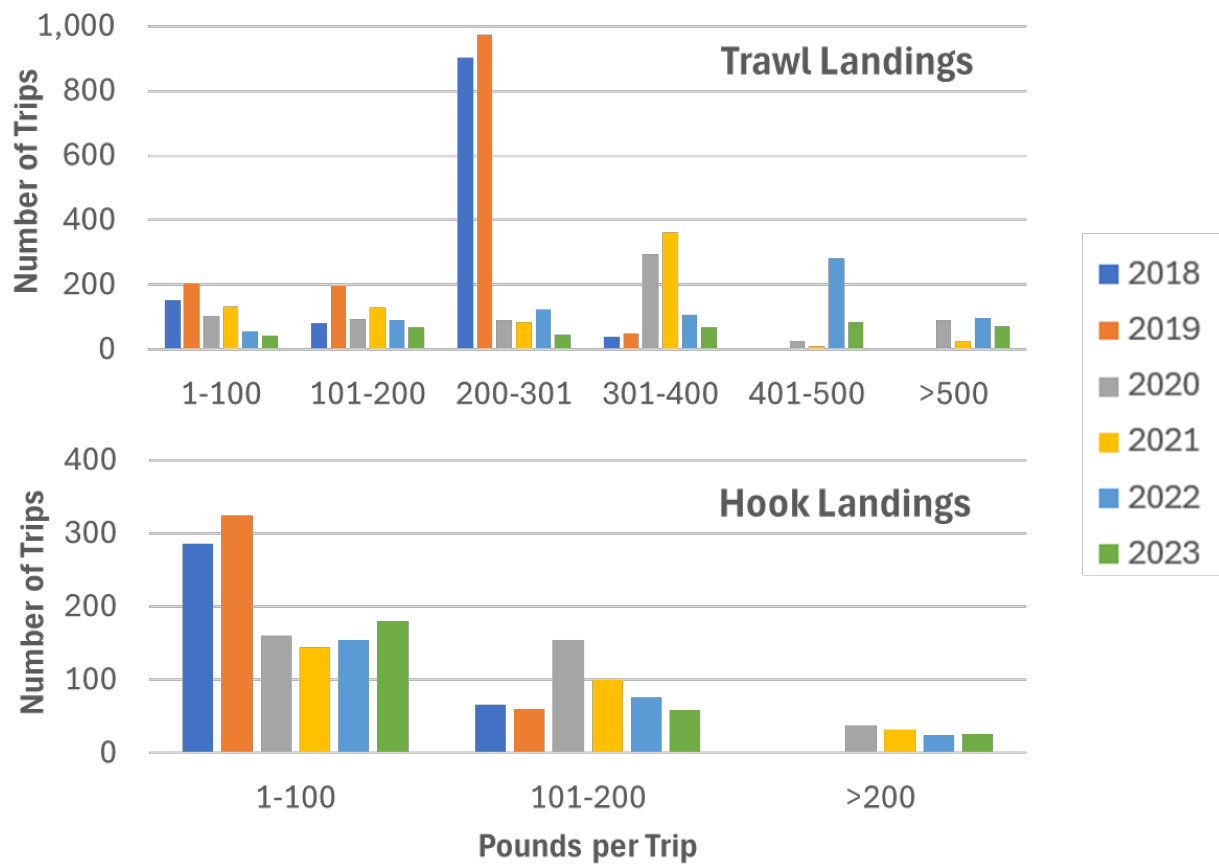


Table 1. 2024 Commercial Summer Flounder Measures with Proposed Revisions for Public Hearing

Fishery Period	Season	Quota Allocation	Open Days	Trip Limits	Min Size
Period I (Winter)	Jan 1 – Apr 22	30% overall for 2025 . 15% overall for 2026 and beyond	Sun - Sat	5,000 2,000 pounds reduced to 100 pounds once 30% of quota use is projected. Authorize possession of non-conforming quantities of fish destined for sale in another state.	14"
Period II (Summer)	Apr 23 – Sep 30	70% overall plus any Period I underage for 2025 85% overall plus any Period I underage for 2026 and beyond .	Sun – Sat Option to close weekend days.	600 500 pounds for nets and 400 325 pounds for hooks. If 75% of quota is taken on or before Aug 1 Aug 15 , then 400 pounds for nets and 250 200 pounds for hooks. If at least 20% of the quota remains on September 1, then 800 pounds for all gears. If 90% of quota is taken on or before September 1, then 200 pounds for all gears.	14"
Period II (Fall)	Oct 1 – Dec 31	Any quota remaining	Sun - Sat	5,000 pounds if more than 10% of the quota remains on October 1. 800 pounds if less than 10% of the quota remains on October 1.	14"

Table 2. Recent Management Revisions for Summer Flounder Program (2018 – 2024). Bold black text denotes regulatory change from prior year. Bold red text denotes in-season adjustment. Blue text denotes a pilot program.

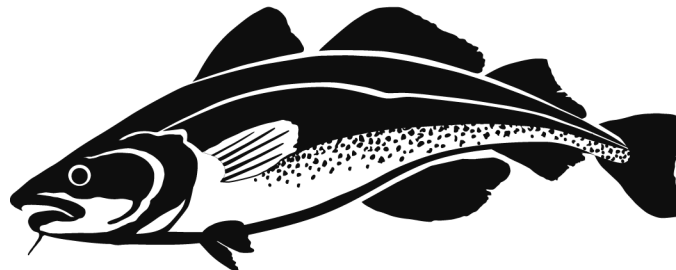
Year	Period	Allocation	Season	Trip Limits	Fishing Days	Size Limit
2018	Period I	Up to 30%	Jan 1 – Apr 22	500 pounds all gears, reduced to 100 pounds at 25% of quota	Sun – Sat	14"
	Period II	70% plus any underage	Apr 23 – Jun 9	100 pounds for nets, closed to hooks.	Sun – Sat	
			June 10 – Quota	300 pounds for nets, 200 pounds for hooks.	Sun - Thu	
2019	Period I	Up to 30%	Jan 1 – Apr 22	500 pounds all gears reduced to 100 pounds at 25% of quota	Sun – Sat	14"
	Period II	70% plus any underage	Apr 23 – Jun 9	100 pounds for nets, closed to hooks.	Sun – Sat	
			June 10 – Dec 31 Jun 10 - Oct 31	300 pounds for nets, 200 pounds for hooks. Multi-day program for draggers initiated Aug 27.	Sun – Thu	
			Nov 1 – Dec 31	1,000 pounds all gears	Sun-Sat	
2020	Period I	Up to 30%	Jan 1 – Apr 22	1,000 pounds all gears reduced to 100 pounds at 25% of quota. Multi-state program initiated on January 1.	Sun – Sat	14"
	Period II	70% plus any underage	Apr 23 – Jun 9	100 pounds for nets, closed to hooks.	Sun – Sat	
			Jun 10 – Dec 31 Jun 10 - Aug 22	400 pounds for nets, 250 pounds for hooks. Multi-day program for draggers renewed.	Sun - Thu	
			Aug 23 – Oct 3	600 pounds for nets , 200 pounds for hooks	Sun – Thu	
			Oct 4 – Oct 31	1,000 pounds all gears	Sun - Sat	
			Nov 1 – Dec 31	1,000 pounds all gears if more than 5% quota remains, 500 pounds for all gears if 5% or less of quota remains. 2,000 pounds all gears	Sun - Sat	
2021	Period I	Up to 30%	Jan 1 – Apr 22	1,000 pounds all gears reduced to 100 pounds at 25% of quota. Multi-state program renewed.	Sun – Sat	14"
	Period II	70% plus any underage	Jun 10 – Oct 31 Jun 10 - Sep 25*	400 pounds for nets, 250 pounds for hooks. Multi-day program for draggers renewed.	Sun - Thu	
			Sep 26 – Oct 9*	800 pounds all gears	Sun – Sat	
			Oct 10 – Oct 31	2,000 pounds all gears	Sun – Sat	
			Nov 1 – Dec 31	2,000 pounds all gears	Sun - Sat	
2022	Period I	Up to 30%	Jan 1 – Apr 22	3,000 pounds all gears reduced to 100 pounds at 30% of quota. Multi-state program renewed.	Sun – Sat	14"
	Period II	70% plus any underage	Apr 23 – Aug 31	500 pounds for nets, 300 pounds for hooks. Multi-day program for draggers renewed.	Sun – Sat	

			Sept 1 – Sept 30	800 pounds for all gears if 20% or more of quota remains. 500 pounds for nets and 300 pounds for hooks if 20% or less of quota remains. Multi-day program for draggers renewed.	Sun - Sat	
			Oct 1 – Dec 31	3,000 pounds for all gears if more than 5% of quota remains; 800 pounds if 5% or less of quota remains. 10,000 pounds for all gears	Sun - Sat	
2023	Period I	Up to 30%	Jan 1 – Apr 22	3,000 pounds for all gears reduced to 100 pounds at 30% of quota 10,000 pounds for all gears reduced to 100 pounds at 30% of quota. Multi-state program renewed.	Sun - Sat	14”
	Period II	70% plus any underage	Apr 23 – Aug 31	600 pounds for nets, 400 pounds for hooks. Multi-day program for draggers renewed.		
			Sept 1 – Sept 30	800 pounds for all gears if 20% or more of quota remains. 500 pounds for nets and 300 pounds for hooks if 20% or less of quota remains. Multi-day program for draggers renewed.		
			Oct 1 – Dec 31	10,000 pounds for all gears if more than 5% of quota remains; 800 pounds if 5% or less of quota remains.		
2024	Period I	Up to 30%	Jan 1 – Apr 22	10,000 pounds for all gears reduced to 100 pounds at 30% of quota 5,000 pounds for all gears reduced to 100 pounds at 30% of quota Multi-state program renewed.	Sun - Sat	14”
	Period II	70% plus any underage	Apr 23 – Sep 30	600 pounds for nets, 400 pounds for hooks. Reduced to 400 pounds for nets and 200 pounds for hooks if 75% of quota is taken on or before August 1. Increased to 800 pounds for all gears if 20% of quota remains on Oct 1. Multi-day program for draggers renewed.		
			Oct 1 – Dec 31	5,000 pounds for all gears if more than 10% of quota remains; 800 pounds if 10% or less of quota remains.		

Industry Meeting on Summer Flounder

November 4, 2024

MarineFisheries
Commonwealth of Massachusetts



Meeting Agenda

1. Review of 2024 Fishery Management and Fishery Performance
2. Initial Industry Feedback and Concerns
3. Potential Management Considerations for 2025 and Beyond
4. Expectations for other Inshore Fisheries in 2025
5. Discussion



2024 Summer Flounder Quota Management

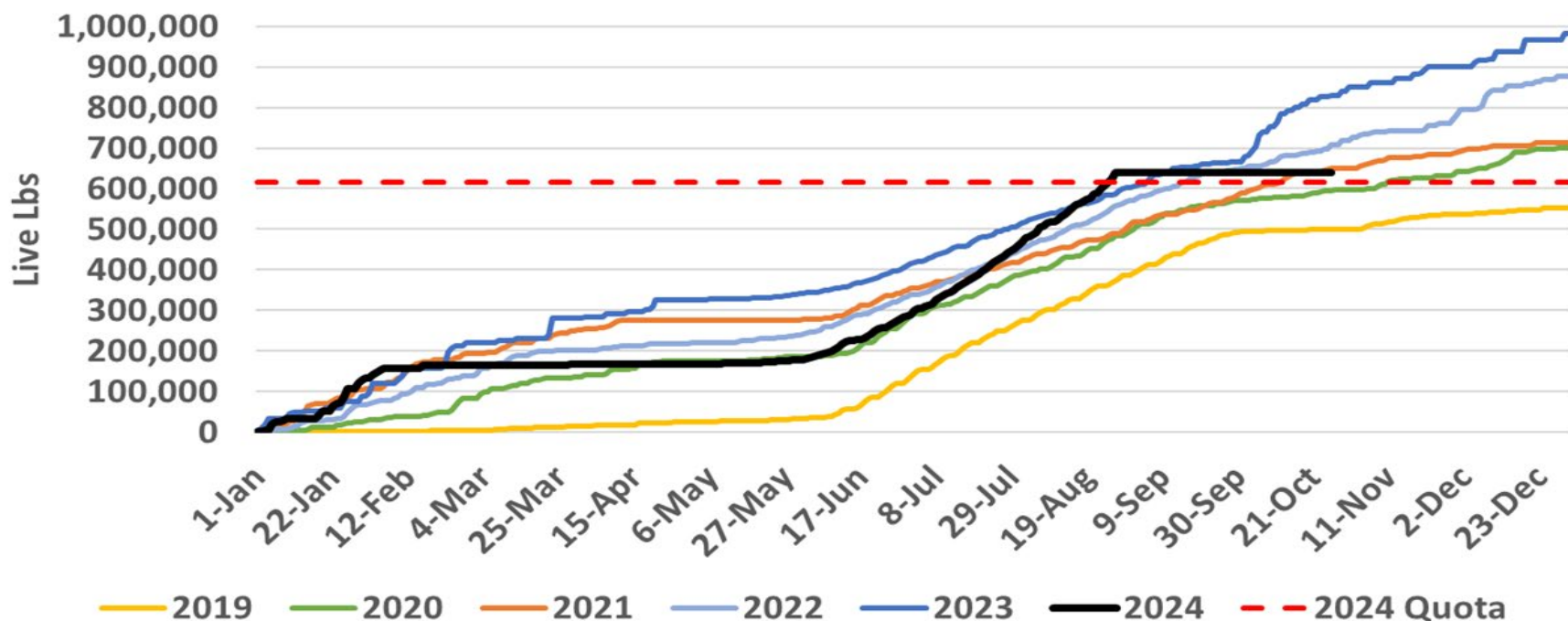
- Quota reduced by 56% reduction from 2023 to 2024 resulting in a 599,507-pound quota.
 - Period I (Jan 1 – Apr 22) allocated 30% (179,852 pounds);
 - Period II (Apr 23 – Dec 31) allocated 70% (419,654 pounds).
- Based on recent performance (2021 – 2023) expectation was:
 - Period I fishery would achieve quota allocation during early winter
 - Period II fishery would take full quota by fall assuming status quo participation in summertime fishery.
- In response, DMF reduced Period I and fall Period II trip limit from 10,000 to 5,000 pounds. Period II limits were not changed, and the Multi-Day Program was renewed.

Period	Gear	Season	Open Days	Trip Limit	Size Limit
Period I	All	Jan 1 – Apr 22	Sun - Sat	5,000 pounds reduced to 100 pounds after 30% quota use	14"
Period II	Nets	Apr 23 – Sept 30	Sun - Sat	600 pounds, reduced to 400 pound if 80% of quota is taken before Aug 1 and increased to 800 pounds if 20% quota remains on Sept 1.	14"
Period II	Hooks	Apr 23 – Sept 30	Sun - Sat	400 pounds, reduced to 250 pound if 80% of quota is taken before Aug 1 and increased to 800 pounds if 20% quota remains on Sept 1.	14"
Period II	All	Oct 1 – Dec 31	Sun – Sat	800 pounds, increased to 5,000 pounds if 20% of quota remains on October 1.	14"



2024 Summer Flounder Fishery Performance

Annual Running Total of Landings: Fluke



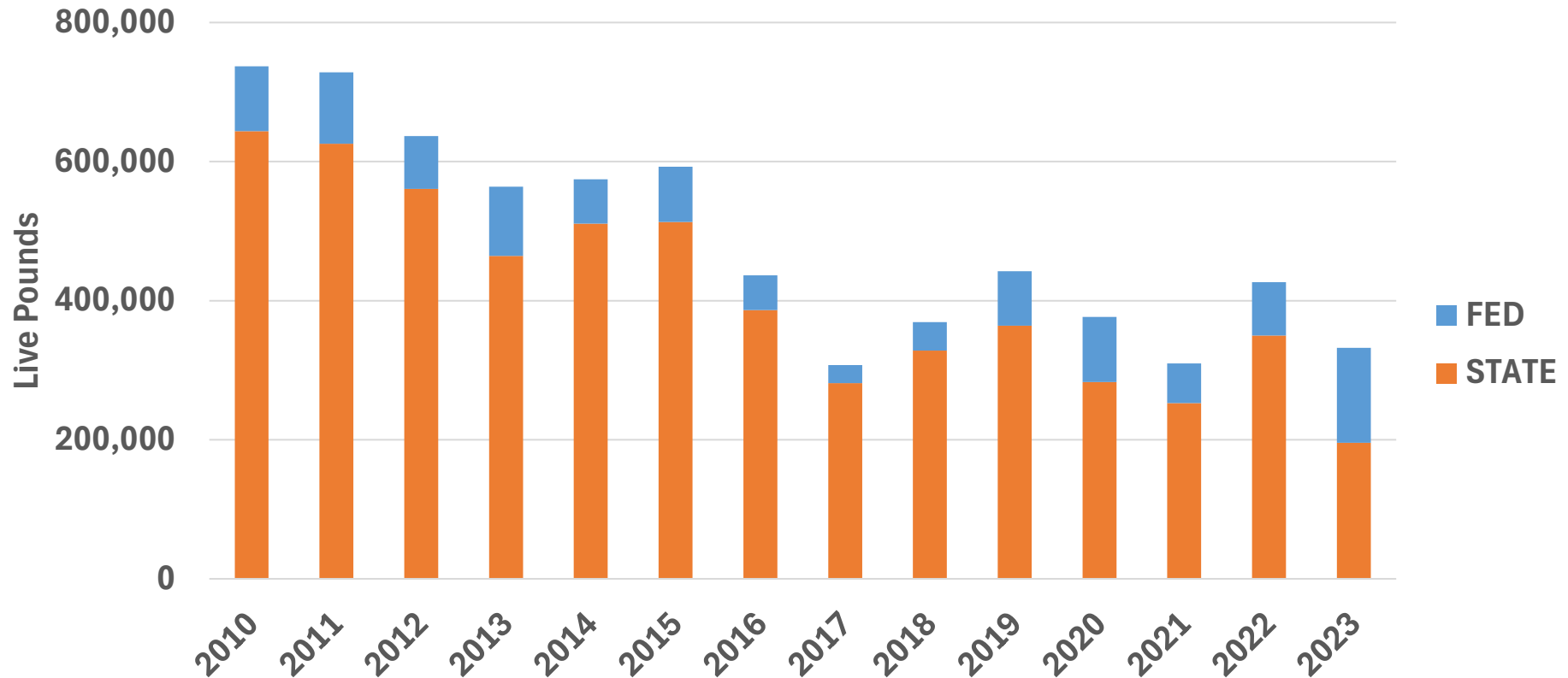
2024 Fishery Performance Overview:

- DMF projected Period I allocation (30%) would be taken on Feb 5 and reduced trip limit to 100 pounds.
- Final Period I landings came in at 27% of quota (166,830 lbs), leaving 73% of quota for Period II.
- 2024 quota taken on August 27 with closure effective August 28.

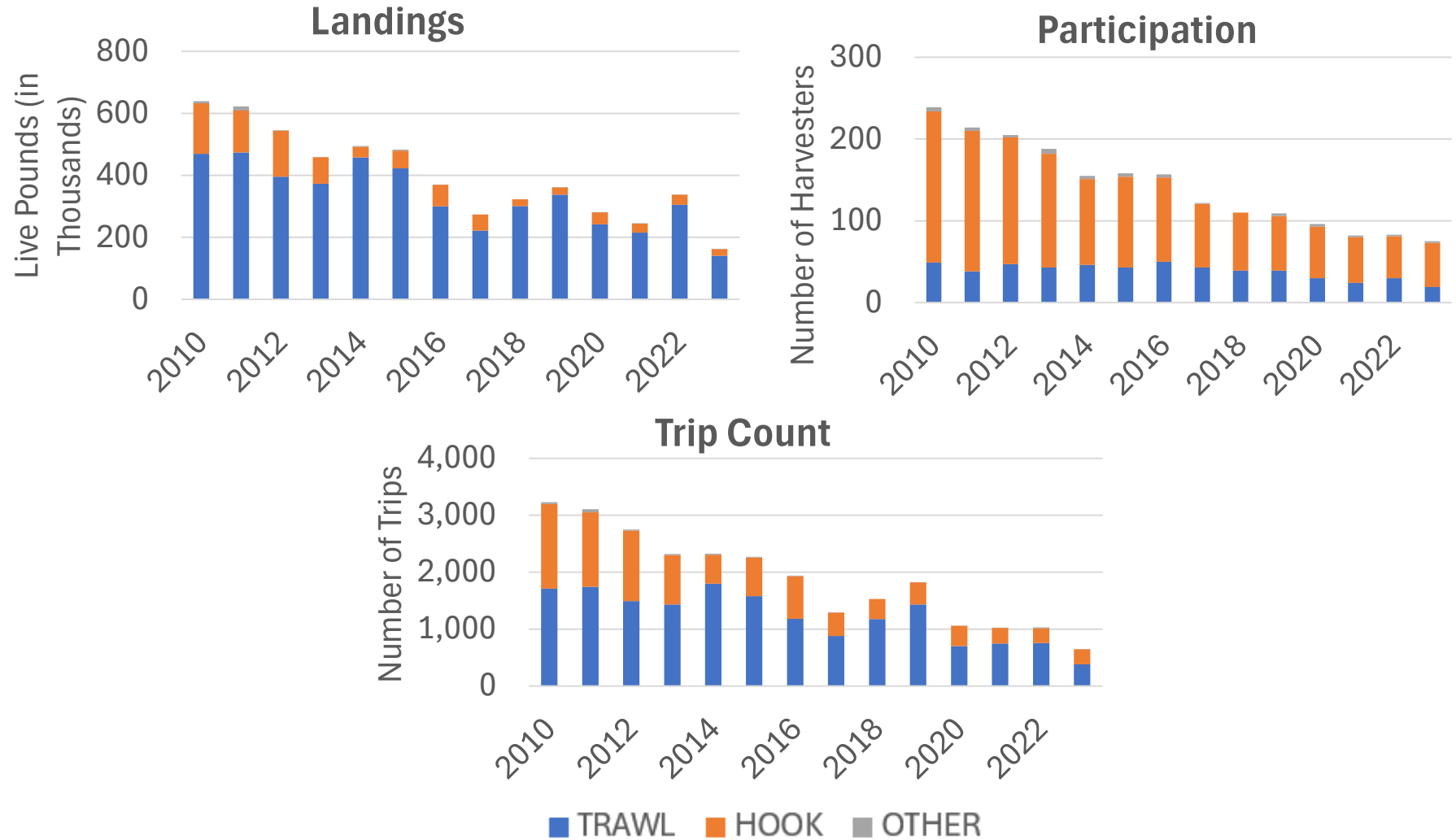
2025 Quota and Management Outlook:

- Quota expected to be around 600,000 pounds again.

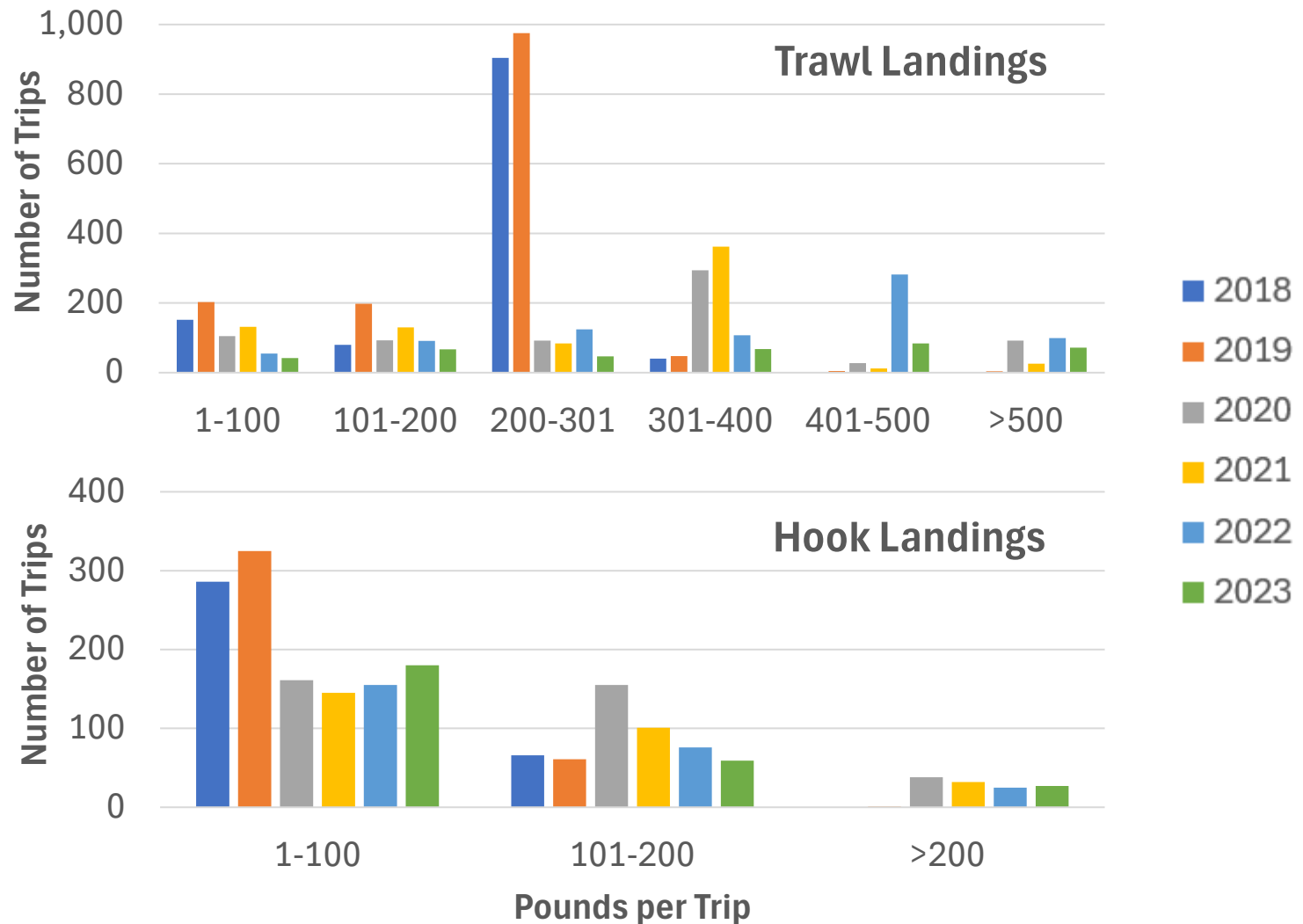
June – September Fluke Landings by Year and Distance from Shore (2010-2023)



June – September State Waters Landings, Participation, and Trip Count by Gear Type (2010-2023)

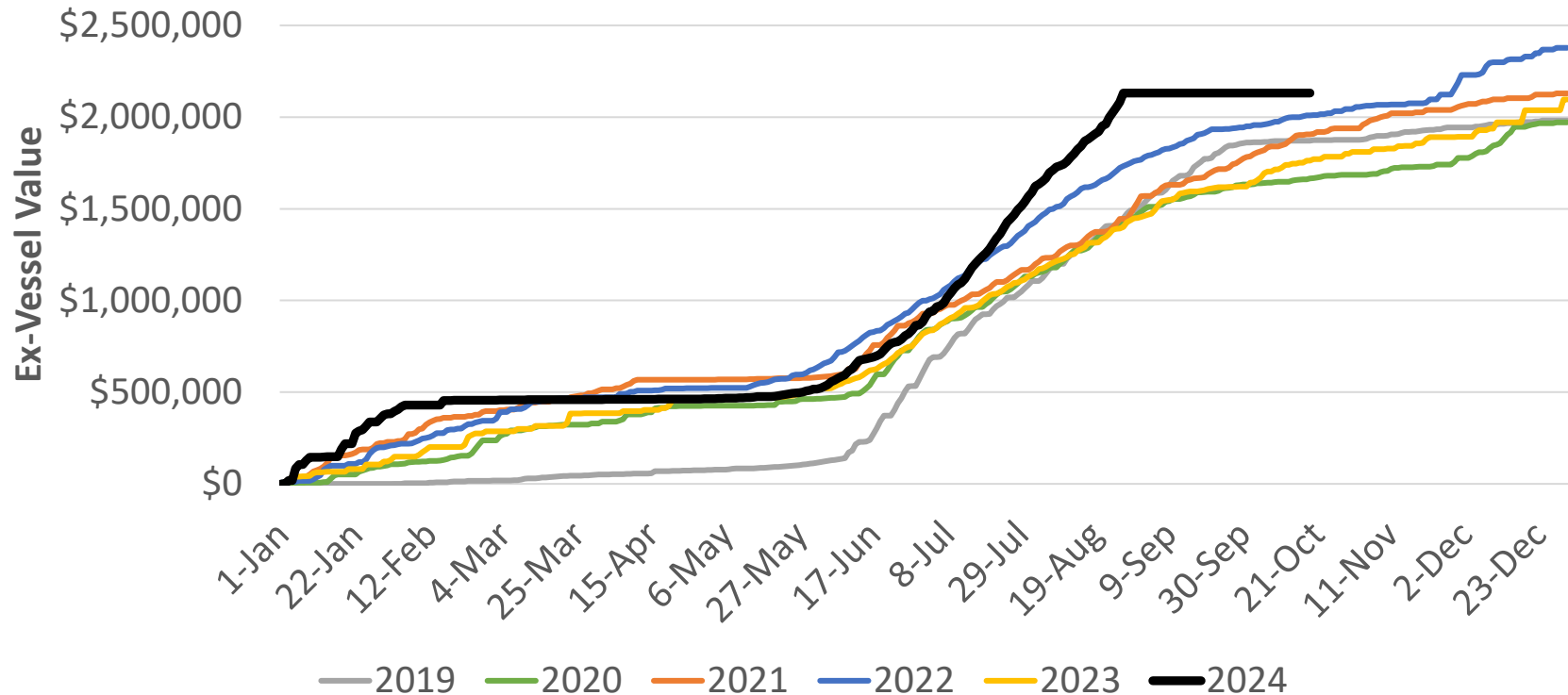


June – September State Waters Pounds per Trip Frequencies (2018-2023)

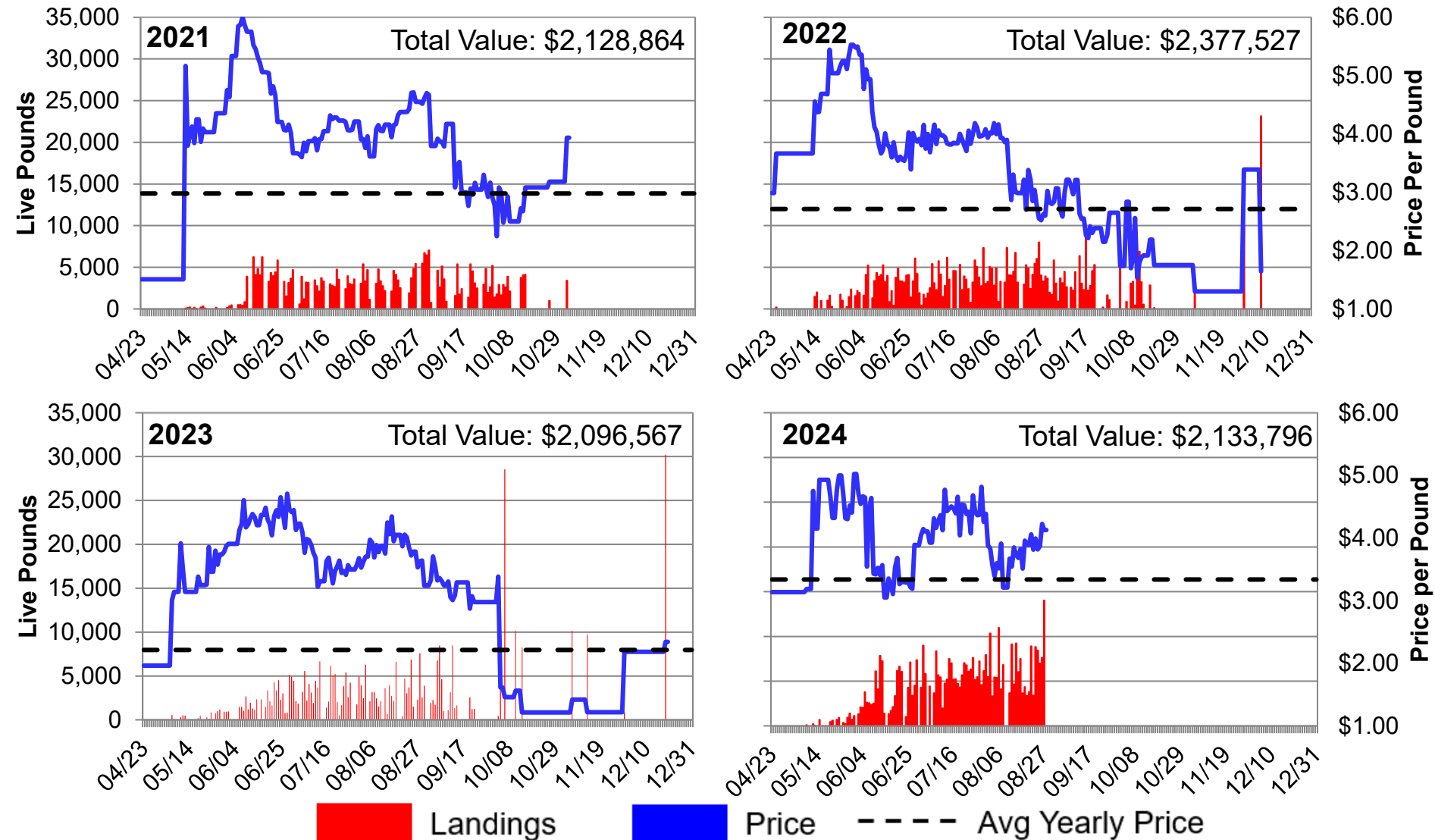


Ex-Vessel Value (2019 – 2024)

Annual Running Total of Value: Fluke



Daily Landings and Average Price (2021-2024)

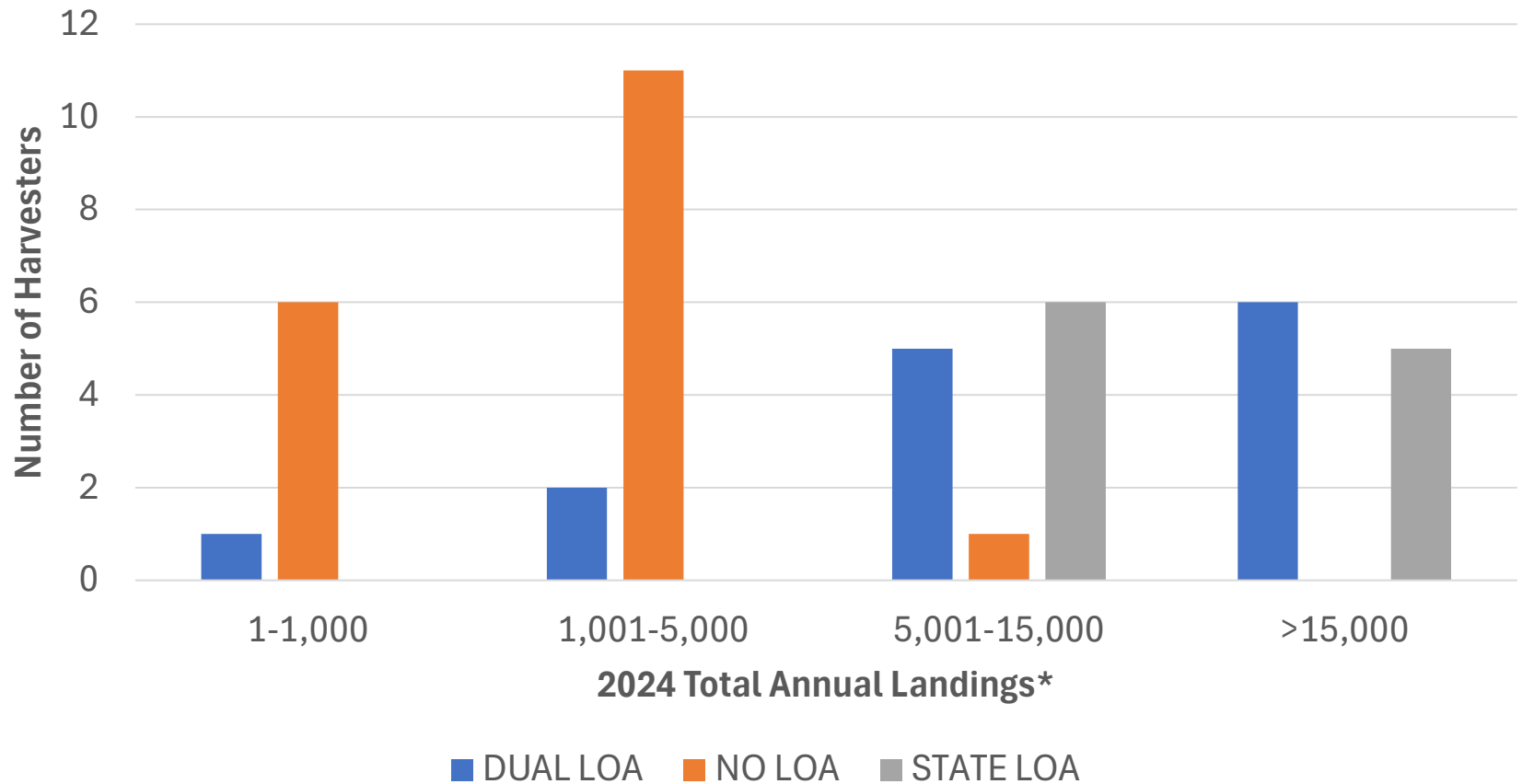


November 4, 2024

Massachusetts Division
of Marine Fisheries



2024 Landings by LOA & Permit Status



*2024 Landings are preliminary and filtered for assumed trawling activity

November 4, 2024

Massachusetts Division
of Marine Fisheries



Competing Industry Perspectives on 2024 Performance

Subject	Support	Objections
Trip Limits	<ul style="list-style-type: none">• Allowed for full quota consumption.• Makes fishery profitable for various sized boats.• Allows vessels to target larger fish south and east of islands.	<ul style="list-style-type: none">• Encourages effort by larger boats resulting in a higher rate of quota use.• Lower limits would allow fishery to stay open later into year.• Concerns about maintaining day-boat fleet.
August 28 Quota Closure	<ul style="list-style-type: none">• Quota was fully utilized.• From value perspective optimal to take quota in summer.• Fish have decreasing value after September 1.• Allows participants to transition to other fisheries.	<ul style="list-style-type: none">• Did not meet management goal of keeping quota available through inshore season.• Quota should be available into Sept to bridge gap to fall fisheries.• Vessels continued to fish for crabs ~7 weeks after closure.• Hook fishery on Nantucket shoals seeks quota availability in Sept.
Multi-Day Program	<ul style="list-style-type: none">• Addresses eastwards shift in availability and increasing overhead costs.• Critical to efficient operation.• Most trawlers obtain LOA and many use it at least once.	<ul style="list-style-type: none">• Program has evolved beyond its intended purpose.• Some boats are fishing overnight in federal waters and landing double limit.• Encourages effort in MA fishery resulting in faster rate of quota use.• Concerns about maintaining day boat fleet.



2025 Summer Flounder Harvest Management Options

Action	Example	Pros	Cons
Status Quo	<ul style="list-style-type: none"> Open fishery on Apr 23 600-pound trip limit for nets & 400-pound for hooks. Trip limits decrease to 400/250 pounds if 75% quota use before 8/1. Trip limits increase to 800 if 20% quota remains on 9/1. No closed fishing days. Multi-day program. 	<ul style="list-style-type: none"> Allows fishery to take advantage of generally strong summertime ex-vessel value. Allowed for full quota consumption at optimal price in 2024. If effort decreases, fish will be available into fall. 	<ul style="list-style-type: none"> Fishery closed earlier than anticipated in 2024. Crab fishery continued for ~7 weeks post summer flounder closure. Early closure caused some frustration.
Adopt Weekend No Fishing Days	<ul style="list-style-type: none"> Close fishery on Fridays and Saturdays. 	<ul style="list-style-type: none"> Will slow rate of quota consumption. 	<ul style="list-style-type: none"> Will provide less flexibility. Likely supported by recreational anglers.
Decrease Trip Limits	<ul style="list-style-type: none"> Reduce trip limits back to 500/300 pounds or 400/250 pounds 	<ul style="list-style-type: none"> Will slow rate of quota consumption. 	<ul style="list-style-type: none"> If effort is not there, may cause underutilization. Will make less profitable on daily basis for some vessels.
Amend Trip Limit Reduction Trigger	<ul style="list-style-type: none"> Reduce trip limits to 400/250 pounds if 65% or 70% of quota is used by 8/1. 	<ul style="list-style-type: none"> Will allow fishery to start at higher trip limit to take advantage of seasonal value. Will respond to effect of effort on quota consumption. Just missed the current 75% trigger in 2024. 	<ul style="list-style-type: none"> Triggers are imperfect management tools. Could make quota consumption less optimal from value perspective.



2025 Summer Flounder Quota Allocation Options

Action	Example	Pros	Cons
Status Quota Allocation	<ul style="list-style-type: none"> 70% of annual quota (~420,000 pounds) allocated to P2 fishery. P2 fishery allocation includes any underage from P1. 	<ul style="list-style-type: none"> Simple seasonal-based approach. 	<ul style="list-style-type: none"> Does not allow for more dynamic management based on seasonal and gear specific interests.
Set Aside Quota for September Fishery	<ul style="list-style-type: none"> Create set-aside (e.g., 5-10% quota) for a September fishery. Reduce trip limit to 100-pound limit if quota threshold is hit before Aug 31. Any underage would be available to fall fishery. 	<ul style="list-style-type: none"> Would allow fishery to start at higher level and would only be triggered based on quota consumption. Would allow fishing to continue into September. Accommodates continued bycatch in summer if threshold is reached. Similar to period approach used in RI. 	<ul style="list-style-type: none"> Could reduce momentum and profitability during peak summer fishery. Vessels may opt to leave fishery once threshold is met. Could impact horseshoe crab catch. Fish of less value in September.
Set Aside Quota for September Hook Fishery	<ul style="list-style-type: none"> Create set-aside for a for a late-summer hook only fishery (e.g., <5% quota). Any underage would be available to fall fishery. 	<ul style="list-style-type: none"> Would accommodate interests of Nantucket Shoals hook fishers. Would only be triggered based on quota use. Trawlers would continue to access most of the quota. 	<ul style="list-style-type: none"> Would be allocative. Fish is of less value in September. Does not address dragger interests in a September fishery.
Consider Sub-Quotas on Gear Type	<ul style="list-style-type: none"> Adopt P2 net and hook quota allocations based on historic use (e.g., 90/10) 	<ul style="list-style-type: none"> Would allow for discrete management of each gear type. Would allow DMF to manage each gear type to different objectives. 	<ul style="list-style-type: none"> Would be allocative. Hook fishery is less active now. Dealer reporting used for quota monitoring and gear . Would require 100% electronic daily reporting. Challenging for DMF to monitor/manage.



2025 Summer Flounder Multi-Day Program Options

Action	Example	Pros	Cons
Maintain Program	<ul style="list-style-type: none"> • Authorize Pilot Program beginning on 5/1/25. • Allow multi-day landings of summer flounder, black sea bass, whelk, and horseshoe crabs. • No more than one trip limit to be taken per calendar day. • Fish to be tagged and segregated. Horseshoe crabs to be labeled and segregated. 	<ul style="list-style-type: none"> • Program has been successful in making certain operations more efficient. • Program has allowed vessels to follow fish eastward without substantially increasing overhead costs. 	<ul style="list-style-type: none"> • Program has evolved beyond initial purpose. • Many participants are federal permit holders fishing in federal waters. • May be contributing to high rate of quota use.
Adjust Program	<ul style="list-style-type: none"> • Require trips landing two daily limits be at sea for at least 24 hours. • Monitor program through cellular vessel trackers and electronic reporting. 	<ul style="list-style-type: none"> • Would make program more accountable. • Would bring program back into phase with initial purpose. 	<ul style="list-style-type: none"> • Concerns about fisherman safety. • Would require investment in tracking tech. • Tracking tech may be unwanted. • May require more stringent reporting requirements.
Discontinue Program at Quota Trigger	<ul style="list-style-type: none"> • Once 85% quota is used, discontinue multi-day program. 	<ul style="list-style-type: none"> • Would allow use of program at start of season to take advantage of ex-vessel value. • Could slow landings later in season to keep quota available. 	<ul style="list-style-type: none"> • Would negatively impact those using the program. • Questionable impact on rate of quota consumption.
Eliminate Program	<ul style="list-style-type: none"> • Do not renew program for 2025 	<ul style="list-style-type: none"> • Would likely slow rate of quota consumption. • Would make quota available later into season. 	<ul style="list-style-type: none"> • Would negatively impact those using the program. • May result in underutilized quota.



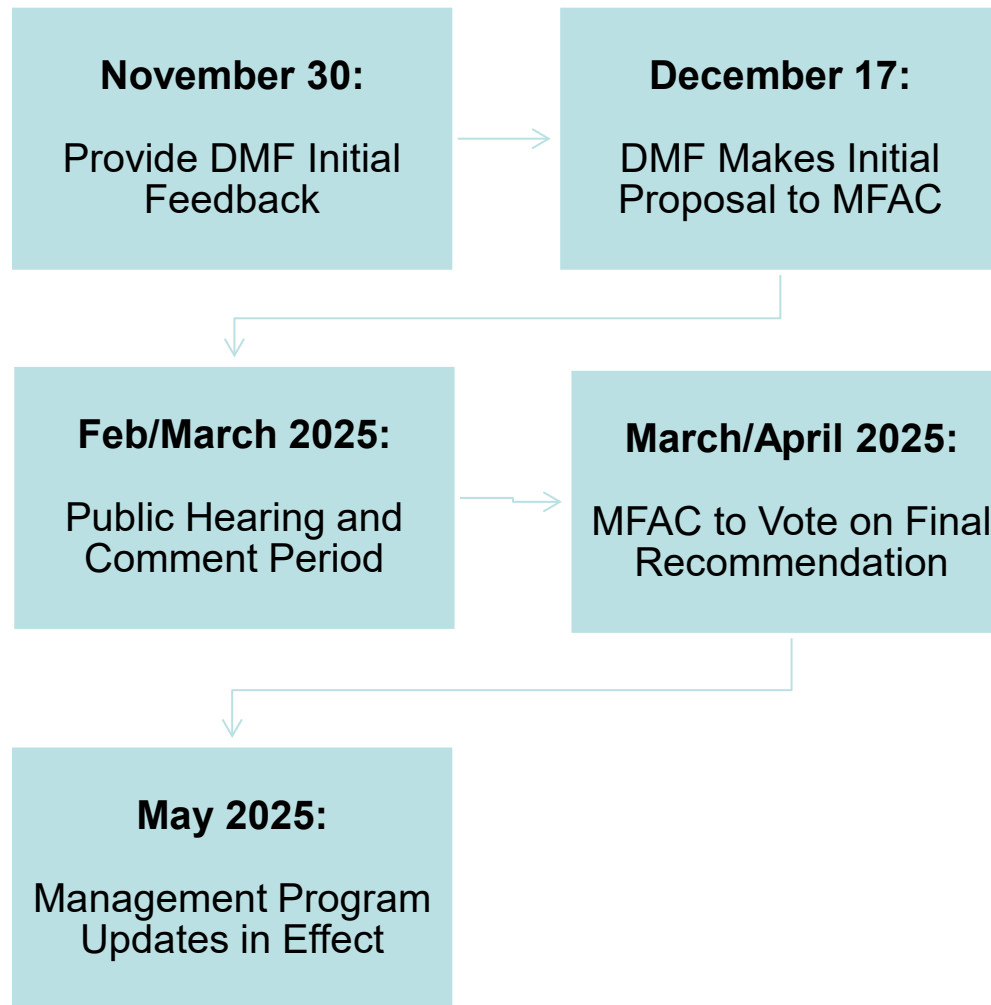
Expectations for Other Inshore Fisheries in 2025

Species	2024 Quota	2024 Landings	Percent Landed	Closure Date	2025 Quota
Bait Horseshoe Crab	140,000 crabs	140,170 crabs	100.0%	10/21/24	140,000 crabs
Biomedical Horseshoe Crab	200,000 crabs	<i>Confidential</i>	<i>Confidential</i>	N/A	200,000 crabs
Scup (May 1 – Sept 30)	1,378,071 pounds*	569,465 pounds	41.3%	N/A	1,642,936 pounds (preliminary)
Black Sea Bass	926,338 pounds	943,925 pounds	101.9%	10/12/24	787,216 pounds (preliminary)

* transfer adjusted quota (400,000 lb to CT)



Timeline Moving Forward



Discussion

- Is there interest in adjusting how this fishery is managed? Or did the fishery perform well enough in 2024?
- Are there harvest control measures that you support? Are there other harvest control measures we should consider?
- Are there quota allocation measures that you support? Are there other quota allocation measures that we can consider?
- Do you want to renew, amend, or scrap the multi-day program?
- Can we better align use of the summer flounder and horseshoe crab quotas?
- Should we require mandating larger mesh (e.g., 10") when targeting crabs after summer flounder is closed?
- Are there other items DMF should consider to improve the management of this fishery?



Commercial Summer Flounder Proposal

Fishery Period	Season	Quota Allocation	Open Days	Trip Limits	Min Size
Period I (Winter)	Jan 1 – Apr 22	30% overall for 2025. 15% overall for 2026 and beyond	Sun - Sat	5,000 2,000 pounds reduced to 100 pounds once 30% of quota use is projected for 2025 and 15% for 2026 and beyond.. Authorize possession of non-conforming quantities of fish destined for sale in another state.	14"
Period II (Summer)	Apr 23 – Sep 30	70% overall plus any Period I underage for 2025 85% overall plus any Period I underage for 2026 and beyond.	Sun – Sat Option to close weekend days.	600 500 pounds for nets and 400 325 pounds for hooks. If 75% of quota is taken on or before Aug 1 Aug 15 , then 400 pounds for nets and 250 200 pounds for hooks. If at least 20% of the quota remains on September 1, then 800 pounds for all gears. If 90% of quota is taken on or before September 1 , then 200 pounds for all gears.	14"
Period II (Fall)	Oct 1 – Dec 31	Any quota remaining	Sun - Sat	5,000 pounds if more than 10% of the quota remains on October 1. 800 pounds if less than 10% of the quota remains on October 1.	14"

November 13, 2024

Massachusetts Division
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Protected Species Update

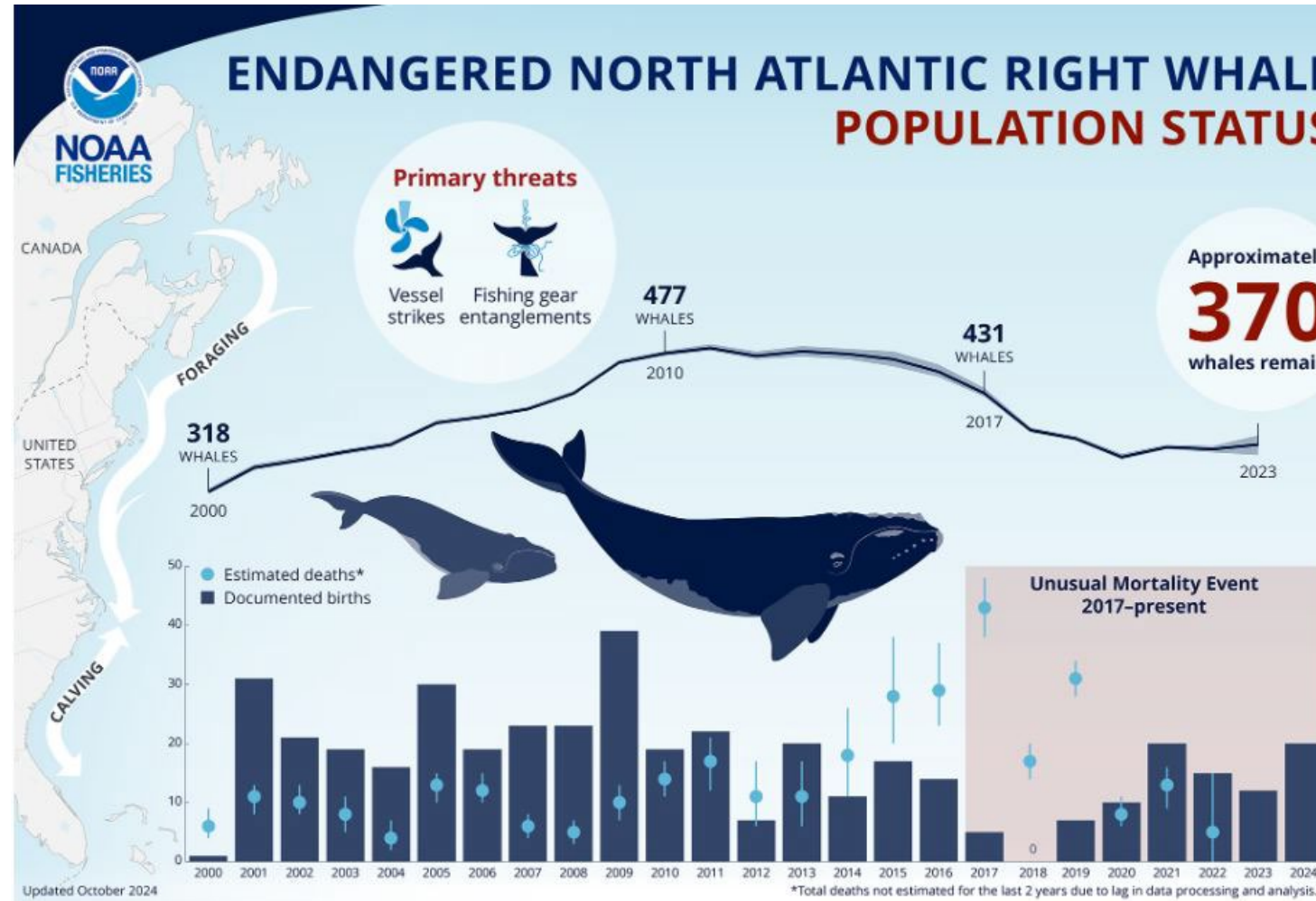
November
2024

- Right whale population update
- ALWTRT – upcoming meeting schedule
- Ship speed rule
- Passive acoustic monitoring
- On-demand gear research
- Incidental Take Permit update



Right Whale Population Update

- Right whale population estimate approx. 370 individuals in 2023.
- Increase from 356 individuals in 2022.
- Sharp population decline since 2010 has slowed, due to lower mortality rates and higher birth rates.
- Entanglements and ship strikes continue to impact RWs at higher than allowed rates.
- 20 calves born in 2024 but 5 of them dead or missing/presumed dead.



Atlantic Large Whale Take Reduction Team

- **Pause on implementing amendments to the Plan until Dec 2028**
- **Lengthy rule making process requires final recommendations by Jan 2026 on additional measures for lobster fishery.**
- **Early 2025 release of EIS for gillnet/other trap gear based changes to the Plan.**
- **Risk reduction required will change as population trend improves.**



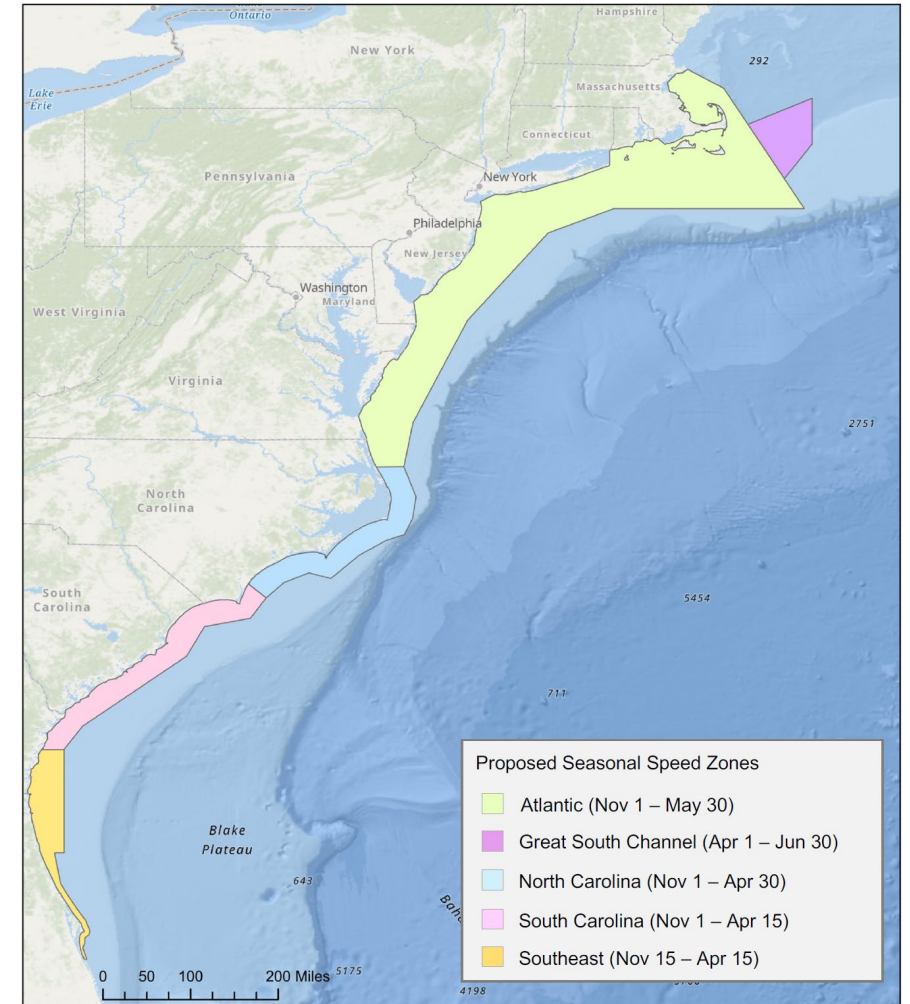
Upcoming Take Reduction Team Schedule

2024	2025	2026	2027 and Beyond
<p>Late Nov/Early Dec Informational Webinar (virtual)</p> <p>Purpose: Updates, including new NARW population estimates, and entanglement incidents</p> <p>Dec Updated DST fishery layer and beta web tool</p> <p>All fishery layers updated* with data through 2022 and web tool application for low resolution runs available for beta testing with internal partners</p> <p>Ongoing: Talk to your stakeholders!</p>	<p>January 30 Day Scoping Period</p> <p>March 18-19 Team Meeting (virtual)</p> <p>Purpose: Provide TRT with updates on ASRG population and mortality estimates</p> <p>Summer Updated Whale Layer in DST</p> <p>Whale layer data to incorporate sightings through summer 2023</p> <p>July 16-17 Team Meeting (in-person**)</p> <p>Purpose: Provide members with TRT process training/refreshers and information on updated DST. Review preliminary caucus packages</p> <p>Nov 17-20 Team Meeting (in-person**)</p> <p>Purpose: Preliminary package development</p>	<p>January 13-15 Team Meeting (in-person**)</p> <p>Purpose: Develop and vote on recommendations</p> <p>TBD Updated DST NE Lobster/Jonah crab fishery layer</p> <p>Fishery layers expected to be updated with vessel tracking data as data becomes available</p> <p>* DST fishery layer updates to occur every two years beginning 2024</p> <p>** Locations of in-person meetings TBD</p>	<p>Late 2026/Early 2027 Proposed Rule</p> <p>Public Comment Period</p> <p>Late 2027/Early 2028 Final Rule</p> <p>January 2029 Final Rule effective</p>



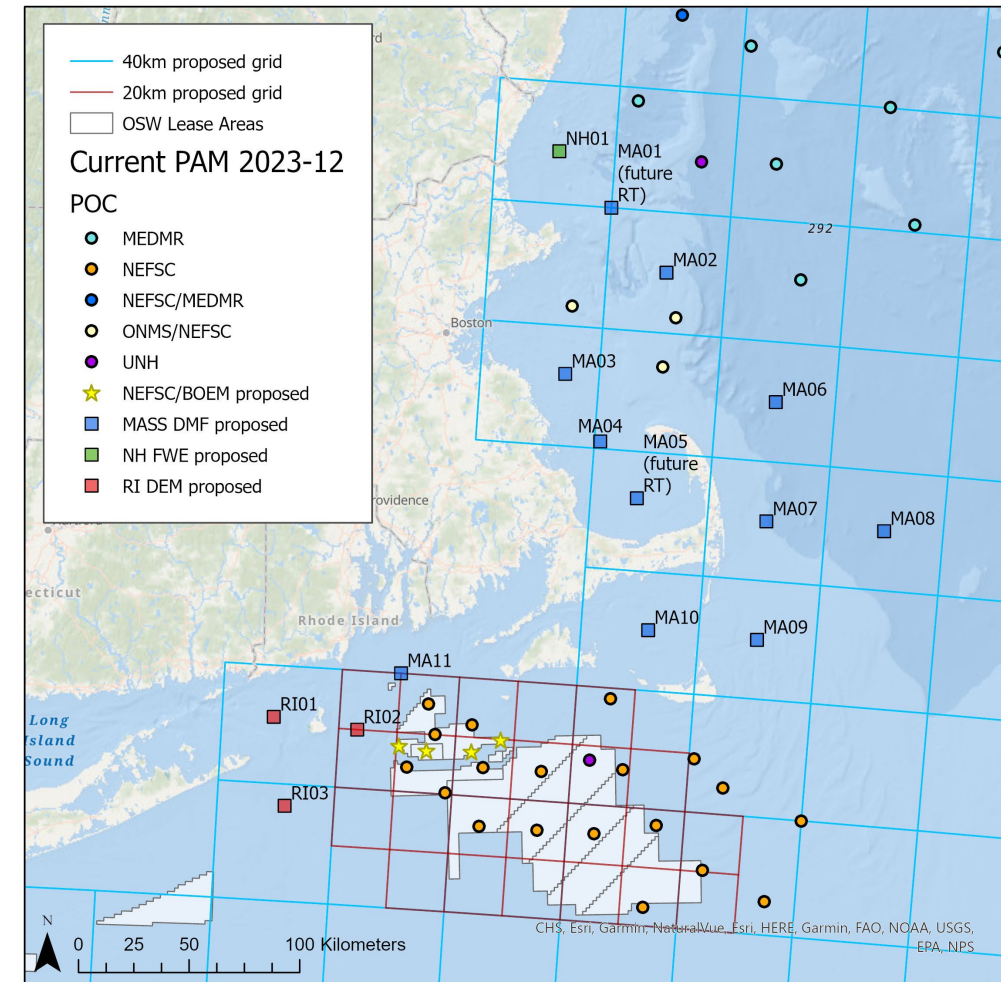
NOAA Fisheries Proposed Modifications to Ship Speed Rule

- **NOAA Fisheries proposing modification to ship speed rules to reduce ship strikes by 90%**
 - 10 knot or less rules currently applies to vessels 65 feet and greater in smaller season zones currently
 - New rules proposed to apply to vessels 35' and larger
 - Seasonal speed zones substantially increased in time and space
- **High impact of proposed changes to broader range of vessel for longer periods of time across larger area.**
- **MACZM, in collaboration with DMF, submitted federal consistency objection to the rule.**
- **Based on insufficient data to support implementation of rule as proposed.**
- **Concerns with vessel strike risk model, the inclusion of Nantucket Sound in the rule, and insufficient economic impact analysis.**



Right Whale Passive Acoustic Monitoring Network

- DMF collaborating with NEFSC and states to implement regional acoustic monitoring network for right whales.
- Data will improve understanding of right whale presence and occupancy.
- Assist in dynamic management of season fixed gear closures.
- DMF deploying bottom mounted archival hydrophones across state waters and adjacent areas in early 2024.
- Two real-time listening buoys to be deployed in Feb 2024
 - One in middle of Cape Cod Bay
 - One southeast of Gloucester Harbor on state/fed waters line



Massachusetts Division
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On-Demand Gear Research

- DMF is investing in and supporting research to understand how on-demand fishing may impact commercial fisheries in Massachusetts.
- Range of concerns with on-demand gear (ODG) including technological, operational and economic constraints.
- DMF current and past on-demand projects:
 - Develop framework of ODG issues
 - Economic impact analysis through modeling work
 - DMF collecting timing data on hauling efficiency of ODG for the model
 - Authorizing ODG testing in state waters
 - ODG density study
 - Grant program to purchase ODG related equipment for fixed and mobile fishers



Incidental Take Permit Update

- DMF submitted updated draft in July 2024, incorporating NMFS comments.
- Anticipate final comments on draft from NMFS by end of 2024.
- Likely submit completed ITP application and final Habitat Conservation Plan in early 2025.
- NEPA analysis by NMFS and public comment will take 1 year before permit might be awarded.





SHELLFISH ADVISORY PANEL
2:00PM
Wednesday November 6, 2024
Hanover Public Library
534 Hanover Street (Route 139), Hanover, MA

AGENDA

1. Introductions and Remarks (2:00 – 2:15)
 - a. Deputy Director's Remarks
 - b. Overview of Agenda
 - c. Review and Approval of March 18, 2024 Draft Business Meeting Minutes
2. SAP Work Group Reports & Updates (2:15-2:45)
 - a. Aquaculture License Transfer Work Group
 - b. Hatchery Seed Work Group
 - c. Other Work Group Needs
3. Reclassification of Growing Areas due to Wastewater Discharges (2:45 – 3:00)
4. New Statewide Coastal Habitat Restoration Program & Shellfish (3:00-3:15)
5. Media Coverage of Shellfish Recalls: next steps (3:15-3:30)
6. ISSC: Committee updates and preparation for 2025 Conference (3:30-3:15)
7. MSOA Update (3:15-3:30)
8. Agency Reports (3:30-3:45)
9. DMF Shellfish Program Updates (3:45 – 4:15)
 - a. DMF Personnel
 - b. 2023 Shellfish Landings
 - c. Status of Depuration Fishery & Plant
 - d. Off-site Culling at Wholesale Dealers
 - e. Surf Clam Geofencing Update
 - f. 2024 FDA RARM & PEER Results
10. Other Business (4:15-4:30)
 - a. Upcoming Meeting Dates
 - b. Panel Member Comments
 - c. Public Comments
 - d. Adjourn

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.

Future Meeting Dates

TBD

SHELLFISH ADVISORY PANEL
March 18, 2024, 4:30PM
Via Zoom

In attendance:

Shellfish Advisory Panel: Daniel McKiernan, Chair (DMF); Alex Hay; Amy Croteau; Sean Bowen (DAR-Proxy); Bill Doyle; Lisa Rhodes (DEP-Proxy); Dale Leavitt; Jim Peters; Josh Reitsma; Todd Callaghan (CZM-Proxy); Renee Gagne; Ron Bergstrom; Seth Garfield; Mike DeVasto; Michael Moore (DPH); Steve Kirk (TNC); and Jess Katon (Rep. Schmid Proxy)

Absent: Allen Rencurrel; Jim Abbot; Mike Trupiano; and Rebecca Rausch

Division of Marine Fisheries: Story Reed, Bob Glenn, Chrissy Petitpas, Anna Webb, Wayne Castonguay, Jared Silva, Alex Boeri, Gabe Lundgren, and Ryan Joyce

Department of Public Health: Eric Hickey

Members of the Public: Danny Badger, Christopher Flanagan, Chloe Starr, Steve Wolf, Mark Begley, Becca Selden, John Algird, Kurt Bornheim, Andrew Rosenberg, Jordan Halloran, Ben Wigren, Bill McHugh, Laminaria Jones, Beth Gibbons, Liv Woods, Jason, Lara Philips, Dave Ryan, Chris Miller, Amanda Cutler, and Tom Shields

INTRODUCTIONS AND ANNOUNCEMENTS

DMF Director Daniel McKiernan chairs the Shellfish Advisory Panel (SAP) and called the meeting to order. He stated there is a new member of the SAP, John Townes, who will be replacing Bob Colby. He provided the Panel with some background on John and welcomed him to the Panel. Chairman McKiernan briefly went over the various sub-committees that have stemmed from the SAP and stated that work on the sub-committees has been paused due to staffing challenges, and ongoing enforcement issues with tagging of shellfish.

REVIEW OF MARCH 18, 2024 BUSINESS MEETING AGENDA

No changes to the agenda were requested.

REVIEW AND APPROVAL OF NOVEMBER 20, 2023 DRAFT BUSINESS MEETING MINUTES

There were no amendments to the November 20th business meeting minutes.

Chairman McKiernan requested a motion to approve the November 20, 2023 business meeting minutes. Ron Bergstrom made a motion to approve the meeting minutes. Dale Leavitt seconded the motion. A roll call vote was taken, and the motion passed 16-0-1 with Chairman McKiernan abstaining.

RE-CLASSIFICATION OF BUZZARDS BAY GROWING AREAS

Dan McKiernan turned the floor over to Chrissy Petitpas who provided the Panel with a presentation regarding the re-classification of Buzzards Bay Growing Areas. The re-classification of the areas was required to meet the NSSP requirements for a minimal permanently closed (prohibited) safety zone around Wastewater Plant outfalls and other wastewater discharges, regardless of treatment quality to protect against deleterious substances in sewage. The current zone which has been in place is too small. NSSP criteria calls for a minimum 1000:1 dilution zone around all outfalls unless other data can justify a smaller area and that area must be classified as conditional based on plant performance. In no instance can the dilution zone be less than 320:1 which is the EPA minimum mixing zone requirement. This is required for all types of sewage discharges.

DMF has contracted with SMAST to conduct a hydrodynamic modeling of the New Bedford & Fairhaven outfalls and conducted additional sampling to provide sufficient data to satisfy the NSSP requirements to get below the 1000:1 line. Chrissy then showed the new mandatory prohibited zone in Buzzards Bay which is much larger than the prior zone. Fortunately, the new zone is primarily in deeper water areas of the Bay and will affect primarily two wild quahogers. Of more concern perhaps is the much larger conditional area which will require closures following rain due to the outfalls, as well as the many CSO's in the area. The new conditional area will require closure following rainfall-induced CSO and plant disruption discharges that will extend into Apponagansett and Nasketucket Bay's which are areas of significant shellfishing, including aquaculture.

The minimum mandatory closure time in the NSSP for conditional closures due to sewage discharges is 21 days. Fortunately, a new test for human sewage has been approved which can reduce mandatory minimum to as low as 7 days if the shellfish sampling can demonstrate that the shellfish are safe following a sewage discharge. The test is a viral indicator of sewage called male-specific coliphage (MSC) and DMF is investing heavily in getting its New Bedford and Gloucester laboratories certified by the FDA for this new indicator to increase its capacity to reduce the length of these closures. Currently, only one lab in Massachusetts is certified to run this test, DMF's shellfish purification plant lab in Newburyport. DMF will need more staff and funding to increase its capacity to minimize the length and breadth of these closures Statewide as the test and sampling is labor intensive.

This issue has been and will continue to happen at plants and CSO's around the state as all of the buffer zones have been deemed too small. This first happened in Scituate and Marshfield a couple years ago. The Ipswich & Dartmouth plants are currently being modeled which will be followed by additional plants & CSO's. Chrissy estimated that there are approximately 12 wastewater systems that discharge near active shellfishing areas that will need to have their buffer zones increased.

Chrissy Petitpas welcomed questions or comments from the Panel.

Mike DeVasto stated he was surprised the state allows effluent to be released into the water when large storms occur. He expressed concern over the opening and closing of areas due to the discharge of effluent. Chrissy stated the discharge is a violation of their NPDES permit, and added it is not an easy issue to fix but recognized the concern surrounding the issue. Mike followed up by asking if an outfall pipe would be feasible. Chrissy stated an outfall pipe would just be moving the problem to a different area.

Seth Garfield thanked Chrissy for the presentation and asked what the impact from the Marion, Wareham, and Taylor Point sewage treatment plants will have. Chrissy stated there are likely going to be increased closures around those plants. Chrissy then explained differences between CSOs and sewer outflows.

Dale Leavitt stated some of his concerns. He expressed his concern about the model and requested formal peer review. He added that there are millions of oysters harvested from this area into open markets with no public health issues. He encouraged pushback on FDA regarding generic closures that may not be appropriate for Massachusetts' various systems.

Ron Bergstrom asked if there is an emergency closure how quickly can the areas be re-opened. Chrissy explained required protocols that go into emergency closures and how DMF handles re-opening areas. There was further discussion amongst Seth Garfield and Chrissy regarding protocols for closing and opening areas and dilution based on tidal factors.

DMF SHELLFISH PROGRAM UPDATES

Status of Newburyport Depuration Plant

Dan McKiernan introduced Wayne Castonguay who is the new supervisor for the North Shore Shellfish Program. Wayne stated he is happy to be working with members of the SAP and is looking forward to future collaboration. He then presented a few slides to the Panel regarding the Newburyport Depuration Plant. He described how the plant typically works, and stated that in November of 2023, DMF had to suspend operations when the plant wellheads were inundated and compromised by severe erosion from a coastal storm which exposed electrical apparatus. He stated that due to other coastal storms that have occurred since November, the erosion has gotten worse and one storm even caused ocean water to flood the plant itself. Wayne then discussed the productivity of the plant which has primarily been in decline for several years. He mentioned there are only three master diggers remaining and there has been an 82% decline in subordinate diggers as well. He then went over the fishery value which has rapidly declined over the past several years as well. He then briefly described challenges associated with re-opening the plant which include the location of the plant and replacing the wellheads which are both extremely costly fixes. Wayne described some additional options and went into detail regarding each option. These options included retrofitting the plant, contaminated relay, converting the Cat Cove lab for depuration, and utilizing a different depuration plant. The most favored option would be transitioning depuration to a private depuration plant in Eliot, Maine. He concluded his presentation by discussing next steps

which included short and long-term options. These options included relief packages to impacted diggers and continue to subsidize utilization of the private depuration plant in Maine. He welcomed questions from the Panel.

Seth Garfield asked about the decline in the number of harvesters. Wayne Castonguay stated the Boston Harbor fishery has been in decline for many years following a big neoplasia outbreak in the 2010's and has still not come back. DMF is unsure if the fishery will come back since the softshell clam is listed as one of the most at-risk species due to climate change and noted they are in decline region-wide.

Mike DeVasto asked about other diseases that may be affecting softshell clams besides neoplasia. Wayne Castonguay stated that ocean acidification also may be impacting the clam populations. He stated it is an area of active research and he is hoping for more answers soon.

Ron Bergstrom stated the fishery is cyclical and expressed concern over the feasibility of rebuilding the plant.

Inquiry from Hingham/Hull to Upgrade Certain Areas for Harvest

Wayne Castonguay highlighted two areas that are currently classified as restricted in Hingham and Hull. He stated that DMF was asked to reconsider this classification due to water quality improving. Wayne stated that a lot of the clams that went through the depuration plant in recent years were harvested from Hull and Hingham. Wayne stated that due to improvements in water quality, there is potential that some of these clams could go direct to market. Dan McKiernan stated thanked Wayne for the presentation and welcomed questions from the Panel.

Discussion of Media Coverage of Shellfish Recalls

Dan stated that the FDA has a communications branch that puts out health-advice/information for consumers. These notifications sometime include minor shellfish recalls which have been picked up by media. The media attention is creating a negative impact to the reputation of Massachusetts seafood and causing some concern from shellfish dealers. Dan clarified that the shellfish recalls get pulled back quickly and are likely out of the market by the time the media picks up the story such that the notifications have no benefit to public health. Dan asked Mike Moore or Eric Hickey to speak to the issue.

Eric Hickey provided the Panel with the background as to how the advisories are posted by the FDA. He stated he advised the concerned dealers to contact the ISSC and noted an upcoming ISSC board meeting where these concerns will be discussed. Dan McKiernan asked if a letter from the Panel and DMF to the ISSC Executive Board would help. Eric stated that a letter would potentially help. Dan stated that he will work with staff to draft a letter.

Alex Hay stated that support from Massachusetts is well warranted, the more support the better.

Shellfish Sanitation Regulatory Updates

Dan McKiernan highlighted an MFAC meeting occurring tomorrow that will approve or reject these proposed regulatory updates. Jared Silva provided a brief presentation on various shellfish sanitation regulatory updates for the Panel. These regulatory updates included Vp icing, shellfish tagging, shellstock icing, night closures, and primary sale locations. Jared provided an in-depth background for each of the proposed regulatory updates and welcomed questions from the Panel.

Emerging Issues of Off-Site Culling at Wholesale Dealers

Dan stated there is a long-standing regulation that prohibits off-site culling at wholesale dealers, but DMF has been petitioned by some dealers to re-consider the regulation. Chrissy provided the Panel with an overview of the regulations regarding culling at wholesale dealers. Chrissy asked Dave Ryan to speak regarding culling at his facility. He gave an overview of how his plant is set up. He then highlighted various issues that have occurred since noticing discrepancies in some regulations in regard to culling at wholesale dealers. There was further discussion amongst Dave and DMF regarding possible solutions to the emerging issues regarding off site culling. Dan McKiernan stated that he would like to have a further discussion with DPH as it will likely affect the Vp Control Plan. Dan welcomed questions.

Mike DeVasto stated he thinks non-market bound shellfish should be allowed to be returned to the growing area.

Alex Hay asked for clarification on the emerging issues if Dave is a grower and dealer. Chrissy provided clarification for Alex, the issues highlighted were receiving other growers products. Chrissy clarified that this shouldn't be a heavy lift.

There was further discussion amongst Chrissy and Dave regarding icing techniques.

PLANTING OYSTER REEFS IN PROHIBITED AREAS

Dan McKiernan welcomed Steve Kirk to speak to a project he is hoping to proceed with which will involve planting oysters in prohibited areas. Steve spoke to the ecosystem services provided by oysters and explained the potential benefits of planting oysters in prohibited areas. He stated that he would like DMF to review the policy surrounding oysters being planted in prohibited areas to allow for this work to be done. He discussed the workings of the project and described how similar projects were accomplished. He discussed potential concerns such as enforcement issues, but acknowledged the potential issues could be mitigated.

Dan McKiernan clarified that these reefs would be planted in municipalities where there is clear oversight to avoid potential poaching issues. Steve confirmed that is the idea he would like the Panel to consider.

Bill Doyle stated that he would like to find a way to make this project happen as it is a water quality project.

Seth Garfield supported this project idea and stated it would provide water quality improvements.

Mike DeVasto expressed his support for this project as well, he noted concern over public health but stated if they can be addressed through enforcement and management then it would be a worthwhile venture. The benefits outweigh any risks.

John Townes stated he is in favor of oyster reefs.

OTHER BUSINESS

Surf Clam Management Update

Dan McKiernan provided the Panel with a brief update regarding surf clam management. He stated that trackers have been given to certain vessels as a pilot program. He discussed mapping efforts that are designed to protect sensitive areas and stated that the vessel operators will be notified if they get close to the protected areas.

Quahog Statistics

Story Reed presented the Panel with a Quahog Price Update. He presented average ex-vessel price of quahogs from 2019 to 2023. He presented a graph as well that compared the quahog categories and stated he will do a full update at a future meeting that has all species for 2023. Dan welcomed questions from the Panel.

Steve Kirk asked if trends and price looked the same several years ago. Story stated they can dig back into the 2000s as a future meeting update.

Meeting Schedule

Dan stated there usually are no SAP meetings during the summer due to schedules. Dan highlighted some of the work DMF plans to get done over the summer, and noted he plans to meet with the Panel again in October. He welcomed thoughts from the Commission. A consensus was reached that October would work.

Chrissy stated the goal would be to have the sub-committees meet prior to the October meeting. Dan emphasized the need for the seed and aquaculture license transfer sub-committees to meet.

Personnel Changes

Chrissy Petitpas presented a slide on staffing changes and discussed some staffing shortages in the shellfish program. She stated that there will be two new shellfish classification biologists starting soon and Alex Boeri is the new aquaculture coordinator. Dan stated he is working diligently to retain the staff DMF has.

Panel Member Comments

Seth Garfield commended the Panel for their continued work and noted it makes a difference.

Dale Leavitt discussed some homework he has done regarding a shellfish pathologist since the last SAP meeting. He highlighted various pathologists that have been hired in surrounding states. Dan thanked Dale for this insight as he has been trying to figure out what DMF could do as a state agency.

Public Comments

Liv Woods from Mass Oyster Project stated they would like to help in any way they can regarding the oyster reef projects.

ADJOURN

Chairman McKiernan adjourned the meeting and wished everyone well.








MEETING DOCUMENTS








- March 18, 2024 SAP Business Meeting Agenda
- November 20, 2023 SAP Draft Business Meeting Minutes
- Shellfish Growing Area Reclassification Around New Bedford/ Fairhaven WWTP Outfalls Presentation
- Recommendations on Changes to Shellfish Regulations Memo
- Shellfish Statistics Update Presentation

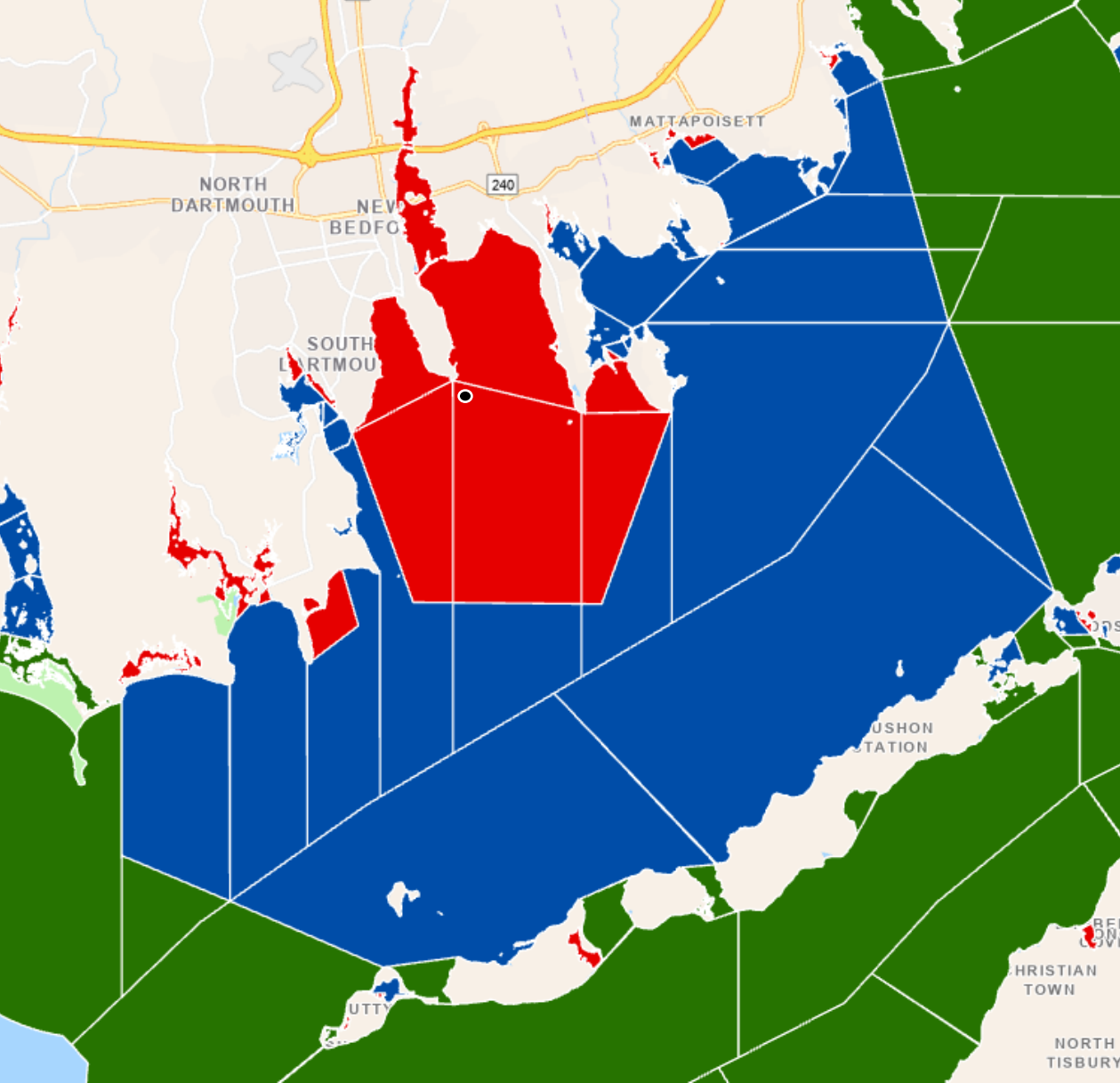
UPCOMING MEETINGS

TBD

DRAFT

Inshore Shellfish Annual Live Pounds Landed, 2017-2023								
Species	2017	2018	2019	2020	2021	2022	2023	Trendline
Bay Scallop	949,980	666,416	561,469	548,705	379,019	441,686	418,939	
Blood Ark	61,050	62,345	122,958	96,642	46,528	20,959	24,046	
Blue Mussel	10,475,228	5,643,323	879,608	1,486,976	3,363,404	5,276,377	4,085,655	
Eastern Oyster (in pieces)	50,628,367	51,132,958	54,241,784	35,176,508	55,785,295	56,731,357	50,708,842	
Quahog	4,155,130	4,478,310	4,728,756	3,458,704	3,724,530	4,085,678	4,026,520	
Razor Clam	547,120	728,322	505,068	267,396	291,540	280,304	175,233	
Softshell Clam	3,717,418	3,664,873	3,413,032	3,269,866	3,226,960	3,450,873	2,192,270	
Data Source: SAFIS eDR, October 2024								

Inshore Shellfish Annual Ex-Vessel Value, 2017-2023								
Species	2017	2018	2019	2020	2021	2022	2023	Trendline
Bay Scallop	4,215,222	2,432,678	2,102,751	1,835,439	1,396,462	1,630,816	1,356,408	
Blood Ark	123,120	137,318	251,794	186,002	100,466	61,096	69,732	
Blue Mussel	31,910,447	1,595,823	167,404	284,572	434,885	632,234	992,207	
Eastern Oyster (in pieces)	24,757,322	25,713,120	26,926,031	16,062,113	27,622,592	31,865,571	29,446,657	
Quahog	7,906,831	6,908,604	5,488,569	4,056,190	5,024,183	5,534,127	5,569,014	
Razor Clam	2,410,466	3,226,279	2,537,636	1,270,606	1,698,643	1,680,351	1,071,709	
Softshell Clam	6,427,453	6,201,456	6,541,836	7,201,512	8,741,533	8,074,470	4,656,739	
Data Source: SAFIS eDR, October 2024								



Division of Marine Fisheries Update

Reclassification around
Wastewater Treatment Plants

CSO Closures

Matthew Camisa

Regional Shellfish Supervisor – New Bedford

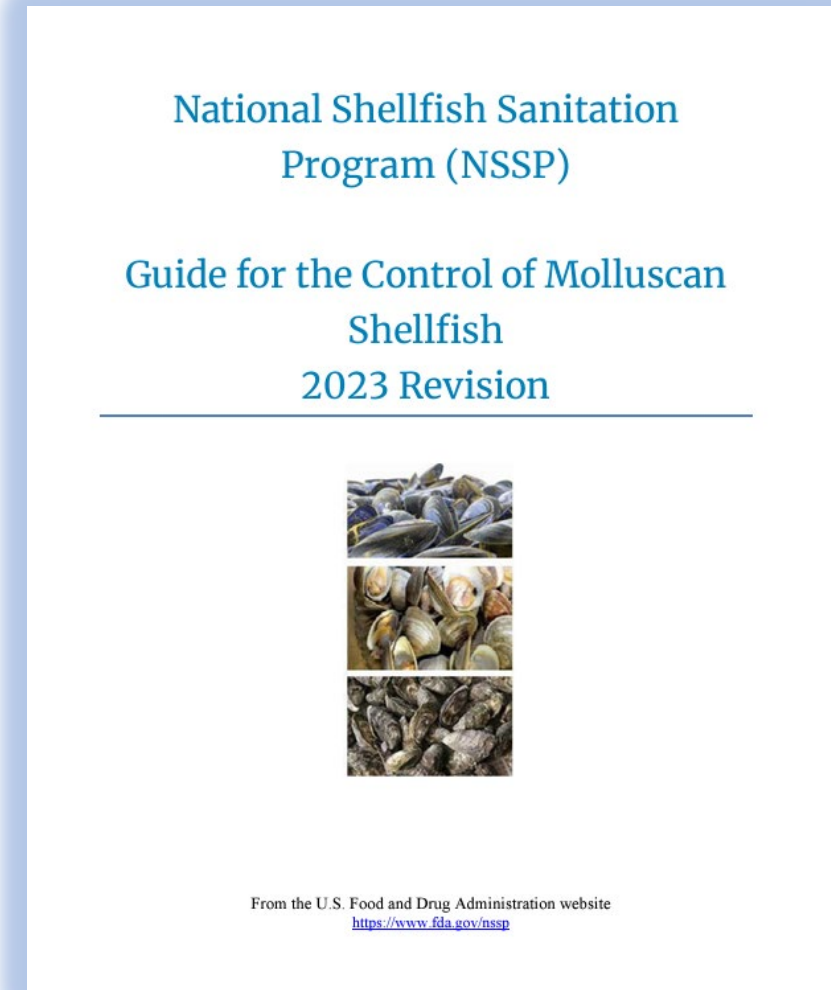
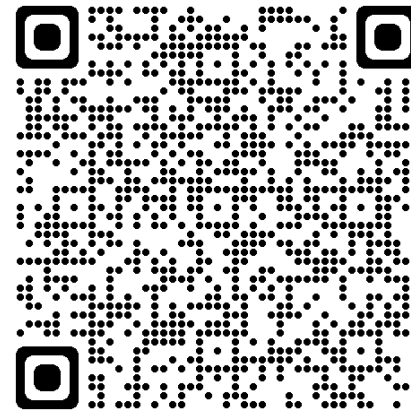
Shellfish Advisory Panel Meeting
Wednesday November 6, 2024

Massachusetts Division
of Marine Fisheries



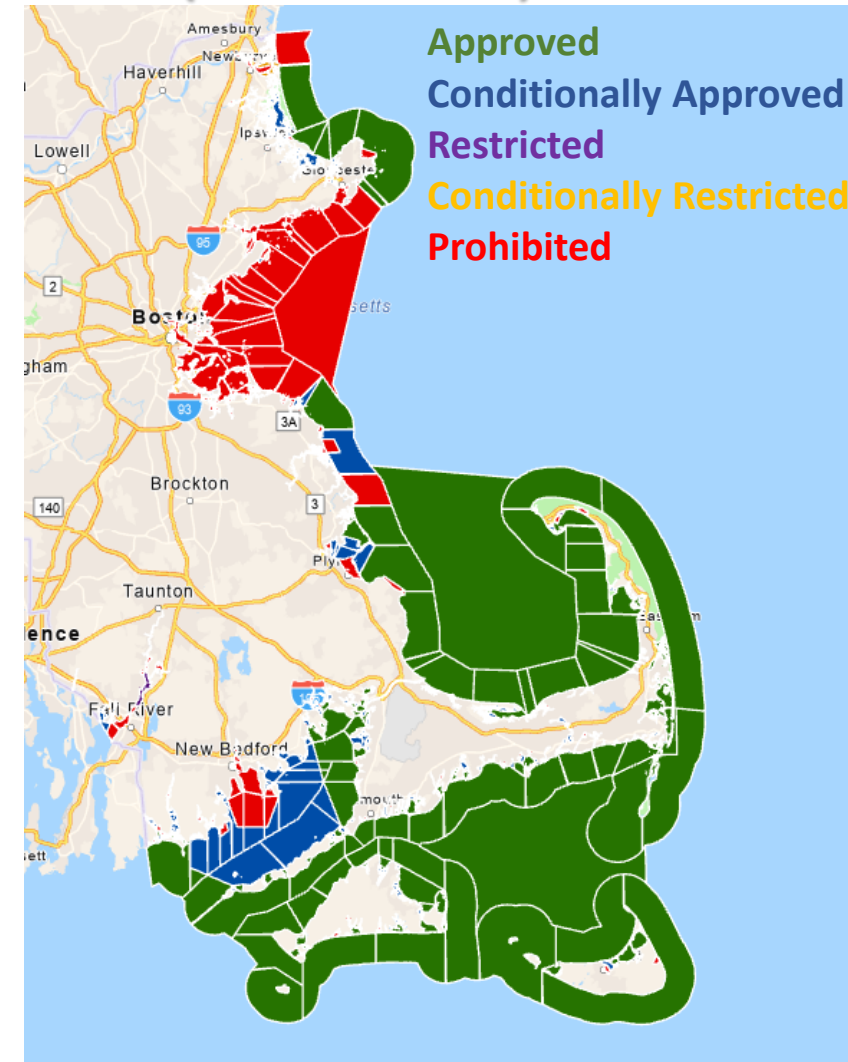
National Shellfish Sanitation Program (NSSP)

- FDA Cooperative Program w/Federal Agencies-States-Industry
- A Public Health document for the sanitary control of the harvest and handling of bivalve molluscan shellfish in the US
- Ensures shellfish will be safe and sanitary if produced in accordance with NSSP guidelines



Designated Shellfish Growing Areas (DSGAs)

- 1,500 miles of Coastline
- >1.7 million acres
- 295 DSGAs
- 783 sub areas
- 1,550 active classification stations
- Sampled 5 times per year while in the open status



2023 Model Ordinance Mandates

Ch IV @.03 Growing Area Classification

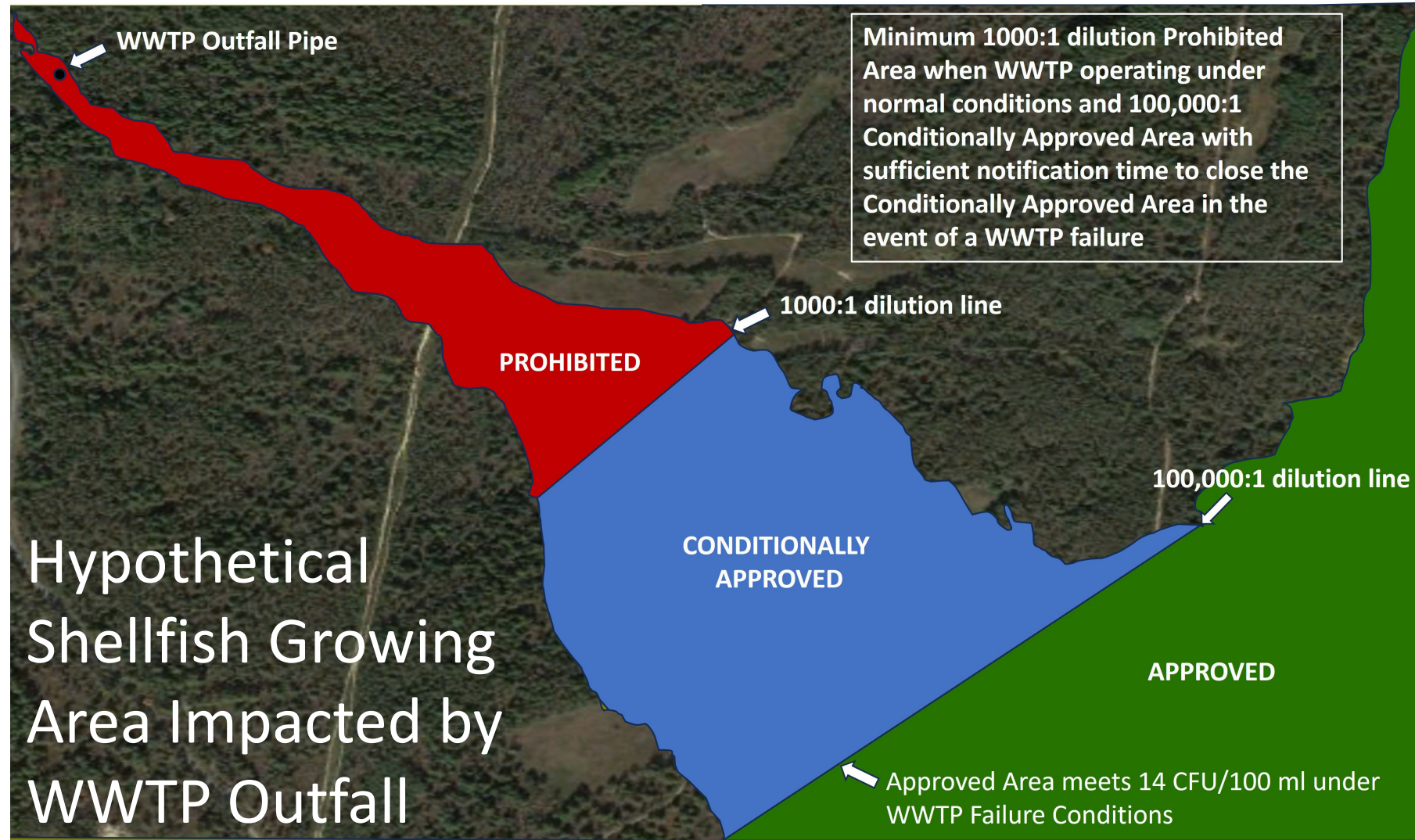
E. Prohibited Classification.

(5) Wastewater Discharges.

- (a) An area classified as prohibited shall be established adjacent to each sewage treatment plant outfall or any other point source outfall of public health significance.
- (b) The determination of the size of the area to be classified as prohibited adjacent to each outfall shall include the following minimum criteria:
 - (i) The volume flow rate, location of discharge, performance of the wastewater treatment plant and the microbiological quality of the effluent. The Authority may utilize MSC wastewater sample data in the determination of the performance of the sewage treatment plant;
 - (ii) The decay rate of the contaminants of public health significance in the wastewater discharged;
 - (iii) The wastewater's dispersion and dilution, and the time of waste transport to the area where shellstock may be harvested; and
 - (iv) The location of the shellfish resources, classification of adjacent waters and identifiable landmarks or boundaries

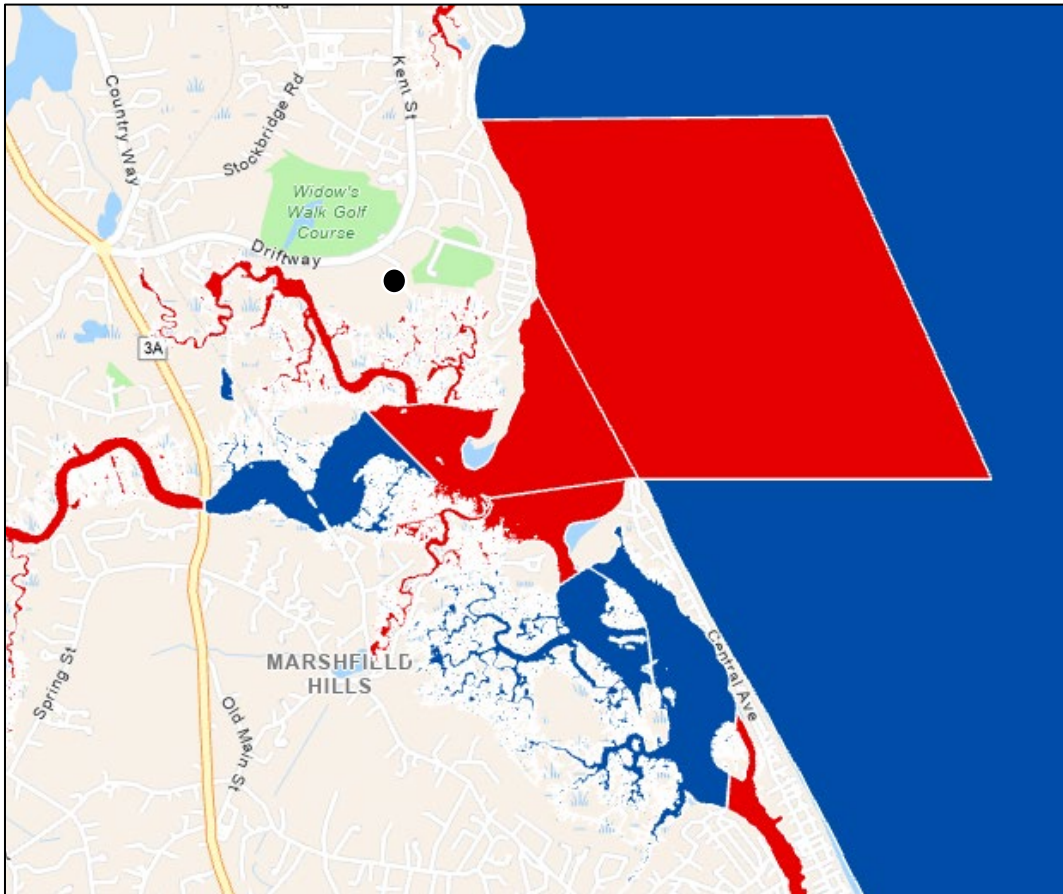


NSSP Guidance on Classification Adjacent to WWTP

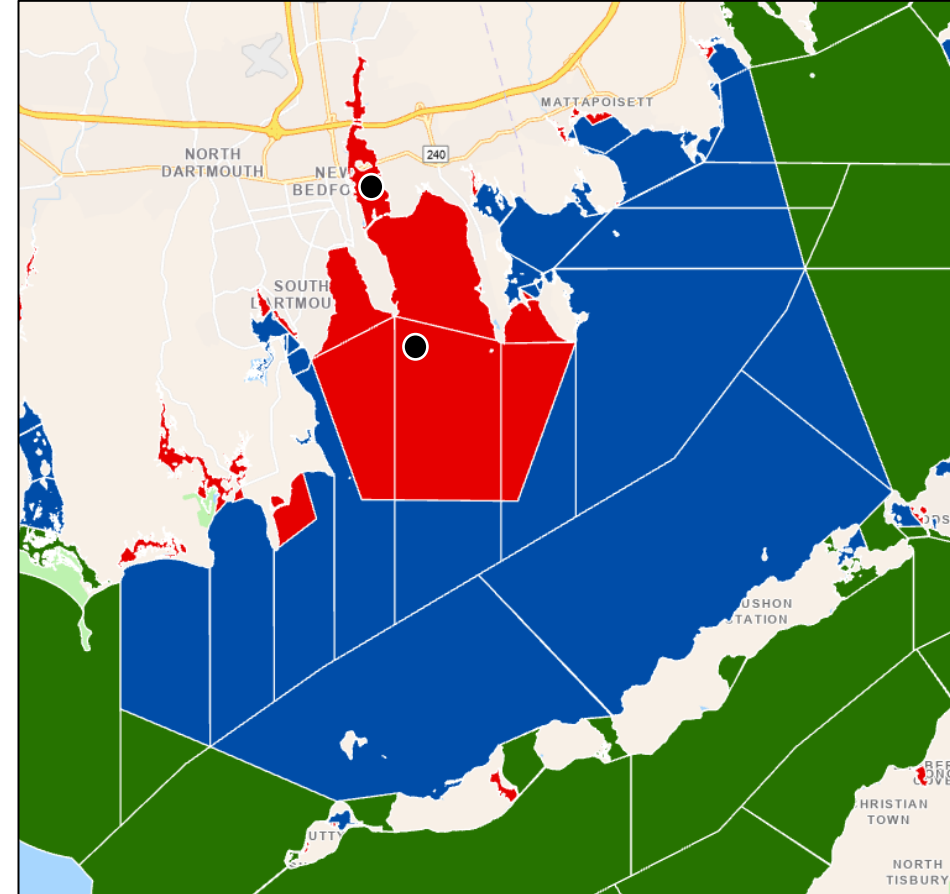


Previous WWTP Modeling

Scituate/Marshfield WWTP Reclassification

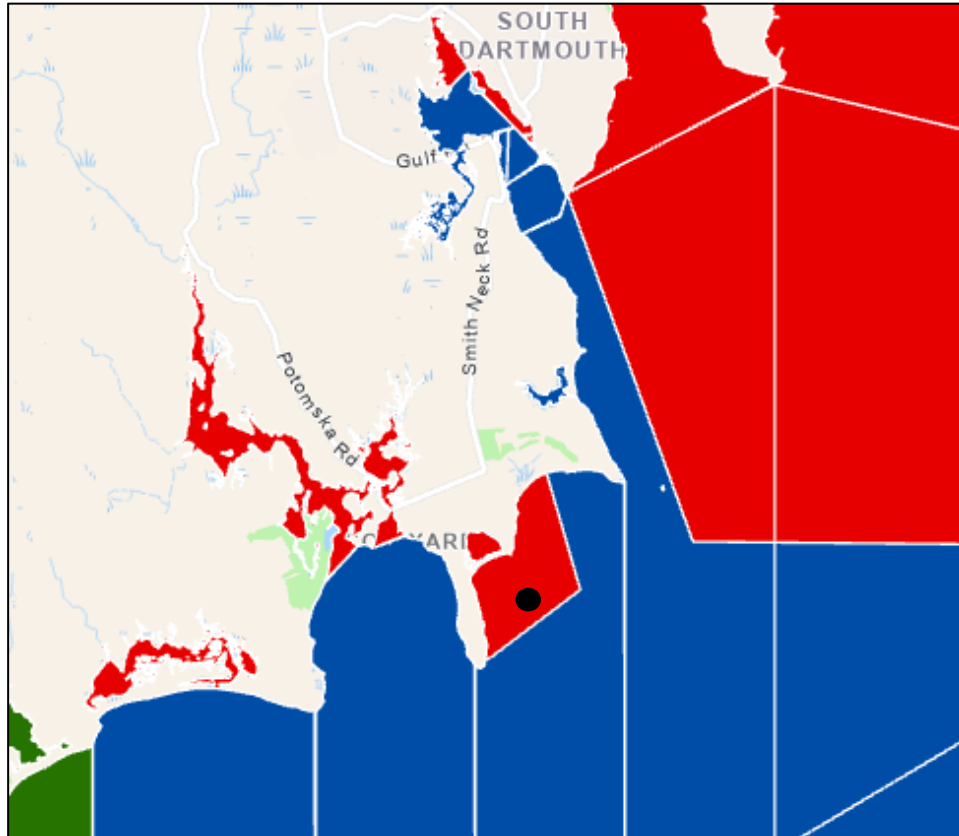


New Bedford/Fairhaven WWTP Reclassification

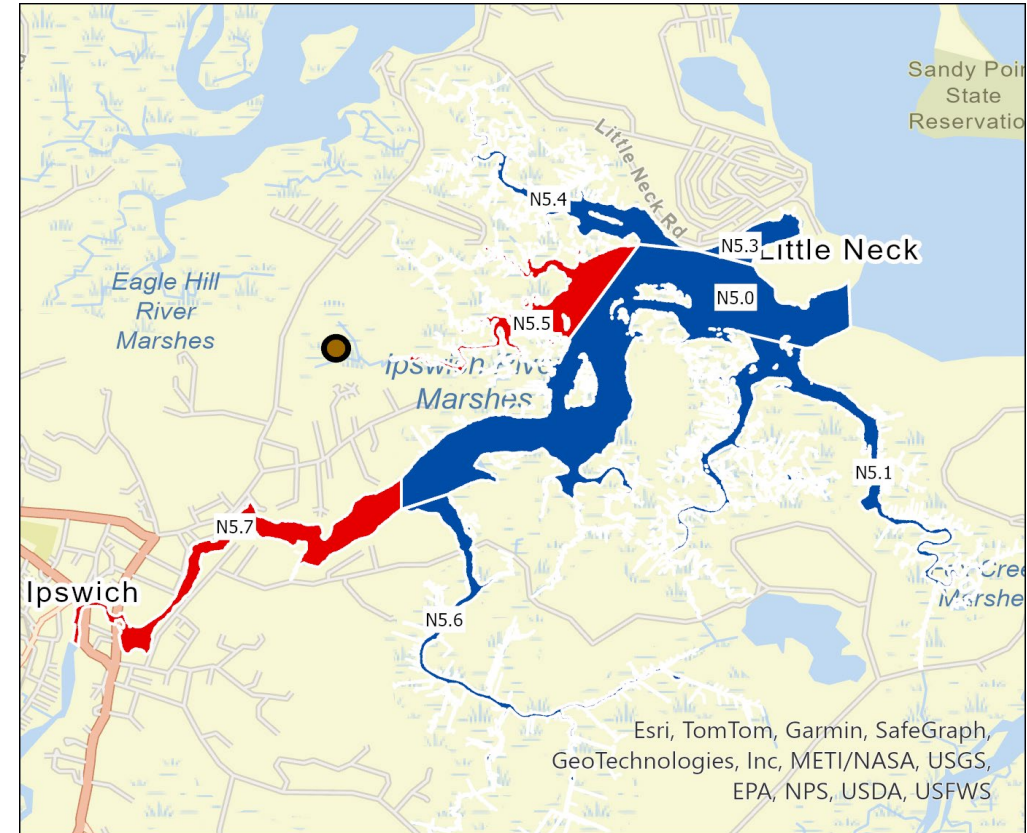


Current Modeling and Peer Review

Dartmouth WWTP Reclassification

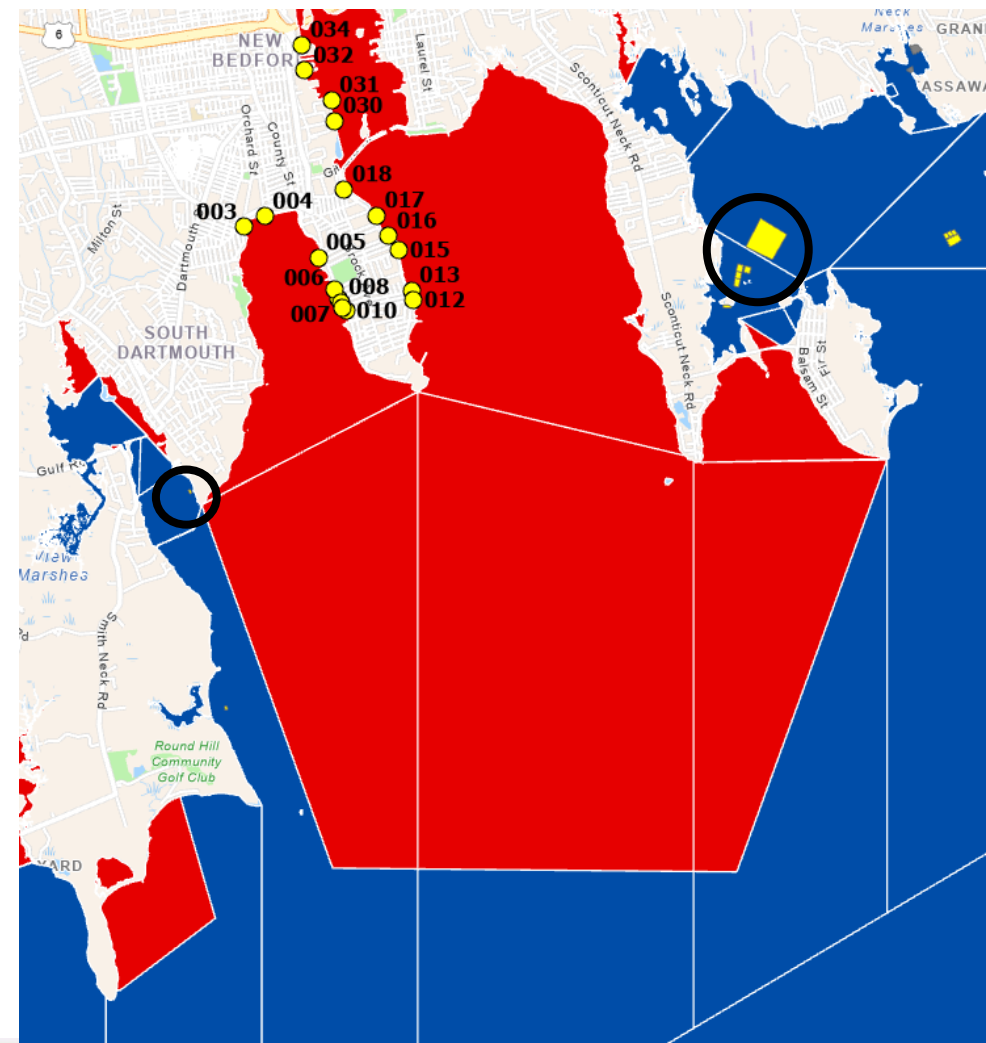


Ipswich WWTP Reclassification

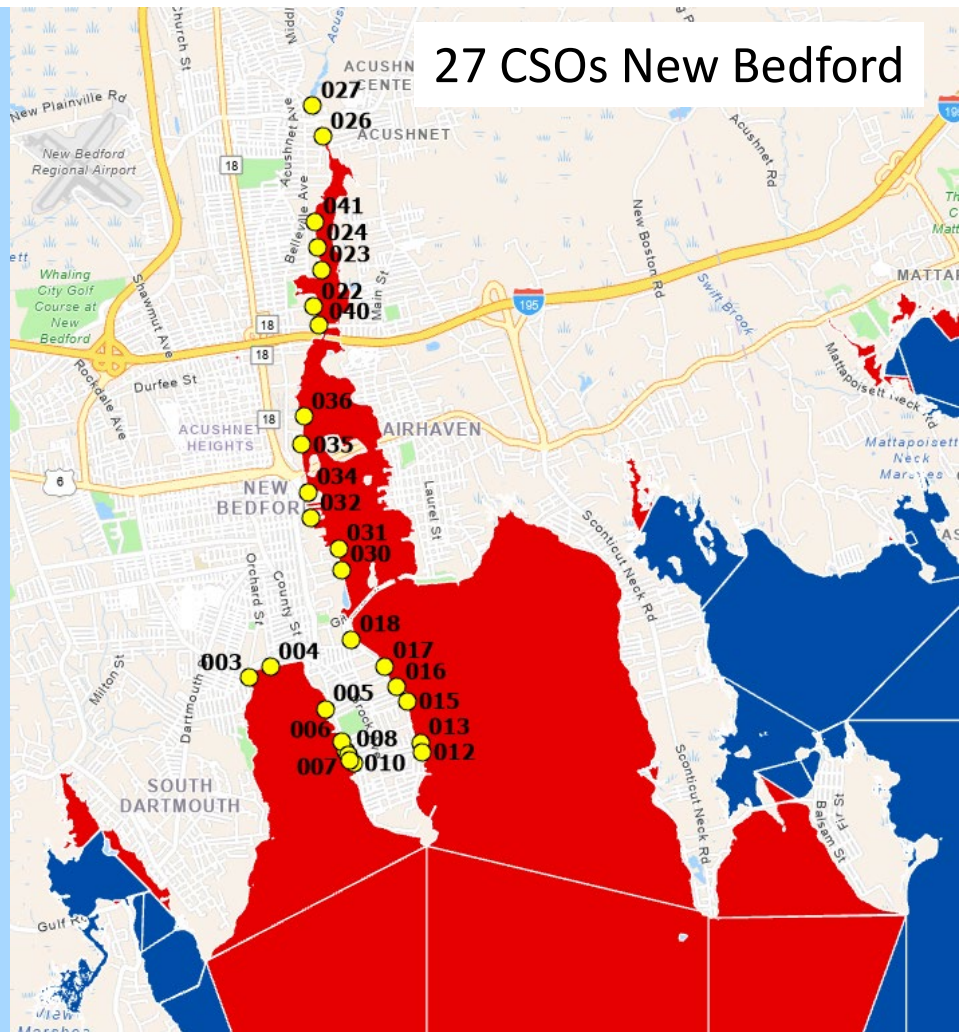
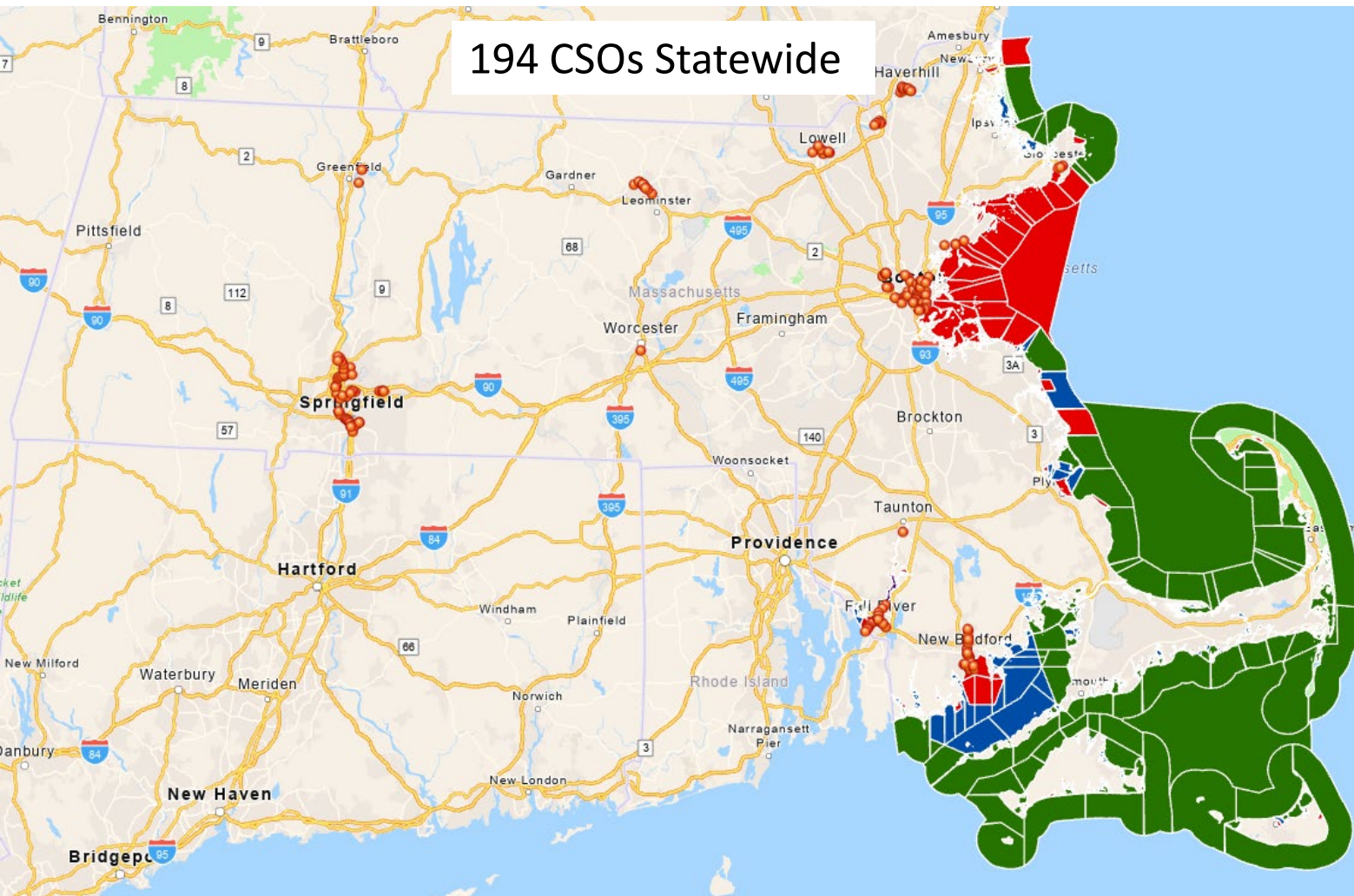


Effects of WWTP Modeling

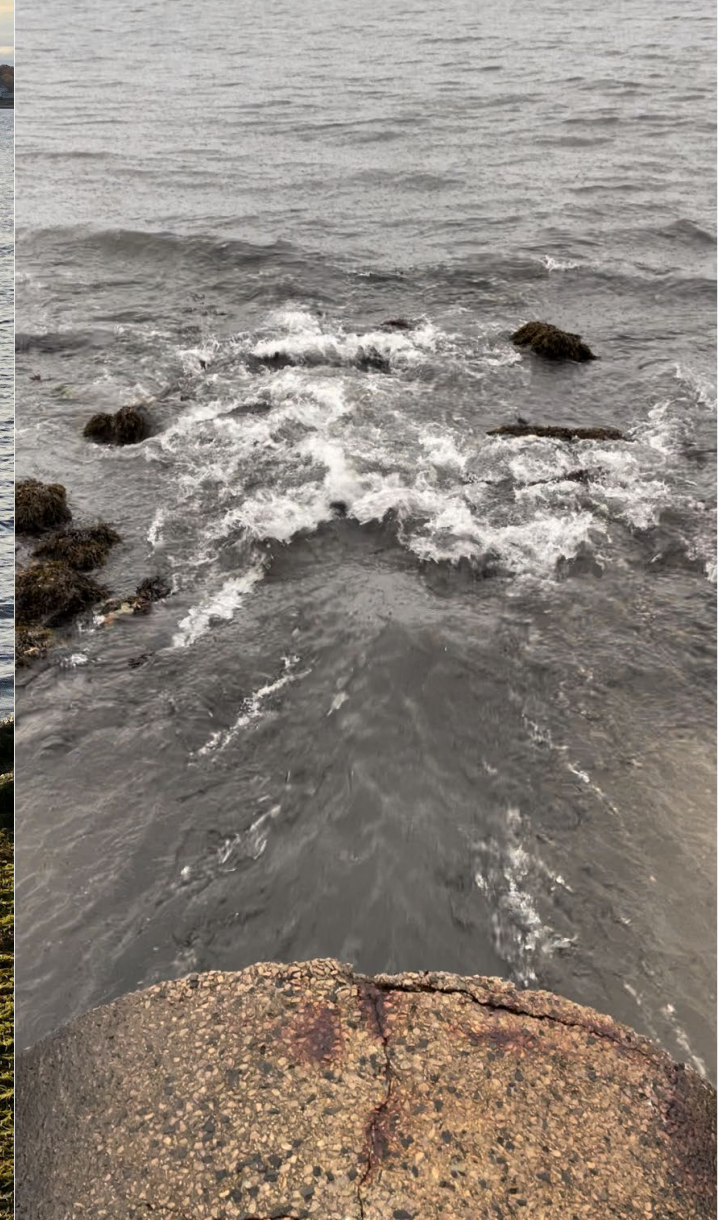
- Expanded Prohibited Areas
- Expanded Conditionally Approved Areas
- Monthly Sampling Requirement
- Limits EU sales from CA Areas
- No closures for Aquaculture Industry



Combined Sewer Overflows



**CITY OF
NEW BEDFORD
WET WEATHER
SEWER
DISCHARGE
OUTFALL 010**



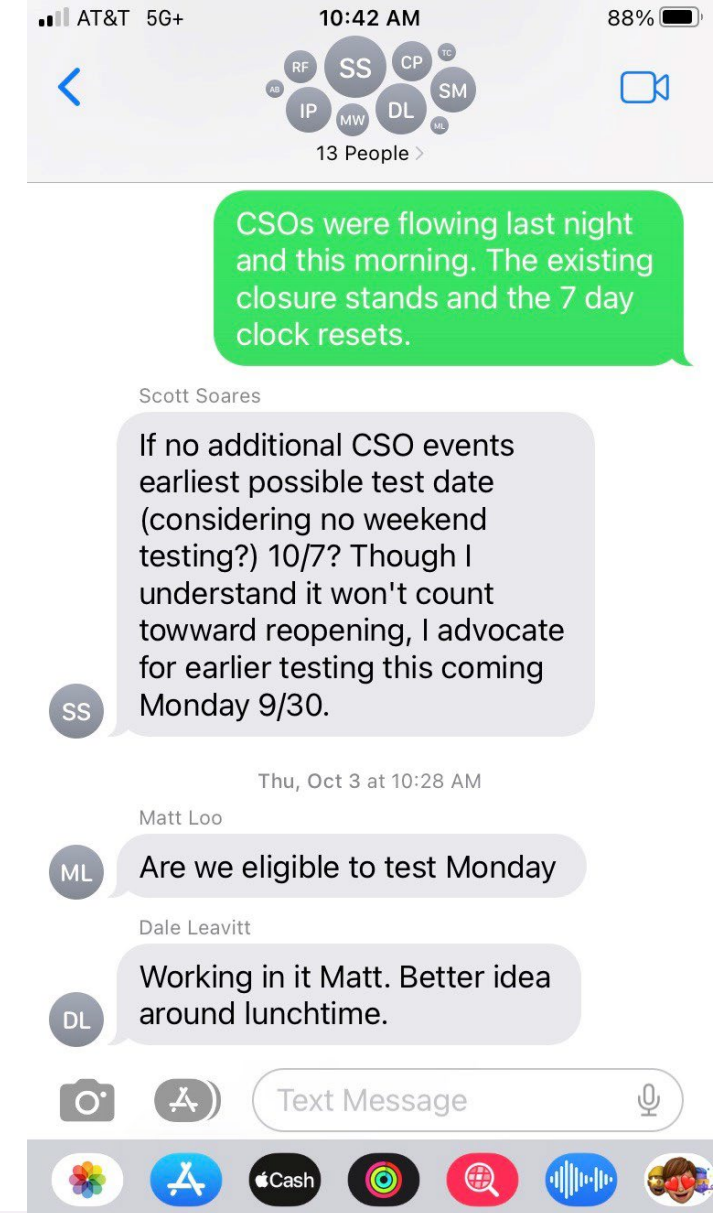
2024 New Bedford CSO Activations

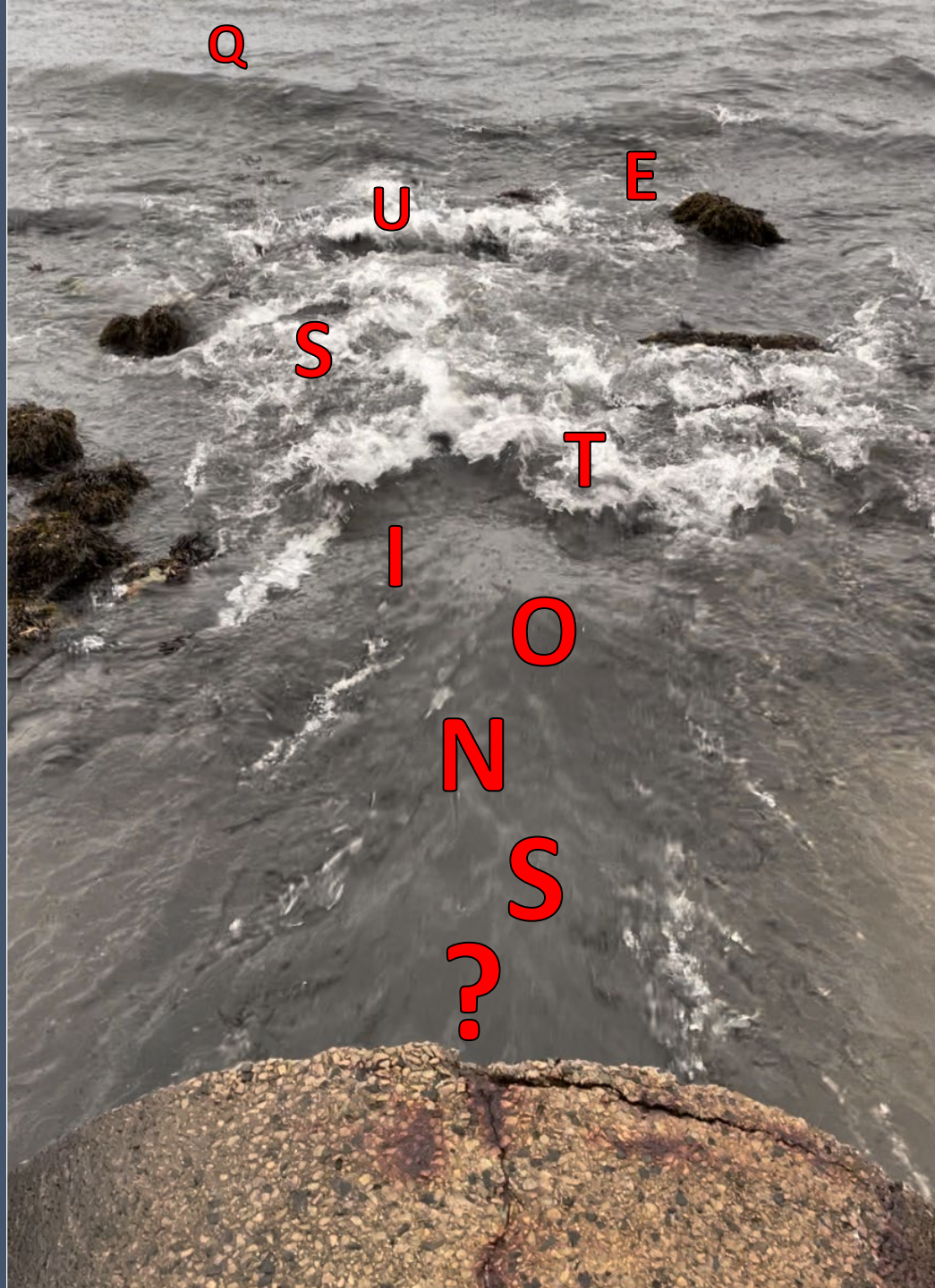
Rain events with CSO activations	57
Total number of CSO activations	384
Largest individual CSO discharge	28.46 million gallons
Largest discharge by rain event	69.71 million gallons
Total volume of CSO discharges	547.01 million gallons
Total days closed by CSOs in BB	170



DMF Actions

- ✓ Heavily investing in Male Specific Coliphage (MSC) testing
 1. Shellfish MSC samples
 2. Water MSC samples
 3. MSC testing in all labs
- ✓ MSC sampling can reduce 21 day closure to as low as 8 days
- ✓ Increased communications with industry and municipalities
- ✓ Closures are mandatory after CSO discharges but may be able to avoid closing certain areas with new data
- ✓ Working with legislature for increased funding





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Massachusetts Municipal Aquaculture Survey

Summary of Key Findings Relative to License Transfer

- Survey conducted in 2023
- All 34 towns with at least one aquaculture license responded
- Copies of individual municipal regulations provided by ~30% of respondents
- Results placed into 3 categories based on size and longevity of local aquaculture industry for comparison purposes as follows:
 - Tier 1: Mature and robust aquaculture industry
 - Tier 2: Aquaculture industry >5 years w/low-moderate production
 - Tier 3: Emerging aquaculture industry <5 years

Tier 1: N=10

Barnstable
Orleans
Dennis
Eastham
Plymouth
Duxbury
Edgartown
Wareham
Falmouth
Wellfleet

Tier 2: N=20

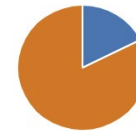
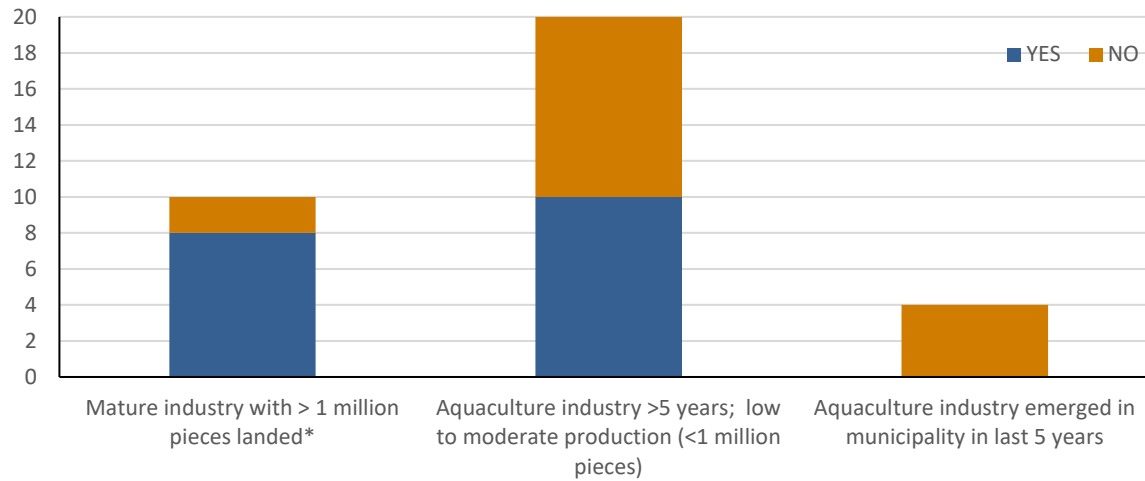
Nantucket	Chatham
Bourne	Essex
Chilmark	Provincetown
Mashpee	Brewster
Oak Bluffs	Westport
Kingston	Mattapoisett
Gosnold	Truro
Fairhaven	Aquinnah
Dartmouth	Marion
Yarmouth	Ipswich

Tier 3: N=4

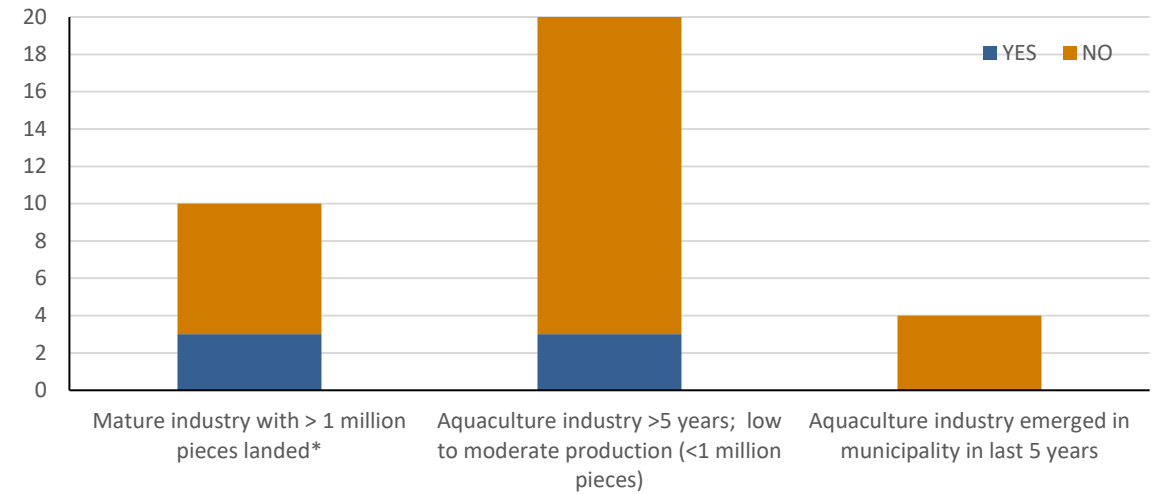
Harwich
Tisbury
Rowley
Gloucester



Does your municipality have written policies concerning aquaculture license transfers?



Does your municipality define the term "aquaculture license transfer" within your rules or regulations?



Pie chart inset = all data aggregated



Division of Marine Fisheries Shellfish Program Update

Christian Petitpas, Shellfish Program Leader

Wayne Castonguay, Regional Shellfish Supervisor, Gloucester

Matthew Camisa, Regional Shellfish Supervisor New Bedford

Alex Boeri, Aquaculture Project

Ryan Joyce, Classification Supervisor – GLO

Terry O'Neil, Classification Supervisor – NB

Shellfish Advisory Panel November 6, 2024

Massachusetts Division
of Marine Fisheries

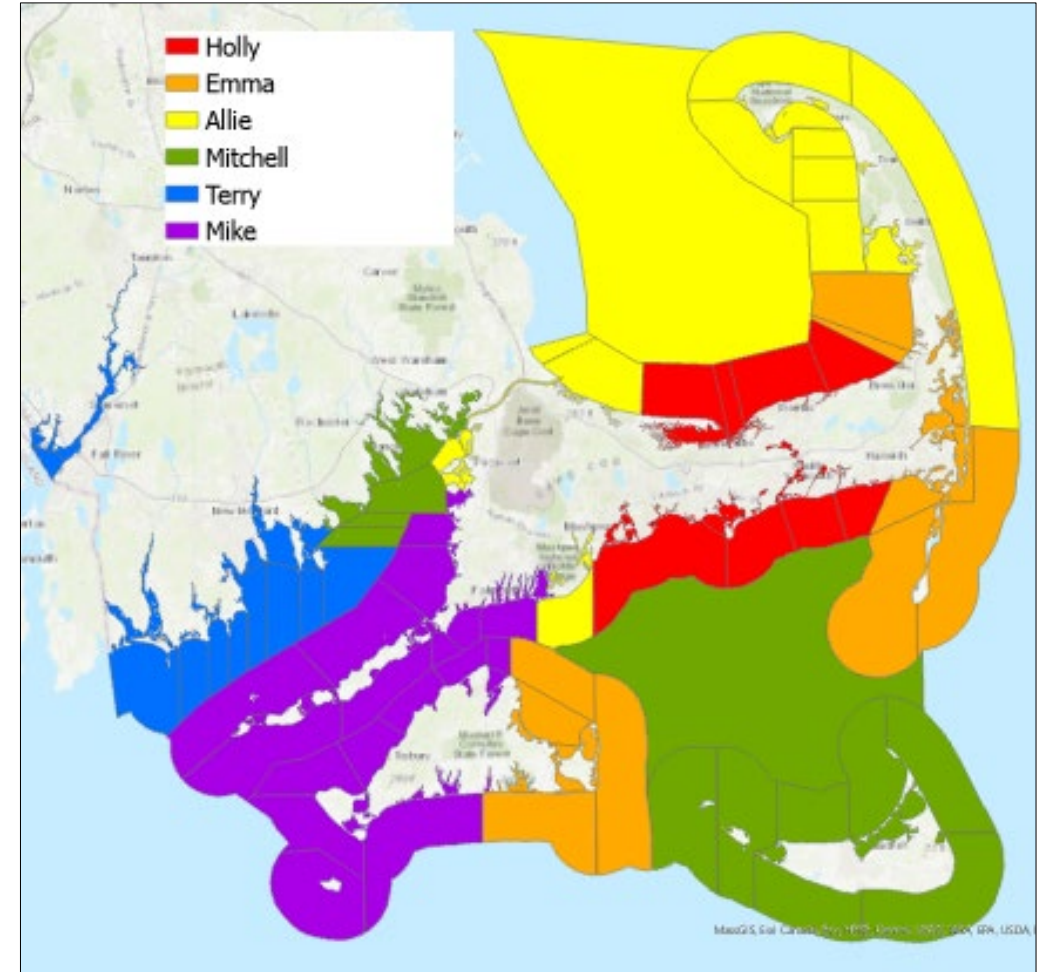
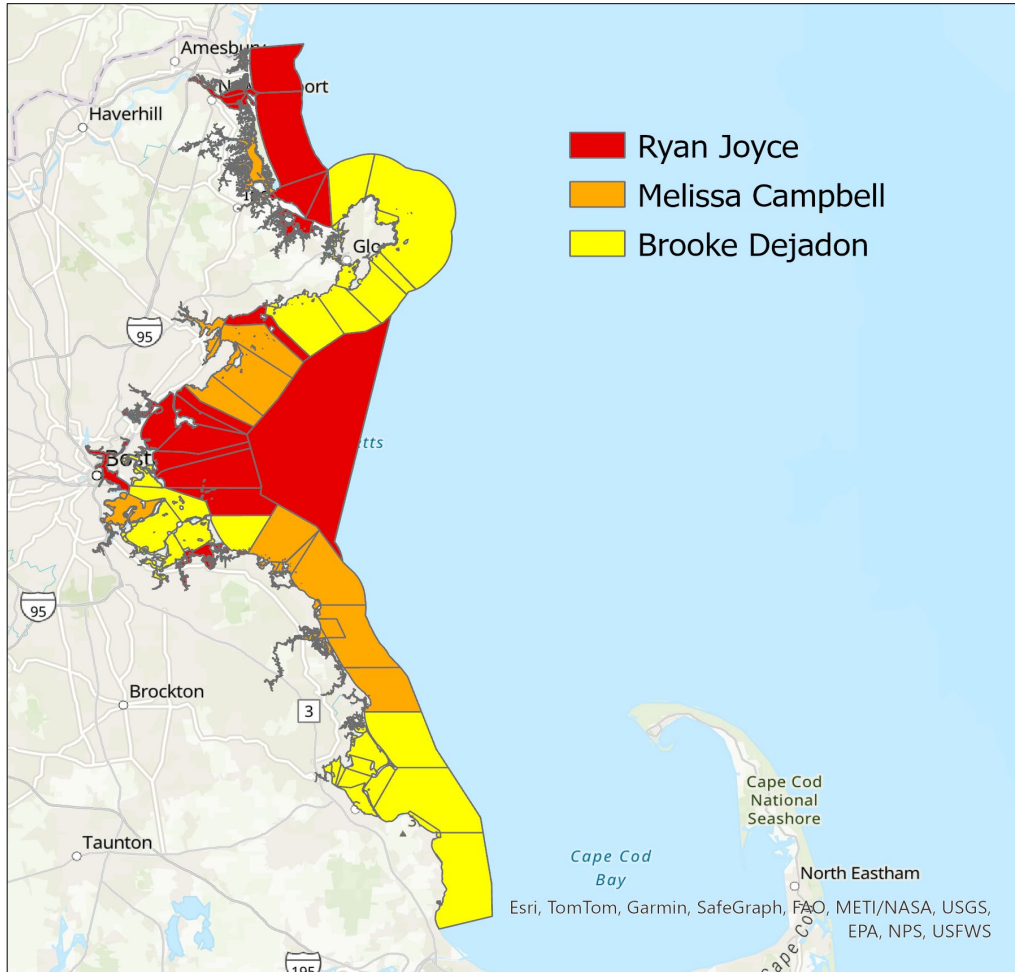


Personnel Changes

• Mitchell Parizek - Shellfish Area Biologist	<i>hired/March</i>	New Bedford
• Emma Gallagher - Shellfish Area Biologist	<i>hired/March</i>	New Bedford
• Amber Woolfenden - Bacteriologist	<i>full-time/April</i>	Gloucester
• John Mendes - Shellfish Area Biologist	<i>retired/April</i>	New Bedford
• Jake Madden - Lab Supervisor	<i>promoted/June</i>	Gloucester
• Matt Camisa - Regional Shellfish Supervisor	<i>promoted/June</i>	New Bedford
• Allie Myers - Shellfish Area Biologist	<i>hired/June</i>	New Bedford
• John Mendes - Shellfish Area Biologist	<i>contract/July</i>	New Bedford
• Terry O'Neil - Classification Supervisor	<i>promoted/July</i>	New Bedford



Growing Area Assignments










Shellfish Advisory Panel November 6, 2024

Massachusetts Division
of Marine Fisheries










Commercial Shellfish Landings 2017-2023

Inshore Shellfish Annual Live Pounds Landed, 2017-2023								Trendline
Species	2017	2018	2019	2020	2021	2022	2023	
Bay Scallop	949,980	666,416	561,469	548,705	379,019	441,686	418,939	
Blood Ark	61,050	62,345	122,958	96,642	46,528	20,959	24,046	
Blue Mussel	10,475,228	5,643,323	879,608	1,486,976	3,363,404	5,276,377	4,085,655	
Eastern Oyster (in pieces)	50,628,367	51,132,958	54,241,784	35,176,508	55,785,295	56,731,357	50,708,842	
Quahog	4,155,130	4,478,310	4,728,756	3,458,704	3,724,530	4,085,678	4,026,520	
Razor Clam	547,120	728,322	505,068	267,396	291,540	280,304	175,233	
Softshell Clam	3,717,418	3,664,873	3,413,032	3,269,866	3,226,960	3,450,873	2,192,270	
Data Source: SAFIS eDR. October 2024								



Commercial Shellfish Landings 2017-2023

Inshore Shellfish Annual Ex-Vessel Value, 2017-2023

Species	2017	2018	2019	2020	2021	2022	2023	Trendline
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Data Source: SAFIS eDR, October 2024								



Depuration Fishery Updates

**Depuration Plant Production
1997 - 2023**



**Depuration Areas With Potential to be
Reclassified to C. Approved**



Cost Estimates to Restore Operations at Depuration Plant Including Critical Deferred Maintenance

Item	Cost
Critical deferred maintenance (life/safety): electrical, plumbing	\$12,067
Immediate capital improvements to re-open: wells, tank systems, flood resiliency	\$585,000
Near term capital improvements: exterior & interior repairs, parking lot, drainage	\$61,834
Other scheduled DMF capital improvement needs over next 1-3 years: *	55,000
Total:	713,901

Shellfish Advisory Panel November 6, 2024

Massachusetts Division
of Marine Fisheries



“Off-site Culling” at Wholesale Dealer Facilities



- Operations observed by FDA not viewed as off-site culling which is a harvester activity, but rather grading which is more of a dealer activity
- Because product already cooled dealer subject to HACCP controls
- Dealer must track and keep records of time out of refrigeration and if cumulative time out of refrigeration (from receipt from harvester to transfer to secondary buyer) has potential to exceed 2 hours then must have a DPH approved intermediate processing plan
- Need to address documentation of product returned to harvester/farm



FDA Risk Assessment and Risk Management (RARM)

- FDA conducted in-field compliance evaluation On June 26-28, 2024
- Visited 7 harvesters, 3 harvester/dealers, and 5 dealers
- No issues observed with *Vibrio* compliance
- FDA witnessed major noncompliance with one quahog harvester
- FDA recommended DMF monitor ice being used from private residences – possible inspects
- During FDA growing area evaluation, FDA witnessed one farm with significant bird activity on floating gear – listed as new or emerging concern



Campylobacter in SC28

- Outbreak due to oysters consumed from one restaurant
- Oysters sent to RI lab for testing 4 times
- Tested positive for *Campylobacter lari*
- Lewis Bay (SC28) closed for nearly a month
- FDA issued advisory on August 5th due to recall issues



FDA Growing Area Program Element Evaluation Report (PEER)

- 8/5/22024 through 8/12/2024

North Shore – Plum Island Sound, Ipswich River,
Essex Bay, Annisquam River
Gloucester Harbor

Cape Cod Bay – Sesuit Harbor, Plymouth North Coastal

Buzzards Bay – Westport River East Branch, Brandt
Island Cove, Hiller Cove, Quissett
Harbor

South Cape – Little Harbor, Great Pond, Green Pond,
Bournes Pond

Action Items

- Reopening criteria for CONDITIONAL rainfall areas
- Interagency MOA

New or Emerging Concerns

- Pollution source assessments
- Floating aquaculture gear assessments
- Ipswich WWTP dilution analysis
- Marina and Mooring Area assessments
- Remote area evaluations
- Rainfall area enforcement authority



Statutory Amendment Resolving WPA and Fisheries Management

FY 2025 Budget amends G.L. c. 130, s. 1A:

The division of marine fisheries shall be within the department in the executive office of environmental affairs and shall be under the administrative supervision of a director who shall be called the director of marine fisheries. The director of the division of marine fisheries shall be appointed and may be removed by the commissioner of the department of fish and game with the approval of the marine fisheries advisory commission. The said division of marine fisheries shall administer all the laws relating to marine fisheries as appearing in chapter one hundred and thirty and any other general or special laws, except as pertain to the enforcement thereof. It shall be responsible for the biological development of marine fish and fisheries. Said division shall co-operate with all departments, boards, officials and institutions of the commonwealth or its subdivisions that may be concerned in any way with matters under its supervision. It shall co-operate with adjoining states and with the United States of America, or any agency thereof, with foreign countries, and any other agency, as may be authorized by the general court, and receive and dispense such funds from any of such agencies, states or governments as may be authorized by the general court. **Notwithstanding any general or special law to the contrary, the division of marine fisheries shall have the sole authority and jurisdiction to regulate the harvest of marine fish and the effect of such activities on marine fish species and marine fisheries resources. No person authorized to engage in fishing activities by the division pursuant to this chapter shall be required to file a notice of intent pursuant to [section 40 of chapter 131](#) or pursuant to a local wetlands by-law or regulation and no person shall be required to obtain a permit or license pursuant to [chapter 91](#) or a water quality certification pursuant to [chapter 21](#) in relation to any such fishing activities.**



Current Inshore Surf Clam Fishery Trends

Inshore SC/OQ Dredge Endorsement Holders and Surf Clam Participation, 2021-2024								
	2021		2022		2023		2024	
Issued Endorsements	34		33		32		32	
Active Vessels Reporting State Waters Fishing	Dual Fed/State Permit	State Only Permit	Dual Fed/State Permit	State Only Permit	Dual Fed/State Permit	State Only Permit	Dual Fed/State Permit	State Only Permit
	8	5	8	4	9	3	N/A	N/A

Distribution of Inshore SC/OQ Dredge Endorsement Holders Surf Clam Landings and Participation, 2021-2023

REGION ¹	2021		2022		2023	
	ACTIVE VESSELS	LBS	ACTIVE VESSELS	LBS	ACTIVE VESSELS	LBS
CCB (SRAs 5-7)	8	885,990	6	112,981	4	884,829
PTOWN (SRA 8)	9	1,382,546	7	1,452,867	9	2,049,885
OUTER CAPE (SRA 9)	2	*	3	*	3	272,590
ISLANDS (SRAs 10-13)	8	881,831	5	53,299	6	713,003

Data Source: MA Permitting data & MA trip-level harvester reports and GARFO VTRs, as of 9/9/24, does not adjust for missing federal or state reports

¹Excludes small amounts of data reported from other regions

*Confidential



Surf Clam Spatial Management Pilot Program

- Tested the ability of cellular vessel tracking technology to improve the spatial monitoring of state waters surf clam vessels since November 2023.
- The vessel tracking units gather time and position reports every minute while the vessel is in motion.
- Geofences integrated into the tracking device platform establish virtual perimeters around specific geographic areas. If a vessel crosses into or exits one of these virtual areas, the vessel operator or management agency is notified via text and/or email alerts.
- Data collected on a vessel level is confidential and cannot be released. Data are transmitted for final storage, monitoring, and review at ACCSP. Only users with confidential data agreements are given access.
- The goal of the pilot program was to test the use of the technology to delineate exclusions areas and provide notification when those areas are breached by vessels.



Viatrix Boat Command Cost and Installation

Viatrix Boat Command- GPS Data Logger

- The Viatrix BOAT COMMAND is a vessel tracking device that records positional data and transmits those data via cellular network
- Allows vessel/device owner to create an account and view vessel activity in an online web application.

Installation

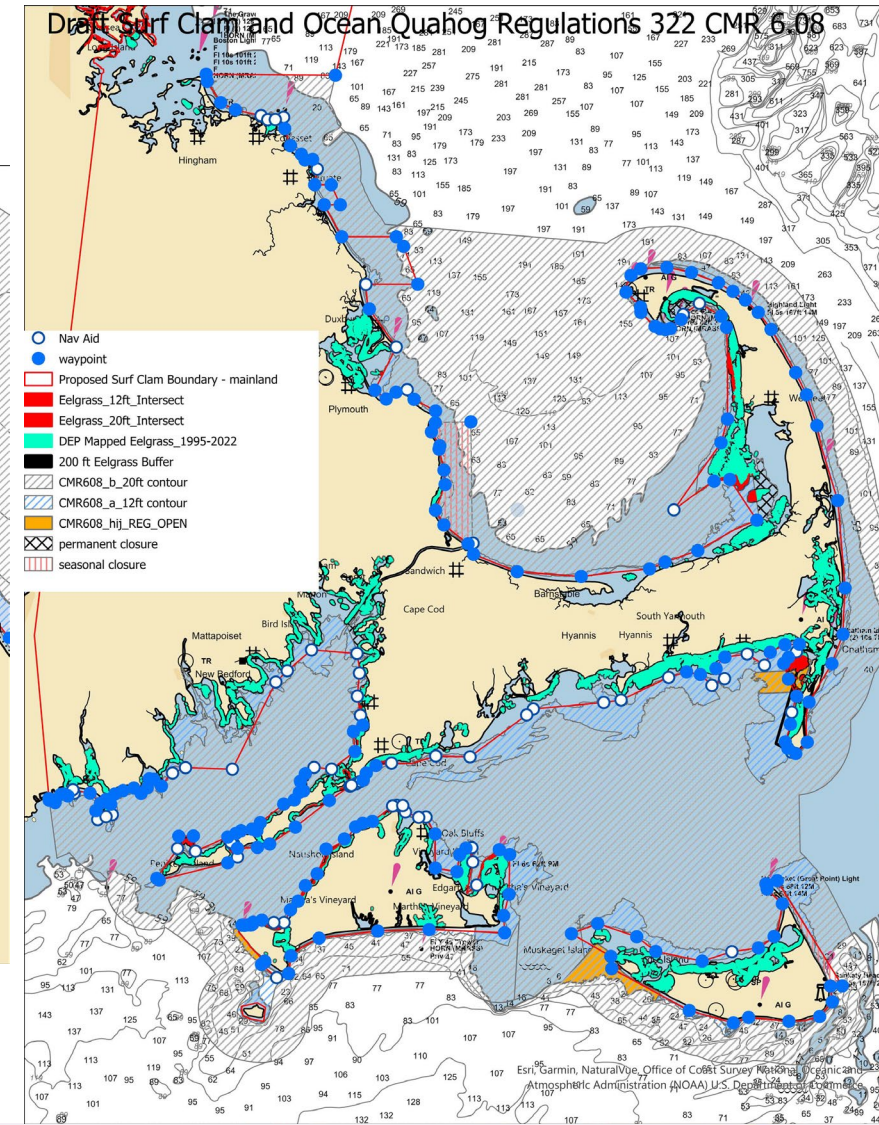
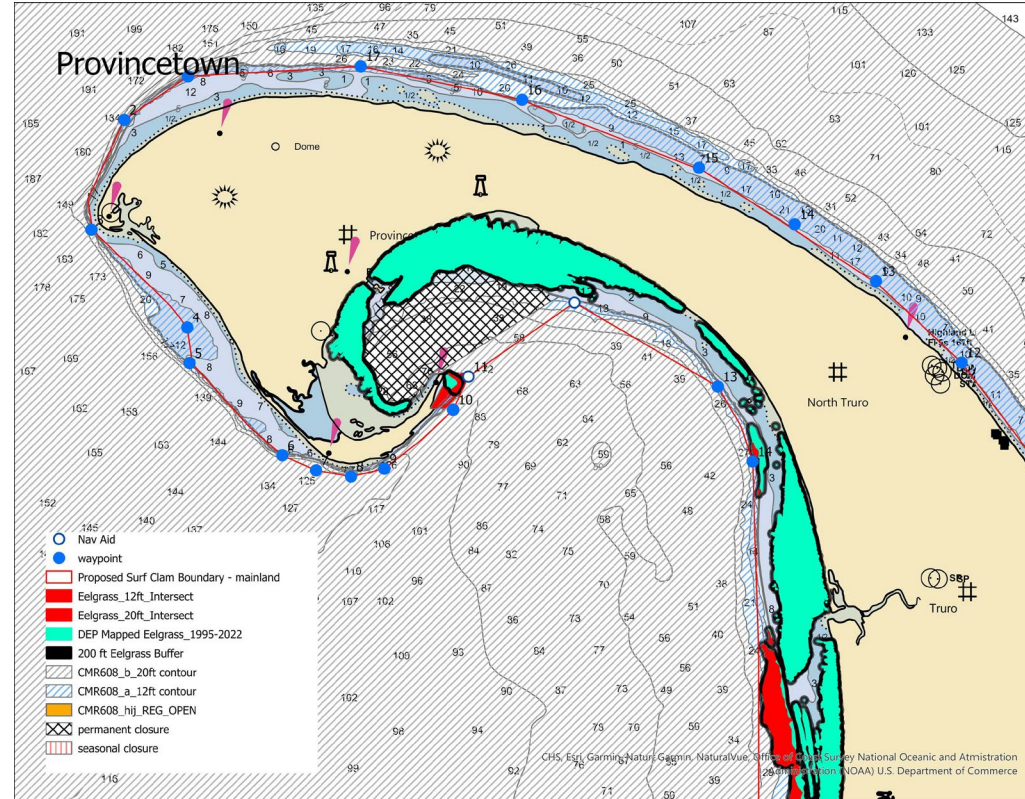
- The device must be installed near a window with a view of the sky
- Connect the red wire to the vessel battery (12v or 24v DC) or an un-switched power source on the vessel. More information: www.boatcommand.com
- Connect the black Wire to the negative side of the battery or the vessel ground
- The device has LED indicators that shows the status of the device
- Sign and return affidavit certifying installation of tracking device.

Cost Information (as of 9/12/2024 Boatcommand.com)	
Device + 1 year of service	\$398
Device + 7 years of service	\$1488



Updating Management Area Boundaries

- Adopt tracker and geofencing requirements.
- Replace contour line management with GPS coordinates.
- Revisit existing management area closures.
- Protect sensitive inshore habitats, specifically eelgrass.
- Provide access to resource.
- Address local concerns and user group conflicts.



Shellfish Advisory Panel Wednesday November 6, 2024

Massachusetts Division
of Marine Fisheries





The Commonwealth of Massachusetts

Division of Marine Fisheries

(617) 626-1520 | www.mass.gov/marinefisheries



MAURA T. HEALEY
Governor

KIMBERLEY DRISCOLL
Lt. Governor

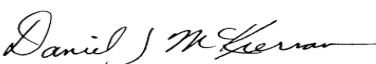
REBECCA L. TEPPER
Secretary


THOMAS O'SHEA
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

THRU: Daniel J. McKiernan, Director 

FROM: Jared A. Silva, Policy Analyst 

DATE: November 18, 2024

SUBJECT: Summary of 2024 MFAC Law Enforcement Focus Group Meeting

The MFAC's Law Enforcement Focus Group (LEFG) met on November 13, 2024. In attendance were Raymond Kane, Shelley Edmundson, Bill Doyle, and Kalil Boghdan from the MFAC; Dan McKiernan, Robert Glenn, Story Reed, Anna Webb, Greg Skomal, Micah Dean, Jared Silva, Nichola Meserve, Ben Gahagan, and Brad Schondelmeier from DMF; and Lt. Matt Bass, Lt. James Cullen, Ofc. David Marrocco, and Ofc. Joe Gray from the Massachusetts Environmental Police. The purpose of this memorandum is to briefly summarize the meeting, raise items for discussion by the full MFAC, and forecast deliverables moving forward.

Lobster Catch and Landings by Draggers

The Focus Group discussed two issues related to the catch and landing of lobsters by draggers. The first issue addressed compliance with the rule that requires draggers declare the Lobster Conservation Management Areas (LCMAs) they intend to fish (for any species) during any calendar year and adhere to the most restrictive gauge size and v-notch rules among the LCMAs declared (Table 1). The second issue was related to concerns raised by lobster trap fishers that trawlers were targeting lobster, high grading catch, exceeding the daily retention limit, and landing lobster multiple times on the same trip.

By way of background, state rules prohibit trawling for lobsters in state waters but allow the possession and landing of lobsters lawfully caught by draggers in federal waters. To land lobsters, there must be a DMF-issued lobster permit tied to the vessel and the permit holder must annually declare the Lobster Conservation Management Areas the vessel intends to fish (for any species) during that calendar year. The vessel's lobster catch must then comply with the most restrictive gauge and v-notch rules among the LCMAs declared ("most restrictive rule")¹. Additionally, the vessel may not retain more than 100 lobsters per 24-hour period or 500 lobsters for any trip that exceeds 96-hours; this is a component of the Atlantic States Marine Fisheries' (ASMFC) Fishery Management Plan (FMP) for American Lobster.

With regards to the first issue discussed, DMF expressed concern regarding continued non-compliance by some draggers with the LCMA declaration and most restrictive rule. DMF receives somewhat regular

¹ If all LCMAs are declared the most restrictive rules are the 3 ¹⁷/₃₂" minimum size for LCMA 3, 5" maximum size for LCMA1, and the 1/8" v-notch rule for LCMA 2, 3 and Outer Cape.

reports from MEP that draggers have either landed lobsters that do not comply with the most restrictive rule declared on their permit or fail to declare all the LCMAAs they fish. Permit holders and their vessel operators have also expressed confusion about where the LCMA boundaries are, what the most restrictive rules are, and whether the rule applies to the trip or the permit.

MEP indicated the regulation is sufficiently clear and enforceable as written but advocated for DMF to issue annual reminders to permit holders. However, there was some discussion regarding the benefit of having a universal standard for all draggers to eliminate any confusion about what LCMAAs are declared on the permit, what the LCMA boundaries are, what the most restrictive rules are, and that the rule does not apply to areas fished during that trip.

For 2025, DMF will conduct outreach to permit holders regarding the LCMA declaration requirement and the most restrictive rule. Additionally, DMF will consider taking administrative action to limit the ability for a permit holder to land lobster in Massachusetts, should they be found in violation—particularly if the vessel or permit holder has previously been found in violation of the rule. Moving forward, however, DMF may consider a standard set of rules for the dragger fleet. This could be part of a broader suite of changes to the lobster possession rules, particularly as related to the second issue discussed by the Focus Group. Moreover, it would be appropriate to achieve such a rule change at the regional level through an addendum to the ASMFC FMP, so as not to have disparate impacts on Massachusetts permit holders or force the landing of lobsters to another state with more liberal limits.

Regarding the second issue discussed, DMF has fielded concerns from lobster trap fishers about the ability for draggers to possess and land lobsters in Massachusetts. Specifically, there have been allegations that draggers are targeting lobsters east of Stellwagen Bank off Provincetown, violating the trip limit rule, high grading, and landing multiple times per trip. These concerns are exacerbated by the fact that this activity is often occurring in the wintertime when lobsters fetch a high seasonal ex-vessel price because of limited coastwide supply and trap fishers are restricted from fishing within the Massachusetts Restricted Area (MRA), which is closed to buoyed trap gear to protect right whales. Additionally, a lot of this alleged dragger fishing activity has been observed around the eastern edge of the MRA.

DMF has utilized data available through SAFIS and the New England Fishery Observer Program (NEFOP) to investigate these claims. While specific data are confidential under the rule of three, there are some general trends that can be disclosed. First, draggers have a low level of lobster bycatch when targeting groundfish but do have tows that appear to target lobsters off Provincetown and near Georges Bank. Second, there is not significant evidence of high grading or discarding in the NEFOP data. Third, it is likely that some vessels are violating the 24-hour day aspect of the possession limit but are not likely violating the trip limit in aggregate². Next, there is evidence that vessels are landing lobster several times during the same groundfish trip³, however, this does not violate existing state regulations and NOAA Fisheries authorizes the activity. Lastly, lobster catch is an important component of dragger income, particularly given the economic challenges facing the groundfish fishery, but lobster landings attributable to the dragger fleet (through 2023) remain at about 5% of all lobster landings in the state. This figure has remained fairly static historically⁴. DMF will be able to query 2024 landings in the coming months.

² Note there are limitations in enforcing the possession limit rule. First, it is difficult to detect non-compliance with 24-hour day possession limit unless a trip is intercepted at a time when they have caught their aggregate trip limit of lobsters but have not been at sea for the necessary period of time. Additionally, it is difficult to conduct a forensic investigation into compliance with the aggregate trip limit using SAFIS and NEFOP data because the rule is count-based and the data collected is in pounds.

³ For instance, a groundfish trip out of Gloucester may occur over 10-days but lobsters are offloaded in Provincetown on Day 5 and then lobsters and groundfish are offloaded in Gloucester on Day 10.

⁴ Whereas in the past, when the groundfish fishery was more robust, there were likely more vessels retaining fewer lobsters, now given the attrition in the groundfish fishery and low catch limits, there are likely fewer vessels retaining more lobsters.

Moving forward, DMF intends to address this issue through the ASMFC. Of particular interest is shifting from a count-based trip limit metric to a poundage-based limit. This would create consistency between the metrics used in the regulation and data collection systems and make the limit more enforceable.

Additionally, through this process, additional consideration can be given to what constitutes a trip and whether there should be a universal set of gauge and v-notch rules for draggers. Taking a unilateral action is not supported because this catch is occurring in federal waters, and it may disproportionately impact Massachusetts permit holders while also redirecting landings to ports in other states.

Striped Bass Total Length Measurement

At the September MFAC business meeting, DMF presented a public hearing proposal to clarify the method for total length measurement for striped bass, specifically that the upper and lower fork of the tail must be squeezed together to measure tail extremity. At present, the tail may be squeezed or left naturally fanned, although there have been reports of individuals interpreting the regulation as allowing the tail to be forcibly fanned out in order to keep a larger fish in the slot limit. Using measurements collected during DMF's striped bass tagging work this fall, as well as from donated carcasses, staff compared natural length to pinched tail and forced fanning lengths (Figure 1). It was found that pinching the tail results in a similar measurement to natural length, whereas forcibly fanning the tail could substantially reduce the total length⁵. This work supports DMF's proposal to mandate tail squeezing to measure total length. There was general support for this proposal among the focus group and DMF will proceed to public hearing this winter to potentially adopt this rule for the 2025 fishing season. Additionally, there was some interest in this being addressed at the ASMFC to create a coastwide total length measurement standard.

Striped Bass Commercial Sales

A longstanding criticism of DMF's commercial striped bass management program is that it is open entry and allows the permit holder to retain commercially caught fish for personal use. Accordingly, some view the permit as providing a low-cost opportunity to circumvent the recreational bag and size limits. Harvester reports indicate that only about 1.5% of commercial catch is coded for personal consumption, however, there are concerns that this activity may be underreported and not factored into the stock assessment.

DMF sought feedback on potentially mandating the sale of striped bass taken under the authority of the commercial permit. This was a potential interim solution to address this issue until such a time that DMF could move to a limited entry fishery. The Focus Group generally felt that prohibiting retention for personal use under the commercial permit would be challenging and onerous to enforce, and the preference was for DMF to instead focus on assessing the potential for moving to a limited entry fishery.

Enforcement of Gear Marking Rules

DMF and MEP discussed strategies to enhance the enforcement of gear marking rules in state and federal waters. Additionally, the Focus Group discussed the need to create fishery specific gear marking rules for fish and conch pot gear set by Massachusetts permit holders in federal waters. This distinction is necessary given DMF's Incidental Take Permit application for state waters trap gear (Massachusetts Mixed Species Trap/Pot Fishery). Moreover, buoy line marking requirements in the Atlantic Large Whale Take Reduction Plan have not been updated recently and the requirements for fish and whelk pot gear fished elsewhere in the northeast (Northern Nearshore Trap/Pot Fishery), including federal waters, is concerning similar to the buoy line marking rules for the Massachusetts Mixed Species Trap/Pot Fishery (Figure 2). To address this, DMF intends to encourage NOAA Fisheries to update the buoy line

⁵ Pinching a tail resulted in fish beginning at 27.71" reaching the minimum size of 28". Fanning the tail allowed for fish up to 32.38" to be brought under the 31" maximum size.

marking rules for the Northern Nearshore Trap/Pot Fishery, and as an interim solution, DMF will develop a proposal to differentiate fish and whelk pot gear set by Massachusetts in federal waters from state gear.

Targeting White Sharks

DMF and MEP continue to encounter anglers targeting white sharks on Outer Cape Cod beaches. This activity is technically prohibited under existing state rules but is challenging to enforce because it hinges on whether or not the activity is “targeting” white sharks. Additionally, this fishing activity has raised some public safety concerns as it has been occurring in areas frequented by surfers and beach goers.

In response, DMF has reviewed shark fishing regulations in other states. There is precedent elsewhere along the Atlantic coast to define shore-based shark fishing based on the gear being used (e.g., hook and leader size) and to mandate the manual casting of baits. The Focus Group supported DMF developing draft regulations to define shore-based shark fishing, prohibiting this activity along Outer Cape beaches where white sharks are the principal shark species, and consider requiring the manual casting of baits for all other shore-based shark fishing. There was also some discussion about more broadly adopting this manual casting of baits requirement to all hook and line fishing.

Possession of Dogfish Fins and Record Keeping Requirements

State law at [G.L. c. 130, §106](#) prohibits any person from possessing a shark fin or finning a shark, with the definition of shark excluding spiny and smooth dogfish. Additionally, DMF’s spiny dogfish and coastal shark regulations at 322 CMR 6.35 and 6.37, respectively, prohibit any fisher from removing fins from a smooth or spiny dogfish at sea. In combination, this allows shore-based dogfish processors to remove fins from spiny and smooth dogfish and sell these fins to market. This creates a potential loophole that could undermine the broader shark fin possession prohibition, as it provides a mechanism for an individual to claim shark fins are lawfully processed spiny and smooth dogfish fins. While genetic testing is available, MEP reported to DMF that it can be inconclusive given some processing methods (including the alleged use of formaldehyde for preservation). Accordingly, there is some interest in DMF developing a regulation that would require dealers to maintain records that demonstrate the product originates from the lawfully processing of spiny or smooth dogfish, and absent such records, possession of fins would be prima facie evidence of a violation.

False Albacore and Atlantic Bonito Limits

This discussion followed up on the September MFAC business meeting’s deliberation on developing state rules governing the harvest of Atlantic bonito and false albacore. DMF is developing a public hearing proposal that would establish either a bag limit or a bag limit and size limit that would control harvest. Similar to DMF’s existing blue crab and sand lance rules, this limit could apply to any person and be set at such a level that it constrains the development of a commercial fishery. There was some discussion about: whether the bag limit should be for each species or if the bag limit should be for both species combined, given species identification concerns; if there should be a minimum size to prevent the retention of juvenile fish for bait purposes; and to what extent bycatch may occur in other lawfully permitted commercial fisheries (e.g., mackerel jigging).

Volumetric Equivalencies in the Menhaden Fishery

Ofc. Joe Gray from MEP described his experience weighing out menhaden and comparing them to volumetric industry standards. DMF regulations require fish caught at the 6,000-pound limit to be stored in fish totes measuring 28” by 16” by 11” or 55-gallon barrels with a level-filled tote weighing 117 pounds and a barrel weighing 350 pounds. These equivalencies were developed based on Maine’s volumetric management regulations. Ofc. Gray found that the actual poundage generally may exceed the prescribed equivalency (at times) up to 20-30%. Moreover, at the limited entry limits of 120,000 pounds and 25,000 pounds, fish is pumped off the vessel into vats. The accepted industry standard is that a full vat of menhaden weighs 1,750 pounds, but Ofc. Gray was finding the vats could weigh up to 2,400

pounds and generally weigh around 2,200 pounds. Ofc. Gray also reached out to enforcement in other states and found that similar “vats” units and conversions were being used in their fisheries.

After the Focus Group meeting, DMF reviewed vat manufacturers specification sheets and found there is variation among vats on the market relative to the height and interior dimensions which could result in the storage volume varying by as much as 20%⁶. Moving forward, DMF intends to investigate this further and determine the degree of volume variability in vats used in our fishery and in other states as well- and possibly bring this to the attention of the ASMFC. The interstate process could help determine if this problematic for the ongoing and historical catch records to what extent this is occurring coastwide. Additionally, given these containers are seemingly used across the coast, the development of coastwide volumetric standards should be considered. Ofc. Gray advocated that dealers involved in offloading the limited entry fishery should also be required to have a scale capable of weighing the catch for compliance purposes.

Attachment

November 13, 2024 Agenda and Presentation

Table 1. 2024 Gauge Size and V-Notch Possession Rules by LCMA for Federal Waters

LCMA	Minimum Size	Maximum Size	V-Notch
LCMA1	3 ¼”	5”	No possession of any lobster bearing a v-shaped notch in the base of its flipper of any size with or without setal hairs.
LCMA2	3 ⅜”	5 ¼”	No possession of any lobster bearing a v-shaped notch in the base of its flipper that is at least ⅛” deep with or without setal hairs.
LCMA3	3 17/32”	6 ¾”	No possession of any lobster bearing a v-shaped notch in the base of its flipper that is at least ⅛” deep with or without setal hairs.
OCCLCMA	3 ⅜”	6 ¾”	No possession of any lobster bearing a v-shaped notch in the base of its flipper that is at least ⅛” deep with or without setal hairs.

⁶ DMF subsequently learned that Daco Corp. sells three styles of insulated fish vats what are roughly the same size but have capacities that range from about 1,750 pounds at 48” by 43” by 39” to 2,200 pounds at 48” by 43” by 47”.

Figure 1. Comparison of Striped Bass Natural Length and Manipulated Length

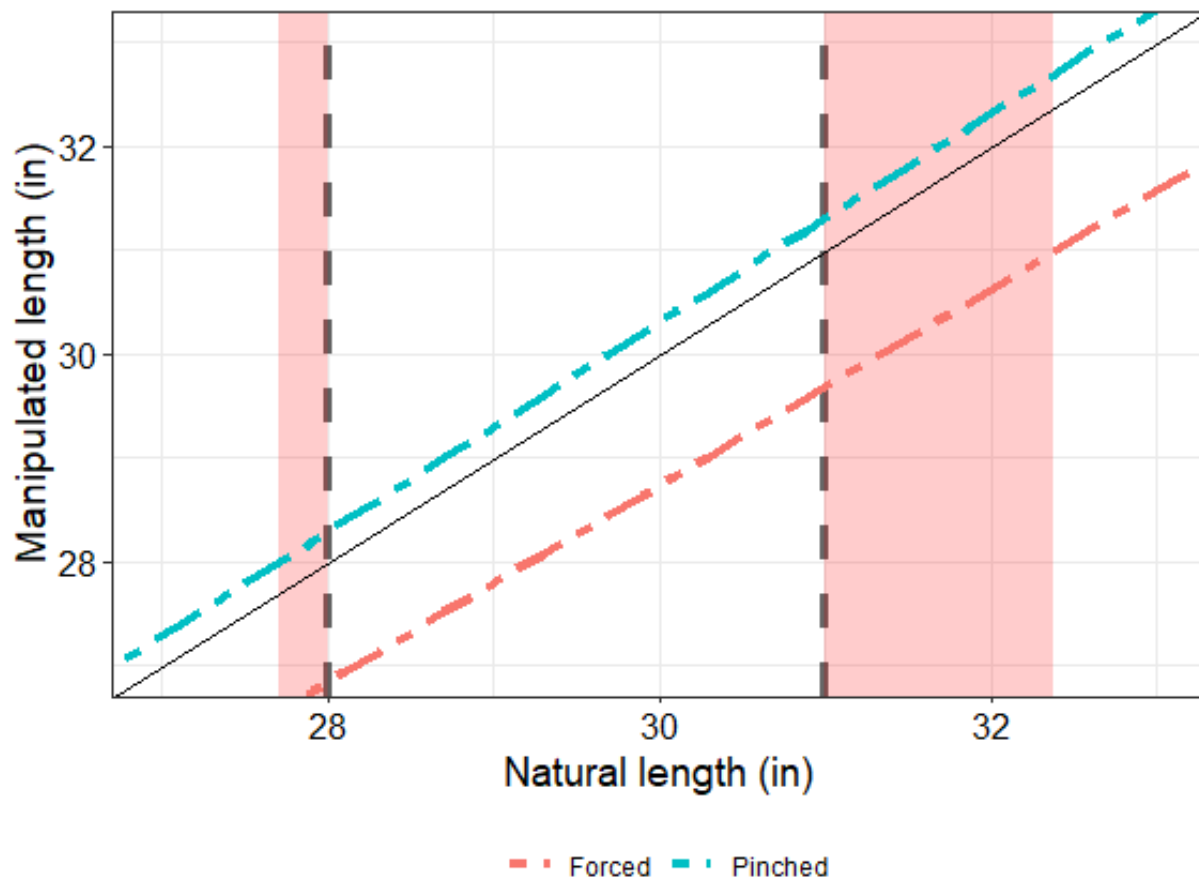
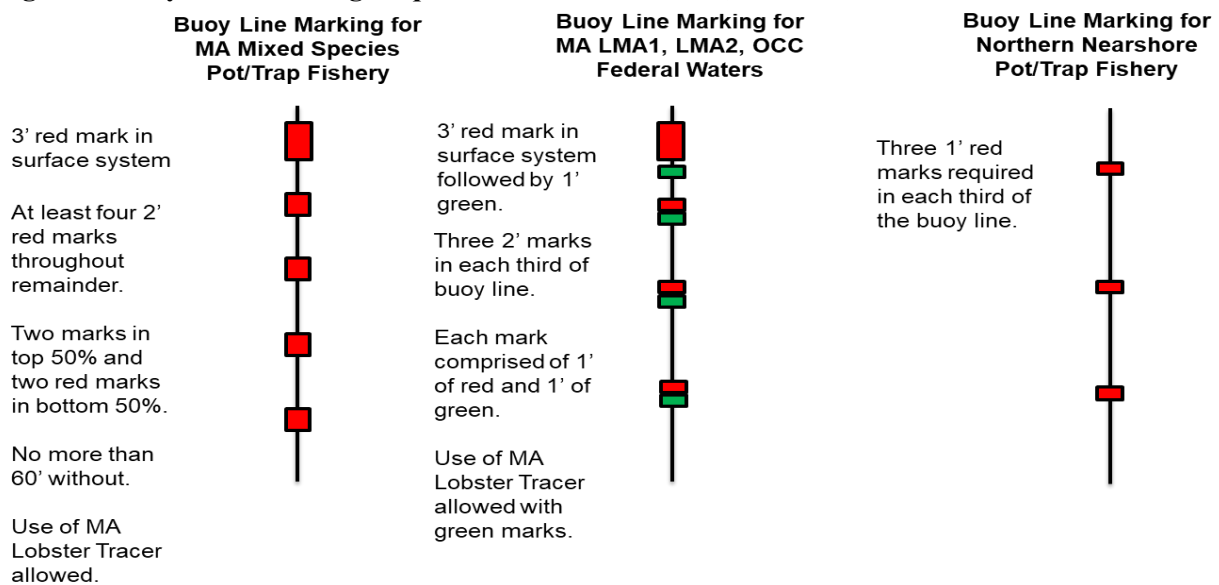


Figure 2. Buoy Line Marking Requirements for MMSPTF, NNTPF, and Federal Lobster and Crab





**MARINE FISHERIES ADVISORY COMMISSION
LAW ENFORCEMENT FOCUS GROUP
MEETING AGENDA**

November 13, 2024

10:00AM

Via Zoom

Login: <https://us02web.zoom.us/j/85816130044>

Call In: 1-309-205-3325

Meeting ID: 858 1613 0044

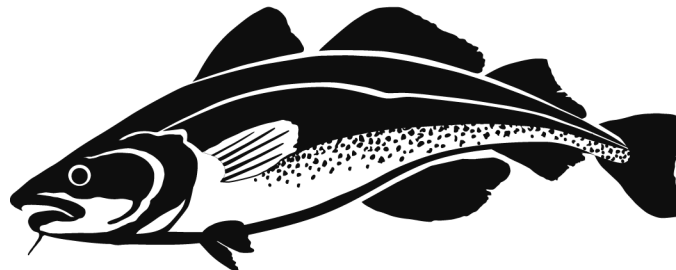
1. Call to Order
 - a. Introductions and Announcements
 - b. Review of Agenda
2. Lobster Catch and Landings by Trawlers
 - a. Summary of Recent Activity
 - b. Trip Limit Enforcement
 - c. LMA Declarations and Most Restrictive Rule
3. Striped Bass
 - a. Update on Total Length Measurement
 - b. Potential Requirement to Sell All Commercially Caught Fish
4. Protected Species
 - a. Enforcement of Gear Marking Rules
 - b. Closure and Gear Removal Work
5. Coastal Sharks
 - a. Targeting of White Sharks from Shore
 - b. Shark Fins and Dogfish Exemption
6. Size and Catch Limits for False Albacore and Atlantic Bonito
7. Volumetric Enforcement of Menhaden Trip Limits
8. Focus Group Member Comments
9. Adjourn

Marine Fisheries Advisory Commission

Law Enforcement Focus Group

November 13, 2024

MarineFisheries
Commonwealth of Massachusetts



Meeting Agenda

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Lobster Catch and Landings by Trawlers

Current Rules

- No trawling for lobsters in state waters.
- Must annually declare on permit application the various LMAs they intend to fish in any year.
- Must comply with the most restrictive minimum and maximum size limit and v-notch rules for the LMAs declared on permit; not the LMAs fished on a trip.
- May retain 100 lobsters per 24-hour day from federal waters provided no more than 500 lobsters are taken for any trip of five-days or longer.

Concern: Continued non-compliance with most restrictive rule based on annual declaration.

- MEP encounters several violations every year.
- Most frequent violations are LMA1 maximum gauge size and v-notch rules, which are the most restrictive.
- Offshore vessels are typically run by hired captains with differing levels of attention to rule and area boundaries.
- If multiple LMAs are fished on a single trip, cannot parse where lobsters are taken from.

Considerations:

- Adopt state-wide standards for gauge size and v-notch rules (e.g., most restrictive, least restrictive)
- Base most restrictive limit on areas fished on a single trip.



Lobster Catch and Landings by Trawlers

Concern: Trawlers are targeting lobster, high grading catch, exceeding daily retention limit, and landing lobster multiple times on a single trip.

Response: DMF investigated claims and reviewed SAFIS and NEFOP data.

- ~14-day groundfish trips include multiple 5-day plus sub-trips targeting/offloading lobster; land about 1,500 lbs each offload, some over 2,000 lbs. Large lobsters caught by trawl gear.
- Trawlers have certain tows where they target lobsters; low level of bycatch on groundfish tows.
- Tows generally off Ptown or near Georges. Lobster often landed in Ptown, groundfish elsewhere.
- Vessels likely retaining more than 100 lobsters per 24-hour day. Difficult to parse violations of trip limit because catch is recorded in pounds and limit in count.
- No significant evidence of high grading or discarding.
- Federal rules do not require groundfish be offloaded on same trip as lobster; multiple lobster trips can be taken during one groundfish trip.
- Lobster catch has become an important component of dragger income and dragger catch remains at about 5% of total lobster landings through 2023. 2024 TBD.

Considerations:

- Interest to address regionally through ASMFC.
- Poundage-based limit would be more observable through SAFIS records. Alternatively, a volumetric cap on catch (see OCC gillnet rules: 2 crates max; crates hold 120 lbs.)
- Difficult to enforce the 24-hour day limit unless trip is intercepted at-sea or a trip is cut short.
- No standard definition trip for a groundfish and lobster trip allows multiple lobster trips during an extended groundfish trip.
- Frustration from trap fishers heightened during winter when many cannot trap fish but lobster can be taken by nets. Lobster values also peak during winter because of low supply (2024 record highs).
- Concerns about how low cod TAC may affect lobster fishing effort.



Striped Bass: Update on Total Length Measurement

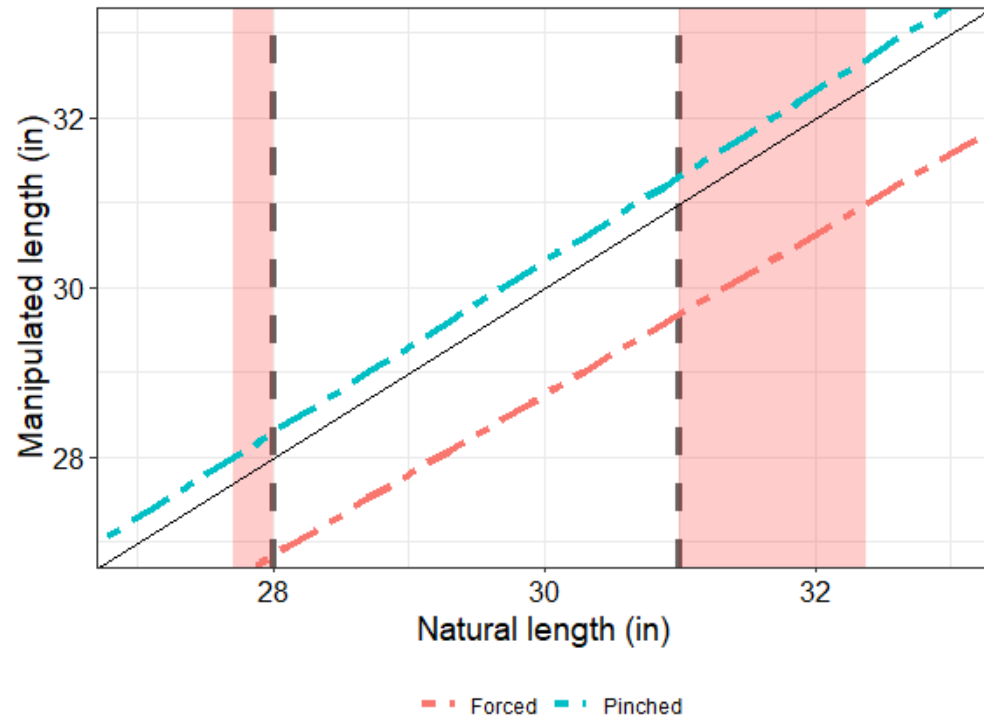
Concern: Regulatory ambiguity and angler discretion on total length method of measurement.

- Tail “may be pinched” or left natural; unclear if forcibly fanning tail out is allowed.
- With adoption of maximum size and narrowing of slot, evidence of forced tail fanning to maintain slot sized fish.
- Size limits critical component of management to control harvest and protect certain year classes.
- Law Enforcement Focus Group and MFAC encouraged DMF to address (Nov 2022).

Response: Consider regulatory revision after investigating measurement difference and reviewing other state rules.

- Compared “natural length”, “pinched tail” and “forced” fanning of tail measurements.
- Pinching similar to natural length; fish ≥ 27.71 ” included in slot by pinching.
- Forcibly fanning tail can reduce length by more; fish up to 32.38” brought into the slot.
- Majority of other states require/guide use of pinched tail measurement.
- DMF collects samples as pinched tail.

Proposal: consider changing definition of total length to specify forked tail to be squeezed together (com & rec).



Striped Bass: Commercial permit/fisher definitions

Concern:

- Commercial striped bass permit authorizes take for sale or personal use. It's open entry status and low cost provides an opportunity to circumvent low recreational limits.
- Such harvest for personal use should be reported, but underreporting may be prevalent. (~1.5% of reported commercial catch is coded as being for personal use.) No accountability without corresponding dealer transaction.
- Unreported fish may be unaccounted for source of mortality. Reported personal use harvest is not counted against quota or currently incorporated into stock assessment.

Response:

- Limiting entry and removing latent effort would address issue but is complicated, contentious, and take time to develop. Harvester tagging would also address but require limiting entry first and eliminating about 90% of permits to be administratively feasible.
- DMF investigating characteristics of striped bass permit holders, e.g., other permits held, activity for other species, etc. to better understand the who and why of permit issuance and usage trends.

Considerations:

- In interim, could we remove personal use allowance from commercial permit, and mandate sale of any fish harvested under commercial permit?
 - Pros: eliminate practice of skirting recreational rules, constrain unaccounted for fish, improve perception of fishery management.
 - Cons: question acceptance and compliance (long-standing allowance) and enforceability; does personal use cease or just go entirely underground? What if buyer not available?



Enforcement of Gear Marking Rules

Challenges:

- Need to make sure lobster/crab gear fished in federal waters is marked with appropriate federal gear marking to differentiate from Massachusetts Mixed Species Trap/Pot fishery (MMSTPF).
- Lack of controls on fish/whelk pot fishing in federal waters creates entanglement risk.
- Buoy line marking for federal waters fish/whelk pot gear should be consistent with ALWTRP's Northern Nearshore Trap/Pot Fishery (NNTPF). NNTPF requires three 1' red marks with one mark in each third of buoy line.
- Federal waters fish/whelk pot gear likely marked just as MMSTPF gear. Even if marked correctly MMSTPF and NNTPF gear marking are very similar.
- Wrongly identified entanglement could jeopardize DMF's ITP for MMSTPF.
- A unique marking scheme for MA fish/whelk pot gear set in federal waters is warranted.

**Buoy Line Marking for
MA Mixed Species
Pot/Trap Fishery**

3' red mark in
surface system

At least four 2'
red marks
throughout
remainder.

Two marks in
top 50% and
two red marks
in bottom 50%.

No more than
60' without.

Use of MA
Lobster Tracer
allowed.



**Buoy Line Marking for
MA LMA1, LMA2, OCC
Federal Waters**

3' red mark in
surface system
followed by 1'
green.

Three 2' marks
in each third of
buoy line.

Each mark
comprised of 1'
of red and 1' of
green.

Use of MA
Lobster Tracer
allowed with
green marks.



**Buoy Line Marking for
Northern Nearshore
Pot/Trap Fishery**

Three 1' red
marks required
in each third of
the buoy line.



Targeting White Sharks from Shore

Concern:

- Continued reports of anglers targeting white sharks from Outer Cape Cod beaches.
- Raises public safety issues, particularly as some fishing activity has been occurring among surfers.

Existing Regulatory Program:

- White sharks are a prohibited species. Prohibited species may not be retained and if incidentally caught must be released in a manner to ensure maximum probability of survival.
- Rules also prohibit attracting (chumming) and capturing white sharks with an exemption for incidental catch of white sharks.

Considerations:

- MEP has enforced these rules in the past arguing catch is targeted and not incidental.
- Difficult to parse what is targeted and what is incidental.
- DMF could prohibit use of certain gears (e.g., hook size, leader size) when fishing from beaches on Outer Cape where alleged activity is targeting white sharks and incidental catch of other shark species is minimal.
- DMF could also require manual casting thereby prohibiting the mechanized setting of baits. Similar rules exist in NY and FL.



Shark Fins, Dogfish Fins and Paperwork

Concern:

- Possession of shark fins is prohibited under state law with exemption for smooth and spiny dogfish. This exemption may create a loophole to possess shark fins if cannot demonstrate species is something other than dogfish.

Considerations:

- Dogfish may not be finned at sea but may be finned by a processor.
- Dogfish are not commonly finned commercially.
- Could require paperwork chain of custody to document fins were lawfully processed from a dogfish (e.g., lobster tails).



Atlantic Bonito and False Albacore Limits

Concern:

- Absent an FMP and resulting management program, unconstrained catch and effort in these fisheries could negatively impact stock and local fishing conditions.
- Potential for increased effort: MA on leading edge of species northward range expansion; may be replacement targets for other overfished stocks (e.g., striped bass).

Considerations:

- Act unilaterally in MA to adopt a size limit (e.g., 16") and bag limit (e.g., 2-fish) to prevent the development of an unconstrained bait or commercial fishery for these species.
- This action would be similar to our sand lance or blue crab rules.





Diadromous Fish in Massachusetts – 2024 Updates

Marine Fisheries Advisory Commission Nov 19, 2024

Brad Chase – MA DMF

Bob Michelson

Diadromous Fish Monitoring and Restoration Updates

- **Diadromous Fish Stocking**
- **ASMFC River Herring Stock Assessment**
- **River Herring spawning run counts**
- **Diadromous Fish Restoration Projects**





DMF Diadromous Fish Project



- MA General Laws in the 1930s and 1940s established DMF as the regulatory authority to manage coastal diadromous fish runs. Included the creation of the DMF Fishway Crew in 1934
- Main focus was fishway construction for river herring from 1930s-1980s with a Fishway Crew of up to 8 staff
- Diadromous Fish Passage and Habitat Restoration
- Diadromous Fish Biology and Management

River Herring Stocking

- Bourne Pond, Falmouth
- Tom Matthews Pond, Yarmouth
- Little Sandy Pond, Yarmouth
- Mill Pond, Barnstable
- Island Creek Pond, Duxbury



Taunton River Shad Stocking

- USFWS / DMF agreement for 5-years of shad stocking in the Taunton River
- Over 5 million shad larvae stocked 2022-2024
- DMF / DFW cooperative monitoring

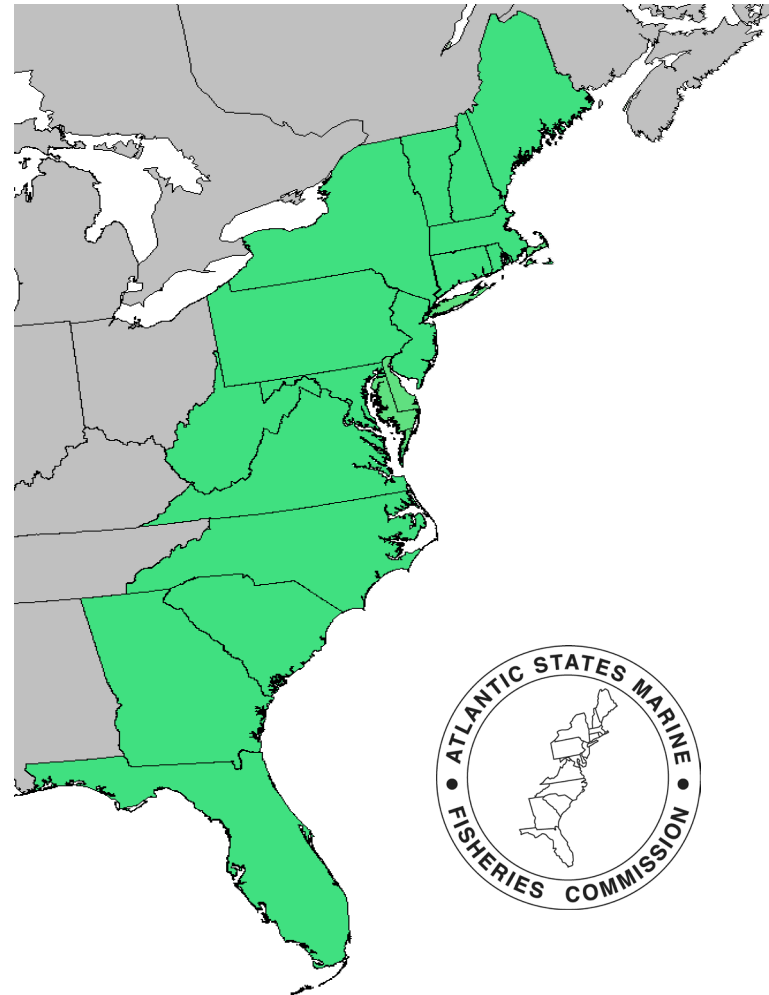


MASSWILDLIFE

Atlantic States Marine Fisheries Commission ASMFC

1. Interstate Fishery Mgt Plans
2. Sustainable Fishery Mgt Plans
3. Stock Assessments

- **American Shad** – Benchmark stock assessment in 2024
- **American Eel** – Benchmark stock assessment issued in 2023
- **River Herring** – New benchmark assessment in 2024



River Herring Assessment

“No clear coast-wide trends since 2009”

“Depleted relative to historic levels”

Unlike the last update, very few significant trends

Alewife – N = 52 - no significant negative trends
only 4 significant positive trends (Northern)

Overall – large majority of abundance trend indices for both alewife and blueback herring >50% probability of being higher than 2009

Mortality – more than half the indices >50% probability of being higher than $Z_{40\%SPR}$ reference point

Peer Review

- Stock assessment was based on the best available science
- River herring stock remains depleted. Flat trend since 2009
- Much attention on ocean mortality
- Big pitch for more “[sentinel populations](#)” with abundance indices combined with biological data and standardized methods. Many indices address one life stage with no biological data

Ocean Bycatch

- Encouraging attention given to this complex and controversial topic
- Decline in removals recently presumably due to lower effort in Atlantic herring and mackerel fisheries
- 2005-2019: 343 mt annually
- 2020-2022: 91 mt annually



Massachusetts Run Counts

29 spawning run counts were considered from MA

Both Species

	Counts	Length	Age	Mortality
Parker River	NA	↔	↔	↓
Mystic River	↑	↔	↔	↓
Back River	↔	↔	NA	↔
Town Brook	↔	↔	↔	↓
Monument River	↔	↔	↔	↔
Nemasket River	↑	↔	↔	↑

Electronic and Video Counter Stations in Massachusetts

Smith Root Electronic

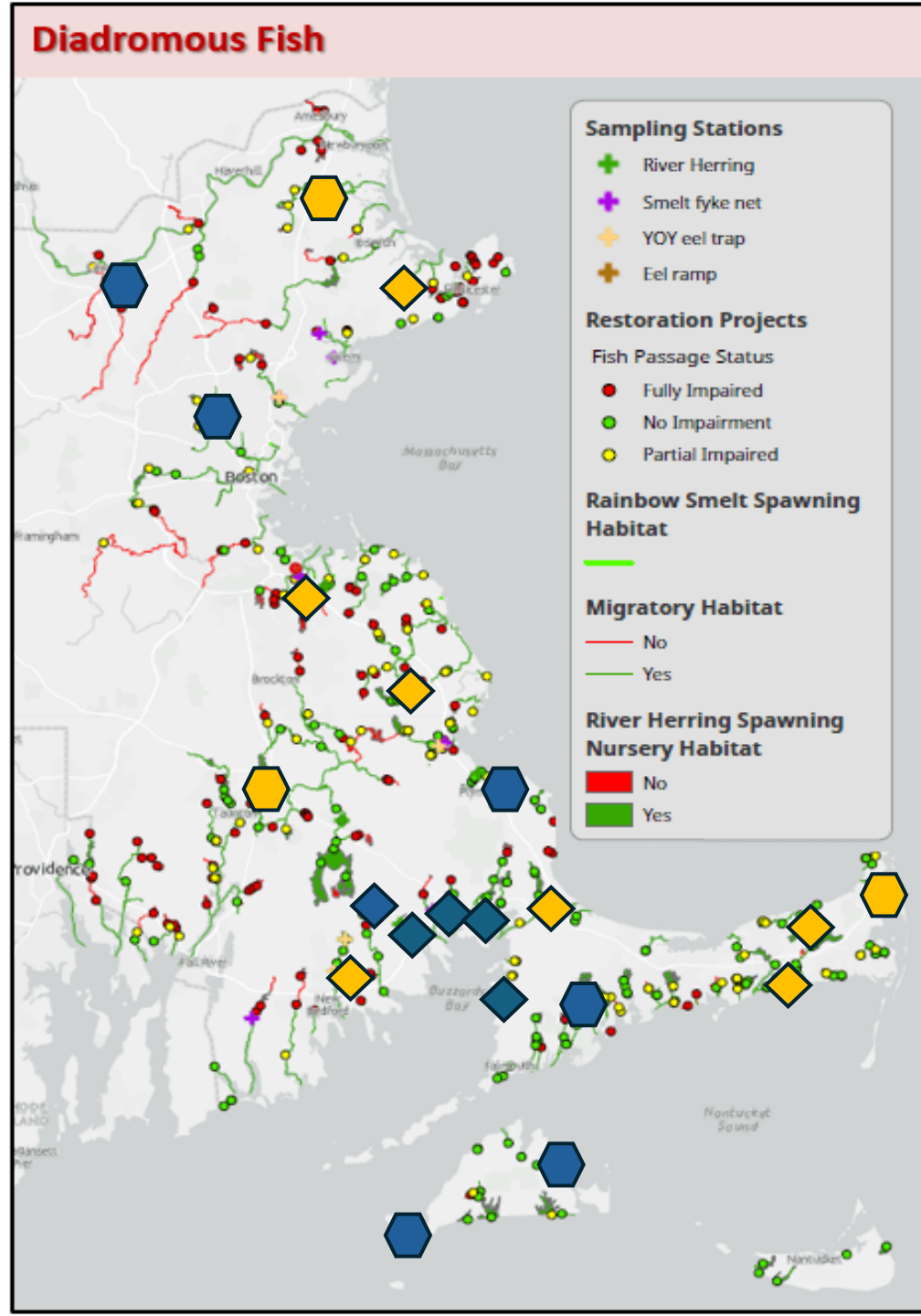
DMF ♦ 7 multi-tube counters

Buzzards Bay ♦ 5 single tube counters

Video

DMF ⬡ 3 video stations

Local Partners ⬢ 6 video stations



Electronic and Video Counter Stations in Massachusetts

Smith Root Electronic

DMF  7 multi-tube counters

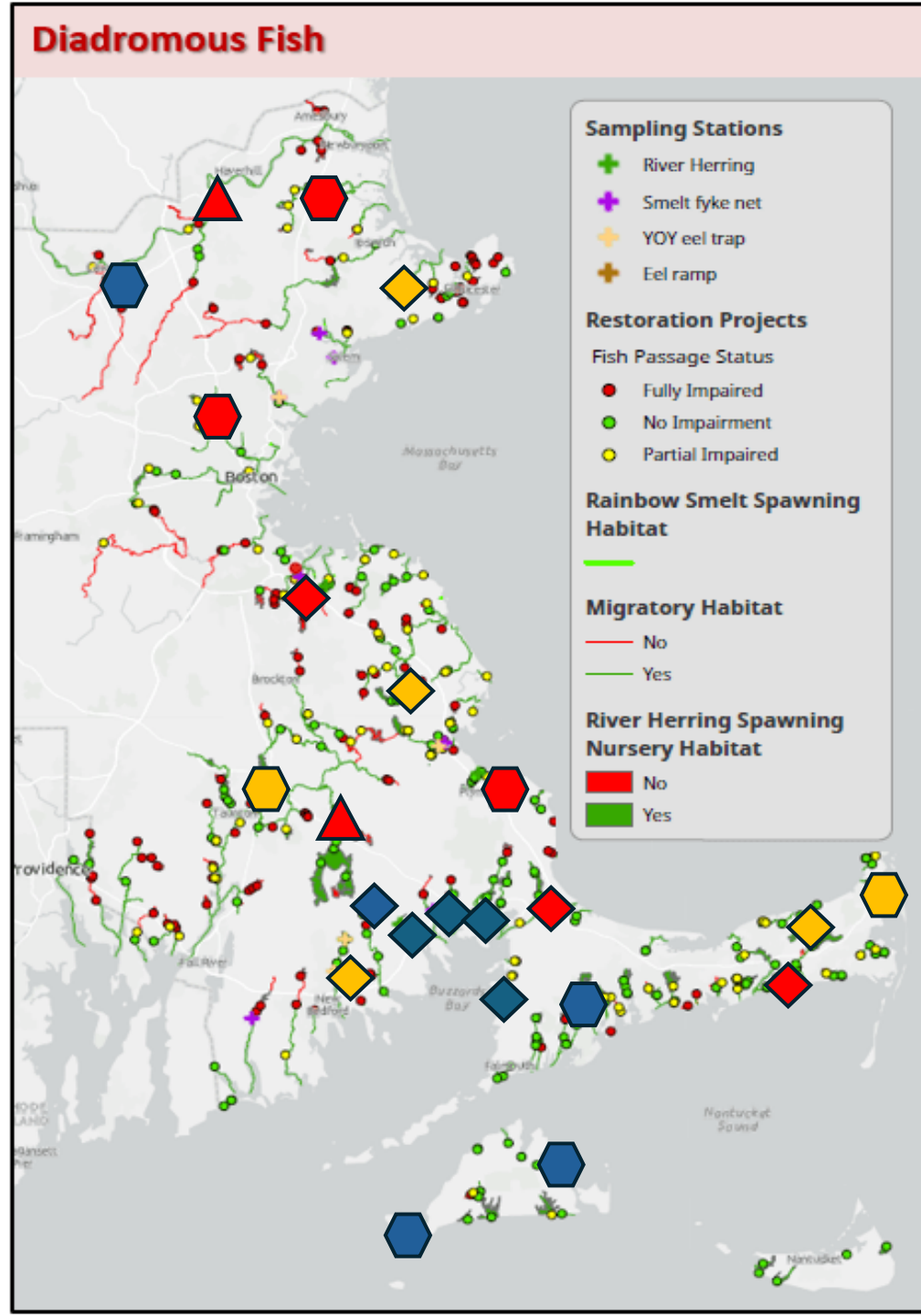
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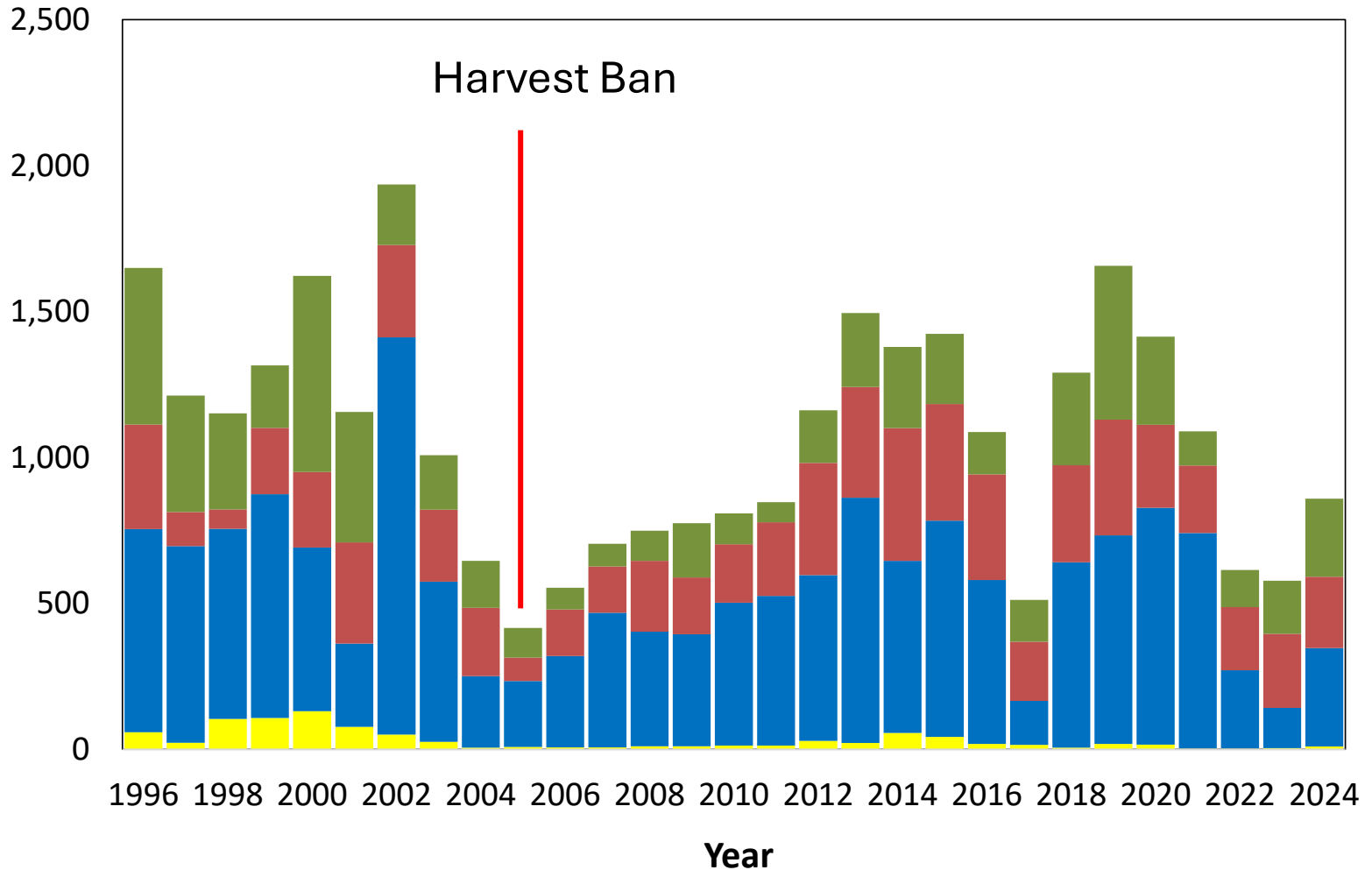
Sentinel Stations   



River Herring Spawning Run Counts +20-year combined

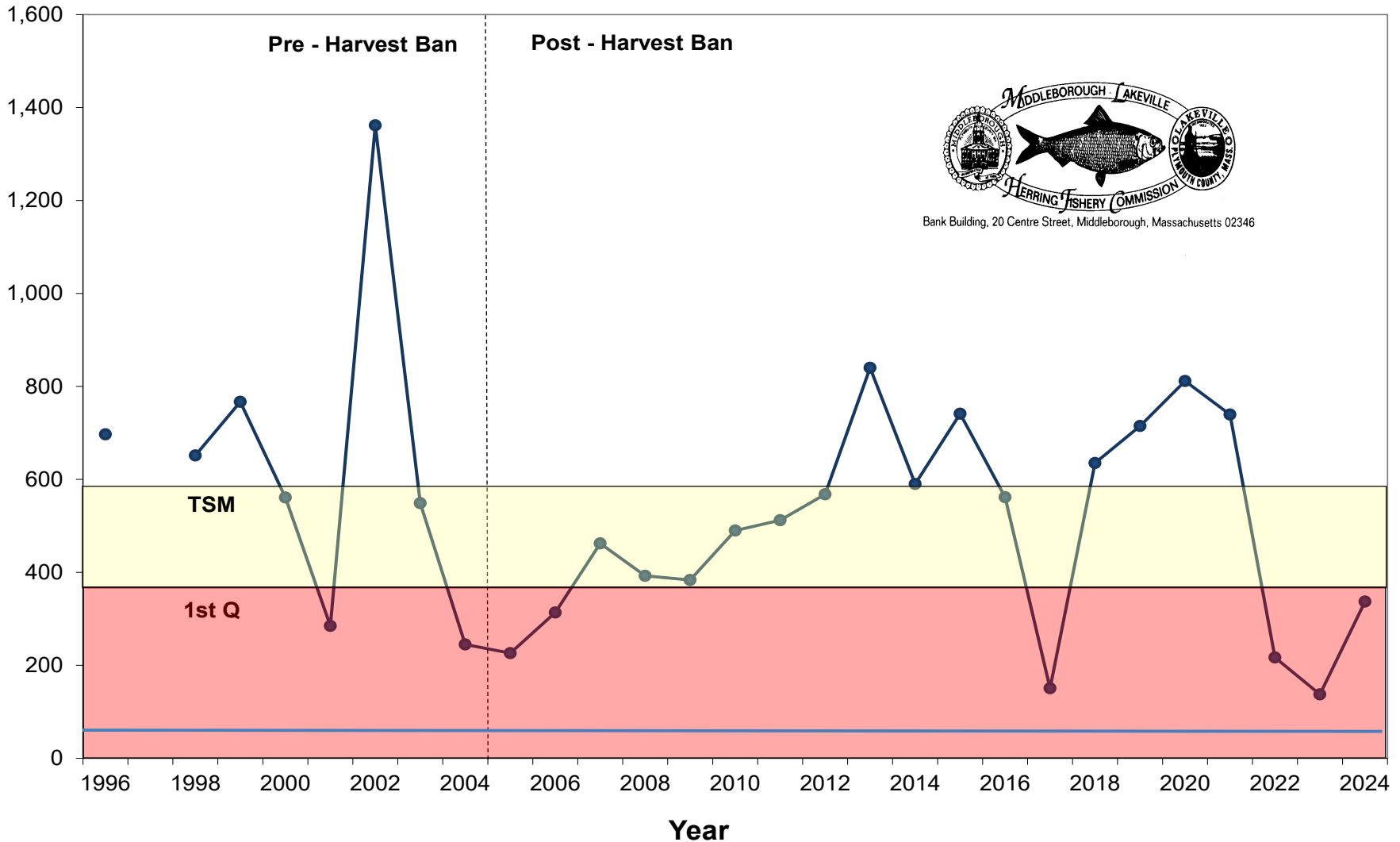
Counts (1,000s)

Mattapoisett Nemasket Back Monument

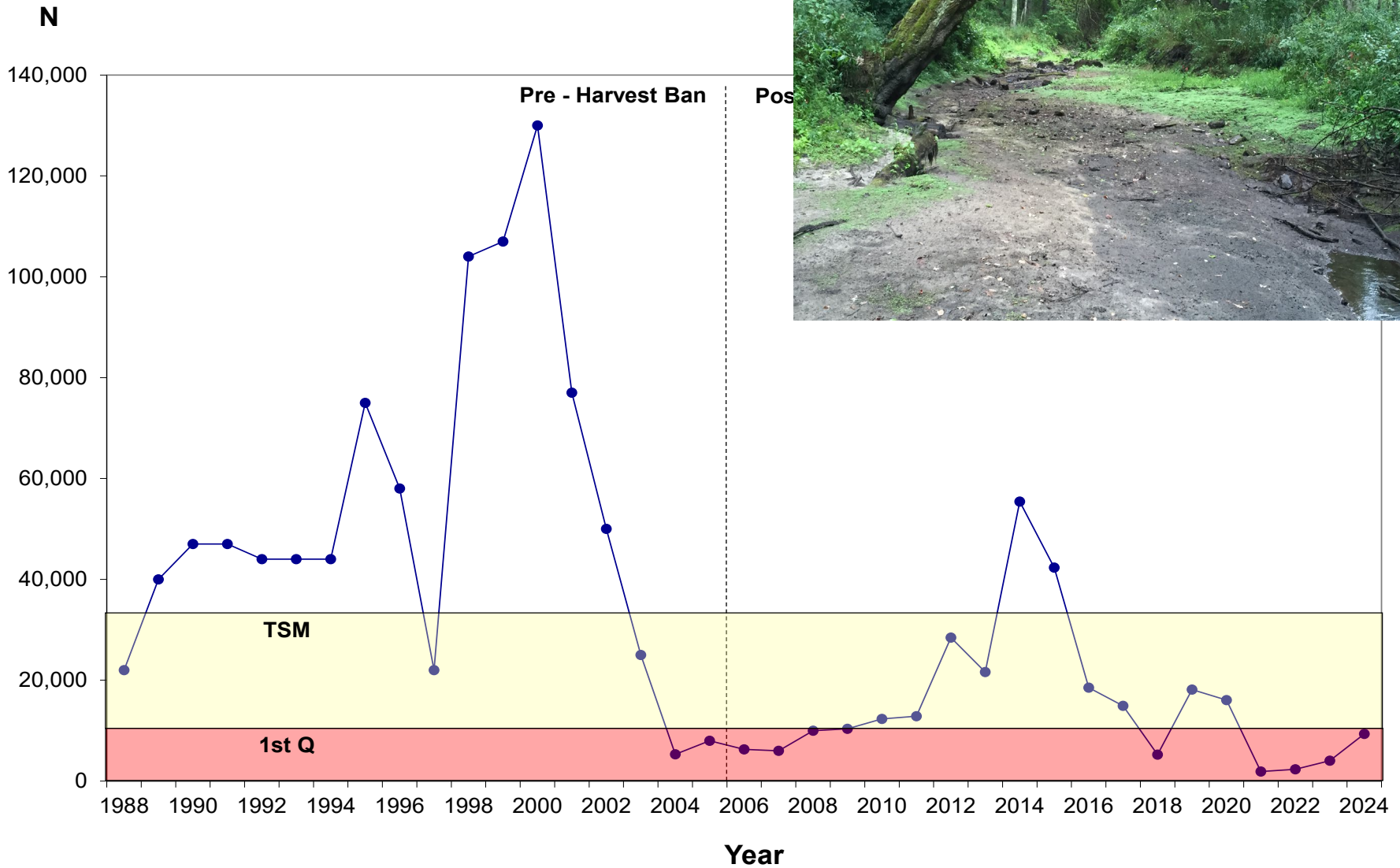


Nemasket River

N (1,000s)



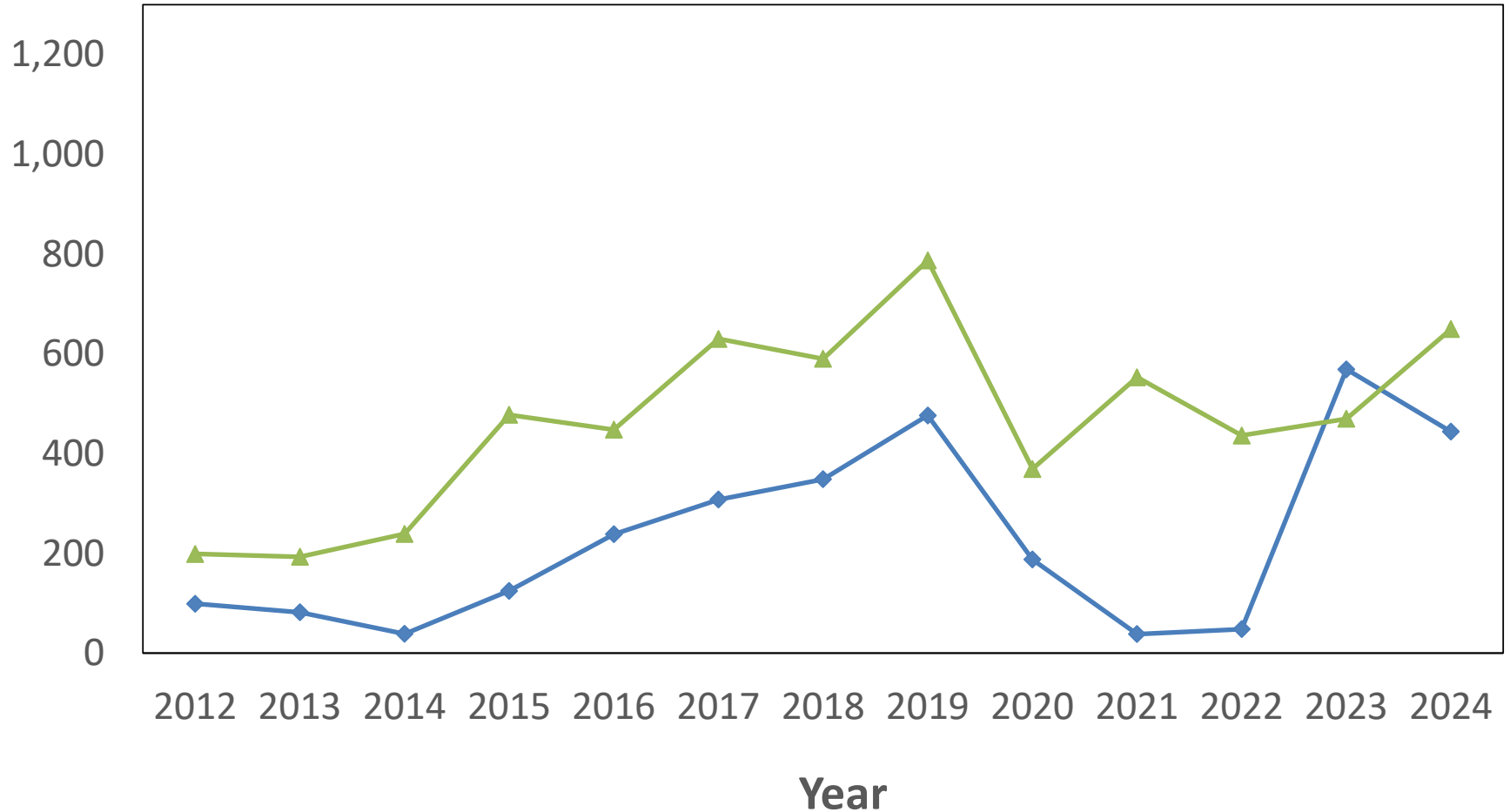
Mattapoissett



Top Herring Run Counts

Count (1,000s)

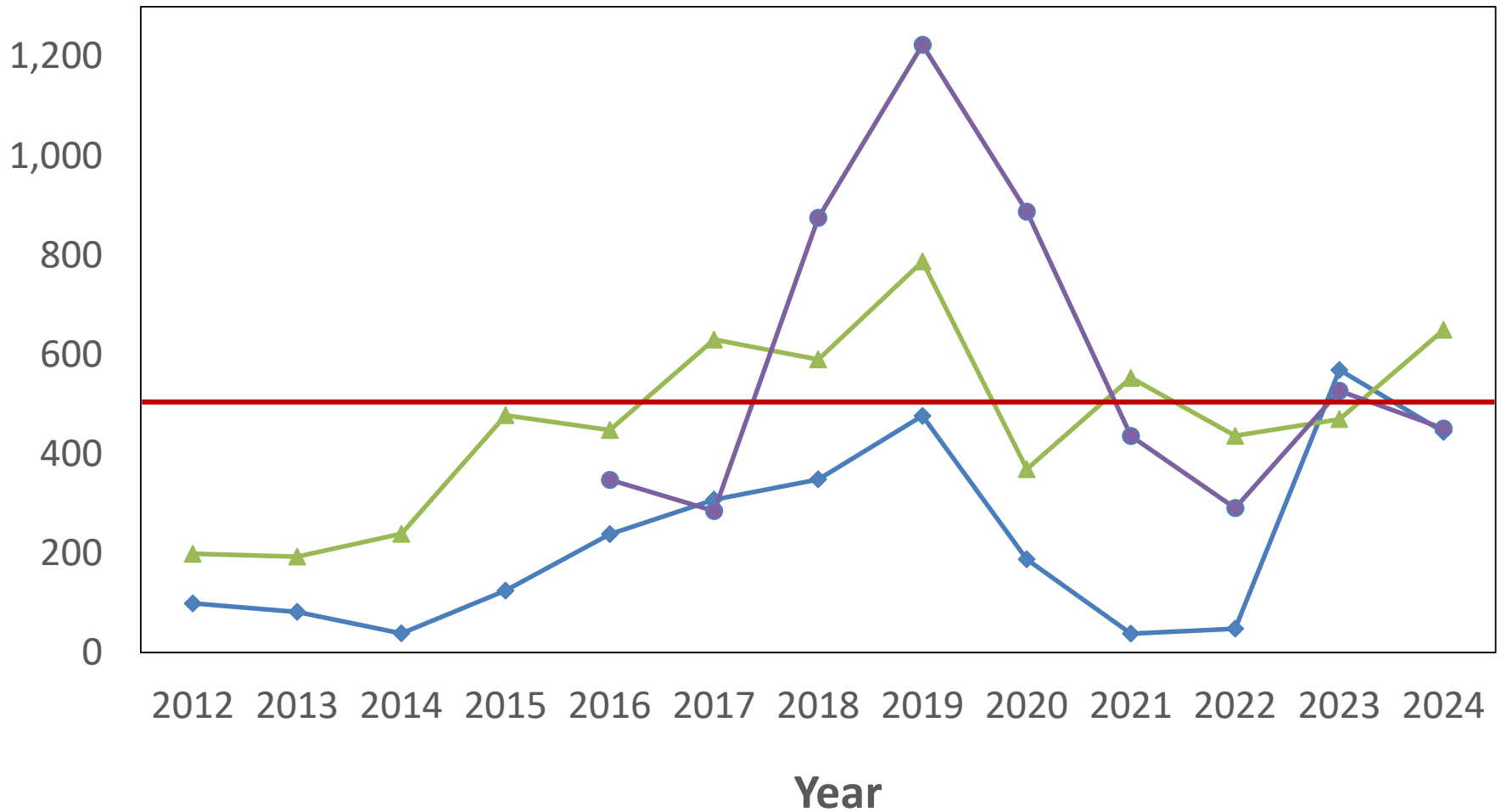
—◆— Pembroke —▲— Mystic



Top Herring Run Counts

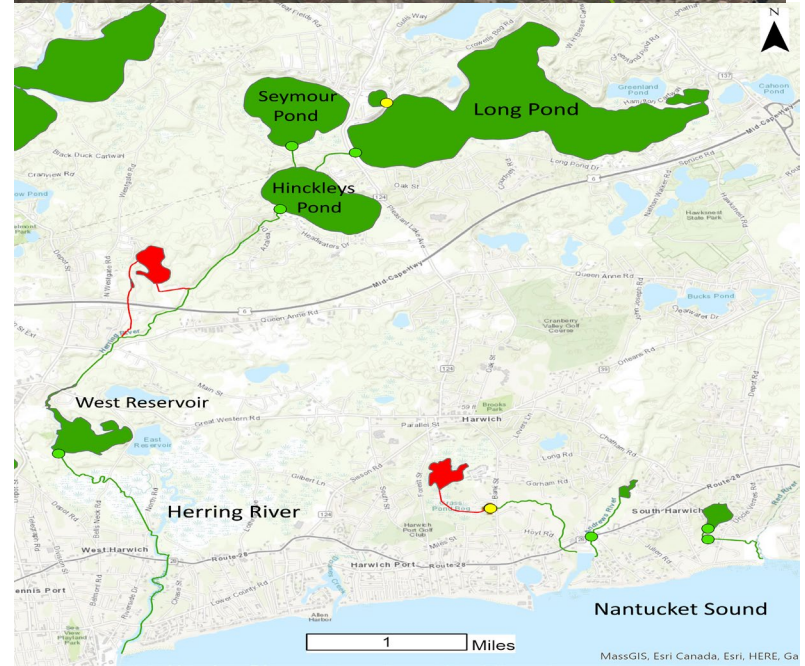
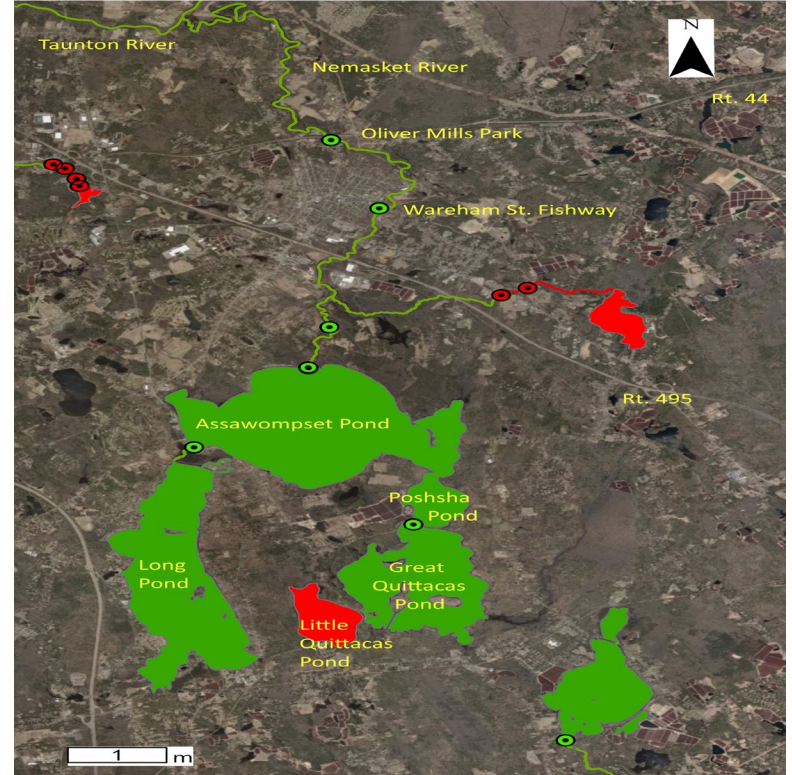
Count (1,000s)

—◆— Pembroke —▲— Mystic —●— Harwich

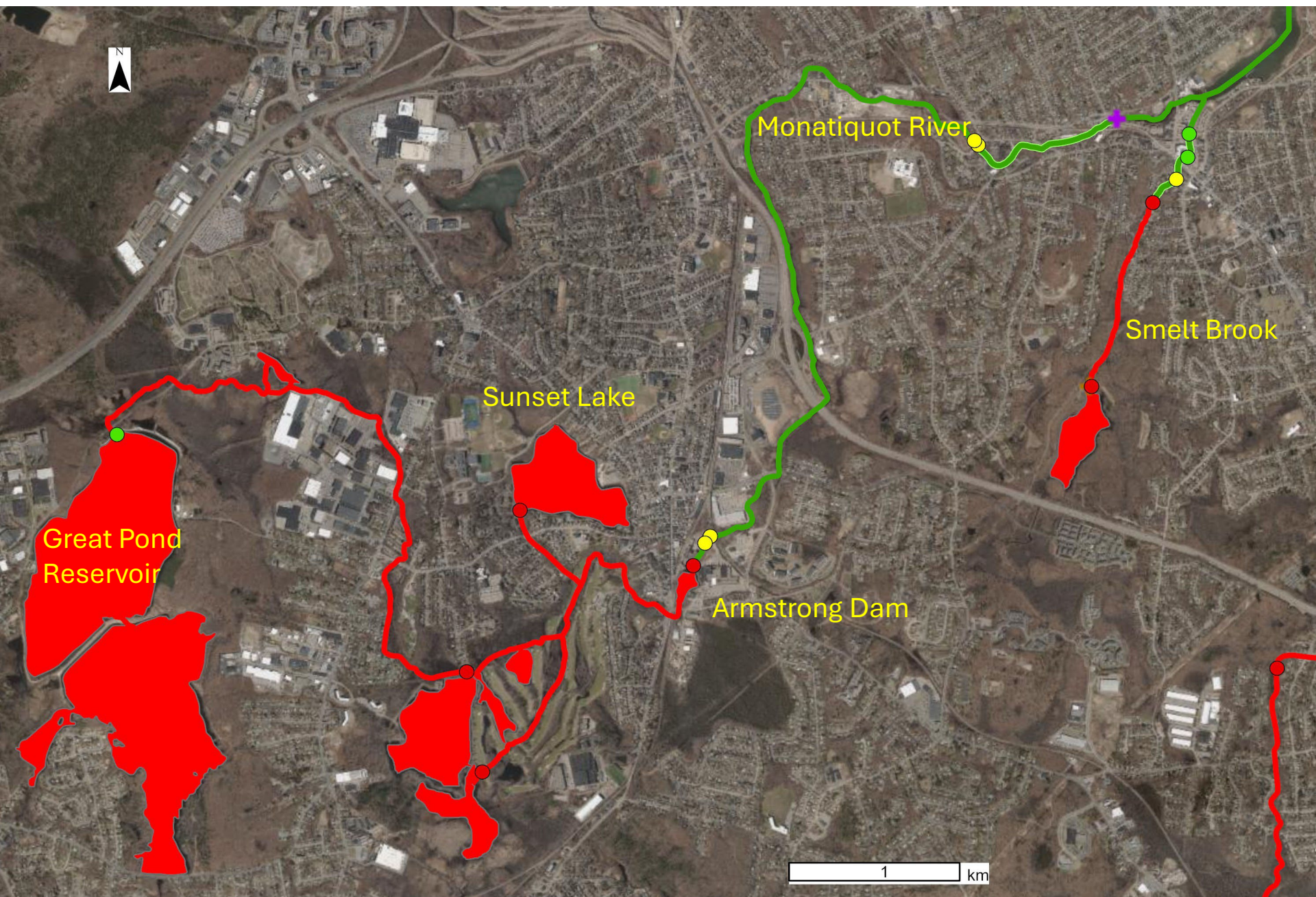


River Herring Harvest ASMFC Sustainable Fishery Mgt Plans

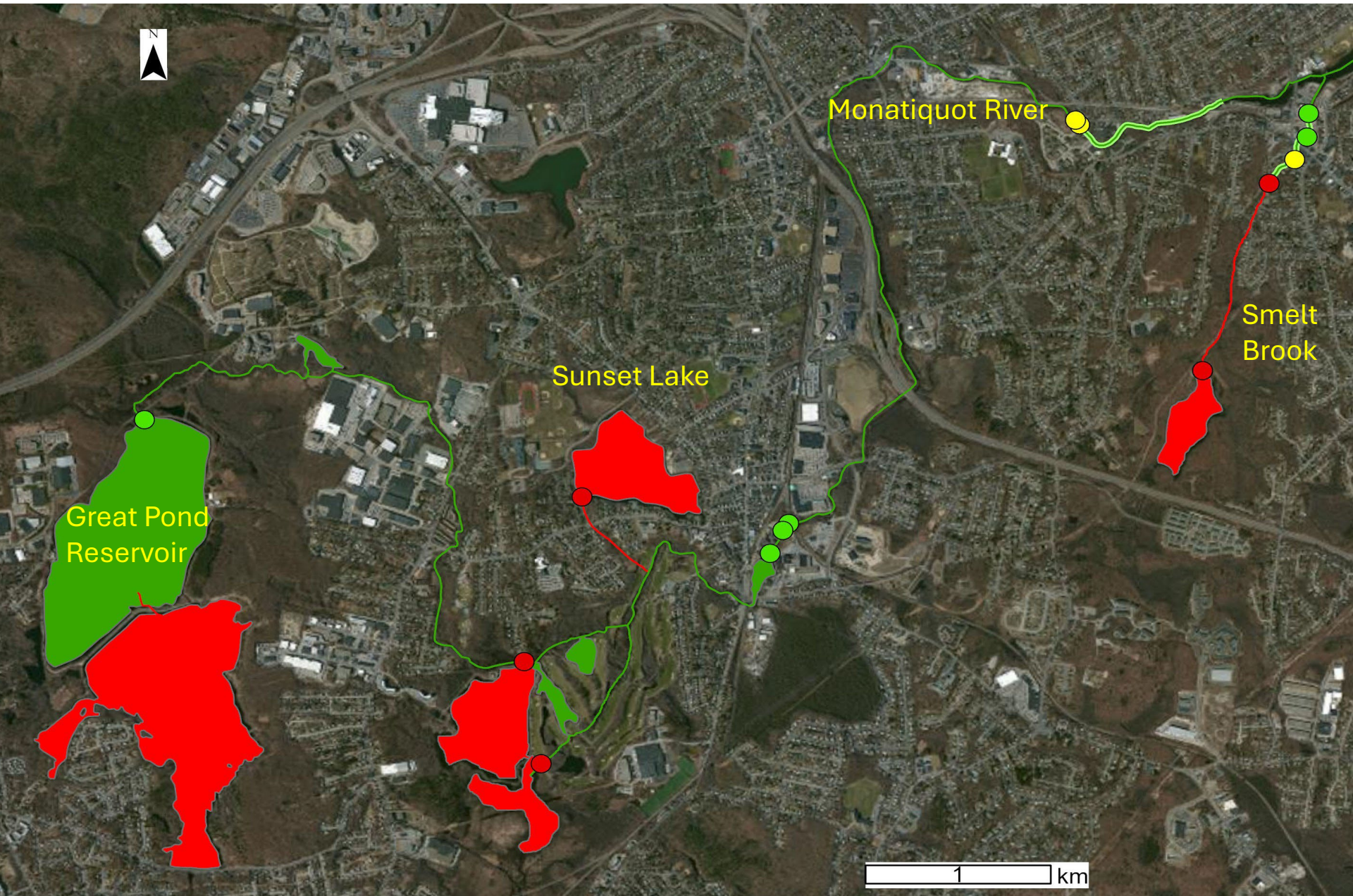
- Four Towns have requested DMF for harvest plans in the last 6 years
- Nemasket River plan renewed and Harwich approved in 2022
- Town of Pembroke has renewed request for SFMP in 2024



Fore River Watershed, Braintree - 2023



Fore River Watershed, Braintree - 2024





DMF Diadromous Fish Restoration Priority List – North Shore/Boston Harbor Region

Fore River –	Armstrong Dam / Rock Falls	1 st
Charles River –	Watertown Dam	2 nd
Mystic River –	Mystic Lakes Dam	3 rd
Neponset River –	Baker Dam	4 th
Aberjona River –	Scalley Dam	5 th

South River Marshfield

Veterans Park Nature-Like Fishway

- Dam removal with weir-pool fishway integrated to water wheel and lagoon pond at park
- At least 6 diadromous fish species present
- Town project with construction start any day



Stony Brook, Brewster

- Iconic park with grist mill
- DMF Fishway Crew rebuild upstream weirs in 2011
- Cooperative project to fully reconstruct downstream fishway going to bid
- Town of Brewster, NRCS, CCCD project under the Cape Cod Water Resources Restoration Project



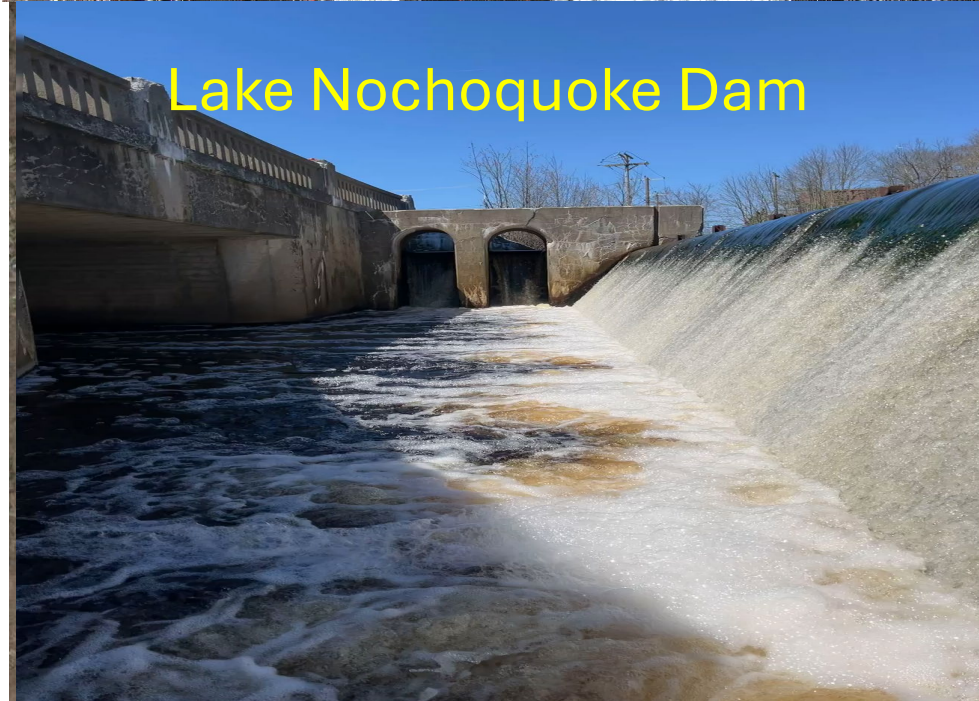
Sesuit Creek Culvert Replacement, Dennis



Mass DOT project contracted now to Robert Our Co. to replace two problematic culverts on Route 6A. Reoccurring passage blockages have caused significant impingement and predation mortality

Westport River, Westport

- Two impassible dams on the Westport River
- 165 acre spawning and nursery habitat at Noquochoke Lake
- USFWS surveys Forge Pond Dam and DMF funds feasibility/design study by GZA in 2021
- DMF funds design/permitting project by GZA, October 2023
- USFWS conceptual design in 2024 on upstream Noquochoke Lake Dam. Seeking MOU for fishway with the City of Fall River



WESTPORT GRANGE #181

A presentation and public meeting on

Fish Passage Restoration in the Westport River

by the Massachusetts Division of Marine Fisheries



November 19, 2024 5-6 pm (free)
931 Main Rd, Westport MA 02790

Questions:

westportgrange181@gmail.com;

Brad Chase, Mass. DMF brad.chase@mass.gov



DMF Fishway Crew - 2024



Snuff Mill Dam,
Parker River, Newbury



Acushnet River



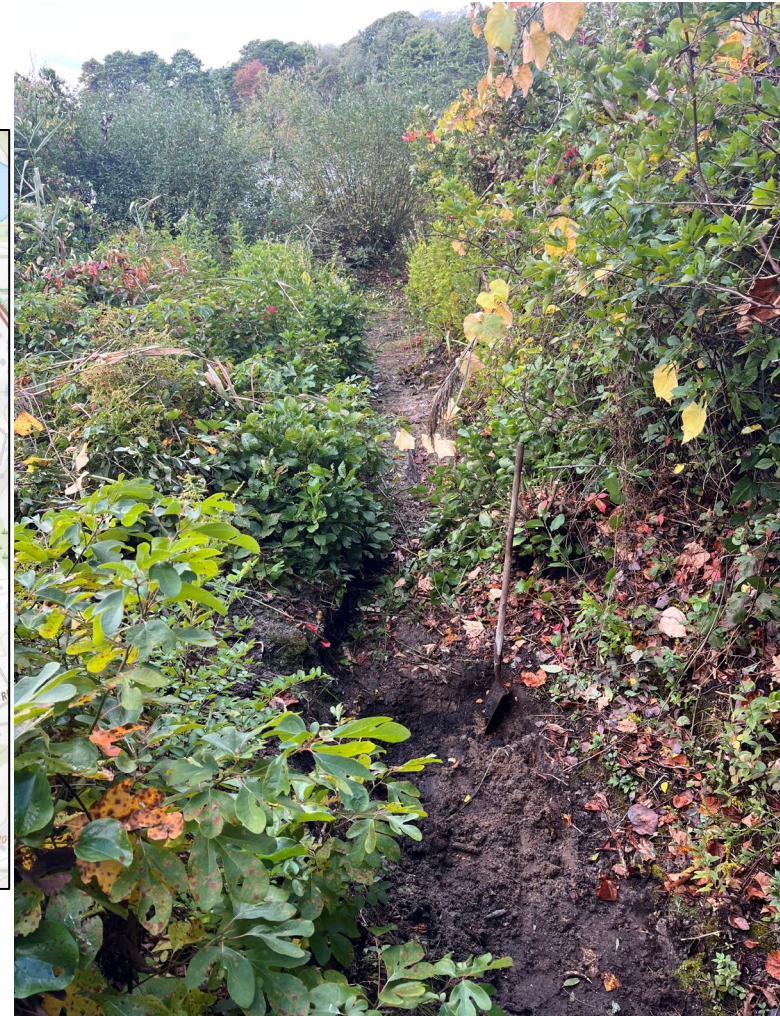
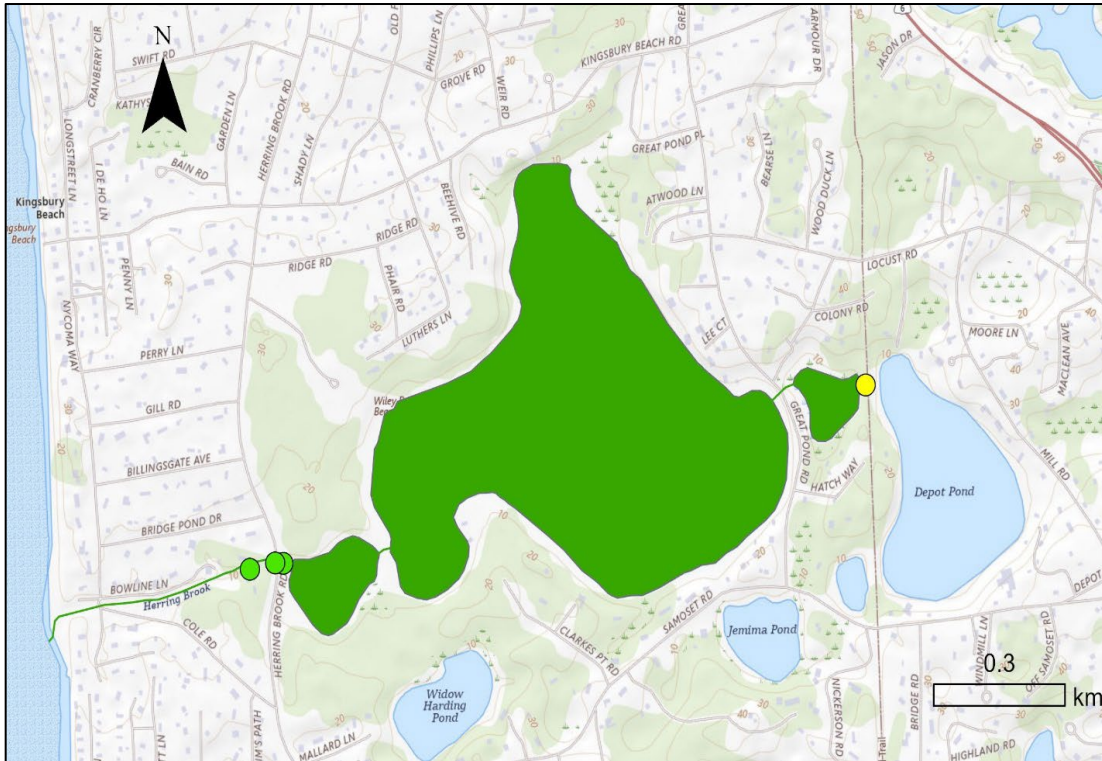
Herring Creek,
Aquinnah

Monument River, Cape Cod Canal, Bourne



Cooperative project with U.S. Army Corps of Engineers

Depot Pond, Eastham



River herring impeded from reaching 29-acre Depot Pond in Herring Brook Watershed. Removed large root ball from culvert, added a staff gauge and stop-log board slots, and grubbed out downstream channel

Herring Brook – Wings Pond, Falmouth



Extensive erosion disrupted the 10-weir in-stream channel fishway build by the DMF Fishway Crew in 1975. Cooperative project with the Town of Falmouth and cranberry bog owner to repair fishway.

Herring Brook – Wings Pond, Falmouth



Two week labor-intensive project that depended on DMF excavator and 5 DMF and 2 Falmouth staff.

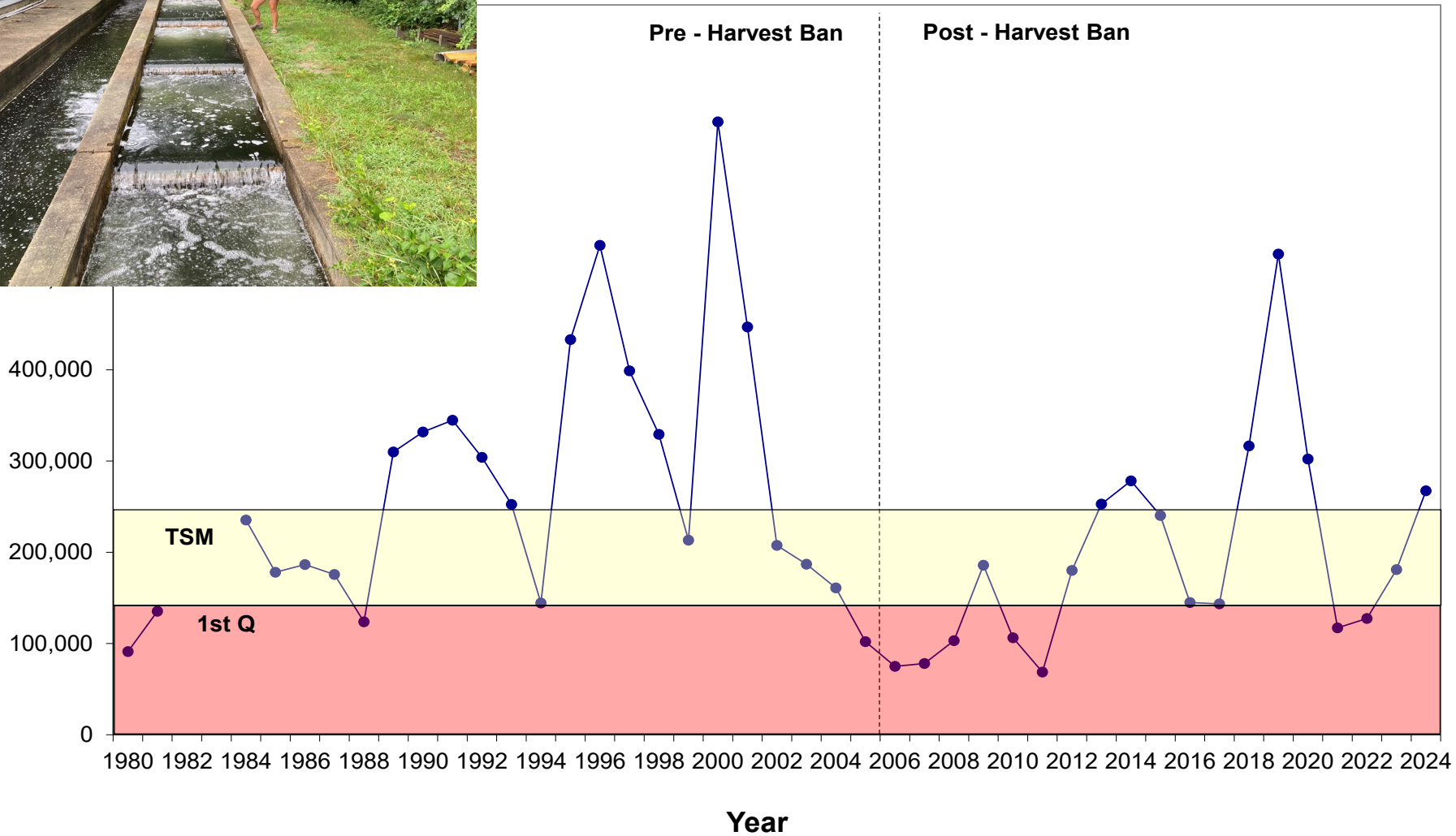
Herring Brook – Wings Pond, Falmouth







Monument River





Division of Marine Fisheries Marine Fisheries Permitting Program

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Online Commercial, Seafood Dealer, and Special Permit Renewals Available 12/24

Division of Marine Fisheries
Marine Fisheries Advisory Council Meeting
November 19, 2024

[Apply for Permits](#)

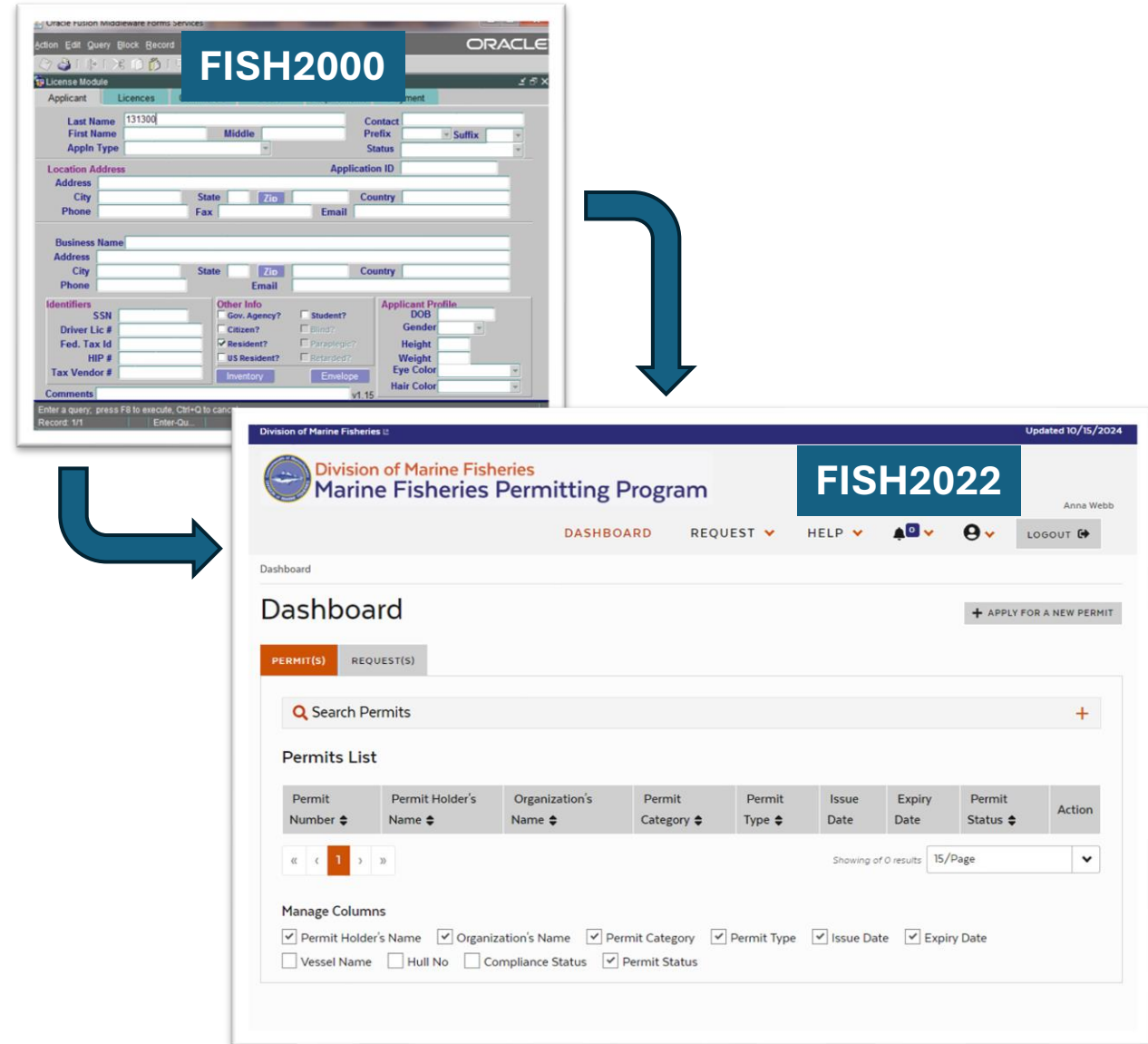
Commercial Fishing Permits, Seafood Dealer Permits, & Special Permits

Massachusetts is home to some of the nation's most productive commercial fishing ports, and the industry is

[Contact](#)

Background

- Project began in 2019 with a pause in 2020-early 2021
- Replaced a 20+ year old system
- Extensive work by DMF staff ensuring all business rules were met
- System launched for internal DMF users in January 2023
 - 2 renewals seasons completed to date
 - Permitting staff now comfortable with it
- Further development in 2023 and 2024 resulted in a stable system suitable for an external release



External Release: Approx December 15, 2024



Ongoing work prepping for the release to the public

Continued development fixing bugs
Adding enhancements
Preparation by staff to support users



System accepts credit cards and echecks for online transactions

Service fees apply

- Credit Card – 2.59%
- Debit Card – 2.09%
- ACH – \$ \$0.35 flat fee



Will formally announce in December 2024 with renewals

Website will launch with the mailing of renewals
Renewals will include an announcement
Advisory

Permit Holder Assistance

Webpage on how-to renew or apply for permits online

- To be launched in December
- Linked from the commercial & dealer permit application sites
- Includes a series of pdf help guides (English only currently but will have other languages)

Phone help desk available daily

- 617-626-1520
- Operated by DMF Staff, not a call center
- Available during business hours Monday-Friday
- Not available on holidays/weekends

No in-person office support offered during normal operating hours

- Staff must be available for paper renewal walk-ins and mail processing as well as the phone support
- In-person support hours may be available at a specific time each week in each office.

Goals & Expectations

- **Goal:** 25-40% of permits in year one will be done online
 - Slightly less than the number of permit holders reporting electronically
 - Depending on initial response, begin an email campaign in early 2025
- **Expectation:** Once accounts are claimed, permit holders should have a relatively smooth experience.
- **Expectation:** DMF workload will be high initially and may result in delays in responses.
 - Ensuring permit holders have access to the correct permits is the most complicated step
 - Requires high attention to detail and extensive staff time
 - This is expected to ease in future years
 - Staff also need to be available for paper mail & walk-ins
 - Expect to process online requests within the normal 10-business day turnaround

Notes & Reminders

- Credit cards cannot be accepted in the office. They can only be used with the online system.
- To renew any permit online, all permits belonging to a permit holder must be in compliance with reporting for the current and previous 2 years.
- All affidavits are digital when renewing online.
- Limited Entry and Striped Bass renewal deadlines still apply. Online renewals for those permits will not be available after the deadline. All appeals for exemptions made after the deadline require a paper application.
- Recommend using a computer or tablet over a phone for online renewals.
- We ask for patience during this launch.

Demo!



Questions?

Anna Webb

(cell) 978-559-1948

(email) anna.webb@mass.gov