MARINE FISHERIES ADVISORY COMMISSION
BUSINESS MEETING AGENDA
9:00AM
Thursday, October 22, 2026
SMAST East
836 S. Rodney French Blvd, New Bedford
Hybrid Login Link

1. Call to Order and Routine Business (9:00 AM)
   a. Introductions and Announcements
   b. Review of October 2026 Business Meeting Agenda
   c. Review and Approval of August 2026 Draft Business Meeting Minutes
2. Agency Updates (9:15 AM)
   a. Office of Law Enforcement: Personnel, Recent Operations & Marine Fishery Incidents
   b. Department of Fish and Game: Recent Meetings and Events and Department-wide Activities and Projects
   c. Division of Marine Fisheries: Personnel, Recent Meetings and Events, and Agency Activities and Projects
3. Action Items (9:45 AM)
   a. In-Season Adjustment to Commercial Black Sea Bass Limits
   b. MFAC Letter to EOEEA to Support Resources for MEP
4. Update on SMAST Management Strategy Evaluation for Channeled Whelk (10:00 AM)
5. Proposals for Future Public Hearings (10:30 AM)
   a. Whelk Minimum Size Management
   b. Recreational Shark Fishing
6. Updates and Discussion Items (11:00 AM)
   a. Quota Managed Species
   b. Commercial Striped Bass Management
   c. Federal Fisheries Management Update
   d. Changes to For-Hire Permit Application and Reporting
   e. North Shore Shellfish Relief Program
   f. DMF Decision to Stay Action on V-Notch Petition
7. Other Business and Public Comment (1:00 PM)
8. Adjourn (1:15 PM)

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.

Next Meeting Date

December 17, 2026
SMAST East, New Bedford

Marine Fisheries Advisory Commission
Final Business Meeting Minutes
August 26, 2026
Weston Public Library

Attendees

Marine Fisheries Advisory Commission: Shelley Edmundson (Chair); Bill Doyle (Vice-Chair); Chris McGuire (Clerk); Ray Kane; Sooky Sawyer; Ray Jarvis; Willy Goldsmith; Eric Nelson; Bill Amaru.

Division of Marine Fisheries: Dan McKiernan, Director; Bob Glenn, Deputy Director; Story Reed, Deputy Director; Kevin Creighton, Assistant Director; Jared Silva; Nichola Meserve; Sarah Ferrera; Bradlie Morgan. Virtually: George Davis; Tracy Pugh; Brad Schondelmeier; Anna Webb; Kerry Allard; Ben Gahagan; Luke Putaansuu; Emma Fowler; Elise Koob.

Department of Fish and Game: Tom O'Shea, Commissioner; Tori LaBate, Deputy General Counsel.

Massachusetts Environmental Police: Lieutenant Matt Bass; Captain Jack Chapin.

Members of the Public: Ray Rowell. Virtually: Brooke Kushwaha.

Call to Order and Routine Business

Chair Shelley Edmundson called the meeting to order.

Review of the August 2026 Business Meeting Agenda

Chair Edmundson asked if MFAC members had any amendments to the August 2026 business meeting agenda. There were no such amendments. The Chair then proposed moving agenda item 3f—"Belding Award Nomination"—to occur directly after Agency Updates. There were no objections**.**

The Chair called for a motion to approve the amended August 2026 meeting agenda. Ray Kane made the motion, and Bill Doyle seconded the motion. The motion passed by unanimous consent.

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Ray Kane and Jared Silva clarified that the location of the next Marine Fisheries Advisory Commission (MFAC) meeting will be at the Division of Marine Fisheries' (DMF) New Bedford office.

Kane then thanked DMF for quickly responding to a request to fix a recent inaccuracy on the website.

Review and Approval of July 2026 Draft Business Meeting Minutes

The Chair sought amendments for the July 2026 Draft Business Meeting Minutes. No amendments were proposed. **The Chair called for a motion to approve the July 2026 Business Meeting Minutes as drafted. Ray Kane made the motion, and Bill Amaru seconded the motion. The motion passed unanimously with the Chair abstaining.**

Agency Updates

Office of Law Enforcement: Personnel, Recent Operations & Marine Fishery Incidents

Captain Jack Chapin provided updates on behalf of Massachusetts Environmental Police (MEP). The summer season requires MEP officer presence at Department of Conservation and Recreation (DCR) parks and pools and this limits officer availability in the field, including within the coastal region.

MEP officers recently seized about 10,000 pounds of frozen lobster and crab product in Quincy. The case is still under investigation.

Edmundson asked about the fate of fish seized by MEP. Lt. Matt Bass and Capt. Chapin explained that the product is libeled but after that the process varies based on circumstance and public health considerations. In this instance, the product was donated for use as compost, but in other instances it may be sold to market, donated, or destroyed.

On personnel, six officers were hired in 2025. Three of these new officers will be stationed in coastal areas. Additionally, an entry exam was recently held for about 300 participants. However, there are no immediate plans for hiring from this candidate pool.

Lieutenant Matt Bass then described a recent incident concerning fixed gear marking violations. Bass then voiced appreciation for DMF's swift action in response to emerging shore-based shark fishing issues on Nantucket beaches.

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Sooky Sawyer asked about a recent gear conflict in Scituate. Bass and Chapin were not aware of the incident's details but would look into it.

Bill Doyle suggested the MFAC write a letter to the Governor in support of expanded staffing for MEP to increase enforcement capacity in the coastal region. Ray Kane concurred, noting the MFAC had produced such letters in the past. Chair Edmundson and Director Dan McKiernan indicated that a draft letter would be produced for the MFAC's consideration at their next business meeting.

Department of Fish and Game: Recent Meetings and Events and Department-wide Activities and Projects

Commissioner Tom O'Shea was not present at this time but arrived later in the meeting. At that time, he updated the MFAC on Department of Fish and Game (DFG) activities. The Division of Fisheries and Wildlife hired a new Director, Eve Schluter. Additionally, the Commissioner remarked on the continued impact of the hiring freeze. MFAC reappointments are in progress.

Division of Marine Fisheries: Personnel, Recent Meetings and Events, and Agency Activities and Projects

Director McKiernan shared that he and Commissioner O'Shea recently attended events in Gloucester with Governor Healey and Lieutenant Governor Driscoll. This included a visit to Fishermen's Wharf—owned and operated by the Giacalone family—to witness the impact of Food Security Infrastructure Grants on shoreside infrastructure. Later that same day, the names of those lost on the F/V Lily Jean were added to the Fishermen's Memorial in Gloucester, and the Fishermen's Wives statue was rededicated. Dan expressed gratitude for the Governor's interest in DMF's work.

The Governor allocated $300,000 in relief funds to support commercial clam diggers impacted by shellfish closures due to the Haverhill sewage treatment plant failure. Dan remarked on the acute impact of this event and the all-of-government response to ensure open communication and timely shellfish area reopenings.

Sawyer asked about eligibility criteria for the shellfish relief funds. McKiernan explained the program used SAFIS records and considered shellfish landings over the past three years to determine eligibility and payment. In total, 170 people were deemed to be eligible and about 140 had applied. Applicants who did not initially qualify were provided with a process to appeal the agency's initial determination.

Bill Doyle expressed support for this effort. He wondered whether a similar approach could be considered in response to shellfishers impacted by closures caused by

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Combined Sewer Overflows (CSOs). McKiernan and Doyle discussed the differences in these two issues, specifically that the Haverhill incident was the result of an acute treatment plant failure that resulted in a series of emergency closures to safeguard public health, whereas CSOs present persistent infrastructure issues that degrade water quality and produce predictable rainfall-related closures. However, McKiernan noted that DMF has been able to hire two additional staff members to support water quality testing and lab work related to the CSO issue in an attempt to minimize the economic impacts.

McKiernan and Bill Amaru discussed a recent event to observe the biomedical horseshoe crab fishery on Cape Cod. McKiernan joined Representative Hadley Luddy (4th Barnstable) on a tour of the various businesses working under the umbrella of Charles River Laboratories. McKiernan expressed the importance of Rep. Luddy seeing how these operations work given the bill seeking to ban the harvest of horseshoe crabs. Kane and McKiernan discussed the status of this bill. McKiernan anticipated the bill will not move forward this session but will be reintroduced in future sessions and require continuing efforts by DMF to inform legislators and the public about the horseshoe crab resource and fishery.

McKiernan noted an area of dispute regarding the biomedical fishery is mortality rates, and in particular, post-release fitness and mortality. To begin to better understand these issues, DMF is conducting an acoustic tagging study on bled and released crabs. Ray Kane, Chris McGuire, and the Director discussed the lifetime of acoustic tags. The tags will likely last a few years, though they will be shed as crabs molt.

Kane then asked about data from this year's horseshoe crab spawning beach surveys. McKiernan explained that most regions are experiencing population growth. However, upper Buzzards Bay continues to decline despite harvest not taking place. McKiernan hypothesized that springtime beach grooming at Swifts Beach in Wareham may have been contributing to loss of eggs. DMF has subsequently recommended beach grooming be delayed until after the spawning season.

Belding Award Nominations

Director McKiernan then shared that Bob Glenn had nominated Laura Ludwig of the Center for Coastal Studies for the 2026 David Belding Award. Throughout her career, Ludwig has contributed to removing marine debris from the environment and meticulously documenting recovered derelict gear. Her work has helped determine the success rates of ghost panels in pot traps, informed recent modifications to derelict gear regulations, and facilitated close collaboration among researchers, managers, and fishermen.

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The Chair asked for a motion to nominate Laura Ludwig for this year's Belding Award**. Ray Kane made the motion to nominate Ludwig, and Sooky Sawyer seconded the motion. The motion passed unanimously with the Chair abstaining.**

Edmundson applauded the nomination and approval of Laura Ludwig for the Belding Award, highlighting her contributions to ghost gear removal in particularly challenging areas like Nomans Land.

Kane remarked on Ludwig's research concerning the biodegradability of escape panels on pot gear and the risk of prolonged ghost fishing. McKiernan expressed interest in exploring this issue at a future meeting.

Updates and Discussion Items

Emergency Regulations to Extend White Shark Fishing Restrictions

Jared Silva then updated the MFAC on emergency regulations enacted this summer to extend shore-based white shark fishing restrictions to the Town of Nantucket. In 2025, DMF promulgated rules to prohibit the use of metal or wire leaders exceeding 18 inches length coupled with a hook with a gap exceeding 5/8 inch when fishing from shore from Plymouth Point around the coast of Cape Cod Bay and the Atlantic coast of Cape Cod to Stage Harbor, including all of Monomoy Island. Nantucket was not included in the initial prohibition because there was not substantial evidence of anglers targeting white sharks on Nantucket beaches and there is a history of other shore-based shark fishing for other species. However, this recent emergency action responded to changes in angler behavior, likely driven by social media, that resulted in the expansion of shore-based white shark fishing to Nantucket this year. This activity produced a significant amount of public outrage and user-group conflicts, particularly following a beach closure due to an angler starting to chum and fish for white sharks at Nobadeer Beach next to a surf school in the middle of July. This incident resulted in the Nantucket Harbormaster and Chief of Police requesting DMF extend its gear restrictions to prevent white shark fishing to the Town of Nantucket due to public nuisance and safety concerns.

Dan added that the emergency regulations will expire in October. DMF intends to investigate amending its shark fishing rules for 2027 to better address the expansion of this activity and will meet with stakeholders this fall, including a September 10 meeting on Nantucket. The MFAC will be updated on this initiative at a future meeting.

McKiernan, Silva, Kane, and Edmundson discussed the potential expansion of white shark fishing rules to Martha's Vineyard and concerns about how DMF may be unintentionally encouraging this activity on the Vineyard by displacing it from the Cape and Nantucket. DMF noted that expanding the spatial extent of the rule will be

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considered for 2027 and was part of recent deliberations on the emergency regulation. Ultimately, the Vineyard was not addressed in the emergency rule out of an interest of having it narrowly apply to where there were documented public safety issues. Additionally, fishing access on the Vineyard is limited compared to Nantucket due to the private ownership of south facing beaches.

Lieutenant Bass, Willy Goldsmith, and Silva discussed the likely evolution of angler behavior and how to best address it over time. Public comment will better inform this approach.

Ray Jarvis remarked on the limitations of gear restrictions in prohibiting white shark fishing. He wondered whether geographic restrictions could help target the areas with greater public safety risk.

Quota Managed Species

Story Reed provided the MFAC with an update on the performance of 2026 quota managed fisheries through late August.

Striped Bass

The striped bass commercial fishery closed on August 5 at 103% of the quota landed. The 20,000-pound overage amounting to about a half day of fishing. In 2025, the fishery closed at 99.97%. The fishery trended close to previous years; however, weekly catch rates varied throughout the season, making it challenging to project. Ex-vessel value was slightly higher than in previous years.

Sawyer asked about distribution of fishing activity across the state. Reed explained that harvester data are not yet available to analyze the spatial distribution of catch in 2026. However, based on preliminary dealer data, it appeared to be distributed statewide.

Goldsmith asked about the average size of the fish landed this season. DMF has not yet analyzed market data for 2026 but this information can be made available at a later date. Eric Nelson remarked that the fish appeared to be larger this season than in previous years.

Menhaden

The directed fishery opened on May 15 at a 120,000-pound limit and a quota that was decreased by 20% from 2025. On June 8, the trip limit dropped to 25,000 pounds after the landings reached 50% of the quota. Massachusetts entered the Episodic Event Set Aside (EESA) fishery on July 28 after 100% of the quota was landed. The ex-vessel value is slightly higher than last year.

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Director McKiernan noted how an adjustment to the triggers adopted in 2025 had made it more possible for landings to reach 100% of quota prior to September 1, thus enabling access to the EESA.

For 2026, both Massachusetts and Maine opted into the EESA. Massachusetts maintained its 25,000-lb limit during the EESA. Maine's landings of around 900,000 pounds-per-day had allowed the state just two open days in the EESA.

Kane asked how much of the EESA quota has been landed by Massachusetts. Meserve and Reed explained that a little more than half has been taken by Massachusetts.

Kane, Sawyer, Meserve, Reed, and Director McKiernan then discussed state-to-state quota transfers. As in prior years, DMF may consider seeking such transfers to maintain the commercial fishery into September.

Chris McGuire applauded DMF for creating this fine-tuned and adaptive management system. He then raised pending actions at the interstate level such as: next year's Total Allowable Catch (TAC), the Chesapeake Bay Reduction Fishery Cap (Bay Cap), and quota reallocation among states. Meserve noted that this would be addressed during the discussion on interstate management later in the meeting.

Bill Amaru voiced concern about the overharvest of menhaden in the Chesapeake Bay impacting the coastwide stock, as well as populations of osprey. He was also curious about the potential future discussion on reallocation.

Kane spoke on changes in distribution of menhaden since the establishment of the allocations. Meserve and Kane discussed the history of the fishery's management and the EESA. Reallocation has occurred twice under this current system. Meserve added that Northeast states continue to discuss distribution and reallocation.

Kane asked about reports on the average size of menhaden this year. Meserve will report back on this at a future meeting.

Summer Flounder (Fluke)

The fluke quota increased in 2026 by 75% compared to 2024 and 2025. 39% of quota has been landed and there is not yet a projected closure date. Additionally, ex-vessel value is slightly higher this year than in recent years.

There are a number of pending triggers in place to adjust trip limits depending on the remaining quota to ensure ample access to the resource through the fall. Most relevant is the pending trip limit increase to 1,000 pounds for all gear types on September 1 if more than 20% of quota remains.

Amaru remarked on the significant number of small fish found this year. He is hopeful for future years' performance.

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Bait Horseshoe Crab

68.4% of the bait horseshoe crab quota has been landed. The trip limit will drop to 200 crabs if 80% of the quota is taken before September 15. Landings are trending close to previous years, and ex-vessel value is slightly higher than previous years.

Black Sea Bass

The fishery opened on July 1 with a quota of just over 1-million pounds (about 30% higher than 2025). Nearly 40% of quota has been taken, and the projected closure date based on recent landings is October 26, though this is expected to change as daily landing rates decrease in the fall. No fishing days will be eliminated on September 1 and there is a pending trigger to increase the trip limit if more than 15% remains on September 1. Ex-vessel value is tracking similar to last year.

Silva added that the multi-day pot program has been positively received by fishermen, particularly on Martha's Vineyard. Typically, the multi-day pot program is not initiated until mid-summer; however, it started July 1 given the elevated quota and high fuel costs.

Scup

Scup landings and ex-vessel value are closely following previous years. The quota is 34% fulfilled, with some quota transferred to Connecticut. There is no projected closure date yet.

Bluefish

Bluefish landings are trending much slower than previous years, with 5.2% of quota being landed so far.

Nelson voiced concern about the loss of bluefish in the area. Jarvis added that he has seen bluefish in greater numbers around the South Coast, specifically around offshore wind farms. He remarked on them being inshore early in the season and moving offshore later in the season.

Meserve noted that the upcoming stock assessment will suggest the stock has been rebuilt, according to current projections.

Kane, Nelson, and Meserve discussed changes in bluefish distribution. Meserve added that North Carolina is trending above previous years, requiring a quota transfer from Massachusetts for the second consecutive year. Nelson recommended communicating these changes to anglers who are concerned about changes in distribution.

Spiny Dogfish

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Spiny dogfish landings have slightly increased compared to previous years, with 9.24% of coastwide quota fulfilled. Average price has also slightly increased in recent years.

Interstate Fisheries Management Update

Nichola Meserve then provided a routine update on the August 2026 Atlantic States Marine Fisheries Commission (ASMFC) meeting and the August joint meeting of the Mid-Atlantic Fishery Management Council (MAFMC) and the ASMFC.

The ASMFC's Spiny Dogfish Board approved an experimental weekly aggregate limit proposal to exempt certain fishers from the current 7,500-lb trip limit and authorize a 37,500-lb weekly aggregate limit. This is being done to evaluate whether greater regulatory flexibility will enhance economic productivity and quota utilization. This program is contingent on the issuance of a federal Exempted Fishing Permit from NOAA Fisheries. If approved, as early as September 1, the program will allow up to 50 vessels from across New Hampshire, Massachusetts, Rhode Island, and Connecticut to fish under the weekly aggregate limit throughout the remainder of this calendar year or until 80% of the Northern Region's 2026 quota is landed.

The Menhaden Board approved Draft Addendum II to the Fishery Management Plan (FMP) for public comment. This draft addendum proposes revisions to the Chesapeake Bay Reduction Fishery Cap, including reducing it, establishing quota periods, and linking future changes to changes in the coastwide quota. Public hearings will be held during early fall with a New England states webinar on September 29. At the upcoming November ASMFC meeting, the Menhaden Board is expected to consider final action on Addendum II, set the coastwide TAC for upcoming year(s), and revisit discussions regarding quota reallocation among states.

Sawyer asked about the timeline of the management decisions. Meserve explained that decisions about the TAC for the next several years will be based on the 2025 stock assessment and updated projections, similar to the information used to set the 2026 TAC. At that time, the Board had considered setting the TAC for three years, but could only pass a one-year TAC due in large part to concerns about socioeconomic impacts. Meserve and Sawyer then discussed likely outcomes for the TAC. Meserve explained that the TAC will likely remain status quo or decrease.

McGuire asked whether the Board intended to set the TAC annually or over multiple years. Meserve explained that the Board may choose to do either. McGuire and Meserve then discussed the public outreach process for these decisions.

Meserve explained that the Tautog Board postponed the approval of Draft Addendum I for public comment until stock projections can be updated with realized 2025 catch and

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projected 2026 catch. The draft addendum does not propose changes to the Massachusetts-Rhode Island region, but due to the magnitude of reductions proposed in other regions, the timing of the next tautog stock assessment was moved up from 2029 to 2028 to incorporate the revised MRIP numbers sooner given the contribution of the recreational fishery to total removals.

Additionally, the Striped Bass Board approved a letter to NOAA's Office of Aquaculture in opposition to the development of offshore striped bass aquaculture due to numerous concerns and unanswered questions.

Goldsmith noted that this initiative would contribute to the seafood market. McKiernan described a similar aquaculture project off the west coast which ultimately failed likely due to suboptimal environmental conditions.

The Board also received the Striped Bass Fishery Management Plan Review for 2025, which documented a 25% reduction in total 2025 fishery removals driven primarily by reduced recreational catch and effort. Public discourse indicates that some see this as highlighting ongoing poor fishing conditions and foreshadowing a pending stock collapse given ongoing recruitment failure, whereas others view this as the fishery achieving conservation objectives without additional regulation. Management action is unlikely prior to completion of the ongoing benchmark stock assessment, which is due to be presented to the Board in August 2027. However, the Board has assigned a series of tasks to inform future decision making and this work is expected to commence this fall. Meserve remarked that the pending assessment will include recalibrated MRIP data.

Eric Nelson voiced concern about the lack of small fish in the population and the number of large fish in the population, suggesting the population's health is declining. He worried if management changes waited until 2028, the stock would not recover.

Kane asked when the most recent young of year (YOY) survey data from Maryland will be available. Meserve responded that this will likely be released in mid-October.

McGuire asked about the actions being taken on striped bass at the upcoming ASMFC meeting. Meserve explained that there will be several updates given, but that there are no planned action items that might change management for 2027.

McKiernan asked to clarify the significance of a reduction in removals. Meserve explained that this was a 25% reduction in total removals in 2025, with commercial harvest down 4%, meaning most of the change was due to the recreational fishery. Recreational data showed that directed trips declined by 12%, suggesting that some decline in harvest was attributed to reduced effort. McKiernan wondered whether there would be ASMFC pressure on states to reduce commercial fishery quotas sooner.

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Meserve provided some background on the decision by the Board to not reduce harvest in 2026, including catch data suggesting the projections may be overly pessimistic. The Board decided to focus on exploring other management tools through a work group.

Nelson and Bill Doyle reiterated concerns for the health of fishery, citing the size of fish—particularly the lack of small fish being caught—as a discouraging sign.

Jarvis remarked on recreational anglers' frustration in the discrepancy in size limits across the recreational and commercial fisheries.

McKiernan provided some background on size differences. The difference across the sectors is in part to help simplify enforcement. However, management does worry about fish landed by commercially-permitted fishers that are not sold being underreported. In theory, recreational and commercial fishers could be held to the same size limit if the MFAC chooses to support it. This is further complicated by the effort to reduce the number of striped bass commercial permits in the state.

Nelson and McKiernan discussed potential approaches to considering size limits for the commercial and recreational sectors in 2027.

Meserve then explained that the Winter Flounder Board agreed to a process for improved coordination with the New England Fishery Management Council in the setting of annual catch limit specifications to enable potential state waters management flexibility.

The Lobster Board received several updates, including that on the process to develop a Gulf of Maine Lobster Management Strategy Evaluation, and on the opportunity for public comment through October 14 on NOAA Fisheries' Request for Information regarding the potential use of ropeless gear.

The MAFMC and ASMFC are holding a Recreational Sector Separation Workshop on September 23–24 to gather stakeholder input on the range of alternatives for mode-specific management approaches that would assign different measures to the for-hire fishery and for-hire permitting and reporting requirements to support such approaches. The draft amendment that the workshop is designed to inform is specific to summer flounder, scup, black sea bass, and bluefish recreational management. A workshop report will be provided to the ASMFC and the MAFMC to help develop the options for public comment next year.

The MAFMC and ASMFC did not approve changes to previously set specifications establishing the recreational harvest limits and commercial quotas and measures for summer flounder, scup, black sea bass, and bluefish. However, revisions were made to provide NOAA Fisheries with greater flexibility in managing the Winter period scup quotas. This includes allowances to waive season overages if the annual quota is not

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exceeded and to use projected landings and discretion to assess in-season trip limit adjustments during the Winter I fishery (January 1–April 30).

Kane and Amaru thanked Dan for submitting the letter in support of the MAFMC creating an allowance for fluke bycatch. McKiernan and Meserve explained that the MAFMC will consider whether to take this up in 2027 when approving its annual action plan later this year.

Commercial Fisheries Commission

Story Reed updated the MFAC on the July 16 meeting of the Commercial Fisheries Commission (CFC) in Boston. The meeting focused on economic development and approving the 2025 Annual Report. Members from the Executive Office of Economic Development, Seaport Economic Council, MassDevelopment, Maritime Strategy Initiative, Mass Port and the USDA Office of Seafood joined the CFC to discuss economic development and the CFC's Economic Development Focus Group reported on its work and outlined a series of recommendations to protect working waterfronts, invest in the future of the industry, and increase seafood demand. Strategies to achieve these recommendations included investing in port infrastructure, developing innovation and resilience, and incentivizing processors and institutional purchasing.

Additionally, DMF reported that the 5-year Port Profile Project update will be released in fall 2026.

Seafood Marketing Update

DMF's Seafood Marketing Program kicked off its "Flat is Back" campaign to improve the marketing of underutilized and undervalued flounder species. This campaign involves a council of ten chefs throughout the Commonwealth who will develop special flounder offerings at their restaurants, promote these offerings through social media, and facilitate a media showcase event at the Boston Fish Pier on September 14. The purpose of this campaign is to encourage the consumption of flounder species with the goal of increasing demand and ultimately the ex-vessel value provided to commercial fishers.

Chris McGuire asked how the project is measuring success. Reed described social media and press metrics. McKiernan, Reed, and Amaru discussed the importance of witnessing the impact on the price paid to harvesters, as well. McGuire wondered how the impact of improved flounder market could be seen in neighboring states.

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Edmundson remarked on the potential to incorporate this work into school lunches. Reed agreed and shared that Wendy Wills of the Seafood Marketing Program is working to develop statewide contracts for schools.

Presentations

Commercial Permitting and Discrimination on Basis of Residency

Tori LaBate of the General Counsel's Office for the Department of Fish and Game provided a legal analysis on residency-based requirements for commercial fisheries permitting. The Privileges and Immunities (P&I) Clause of the 14th Amendment to the U.S. Constitution requires that residents' and non-residents' privileges to operate a business are equally protected across states. The Supreme Court has found that commercial fishing is protected under the P&I Clause, unless non-residents are a "peculiar source of evil" and any attempt to resolve this peculiar source of evil must narrowly target the direct issue and not broadly discriminate on the basis of residency.

LaBate outlined case law concerning commercial fishing discrimination by residency, which distinguished between appropriate and excessive fees on non-resident permit holders.

Goldsmith asked about differences in recreational and commercial permits. LaBate explained that the P&I Clause protects the ability to earn a livelihood, which includes commercial fishing. There are other laws and precedents that addresses residency discrimination in recreational fishing, and the bar for acceptable discrimination is lower.

Sawyer and McKiernan discussed how this impacts the renewal and transfer of Coastal Lobster Permits in Massachusetts and how other states discriminate against non-residents in their commercial permitting programs. Dan noted DMF is drafting a letter to Rhode Island raising these exact issues. LaBate noted that litigation may be required to have states address specific discriminatory rules governing commercial fisheries permitting.

Amaru wondered whether a proven negative impact on a resource could permit discrimination by residency. LaBate explained that permit fees can be made equivalent to state fees paid by residents. McGuire, Silva, and Amaru discussed this further.

Jack Chapin asked whether the Public Trust of Wildlife Doctrine applied. Commissioner O'Shea and LaBate explained that it is not applicable to commercial fisheries for marine species.

Director McKiernan remarked on the complicated nature of migratory fish. He wondered if stationary species, such as shellfish, are regulated differently. LaBate noted that there have been attempts to use this argument to discriminate against non-residents that have been unsuccessful.

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Nelson wondered whether commercial fisheries that do not exist in other states can be limited. LaBate explained that the Constitution protects basic national privileges, regardless of state residency. Silva noted that reciprocity has been used to limit access to certain fisheries in Massachusetts (e.g., urchins) and has been unchallenged. However, using reciprocity as a restriction to limit commercial striped bass fishing would likely be challenged and viewed as a ban in effect.

Lt. Bass asked to clarify if there would be a difference in regulating fishery endorsements or boat permits. Silva explained that these would be treated the same.

Commissioner O'Shea, Director McKiernan, McGuire, and Sawyer discussed how this might apply to raising fees for permits and differences in fee structures by residency. Kane, LaBate, Silva, and Jarvis remarked on the rationale behind price differences by residency.

Doyle asked whether this can be applied to discrimination of commercial shellfish permits by town residency. Edmundson remarked that this impacts shellfishers on Martha's Vineyard. LaBate offered to examine this in more detail.

Other Business and Public Comment

The Chair invited public comment. There was no public comment.

Edmundson asked for motion to adjourn. **Ray Kane made a motion to adjourn, and Willy Goldsmith seconded the motion. The meeting was adjourned.**

Next Meeting

October 22, 2026

DMF's New Bedford Office

836 S Rodney French Blvd, New Bedford, MA

Meeting Materials

- August 26, 2026 MFAC Business Meeting Agenda
- July 14, 2026 MFAC Draft Business Meeting Minutes
- Emergency Rules to Extend Shore-Based Shark Fishing Rules to Town of Nantucket Memo
- Presentation on Emergency Shark Fishing Regulations
- Presentation on 2026 Quota Managed Species Update

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- ASMFC 2026 Summer Meeting Summary
- Letter to MAFMC on Summer Flounder Incidental Catch Permit from DMF
- Presentation on Interstate Fisheries Management Update
- Presentation on CFC and Seafood Marketing Updates
- 2026 Nomination for the Belding Award Memo
- History of David L. Belding Award Memo
- Presentation on Fishery Permit Eligibility: Limits on Residency-Based Requirements for Permitting

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The Commonwealth of Massachusetts
Division of Marine Fisheries

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

Shelley Edmundson, Chair | Bill Doyle, Vice-Chair | Chris McGuire, Clerk | Arthur Sawyer | Bill Amaru | Eric Nelson | Raymond Kane | Ray Jarvis | Willy Goldsmith

October 23, 2026

Secretary Rebecca Tepper
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

RE: Request to Enhance Resources for the Massachusetts Environmental Police

Dear Secretary Tepper,

As the Chair of the Massachusetts Marine Fisheries Advisory Commission (MFAC), I am writing on its behalf regarding the current and future status of resources available to the Massachusetts Environmental Police (MEP) within the Coastal Region.

By way of background, the MFAC is a nine-member public body consisting of individuals qualified in the field of marine fisheries. MFAC appointments are made annually by the Governor with members serving staggered three-year terms. The body's purpose is to advise the Division of Marine Fisheries (DMF) regarding the proper management and development of the Commonwealth's marine fisheries; to review and approve DMF regulations governing commercial and recreational fishing activity; and to appoint and remove the DMF Director alongside the Commissioner of the Department of Fish and Game (DFG).

Massachusetts is home to world class recreational and commercial fisheries. Collectively, they generate in excess of 1 billion dollars in direct annual revenues; employ thousands of people across the blue economy and ancillary industries that support our working waterfronts; contribute to the state's tourist economy; provide a source of recreation to hundreds of thousands of residents and visitors; and are the bedrock of our historic coastal culture. The MFAC plays an important role in advising and overseeing DMF to ensure it achieves its mission to conserve and manage sustainable fisheries to provide contributions to the Commonwealth's economy, produce a stable supply of diverse and healthy local seafood, and enrich opportunities to support our coastal culture.

To achieve this, a tremendous amount of time and energy is spent developing sound, science-based fisheries management strategies at the federal, interstate, state, and local levels. A critical, but often underappreciated, aspect of this exhaustive effort is the enforcement of marine fishery laws and regulations. Ultimately, the success of any marine fisheries

management program is contingent on robust enforcement. Without it, poaching is not deterred and our ability to achieve conservation and management objectives is weakened. Ensuring there is routine and active enforcement of the regulations governing the state's marine fishery resources is of the utmost importance to the MFAC, our constituents, and the state's many coastal communities. Accordingly, the MFAC strongly supports and advocates for MEP to have sufficient resources available to the Coastal Region.

Massachusetts has a vast coastline of more than 1,500 miles. It runs from Salisbury in the north, along the Outer Cape in the east, west to Westport and Mount Hope Bay, as well as along the Elizabeth Islands, Martha's Vineyard, and Nantucket. From a shellfish fisher raking a mud flat to an industrial trawler landing its catch in New Bedford or Gloucester, fishing activity is occurring in our coastal waters and ports 24-hours per day and seven days per week.

At one time, MEP had nearly 150 field officers in the agency, now there are just 88. Of those, 38 are assigned to the Coastal Region and during the peak summer season there may only be one on-duty officer within each of MEP's seven coastal regions—North Shore, Boston, South Shore, South Coast, Upper Cape, Lower Cape and Islands, and Offshore Patrol Vessels. During the Baker administration, and at the outset of the Healey administration, efforts were made to bolster the resources available to MEP's Coastal Region. However, after decades of staffing and resource shortfalls, the agency never returned to a staffing level commensurate with its mission. Further, continued staffing and resource enhancements have been constrained in recent years due to budgetary issues. Please take note that the number of officers assigned to the Coastal Region has decreased by 20% over the past several years, diminishing the staffing improvements that occurred during the early part of this decade, leaving MEP shorthanded once again.

The MFAC also recognizes that MEP's mission is not exclusively focused on marine fisheries enforcement and the agency has obligations to (among other things) the Division of Fish and Wildlife, the Department of Conservation and Recreation, the Department of Environmental Protection, and Off-Highway Vehicle and Boating Safety. In recent years, MEP staffing and resources have been dedicated to the roll-out of the Hanson-Milone Boater Safety Act, and in response to state-wide budgetary restraints, MEP has increasingly taken on details at Department of Conservation pools throughout the summer – a critical service to many of our urban communities. However, these assignments result in a loss of fisheries enforcement coverage during the busiest fishing time of the year.

We are also aware of gaps in MEP's ability to conduct at sea patrols this summer. This particular issue is heavily influenced by access to adequate dockage. For instance, a patrol boat was not placed in Chatham or Provincetown this year limiting MEP's ability to routinely patrol or timely response to incidents along the waters along the eastern shore of Cape Cod. This region is home to one of the state's most prolific fishing grounds for shellfish, finfish, and crustaceans.

MEP's current resource levels are inadequate to meet the state's marine fisheries enforcement burden. Accordingly, the MFAC is writing you to make several requests of the administration

relevant to their resources. First, the administration must enhance MEP's budget so that they may increase their ranks back towards their historic level of 150 officers state-wide. Second, uniformed officers must be allocated to the Coastal Bureau in a manner that ensures our marine fisheries' laws and regulations are routinely and adequately enforced. And lastly, patrol boats should be readily accessible to all coastal regions.

Improving the resources available to MEP will bolster the state's marine fisheries conservation and management program consistent with the Governor's biodiversity goals. Of particular importance to the MFAC is to ensure resources sufficient to maintain a strong presence in the Coastal Region, particularly during the summer months when so much of our coastal fishing occurs. That said, the MFAC also seeks to recognize MEP for their hard work, dedication, and ability to work through these resource shortages and competing obligations. However, despite their best efforts, the reality is they are spread too thin.

Thank you for your time and consideration.

Shelley Edmundson, PhD., Chair
Marine Fisheries Advisory Commission

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Division of Marine Fisheries
(617) 626-1520 | mass.gov/MarineFisheries

Maura T. Healey, *Governor* | Kimberly Driscoll, *Lt. Governor* | Rebecca L. Tepper, *Secretary* | Thomas K. O'Shea, *Commissioner* | Daniel J. McKiernan, *Director*

Memorandum

To: Marine Fisheries Advisory Commission (MFAC)

From: Daniel J. McKiernan, Director

Date: October 14, 2026

Subject: **Proposals to Stay the Gauge Size for Knobbed and Channeled Whelks**

Proposal
This memo serves to inform the MFAC that I intend to maintain the current 3 1/8" minimum chute gauge width (hereafter "gauge") for determining compliance with size-at-harvest regulations for knobbed and channeled whelks (collectively "whelks"). To accomplish this, DMF must go to public hearing this winter and stay all the pending increases to the gauge that were scheduled to begin again on April 15, 2027[1]. This proposal was discussed with the MFAC at its May 2026 business meeting and is being formally memorialized here.

Overview
The University of Massachusetts School for Marine Science and Technology (SMAST) is currently conducting a Management Strategy Evaluation (MSE) for the channeled whelk fishery. This MSE is intended to assess the resource and develop potential management options. Therefore, it is reasonable and appropriate to allow for the completion of the MSE before moving forward with any regulatory changes to the commercial whelk fishery, including these pending gauge adjustments.

Additionally, in November 2025, DMF received a petition[2] from Domenic Santoro – an inshore mobile gear vessel owner/operator – to consider managing knobbed whelk separately from channeled whelk and reduce the knobbed whelk minimum size. In December 2025, DMF responded to the petitioner[3]. In this correspondence, I indicated that DMF would review and analyze this petition as part of our broader effort to address whelk management in 2026 for 2027. Consistent with the above proposal, I have concluded it is appropriate to not take this petition to public hearing and instead maintain the existing 3 1/8" gauge for knobbed whelk and continue to manage whelks under a uniform minimum size standard. DMF's analysis of this petition and rationale for this decision are detailed herein.

[1] The schedule would increase the gauge by 1/8" every three years beginning in 2027 with an increase to 3 1/4" and concluding in 2036 with a terminal gauge of 3 5/8".
[2] See page 38 in the May 2026 MFAC business meeting materials to review Santoro's petition.
[3] See page 40 in the May 2206 MFAC business meeting materials to review DMF's initial response to Santoro's petition.

Brief Description of Whelk Fishery

Whelks are commonly found in shallow inshore waters around southern Massachusetts and southern Cape Cod Bay, with Nantucket Sound being the primary resource area and area of harvest. Management historically focused on culling the populations as a means of controlling shellfish predation. In fact, an old state law once required all whelks (among other shellfish predators) to be deposited above the mean high-water mark. However, over time, a commercial fishery developed for whelks and these species have become economically important to small boat inshore fixed and mobile gear fishers around Cape Cod and the islands. At present, whelks are primarily harvested by conch pots and mobile gear with a nominal level of harvest from other gear types (e.g., bycatch in other pot/trap gear, hand harvest in shellfish fisheries).

The directed pot fishery uses so-called "conch pots", an open-top wire or lathe pot adapted from the conch fisheries occurring in the south Atlantic. This fishery is limited entry and permit holders are limited to fishing 200 conch pots during an April 15 – December 14 open fishing season. Conch potters principally catch and land channeled whelks with a bycatch of knobbed whelks. The fishery is most productive during the fall with much smaller landings during the spring and summer. There are about 40-active permit holders in any given year, and annual landings generally approach or exceed 1-million pounds of whelks valued at about $2-3 million dollars.

There is also a mobile gear fishery that is comprised of about 20 commercial fishers using otter trawl and shellfish dredge gear. These vessels retain a bycatch of whelks – primarily knobbed whelks – when targeting other species (e.g., summer flounder and quahogs). In recent years, the mobile gear fishery has only landed about 50,000 pounds of knobbed whelks annually, but it has historically landed in excess of 100,000 pounds. Mobile gear landings of whelks are generally valued in hundreds of thousands of dollars.

Please note that landings and value for both species have been suppressed in recent years by broader market factors (among other potential reasons), but anecdotal evidence suggests there has been some market stabilization beginning in 2025.

Background on Whelk Minimum Size Management

In the 1980s, DMF adopted a minimum shell width of 2 3/4" for whelks. This was not based on any biological metric, rather it reflected the smallest sized whelk that processors were willing to handle. Fishers were allowed a 5% tolerance of undersized product[4]. Additionally, there was no standard method of measurement but brass rings, modified aluminum cans, and pipes with an inside diameter of 2 3/4" were commonly used.

In the early 2000s, effort and landings in the conch pot fishery increased dramatically (Figures 1 and 2). This was likely in response to the environmentally driven decline of Southern New England lobsters and the resulting shift of trap fishing effort onto whelks. In 2010, DMF received a petition from the Martha's Vineyard Fishermen's Association – representing various island-based commercial conch pot fishers – to increase the minimum size for whelks up to 3-inches and eliminate the tolerance for

[4] The rule stated that in enforcing the whelk minimum size, a sample of 10% of the catch was to be measured. If 5% greater than 5% but less than 6% of the sample was undersized then 25% of the catch would be deemed unlawful; if greater than 6% but less than 7% of the sample was undersized then 50% of the catch would be deemed unlawful; and if greater than 7% of the sample was undersized then the entire catch would be deemed unlawful.

undersized whelks given concerns about decreased catch per unit effort (CPUE). DMF declined to advance the petition but moved forward with a channeled whelk size-at-maturity study to better inform conservation and management.

This size-at-maturity study was completed in 2013[5]. It determined that the current minimum size did not protect any female spawning stock biomass – females from Nantucket Sound reach 50% maturity at about 9 years of age with a shell width around 99 millimeters (3 7/8") whereas males from Nantucket Sound reach 50% maturity at about 6 years of age with a shell width around 71 mm (2 4/5"). The findings of this size-at-maturity study raised concerns at DMF that growth and recruitment overfishing[6] were occurring. Further, staff conducted a literature review that demonstrated whelk and marine snail fisheries worldwide are highly prone to serial depletion given these animals mature slowly and the fisheries often occur on immature animals and have high rates of exploitation.

Given these concerns, and in recognition of the fact of the increasing economic importance of the whelk fishery to small boat inshore fishers, DMF proposed enhancing whelk conservation regulations in 2013. The public hearing proposal sought to eliminate the tolerance for undersized whelk and gradually raise the minimum size to 3 1/2" shell width to protect a portion of the population from harvest thus potentially increasing female spawning stock biomass.

Public comment from industry was not supportive. There was skepticism regarding the findings of DMF's size-at-maturity study; concerns that proposed minimum size increases would negatively impact fishery economics and eventually result in a female-only fishery (males mature faster and do not get as big as females); arguments that more fishery dependent and independent data was warranted before pursuing conservation management; and a general sentiment that the conservation of a shellfish predator was not warranted. Given industry concerns, the MFAC was reticent to support DMF's proposal. In response, DMF recommended only eliminating the undersized tolerance and increasing the minimum size from 2 3/4" to 3" through two annual 1/8" increases (in 2014 and 2015). The MFAC ultimately approved this recommendation with the caveat that DMF would conduct a second size-at-maturity study and bolster fishery dependent and independent data collection. Because the approved minimum size increase was so limited, this regulatory action did not protect any additional female spawning stock biomass (Table 1) but established the precedent of increasing the whelk minimum size as an approach to address whelk conservation management.

DMF and the MFAC also continued to manage knobbed and channeled whelk under a single minimum size standard. While DMF's size-at-maturity study focused principally on channeled whelks, knobbed whelks were sampled and the limited data suggested that female knobbed whelks mature over a similar but broader size range as female channeled whelks. Further, and more importantly, there were enforcement and compliance considerations that strongly favored a uniform size limit for these similar species. The Massachusetts Environmental Police (MEP) and the MFAC's Law Enforcement Focus Group supported a single minimum size because it would keep fishers from having to gauge each species separately, particularly given the volume of product caught in the commercial fisheries, and

[5] The study was conducted by DMF biologist Steve Wilcox through his master's thesis at the University of Massachusetts Dartmouth's School for Marine Science and Technology.

[6] Growth and recruitment overfishing are two distinct means by which a fish population may become overfished. Growth overfishing occurs when too many fish are harvested before they reach maturity, whereas recruitment overfishing occurs when spawning stock biomass is depleted.

that the pot fishery often catches a large number of knobbed whelks[7]. The preference for a single minimum size was also echoed by industry members, including commercial fishers and processors, to better ensure compliance.

Over the next several years (2014-2019), concerns about the whelk fishery continued to percolate. Fishery dependent data demonstrated a decline in conch pot effort and channeled and knobbed whelk landings (Figures 1 – 4). Additionally, sea sampling data indicated catch composition had become truncated around the minimum size (Figure 5) giving credence to prior concerns about growth and recruitment overfishing. Concerns were also raised about minimum size enforcement and compliance given the animal's asymmetry alongside the lack of a uniform gauge or method of measurement enforcement.

These issues prompted DMF to develop the chute gauge and prescribe a method of measurement. This was done iteratively over several years and ultimately resulted in a 2017 rule that mandated that animals be measured using a certain sized gauge and the "any orientation method of measurement"[8] (Figure 6). This shift from regulating shell width to regulating the method of measurement produced a discrepancy of about 3/16" between the gauge width and the resulting size-at-harvest shell width (Table 1). Therefore, by adopting a mandatory gauge of 2 7/8" width, the size-at-harvest was increased from a 3" shell width to an estimated 3 1/10" shell width, which approximated another 1/8" size-at-harvest increase.

Members of the inshore dayboat trawl fishery also worried that some draggers were targeting knobbed whelks leading to an increase in discarding other species (e.g., summer flounder) while potentially negatively impacting the knobbed whelk resource. This purported increase in trawl fishing effort was supported by the annual mobile gear landings data, which showed a significant spike in landings attributable to trawl gear in 2013 (Figure 4). DMF and the MFAC responded to this by adopting a 1,000-pound mixed whelk daily trip limit for trawlers in 2014.

During this stanza, DMF also completed its second size at maturity study (2015), enhanced its commercial whelk sea sampling program, and produced a stock assessment for channeled whelk in Nantucket Sound (2018). The 2015 size-at-maturity study confirmed the results of the initial study and the 2018 stock assessment demonstrated that the stock had become severely depleted from historic levels and the channeled whelk resource was overfished with overfishing occurring.

These findings set the stage for DMF to again propose gradual increases in size-at-harvest to protect spawning stock biomass. While this proposal received opposition from industry on the same grounds of the agency's prior efforts, the MFAC approved DMF's recommended schedule to increase the gauge width. Under this schedule, the gauge would increase to 3" in 2019 and thence by 1/8" biennially until it reached a terminal gauge of 3 5/8" in 2029. At the terminal gauge size, the animal's shell width would approximate 3 7/8", a size where 50% of females would be sexually mature. This gradual schedule was designed to offset economic impacts on industry by having whelk growth rates outpace size-at-harvest increases.

[7] In the years immediately preceding the 2014 rule change (2010-2013), just under 20% of the overall annual knobbed whelk landings were reported coming from pot gear.

[8] The any orientation method of measurement requires the animal be placed on the chute gauge with the operculum facing down and laying as flat on the chute as possible with the siphonal canal oriented to the side walls of the chute at any angle. If the animal can pass through the gauge in this manner it is considered illegal.

The first two increases occurred (2019 and 2021), raising the gauge width from 2 7/8" to 3" and then to 3 1/8", where it remains today. In 2023, DMF and the MFAC agreed to adjust the gauge increase schedule so increases would occur every three years rather than biennially. In doing so, the pending 2023 gauge increase was pushed back to 2024. This action considered that the whelk fishery was experiencing market issues that negatively impacted fishery economics and an additional year would help mitigate potential impacts of another gauge increase by allowing more whelks to age into the fishery. Then in 2024, DMF and the MFAC stayed the gauge increase schedule until April 2027 to accommodate the development of SMAST's MSE for the channeled whelk fishery. DMF initially anticipated this project would be completed during 2026. For a variety of reasons this timeline did not come to fruition and DMF does not anticipate the MSE will be completed and ready for consideration in management until 2028 or 2029.

At this time, the MSE is ongoing. It is DMF's understanding that it will assess stock conditions under both the agency's size-at-maturity study[9] and the recent SMAST size-at-maturity paper[10]. Additionally, the MSE will consider extensive industry feedback and develop alternatives to managing this fishery beyond size-at-harvest standards. SMAST's Dr. Steve Cadrin will present on the MSE to the MFAC at your upcoming October 22 business meeting.

In conclusion, DMF expects the MSE will undoubtably inform the state's management of the channeled whelk resource moving forward. For that reason, I seek to stay all pending whelk gauge increases (and any other potential management program adjustments) until the MSE's findings can be properly analyzed and considered.

Analysis of Knobbed Whelk Petition

As stated above, DMF received a November 2025 petition to consider managing knobbed whelk separately from channeled whelk and to reduce the knobbed whelk size limit. DMF responded in December 2025 to notify the petitioner that the agency would take this petition into consideration as part of our broader analysis of whelk minimum size management. The agency's analysis follows and considers existing life history data (size at maturity data collected by DMF), fishery independent data (abundance data from the DMF trawl survey), fishery dependent data (landings and effort), and the primary scientific literature.

The available size-at-maturity and fishery independent data are limited. DMF's 2012 and 2015 size-at-maturity studies focused on channeled whelk. However, knobbed whelks were sampled and the available data suggest that knobbed whelk appear to mature over a similar yet broader size range as channeled whelk. Yet, these data are not sufficiently robust to generate a precise estimate of 50% maturity for use in setting meaningful minimum size targets. Trawl survey abundance trends for knobbed whelk (Figures 7 and 8) suffer from fairly low precision (large confidence intervals) and a

[9] Wilcox, S.H., T.L. Pugh, R.P. Glenn, and K. Oliveira. 2021. Spatial variation in size and age at maturation and growth of the channeled whelk (*Busycotypus canaliculatus*) in Southern Massachusetts. Fisheries Research, 239: doi.org/10.1016/j.fishres.2021.105926

[10] Zavell, MD, NM Calabrese, AJ Delargy, SL Merhoff, BA Morgan, AE Painten, SA Shumway, SN Wachala, KDE Stokesbury. 2025. Consequences of differing definitions of maturity for management regulations of a gastropod fishery. Marine and Coastal Fisheries, 17. DOI 10.1093/mcfafs/vtaf043

high degree of patchiness (Gini index > 0.9 for both spring and fall surveys), making interpretation of abundance indices challenging.

Fisheries dependent data (landings and effort) from dealer and harvester reporting indicate that landings have declined substantially from highs observed in the early 2010's (Figures 3 and 4). Mobile gear landings, primarily from the inshore summer flounder fishery in Nantucket Sound, accounted for 80% of the total catch on average between 2010 and 2024 (Figure 9). The number of mobile gear fishing trips – combined otter trawl and shellfish dredge – in which knobbed whelk were landed has declined at a rate similar to catch (Figure 10). This confirms that knobbed whelk is primarily a bycatch fishery. Catch and effort trends in bycatch fisheries are notoriously difficult to interpret because activity is ultimately motivated by external factors such as price and availability of the target species (e.g., summer flounder, quahogs), price and availability of bycatch species (e.g., knobbed whelks, horseshoe crabs), and input costs (e.g., fuel, dockage). For this reason, DMF does not necessarily interpret declines in knobbed whelk catch and effort as an indicator of declines in abundance, and general uncertainty in stock status remains.

I consider knobbed whelk to be a data-poor species, with very limited information available to conduct a stock assessment or to inform management. Given DMF's limited resources – and because knobbed whelks support only a small, low-value bycatch fishery[11] – a dedicated survey or targeted life history study is not practical nor warranted. Absent such data, the precautionary principle suggests erring on the side of conservation, and thus maintain status quo management.

Moreover, there are enforcement and compliance concerns to consider. More than 10-years ago, DMF and the MFAC – with support from industry -- decided to maintain a uniform minimum size standard for both knobbed and channeled whelk due to various enforcement and compliance challenges. These concerns remain today, and include but are not limited to, the added regulatory complexity of needing to identify, separately gauge, and adequately segregate similar species while sorting through catch in a high-volume fishery, as well creating a means for harvesters and dealers to subvert minimum size regulations by intentionally misclassifying their catch.

Given these factors, I intend to maintain a uniform 3 1/8" gauge size and the "any orientation method of measurement" for both knobbed and channeled whelk. I will not take to public hearing those aspects of the November 2025 petition that seek to manage knobbed whelk separately from channeled whelk or reduce the size-at-harvest for knobbed whelk. However, if the MSE results in a amendments to the regulatory program for channeled whelk that amend the minimum size standard, I may consider proposing similar changes to the knobbed whelk rule.

[11] In 2024, only 36 permit holders landed just over 33,000 pounds of knobbed whelk with an ex-vessel value of about $70,000.

Appendix of Figures and Tables

Figure 1. Annual Conch Pot Hauls (2000 – 2024)

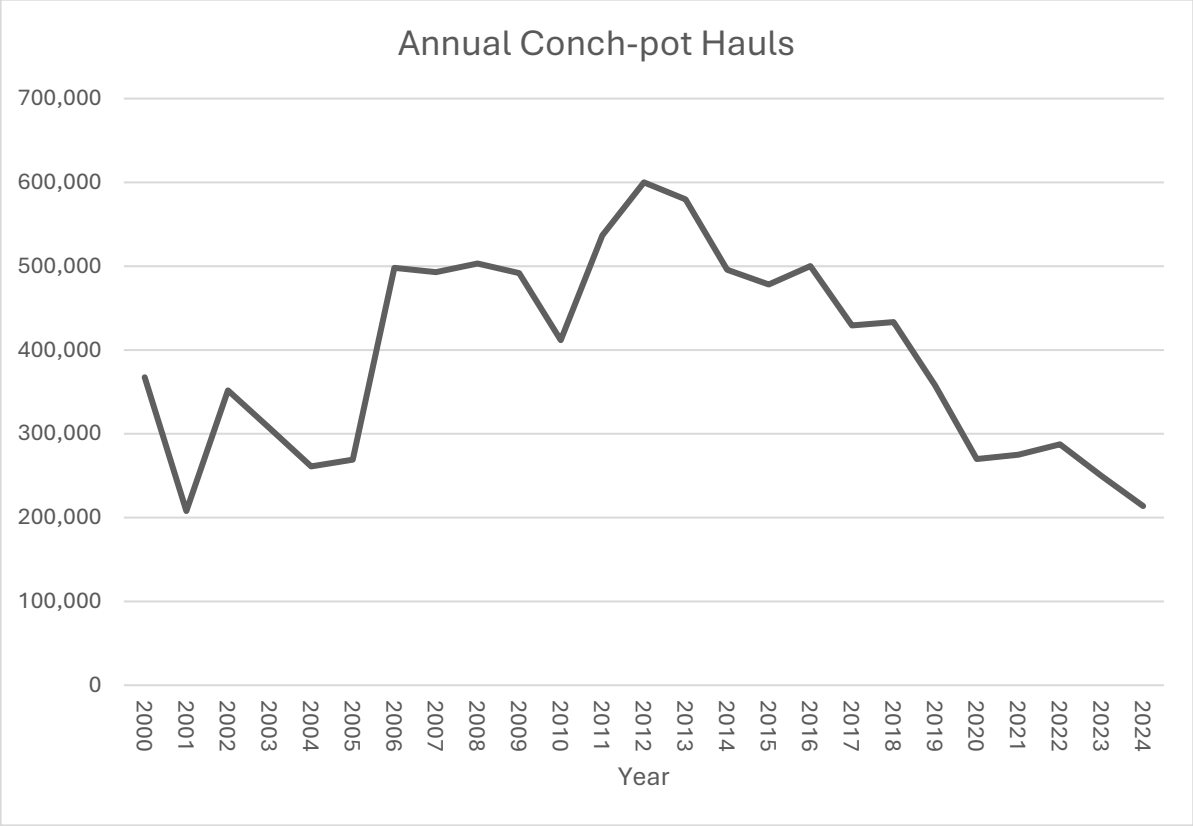


Figure 2. Annual Channeled Whelk Landings by Trap Gear (2000 – 2024)

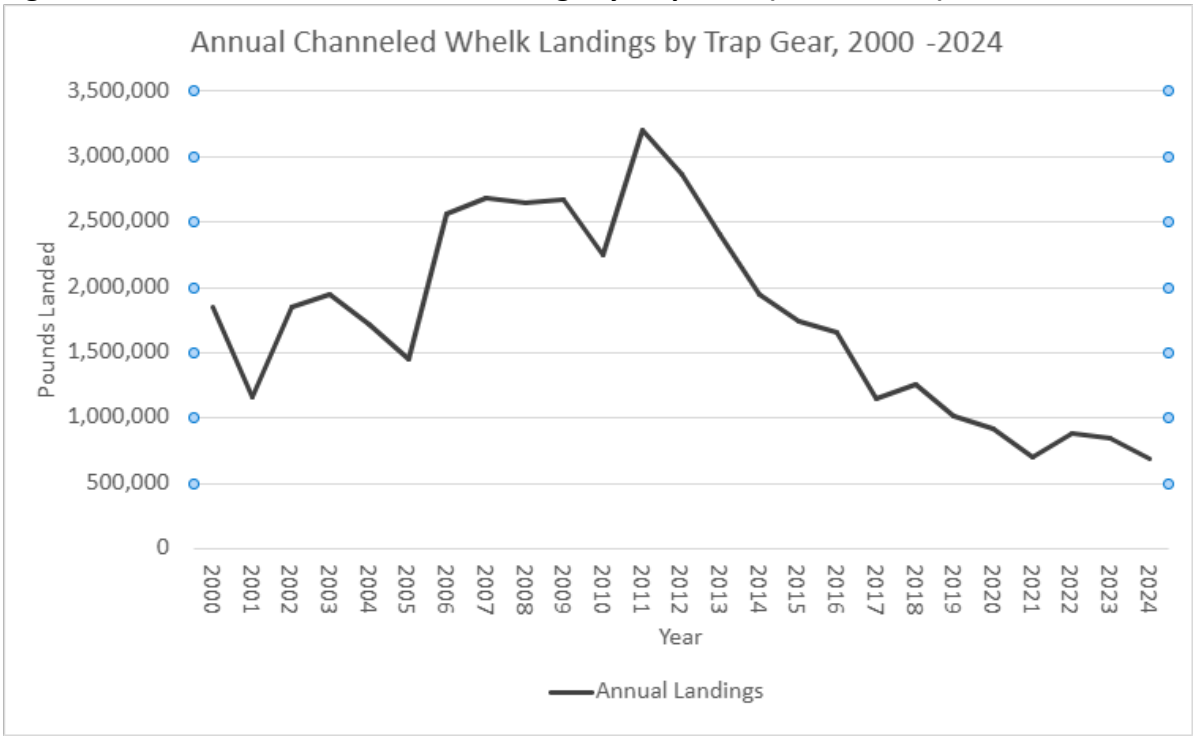


Figure 3. Annual knobbed whelk landings (pounds) from all gear types from 2010 – 2024

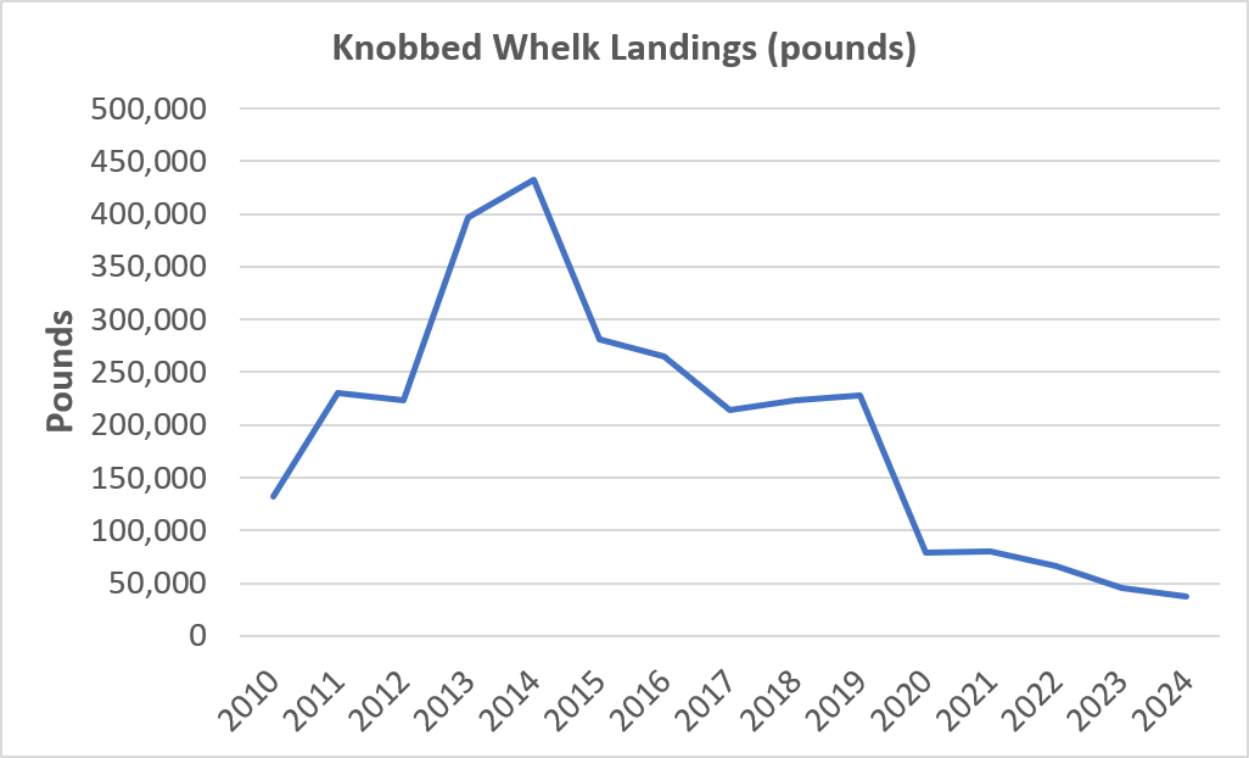


Figure 4. Annual Knobbed Whelk Landings by Mobile Gear

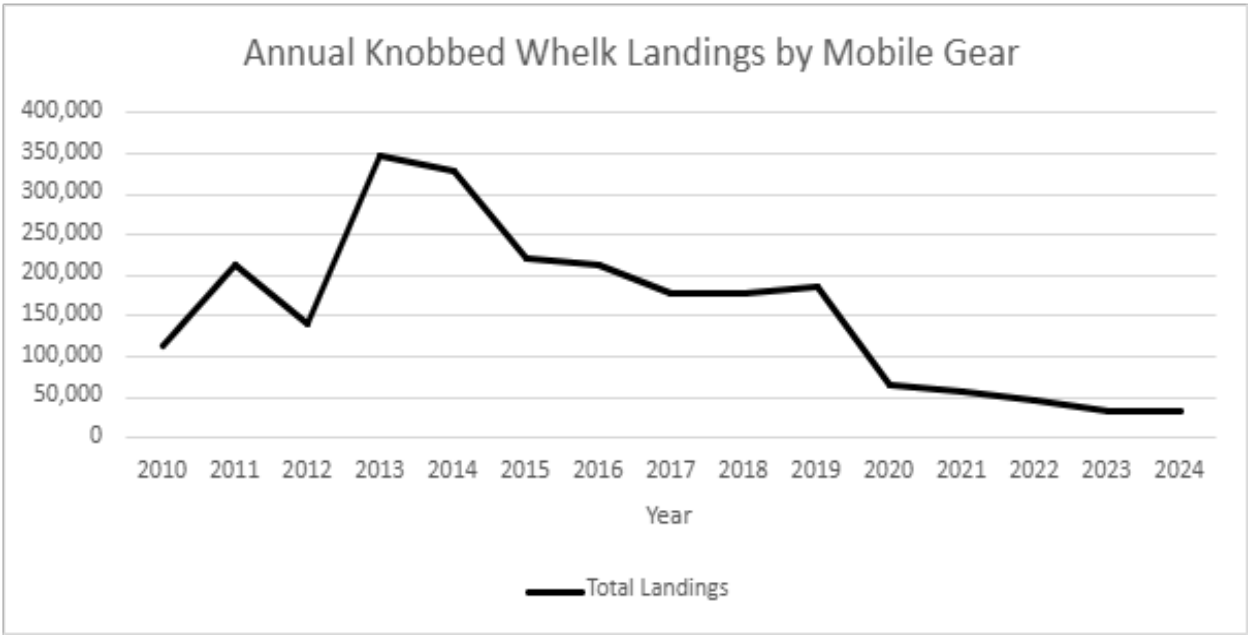


Figure 5. Size Frequency of Commercial Channeled Whelk Catch in Nantucket Sound (2017 and 2018) from Sea Sampling Data Collected Aboard Mainland and Island Commercial Whelk Trap Boats

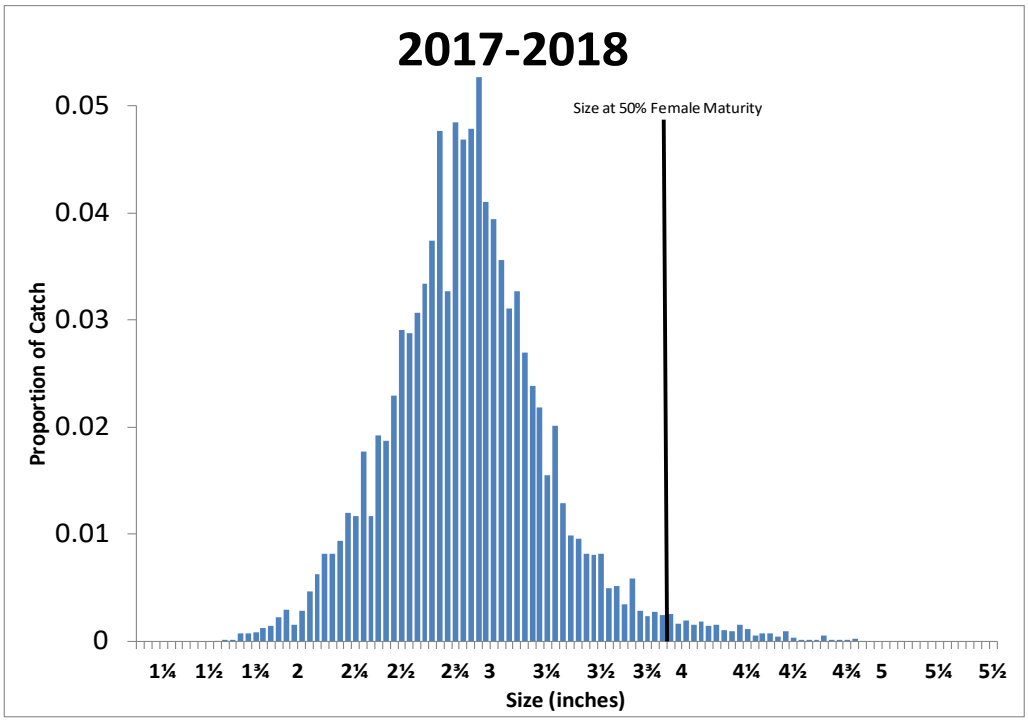


Figure 6. Use of Chute Gauge with Any Orientation Method of Measurement



Figure 7. Knobbed whelk abundance index from MADMF spring trawl survey, 1978-2026

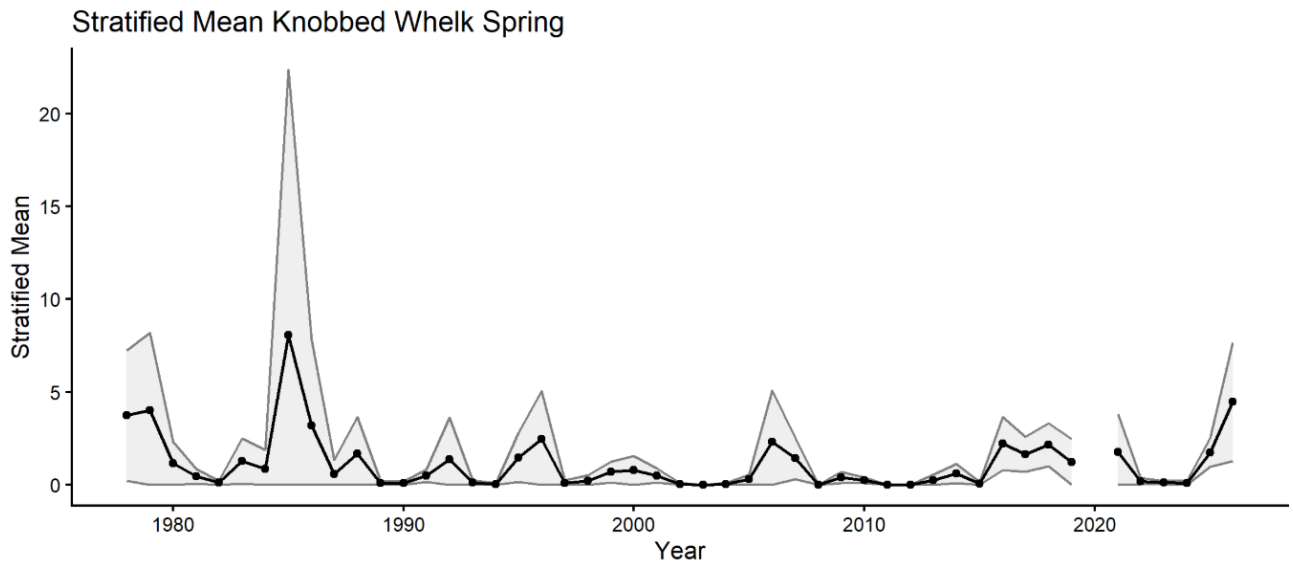


Figure 8. Knobbed whelk abundance index from MADMF fall trawl survey, 1978-2025

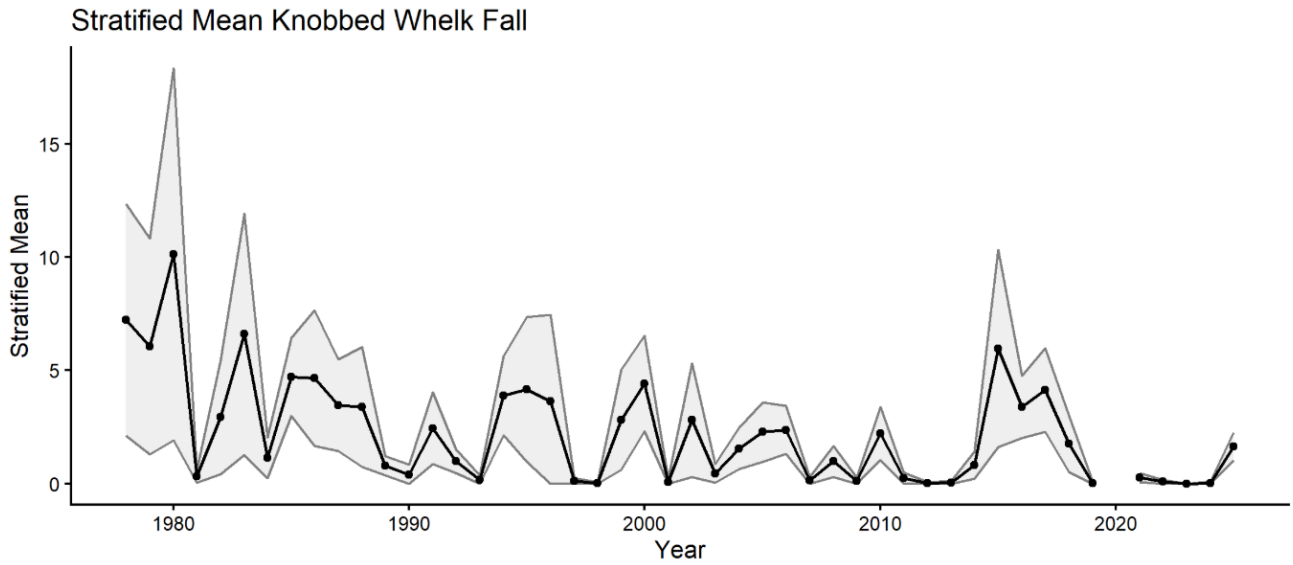


Figure 9. Percent of knobbed whelk landings by gear type 2010 – 2024.

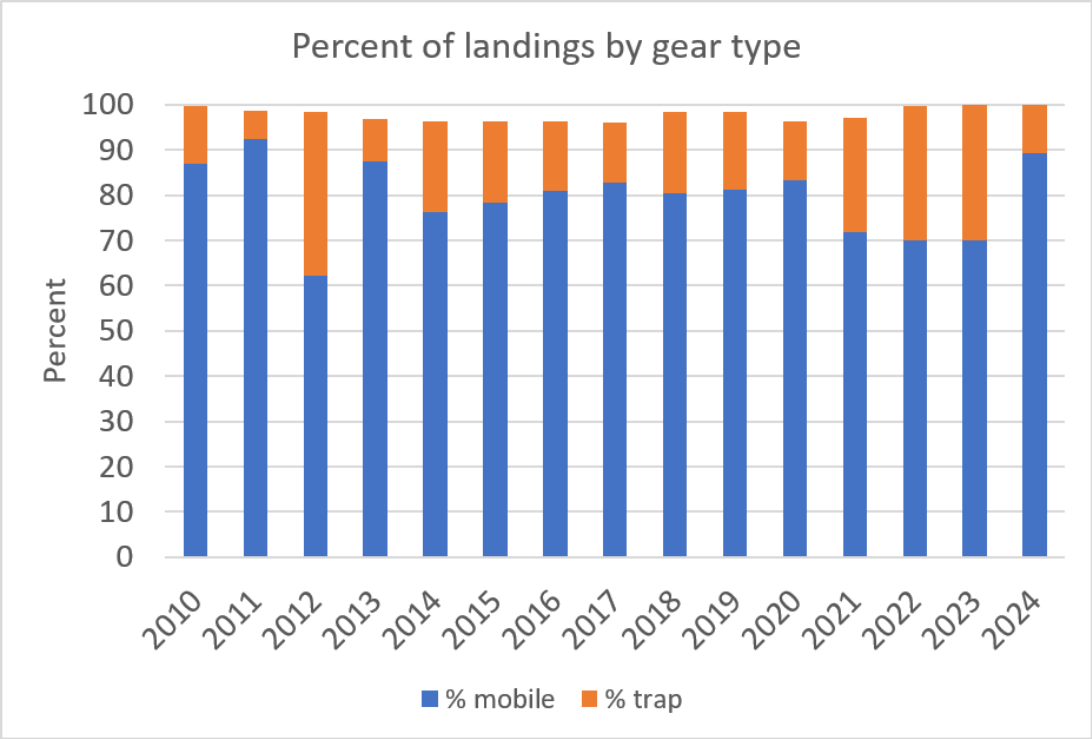


Figure 10. Number of mobile gear trips (otter trawl and hydraulic dredge combined) in which knobbed whelk were landed 2010 – 2024.

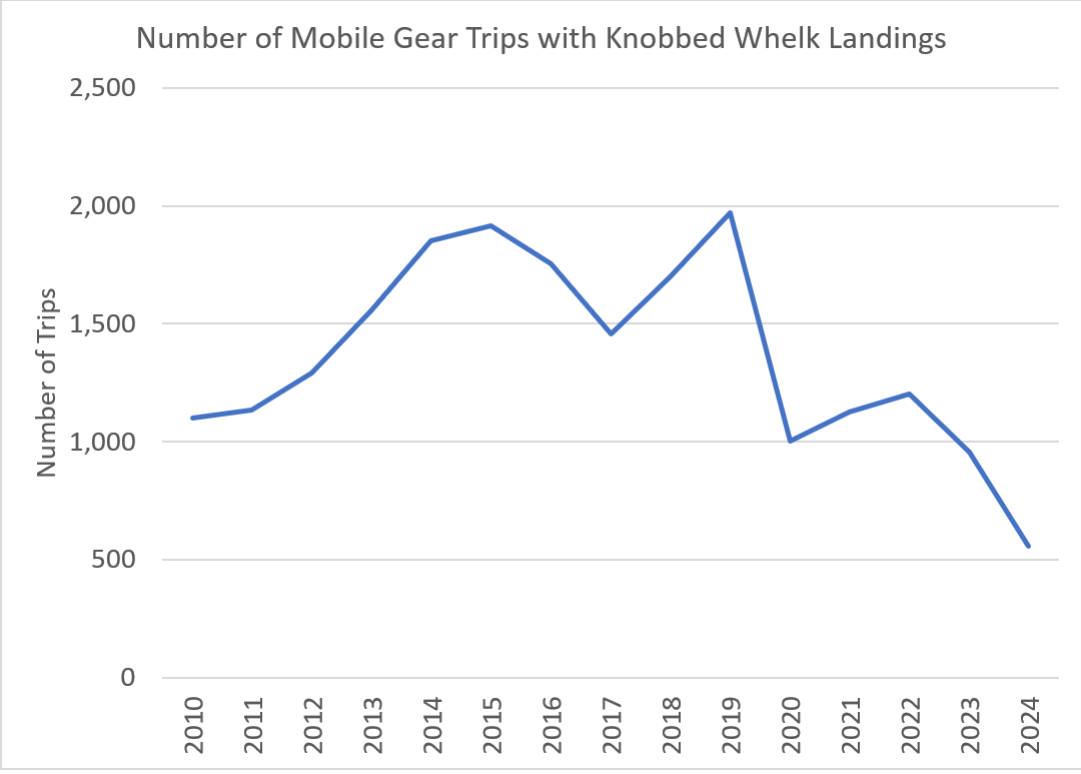


Table 1. Approximate Shell Width and Percent Size-At-Maturity Relative to Each Scheduled Gauge Width

Gauge Size	2 7/8"	3"	3 1/8"	3 1/4"	3 3/8"	3 1/2"	3 5/8"
Approximate Shell Width	3 1/10"	3 3/16"	3 5/16"	3 7/16"	3 5/8"	3 3/4"	3 7/8"
Percent size at maturity	0%	0%	0%	0%	5%	20%	50%

The Commonwealth of Massachusetts
Division of Marine Fisheries
(617) 626-1520 | mass.gov/MarineFisheries

Maura T. Healey	Kimberly Driscoll	Rebecca L. Tepper	Thomas K. O'Shea	Daniel J. McKiernan
Governor	***Lt. Governor***	***Secretary***	***Commissioner***	***Director***

Memorandum

To: Marine Fisheries Advisory Commission (MFAC)

From: Daniel J. McKiernan, Director

Date: October 14, 2026

Subject: **Proposals to Amend Recreational Shark Fishing Regulations**

Proposal
This memo serves to inform the MFAC that I intend to go out to public hearing later this winter to make several series amendments to the state's recreational shark fishing regulations.

The first set of proposals aims to restrict shore-based anglers' ability to attract, target, and catch white sharks. This responds to continued efforts by shore-based anglers to target white sharks from our beaches, an activity that in addition to being unlawful creates user group conflicts, raises significant concerns about public safety and welfare, and may endanger or harm the shark.

1. Mandate that shore-based anglers deploy baited hooks only by human powered casting of rod and reel gear. This will replace and broaden the existing prohibition on the mechanized deployment of baits to also be inclusive of other bait deployment methods such as kayaks.
2. Prohibit the use of fresh or frozen liquid chum or blood-based chums. This will replace the existing rule that prevents chumming from sunset to sunrise when shore-based shark fishing with a restriction that more narrowly targets the types of chum that are commonly used to attract white sharks irrespective of time-of-day or target species.
3. Adopt a state-wide regulation that prevents shore-based anglers from fishing with a metal or wire leader that exceeds 18" length coupled with a hook that has a gap greater than 5/8". This expands the spatial extent of the existing gear restriction that applies only around Cape Cod[1]. With regards to this gear restriction, I will also consider potentially reducing the maximum leader length from 18" to as small as 12".

[1] The spatial extent of the current rule applies from Plymouth Point, southward to Cape Cod, then around the shoreline of Cape Cod Bay to Provincetown, and then around the Atlantic coast of Cape Cod to Stage Harbor, including Monomoy Island. The rule was also extended to include the Town of Nantucket in 2026 on an emergency basis and these emergency regulations expire at the of October.

Additionally, I am proposing to eliminate the recreational possession limit for smooth dogfish. This action will match the Atlantic States Marine Fisheries Commission's (ASFMC) Coastal Sharks Fishery Management Plan (FMP) and NOAA's Highly Migratory Species regulations that apply in adjacent federal waters.

Lastly, I am proposing to prohibit recreational anglers from using or rigging striped bass or their parts as bait or chum. There were several incidents this summer when it was reported to DMF that anglers were rigging and using striped bass as shark baits or to intentionally attract white sharks to observe depredation.

Shore-Based Shark Fishing Amendments

These proposed regulatory amendments adjust existing rules developed over the past several years to prevent targeting white sharks from shore. The existing rules were implemented in 2025 to address targeted shore-based white shark fishing along the eastern shore of Cape Cod that produced user group conflicts and raised public safety concerns[2], with the spatial extent of the hook and leader rule expanded to include the Town of Nantucket in 2026[3] through an emergency regulation set to expire at the end of this month.

The expansion of shore-based white shark fishing activity beyond Cape Cod has provided DMF with the opportunity to evaluate the current regulatory program. DMF held a public meeting on the Town of Nantucket in September 2026 and has been meeting this fall with members of the shore-fishing community to better understand how to restrict the targeting of white sharks while maintaining historic shore-based fishing access to other shark species (e.g., brown sharks, sand tiger sharks). The feedback provided has strongly informed these public hearing proposals.

The ability to effectively target white sharks from shore is primarily influenced by two factors.

1. The ability to place the bait at a distance from shore that gets it beyond the surf and into waters where white sharks occur. In nearly all instances, this cannot happen by casting alone. DMF attempted to address this in 2025 by prohibiting the mechanized deployment of baits, but this left out other methods such as dropping bait by kayak or kite. Broadening this rule to instead mandate all shore-based anglers deploy baited hooks by human powered casting restricts all potential methodologies that can effectively place the baits where they are accessible to white sharks. Importantly, other shore-based recreational fisheries for sharks and finfish do not require the deployment of baits at distances from shore that exceed human powered casting and should not be negatively impacted by this rule.
2. Anglers need to be able to attract white sharks to their baits. This is commonly done by using liquid or blood-based chums. The proposal to ban shore-based chumming using fresh or frozen liquid or blood chums refines the 2025 rule that prohibited all chumming when shore-based shark fishing during daylight hours. Notably, this proposal applies more broadly to all shore-based fishing, but its application is limited only to fresh or frozen liquid or blood-based chums used to attract white sharks. These chums are not commonly used by shore anglers to

[2] See page 270 in the March 2025 MFAC business meeting materials for DMF's final recommendation on shore-based shark fishing and page 18 in the April 2025 MFAC business meeting materials for DMF's amended final recommendation on deployment of baits when shore fishing.

[3] See page 17 in the August 2026 MFAC business meeting materials for DMF's memorandum describing the emergency rules to extend shore-based shark fishing restrictions to the Town of Nantucket.

target other sharks or finfish species. Further, the chumming activities commonly conducted by shore anglers are unaffected by this rule. This includes the use of crushed shellfish and crustaceans or whole kernel corn used to attract finfish (e.g., flounder, tautog), as well as the discarding of parts of baitfish when chunk fishing.

While these two regulations will—in theory—restrict the ability for shore-based anglers to effectively target white sharks, they are challenging to observe and enforce. This makes non-compliance difficult to verify. Therefore, it is also important to consider the type of gear that is being fished. Anglers targeting white sharks need to use some combination of a large hook and long, heavy metal or wire leader. This logic led to DMF's current prohibition on using metal or wire leader measuring more than 18" length with a hook that has a gap greater than 5/8" when fishing from the shore of Cape Cod Bay and the Atlantic coast of Cape Cod. This is an area where most shore fishing for sharks would be intended to target white sharks, as other shark species are not commonly available. Potentially expanding this gear rule state-wide raised concerns that it may unintentionally constrain other recreational shark fishing activities. However, the anglers we have spoken to indicate that they typically use leaders 12" or less when fishing for brown and sand tiger sharks and would be unaffected by the state-wide expansion of this gear rule. Therefore, I support expanding the current rule state-wide and may consider further reducing the maximum leader length from 18" to 12".

Smooth Dogfish Recreational Limit

It came to my attention this summer that the state's recreational smooth dogfish possession limit is out-of-phase with the Coastal Sharks FMP and federal smooth dogfish regulations. Based on the original Coastal Sharks FMP of 2008, DMF regulates smooth dogfish possession as part of its permitted species possession limit, which allows for the retention of one shark from the permitted species category along with an additional bonnethead, Atlantic sharpnose, and smooth dogfish per trip. However, the smooth dogfish possession limit was eliminated from the interstate FMP effective 2010, and no limit applies via federal regulations. While there is no known interest in retaining large numbers of smooth dogfish for recreational purposes, there is an enforcement and compliance benefit of having uniform rules across state and federal jurisdictions for the occasional harvest that may occur. Therefore, I am proposing to eliminate the recreational possession limit for smooth dogfish.

Prohibition on Using Striped Bass as Bait

It has been reported to DMF that individuals have been using whole or cut striped bass as bait to target white sharks and have been bridling striped bass and live lining them to observe white shark depredation. This activity undermines the recreational size and bag limit regulations for striped bass. Additionally, it raises questions of angler ethics given the importance of this species to anglers along the Atlantic coast and concerns about the current and future status of the stock as it is experiencing recruitment failure. Accordingly, I am proposing to strictly prohibit the use of striped bass or parts thereof as bait or chum.

New England Fishery Management Council

NEFMC SEPTEMBER 2026 - MEETING SUMMARY

The New England Fishery Management Council (NEFMC) met September 15-17, in Plymouth, MA. Below, find meeting highlights and Council **motions**, with embedded links to additional materials. Audio recordings are available here. The NEFMC convenes next in Newport, RI on December 8-10, 2026.

ANNOUNCEMENTS

- New Council member Kirby Aarsheim (MA) was sworn in and current members Jackie Odell (MA), Terry Alexander (ME), and Daniel Salerno (NH) were re-appointed, all to three-year terms expiring in August 2029.
- In its annual Election of Officers, the Council elected Daniel Salerno as returning Chair and Melanie Griffin as returning Vice Chair. In addition to leadership, the Council elected Jackie Odell (MA), Michael Pierdinock (MA), and Megan Ware (ME) as representatives to its Executive Committee for the 2026-2027 term.

COUNCIL ACTIONS

Atlantic Herring – The Council **approved Atlantic herring fishery specifications for fishing years (FY) 2027-2031**. The specifications are informed by a 2026 Atlantic herring Management Track Assessment (MTA) that was peer-reviewed in June. The 2026 MTA is the first assessment applying the Woods Hole Assessment Model (WHAM) which was approved in the 2025 Research Track Assessment Peer Review. The stock remains in poor condition with persistent low recruitment and continues to be overfished but overfishing is not occurring. The Scientific and Statistical Committee (SSC) recommended a constant interim Overfishing Limit (OFL) and Acceptable Biological Catch (ABC) for FY 2027-2031, applying the current 2026 ABC as the updated OFL (13,165 mt) and 80% of the OFL as the new ABC (10,532 mt). The recommended ABCs are informed by the Council's Atlantic herring ABC control rule however do not follow it directly, as 2026 WHAM short-term stock projections were not used due to issues associated with their estimation. The SSC indicated the precautionary constant interim ABC approach "provides a reasonable bridge until an updated assessment and/or additional technical work provides greater confidence in projections, reference points, and their interaction within the control rule." The Council's primary decision point for specifications was to set the management uncertainty buffer using either a ten- or five-year average of the Canadian weir fishery catch. Both alternatives represent a reduction in ACL from 2026 to 2027 (i.e., -41% for 10-yr ave; -24% for 5-yr ave). The Council **adopted use of the five-year average for FY2027-2031**. The Council also approved an increase to the fixed gear set-aside to 45 mt and set the river herring and shad catch caps at status quo. The Council is working on a separate action to consider modifications to Atlantic herring management measures to avoid or minimize the catch of river herring and shad through time/area closures with and without the existing catch cap methodology, which is a multi-year priority with final action scheduled in April 2027. An SSC sub-panel will review river herring and shad work on November 17. In future work, the Council may consider additional flexibility, such as temporary movement of quota between sub-ACLs. To inform this, the Plan Development Team (PDT) will investigate timing of herring and mackerel catches in Herring Management Areas 2 and 3, and when available, consider the results of the ongoing work being conducted by MADMF/Dr. Micah Dean on genomic population structure of Atlantic herring in U.S. waters.

Holistic Strategic Plan – The Council **approved its final Holistic Strategic Plan**, effective immediately. The Plan adopts the Council's first Vision Statement and identifies four goals, each with objectives and strategies: Goal 1 – Build flexibility and adaptability into FMPs and streamline the process for developing management measures; Goal 2 – Grow and strength partnerships between science, management, and fishing communities; Goal 3 – Improve accessibility, quality, and use of data to inform decisions; and Goal 4 – Optimize capacity to reflect fishery resources and improve fishing efficiency and safety. Implementation of the holistic strategic plan in 2026 and 2027 will begin with tracking Goal 1's key performance indicators. A progress report is expected in February.

Essential Fish Habitat Designations – The Council **finalized the 2026 Essential Fish Habitat (EFH) Framework**, updating EFH designations (text and maps) by life stage for 16 NEFMC-managed species, including Atlantic sea scallop, haddock, pollock, American plaice, ocean pout, Atlantic wolffish, Atlantic halibut, Acadian redfish, the hakes: red, white, silver, and offshore, and the flounders: windowpane, winter, witch, and yellowtail.

EO 14276 "Restoring American Seafood Competitiveness" & Initial 2027 Priorities Discussion – The Council finalized its response to the July 2nd letter from NOAA Fisheries Assistant Administrator requesting the Council focus on several specific Executive Order (EO) 14276-related work items. The Council approved the Executive Committee's recommendations that potential Northern Edge scallop fishery access, adjustments to vessel baseline restrictions, and modifications to surfclam fishery access in the Great South Channel HMA be considered during the Council's December priority-setting. The Executive Committee's response also acknowledges the Council's current lack of capacity to address scallop permit stacking, and recommends pausing work on ropeless gear marking until federal guidance has been updated. The Council **agreed to add potential rescission of Herring Industry-funded Monitoring to the River Herring/Shad action** currently under development. Following their EO discussion, the Council reviewed its standing comprehensive Draft 2027 Priorities task list by FMP/topic. Alignment is needed between the agency's recommended priorities, the Council's prioritization process, and the state of resources across partner organizations ahead of final approval of 2027 work priorities in December.

UPDATES & DISCUSSION

Vessel Baseline Evaluation – The Council **accepted the final report evaluating Vessel Baseline Restrictions** prepared jointly by Mid-Atlantic and New England Council staff. Findings outline the number of commercial vessels constrained by baselines and industry concerns regarding safety, cost, and administrative challenges. Generally, restrictions may continue to play a role in conservation for some fisheries while being overly burdensome for others. Staff have recommended the Councils prioritize a joint action to identify potential revisions to baseline restrictions.

Habitat: Surfclam Exemption Program – The Council **accepted the final report on the Great South Channel (GSC) Habitat Management Area (HMA) Surfclam Dredge Exemption Program Review** prepared by the Habitat PDT. The report identifies information available since implementation of the Clam Dredge Framework (2020) and reviews whether the Exemption Program is meeting Habitat objectives. Within the GSC HMA, strong currents and natural disturbance dominate, fishing impacts are low, the status of the clam resource remains unsurveyed/unknown, and spawning use by Atlantic cod is uncertain. With reduced effort and landings since implementation of the Exemption Program, the industry has expressed economic concerns. In December, the Council will consider whether to prioritize development of an action to modify the GSC HMA Surfclam Dredge Exemption Program in 2027.

Sea Scallops – The Council received an overview of 2026 scallop dredge and optical survey coverage (complete) and resulting survey estimates by area. Biomass in 2025 & 2026 is at a 25-year low. About 76% of all scallops are on Georges Bank (GB), with 48% of those within the Nantucket Lightship (NLS) South & Extension areas. Substantial recruitment was observed in Area II on Georges Bank; this area will remain closed in 2027. The Mid-Atlantic showed a slight increase in biomass with growth of the 2022-year class but no signs of new recruitment. Biomass in the Northern Gulf of Maine (NGOM) management area is stable with modest recruitment. Short-term stock projections are expected to be available ahead of the SSC's meeting to recommend OFLs and ABCs on October 7. The Council will approve 2027 scallop fishery specifications and 2028 defaults in December. In addition to specifications, the Council reviewed progress on Framework 42, an action addressing new scallop management measures. The Council **confirmed its support for continued development of measures for regional Days-at-Sea (DAS) allocation** and sub-management areas in the NGOM in Framework 42 but **did not support measures to limit DAS fishing time in closed areas as part of the 2027 work plan.** The Council will instead wait for recommendations from an evaluation on improved scallop fishing practices identified in the scallop three-year work plan.

Regional Stock Prioritization – Understanding current personnel and resource limitations, NOAA Fisheries asked each region to develop a framework for narrowing the scope of fisheries management and science for its 500+ stocks, balancing national consistency and interoperability with regional flexibility. The Science Center, Regional Office, and Council co-developed a draft Risk-Value matrix prioritization for the Greater Atlantic region stocks where each stock is categorized as high or low "Value" (e.g., commercial, recreational, social) and high or low "Risk" (e.g., relative stock status, environmental susceptibility, climate vulnerability, impact on ecosystem, effectiveness of management). The NEFMC developed a similar matrix specifically for its managed stocks, with relative level of organizational investment noted. Examples of NEFMC draft "high risk/high value" stocks include scallops, Atlantic herring, little and winter skates, spiny dogfish, and WGOM cod, while "low risk/low value" examples include clearnose and rosette skates, northern red hake, wolffish, and ocean pout. The Council will finalize its recommendations on stock prioritization by October 31, for consideration by the Northeast Region Coordinating Council (NRCC) in developing a five-year regional stock prioritization schedule (NRCC meets November 19-20).

Dynamic Reference Points – The Council's SSC reported its recommendations on incorporating dynamic reference points (DRP) for Northeast stocks, to better account for time-varying changes in productivity. The SSC identified that the four Atlantic cod stocks and white hake would be strong candidates to evaluate DRPs through a concept mapping exercise. These stocks are scheduled to be assessed in 2027. In December, the Council will consider standing up an SSC subgroup to support DRP testing in 2027.

NTAP Regional Industry Based Trawl Survey (RIBTS) – The Northeast Trawl Advisory Panel (NTAP) successfully carried out the Phase 1 pilot of the RIBTS, determining whether safe and efficient bottom trawl survey operations can be carried out in and around offshore wind turbines using an industry vessel. The team provided technical recommendations on day/night operations, adaptations for sea state, tides, depth, and assessed sampling time between wind areas and offshore sites, etc. Phase 2 of the pilot RIBTS involving two vessels sampling across NEFSC strata will be contracted this fall with field activities commencing in spring 2027.

Mackerel Cooperative Research – The NEFSC launched a two-year Atlantic Mackerel Cooperative Research Initiative with the Northeast fishing industry to address mackerel population dynamics and biomass. The project's five research elements include advancing acoustic detection, addressing uncertainties in the egg survey, characterizing spawning seasonality, identifying movement and mixing (US/Can), and understanding ecosystem drivers.

Agency Activities – Reports on agency activities since the June Council meeting are available from the Council Executive Director, GARFO, NEFSC, MAFMC, ASMFC, US Coast Guard, and HMS.

Public Comment Opportunities –

Regional Offshore Wind Fisheries Compensation Framework – The Regional Fund Administrator (RFA) is seeking stakeholder feedback on its Draft Regional Offshore Wind Fisheries Compensation Framework that intends to provide a consistent, equitable, and transparent program for compensation for potentially impacted commercial and recreational for-hire fishing businesses from the development of offshore wind along the Atlantic seaboard. The RFA will host a public webinar on September 30. Comments are due November 3 (via "Contact Us").

Atlantic Large Whale Take Reduction Plan – NOAA Fisheries requests input on the scope of regulations to inform the next phase of development of recommendations for proposed modifications to the Atlantic Large Whale Take Reduction Plan (ALWTRP). Northeast fisheries managed under the ALWTRP include gillnet and lobster & Jonah crab trap/pot. NOAA Fisheries will hold an informational webinar Sep. 18; comments are due Oct. 16 via the e-portal.

LOOKING AHEAD

In December, the Council is scheduled to:

- Adopt Work Priorities for 2027
- Approve Atlantic Scallop fishery specifications for 2027 and default specifications for 2028
- Approve Groundfish fishery specifications and other measures for 2027-2031 in Framework 74
- Approve Small-Mesh Multispecies (Whiting) fishery specifications for 2027-2031



New England Fishery Management Council, September 2026

The Commonwealth of Massachusetts
Division of Marine Fisheries
(617) 626-1520 | mass.gov/MarineFisheries

Maura T. Healey, *Governor* | Kimberly Driscoll, *Lt. Governor* | Rebecca L. Tepper, *Secretary* | Thomas K. O'Shea, *Commissioner* | Daniel J. McKiernan, *Director*

Memorandum

To: Marine Fisheries Advisory Commission (MFAC)

From: Daniel J. McKiernan, Director

Date: October 16, 2026

Subject: **For-Hire Permitting and Reporting Requirements**

Overview

Over the course of the next several years, DMF intends to enhance recreational for-hire permitting and reporting requirements. This will be accomplished in several phases, as described in more detail below. These proposed actions are informed by DMF's review of applications and regulations affecting for-hire permitting and reporting along the Atlantic coast[1], initial engagement with the three largest charter boat associations in the state (Stellwagen Bank Charter Board Association, Cape Cod Charter Boat Association, and the Northeast Charter Boat Association), and the coastwide scoping and development of the Recreational Sector Separation Amendment.

For 2027, DMF intends to modify the Massachusetts For-Hire Vessel Recreational Saltwater Fishing Permit (hereafter "For-Hire Permit") application. This includes collecting additional information relevant to the vessel and its operators and requiring applicants to certify they will fulfill the existing legal requirements as specified on the form. DMF also intends to condition all issued For-Hire Permits to prohibit for-hire operations from discouraging or interfering with patron participation in Marine Recreational Information Program (MRIP) Access Point Angler Intercept Survey (APAIS) interviews[2].

[1] Rhode Island's permitting and reporting program is of particular interest to DMF. Rhode Island has achieved split-mode management for a variety of species, and their for-hire industry has been influential in promoting split mode management at the federal and interstate level. In response, some of our for-hire operations have obtained Rhode Island charter boat permits to benefit from their less restrictive limits, particularly in the fall months when there may be recreational closures in Massachusetts.

[2] There are multiple surveys within the Marine Recreational Information Program. The Access Point Angler Intercept Survey occurs at access sites and onboard head boats to collect trip-specific information regarding catch rates and biological information about retained catch. The Fishing Effort Survey relies on bi-monthly mail-in surveys for the National Saltwater Angler Registry (created through the issuance of saltwater fishing licenses) to collect information regarding the number of days fished over specified timeframes. The For-Hire Survey is a telephone survey that is used to estimate for-hire effort specifically. When combined, these data elements are used to calculate the recreational catch estimates. Within this memo, I will use the acronym MRIP when referring to the general recreational catch estimate program and the acronym APAIS when specifically discussing the angler interviews used to collect trip-specific information.

Then, as soon as 2028, I intend to use the additional information collected through the 2027 For-Hire Permit application to consider new regulatory requirements to obtain and renew a For-Hire Permit. Concurrently, DMF is also working to adopt an electronic vessel trip report (eVTRs) reporting system for our non-federally permitted for-hire vessels to enhance recreational fishery data collection.

I wanted to provide the MFAC[3] with the opportunity to discuss the pending permit application adjustments at the October business meeting and in the forthcoming weeks. This timeline enables DMF to consider feedback prior to finalizing the 2027 For-Hire Permit application in early-December 2026. With regards to potential future eVTR requirements and regulations governing the issuance and renewal of the For-Hire Permit, DMF will conduct formal public outreach throughout 2027 and regularly consult the MFAC with the goal of implementing new requirements and regulations as soon as 2028.

For-Hire Permit Application Informational Adjustments for 2027

At present, the For-Hire Permit application (2026 Version) requires the following information be submitted: (1) vessel name, length, homeport, and documentation/registration number; (2) applicant's name, date of birth, telephone numbers, e-mail address, residency and mailing address; (3) the name, telephone number, and U.S. Coast Guard Captain's License (hereafter "USCG License") number of the named vessel operator; (4) a copy of the valid current USCG License for the named vessel operator; (5) a signed certification that the application information is complete and accurate and the for-hire operation will be conducted in accordance with all applicable marine fishery laws and regulations of the Commonwealth; and (6) responses to broad questions about the businesses' prior and expected current year for-hire fishing activity.

The 2027 application will be amended to now also require the following information[4]: (1) annually provide a copy of the named vessel's valid current Certificate of Documentation or state registration; (2) submit the name, telephone number, USCG License number, and a copy of the USCG license for all potential operators of the vessel[5]; (3) indicate whether each potential named operator is currently enrolled in the Maritime Consortium or other similar random drug testing required to use a USCG License in the operation of a commercial enterprise[6]; and (4) indicate if there is liability insurance coverage for the permitted for-hire fishing operation and what the limit of the policy is.

The first two informational changes will support DMF's review of the application. Additionally, each of these changes will help inform potential, future rulemaking to adopt new requirements on who may operate the vessel named on the For-Hire Permit or establish prerequisites to obtain or renew the For-Hire Permit. It is noteworthy that these changes will also begin to have Massachusetts complement the permitting programs in other northeast states, particularly neighboring Rhode Island.

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[3] While each of these pending changes fall outside the MFAC's strict regulatory authority at G.L. c. 130, §17A, I seek to engage the MFAC in their advisory capacity (G.L. c. 130, §1B) as they are relevant to the proper management of the for-hire fishery.

[4] 322 CMR 7.10(6)(b)(2)(e) authorizes DMF to require For-Hire Permit applicants to submit "any other information deemed necessary or appropriate by the Director to complete the Division's review and action on the application.

[5] DMF will not be able to add additional operator information to the physical permit until at least 2028. The inclusion of these additional information fields on the 2027 For-Hire Permit application will help DMF assess how many for-hire operations use multiple vessel operators and get applicants in the habit of providing this additional information. Applicants may contact DMF throughout the calendar year to add or remove operators from the For-Hire Permit.

[6] 46 CFR 16.101 *et seq*

For-Hire Permit Application Certifications for 2027

DMF will add two new certifying affidavits to the 2027 For-Hire Permit application: a Department of Revenue Affidavit and a For-Hire Fishing Affidavit. The Department of Revenue Affidavit is necessary to comply with the state law[7] which mandates that any applicant for a state-issued license to conduct a trade or profession certify that they are in compliance with tax laws, child support, and requirements governing the reporting of employees and contractors. DMF's Commercial Fishing Permit application contains such an affidavit, and we have been remiss in not previously requiring a similar affidavit on our For-Hire Permit application. The For-Hire Fishing Affidavit will expand upon the application's existing certifications relevant to completeness and accuracy of the submitted information and the applicant's acknowledgement and intended compliance with all applicable marine fishing statutes and regulations. First, the revised For-Hire Fishing Affidavit will have applicants certify that the for-hire fishing operation will comply with applicable vessel safety requirements. This will serve as a reminder of existing boating safety rules and raise awareness regarding the importance of safe boating practices. Second, the revised affidavit will have applicants certify that the for-hire fishing operation is aware of and will comply with a new For-Hire Permit condition that prohibits for-hire fishing operations from discouraging or interfering with patron participation in APAIS interviews (as described below).

New For-Hire Permit Condition for 2027

I intend to attach a universal condition[8] to each For-Hire Permit issued to prohibit the permit holder and their employees from discouraging patron participation in APAIS interviews. This condition is necessary and appropriate for conservation and management of our recreational fisheries. Currently, MRIP estimates represent the best available science for characterizing the recreational fisheries of the United States and angler interviews are critical for data collection from both private and for-hire anglers. Nevertheless, DMF staff regularly encounter for-hire operations that actively discourage their patrons from participating in APAIS interviews. While this survey is voluntary, it is entirely inappropriate for DMF permitted operations to discourage angler participation in APAIS interviews as it undermines recreational fisheries data collection and limits the information available to make management decisions.

[7] M.G.L. c. 62C, §49A reads, in relevant part, "A person applying to any department, board, commission, division, authority, district or other agency of the commonwealth or subdivision of the commonwealth…for a right or license to conduct a profession, trade or business or for the renewal of the right or license, shall certify upon application, under penalties of perjury, that he has complied with all laws of the commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support."

[8] G.L. c. 130, §80 establishes that the Director may set forth conditions on permits issued under G.L. c. 130. The 322 CMR 7.01(7) further specifies that "The Director may at any time, in his discretion, attach any written conditions or restrictions to the permit deemed necessary or appropriate for purposes of conservation and management or to protect public health, welfare, and safety."

Potential Electronic Trip Reporting for 2028

Unlike commercial fisheries, DMF does not have a for-hire trip-level reporting requirement. The primary source of for-hire catch and effort data in Massachusetts is through MRIP and its APAIS interviews and For-Hire Survey phone interviews. MRIP estimates have been a significant source of contention with the for-hire industry[9]. Additionally, a subset (~30%)of our For-Hire Permit holder population also hold a federal For-Hire Permit and have mandatory eVTR reporting requirements. eVTR data are inherently more trusted by the for-hire industry, provide much more detail on effort and catch (e.g., area fished, fishing time, and the amount of each species caught) than what is provided through MRIP, and are required for each trip, which reduces the uncertainty from sample size that exists in MRIP data. Other Atlantic coast states are increasingly adopting for-hire reporting requirements and there is a risk of disadvantaging our permit holders in future management decisions by delaying implementation here. Lastly, DMF obtains coarse data on for-hire fishing effort through the existing For-Hire Permit application. This includes the approximate number of trips a vessel made the previous year and their anticipated number of trips in the current year, which is used to inform fisheries survey design in future years.

With these facts in mind, I have instructed DMF's Statistics Program to begin the development of a mandatory electronic trip-level reporting program for For-Hire Permit holders[10]. This reporting program will generally mimic the existing federal eVTR program and require the documentation and submission of catch and effort for all for-hire trips within 48-hours of their conclusion. Federal For-Hire Permit holders submitting eVTRs will be exempt from this new reporting requirement as they will already be providing these data through another means, similar to how DMF exempts federally-reporting commercial fishing vessels from state reporting requirements. I anticipate these new reporting requirements will not go into effect until at least 2028. This will provide DMF with an opportunity to conduct public scoping, education, and outreach with the for-hire industry on this significant new requirement and build out the reporting program.

While these new reporting requirements likely represent an improvement in data collection compared to MRIP, the resulting data are self-reported and not independently verifiable. This differs from our commercial two-ticket reporting system where separate dealer and harvester reporting enable data verification. Consequently, it is important to note that comprehensive, mandatory for-hire reporting is not anticipated to eliminate the for-hire components of the MRIP surveys.

[9] One of the most common complaints is that interviews for catch information target for-hire anglers, who are thought by captains to be less informed resulting in inaccurate responses and a reduced quality of the data. MRIP estimates are also affected by sample size which can be highly variable and is typically lower for species that are less frequently encountered in interviews due to limited distributions or seasons. For-hire sample sizes are also typically low, resulting in greater uncertainty, because fewer trips are taken than the private angler mode.

[10] G.L. c. 130, §21 allows the Director to devise a system of statistical data collection useful to commercial and recreational fisheries. In our commercial fisheries, submitting timely true and accurate reports is required to annually renew a commercial fishing permit and failure to do so is grounds for non-renewal. I would be adopting a similar program for our For-Hire Permit holders here.

Potential For-Hire Permit Prerequisites for 2028

There has been growing interest among for-hire operations to manage recreational fisheries with so-called "mode-splits", specifically those which assign disparate regulations for for-hire vessel anglers compared to anglers fishing from private vessels and the shore (hereafter, "private anglers"). Proponents of mode-splits believe they will balance the diverging interests of the for-hire industry – who take patrons recreational fishing as a commercial enterprise – and private anglers – who fish for food for the plate or recreational purposes. Such mode-splits tend to provide for-hire anglers with less restrictive regulations, trading any reduction of private angler fishing opportunity for the economic and business interests of for-hire fishing and the opportunity for-hire vessels provide otherwise shore-bound anglers.

This concept is currently being analyzed by the Atlantic States Marine Fisheries Commission (ASMFC) and the Mid-Atlantic Fishery Management Council (MAFMC) through the ongoing development of a Recreational Sector Separation Amendment for the summer flounder, scup, black sea bass, and bluefish fisheries. This amendment was initiated in 2020 as part of a larger recreational reform initiative. To help inform the range of management options for this potential draft Amendment, the ASMFC and MAFMC recently hosted a Stakeholder Workshop from September 24–26.

One acknowledged complication of mode-splits is that they will likely incentivize some anglers to obtain a For-Hire Permit to access preferential regulations with no intention of operating a for-hire business. This behavior would complicate enforcement, compliance, data collection, and conservation while also minimizing the perceived benefits of split-mode management on active for-hire businesses. Already there are likely some individuals that obtain a For-Hire Permit to falsely exempt their family and friends from obtaining an individual permit.

One potential solution is greater control over the issuance of For-Hire Permits. As previously described, Massachusetts has minimal requirements to obtain the permit presently. DMF staff discussions with members of the Massachusetts for-hire industry, as well as scoping comments on the draft Sector Separation Amendment and discussions among for-hire industry members at the recent Stakeholder Workshop, have revealed a great hesitancy towards a for-hire permitting approach that would establish strict entry requirements based on prior fishery participation (i.e., traditional limited entry). Instead, these discussions have often documented interest in additional state-level for-hire permitting prerequisites that would help distinguish for-hire fishery applicants truly intent on operating a professional service from those seeking to obtain the permit for other reasons.

In particular, liability insurance coverage and drug testing program enrollment have been suggested as prerequisites that most if not all legitimate For-Hire Permit applicants would already have. However, there are limited examples of such requirements in other states (e.g., Rhode Island has a drug testing enrollment requirement but not a liability insurance coverage requirement). Consequently, DMF will begin to query For-Hire Permit applicants on their status relevant to these areas in 2027 to inform potential regulatory requirements in future years to raise the barrier of entry for applicants while maintaining an open access permitting program. In so doing, we will be better positioned to contribute to ongoing initiatives to improve for-hire fisheries management coastwide.

The Commonwealth of Massachusetts
Division of Marine Fisheries
(617) 626-1520 | mass.gov/MarineFisheries

Maura T. Healey	Kimberly Driscoll	Rebecca L. Tepper	Thomas K. O'Shea	Daniel J. McKiernan
Governor	***Lt. Governor***	***Secretary***	***Commissioner***	***Director***

Memorandum

To: Marine Fisheries Advisory Commission (MFAC)

From: Daniel J. McKiernan, Director

CC: Stephen Smith and Brendan Adams, Petitioners

Date: October 14, 2026

Subject: **Petition for Emergency Regulatory Amendment on V-Notch Possession Standard for Outer Cape Cod Lobster Conservation Management Area**

Overview

On September 15, 2026 the Division of Marine Fisheries received the attached petition "for an expedited public hearing and an immediate stay or rollback of the 1/8-inch v-notch possession standard to its historical 1/4-inch baseline standard" for the commercial lobster harvesters of the Outer Cape Cod Lobster Conservation Management Area (OCCLCMA). This petition was submitted by Stephen Smith and Brendan Adams – two OCCLCMA lobster trap fishers – on behalf of 38 petitioners from the OCCLCMA fleet. On September 21, the petitioners provided the attached supplemental filing and errata and then on September 29, the petitioners provided a second supplemental filing.

Background

On January 3, 2025, the Division of Marine Fisheries amended regulations at 322 CMR 6.02(5)(c) relevant to v-notch possession standards. This regulatory action followed a February 21, 2024 to April 5, 2025 public comment period; a March 22, 2024 public hearing at the Massachusetts Lobstermen's Association Annual Weekend; and approval by the MFAC at your April 2024 and November 2024 business meetings[1].

The final regulatory amendment created a uniform v-notch standard for all commercial lobster fishers in OCCLCMA, effective July 1, 2025. This action harmonized the v-notch possession standards for OCCLCMA, which previously had a federal standard of "1/8-inch with or without setal hairs" ("1/8-

[1] In April 2024, the MFAC approved adopting a uniform 1/8-inch standard for the OCCLCMA for implementation by January 1, 2025. In November 2024, the MFAC approved delaying the implementation of a uniform 1/8-inch standard until July 1, 2025.

inch standard") while the state regulation applied a less restrictive standard of "1/4-inch and tapering to a sharp point without setal hairs" exclusively enforced on state-only permit holders ("1/4-inch standard").

Please note that I strongly supported the adoption of a uniform 1/8-inch standard for the OCCLCMA as a member of Atlantic States Marine Fisheries Commission's Lobster Board and as DMF Director. The ASMFC's Law Enforcement Committee and the Massachusetts Environmental Police have consistently advocated for the use of standardized and consistent biological management measures to enhance enforcement and compliance. Additionally, there are conservation benefits associated with having uniform spawning stock biomass protections within a Lobster Conservation Management Area and across fisheries occurring on a single lobster stock.

Subsequent to the 2025 implementation of this regulatory amendment to the v-notch possession rule, litigation was filed against the Division of Marine Fisheries by OCCLCMA commercial lobster fishers. This litigation is occurring in both the Barnstable County Superior Court[2] and the United States Court of Appeals for the First Circuit[3]. In these cases, the plaintiffs challenge the 1/8 inch standard in the OCCLCMA. Litigation remains ongoing at this time.

Consideration of Petition

Consistent with 322 CMR 2.03, this petition will be placed on the October 22, 2026 MFAC business meeting agenda as a discussion item for the MFAC's consideration. However, it is important to be transparent that my current intention is not to schedule the petition for further proceedings, at least until the conclusion of all litigation regarding the v-notch possession standard for OCCLCMA commercial lobster fishers. The judgment of the courts may ultimately render this petition moot or result in findings that require the agency or petitioners to adjust their perspectives and positions on the v-notch regulation. With this in consideration, my position is that it is beneficial to wait until the conclusion of this litigation to potentially evaluate the petition through substantive discussion, agency analysis, and more formal assessment and inappropriate to expend DMF time and resources for these purposes at this juncture.

Attachments

1. September 10, 2026 Petition for Emergency Regulatory Amendment on V-Notch Possession Standard for Outer Cape Cod Lobster Conservation Management Area.
2. September 12, 2026 Notice of Supplemental Filing and Errata
3. September 29, 2026 Supplemental Filing

[2] Pazolt v. Massachusetts Division of Marine Fisheries. C.A. NO. 2572CV00232

[3] Outer Cape Cod Lobstermen's Association v. Atlantic States Marine Fisheries Commission, Civil Action No. 98-CV-0165-WGY), currently on appeal, No. 26-1238 (1st Cir.).

Commercial Lobster Harvesters of the Outer Cape Cod LCMA

Representing the 38 Signed Petitioners

Cape Cod Port Municipalities, Massachusetts

September 10, 2026

VIA CERTIFIED MAIL & HAND DELIVERY

Director Dan McKiernan

Massachusetts Division of Marine Fisheries

251 Causeway Street, Suite 400

Boston, MA 02114

RE: PETITION FOR EMERGENCY REGULATORY AMENDMENT
Outer Cape Cod LCMA 1/8-Inch V-Notch Possession Standard
Filing Pursuant to M.G.L. c. 30A, § 4 and 801 CMR 1.00

Dear Director McKiernan,

Pursuant to Massachusetts General Laws Chapter 30A, Section 4, the enclosed Petition for Regulatory Amendment and supporting Affidavit of Economic Impact are formally submitted on behalf of the commercial lobster harvesters operating within the Outer Cape Cod Lobster Conservation Management Area (OCC LCMA).

As of this date of filing, **thirty-eight (38) licensed commercial harvesters** have formally executed this petition under the pains and penalties of perjury. Representing a commanding **66.67% supermajority of the 57 total possible permit holders** in this regional fishery, the undersigned Petitioners stand as a unified fleet demanding immediate administrative intervention to review a rule that threatens the structural viability of our historic fishing communities.

This administrative action is explicitly triggered by newly available, empirical agency records obtained from the official MA DMF at-sea sea sampling database. This dataset conclusively disproves the core biological and economic assumptions utilized during the initial rule-making process. While the Division previously asserted that the transition from a 1/4-inch to a strict 1/8-inch v-notch standard would inflict a negligible gross revenue loss of only 2% to 4%, actual field data reveals fatal analytical flaws in that model. Specifically, the state's model tracked individual animal counts instead of total landed weight, completely hiding the impact on the older-herd OCC population, which carries a mean average size of 2.0 pounds per restricted animal.

Corrected weight data confirms that the regulation does not slice away a minor fraction of the harvest; it selectively outlaws a verified **22%+ of gross fleet volume**, focusing entirely on the fleet's most profitable, premium-priced 'Select Grade' pounds. Furthermore, by ignoring certified dealer landing sheets proving a $10.00 per pound market value for these lobsters, the Division failed to record an

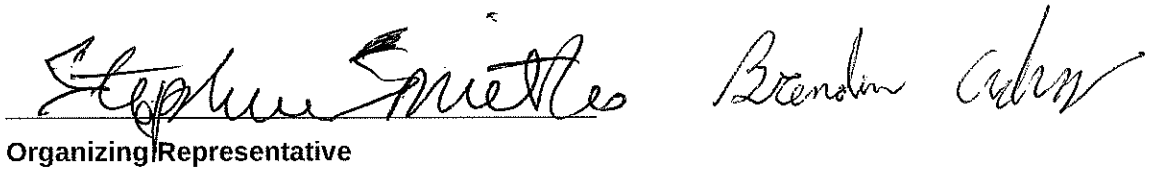
additional **-$26,950 in gross losses per vessel**. This unrecorded revenue cliff is extracted straight out of the net business profits of captains and crews, driving low-trap allocation operators—who are structurally locked into 300-trap limits by the regional Transferable Trap Program—into an asymmetric **86% destruction of net business profit**.

Because verified sea-sampling records confirm a **0% statistically significant increase** in legal biomass or juvenile recruitment, the current rule inflicts severe capital devastation with zero conservation utility. In light of these structural data defects, and the ongoing dockside enforcement driving multi-generational family businesses into non-compensatory insolvency, the Petitioners respectfully request that the Division take immediate action to:

1. **Formally schedule an expedited public hearing** under M.G.L. c. 30A, § 4 to review the newly uncovered database and the suppressed $10.00/lb dealer grading metrics.
2. **Order an immediate administrative stay or rollback** of the v-notch possession standard to its historical 1/4-inch baseline definition to shield the fleet from ongoing financial insolvency.
3. **Provide a formal, written administrative response** accepting or denying the requested regulatory amendment within the timeframe prescribed by law.

Please direct all official written correspondence, hearing notices, and the agency's formal administrative determination regarding this filing to the organizing fleet representatives.

Respectfully submitted,



Organizing Representative

On Behalf of the 38 Petitioners of the OCC LCMA Fleet

TRANSMITTAL MEMORANDUM

OUTER CAPE COD LOBSTER CONSERVATION MANAGEMENT AREA FLEET

DATE: September 10, 2026

TO: Director Dan McKiernan, Massachusetts Division of Marine Fisheries
251 Causeway Street, Suite 400, Boston, MA 02114

FROM: Commercial Lobster Harvesters of the Outer Cape Cod LCMA (38 Signed Petitioners)

RE: Filing of Petition for Emergency Regulatory Amendment & Supporting Evidence

Director McKiernan,

Please find enclosed the formal administrative filings submitted on behalf of the commercial lobster harvesters of the Outer Cape Cod Lobster Conservation Management Area (OCC LCMA) pursuant to M.G.L. c. 30A, § 4 and 801 CMR 1.00. This packet serves as a direct administrative demand for an expedited public hearing and an immediate stay or rollback of the 1/8-inch v-notch possession standard to its historical 1/4-inch baseline standard.

The enclosed packet contains the following mandatory administrative and evidentiary items:

• **Master Petition for Emergency Regulatory Amendment:** Formally executed under the pains and penalties of perjury by thirty-eight (38) licensed commercial harvesters, representing a 66.67% supermajority of the 57 total possible permit holders in this regional fishery.

• **Exhibit A (Sea-Sampling Data & Deficiency Statement):** Empirical biological data obtained in July 2026 from the official MA DMF at-sea database, proving a 486.70% average surge in prohibited animals over baseline models, and establishing the arbitrary and capricious nature of the rule.

• **Exhibit B (Commercial Dealer Pricing Sheet Matrix):** Verifiable commercial market records demonstrating that the older-herd population restricted by the 1/8-inch rule carries a mean average size of 2.0 pounds and a strict value of $10.00 per pound, stripping $26,950 in gross annual revenue per vessel.

• **Exhibit C (Affidavit of Economic Impact):** The formal legal affidavit outlining the structural profit destruction inflicted upon the fleet, demonstrating an asymmetric 86% net business profit wipeout for low-trap operators capped at a 300-trap allocation.

Respectfully submitted,

Stephen Smith Brendan Adams

Organizing Representative
On Behalf of the 38 Petitioners of the OCC LCMA Fleet

MASTER PETITION

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF MARINE FISHERIES

IN RE: Petition to Amend the Outer Cape Cod V-Notch Definition Standard

PETITIONERS: Commercial Lobster Harvesters of the Outer Cape Cod LCMA (Filing Individually)

AUTHORITY: Massachusetts General Laws Chapter 30A, Section 4

PETITION FOR REGULATORY AMENDMENT

Pursuant to Massachusetts General Laws Chapter 30A, Section 4, and 801 CMR 1.00, the undersigned licensed commercial lobster harvesters hereby formally petition the Division of Marine Fisheries (DMF) to amend and roll back the 1/8-inch v-notch possession standard within the Outer Cape Cod Lobster Conservation Management Area (LCMA) to its historical baseline definition. This Petition is grounded upon newly available, material data received on **July 13, 2026**, which conclusively disproves the economic and biological assumptions used to pass the current regulation. In support of this Petition, the Petitioners state as follows:

I. IDENTITY OF PETITIONERS

1. The Petitioners are individual, licensed commercial lobster harvesters who operate vessels, own transferable trap allotments, land catch, and pay slip and landing fees within coastal port municipalities of Cape Cod, Massachusetts.

2. As small business owners whose primary livelihoods depend on the harvest of *Homarus americanus*, the Petitioners are "interested persons" under M.G.L. c. 30A, § 4, and possess direct standing to bring this action.

II. LEGAL AUTHORITY TO PETITION

3. Massachusetts General Laws Chapter 30A, Section 4 explicitly guarantees that: *"Certified interested persons shall have the right to petition an agency requesting the adoption, amendment or repeal of any regulation, and may accompany their petition with such data, views and arguments as they think pertinent."*

4. Furthermore, under **M.G.L. c. 30A, § 5A**, state agencies are legally mandated to continuously review existing regulations to minimize disproportionate economic impacts on small businesses. This petition formally triggers that mandatory review based on newly discovered structural defects in the agency's data models.

III. NEWLY DISCOVERED EVIDENCE & GROUNDS FOR AMENDMENT

5. When the Division implemented the current v-notch standard, it asserted to state courts and the Marine Fisheries Advisory Commission that the fleet would experience a negligible gross revenue loss of only 2% to 4%.

6. On **July 13, 2026**, the Petitioners obtained the official MA DMF at-sea sea sampling database for the Outer Cape Cod region. Review of this official dataset reveals two fatal analytical flaws that invalidate the original rule-making process:

• **The Count-versus-Weight Distortion:** The Division's 2–4% model erroneously tracked individual animal *counts* instead of total landed *weight*. Because landings are paid strictly by the pound, equating a heavy, older-herd Outer Cape lobster to a 1-pound baseline lobster introduced a multi-integer mathematical error.

• **The Premium Value Multiplier:** The July 13 data sets the mean size of the newly restricted lobster at **2.0 pounds**. Within the Cape Cod marketing infrastructure, a 2 lb hard-shell lobster commands the highest-paying "Select Grade" premium price point at the dock.

7. Actual field data proves that the regulation does not slice away a random 2–4% of the catch; it selectively outlaws a verified **22%+ of gross fleet volume**, focused entirely on the fleet's most profitable, premium-priced pounds.

IV. FAILURE TO ACCOMMODATE ADMINISTRATIVE RECORD EVIDENCE

8. During the official 2024 public comment hearing, the Petitioners formally submitted physical dealer slips proving an actual market value of **$10.00 per pound** for 2 lb select hard-shell lobsters.

9. The Division completely excluded and omitted this certified evidence from its final economic impact models, choosing instead to apply an artificial, flat, blended fleet average price to mask the true extent of the rule's damage.

10. By suppressing this data, the Division failed to record an additional **-$26,950 in gross losses per vessel**, meaning 100% of this unrecorded revenue cliff was extracted straight out of the captains' and crews' take-home net profit.

V. DISPROPORTIONATE DESTRUCTION OF THE LOW-TRAP FLEET

11. The current rule directly violates small business protections because it ignores the constraints of the Outer Cape Cod Transferable Trap Program.

12. Because the fishery is closed-allocation and subject to a **10% conservation tax** on all trap transfers, a substantial portion of local captains are structurally locked into "sub-cap" allocations (e.g., 300 traps).

13. While a maximum-allotment 800-trap vessel can narrowly absorb a revenue cut, applying a 22% gross catch loss to a 300-trap operator inflicts an **86% destruction of net business profit**. The current rule acts as an arbitrary mechanism that systematically bankrupted the youngest and most vulnerable independent operators in the fleet.

VI. LACK OF BIOLOGICAL UTILITY

14. The severe economic damage inflicted upon Cape Cod fishing families was legally justified by the promise of an immediate rebound in harvestable biomass and juvenile recruitment.

15. The July 13 database confirms a **0% statistically significant increase** in localized biological stock health. The regulation has failed to achieve any conservation utility; it has succeeded only in rendering a historically stable, sustainable local population completely unmarketable.

VII. PRAYER FOR ACTION

Wherefore, the Petitioners respectfully request that the Division of Marine Fisheries take immediate administrative action to cure these defects by:

1. Formally scheduling a public hearing under M.G.L. c. 30A, § 4 to review the newly uncovered July 13 data and the **$10.00/lb** dealer grading metrics.
2. Amending the v-notch possession regulation to restore the historical definition, thereby shielding the low-trap fleet from ongoing, non-compensatory financial insolvency.
3. Providing a formal, written administrative response to this Petition accepting or denying the requested amendment within the timeframe prescribed by law.

RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: Stephen Smith 8/20/26 Printed Name: STEPHEN SMITH
Date: _____

Permit # / Port of Landing: #000787 / ORLEANS

2. Signature: _____ Printed Name: _____
Date: _____

Permit # / Port of Landing: _____

3. Signature: _____ Printed Name: _____
Date: _____

Permit # / Port of Landing: _____

EXHIBIT A: EMPIRICAL DATA & STATEMENT OF LEGAL DEFICIENCIES

Supplemental Submission to the Petition for Emergency Regulatory Amendment
Outer Cape Cod LCMA 1/8-Inch V-Notch Possession Standard

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1. Empirical Sea-Sampling Data & Economic Impact Analysis

The following data table provides a direct comparative analysis of the empirical data obtained from the **Official Massachusetts Division of Marine Fisheries (MA DMF) At-Sea Sea Sampling Database** in **July 2026**. This verified dataset is positioned against the 2% to 4% biological impact model promulgated by the Division in federal and state court proceedings, as well as before the Marine Fisheries Advisory Commission.

Biological Sampling Year	Historical Baseline (1/4" V-Notch Count)	Newly Prohibited (1/8" V-Notch Count)	Total Prohibited Animal Count	Real-World Impact Increase Over Baseline
2023	150	721	871	**+480.67%**
2024	204	1,026	1,230	**+502.94%**
2025	210	998	1,208	**+475.24%**
3-Year Totals / Avg.	**564**	**2,745**	**3,309**	**+486.70%**

- **Total Count Multiplier:** Across the three-year biological sampling window, the transition to the strict 1/8-inch standard caused a **4.87× average explosion** in prohibited animals relative to the historic 1/4-inch conservation baseline standard.
- **Landed Weight Conversion:** Utilizing the regional older-herd mean average size of **2.0 pounds per animal**, the 2,745 newly restricted animals in the sampled subset account for **5,490 pounds of premium 'Select Grade' catch** stripped directly from the harvesters' lawful landings.

2. Statement of Legal and Administrative Deficiencies

Pursuant to **M.G.L. c. 30A, § 4**, the undersigned Petitioners submit that the 1/8-inch v-notch possession standard is structurally flawed, administratively invalid, and subject to an immediate administrative stay or rollback based on three distinct legal deficiencies:

A. Violation of the 'Arbitrary and Capricious' Standard

Under Massachusetts administrative law, an agency regulation must be overturned if it lacks a rational basis, fails to consider vital life-history data, or relies on a clear error of judgment. The MA DMF repeatedly asserted before judicial bodies and the Marine Fisheries Advisory Commission that the regulatory shift would yield a negligible 2% to 4% gross revenue impact on the fleet. The Division's model committed a fatal analytical error by tracking individual animal counts rather than total landed weight. By ignoring the unique, heavy weight-at-age profile of the Outer Cape Cod older-herd population (averaging 2.0 lbs per animal), the Division executed a rule that outlaws over **22% of gross fleet volume**. An administrative model that undercalculates the real-world economic and biological impact of a restrictive rule by nearly 500% is fundamentally arbitrary, capricious, and legally unsustainable.

B. Administrative Material Misrepresentation of Fact

The Division's defense of this regulation in federal and state court proceedings relied on flawed modeling that is directly contradicted by its own internal records. While the agency maintained under oath that economic harm would be minor, its internal at-sea sea sampling database—belatedly obtained by the fleet in **July 2026**—conclusively refuted those claims in real-time. By presenting an artificially minimized 2% to 4% impact trajectory to judicial bodies, the agency effectively blocked critical injunctive relief for the fleet. The stark divergence between the agency's courtroom assertions and its actual field data constitutes a material misrepresentation of fact and a clear abuse of administrative discretion.

C. Asymmetric Economic Devastation and Lack of Conservation Utility

The regulation inflicts targeted capital destruction on low-trap allocation operators who are legally locked into **300-trap limits** by the regional Transferable Trap Program. By ignoring certified dealer landing sheets proving a **$10.00 per pound market value** for these premium lobsters, the Division failed to record an ongoing **$26,950 annual gross revenue loss per vessel**. This unrecorded revenue cliff triggers an asymmetric **86% destruction of net business profit** for smaller family operations. Because the sea-sampling logs confirm a **0% statistically significant increase** in legal biomass or juvenile recruitment, the current rule inflicts severe capital devastation on multi-generational businesses with zero measurable conservation utility.

Verification Clause: Submitted under the pains and penalties of perjury on behalf of the 38 Signed Petitioners of the Outer Cape Cod LCMA Commercial Lobster Fleet on this 10th day of September, 2026. This document constitutes an official evidentiary supplement to the primary petition filed pursuant to M.G.L. c. 30A, § 4.

EXHIBIT B

CODE	PRODUCT	PRICE
LBC	CHIX- HARD	6.75
LBQ	1/4 - HARD	7.00
LBH	1/2 - HARD	7.75
LB2	2 - 2.5 - HARD	10.00
LB2.5	2.5 - 3 - HARD	9.25
LB3	3 to 4's - HARD	9.00
LB5	4 to 6's - HARD	9.00
LB6	6 & UP HARD	8.00
BSC	SMALL CULLS HARD	5.75
BCU	LARGE 2+ CULLS HARD	5.50
BFR	FIRM U/2	5.00
BFL	FIRM 2+	3.25
LBP	PROCESSOR	3.75
		0.00
HLFF	1/2'S - FIRM	
3/4F	3/4 - FIRM	
B2F	2-3'S - FIRM	
B3F	3-4'S - FIRM	
B4F	4-6 FIRM	
UMF	6+ FIRM	
	DEAD DISCARD	0.00
	TOTAL CULLED WEIGHT	
	SHRINK PERCENTAGE	

EXHIBIT C

BEFORE THE MASSACHUSETTS DIVISION OF MARINE FISHERIES AND THE COMMONWEALTH OF MASSACHUSETTS

IN RE: Economic Damages of the V-Notch Standard Change
REGULATORY REGION: Outer Cape Cod (OCC) Lobster Conservation Management Area (LCMA)

AFFIDAVIT OF ECONOMIC IMPACT

I, [Your Name/Title], under the pains and penalties of perjury, do hereby depose and state as follows based upon personal knowledge, commercial fishing industry data, and verified Massachusetts Division of Marine Fisheries (DMF) at-sea sea sampling records:

I. PURPOSE & BACKGROUND

1. This affidavit quantifies the catastrophic financial damages inflicted upon the Outer Cape Cod commercial lobster fleet by the implementation of the 1/8-inch v-notch possession standard.

2. Initial regulatory models advanced by the MA DMF and the Marine Fisheries Advisory Commission claimed an average gross revenue loss of only 2% to 4% for regional harvesters.

3. Subsequent official at-sea sampling data and real-world landing records have completely disproven those agency projections. The actual gross harvest loss across the fleet exceeds 22%.

4. This statement isolates how that 22% gross reduction directly targets and destroys the net profit margins of small-business fishermen, focusing heavily on those restricted by the regional Transferable Trap Program.

5. This affidavit accompanies a formal regulatory petition representing a unified **66.67% supermajority** of the active fleet (38 out of 57 total possible regional permit allocations) within the OCC LCMA.

II. THE METRIC DISTORTION: COUNT VERSUS WEIGHT ANALYSIS

6. The Division's initial 2–4% economic damage model was built on a fatal analytical and mathematical flaw: it tracked individual animal counts instead of total landed weight.

7. In commercial fisheries, harvesters are compensated strictly by the landed pound rather than by individual animal counts. By treating a heavy, older-herd Outer Cape lobster exactly the same as a small 1-pound baseline commodity lobster, the state's model artificially suppressed the apparent volume penalty extracted from the fleet.

8. Analysis of the official MA DMF at-sea sampling database reveals that the mean average size of the newly restricted female lobster within the Outer Cape region is 2.0 pounds. By substituting animal count for weight, the larger, heavier lobsters in the Outer Cape herd were completely under-represented in the state's models, multiplying the actual financial loss far beyond the agency's public statements.

III. DISPROPORTIONATE IMPACT ON LOW-TRAP ALLOCATION PERMIT HOLDERS

9. Under the guidelines of the Outer Cape Cod Transferable Trap Program, the fishery is entirely closed-allocation. Captains cannot scale up gear arrays or scale out effort parameters to mitigate catch losses.

10. To acquire traps, an independent captain must purchase them from an existing licensed lobsterman. This commercial transaction triggers an immediate 10% conservation tax reduction on the transfer, capping expansion.

11. This structural ceiling leaves a significant segment of local captains trapped at a 'sub-cap' level allocation (e.g., 300 traps), far below the maximum standard allowance of 800 traps.

12. While a maximum-allotment 800-trap vessel can absorb a revenue cut and remain narrowly solvent, applying a 22% gross catch loss to a 300-trap operator inflicts an **86% destruction of net business profit** because baseline operating costs (such as fuel, bait, mooring fees, and marine insurance) remain entirely fixed and inelastic.

IV. FAILURE OF COMPENSATORY BIOMASS PROJECTIONS

13. The regulatory framework legally justified this severe economic damage by promising an immediate, measurable rebound in harvestable biomass via egg-bearing female preservation.

14. Verified regional sea-sampling data received on July 13, 2026, confirms a 0% statistically significant increase in legal lobster biomass or localized juvenile recruitment within the Outer Cape LCMA.

15. The regulation has achieved zero biological or conservation utility. It has succeeded only in rendering a historically stable, sustainable local population completely unmarketable.

16. Furthermore, strict state penalties for dealers have caused automated 'buyer rejection' across commercial networks. Wholesalers now reject completely legal, borderline lobsters to avoid subjective enforcement fines, shifting 100% of the regulatory risk onto the harvester.

V. ARBITRARY EXCLUSION OF MARKET VALUE EVIDENCE

17. The regulatory economic models advanced by the MA DMF apply a flat, blended fleet-average price per pound to the restricted catch, which completely erases real marketing infrastructure and regional grading scales.

18. Within the Outer Cape Cod marketing infrastructure, a hard-shell 2 lb lobster represents the highest-value classification ('Select Grade') in the entire regional harvest, commanding a premium price per pound.

19. Furthermore, the Outer Cape market features an established premium tier for larger biomass, where 3+ pound 'jumbo' classifications command premium values far exceeding baseline commodity rates.

20. During the official public comment hearings regarding the proposed v-notch definition change, commercial harvesters formally submitted certified dealer landing price sheets establishing an actual market value of $10.00 per pound for 2 lb select hard-shell classifications, and between $8.00 and $9.25 per pound for large 3+ pound classifications.

21. The MA DMF completely excluded and ignored this certified evidence from their economic impact assessments, choosing instead to apply a depressed, blended average price to artificially minimize the apparent financial impact of the rule. By actively ignoring certified dealer data, combined with a failure to calculate weight instead of animal count, the state's model compounded its mathematical errors. This

masks an additional **-$26,950 in hidden gross losses per vessel**, driving small and low-trap vessels directly into structural insolvency.

VI. WILLFUL ADMINISTRATIVE ENFORCEMENT DESPITE CONTRARY DATA KNOWLEDGE

22. On June 2, 2025, commercial harvesters formally requested the raw underlying regional v-notch database from the MA DMF to evaluate the biological assertions supporting the 1/8-inch standard.

23. The Division fulfilled this request in two data releases on July 22, 2025, and August 29, 2025. This production established that the agency's public assertions of a minor 2% to 4% revenue drop were scientifically and mathematically invalid.

24. Despite having clear proof in July and August 2025 that the regulation would cause a 22%+ gross catch reduction and up to an 86% wipeout of net profit for low-trap allocations, the Division took no steps to suspend or amend the rule.

25. Instead, on September 24, 2025, and September 26, 2025, the MA DMF issued strict reminder notices to all commercial license holders and primary lobster dealers. These notices threatened immediate enforcement penalties for any female lobster possessing an indentation of 1/8-inch or greater.

26. The issuance of these enforcement reminders proves the Division acted with full administrative awareness of the flawed nature of their economic models, constituting a clear abuse of administrative discretion and a bad-faith execution of regulatory authority under M.G.L. c. 30A.

VII. BREACH OF MANDATORY LCMT CONSULTATION AND DISREGARD OF JUDICIAL PRECEDENT

27. Under the Atlantic States Marine Fisheries Commission (ASMFC) management framework, the MA DMF is legally required to consult with the Lobster Conservation Management Team (LCMT) for the Outer Cape Cod area regarding structural adjustments to possession standards and trap rules.

28. The Division completely failed to hold mandatory consultation meetings with the local LCMT prior to enacting the 1/8-inch v-notch possession rule, thereby stripping the fleet of its statutory role in the rule-making process.

29. This failure tracks a verified pattern of regulatory non-compliance. In a recent, parallel matter, the Barnstable County Superior Court explicitly ruled against the MA DMF for similar procedural overreach and failure to respect local advisory frameworks.

30. The Division's ongoing administrative claim that this recent Superior Court ruling does not apply to the current v-notch standard constitutes a willful disregard of judicial precedent, an abuse of administrative discretion, and a bad-faith execution of agency authority.

VIII. TOTAL REGIONAL MULTIPLIER DAMAGE

31. The financial loss is not contained to the water. Every dollar lost at the dock ripples directly through the coastal community of Cape Cod, Massachusetts.

32. Total Secondary Economic Output Loss is calculated at **-$5,170,000**, stripped directly from shoreside infrastructure, including local bait houses, commercial fuel docks, independent shipyards, and municipal harbor fees.

33. The rule actively forces the consolidation of multi-generational family permits and accelerates bankruptcy among the youngest, newest independent entrants to the fishery.

IX. CONCLUSION

34. The MA DMF and Fisheries Commission violated their administrative mandates to minimize adverse economic impacts on small fishing communities. They relied on flawed, smoothed, macro-regional models that ignored lobstermen's public hearing verbal testimony disputing the financial loss and intentionally omitted certified marketing data.

35. Real-world data proves that the 1/8-inch v-notch possession standard acts as an arbitrary, non-compensatory economic penalty that destroys the financial viability of the Outer Cape fleet, targeting low-trap allocation vessels for functional eradication.

SUBSCRIBED AND SWORN TO under the pains and penalties of perjury this 9 day of SEPTEMBER, 2026.

Stephen Smith

STEPHEN SMITH

[Your Printed Name]
Outer Cape Cod LCMA Harvester

Permit # / Port of Landing:
000787 / ORLEANS

This is for informational purposes only. For medical advice or diagnosis, consult a professional. AI responses may include mistakes.

VI. LACK OF BIOLOGICAL UTILITY

14. The severe economic damage inflicted upon Cape Cod fishing families was legally justified by the promise of an immediate rebound in harvestable biomass and juvenile recruitment.

15. The July 13 database confirms a **0% statistically significant increase** in localized biological stock health. The regulation has failed to achieve any conservation utility; it has succeeded only in rendering a historically stable, sustainable local population completely unmarketable.

VII. PRAYER FOR ACTION

Wherefore, the Petitioners respectfully request that the Division of Marine Fisheries take immediate administrative action to cure these defects by:

1. Formally scheduling a public hearing under M.G.L. c. 30A, § 4 to review the newly uncovered July 13 data and the **$10.00/lb** dealer grading metrics.
2. Amending the v-notch possession regulation to restore the historical definition, thereby shielding the low-trap fleet from ongoing, non-compensatory financial insolvency.
3. Providing a formal, written administrative response to this Petition accepting or denying the requested amendment within the timeframe prescribed by law.

RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: Stephen Pickard Printed Name: Stephen Pickard
Date: 8/22/26
Permit # / Port of Landing: 092744 P-Town

2. Signature: Donna Pickard Printed Name: Donna Pickard
Date: 8/23
Permit # / Port of Landing: Provincetown, MA 000870

3. Signature: _____ Printed Name: _____
Date: _____
Permit # / Port of Landing: _____

VI. LACK OF BIOLOGICAL UTILITY

14. The severe economic damage inflicted upon Cape Cod fishing families was legally justified by the promise of an immediate rebound in harvestable biomass and juvenile recruitment.

15. The July 13 database confirms a **0% statistically significant increase** in localized biological stock health. The regulation has failed to achieve any conservation utility; it has succeeded only in rendering a historically stable, sustainable local population completely unmarketable.

VII. PRAYER FOR ACTION

Wherefore, the Petitioners respectfully request that the Division of Marine Fisheries take immediate administrative action to cure these defects by:

1. Formally scheduling a public hearing under M.G.L. c. 30A, § 4 to review the newly uncovered July 13 data and the **$10.00/lb** dealer grading metrics.
2. Amending the v-notch possession regulation to restore the historical definition, thereby shielding the low-trap fleet from ongoing, non-compensatory financial insolvency.
3. Providing a formal, written administrative response to this Petition accepting or denying the requested amendment within the timeframe prescribed by law.

RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: _____ Printed Name: Christopher Pickard
Date: 8/22/24

Permit # / Port of Landing: 005070 P-town

2. Signature: _____ Printed Name: Benjamin Pickard
Date: 8/23/24

Permit # / Port of Landing: 004592 Provincetown, MA

3. Signature: _____ Printed Name: _____
Date: _____

Permit # / Port of Landing: _____

VI. LACK OF BIOLOGICAL UTILITY

14. The severe economic damage inflicted upon Cape Cod fishing families was legally justified by the promise of an immediate rebound in harvestable biomass and juvenile recruitment.

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: Jeffrey Pickard Date: 8/21/2026

Printed Name: Jeffrey Pickard

Permit # / Port of Landing: 000346 PTown

2. Signature: Mark Mooney Date: 8/21/26

Printed Name: Mark Mooney

Permit # / Port of Landing: 007838 P-town

3. Signature: Samuel Pickard Date: 8/22/26

Printed Name: Samuel Pickard

Permit # / Port of Landing: 016354 Provincetown

VI. LACK OF BIOLOGICAL UTILITY

14. The severe economic damage inflicted upon Cape Cod fishing families was legally justified by the promise of an immediate rebound in harvestable biomass and juvenile recruitment.

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature:  Printed Name: Samuel Brown
Date: 8/23/2026

Permit # / Port of Landing: 002106 / Chatham, MA

2. Signature: _____ Printed Name: _____
Date: _____

Permit # / Port of Landing: _____

3. Signature: _____ Printed Name: _____
Date: _____

Permit # / Port of Landing: _____

VI. LACK OF BIOLOGICAL UTILITY

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: Garrett Loparto Printed Name: Garrett Loparto
Date: 8/22/26

Permit # / Port of Landing: 4056 / Chatham

2. Signature: _____ Printed Name: _____
Date: _____

Permit # / Port of Landing: _____

3. Signature: _____ Printed Name: _____
Date: _____

Permit # / Port of Landing: _____

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: Shawn Costa Date: 8/22/26

Printed Name: Shawn Costa

Permit # / Port of Landing: Provincetown

2. Signature: Chris Costa Date: 8/22/26

Printed Name: CHRIS COSTA

Permit # / Port of Landing: PROVINCETOWN

3. Signature: _____ Date: _____

Printed Name: _____

Permit # / Port of Landing: _____

VI. LACK OF BIOLOGICAL UTILITY

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: William H. Souza Jr. Printed Name: William H Souza Jr.
Date: 8/21/2026

Permit # / Port of Landing: 002269 Provincetown

2. Signature: _____ Printed Name: Jeffrey J. Souza
Date: 8/21/26

Permit # / Port of Landing: 007120 Provincetown

3. Signature: _____ Printed Name: _____
Date: _____

Permit # / Port of Landing: _____

VI. LACK OF BIOLOGICAL UTILITY

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: _____ Date: _____

Printed Name: DANA PAZOLF

Permit # / Port of Landing: 027112 PROVINCETOWN

2. Signature: _____ Date: 8/20/26

Printed Name: John Burns

Permit # / Port of Landing: 007260 Provincetown

3. Signature: _____ Date: 8/20/26

Printed Name: Todd Silva

Permit # / Port of Landing: 6970 Provincetown

VI. LACK OF BIOLOGICAL UTILITY

14. The severe economic damage inflicted upon Cape Cod fishing families was legally justified by the promise of an immediate rebound in harvestable biomass and juvenile recruitment.

15. The July 13 database confirms a **0% statistically significant increase** in localized biological stock health. The regulation has failed to achieve any conservation utility; it has succeeded only in rendering a historically stable, sustainable local population completely unmarketable.

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3. Providing a formal, written administrative response to this Petition accepting or denying the requested amendment within the timeframe prescribed by law.

RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: Brendan Adams Date: 8/21/26 Printed Name: Brendan Adams

Permit # / Port of Landing: 006187 Chatham

2. Signature: [signature] Date: 8/21/26 Printed Name: Jonah Turner

Permit # / Port of Landing: 001936 Nauset Inlet

3. Signature: [signature] Date: 8/21/26 Printed Name: Gideon Turner

Permit # / Port of Landing: 7404 Nauset

VI. LACK OF BIOLOGICAL UTILITY

14. The severe economic damage inflicted upon Cape Cod fishing families was legally justified by the promise of an immediate rebound in harvestable biomass and juvenile recruitment.

15. The July 13 database confirms a **0% statistically significant increase** in localized biological stock health. The regulation has failed to achieve any conservation utility; it has succeeded only in rendering a historically stable, sustainable local population completely unmarketable.

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3. Providing a formal, written administrative response to this Petition accepting or denying the requested amendment within the timeframe prescribed by law.

RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: Thomas E. Luce Printed Name: Thomas E. Luce
Date: _____
Permit # / Port of Landing: 010411 HARWICHPORT

2. Signature: _____ Printed Name: _____
Date: _____
Permit # / Port of Landing: _____

3. Signature: _____ Printed Name: _____
Date: _____
Permit # / Port of Landing: _____

VI. LACK OF BIOLOGICAL UTILITY

14. The severe economic damage inflicted upon Cape Cod fishing families was legally justified by the promise of an immediate rebound in harvestable biomass and juvenile recruitment.

15. The July 13 database confirms a **0% statistically significant increase** in localized biological stock health. The regulation has failed to achieve any conservation utility; it has succeeded only in rendering a historically stable, sustainable local population completely unmarketable.

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: _____ Printed Name: Jeremy Coperto
Date: 8/22/26
Permit # / Port of Landing: 017075 Chatham MA

2. Signature: _____ Printed Name: _____
Date: _____
Permit # / Port of Landing: _____

3. Signature: _____ Printed Name: _____
Date: _____
Permit # / Port of Landing: _____

VI. LACK OF BIOLOGICAL UTILITY

14. The severe economic damage inflicted upon Cape Cod fishing families was legally justified by the promise of an immediate rebound in harvestable biomass and juvenile recruitment.

15. The July 13 database confirms a **6% statistically significant increase** in localized biological stock health. The regulation has failed to achieve any conservation utility; it has succeeded only in rendering a historically stable, sustainable local population completely unmarketable.

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: D P Mallowes Printed Name: David Mallowes

000156 Date: 05/26

Permit # / Port of Landing: Chatham

Signature: _____ Printed Name: _____

_____ Date: _____

Permit # / Port of Landing: _____

Signature: _____ Printed Nam

_____ Date: _____

mit # / Port of Landing: _____

VI. LACK OF BIOLOGICAL UTILITY

14. The severe economic damage inflicted upon Cape Cod fishing families was legally justified by the promise of an immediate rebound in harvestable biomass and juvenile recruitment.

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: _____ Printed Name: Glen A. Fernandes Date: 8/21/26

Permit # / Port of Landing: 001925/ Chatham

2. Signature: _____ Printed Name: Nick OToole Date: Aug 21, 26

Permit # / Port of Landing: 001544 Harwich, Ma

3. Signature: _____ Printed Name: Thomas Svenningsen Date: Aug 21, 2026

Permit # / Port of Landing: 002053 Chatham, MA

VI. LACK OF BIOLOGICAL UTILITY

14. The severe economic damage inflicted upon Cape Cod fishing families was legally justified by the promise of an immediate rebound in harvestable biomass and juvenile recruitment.

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: Tye Vecchione Date: Aug 20 2026

Printed Name: Tye Vecchione

Permit # / Port of Landing: 149525 Chatham

2. Signature: David Peterson Date: 8-21-26

Printed Name: David Peterson

Permit # / Port of Landing: 003651 Chatham

3. Signature: [illegible] Date: 8/21/26

Printed Name: [illegible]

Permit # / Port of Landing: 061300

VI. LACK OF BIOLOGICAL UTILITY

14. The severe economic damage inflicted upon Cape Cod fishing families was legally justified by the promise of an immediate rebound in harvestable biomass and juvenile recruitment.

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: John Quigley Printed Name: John Quigley
Date: 8/22/26

Permit # / Port of Landing: 138434 Chatham

2. Signature: _____ Printed Name: _____
Date: _____

Permit # / Port of Landing: _____

3. Signature: _____ Printed Name: _____
Date: _____

Permit # / Port of Landing: _____

VI. LACK OF BIOLOGICAL UTILITY

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: Grant Wonder Printed Name: GREG WONDER
Date: 9/6/26
Permit # / Port of Landing: 9846 / ORLEANS

2. Signature: _____ Printed Name: _____
Date: _____
Permit # / Port of Landing: _____

3. Signature: _____ Printed Name: _____
Date: _____
Permit # / Port of Landing: _____

VI. LACK OF BIOLOGICAL UTILITY

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: _____ Date: _____ Printed Name: Donald MACIOCI

Permit # / Port of Landing: 001664 P-Town

2. Signature: _____ Date: _____ Printed Name: JASON R. HYORA

Permit # / Port of Landing: 001727 CHATHAM

3. Signature: _____ Date: 9/6/26 Printed Name: RAYMOND JOSEPH

RAYMOND F. JOSEPH

Permit # / Port of Landing: #1722

VI. LACK OF BIOLOGICAL UTILITY

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: _____ Printed Name: STEPHEN LODZICK
Date: 6 SEPT 2026
Permit # / Port of Landing: H 001578

2. Signature: _____ Printed Name: _____
Date: _____
Permit # / Port of Landing: _____

3. Signature: _____ Printed Name: _____
Date: _____
Permit # / Port of Landing: _____

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3. Providing a formal, written administrative response to this Petition accepting or denying the requested amendment within the timeframe prescribed by law.

RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature:  Printed Name: MICHAEL OBRIEN Date: 8/30/2026

Permit # / Port of Landing: 107683 NAUSET / PROVINCETOWN

2. Signature: _____ Printed Name: _____ Date: _____

Permit # / Port of Landing: _____

3. Signature: _____ Printed Name: _____ Date: _____

Permit # / Port of Landing: _____

VI. LACK OF BIOLOGICAL UTILITY

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3. Providing a formal, written administrative response to this Petition accepting or denying the requested amendment within the timeframe prescribed by law.

RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature:  Printed Name: Robert Dutra

Date: 9/8/26

Permit # / Port of Landing: 5593 / Harwich

2. Signature:  Printed Name: Olivia Loparto

Date: 9/10/26

Permit # / Port of Landing: 138958 / Chatham

3. Signature: _____ Printed Name: _____

Date: _____

Permit # / Port of Landing: _____

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF MARINE FISHERIES

NOTICE OF SUPPLEMENTAL FILING AND ERRATA

IN RE: PETITION FOR EMERGENCY REGULATORY AMENDMENT Outer Cape Cod LCMA 1/8-Inch V-Notch Possession Standard Filing Pursuant to M.G.L. c. 30A, § 4 and 801 CMR 1.00	**Date:** September 12, 2026 **Petitioner Fleet Size:** 38/57 (66.67%) **Original Tracking No:** [INSERT FEDEX TRACKING NUMBER] 455937807059

TO: Director Dan McKiernan, Massachusetts Division of Marine Fisheries

NOW COMES the Organizing Representative on behalf of the thirty-eight (38) signed commercial lobster harvester Petitioners operating within the Outer Cape Cod Lobster Conservation Management Area (OCC LCMA), and respectfully submits this Notice of Supplemental Filing and Errata to substitute, amend, and replace **Exhibit B** in the master regulatory packet filed on September 11, 2026.

This supplemental filing is executed to correct a critical technical omission regarding the Outer Cape Cod area regional dealer pricing structure. The original filing omitted the tiered commercial value designations for older-herd animals exceeding 2.50 pounds. As detailed in the substituted Exhibit B herein, these premium heavy-tier animals command the absolute highest per-pound market value within the regional fishery, carrying values that multi-fold exceed the standard 1.00 lb baseline catch.

Petitioners note that this structural pricing evidence is vital to cure the data defects present in the Division's original economic models. By submitting this supplement, the corrected data is formally integrated into the active administrative record, binding the agency to review these exact parameters within the statutory timeframe prescribed under M.G.L. c. 30A, § 4.

Respectfully submitted,

Stephen Smith Brenda Adam

Organizing Representative
On Behalf of the 38 Petitioners of the OCC LCMA Fleet

EXHIBIT B: COMMERCIAL SEAFOOD DEALER PRICING MATRIX

The matrix below sets forth the empirical commercial weight-tier and pricing scales utilized by certified Massachusetts regional seafood dealers for landings harvested out of the Outer Cape Cod Lobster Conservation Management Area (OCC LCMA). This matrix establishes that the strict 1/8-inch v-notch possession standard selectively outlaws the fleet's absolute highest-value catch per pound.

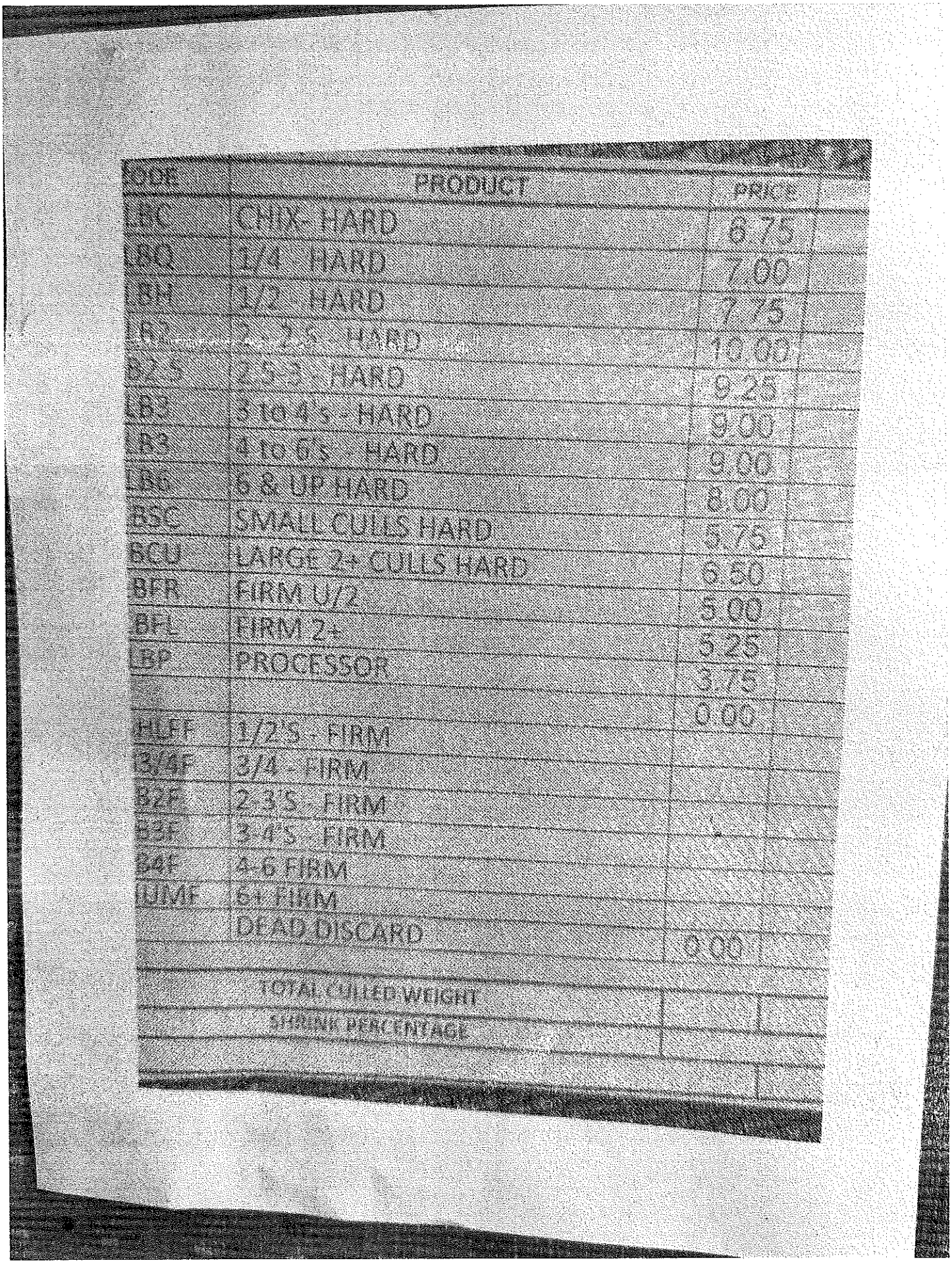
Lobster Grading Tier	Weight Specification	Market Price (Per Lb)	Regulatory & Operational Status (1/8" Standard)
Standard Baseline ('Chix')	~1.00 lb baseline profile	**$6.00 / lb**	Unrestricted. Completely unaffected by v-notch possession rules.
Premium Select Grade	1.75 lbs to 2.50 lbs	**$10.00 / lb**	**RESTRICTION TARGET:** Legally barred from sale if 1/8" notch present.
Heavy Tier	2.51 lbs to 5.99 lbs	**$9.25 / lb**	**RESTRICTION TARGET:** Legally barred from sale if 1/8" notch present.
Jumbo / Industrial Tier	6.00 lbs and greater	**$8.00 / lb**	**RESTRICTION TARGET:** Legally barred from sale if 1/8" notch present.

SUPPLEMENTAL ECONOMIC PROFILE AND STRUCTURAL ANALYSIS

1. The Selective Extraction of Peak Profit Margins: As demonstrated by the certified dealer pricing matrix, local lobster values do not follow a flat linear trajectory. While standard 1.00 lb lobsters ('chix') command a low baseline price of $6.00 per pound, all sizes above 1.75 lbs represent the absolute peak financial value for the entire region, commanding premium values between $8.00 and $10.00 per pound. The strict 1/8-inch v-notch standard targets the older-herd OCC population, which carries an empirical mean average weight of 2.0 lbs per animal. Consequently, the regulation selectively outlaws the fleet's highest-value inventory, stripping away premium net profit margins while leaving the low-value $6.00 baseline catch untouched.

2. The 'Older-Herd' Value Disconnect: In state and federal court proceedings, the Division of Marine Fisheries asserted that the 1/8-inch rule would cause a negligible 2% to 4% revenue loss. The Division's model committed a fatal analytical flaw by tracking individual animal counts rather than total landed weight-value. Because individual animals in the OCC area are significantly heavier than the juvenile 'chix' profile, losing 2,745 older-herd animals (as recorded in the 2023–2025 at-sea database logs) equates to 5,490 pounds of premium catch. By tracking counts instead of landed value, the state completely hid the severe economic cliff.

3. Trap-Allocation Strangulation: Under the rules of the regional Transferable Trap Program, low-allocation captains are structurally restricted to a 300-trap limit. These small-scale family operations cannot scale up gear or increase trap counts to chase volume to offset the loss of their high-value, premium catch. The selective extraction of these $8.00 to $10.00/lb animals creates an unrecorded $26,950 gross revenue cliff per vessel, resulting in an asymmetric 86% destruction of net business profit for these low-allocation operations.



CODE	PRODUCT	PRICE
LRC	CHIX- HARD	8.75
LBQ	1/4 - HARD	7.00
BH	1/2 - HARD	7.75
B2	2-3's - HARD	10.00
B2S	2-3's - HARD	9.25
B23	3 to 4's - HARD	9.00
B3	4 to 6's - HARD	9.00
B6	6 & UP HARD	8.00
BSC	SMALL CULLS HARD	5.75
BCU	LARGE 2+ CULLS HARD	6.50
BFR	FIRM U/2	5.00
BFL	FIRM 2+	5.25
LBP	PROCESSOR	3.75
		0.00
HUFF	1/2's - FIRM	
3/4F	3/4 - FIRM	
B2F	2-3's - FIRM	
B3F	3-4's - FIRM	
B4F	4-6 FIRM	
HUMF	6+ FIRM	
	DEAD DISCARD	0.00
	TOTAL CHILLED WEIGHT	
	SHRINK PERCENTAGE	

VERIFICATION STATEMENT

I, the undersigned Organizing Representative, hereby certify under the pains and penalties of perjury that the foregoing commercial weight-tier and pricing scales represent true and accurate market metrics transcribed directly from active Massachusetts commercial seafood dealer landing sheets for the Outer Cape Cod regional lobster fishery.

Dated: September 12, 2026
Location: Orleans, Massachusetts

Organizing Representative
On Behalf of the 38 Petitioners of the OCC LCMA Fleet

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF MARINE FISHERIES

In the Matter of:

Stephen Smith,
Harvester Permit Challenge /
Outer Cape Cod V-Notch Standard

NOTICE OF SUPPLEMENTAL FILING AND TRANSMITTAL OF CLEAN COPIES

TO: The Administrative Law Clerk and Counsel for the Division of Marine Fisheries

Please take notice that the Petitioner, Stephen Smith, appearing as **organizing representative**, hereby submits this **Supplemental Filing** to accompany the pending petition in the above-captioned matter.

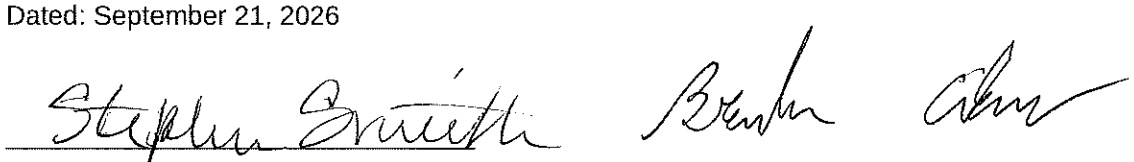
Enclosed are the full, complete hard-copy documents designated as **Exhibits D through K**. Please note that for the convenience of the Department and the Presiding Officer, the Petitioner has manually applied **yellow highlighters to the core relevant data points and text selections** on all copies of these exhibits to clearly identify the administrative and evidentiary facts supporting this challenge.

The enclosed packet consists of the following clean copies:

- **EXHIBIT D:** MA DMF V-Notch Sea Sampling Data (Received July 22, 2025).
- **EXHIBIT E:** MA DMF V-Notch Sea Sampling Mean Average Weight Report (Issued July 13, 2026).
- **EXHIBIT F:** MA Marine Fisheries Advisory Commission Official Record (Dated April 24, 2025).
- **EXHIBIT G:** Sworn Affidavit of Director Daniel McKiernan, *Pazolt v. MA DMF*, Superior Court (Dated June 27, 2025).
- **EXHIBIT H:** MA Marine Fisheries Official Advisories to License Holders (Issued Sept 24 & 26, 2025).
- **EXHIBIT I:** Outer Cape Lobster Conservation Management Area (OCC LCMA) Trap Allotment Matrix.
- **EXHIBIT J:** Lobster Conservation Management Team (LCMT) Official Notification (Dated February 21, 2008).
- **EXHIBIT K:** Federal Court Affidavit regarding commercial fishery economic impacts.

Respectfully Submitted,

Dated: September 21, 2026



Stephen Smith, Organizing Representative
Orleans, MA

7/22/2025 EXHIBIT D

OUTER CAPE COD SAMPLING REGION (LCMA OCC)

YEAR	All eggers (including notched)	Non-eggers with v-notch 1/4"	Non-eggers with v-notch 1/8"	marketable females	# females sampled that state-only could land prior to 7/1/2025	marketable males	both sexes, # sampled that state-only could land prior to 7/1/2025	% discarded due to change to 1/8" rule
2000	586	30	NA	1058	1058	1125	2183	NA
2001	675	26	NA	909	909	837	1746	NA
2002	654	13	NA	1031	1031	1083	2114	NA
2003	1015	25	NA	1123	1123	935	2058	NA
2004	595	32	NA	1364	1364	865	2229	NA
2005	1179	64	NA	1220	1220	909	2129	NA
2006	1083	56	NA	1275	1275	1175	2450	NA
2007	827	72	NA	1255	1255	1213	2468	NA
2008	1031	47	NA	1254	1254	1058	2312	NA
2009	700	40	94	1122	1216	1302	2518	3.7
2010	1057	47	74	1425	1499	1312	2811	2.6
2011	1286	49	51	1406	1457	1171	2628	1.9
2012	731	38	74	1377	1451	1130	2581	2.9
2013	1090	22	60	1380	1440	1234	2674	2.2
2014	1114	61	74	1356	1430	850	2280	3.2
2015	723	55	95	2109	2204	1141	3345	2.8
2016	1028	35	69	2072	2141	1249	3390	2.0
2017	905	29	43	1244	1287	719	2006	2.1
2018	1071	11	25	1716	1741	928	2669	0.9
2019	1023	11	10	1469	1479	709	2188	0.5
2020	852	5	1	985	986	714	1700	0.1
2021	326	6	1	960	961	767	1728	0.1
2022	435	3	8	759	767	680	1447	0.6
2023	679	37	139	1959	2098	1424		3.9
2024	1281	64	248	2611	2859	1382		5.8
average/year between 2020-2024	894	32	67	1497	1564	1045	2426	

PROVINCETOWN SAMPLING REGION (LCMA OCC)

YEAR	All eggers (including notched)	Non-eggers with v-notch 1/4"	Non-eggers with v-notch 1/8"	marketable females	# females sampled that state-only could land prior to 7/1/2025	marketable males	both sexes, # sampled that state-only could land prior to 7/1/2025	% discarded due to change to 1/8" rule
2008	1426	109	NA	1719	1719	790	2509	NA
2009	1124	96	212	1363	1575	1145	2720	7.8
2010	1791	171	284	1851	2135	1676	3811	7.5
2011	1585	75	92	936	1028	1212	2240	4.1
2012	1545	85	131	818	949	923	1872	7.0
2013	1853	96	181	1418	1599	2435	4034	4.5
2014	1577	142	171	1725	1896	1742	3638	4.7
2015	1143	75	80	1055	1135	1497	2632	3.0
2016	936	83	51	1212	1263	1645	2908	1.8
2017	1118	107	92	1496	1588	975	2563	3.6
2018	796	15	43	1110	1153	879	2032	2.1
2019	933	29	31	1093	1124	751	1875	1.7
2020	572	5	16	569	585	519	1104	1.4
2021	573	13	20	956	976	575	1551	1.3
2022	585	12	26	681	707	354	1061	2.5
2023	1378	59	173	1503	1676	733	2409	7.2
2024	1775	53	202	1218	1420	364	1784	11.3
average/year between 2008-2024	1218	72	113	1219	1325	1071	2397	

GULF OF MAINE SAMPLING REGION (LCMA 1)

YEAR	All eggers (including notched)	Non-eggers with v-notch 'zero-tolerance'	marketable females	marketable males
2000	575	64	6202	4642
2001	759	115	4103	3627
2002	676	199	5482	3740
2003	795	425	5960	4523
2004	1063	1038	4499	3179
2005	779	884	3479	2964
2006	747	1041	3424	2623
2007	1055	1484	3708	3108
2008	1233	1934	4541	4173
2009	1442	2340	4783	4203
2010	1167	2024	5698	4077
2011	1593	1887	5678	3525
2012	1600	1800	5265	4633
2013	1481	1268	5549	5041
2014	1498	1026	5059	4514
2015	1540	1121	4972	4402
2016	1890	902	5299	4617
2017	2090	1459	5059	5155
2018	1939	1617	5107	4066
2019	881	902	4041	3912
2020	1344	1160	3577	3183
2021	875	1283	3878	3103
2022	1461	1233	4107	3672
2023	1336	1209	3829	3012
2024	1582	1437	3672	3334

average\year 2000-2024

1256	1194	4679	3881

% eggers	% zero tolerance		4679
15%	14%		3881
		M & F total	
			8560

SNE SAMPLING REGION (LCMA 2)

AR	All eggers (including notched)	Non-eggers with v-notch 1/4"	Non-eggers with v-notch 1/8"	marketable females	marketable females under 1/4" V rule	marketable males	both sexes, marketable catch under 1/4" V rule	% discarded due to change to 1/8" rule
00	587	16	NA	2340	2340	615	2955	NA
01	768	20	NA	3113	3113	708	3821	NA
02	772	46	NA	1938	1938	546	2484	NA
03	324	35	NA	882	882	527	1409	NA
04	578	501	NA	1553	1553	567	2120	NA
05	1085	913	NA	1664	1664	603	2267	NA
06	1013	550	110	1641	1751	632	2383	**4.62**
07	712	122	117	2193	2310	523	2833	**4.13**
08	1013	68	102	2537	2639	681	3320	**3.07**
09	600	51	55	1771	1826	418	2244	**2.45**
10	470	61	0	1643	1643	499	2142	**0.00**
11	186	25	5	954	959	252	1211	**0.41**
12	523	43	21	1987	2008	782	2790	**0.75**
13	623	58	34	1734	1768	935	2703	**1.26**
14	453	25	11	1135	1146	775	1921	**0.57**
15	644	19	12	1177	1189	297	1486	**0.81**
16	725	30	16	1863	1879	1144	3023	**0.53**
17	535	43	16	2130	2146	985	3131	**0.51**
18	200	14	3	1132	1135	1107	2242	**0.13**
19	101	0	0	827	827	593	1420	**0.00**
20	168	2	0	1050	1050	708	1758	**0.00**
21	42	0	1	453	454	258	712	**0.14**
22	18	0	0	459	459	439	898	**0.00**
23	29	0	0	489	489	439	928	**0.00**
24	77	3	0	605	605	704	1309	**0.00**

7/13/2026

Average size (mm) of a v-notched female observed by DMF samplers during commercial trap sampling trips.

OCCPTOWN							GOM					SNE				
YEAR	mean_Qrtr	mean_eighth	N_qrtr	N_eighth	mean_all_fem	N_allfemales	YEAR	mean_vnotch	N_vnotch	mean_all_fem	N_allfemales	YEAR	mean_vnotch	N_vnotch	mean_all_fem	N_allfemales
2009	103.4	106.0	280	847	103.9	4751	2009	96.2	3373	91.8	8630	2009	100.3	176	91.2	2479
2010	106.1	108.2	364	1037	104.8	6700	2010	95.4	2733	90.7	8923	2010	103.4	114	91.4	2182
2011	104.3	106.3	310	704	103.4	5480	2011	94.5	2624	90.7	9218	2011	95.2	38	89.9	1171
2012	102.9	107.4	318	799	103.8	4799	2012	94.9	2480	90.7	8721	2012	93.2	95	89.7	2574
2013	102.2	106.6	373	942	103.3	6100	2013	92.8	1779	89.4	8331	2013	94.0	164	89.9	2451
2014	105.1	108.4	356	802	105.4	6220	2014	94.3	1529	90.1	7616	2014	97.7	56	89.8	1627
2015	106.6	108.9	235	542	104.9	5335	2015	95.2	1665	90.8	7685	2015	96.6	60	90.5	1853
2016	103.8	107.0	253	486	101.7	5486	2016	95.8	1674	90.9	8174	2016	95.6	79	90.2	2634
2017	103.8	105.9	242	475	103.4	5034	2017	96.4	2433	92.1	8745	2017	95.5	73	89.9	2726
2018	101.8	102.8	45	155	104.0	4787	2018	93.9	2526	90.5	8730	2018	94.4	24	89.4	1351
2019	106.9	111.3	63	142	106.7	4599	2019	93.4	1316	89.5	5869	2019	NA	0	89.4	928
2020	101.2	100.4	32	70	106.0	3005	2020	94.5	1692	90.8	6123	2020	98.3	4	91.4	1222
2021	110.1	108.1	27	57	105.6	2855	2021	92.2	1685	89.7	6070	2021	86.0	1	90.1	496
2022	104.8	106.0	22	101	105.9	2509	2022	94.0	2087	90.6	6861	2022	NA	0	90.0	477
2023	108.7	107.9	150	721	105.7	5927	2023	94.2	1884	90.8	6460	2023	NA	0	90.9	519
2024	111.0	109.6	204	1026	106.1	7452	2024	95.9	2167	92.7	6845	2024	92.3	4	90.8	685
2025	111.5	110.4	210	998	108.1	6834	2025	94.5	2668	91.1	9327	2025	96.6	13	91.9	855

NOTES:
For OCC_PTown combined - Mangled flippers are included in both the 1/4" ("qrtr") and 1/8" ("eighth") calculation, since by definition a mangle is always considered a v-notch
GOM - all notch codes are included (zero-tolerance definition)
SNE - 1/8" definition applied (mangled flippers included)

Eggers are included in the calculations

Sublegal sizes are excluded from analysis

Columns headed with "mean..." are the mean size in mm of females with a v-notch
Columns headed with "N..." are the number of females with a v-notch

I've also included the mean size of all legal-sized females in each region, for added context. Column header "mean_fem_all"
Column header "N_allfemales" is the number of all legal-sized females

EXHIBIT E

EXHIBIT F

MARINE FISHERIES ADVISORY COMMISSION

Draft Business Meeting Minutes

April 24, 2025

Kingston Town Hall

In attendance:

Marine Fisheries Advisory Commission: Raymond Kane, Chairman; Bill Doyle, Vice Chair; Bill Amaru; Tim Brady; Chris McGuire; Kalil Boghdan. Absent: Shelley Edmundson, Clerk; Arthur "Sooky" Sawyer

Division of Marine Fisheries: Daniel McKiernan, Director; Kevin Creighton, Assistant Director; Melanie Griffin; Bradlie Morgan; Jared Silva; Kelly Whitmore; Anna Webb; Dr. Forest Schenck

Massachusetts Environmental Police: Captain Robert Forsythe

Members of the Public: Beth Casoni, Sharl Heller

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Raymond Kane called the April 24, 2025, MFAC business meeting to order. The Chairman noted that he had encouraged DMF—to the extent practicable—to work to schedule virtual MFAC meetings only during the winter months and avoid marathon meetings with many action items.

REVIEW OF APRIL 2025 BUSINESS MEETING AGENDA

Chairman Kane asked if the April 2025 MFAC business meeting agenda needed to be adjusted. Jared Silva asked to remove 'updates from Law Enforcement' and 'updates from Fish and Game' since the Commissioner and Law Enforcement were not present at today's meeting. The Chairman agreed. Massachusetts Environmental Police (MEP) Captain Robert Forsythe later arrived and provided the Massachusetts Environmental Police update.

REVIEW AND APPROVAL OF MARCH 2025 DRAFT BUSINESS MEETING MINUTES

Chairman Kane asked for edits to the March 2025 business meeting minutes. No requests were made. **The Chair called for a motion. Tim Brady moved to approve the draft March 2025 business meeting minutes. Bill Amaru seconded the motion. Motion was approved unanimously (5-0-1) with the Chairman abstaining.**

DIVISION OF MARINE FISHERIES: PERSONNEL, RECENT MEETINGS AND EVENTS, AND AGENCY ACTIVITIES AND PROJECTS

Director Dan McKiernan anticipated that the regulatory amendments approved by the MFAC at their March 2025 business meeting will go into effect on May 9.

With the upcoming horseshoe crab spawning season, Director McKiernan wrote to the Town of Wareham to ask them to refrain from grooming Swifts Beach during May and June when spawning is occurring given concerns that grooming machinery may disrupt spawning and harm eggs. Swifts Beach is an area where DMF's spawning surveys continue to show poor trends despite there being limited harvest. McKiernan anticipated Wareham would oblige, but described a misunderstanding whereby the town's website mistakenly portrayed DMF's ask as a mandate, which necessitated a follow-up clarifying call with town officials.

Bill Amaru remarked on healthy horseshoe crab spawning near Nauset Marsh and noted that the fishing restrictions during spawning have been a success. Chairman Kane noted that the enhanced presence of adult crabs on beaches now is likely attributable to the historic lunar spawning closures (implemented in 2010). Bill Amaru emphasized the importance of long-term monitoring, and the Director noted that DMF collaborates with NGOs to conduct surveys across the state. Chairman Ray Kane expressed interest in participating in a survey.

The Director stated that Commissioner Tom O'Shea drafted a letter to the US Secretary of Commerce urging NOAA Fisheries to finalize rule-making to open the commercial groundfish fishery on May 1 to prevent adverse impacts to the states groundfish fleet and seafood industry. The Director noted that DMF recently met with industry members and state representatives in Gloucester to discuss allowable catch limits, particularly the anticipated haddock quotas for Georges Bank. Chairman Kane, Bill Amaru, Melanie Griffin, and the Director discussed haddock size of maturity on Georges Bank and how the recent strong year classes may have contributed to stunted growth of individual fish and fish reaching maturity at a smaller than normal length. Griffin indicated she would provide Kane with the size-at-maturity information for Georges Bank haddock after the meeting.

Director McKiernan updated the MFAC on the seasonal presence of North Atlantic right whales around Massachusetts waters. The most recent aerial survey observed 97 whales in Cape Cod Bay. A disentanglement team was able to identify and partially remove large mesh gillnet gear from a four-year old male right whale—this whale was first observed entangled in December 2024 in federal waters south of Nantucket. This young male and several other whales were also observed around the eastern entrance to the Cape Cod Canal, which caused the waterway to be temporarily closed. The Director noted that today (April 24) is Right Whale Day in Massachusetts and the New

England Aquarium and New Bedford Whaling Museum were hosting events which DMF staff were attending. Lastly, DMF's Protected Species Team is scheduled to present on the development of a passive acoustic monitoring network at the May MFAC business meeting.

McKiernan discussed the Boston Seafood Expo, highlighting an encounter with a representative from a Massachusetts processor of Jonah crabs. The American lobster and Jonah crab fishery was "red listed" by the Monterey Bay Aquarium's Seafood Watch Program largely due to right whale entanglement concerns. This listing negatively impacted the firm's market access. DMF views this red listing as inappropriate given the extent to which industry has taken action to minimize entanglement risk and provided a letter to the firm regarding the strict management of this fishery and its interactions with large whales. The representative indicated that this letter helped the firm regain markets. Dan intended to have a follow-up phone call with the Monterey Bay Aquarium about the factual basis for this listing.

DMF is scheduled to host it's first-ever "Marine Quest" event on Saturday, June 14 at its Cat Cove facility in Salem. This is an outdoor public facing and family-oriented happening allowing for DMF staff and interested partners to engage with the public on marine science and fishing. The effort is being spearheaded by DMF Senior Biologist Gary Nelson. Gary previously worked for the marine fisheries agency in Florida where they would host similar annual events.

Chairman Ray Kane asked about the upcoming MFAC meeting schedule. Jared Silva stated the MFAC would meet again on May 29, but did not anticipate the need for a June or July meeting. Unless NOAA Fisheries finalizes the FY25 recreational cod and haddock limits, in which case DMF may need to schedule short virtual MFAC meeting to adopt complementary state rules.

Lastly, the Director introduced Bradlie Morgan. Bradlie recently started with DMF as a Policy Administration and Communications Specialist.

OFFICE OF LAW ENFORCEMENT: PERSONNEL, RECENT OPERATIONS, & MARINE FISHERY INCIDENTS

Captain Robert Forsythe provided comments for MEP. He began by providing a personnel update indicated that MEP currently has 103 officers and just made three recent hires to backfill positions vacated through retirements. Forsythe then discussed operations. MEP has fulfilled around 500 hours of right whale patrol since the beginning of 2025. Secretary Tepper joined a patrol on April 23rd. MEP is also in the process of obtaining new patrol vehicles. On marine fishery violations, a concerted effort has been made to look into lobster violations by draggers operating out of Provincetown. This resulted in a recent seizure of a large number of non-compliant lobsters. Forsythe then

highlighted MEP's appreciation for the recent horseshoe crab training that Jared Silva coordinated. He and Jared noted that DMF would work with MEP to develop similar trainings for a variety of fishery management topics.

McKiernan expressed his appreciation for the MEP taking action to address lobster violations in the mobile gear fishery noting this has been a "hot button" issue in recent years. However, Dan also recognized there are serious enforcement and compliance challenges related to this fishery given the various LCMA-specific size and v-notch standards. DMF recently met with the mobile gear fleet to discuss how best to simplify regulations without negatively impacting the fleet and intends to raise potential solutions with ASMFC, as it likely requires an addendum to the FMP.

Bill Amaru emphasized that most of the fleet is willing to and has worked within these regulations. He argued that the draggers are already restricted by the 100 lobsters per day limit, and with groundfish square mesh, they generally catch larger lobster. McKiernan noted that he was seeking to simplify the gauge and v-notch rules across LCMAs for the mobile gear fleet. Amaru expressed his support for such an initiative. Captain Forsythe noted that MEP would also appreciate more straightforward rules.

Chairman Kane, Kalil Boghdan, and Captain Forsythe discussed MEP personnel and the need for additional capacity. Director McKiernan noted that MEP was currently in the process of hiring a new Colonel and suggested the MFAC and DMF reach out to the new Colonel once they are onboard, invite them to an MFAC business meeting, and discuss how best for the MFAC to advocate for MEP to increase their capacity.

ACTION ITEMS

Refinement to Mechanized Bait Deployment Restriction Recommendation

At its March 2025 business meeting, the MFAC approved a DMF recommendation to prohibit the mechanized deployment of bait in rod and reel fisheries. Director McKiernan explained that DMF was now returning to the MFAC to refine this recommendation because it was insufficiently clear in two regards. First, the rule should apply to shore-based rod and reel fishing only. Second, mechanized deployment should have been better defined to clearly include motorized, remote-controlled, and compression propulsion devices. The recommended prohibition would continue to exclude other bait deployment means such as kites and kayaks, as well as the use of power reels given these retrieve baits.

Kalil Boghdan made a motion to adopt the Director's recommendation. Chris McGuire seconded the motion.

Jared Silva explained that he felt the March recommendation approved by the MFAC was too nebulous to be enacted as approved. First, it would apply to any rod and reel

fishing activity, which was overbroad, as the proposal was designed to more narrowly address shore-based fishing. Additionally, vessels can just be moved closer to aggregations of fish diminishing the need for mechanized bait deployment devices in this mode of fishing. Moreover, the recommendation was unclear as to whether compression propulsion devices (e.g., bait cannons) would be included. Prohibiting the use of bait cannons was consistent with the intention of the recommendation and DMF did not want vague language to encourage fishers to move from using one method (e.g., remote-controlled devices) to another (e.g., bait cannons) and instead preferred a stronger worded regulation.

Bill Amaru noted that he supported the recommendation at the March meeting, largely because it was coupled with shore-based shark fishing restrictions but felt the bait deployment restrictions were overregulating shore-based fishing.

For reasons similar to Amaru's, Tim Brady did not support the recommendation. Tim was also unfamiliar with bait cannons and was uncertain what DMF was aiming to regulate. Tim asked Captain Forsythe if MEP could speak to the issue from an enforcement perspective. Captain Forsythe stated he was similarly unfamiliar with these devices. However, Forsythe acknowledged that Jared Silva had reviewed this refinement with Lt. Bass who did not raise any concerns to MEP.

There was some discussion about the process to move this recommendation forward. It was determined that there should be an action to move the motion if there was no further deliberation. **Kalil moved the motion on board. Bill Doyle seconded moving the motion.** There was no further deliberation. **The Chair called the vote, and the motion passed (3-2-1) with the Chair abstaining.**

EMERGENCY RULE MAKING

Implementing Addendum 32 to the American Lobster Fishery Management Plan

In preparation for today's business meeting, DMF provided the MFAC with an extensive memorandum on Addendum XXXII. Director McKiernan noted that the ASMFC will vote on Addendum XXXII at their May meeting, and if approved, the gauge and escape vent rules in Addendum XXVII will be repealed from the FMP. Addendum XXXII would not repeal trap tag standardization rules for LCMA 1 and 3 and v-notch standardization rules among federal and state permit holders in the Outer Cape Cod LCMA (OCCLCMA).

While states can maintain stricter regulations than required by the FMP, DMF initiated emergency rule making to implement Addendum XXXII and rescind relevant state regulations prior to their scheduled implementation date to ensure Massachusetts fishers are not subject to more restrictive regulations than others fishing in the same

LCMA. DMF will host a virtual public hearing at 6PM on May 19th and will return to the MFAC with a final recommendation at their May 29th business meeting.

The Director then described the history of how the OCCLCMA diverged from LCMA 1 and why there were disparate v-notch standards in the OCCLCMA between state-only and federal permit holders.

Chairman Kane and Bill Amaru both expected that the state-only OCCLCMA fishers would oppose this action. These fishers feel singled out by this process given Addendum XXXII repeals other aspects of the addendum that would affect the lion's share of the commercial harvesters. Additionally, they have argued the v-notch standardization rule will have a substantial negative economic impact on them, many state-only permit holders gave up their federal permit to keep oversized and v-notched lobsters, the OCCLCMA fishery is subject to tight effort control rules that do not exist in LCMAs 1 and 3, and that there is a historic legal settlement addressing mandatory v-notch in OCCLCMA which is not being honored by the ASMFC in their development of Addenda XXVII and XXXII.

The Chairman then asked DMF to clarify two issues. First, there is a claim being made by OCCLCMA fishers that the v-notch standardization rule would decrease landings by 35%. Second, there are varying figures being used to describe the number of participants in the OCCLCMA fishery.

McKiernan stated that DMF sea sampling data shows that only 2-4% of the catch by the state-only OCCLCMA fishers is between the current ¼" v-notch standard and the pending 1/8" v-notch standard and the 35% figure exaggerated the likely impact on landings. Anna Webb, DMF's Statistic Project Lead, noted that DMF issues 65 OCCLCMA permits. One-third of these permit holders hold a federal lobster trap permit and the other two-thirds are state-only. Of the state-only permit holders, only about 30 have been active. McKiernan added that there is a geographic divide among where these permit holders are homeported, with state-only permit holders primarily fishing out of Provincetown and Nauset and federal permit holders fishing out of Chatham and Harwich.

Kane suggested that DMF conduct additional sea sampling of large lobsters in the OCCLCMA before moving forward with these regulations. McKiernan noted DMF increased its sea sampling in the OCCLCMA in response to concerns raised by these fishers during the development of Addendum XXVII. Additionally, he did not intend to go out of compliance with the FMP.

Kane noted that many state-only permit holders surrendered their federal permits about 25-years ago so that they could retain v-notched and oversized lobsters. To this point, he questioned whether Massachusetts should request NOAA Fisheries consider giving

these affected fishers federal permits. Amaru supported this noting how warming waters around Cape Cod may force fishermen to fish deeper offshore waters. However, this may require vessel upgrades for some permit holders and the ability to fish larger vessels out of Nauset is challenging. McKiernan indicated this is something that could be raised to NOAA Fisheries.

Chairman Kane and Director McKiernan discussed the upcoming stock assessment for American lobster and how this may influence the conservation management strategies being developed in Maine and New Hampshire in response to their decisions to push non-compliance with Addendum XXVII.

Kalil Boghdan asked about the consequences if Addendum XXXII does not pass at the ASMFC. Director McKiernan indicated with certainty that the addendum would pass. However, if this were not to occur, then the ASMFC would likely find Maine and New Hampshire out-of-compliance with Addendum XXVII at the August meeting, as they would not have met the July 1 implementation deadline. The non-compliance finding would then be submitted to the US Secretary of Commerce for review and further action.

DISCUSSION ITEMS AND UPDATES

Decision on Commercial Striped Bass Management Proposal

Director McKiernan explained that DMF was not moving forward final recommendations on a commercial striped bass maximum size limit and gaffing prohibition, as taken out to public hearing this past winter. This decision was influenced by three factors. Under the FMP the adoption of a maximum size in Massachusetts would trigger quota adjustments and Board approval to ensure it the action was conservationally equivalent. The confounded rule-making, as the ASMFC process could not play out on a timeline that would allow DMF to adequately describe the likely change in quota for each of the various size limit options proposed. For this reason alone, Dan opined that he could not move forward a recommendation. Additionally, the public comment received highlighted that DMF needed to further consider and document the conservation benefit of adopting a maximum size limit. Lastly, any changes to commercial striped bass management measures should be considered within the framework of the pending ASMFC addendum to the FMP.

The Director highlighted current management strategies and noted several concerns regarding the commercial striped bass fishery. McKiernan noted that while Bill Doyle and Bill Amaru have expressed reservations about the cost of permit acquisitions, others are concerned over the discrepancy between the number of commercial striped bass endorsement holders (~5,000) and the number of active fishers (~800) in this fishery. A common argument is that many obtain the permit to circumvent strict

recreational fishing limits, and this catch goes unreported. Rhode Island and Massachusetts are also the only two states on the coast with a commercial fishery and a point-of-sale tagging program. All other states have point-of-harvest tagging programs which are perceived as producing greater accountability. For Massachusetts to administer a point-of-harvest tagging program, DMF would have to substantially reduce the number of potential fishers, noting those states with these programs have limited entry fisheries with Individual Fishing Quotas. Lastly, some worry that suboptimal year classes could heavily impact the fishery moving forward and may result in substantial quota reductions in coming years and increased pressure to curtail commercial fishing for this species.

Bill Doyle raised the issue of permit fees noting the low cost of the striped bass endorsement may enable high levels of issuance. He suggested DMF consider the potential to raise the cost of the permit to deter folks who are not going to fish it from obtaining it and potentially offering rebates based on final participation in the fishery. He added this is a strategy some municipalities use with boat ramp access permits.

McKiernan noted that he was interested in reviewing permit fees adding that — except for a $50 surcharge on lobster permits to support research — commercial permit fees have not changed since the 1990s. DMF also does not have the authority to unilaterally adjust fees, this is done through the Governor's Executive Office of Administration and Finance (ANF) and the current administration has an averse posture towards fee increases. Therefore, any increase would likely have to have broad support from the regulated community. Kevin Creighton, Assistant Director for DMF, added that fee changes could just narrowly recategorize and reprice the striped bass endorsement or could represent a restructuring of DMF's fee schedule at large.

Kalil asked for clarification on page two of the memorandum and what was meant by 'commercial discard length'. Director McKiernan noted that this refers to the release of all fish in the commercial fishery (e.g., undersized fish), not just dead discards.

Chairman Kane added that commercial fishermen are concerned that a daily catch limit of 15 with a 32 – 40-inch slot limit would harm their livelihoods because it would substantially reduce the weight of fish they would get paid on commercial fishing day. Kane opined that if DMF were to consider a maximum size limit in the future it should also consider a responsive trip limit adjustment to balance the ledger. The Director appreciated this comment and noted that Jared Silva had also heard from commercial anglers who preferred a straight quota cut in the name of additional conservation rather than a more complicated management program.

In conclusion, the Director thought it would be beneficial to convene the MFAC's Striped Bass Focus Group, as well as an ad-hoc industry advisory panel, to help navigate the various permitting and management questions moving forward. At present, the MFAC's

Striped Bass focus group consisted of Bill Doyle, Kalil Boghdan, and Ray Kane, but as MFAC membership changes this may need to evolve.

Federal Fishery Management

Melanie Griffin provided an overview of the January and April 2025 New England Fishery Management Council (NEFMC) meetings and an outline of the June NEFMC business meeting agenda.

On groundfish management, Melanie discussed (1) NEFMC-approved changes to recreational cod and haddock limits informed by NOAA Fisheries' bioeconomic model; and (2) the development and pending implementation of Amendment 25 and Framework 69 of the Multi-Species Groundfish FMP and Phase 2 of the Cod Transition Plan. Given concerns about low cod limits, DMF has initiated a federal Exempted Fishery Permit proposal that would allow closely monitored access to certain areas within spawning cod closures to target non-cod species.

Melanie discussed Atlantic sea herring management. The NEFMC approved specifications in September 2024, but implementation was delayed to resolve some uncertainty issues. This resulted in a coordinated review process between the NEFMC and the ASMFC to assist in finalizing catch limits for Fishing Year 2025 and 2026. The ASMFC will be able to use these finalized limits to develop effort controls for the inshore Gulf of Maine fishery (Area 1A) during this upcoming season.

Other on-going NEFMC priorities were discussed. In an effort to manage species and habitat more effectively, the Essential Habitat Review—a joint five-year review at the England and Mid-Atlantic Council—will be updated to include revised life history information for a variety of FMPs. Similarly, the NEFMC's revised Risk Policy will consider seven weighted and scored factors to determine risk for a given stock. The NEFMC is also interested in developing more management flexibility across various FMPs, but there is substantial uncertainty as to how this will play out. The On-Demand Working Group continued to meet and discuss challenges relevant to on-demand gear and a joint NEMFC and MAFMC omnibus framework was initiated to revise surface gear marking requirements across all FMPs to allow for potential use of on-demand gear. The NEFMC also discussed persistent concerns regarding how declining federal surveys and port sampling efforts are affecting fisheries science and how these issues may be more acute given expected cuts to NOAA Fisheries capacities. In response, NEFMC sent a letter to the Northeast Fisheries Science Center to voice these issues. Melanie expected these concerns will also be discussed in more depth at the upcoming Northeast Regional Coordinating Council meeting, which Director McKiernan will attend. Lastly, the NEMFC discussed the recent Executive Order on Restoring American Seafood Competitiveness, which directed the Secretary of Commerce to reduce regulatory burden on fisheries, modernize elements of the industry, and increase

participation. The actual impacts of this Executive Order on the NEFMC, the Council process, and NOAA Fisheries are still largely unknown.

Chairman Kane, Bill Amaru, and Melanie Griffin discussed the potential for enhanced flexibility in federal fisheries management, how it may play out in practicality and process, and whether it would actually help address catch limit utilization issues.

Amaru questioned whether the recreational cod fishery in the Gulf of Maine would approach its sub-ACL and if improved management flexibility could result in more liberal limits for fishers. Melanie explained that the bioeconomic model used to develop recreational limits for this fishery indicated the recommended limits would result in the sub-ACL being achieved without being exceeded. Further, Melanie explained that it was unlikely that recreational limits could be manipulated in-season given the limitations of using MRIP data in real time. Tim Brady added that all federally permitted charter boats fishing for cod and haddock are required to fill out vessel trip reports and record what is caught and released by species. Kalil Boghdan noted that the bioeconomic model also considers cod caught and released incidental to targeting other species (e.g., haddock) and the release mortality associated with this catch.

Amaru noted the challenges fishermen had at gaining access to certain scallop beds in the past and was hopeful that improved federal management processes could eliminate some of this red tape. He also recognized there are unique challenges related to accessing the Northern Edge. Bill thanked DMF advocating to NOAA Fisheries the importance of implementing final rules for the Northern Gulf of Maine (NGOM) sea scallop season to ensure the full quota for this fishery could be accessed. Bill also spoke to the success of the NGOM fishery this year.

McKiernan, McGuire, Griffin, and Kane discussed challenges related to the development of scientific information to inform fishery management plans and reductions in capacities at NOAA Fisheries. McKiernan noted that DMF has emphasized the importance of robust survey work and port sampling. While NOAA's port sampling efforts have been in decline, DMF is investigating ways to fill the data gaps created.

Massachusetts Commercial Fisheries Commission

Director McKiernan reminded the MFAC that the Commercial Fisheries Commission (CFC) is a public body created by legislation three years ago in response to concerns raised by the industry over the impacts of offshore energy development of fisheries. The public body is chaired by the Directors of DMF and the Office of Coastal Zone Management (CZM) and includes a representative from the Executive Office of Energy and Environmental Affairs, the New Bedford Port Authority, the University of Massachusetts School for Marine Science and Technology, and 12 different organizations representing commercial fishing interests. The enabling statute identifies

two primary purposes for this public body: (1) develop and recommend strategies, methods, and tools to promote sustainability of the state's commercial fishing industry, and (2) to address the responsible development of offshore wind projects' impacts on fisheries.

Director McKiernan hoped this group will bridge communication from the commercial fishing industry to the Governor and Legislature without wading into the jurisdiction of various other public bodies, such as the MFAC. The Director then listed several different subjects he expects the CFC will be able to deliver on. This includes: (1) improved seafood marketing through advocacy for more funds to DMF's Seafood Marketing Program and fishing representation on the Food Policy Council; (2) industry training; (3) improved port infrastructure and working waterfronts; (4) improved port assessments; (5) developing positions on offshore wind (e.g., mitigation, boulder movement); and (6) contributions to various state projects and plans (e.g., MA Ocean Plan, DFG's Biodiversity Plan).

The CFC met for the first time on April 8th and is scheduled to meet again on June 27 (a short, virtual meeting to review CZM's ResilientCoasts Plan is scheduled for June 4). McKiernan hoped the Legislature would provide funding for DMF to hire the Consensus Building Institute (CBI) to help administer this public body until it sunsets in 2028. Dan felt CBI was uniquely situated to monitor and administer this public body given their work to facilitate the Fisheries and Habitat Working Groups on Offshore Wind.

Chris McGuire asked how often the group meets. McKiernan stated the body is required by law to meet four times annually and produce an annual report to the legislature.

PRESENTATION ON DMF'S EEL GRASS RESTORATION WORK

Dr. Forest Schenck presented on eelgrass trends and restoration in Massachusetts. Current restoration strategies in Massachusetts include vegetative transplants, seeding, and conservation moorings. Vegetative transplanting is the status quo in the state but is up to 24% successful long-term. Forest then explained that seed-based restoration can be a potential way to scale up effort and cover significantly greater area; however, addressing underlying issues harming eelgrass is crucial to truly restore habitat.

Kalil asked about what was driving the low rate of success for restoration. Forest responded that the primary stressors on eel grass are environmental (e.g., water quality and climate change) and this also impacts restoration success.

Chairman Kane wondered if failed restoration near Boston could be impacted by the MWRA outfall pipe. Forest responded that the outfall pipe is likely too far from the restoration sites to have an impact.

Bill Amaru and Ray Kane asked about potential collaborations with the Center for Coastal Studies and SMAST. Forest noted that DMF has collaborated with the Center for Coastal Studies but added that enhanced collaboration is a priority in the restoration community.

Amaru and Kane then asked about differences in success across short distances and the state. Forest responded that the state's dynamic shoreline creates significant differences in water quality and temperature across short distances, and there is still much uncertainty about where restoration will be most successful.

Chris McGuire agreed that seed-based restoration can be an effective way to expand operations. Schneck and McGuire then discussed seed-based restoration efforts along Virginia's Eastern Shore.

McGuire posed whether aquaculture can positively impact eelgrass by improving water quality and how DMF's work with shellfish restoration may intersect with eelgrass restoration. Director McKiernan noted that this work is all housed within DMF's Habitat Program allowing for internal collaboration. Forest noted that ecological dynamics are nuanced.

Bill Doyle added that WHOI Sea Grant and DMF work on projects on his farm to examine how eelgrass and aquaculture can coexist, noting that storm velocity is important to understand sediment impacts.

OTHER BUSINESS AND PUBLIC COMMENT

Sharl Heller of the Southeastern Massachusetts Pine Barrens Alliance in Plymouth petitioned DMF and the MFAC to close Duxbury, Kingston, and Plymouth Bays to all horseshoe crab harvest thereby creating a refuge for the local population. She provided printed materials to the MFAC and DMF in support of the petition. DMF will review the petition and respond at an upcoming MFAC business meeting.

Beth Casoni, Executive Director of the Massachusetts Lobstermen's Association, thanked Bob Glenn and Jared Silva for attending a recent delegates meeting to discuss gear marking rules and other management issues. She expressed concern about Addendum XXXII and the likelihood that New Hampshire and Maine are able to develop management strategies moving forward and urged the MFAC to not support a trap reduction if it is proposed through the interstate process. She also thanked the MFAC and Chairman Kane for advocating that state-only OCCLCMA permit holders. She also thanked law enforcement for their efforts addressing non-compliance with lobster management rules among mobile gear fishers landing in Provincetown and Bill Doyle for suggesting increased permit fees. Lastly, Beth discussed ongoing gear conflicts between scallopers and fixed gear fishers in Massachusetts Bay and sought a means to

address this, including a potential notice regarding where highfliers are mandated and where no such mandate exists.

ADJOURN

There were no further questions or comments. **The Chairman asked for a motion to adjourn. Tim Brady moved to adjourn the meeting. The motion was seconded by Bill Doyle.** The meeting was adjourned.

EXHIBIT 9

Date Filed 6/27/2025 10:55 PM
Superior Court - Barnstable
Docket Number 2572CV00232

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, ss.

SUPERIOR COURT
C.A. NO. 2572CV00232

DANA PAZOLT,

Plaintiff,

v.

MASSACHUSETTS DIVISION OF MARINE FISHERIES; DANIEL MCKIERNAN, in his official capacity as Director of the Division of Marine Fisheries; ANDREA JOY CAMPBELL, in her official capacity as Attorney General,

Defendant.

DECLARATION OF DANIEL MCKIERNAN IN SUPPORT OF DEFENDANTS' MEMORANDUM IN OPPOSITION TO PLAINTIFF'S EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION, AND ADMINISTRATIVE STAY

1. I am Daniel McKiernan, Director of the Massachusetts Division of Marine Fisheries (DMF). I have worked at DMF for over 40 years, having originally joined DMF as a field biologist, and I was appointed Director in 2020. I hold a B.S. in marine biology from University of Massachusetts Dartmouth and an M.S. in fisheries biology from Auburn University.

2. In my role as Director, and pursuant to M.G.L. c. 131, § 17A, I promulgate regulations relating to the harvest of marine fish and the effect of that harvesting on marine fisheries. To assist in my efforts to promulgate such regulations, there are a wide array of resources at DMF that I rely upon, including the expertise of marine biologists on DMF's staff.

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3. I have reviewed Plaintiff's Complaint filed in this litigation, as well as Plaintiff's Emergency Motion for Temporary Restraining Order, Preliminary Injunction, and Administrative Stay. I understand that Plaintiff seeks to challenge the legality of the prohibition on possession of v-notched lobsters reflected in 322 C.M.R. 6.02, as modified by the regulations that I promulgated in my capacity as Director on January 3, 2025. Below, I have provided background on the impetus for those regulations, and I have outlined some of the support that I relied upon in promulgating them.

4. Lobster v-notching is a longstanding and well-established practice for conserving lobster stock. Pursuant to that practice, female egg-bearing lobsters are marked with a v-shaped notch using a tool that creates a v-shaped indentation on one of the lobster's tail flippers that is designed to be between greater than ¼ inch and up to ½ inch in depth. That v-notch signals to fishermen that the lobster may not be harvested, and thus, these female lobsters that are sexually mature are kept alive for longer, which increases the likelihood that they will lay eggs. That practice increases the lobster population by selectively preserving the lobsters most likely to grow the population.

5. In 1997, the Atlantic States Marine Fisheries Commission ("ASMFC") adopted Amendment 3 to the Interstate Fishery Management Plan for American Lobster. Amendment 3 included a prohibition on possession of any female lobster bearing a straight-sided triangular cut without setal hairs, at least 1/4 inch in depth and tapering to a sharp point" on its right-of-center tail flipper. *See* Amendment 3 to the Interstate Fishery Management Plan, at 20 (Sec. 3.1.4) (December 1997), *available at* https://asmfc.org/wp-content/uploads/2025/01/lobsterAmendment3.pdf.

6. In 2000, DMF's former Director promulgated a regulation implementing that policy in Massachusetts. The regulation made it unlawful for any person to possess any v-

notched female lobster. For a v-notch to meet the requirements of that rule, the v-notch needed to be at least 1/4 inch in depth. While that rule was tightened in certain areas, that rule has remained essentially the same in an area of coastal waters near Cape Cod known as the Outer Cape Cod Lobster Conservation Management Area ("OCCLCMA").

7. Since DMF promulgated that rule in 2000, other jurisdictions have created slightly more stringent rules related to the harvest of v-notched lobsters, including by reducing the minimum size (depth) for a v-notch to render a lobster off-limits for harvesting. Because lobsters molt, a v-notch will heal and therefore shrink with each molt after it is initially created. So, a rule with a lower v-notch size standard has the effect of prohibiting that lobster's harvest for a longer period of time, which provides an increased opportunity for that lobster to lay eggs, and thereby enhances the rule's effect on conservation.

8. As an example of a rule more stringent than the rule in the OCCLCMA, in a Lobster Conservation Management Area ("LCMA") known as Area 1, there is a zero-tolerance rule: a v-notch of any size, with or without setal hairs, renders a female lobster off-limits for harvesting. Similarly, five of the other six LCMAs have rules requiring that a v-notch be at least 1/8 inch in depth, with or without setal hairs. All of those rules are stricter than the rule that has applied in the OCCLCMA for the last 25 years, which, as described above, defined a v-notch as having a depth of at least 1/4 inch, without setal hairs.[1]

9. The inconsistency in rules between LCMAs has undermined conservation efforts in a few ways. For instance, lobster that have migrated to the OCCLCMA from other LCMAs might be harvested sooner than they otherwise would have been if they had remained in an

[1] Setal hairs are stiff hair-like structures on the terminal end of the lobster tail flippers (known as uropods). When a lobster molts the setal hairs grow back.

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Docket Number 2572CV00232

LCMA with a stricter rule. Thus, the OCCLCMA's lower standard lessens the impact of v-notch conservation efforts in other areas.

10. Additionally, the disparate standards have created significant problems with enforcement efforts, particularly with respect to lobsters already in commerce. After a lobster has been harvested and sold, it is extremely difficult, if not impossible, to determine where that lobster was harvested. Accordingly, in order to fairly enforce the rules and avoid wrongly sanctioning lobstermen who have lawfully harvested lobster in the LCMA with the least-restrictive rules, enforcement authorities must generally assume that any lobster in commerce was harvested under the least-restrictive rule. With respect to v-notching, the least-restrictive rule has been the one that applies in the OCCLCMA (i.e., with a v-notch that is at least 1/4" without setal hairs). Thus, the existence of the lower standard in the OCCLCMA risks encouraging violation of v-notch rules in other LCMAs, which has the effect of undermining conservation, including in waters subject to Massachusetts jurisdiction.

11. Finally, the 1/8" v-notch possession standard already applies to the approximately one-third of the permitted lobstermen in the OCCLCMA who hold both federal and state lobster permits. These lobstermen's businesses are similar to the plaintiffs in their homeport and scale of operation, and they fish from eastern Cape Cod ports. The 1/8" v-notch standard applies to them because they have a federal lobster permit and NOAA Fisheries adopted this more conservative standard in 2010. Allowing state-only permitted lobstermen to harvest lobsters that may have been released by their fellow federally permitted lobstermen operating in the same fishing grounds undermines conservation efforts. Thus, the enforcement issues described above particularly acute on Cape Cod, where lobsters are purchased from both federal-permit holders and DMF-permit holders harvesting lobsters from the OCCLCMA, as those two different types of permit holders have been subject to different standards.

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12. Because of those problems, DMF has been evaluating for years the impacts of changing the v-notch standard in the OCCLCMA. For example, Dr. Tracy L. Pugh, a Senior Marine Fisheries Biologist at DMF, conducted an analysis on the effect that a change would have on the size of lobstermen's catches in the OCCLCMA. Ex. 1 (Pugh Memorandum). She estimated that making the standard more stringent, such that a v-notch is defined as having a minimum depth of 1/8", with or without setal hairs, would cause state-permit holders in the OCCLCMA to discard only an additional "1.6% to 3.9% of their catch depending on region." Ex. 1 (Pugh Memorandum) at 5.

13. As the Director of DMF, I am authorized to support cooperative fisheries management with local, state and federal authorities by enacting and enforcing rules for the protection and conservation of marine fisheries. *See* G.L. c. 130, § 21. Based on Dr. Pugh's analysis, the input of other experts at DMF, and my own expertise, I ultimately concluded that the costs of making OCCLCMA v-notch restriction more stringent, to match that of other jurisdictions, were acceptable in light of the conservation benefits. Accordingly, I supported changes to the FMP pursued by ASMFC through Addendum XXVII and worked with the rest of ASMFC to effect a more stringent requirement in the OCCLCMA. And after ASMFC adopted changes implementing a more stringent requirement, I initiated notice-and-comment procedures to promulgate state regulations to implement the FMP.

14. Pursuant to G.L. c. 130, §17A the Marine Fisheries Advisory Commission (MFAC) approved these state regulations on April 23, 2024 for implementation on January 1, 2025. Implementation was subsequently delayed coastwide under Addendum XXXI to July 1, 2025. Consequently, the MFAC reapproved these regulations on October 29, 2024 for implementation on July 1, 2025. Final implementing regulations were promulgated on January 3, 2025.

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I swear under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

/s/ Daniel McKiernan
Daniel McKiernan
Director, Division of Marine Fisheries

Dated: June 27, 2025

EXHIBIT H

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 K. O'SHEA, Commissioner | DANIEL J. MCKIERNAN, Director

September 24, 2025

MarineFisheries Advisory

Reminder to Seafood Dealers that All Lobsters Possessed Must Comply with

1/8-Inch V-Notch Standard

Effective October 1, 2025, all lobsters in the possession of Commonwealth seafood dealers must comply with the 1/8-inch v-notch standard. This standard makes unlawful the purchase and possession of any female lobster with a v-notch or indentation in the base of the tail flipper immediately to the right of the center flipper as viewed from the rear of the lobster when the underside of the lobster is facing down that is 1/8-inch or greater with or without setal hairs.

On July 1, 2025, the v-notch standard for the state-only Outer Cape Cod Lobster Conservation Management Area (OCCLCMA) was amended from the larger 1/4-inch standard to the smaller 1/8-inch standard, consistent with all other Lobster Conservation Management Areas (LCMA) along the Atlantic coast (except LCMA1 which has a stricter so-called "zero tolerance" standard). Accordingly, the 1/8-inch standard became the most lenient standard in the state and the one that all dealers are to comply with. However, dealers were given three months (through September 30) to sell off any non-conforming product in their possession that may have been lawfully purchased from state-only OCCLCMA fishers before July 1.

Visit our website: www.mass.gov/marinefisheries

SOUTH COAST FIELD STATION
836 S. Rodney French Blvd
New Bedford, MA 02744

CAT COVE MARINE LABORATORY
92 Fort Avenue
Salem, MA 01970

NORTH SHORE FIELD STATION
30 Emerson Avenue
Gloucester, MA 01930

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 K. O'SHEA, Commissioner | DANIEL J. MCKIERNAN, Director

September 26, 2025

MarineFisheries Advisory

Reminder to Outer Cape Cod Lobster Permit Holders that All Lobsters Possessed Must Comply with 1/8-Inch V-Notch Standard

This advisory serves as a reminder to commercial lobster permit holders authorized to fish in the Outer Cape Cod Lobster Conservation Management Area (OCCLCMA) that all lobsters possessed must comply with the 1/8" v-notch standard. On July 1, 2025, the v-notch standard for the state-only OCCLCMA was amended from the deeper $^1/_4$-inch standard to the shallower $^1/_8$-inch standard, consistent with all other Lobster Conservation Management Areas (LCMA) along the Atlantic coast (except LCMA1 which has a stricter so-called "zero tolerance" standard).

A similar advisory was recently sent to seafood dealers, reminding them that effective October 1, 2025, all lobsters in the possession of Commonwealth seafood dealers must comply with the $^1/_8$-inch v-notch standard. This standard makes unlawful the purchase and/or possession of any female lobster with a v-notch or indentation in the base of the tail flipper immediately to the right of the center flipper as viewed from the rear of the lobster when the underside of the lobster is facing down that is $^1/_8$-inch or greater with or without setal hairs. Moreover, because this is a possession standard in the Commonwealth, possession of a nonconforming v-notched lobster by any person is unlawful. This applies to dealers who purchase the lobsters from commercial fishermen (so-called primary dealers) as well as any other wholesale and retail dealers (including restaurants) in the re-sale of lobsters, as well as consumers.

Visit our website: www.mass.gov/marinefisheries

EXHIBIT I

Xfinity Email <stephens_7@comcast.net> 8/27/2026 1:37 PM

RE: OCLMA trap allotment

To Pugh, Tracy (FWE) <tracy.pugh@mass.gov>

Thank you

On 08/27/2026 9:06 AM EDT Pugh, Tracy (FWE) <tracy.pugh@mass.gov> wrote:

Hi Steve

Here is what our Stats program has for LCMA OCC allocations:

OCCLMA Trap Allocation Bin	Number of Permits
<=200	11
201-300	6
301-400	4
401-500	8
501-600	4
601-700	6
>700	18

There are 4 permits with 0 allocation.

Tracy

From: Xfinity Email <stephens_7@comcast.net>
Sent: Friday, August 21, 2026 8:10 AM
To: Pugh, Tracy (FWE) <tracy.pugh@mass.gov>
Subject: OCLMA trap allotment

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

Hello Tracy

I'd like the OCLMA trap numbers in 100 trap groups 1-800. I don't want specific names or numbers but only grouping. Let me know if this is easily attainable.

EXHIBIT J

TO: LCMT Members and Alternates

FROM: Dan McKiernan, Deputy Director

DATE: February 21, 2008

SUBJECT: LCMT Meeting

DMF reconstituted the Lobster Conservation Management Team that has not met for over four years. A meeting has been scheduled for Chatham Library on Tuesday March 4th. The last meeting occurred prior to the Effort Control Plan being implemented in 2003.

The LCMT serves to advise DMF and the Lobster Management Board about management options for the fishery in OCC LCMT. The membership has been expanded from the remaining three members to nine with representation from each of the three major ports: Provincetown, Nauset, and Chatham/Harwich.

I have attached an agenda for the meeting. At the meeting, I hope to provide the members with background and ground rules, conduct elections among the nine members and turn the meeting over to the new Chairman, discuss DMF initiatives on future management measures (including the ramifications of upcoming ASMFC Addenda), and allow discussion of recent petition to lower the maximum trap limit.

This meeting is open to the public but is not a public hearing. LCMT members will engage in the Team's business and if time allows comments may be taken from Alternates as well as the general public who may be in attendance.

If you have any questions, contact me at 617 626-1536 or dan.mckiernan@state.ma.us.

See you on the 4th.

Outer Cape Cod
Lobster Conservation Management Team
Meeting Agenda

March 4, 2008
Chatham Public Library, 5:00 pm

1. **Introductions**

2. **Background (past LCMT deliberations)**

3. **Elections of Chairman and Vice-chairman**

4. **Discussion of possible DMF proposal to amend deadline for trap tags to March 16**

5. **Discussion of upcoming ASMFC Addenda (12 and 13)**

6. **Discussion of recent petition from within OCC to reduce trap limit to 600**

7. **Other discussion items as needed**

ADJOURN

LOBSTER CONSERVATION MANAGEMENT TEAMS (LCMT)

Description - The Lobster Conservation Management Teams were created through Amendment 3 for each of the seven lobster management areas. The LCMTs are appointed and convened by the Lobster Board to advise the Board on each management area and recommend changes to the management program. The lobster FMP identifies goals, objectives and a rebuilding schedule. The LCMTs provide recommendations for management measures that will accomplish the goals of the FMP while taking into consideration local fishing practices. For example, the LCMTs recommended trap limits, area closures, limits on vessel upgrades, gauge increases and vent size increases to limit effort and meet egg production goals. The LCMTs do not make recommendations on coastwide issues.

Meeting arrangements and staff support is provided by the states.

Process for Submitting Management Area Recommendations/Proposals – LCMTs and the jurisdictions adjacent to the area of concern shall be responsible for the development of recommendations for each lobster management area. Adjacent jurisdictions will be responsible for preparing a management proposal containing said recommendations. Concerns regarding conservation, enforcement, administration, and socio-economic implications should be addressed during this time period. Upon finalization of the management proposal, the area/state contact for each LCMT will forward the proposal to Commission staff for distribution to and review by the Lobster Management Board. Upon receipt of the proposal or during the next scheduled lobster Board meeting, the Board will take action on the management area proposal.

Composition - Amendment 3 identifies a minimum number of LCMT members and the states involved with the selection of members (see table on the next page). The LCMT process can demand a large amount of time and it is important to have members that are willing to participate.

Area	Minimum number of members	States involved in selection of members
1	15	ME, NH, MA
2	10	MA, RI, CT, NY
3	10	ME, NH, MA, RI, CT, NY, NJ, DE, MD, VA, NC
4	7	NY, NJ
5	7	NJ, DE, MD, VA, NC

6	6	CT, NY
OCLMA	3	MA

State personnel, including representatives from the Technical Committee, are expected to staff meetings of the LCMTs. The states should keep the Commission informed of all meetings and provide meeting summaries/minutes for all LCMT meetings.

Leadership - Each LCMT shall elect a Chair and Vice-Chair. The Commission will reimburse the Chairs of each LCMT for travel expenses to Lobster Board meetings only. The Chairs must represent the view of the LCMTs at Board meetings, not the views of the individual, state or the associations to which they belong. The state may choose to appoint a LCMT chair or other member to the AP. At AP meetings, such LCMT members would be expected to represent their personal views and/or those of industry associations or segments to which they belong.

In addition, a state contact person and technical advisor shall be appointed to each LCMT.

EXHIBIT K

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

OUTER CAPE LOBSTERMEN'S ASSOCIATION, Plaintiff, v. ATLANTIC STATE MARINE FISHERIES COMMISSION and PHILIP COATES, *in his capacity as Director of the Massachusetts Division of Marine Fisheries*, Defendants.	Case No. 1:24-cv-10332 (WGY) **DECLARATION OF BRENDAN ADAMS IN SUPPORT OF EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION, AND ADMINISTRATIVE STAY**

Pursuant to 28 U.S.C. § 1746, I, Brendan Adams, hereby declare, under penalty of perjury, as follows:

1. This declaration is made upon personal knowledge unless noted otherwise.

2. I am the President of Plaintiff Outer Cape Lobstermen's Association ("OCLA").

3. OCLA represents state and federally licensed commercial fishermen who harvest lobster in the Outer Cape Code Lobster Conservation Management Area ("OCC"), one of four Lobster Conservation Management Areas off the coast of Massachusetts.

4. OCLA is funded by dues paid by those fishermen.

5. To the best of my knowledge, there are only 67 Commonwealth-licensed lobster trap fishers in the OCC.

6. To the best of my knowledge, of those 67, 40 possess only a Massachusetts permit, not a federal permit.

7. The Massachusetts Division of Marine Fisheries ("DMF") oversees lobstering activity of Massachusetts-licensed lobstermen in the Commonwealth of Massachusetts' waters.

8. Federal waters, including those off the coast of Massachusetts, are governed by the Atlantic States Marine Fisheries Council ("ASMFC") pursuant to the Atlantic Coastal Fisheries Cooperative Management Act, 16 U.S.C. § 5101 et seq. ("ACFCMA")

9. In 2000, a settlement was reached in this action that established a district regulatory regime for the OCC wherein OCC lobstermen would not have to V-Notch female lobster catches and could fish the same, but would be subject to a 3 5/16" minimum gauge size requirement compared to a 3 ¼" minimum for other LCMAs (the "OCC Settlement").

10. Shortly after the OCC Settlement, two DMF marine biologists, one of whom is now DMF's Deputy Director, conducted a review of DMF regulations and concluded that the OCC Settlement's scheme led to a 1.338% increase in egg production, compared to a mere 0.502% increase under the 3 ¼" minimum gauge size and V-Notching requirements. **Attached hereto as Exhibit A is a true and correct copy of that review.**

11. In March 2000, DMF's then-Director Philip Coates told the *Cape Cod Times* that: "[W]e're not going to save the lobster resource with V-notching and a maximum gauge. In my heart, I know the Outer Cape lobstermen are correct. There should be real trap reductions and an increase in the minimum size." **Attached hereto as Exhibit B is a true and correct picture of that *Cape Cod Times* article, with highlighting supplied.**

12. On January 24, 2025, DMF published "Regulatory Updates – 2024 Q3 and Q4," which announced changes to the existing regime of lobstering regulation codified in 322 CMR 6.02. **Attached hereto as Exhibit C is a true and correct copy of "Regulatory Updates – 2024 Q3 and Q4."**

13. DMF prepared a Small Business Impact Statement that many areas of inquiry were inapplicable because "the prescribed regulations are required by and designed to comply with

federal law at 16 U.S.C. 5100." I am not aware that the DMF conducted an economic impact analysis studying the specific effect of the new regulations on OCC lobstermen. **Attached hereto as Exhibit D is a true and correct copy of DMF's Small Business Impact Statement.**

14. The ACFCMA is the federal law purportedly underpinning DMF's recent regulatory change. Under the ACFCMA, the Secretary of Commerce develops fishery management plans to support the ASMFC.

15. The American Lobster fishery is managed under Amendment 3 to the FMP and its 32 Addenda.

16. In May 2023, ASMFC approved Addendum XXVII to the FMP, ostensibly to further the conservation of lobster stock in the Gulf of Maine/Georges Bank.

17. Addendum XXVII imposed new gauge and escape vent size regulations, styled as an effort "to improve consistency of measures across the GOM/GBK stock" and "to provide additional protection of the Gulf of Maine/Georges Bank (GOM/GBK) spawning stock biomass" and directed Massachusetts to implement new standards by May 2024.

18. In February 2025, ASMFC approved Addendum XXXI, which postponed implementation of Addendum XXVII until July 1, 2025.

19. Then, in April 2025, ASMFC published proposed amendments to Addendum XXVII which would prohibit fishing V-Notched lobster in the OCC.

20. In response, on April 18, 2025, DMF Director Daniel McKiernan issued a Memorandum titled "Emergency Rule Making to Implement Addendum XXXII to the American Lobster Management Plan." **Attached hereto as Exhibit E is a true and correct copy of DMF's Emergency Rule Making to Implement Addendum XXXII to the American Lobster Management Plan.**

21. Addendum XXXII repeals Addendum XXVII's gauge and escape vent size standards, but not the prohibition of V-Notching in the OCC.

22. ASMFC adopted Addendum XXXII in May 2025 in response to political pressure from Maine and New Hampshire, both of which had refused to comply with the novel standards set forth in Addendum XXVII.

23. That same month, Massachusetts' delegation to ASMFC moved to amend Addendum XXXII to lift the prohibition on V-Notching in the OCC.

24. Upon information and belief, Delaware's delegation refused to second the motion, citing not environmental or sustainability concerns, but rather its desire for "an increase in their commercial striper" limit. Indeed, at this May 2025 meeting, a member of Delaware's delegation stated to the Commissioner of the Massachusetts Fisheries Advisory Commission and ASMFC Board Member that Delaware would not second Massachusetts' motion to amend Addendum XXXII to remove the V-Notching mandate in the OCC because "they wanted an increase in their commercial striper." This same ASMFC Board Member stated that "it gets very political at the Commission table."

25. Before a DMF emergency regulation can become final, it must be presented to the Massachusetts Marine Fisheries Advisory Committee ("MFAC").

26. On May 29, 2025, DMF Director Daniel McKiernan presented the Emergency Rule to the MFAC.

27. MFAC rejected the proposal to make the Emergency Rule final.

28. Several members (who are not OCC fishermen) expressed opposition to Director McKiernan's emergency rulemaking to implement Addendum XXXII, primarily on the grounds that it was unfair to OCC fishermen.

29. While the Emergency Rule will not be made final immediately, DMF retains the power to make it final notwithstanding MFAC's rejection and DMF has indicated that it intends to do so.

30. Regardless, beginning on July 1, 2025, Plaintiff's members will not be permitted to fish V-Notched lobsters, and may be required to V-Notch lobster catches in accordance with 322 CMR 6.02(5)(d)(3)(b).

31. Based on OCLA's calculations, our members will suffer a 25% reduction in their catch if the prohibition takes effect and is enforced.

32. This will cause our members severe economic hardship, likely putting many out of business with a corresponding reduction in dues from those members.

33. Under Amendment 3 to the FMP, before enacting any regulatory change to LCMA,

> LCMTs and the jurisdictions adjacent to the area of concern shall be responsible for the development of recommendations for each lobster management area. Adjacent jurisdictions will be responsible for preparing a management proposal containing said recommendations. Concerns regarding conservation, enforcement, administration, and socio-economic implications should be addressed during this time period. Upon finalization of the management proposal, the area/state contact for each LCMT will forward the proposal to Commission staff for distribution to and review by the Lobster Management Board. Upon receipt of the proposal or during the next scheduled lobster Board meeting, the Board will take action on the management area proposal.

The final proposal is then submitted to ASMFC.

34. Upon information and belief, Massachusetts did not consult with an LCMT, ASMFC, or the Secretary of Commerce regarding its revisions to 322 CMR 6.02.

35. Upon information and belief, ASMFC did not consult with an or the Secretary of Commerce regarding its revisions to the Addenda.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 20th day of June 2025, in the City of Eastham and Commonwealth of Massachusetts.

Brendan Adams

Commercial Lobster Harvesters of the Outer Cape Cod LCMA
Representing the 38 Signed Petitioners
Cape Cod Port Municipalities, Massachusetts

September 10, 2026

VIA CERTIFIED MAIL & HAND DELIVERY
Director Dan McKiernan
Massachusetts Division of Marine Fisheries
251 Causeway Street, Suite 400
Boston, MA 02114

RE: PETITION FOR EMERGENCY REGULATORY AMENDMENT
Outer Cape Cod LCMA 1/8-Inch V-Notch Possession Standard
Filing Pursuant to M.G.L. c. 30A, § 4 and 801 CMR 1.00

Dear Director McKiernan,

Pursuant to Massachusetts General Laws Chapter 30A, Section 4, the enclosed Petition for Regulatory Amendment and supporting Affidavit of Economic Impact are formally submitted on behalf of the commercial lobster harvesters operating within the Outer Cape Cod Lobster Conservation Management Area (OCC LCMA).

As of this date of filing, **thirty-eight (38) licensed commercial harvesters** have formally executed this petition under the pains and penalties of perjury. Representing a commanding **66.67% supermajority of the 57 total possible permit holders** in this regional fishery, the undersigned Petitioners stand as a unified fleet demanding immediate administrative intervention to review a rule that threatens the structural viability of our historic fishing communities.

This administrative action is explicitly triggered by newly available, empirical agency records obtained from the official MA DMF at-sea sea sampling database. This dataset conclusively disproves the core biological and economic assumptions utilized during the initial rule-making process. While the Division previously asserted that the transition from a 1/4-inch to a strict 1/8-inch v-notch standard would inflict a negligible gross revenue loss of only 2% to 4%, actual field data reveals fatal analytical flaws in that model. Specifically, the state's model tracked individual animal counts instead of total landed weight, completely hiding the impact on the older-herd OCC population, which carries a mean average size of 2.0 pounds per restricted animal.

Corrected weight data confirms that the regulation does not slice away a minor fraction of the harvest; it selectively outlaws a verified **22%+ of gross fleet volume**, focusing entirely on the fleet's most profitable, premium-priced 'Select Grade' pounds. Furthermore, by ignoring certified dealer landing sheets proving a $10.00 per pound market value for these lobsters, the Division failed to record an

additional **-$26,950 in gross losses per vessel**. This unrecorded revenue cliff is extracted straight out of the net business profits of captains and crews, driving low-trap allocation operators—who are structurally locked into 300-trap limits by the regional Transferable Trap Program—into an asymmetric **86% destruction of net business profit**.

Because verified sea-sampling records confirm a **0% statistically significant increase** in legal biomass or juvenile recruitment, the current rule inflicts severe capital devastation with zero conservation utility. In light of these structural data defects, and the ongoing dockside enforcement driving multi-generational family businesses into non-compensatory insolvency, the Petitioners respectfully request that the Division take immediate action to:

1. **Formally schedule an expedited public hearing** under M.G.L. c. 30A, § 4 to review the newly uncovered database and the suppressed $10.00/lb dealer grading metrics.
2. **Order an immediate administrative stay or rollback** of the v-notch possession standard to its historical 1/4-inch baseline definition to shield the fleet from ongoing financial insolvency.
3. **Provide a formal, written administrative response** accepting or denying the requested regulatory amendment within the timeframe prescribed by law.

Please direct all official written correspondence, hearing notices, and the agency's formal administrative determination regarding this filing to the organizing fleet representatives.

Respectfully submitted,



Organizing Representative

On Behalf of the 38 Petitioners of the OCC LCMA Fleet

TRANSMITTAL MEMORANDUM

OUTER CAPE COD LOBSTER CONSERVATION MANAGEMENT AREA FLEET

DATE: September 10, 2026

TO: Director Dan McKiernan, Massachusetts Division of Marine Fisheries
251 Causeway Street, Suite 400, Boston, MA 02114

FROM: Commercial Lobster Harvesters of the Outer Cape Cod LCMA (38 Signed Petitioners)

RE: Filing of Petition for Emergency Regulatory Amendment & Supporting Evidence

Director McKiernan,

Please find enclosed the formal administrative filings submitted on behalf of the commercial lobster harvesters of the Outer Cape Cod Lobster Conservation Management Area (OCC LCMA) pursuant to M.G.L. c. 30A, § 4 and 801 CMR 1.00. This packet serves as a direct administrative demand for an expedited public hearing and an immediate stay or rollback of the 1/8-inch v-notch possession standard to its historical 1/4-inch baseline standard.

The enclosed packet contains the following mandatory administrative and evidentiary items:

• **Master Petition for Emergency Regulatory Amendment:** Formally executed under the pains and penalties of perjury by thirty-eight (38) licensed commercial harvesters, representing a 66.67% supermajority of the 57 total possible permit holders in this regional fishery.

• **Exhibit A (Sea-Sampling Data & Deficiency Statement):** Empirical biological data obtained in July 2026 from the official MA DMF at-sea database, proving a 486.70% average surge in prohibited animals over baseline models, and establishing the arbitrary and capricious nature of the rule.

• **Exhibit B (Commercial Dealer Pricing Sheet Matrix):** Verifiable commercial market records demonstrating that the older-herd population restricted by the 1/8-inch rule carries a mean average size of 2.0 pounds and a strict value of $10.00 per pound, stripping $26,950 in gross annual revenue per vessel.

• **Exhibit C (Affidavit of Economic Impact):** The formal legal affidavit outlining the structural profit destruction inflicted upon the fleet, demonstrating an asymmetric 86% net business profit wipeout for low-trap operators capped at a 300-trap allocation.

Respectfully submitted,

Stephen Smith Brendan Adams

Organizing Representative
On Behalf of the 38 Petitioners of the OCC LCMA Fleet

MASTER PETITION

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF MARINE FISHERIES

IN RE: Petition to Amend the Outer Cape Cod V-Notch Definition Standard

PETITIONERS: Commercial Lobster Harvesters of the Outer Cape Cod LCMA (Filing Individually)

AUTHORITY: Massachusetts General Laws Chapter 30A, Section 4

PETITION FOR REGULATORY AMENDMENT

Pursuant to Massachusetts General Laws Chapter 30A, Section 4, and 801 CMR 1.00, the undersigned licensed commercial lobster harvesters hereby formally petition the Division of Marine Fisheries (DMF) to amend and roll back the 1/8-inch v-notch possession standard within the Outer Cape Cod Lobster Conservation Management Area (LCMA) to its historical baseline definition. This Petition is grounded upon newly available, material data received on **July 13, 2026**, which conclusively disproves the economic and biological assumptions used to pass the current regulation. In support of this Petition, the Petitioners state as follows:

I. IDENTITY OF PETITIONERS

1. The Petitioners are individual, licensed commercial lobster harvesters who operate vessels, own transferable trap allotments, land catch, and pay slip and landing fees within coastal port municipalities of Cape Cod, Massachusetts.

2. As small business owners whose primary livelihoods depend on the harvest of *Homarus americanus*, the Petitioners are "interested persons" under M.G.L. c. 30A, § 4, and possess direct standing to bring this action.

II. LEGAL AUTHORITY TO PETITION

3. Massachusetts General Laws Chapter 30A, Section 4 explicitly guarantees that: *"Certified interested persons shall have the right to petition an agency requesting the adoption, amendment or repeal of any regulation, and may accompany their petition with such data, views and arguments as they think pertinent."*

4. Furthermore, under **M.G.L. c. 30A, § 5A**, state agencies are legally mandated to continuously review existing regulations to minimize disproportionate economic impacts on small businesses. This petition formally triggers that mandatory review based on newly discovered structural defects in the agency's data models.

III. NEWLY DISCOVERED EVIDENCE & GROUNDS FOR AMENDMENT

5. When the Division implemented the current v-notch standard, it asserted to state courts and the Marine Fisheries Advisory Commission that the fleet would experience a negligible gross revenue loss of only 2% to 4%.

6. On **July 13, 2026**, the Petitioners obtained the official MA DMF at-sea sea sampling database for the Outer Cape Cod region. Review of this official dataset reveals two fatal analytical flaws that invalidate the original rule-making process:

• **The Count-versus-Weight Distortion:** The Division's 2–4% model erroneously tracked individual animal *counts* instead of total landed *weight*. Because landings are paid strictly by the pound, equating a heavy, older-herd Outer Cape lobster to a 1-pound baseline lobster introduced a multi-integer mathematical error.

• **The Premium Value Multiplier:** The July 13 data sets the mean size of the newly restricted lobster at **2.0 pounds**. Within the Cape Cod marketing infrastructure, a 2 lb hard-shell lobster commands the highest-paying "Select Grade" premium price point at the dock.

7. Actual field data proves that the regulation does not slice away a random 2–4% of the catch; it selectively outlaws a verified **22%+ of gross fleet volume**, focused entirely on the fleet's most profitable, premium-priced pounds.

IV. FAILURE TO ACCOMMODATE ADMINISTRATIVE RECORD EVIDENCE

8. During the official 2024 public comment hearing, the Petitioners formally submitted physical dealer slips proving an actual market value of **$10.00 per pound** for 2 lb select hard-shell lobsters.

9. The Division completely excluded and omitted this certified evidence from its final economic impact models, choosing instead to apply an artificial, flat, blended fleet average price to mask the true extent of the rule's damage.

10. By suppressing this data, the Division failed to record an additional **-$26,950 in gross losses per vessel**, meaning 100% of this unrecorded revenue cliff was extracted straight out of the captains' and crews' take-home net profit.

V. DISPROPORTIONATE DESTRUCTION OF THE LOW-TRAP FLEET

11. The current rule directly violates small business protections because it ignores the constraints of the Outer Cape Cod Transferable Trap Program.

12. Because the fishery is closed-allocation and subject to a **10% conservation tax** on all trap transfers, a substantial portion of local captains are structurally locked into "sub-cap" allocations (e.g., 300 traps).

13. While a maximum-allotment 800-trap vessel can narrowly absorb a revenue cut, applying a 22% gross catch loss to a 300-trap operator inflicts an **86% destruction of net business profit**. The current rule acts as an arbitrary mechanism that systematically bankrupted the youngest and most vulnerable independent operators in the fleet.

VI. LACK OF BIOLOGICAL UTILITY

14. The severe economic damage inflicted upon Cape Cod fishing families was legally justified by the promise of an immediate rebound in harvestable biomass and juvenile recruitment.

15. The July 13 database confirms a **0% statistically significant increase** in localized biological stock health. The regulation has failed to achieve any conservation utility; it has succeeded only in rendering a historically stable, sustainable local population completely unmarketable.

VII. PRAYER FOR ACTION

Wherefore, the Petitioners respectfully request that the Division of Marine Fisheries take immediate administrative action to cure these defects by:

1. Formally scheduling a public hearing under M.G.L. c. 30A, § 4 to review the newly uncovered July 13 data and the **$10.00/lb** dealer grading metrics.
2. Amending the v-notch possession regulation to restore the historical definition, thereby shielding the low-trap fleet from ongoing, non-compensatory financial insolvency.
3. Providing a formal, written administrative response to this Petition accepting or denying the requested amendment within the timeframe prescribed by law.

RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: Stephen Smith 8/20/26 Printed Name: STEPHEN SMITH
Date: _____

Permit # / Port of Landing: #000787 / ORLEANS

2. Signature: _____ Printed Name: _____
Date: _____

Permit # / Port of Landing: _____

3. Signature: _____ Printed Name: _____
Date: _____

Permit # / Port of Landing: _____

EXHIBIT A: EMPIRICAL DATA & STATEMENT OF LEGAL DEFICIENCIES

Supplemental Submission to the Petition for Emergency Regulatory Amendment
Outer Cape Cod LCMA 1/8-Inch V-Notch Possession Standard

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1. Empirical Sea-Sampling Data & Economic Impact Analysis

The following data table provides a direct comparative analysis of the empirical data obtained from the **Official Massachusetts Division of Marine Fisheries (MA DMF) At-Sea Sea Sampling Database** in **July 2026**. This verified dataset is positioned against the 2% to 4% biological impact model promulgated by the Division in federal and state court proceedings, as well as before the Marine Fisheries Advisory Commission.

Biological Sampling Year	Historical Baseline (1/4" V-Notch Count)	Newly Prohibited (1/8" V-Notch Count)	Total Prohibited Animal Count	Real-World Impact Increase Over Baseline
2023	150	721	871	**+480.67%**
2024	204	1,026	1,230	**+502.94%**
2025	210	998	1,208	**+475.24%**
3-Year Totals / Avg.	**564**	**2,745**	**3,309**	**+486.70%**

- **Total Count Multiplier:** Across the three-year biological sampling window, the transition to the strict 1/8-inch standard caused a **4.87× average explosion** in prohibited animals relative to the historic 1/4-inch conservation baseline standard.
- **Landed Weight Conversion:** Utilizing the regional older-herd mean average size of **2.0 pounds per animal**, the 2,745 newly restricted animals in the sampled subset account for **5,490 pounds of premium 'Select Grade' catch** stripped directly from the harvesters' lawful landings.

2. Statement of Legal and Administrative Deficiencies

Pursuant to **M.G.L. c. 30A, § 4**, the undersigned Petitioners submit that the 1/8-inch v-notch possession standard is structurally flawed, administratively invalid, and subject to an immediate administrative stay or rollback based on three distinct legal deficiencies:

A. Violation of the 'Arbitrary and Capricious' Standard

Under Massachusetts administrative law, an agency regulation must be overturned if it lacks a rational basis, fails to consider vital life-history data, or relies on a clear error of judgment. The MA DMF repeatedly asserted before judicial bodies and the Marine Fisheries Advisory Commission that the regulatory shift would yield a negligible 2% to 4% gross revenue impact on the fleet. The Division's model committed a fatal analytical error by tracking individual animal counts rather than total landed weight. By ignoring the unique, heavy weight-at-age profile of the Outer Cape Cod older-herd population (averaging 2.0 lbs per animal), the Division executed a rule that outlaws over **22% of gross fleet volume**. An administrative model that undercalculates the real-world economic and biological impact of a restrictive rule by nearly 500% is fundamentally arbitrary, capricious, and legally unsustainable.

B. Administrative Material Misrepresentation of Fact

The Division's defense of this regulation in federal and state court proceedings relied on flawed modeling that is directly contradicted by its own internal records. While the agency maintained under oath that economic harm would be minor, its internal at-sea sea sampling database—belatedly obtained by the fleet in **July 2026**—conclusively refuted those claims in real-time. By presenting an artificially minimized 2% to 4% impact trajectory to judicial bodies, the agency effectively blocked critical injunctive relief for the fleet. The stark divergence between the agency's courtroom assertions and its actual field data constitutes a material misrepresentation of fact and a clear abuse of administrative discretion.

C. Asymmetric Economic Devastation and Lack of Conservation Utility

The regulation inflicts targeted capital destruction on low-trap allocation operators who are legally locked into **300-trap limits** by the regional Transferable Trap Program. By ignoring certified dealer landing sheets proving a **$10.00 per pound market value** for these premium lobsters, the Division failed to record an ongoing **$26,950 annual gross revenue loss per vessel**. This unrecorded revenue cliff triggers an asymmetric **86% destruction of net business profit** for smaller family operations. Because the sea-sampling logs confirm a **0% statistically significant increase** in legal biomass or juvenile recruitment, the current rule inflicts severe capital devastation on multi-generational businesses with zero measurable conservation utility.

Verification Clause: Submitted under the pains and penalties of perjury on behalf of the 38 Signed Petitioners of the Outer Cape Cod LCMA Commercial Lobster Fleet on this 10th day of September, 2026. This document constitutes an official evidentiary supplement to the primary petition filed pursuant to M.G.L. c. 30A, § 4.

EXHIBIT B

CODE	PRODUCT	PRICE
LBC	CHIX- HARD	6.75
LBQ	1/4 - HARD	7.00
LBH	1/2 - HARD	7.75
LB2	2 - 2.5 - HARD	10.00
LB2.5	2.5 - 3 - HARD	9.25
LB3	3 to 4's - HARD	9.00
LB3	4 to 6's - HARD	9.00
LB6	6 & UP HARD	8.00
BSC	SMALL CULLS HARD	3.75
BCU	LARGE 2+ CULLS HARD	6.50
BFR	FIRM U/2	5.00
BFL	FIRM 2+	3.25
LBP	PROCESSOR	3.75
		0.00
HLFF	1/2'S - FIRM	
3/4F	3/4 - FIRM	
B2F	2-3'S - FIRM	
B3F	3-4'S - FIRM	
B4F	4-6 FIRM	
JUMF	6+ FIRM	
	DEAD DISCARD	0.00
	TOTAL CULLED WEIGHT	
	SHRINK PERCENTAGE	

EXHIBIT C

BEFORE THE MASSACHUSETTS DIVISION OF MARINE FISHERIES AND THE COMMONWEALTH OF MASSACHUSETTS

IN RE: Economic Damages of the V-Notch Standard Change
REGULATORY REGION: Outer Cape Cod (OCC) Lobster Conservation Management Area (LCMA)

AFFIDAVIT OF ECONOMIC IMPACT

I, [Your Name/Title], under the pains and penalties of perjury, do hereby depose and state as follows based upon personal knowledge, commercial fishing industry data, and verified Massachusetts Division of Marine Fisheries (DMF) at-sea sea sampling records:

I. PURPOSE & BACKGROUND

1. This affidavit quantifies the catastrophic financial damages inflicted upon the Outer Cape Cod commercial lobster fleet by the implementation of the 1/8-inch v-notch possession standard.

2. Initial regulatory models advanced by the MA DMF and the Marine Fisheries Advisory Commission claimed an average gross revenue loss of only 2% to 4% for regional harvesters.

3. Subsequent official at-sea sampling data and real-world landing records have completely disproven those agency projections. The actual gross harvest loss across the fleet exceeds 22%.

4. This statement isolates how that 22% gross reduction directly targets and destroys the net profit margins of small-business fishermen, focusing heavily on those restricted by the regional Transferable Trap Program.

5. This affidavit accompanies a formal regulatory petition representing a unified **66.67% supermajority** of the active fleet (38 out of 57 total possible regional permit allocations) within the OCC LCMA.

II. THE METRIC DISTORTION: COUNT VERSUS WEIGHT ANALYSIS

6. The Division's initial 2–4% economic damage model was built on a fatal analytical and mathematical flaw: it tracked individual animal counts instead of total landed weight.

7. In commercial fisheries, harvesters are compensated strictly by the landed pound rather than by individual animal counts. By treating a heavy, older-herd Outer Cape lobster exactly the same as a small 1-pound baseline commodity lobster, the state's model artificially suppressed the apparent volume penalty extracted from the fleet.

8. Analysis of the official MA DMF at-sea sampling database reveals that the mean average size of the newly restricted female lobster within the Outer Cape region is 2.0 pounds. By substituting animal count for weight, the larger, heavier lobsters in the Outer Cape herd were completely under-represented in the state's models, multiplying the actual financial loss far beyond the agency's public statements.

III. DISPROPORTIONATE IMPACT ON LOW-TRAP ALLOCATION PERMIT HOLDERS

9. Under the guidelines of the Outer Cape Cod Transferable Trap Program, the fishery is entirely closed-allocation. Captains cannot scale up gear arrays or scale out effort parameters to mitigate catch losses.

10. To acquire traps, an independent captain must purchase them from an existing licensed lobsterman. This commercial transaction triggers an immediate 10% conservation tax reduction on the transfer, capping expansion.

11. This structural ceiling leaves a significant segment of local captains trapped at a 'sub-cap' level allocation (e.g., 300 traps), far below the maximum standard allowance of 800 traps.

12. While a maximum-allotment 800-trap vessel can absorb a revenue cut and remain narrowly solvent, applying a 22% gross catch loss to a 300-trap operator inflicts an **86% destruction of net business profit** because baseline operating costs (such as fuel, bait, mooring fees, and marine insurance) remain entirely fixed and inelastic.

IV. FAILURE OF COMPENSATORY BIOMASS PROJECTIONS

13. The regulatory framework legally justified this severe economic damage by promising an immediate, measurable rebound in harvestable biomass via egg-bearing female preservation.

14. Verified regional sea-sampling data received on July 13, 2026, confirms a 0% statistically significant increase in legal lobster biomass or localized juvenile recruitment within the Outer Cape LCMA.

15. The regulation has achieved zero biological or conservation utility. It has succeeded only in rendering a historically stable, sustainable local population completely unmarketable.

16. Furthermore, strict state penalties for dealers have caused automated 'buyer rejection' across commercial networks. Wholesalers now reject completely legal, borderline lobsters to avoid subjective enforcement fines, shifting 100% of the regulatory risk onto the harvester.

V. ARBITRARY EXCLUSION OF MARKET VALUE EVIDENCE

17. The regulatory economic models advanced by the MA DMF apply a flat, blended fleet-average price per pound to the restricted catch, which completely erases real marketing infrastructure and regional grading scales.

18. Within the Outer Cape Cod marketing infrastructure, a hard-shell 2 lb lobster represents the highest-value classification ('Select Grade') in the entire regional harvest, commanding a premium price per pound.

19. Furthermore, the Outer Cape market features an established premium tier for larger biomass, where 3+ pound 'jumbo' classifications command premium values far exceeding baseline commodity rates.

20. During the official public comment hearings regarding the proposed v-notch definition change, commercial harvesters formally submitted certified dealer landing price sheets establishing an actual market value of $10.00 per pound for 2 lb select hard-shell classifications, and between $8.00 and $9.25 per pound for large 3+ pound classifications.

21. The MA DMF completely excluded and ignored this certified evidence from their economic impact assessments, choosing instead to apply a depressed, blended average price to artificially minimize the apparent financial impact of the rule. By actively ignoring certified dealer data, combined with a failure to calculate weight instead of animal count, the state's model compounded its mathematical errors. This

masks an additional **-$26,950 in hidden gross losses per vessel**, driving small and low-trap vessels directly into structural insolvency.

VI. WILLFUL ADMINISTRATIVE ENFORCEMENT DESPITE CONTRARY DATA KNOWLEDGE

22. On June 2, 2025, commercial harvesters formally requested the raw underlying regional v-notch database from the MA DMF to evaluate the biological assertions supporting the 1/8-inch standard.

23. The Division fulfilled this request in two data releases on July 22, 2025, and August 29, 2025. This production established that the agency's public assertions of a minor 2% to 4% revenue drop were scientifically and mathematically invalid.

24. Despite having clear proof in July and August 2025 that the regulation would cause a 22%+ gross catch reduction and up to an 86% wipeout of net profit for low-trap allocations, the Division took no steps to suspend or amend the rule.

25. Instead, on September 24, 2025, and September 26, 2025, the MA DMF issued strict reminder notices to all commercial license holders and primary lobster dealers. These notices threatened immediate enforcement penalties for any female lobster possessing an indentation of 1/8-inch or greater.

26. The issuance of these enforcement reminders proves the Division acted with full administrative awareness of the flawed nature of their economic models, constituting a clear abuse of administrative discretion and a bad-faith execution of regulatory authority under M.G.L. c. 30A.

VII. BREACH OF MANDATORY LCMT CONSULTATION AND DISREGARD OF JUDICIAL PRECEDENT

27. Under the Atlantic States Marine Fisheries Commission (ASMFC) management framework, the MA DMF is legally required to consult with the Lobster Conservation Management Team (LCMT) for the Outer Cape Cod area regarding structural adjustments to possession standards and trap rules.

28. The Division completely failed to hold mandatory consultation meetings with the local LCMT prior to enacting the 1/8-inch v-notch possession rule, thereby stripping the fleet of its statutory role in the rule-making process.

29. This failure tracks a verified pattern of regulatory non-compliance. In a recent, parallel matter, the Barnstable County Superior Court explicitly ruled against the MA DMF for similar procedural overreach and failure to respect local advisory frameworks.

30. The Division's ongoing administrative claim that this recent Superior Court ruling does not apply to the current v-notch standard constitutes a willful disregard of judicial precedent, an abuse of administrative discretion, and a bad-faith execution of agency authority.

VIII. TOTAL REGIONAL MULTIPLIER DAMAGE

31. The financial loss is not contained to the water. Every dollar lost at the dock ripples directly through the coastal community of Cape Cod, Massachusetts.

32. Total Secondary Economic Output Loss is calculated at **-$5,170,000**, stripped directly from shoreside infrastructure, including local bait houses, commercial fuel docks, independent shipyards, and municipal harbor fees.

33. The rule actively forces the consolidation of multi-generational family permits and accelerates bankruptcy among the youngest, newest independent entrants to the fishery.

IX. CONCLUSION

34. The MA DMF and Fisheries Commission violated their administrative mandates to minimize adverse economic impacts on small fishing communities. They relied on flawed, smoothed, macro-regional models that ignored lobstermen's public hearing verbal testimony disputing the financial loss and intentionally omitted certified marketing data.

35. Real-world data proves that the 1/8-inch v-notch possession standard acts as an arbitrary, non-compensatory economic penalty that destroys the financial viability of the Outer Cape fleet, targeting low-trap allocation vessels for functional eradication.

SUBSCRIBED AND SWORN TO under the pains and penalties of perjury this 9 day of SEPTEMBER, 2026.

Stephen Smith

STEPHEN SMITH

[Your Printed Name]
Outer Cape Cod LCMA Harvester

Permit # / Port of Landing:
000787 / ORLEANS

This is for informational purposes only. For medical advice or diagnosis, consult a professional. AI responses may include mistakes.

VI. LACK OF BIOLOGICAL UTILITY

14. The severe economic damage inflicted upon Cape Cod fishing families was legally justified by the promise of an immediate rebound in harvestable biomass and juvenile recruitment.

15. The July 13 database confirms a **0% statistically significant increase** in localized biological stock health. The regulation has failed to achieve any conservation utility; it has succeeded only in rendering a historically stable, sustainable local population completely unmarketable.

VII. PRAYER FOR ACTION

Wherefore, the Petitioners respectfully request that the Division of Marine Fisheries take immediate administrative action to cure these defects by:

1. Formally scheduling a public hearing under M.G.L. c. 30A, § 4 to review the newly uncovered July 13 data and the **$10.00/lb** dealer grading metrics.
2. Amending the v-notch possession regulation to restore the historical definition, thereby shielding the low-trap fleet from ongoing, non-compensatory financial insolvency.
3. Providing a formal, written administrative response to this Petition accepting or denying the requested amendment within the timeframe prescribed by law.

RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: Stephen Pickard Printed Name: Stephen Pickard
Date: 8/22/26
Permit # / Port of Landing: 092744 P-Town

2. Signature: Donna Pickard Printed Name: Donna Pickard
Date: 8/23
Permit # / Port of Landing: Provincetown, MA 000870

3. Signature: _____ Printed Name: _____
Date: _____
Permit # / Port of Landing: _____

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: _____ Printed Name: Christopher Pickard
Date: 8/22/24
Permit # / Port of Landing: 005070 P-town

2. Signature: _____ Printed Name: Benjamin Pickard
Date: 8/23/24
Permit # / Port of Landing: 004592 Provincetown, MA

3. Signature: _____ Printed Name: _____
Date: _____
Permit # / Port of Landing: _____

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: Jeffrey Pickard Date: 8/21/2026

Printed Name: Jeffrey Pickard

Permit # / Port of Landing: 000346 PTown

2. Signature: Mark Mooney Date: 8/21/26

Printed Name: Mark Mooney

Permit # / Port of Landing: 007838 P-town

3. Signature: Samuel Pickard Date: 8/22/26

Printed Name: Samuel Pickard

Permit # / Port of Landing: 016354 Provincetown

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature:  Printed Name: Samuel Brown
Date: 8/23/2026

Permit # / Port of Landing: 002106 / Chatham, MA

2. Signature: _____ Printed Name: _____
Date: _____

Permit # / Port of Landing: _____

3. Signature: _____ Printed Name: _____
Date: _____

Permit # / Port of Landing: _____

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: Garrett Loparto Printed Name: Garrett Loparto
Date: 8/22/26

Permit # / Port of Landing: 4056 / Chatham

2. Signature: _____ Printed Name: _____
Date: _____

Permit # / Port of Landing: _____

3. Signature: _____ Printed Name: _____
Date: _____

Permit # / Port of Landing: _____

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: Shawn Costa Date: 8/22/26

Printed Name: Shawn Costa

Permit # / Port of Landing: Provincetown

2. Signature: Chris Costa Date: 8/22/26

Printed Name: CHRIS COSTA

Permit # / Port of Landing: PROVINCETOWN

3. Signature: _____ Date: _____

Printed Name: _____

Permit # / Port of Landing: _____

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: William H. Souza Jr. Printed Name: William H Souza Jr.
Date: 8/21/2026

Permit # / Port of Landing: 002269 Provincetown

2. Signature: _____ Printed Name: Jeffrey J. Souza
Date: 8/21/26

Permit # / Port of Landing: 007120 Provincetown

3. Signature: _____ Printed Name: _____
Date: _____

Permit # / Port of Landing: _____

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Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: _____ Date: _____

Printed Name: DANA PAZOLF

Permit # / Port of Landing: 027112 PROVINCETOWN

2. Signature: _____ Date: 8/20/26

Printed Name: John Burns

Permit # / Port of Landing: 007260 Provincetown

3. Signature: _____ Date: 8/20/26

Printed Name: Todd Silva

Permit # / Port of Landing: 6970 Provincetown

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: Brendan Adams Date: 8/21/26 Printed Name: Brendan Adams

Permit # / Port of Landing: 006187 Chatham

2. Signature: [signature] Date: 8/21/26 Printed Name: Jonah Turner

Permit # / Port of Landing: 001936 Nauset Inlet

3. Signature: [signature] Date: 8/21/26 Printed Name: Gideon Turner

Permit # / Port of Landing: 7404 Nauset

VI. LACK OF BIOLOGICAL UTILITY

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: Thomas E. Luce Printed Name: Thomas E. Luce
Date: _____
Permit # / Port of Landing: 010411 HARWICHPORT

2. Signature: _____ Printed Name: _____
Date: _____
Permit # / Port of Landing: _____

3. Signature: _____ Printed Name: _____
Date: _____
Permit # / Port of Landing: _____

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: _____ Printed Name: Jeremy Coperto
Date: 8/22/26
Permit # / Port of Landing: 017075 Chatham MA

2. Signature: _____ Printed Name: _____
Date: _____
Permit # / Port of Landing: _____

3. Signature: _____ Printed Name: _____
Date: _____
Permit # / Port of Landing: _____

VI. LACK OF BIOLOGICAL UTILITY

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: D P Mallowes Printed Name: David Mallowes

000156 Date: 05/26

Permit # / Port of Landing: Chatham

Signature: _____ Printed Name: _____

_____ Date: _____

Permit # / Port of Landing: _____

Signature: _____ Printed Nam

_____ Date: _____

mit # / Port of Landing: _____

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: _____ Printed Name: Glen A. Fernandes Date: 8/21/26

Permit # / Port of Landing: 001925/ Chatham

2. Signature: _____ Printed Name: Nick OToole Date: Aug 21, 26

Permit # / Port of Landing: 001544 Harwich, Ma

3. Signature: _____ Printed Name: Thomas Svenningsen Date: Aug 21, 2026

Permit # / Port of Landing: 002053 Chatham, MA

VI. LACK OF BIOLOGICAL UTILITY

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: Tye Vecchione Date: Aug 20 2026

Printed Name: Tye Vecchione

Permit # / Port of Landing: 149525 Chatham

2. Signature: David Peterson Date: 8-21-26

Printed Name: David Peterson

Permit # / Port of Landing: 003651 Chatham

3. Signature: [illegible] Date: 8/21/26

Printed Name: [illegible]

Permit # / Port of Landing: 061300

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: John Quigley Printed Name: John Quigley
Date: 8/22/26

Permit # / Port of Landing: 138434 Chatham

2. Signature: _____ Printed Name: _____
Date: _____

Permit # / Port of Landing: _____

3. Signature: _____ Printed Name: _____
Date: _____

Permit # / Port of Landing: _____

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: Grant Wonder Printed Name: GREG WONDER
Date: 9/6/26
Permit # / Port of Landing: 9846 / ORLEANS

2. Signature: _____ Printed Name: _____
Date: _____
Permit # / Port of Landing: _____

3. Signature: _____ Printed Name: _____
Date: _____
Permit # / Port of Landing: _____

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1. Formally scheduling a public hearing under M.G.L. c. 30A, § 4 to review the newly uncovered July 13 data and the **$10.00/lb** dealer grading metrics.
2. Amending the v-notch possession regulation to restore the historical definition, thereby shielding the low-trap fleet from ongoing, non-compensatory financial insolvency.
3. Providing a formal, written administrative response to this Petition accepting or denying the requested amendment within the timeframe prescribed by law.

RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: _____ Date: _____ Printed Name: Donald MACIOCI

Permit # / Port of Landing: 001664 P-Town

2. Signature: _____ Date: _____ Printed Name: JASON R. HYORA

Permit # / Port of Landing: 001727 CHATHAM

3. Signature: _____ Date: 9/6/26 Printed Name: RAYMOND JOSEPH

RAYMOND F. JOSEPH

Permit # / Port of Landing: #1722

VI. LACK OF BIOLOGICAL UTILITY

14. The severe economic damage inflicted upon Cape Cod fishing families was legally justified by the promise of an immediate rebound in harvestable biomass and juvenile recruitment.

15. The July 13 database confirms a **0% statistically significant increase** in localized biological stock health. The regulation has failed to achieve any conservation utility; it has succeeded only in rendering a historically stable, sustainable local population completely unmarketable.

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature: _____ Printed Name: STEPHEN LODZICK
Date: 6 SEPT 2026
Permit # / Port of Landing: H 001578

2. Signature: _____ Printed Name: _____
Date: _____
Permit # / Port of Landing: _____

3. Signature: _____ Printed Name: _____
Date: _____
Permit # / Port of Landing: _____

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature:  Printed Name: MICHAEL OBRIEN Date: 8/30/2026

Permit # / Port of Landing: 107683 NAUSET / PROVINCETOWN

2. Signature: _____ Printed Name: _____ Date: _____

Permit # / Port of Landing: _____

3. Signature: _____ Printed Name: _____ Date: _____

Permit # / Port of Landing: _____

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RESPECTFULLY SUBMITTED,

Every individual lobsterman joining this action must sign and print below to preserve individual pro se standing:

1. Signature:  Printed Name: Robert Dutra

Date: 9/8/26

Permit # / Port of Landing: 5593 / Harwich

2. Signature:  Printed Name: Olivia Loparto

Date: 9/10/26

Permit # / Port of Landing: 138958 / Chatham

3. Signature: _____ Printed Name: _____

Date: _____

Permit # / Port of Landing: _____

Attachment 2: September 12 Notice of Supplemental Filing and Errata

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF MARINE FISHERIES

NOTICE OF SUPPLEMENTAL FILING AND ERRATA

IN RE: PETITION FOR EMERGENCY REGULATORY AMENDMENT Outer Cape Cod LCMA 1/8-Inch V-Notch Possession Standard Filing Pursuant to M.G.L. c. 30A, § 4 and 801 CMR 1.00	**Date:** September 12, 2026 **Petitioner Fleet Size:** 38/57 (66.67%) **Original Tracking No:** [INSERT FEDEX TRACKING NUMBER] 455937807039

TO: Director Dan McKiernan, Massachusetts Division of Marine Fisheries

NOW COMES the Organizing Representative on behalf of the thirty-eight (38) signed commercial lobster harvester Petitioners operating within the Outer Cape Cod Lobster Conservation Management Area (OCC LCMA), and respectfully submits this Notice of Supplemental Filing and Errata to substitute, amend, and replace **Exhibit B** in the master regulatory packet filed on September 11, 2026.

This supplemental filing is executed to correct a critical technical omission regarding the Outer Cape Cod area regional dealer pricing structure. The original filing omitted the tiered commercial value designations for older-herd animals exceeding 2.50 pounds. As detailed in the substituted Exhibit B herein, these premium heavy-tier animals command the absolute highest per-pound market value within the regional fishery, carrying values that multi-fold exceed the standard 1.00 lb baseline catch.

Petitioners note that this structural pricing evidence is vital to cure the data defects present in the Division's original economic models. By submitting this supplement, the corrected data is formally integrated into the active administrative record, binding the agency to review these exact parameters within the statutory timeframe prescribed under M.G.L. c. 30A, § 4.

Respectfully submitted,

Stephen Smith Brad Aden

Organizing Representative
On Behalf of the 38 Petitioners of the OCC LCMA Fleet

EXHIBIT B: COMMERCIAL SEAFOOD DEALER PRICING MATRIX

The matrix below sets forth the empirical commercial weight-tier and pricing scales utilized by certified Massachusetts regional seafood dealers for landings harvested out of the Outer Cape Cod Lobster Conservation Management Area (OCC LCMA). This matrix establishes that the strict 1/8-inch v-notch possession standard selectively outlaws the fleet's absolute highest-value catch per pound.

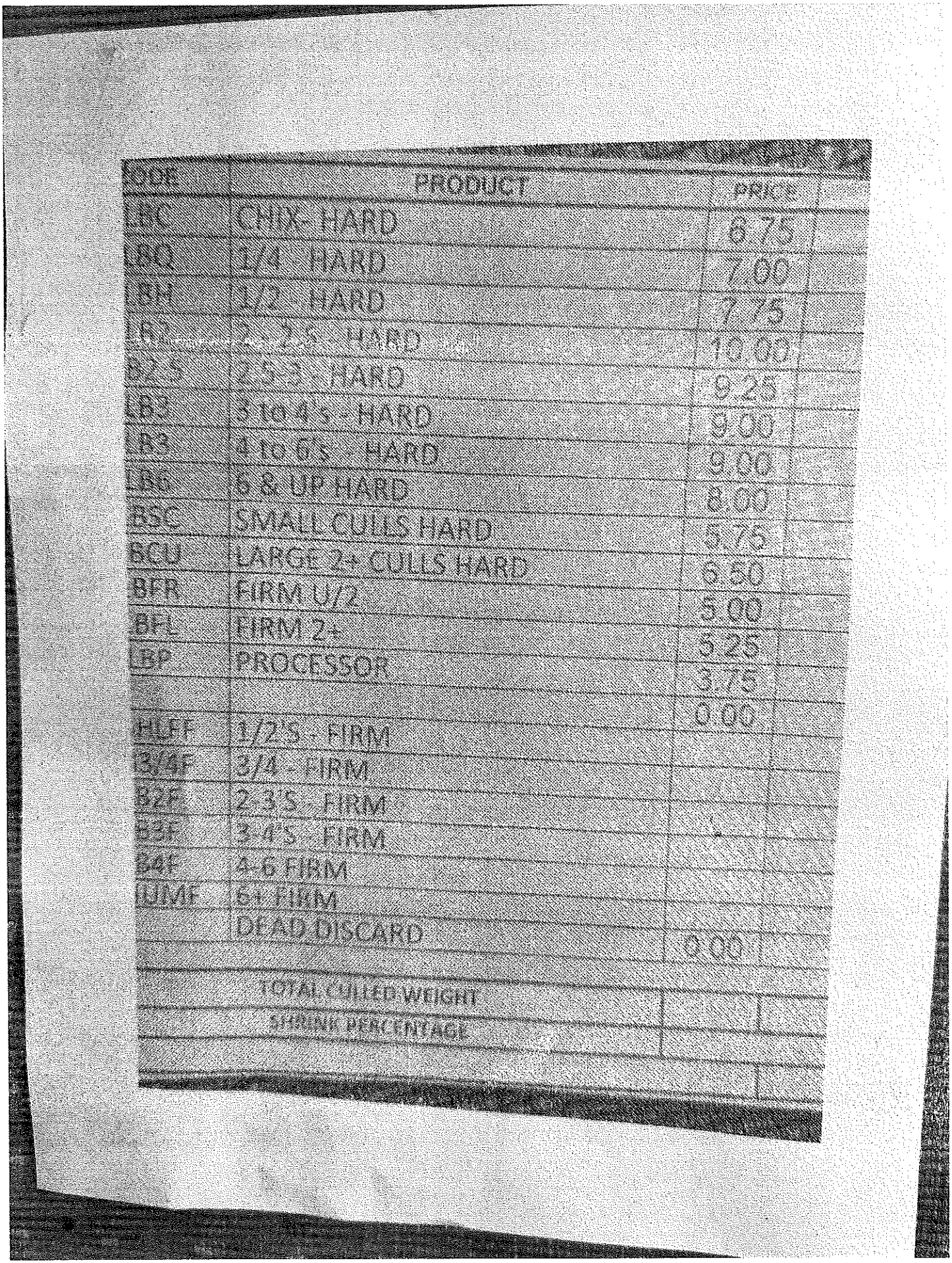
Lobster Grading Tier	Weight Specification	Market Price (Per Lb)	Regulatory & Operational Status (1/8" Standard)
Standard Baseline ('Chix')	~1.00 lb baseline profile	**$6.00 / lb**	Unrestricted. Completely unaffected by v-notch possession rules.
Premium Select Grade	1.75 lbs to 2.50 lbs	**$10.00 / lb**	**RESTRICTION TARGET:** Legally barred from sale if 1/8" notch present.
Heavy Tier	2.51 lbs to 5.99 lbs	**$9.25 / lb**	**RESTRICTION TARGET:** Legally barred from sale if 1/8" notch present.
Jumbo / Industrial Tier	6.00 lbs and greater	**$8.00 / lb**	**RESTRICTION TARGET:** Legally barred from sale if 1/8" notch present.

SUPPLEMENTAL ECONOMIC PROFILE AND STRUCTURAL ANALYSIS

1. The Selective Extraction of Peak Profit Margins: As demonstrated by the certified dealer pricing matrix, local lobster values do not follow a flat linear trajectory. While standard 1.00 lb lobsters ('chix') command a low baseline price of $6.00 per pound, all sizes above 1.75 lbs represent the absolute peak financial value for the entire region, commanding premium values between $8.00 and $10.00 per pound. The strict 1/8-inch v-notch standard targets the older-herd OCC population, which carries an empirical mean average weight of 2.0 lbs per animal. Consequently, the regulation selectively outlaws the fleet's highest-value inventory, stripping away premium net profit margins while leaving the low-value $6.00 baseline catch untouched.

2. The 'Older-Herd' Value Disconnect: In state and federal court proceedings, the Division of Marine Fisheries asserted that the 1/8-inch rule would cause a negligible 2% to 4% revenue loss. The Division's model committed a fatal analytical flaw by tracking individual animal counts rather than total landed weight-value. Because individual animals in the OCC area are significantly heavier than the juvenile 'chix' profile, losing 2,745 older-herd animals (as recorded in the 2023–2025 at-sea database logs) equates to 5,490 pounds of premium catch. By tracking counts instead of landed value, the state completely hid the severe economic cliff.

3. Trap-Allocation Strangulation: Under the rules of the regional Transferable Trap Program, low-allocation captains are structurally restricted to a 300-trap limit. These small-scale family operations cannot scale up gear or increase trap counts to chase volume to offset the loss of their high-value, premium catch. The selective extraction of these $8.00 to $10.00/lb animals creates an unrecorded $26,950 gross revenue cliff per vessel, resulting in an asymmetric 86% destruction of net business profit for these low-allocation operations.



CODE	PRODUCT	PRICE
LRC	CHIX- HARD	8.75
LBQ	1/4 - HARD	7.00
BH	1/2 - HARD	7.75
B2	2-3's - HARD	10.00
B2S	2-3's - HARD	9.25
B23	3 to 4's - HARD	9.00
B3	4 to 6's - HARD	9.00
B6	6 & UP HARD	8.00
BSC	SMALL CULLS HARD	5.75
BCU	LARGE 2+ CULLS HARD	6.50
BFR	FIRM U/2	5.00
BFL	FIRM 2+	5.25
LBP	PROCESSOR	3.75
		0.00
HUFF	1/2's - FIRM	
3/4F	3/4 - FIRM	
B2F	2-3's - FIRM	
B3F	3-4's - FIRM	
B4F	4-6 FIRM	
HUMF	6+ FIRM	
	DEAD DISCARD	0.00
	TOTAL CHILLED WEIGHT	
	SHRINK PERCENTAGE	

VERIFICATION STATEMENT

I, the undersigned Organizing Representative, hereby certify under the pains and penalties of perjury that the foregoing commercial weight-tier and pricing scales represent true and accurate market metrics transcribed directly from active Massachusetts commercial seafood dealer landing sheets for the Outer Cape Cod regional lobster fishery.

Dated: September 12, 2026
Location: Orleans, Massachusetts

Organizing Representative
On Behalf of the 38 Petitioners of the OCC LCMA Fleet

Attachment 3: September 29, 2026 Supplemental Filing

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF MARINE FISHERIES

In the Matter of:

Stephen Smith,
Harvester Permit Challenge /
Outer Cape Cod V-Notch Standard

NOTICE OF SUPPLEMENTAL FILING AND TRANSMITTAL OF CLEAN COPIES

TO: The Administrative Law Clerk and Counsel for the Division of Marine Fisheries

Please take notice that the Petitioner, Stephen Smith, appearing as **organizing representative**, hereby submits this **Supplemental Filing** to accompany the pending petition in the above-captioned matter.

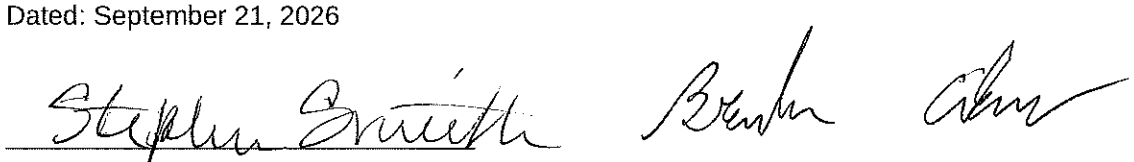
Enclosed are the full, complete hard-copy documents designated as **Exhibits D through K**. Please note that for the convenience of the Department and the Presiding Officer, the Petitioner has manually applied **yellow highlighters to the core relevant data points and text selections** on all copies of these exhibits to clearly identify the administrative and evidentiary facts supporting this challenge.

The enclosed packet consists of the following clean copies:

- **EXHIBIT D:** MA DMF V-Notch Sea Sampling Data (Received July 22, 2025).
- **EXHIBIT E:** MA DMF V-Notch Sea Sampling Mean Average Weight Report (Issued July 13, 2026).
- **EXHIBIT F:** MA Marine Fisheries Advisory Commission Official Record (Dated April 24, 2025).
- **EXHIBIT G:** Sworn Affidavit of Director Daniel McKiernan, *Pazolt v. MA DMF*, Superior Court (Dated June 27, 2025).
- **EXHIBIT H:** MA Marine Fisheries Official Advisories to License Holders (Issued Sept 24 & 26, 2025).
- **EXHIBIT I:** Outer Cape Lobster Conservation Management Area (OCC LCMA) Trap Allotment Matrix.
- **EXHIBIT J:** Lobster Conservation Management Team (LCMT) Official Notification (Dated February 21, 2008).
- **EXHIBIT K:** Federal Court Affidavit regarding commercial fishery economic impacts.

Respectfully Submitted,

Dated: September 21, 2026



Stephen Smith, Organizing Representative
Orleans, MA

7/22/2025 EXHIBIT D

OUTER CAPE COD SAMPLING REGION (LCMA OCC)

YEAR	All eggers (including notched)	Non-eggers with v-notch 1/4"	Non-eggers with v-notch 1/8"	marketable females	# females sampled that state-only could land prior to 7/1/2025	marketable males	both sexes, # sampled that state-only could land prior to 7/1/2025	% discarded due to change to 1/8" rule
2000	586	30	NA	1058	1058	1125	2183	NA
2001	675	26	NA	909	909	837	1746	NA
2002	654	13	NA	1031	1031	1083	2114	NA
2003	1015	25	NA	1123	1123	935	2058	NA
2004	595	32	NA	1364	1364	865	2229	NA
2005	1179	64	NA	1220	1220	909	2129	NA
2006	1083	56	NA	1275	1275	1175	2450	NA
2007	827	72	NA	1255	1255	1213	2468	NA
2008	1031	47	NA	1254	1254	1058	2312	NA
2009	700	40	94	1122	1216	1302	2518	3.7
2010	1057	47	74	1425	1499	1312	2811	2.6
2011	1286	49	51	1406	1457	1171	2628	1.9
2012	731	38	74	1377	1451	1130	2581	2.9
2013	1090	22	60	1380	1440	1234	2674	2.2
2014	1114	61	74	1356	1430	850	2280	3.2
2015	723	55	95	2109	2204	1141	3345	2.8
2016	1028	35	69	2072	2141	1249	3390	2.0
2017	905	29	43	1244	1287	719	2006	2.1
2018	1071	11	25	1716	1741	928	2669	0.9
2019	1023	11	10	1469	1479	709	2188	0.5
2020	852	5	1	985	986	714	1700	0.1
2021	326	6	1	960	961	767	1728	0.1
2022	435	3	8	759	767	680	1447	0.6
2023	679	37	139	1959	2098	1424		3.9
2024	1281	64	248	2611	2859	1382		5.8
average/year between 2020-2024	894	32	67	1497	1564	1045	2426	

PROVINCETOWN SAMPLING REGION (LCMA OCC)

YEAR	All eggers (including notched)	Non-eggers with v-notch 1/4"	Non-eggers with v-notch 1/8"	marketable females	# females sampled that state-only could land prior to 7/1/2025	marketable males	both sexes, # sampled that state-only could land prior to 7/1/2025	% discarded due to change to 1/8" rule
2008	1426	109	NA	1719	1719	790	2509	NA
2009	1124	96	212	1363	1575	1145	2720	7.8
2010	1791	171	284	1851	2135	1676	3811	7.5
2011	1585	75	92	936	1028	1212	2240	4.1
2012	1545	85	131	818	949	923	1872	7.0
2013	1853	96	181	1418	1599	2435	4034	4.5
2014	1577	142	171	1725	1896	1742	3638	4.7
2015	1143	75	80	1055	1135	1497	2632	3.0
2016	936	83	51	1212	1263	1645	2908	1.8
2017	1118	107	92	1496	1588	975	2563	3.6
2018	796	15	43	1110	1153	879	2032	2.1
2019	933	29	31	1093	1124	751	1875	1.7
2020	572	5	16	569	585	519	1104	1.4
2021	573	13	20	956	976	575	1551	1.3
2022	585	12	26	681	707	354	1061	2.5
2023	1378	59	173	1503	1676	733	2409	7.2
2024	1775	53	202	1218	1420	364	1784	11.3
average/year between 2008-2024	1218	72	113	1219	1325	1071	2397	

GULF OF MAINE SAMPLING REGION (LCMA 1)

YEAR	All eggers (including notched)	Non-eggers with v-notch 'zero-tolerance'	marketable females	marketable males
2000	575	64	6202	4642
2001	759	115	4103	3627
2002	676	199	5482	3740
2003	795	425	5960	4523
2004	1063	1038	4499	3179
2005	779	884	3479	2964
2006	747	1041	3424	2623
2007	1055	1484	3708	3108
2008	1233	1934	4541	4173
2009	1442	2340	4783	4203
2010	1167	2024	5698	4077
2011	1593	1887	5678	3525
2012	1600	1800	5265	4633
2013	1481	1268	5549	5041
2014	1498	1026	5059	4514
2015	1540	1121	4972	4402
2016	1890	902	5299	4617
2017	2090	1459	5059	5155
2018	1939	1617	5107	4066
2019	881	902	4041	3912
2020	1344	1160	3577	3183
2021	875	1283	3878	3103
2022	1461	1233	4107	3672
2023	1336	1209	3829	3012
2024	1582	1437	3672	3334

average\year 2000-2024

1256	1194	4679	3881

% eggers	% zero tolerance		4679
15%	14%		3881
		M & F total	
			8560

SNE SAMPLING REGION (LCMA 2)

AR	All eggers (including notched)	Non-eggers with v-notch 1/4"	Non-eggers with v-notch 1/8"	marketable females	marketable females under 1/4" V rule	marketable males	both sexes, marketable catch under 1/4" V rule	% discarded due to change to 1/8" rule
00	587	16	NA	2340	2340	615	2955	NA
01	768	20	NA	3113	3113	708	3821	NA
02	772	46	NA	1938	1938	546	2484	NA
03	324	35	NA	882	882	527	1409	NA
04	578	501	NA	1553	1553	567	2120	NA
05	1085	913	NA	1664	1664	603	2267	NA
06	1013	550	110	1641	1751	632	2383	**4.62**
07	712	122	117	2193	2310	523	2833	**4.13**
08	1013	68	102	2537	2639	681	3320	**3.07**
09	600	51	55	1771	1826	418	2244	**2.45**
10	470	61	0	1643	1643	499	2142	**0.00**
11	186	25	5	954	959	252	1211	**0.41**
12	523	43	21	1987	2008	782	2790	**0.75**
13	623	58	34	1734	1768	935	2703	**1.26**
14	453	25	11	1135	1146	775	1921	**0.57**
15	644	19	12	1177	1189	297	1486	**0.81**
16	725	30	16	1863	1879	1144	3023	**0.53**
17	535	43	16	2130	2146	985	3131	**0.51**
18	200	14	3	1132	1135	1107	2242	**0.13**
19	101	0	0	827	827	593	1420	**0.00**
20	168	2	0	1050	1050	708	1758	**0.00**
21	42	0	1	453	454	258	712	**0.14**
22	18	0	0	459	459	439	898	**0.00**
23	29	0	0	489	489	439	928	**0.00**
24	77	3	0	605	605	704	1309	**0.00**

7/13/2026

Average size (mm) of a v-notched female observed by DMF samplers during commercial trap sampling trips.

OCCPTOWN							GOM					SNE				
YEAR	mean_Qrtr	mean_eighth	N_qrtr	N_eighth	mean_all_fem	N_allfemales	YEAR	mean_vnotch	N_vnotch	mean_all_fem	N_allfemales	YEAR	mean_vnotch	N_vnotch	mean_all_fem	N_allfemales
2009	103.4	106.0	280	847	103.9	4751	2009	96.2	3373	91.8	8630	2009	100.3	176	91.2	2479
2010	106.1	108.2	364	1037	104.8	6700	2010	95.4	2733	90.7	8923	2010	103.4	114	91.4	2182
2011	104.3	106.3	310	704	103.4	5480	2011	94.5	2624	90.7	9218	2011	95.2	38	89.9	1171
2012	102.9	107.4	318	799	103.8	4799	2012	94.9	2480	90.7	8721	2012	93.2	95	89.7	2574
2013	102.2	106.6	373	942	103.3	6100	2013	92.8	1779	89.4	8331	2013	94.0	164	89.9	2451
2014	105.1	108.4	356	802	105.4	6220	2014	94.3	1529	90.1	7616	2014	97.7	56	89.8	1627
2015	106.6	108.9	235	542	104.9	5335	2015	95.2	1665	90.8	7685	2015	96.6	60	90.5	1853
2016	103.8	107.0	253	486	101.7	5486	2016	95.8	1674	90.9	8174	2016	95.6	79	90.2	2634
2017	103.8	105.9	242	475	103.4	5034	2017	96.4	2433	92.1	8745	2017	95.5	73	89.9	2726
2018	101.8	102.8	45	155	104.0	4787	2018	93.9	2526	90.5	8730	2018	94.4	24	89.4	1351
2019	106.9	111.3	63	142	106.7	4599	2019	93.4	1316	89.5	5869	2019	NA	0	89.4	928
2020	101.2	100.4	32	70	106.0	3005	2020	94.5	1692	90.8	6123	2020	98.3	4	91.4	1222
2021	110.1	108.1	27	57	105.6	2855	2021	92.2	1685	89.7	6070	2021	86.0	1	90.1	496
2022	104.8	106.0	22	101	105.9	2509	2022	94.0	2087	90.6	6861	2022	NA	0	90.0	477
2023	108.7	107.9	150	721	105.7	5927	2023	94.2	1884	90.8	6460	2023	NA	0	90.9	519
2024	111.0	109.6	204	1026	106.1	7452	2024	95.9	2167	92.7	6845	2024	92.3	4	90.8	685
2025	111.5	110.4	210	998	108.1	6834	2025	94.5	2668	91.1	9327	2025	96.6	13	91.9	855

NOTES:
For OCC_PTown combined - Mangled flippers are included in both the 1/4" ("qrtr") and 1/8" ("eighth") calculation, since by definition a mangle is always considered a v-notch
GOM - all notch codes are included (zero-tolerance definition)
SNE - 1/8" definition applied (mangled flippers included)

Eggers are included in the calculations

Sublegal sizes are excluded from analysis

Columns headed with "mean..." are the mean size in mm of females with a v-notch
Columns headed with "N..." are the number of females with a v-notch

I've also included the mean size of all legal-sized females in each region, for added context. Column header "mean_fem_all"
Column header "N_allfemales" is the number of all legal-sized females

EXHIBIT E

EXHIBIT F

MARINE FISHERIES ADVISORY COMMISSION

Draft Business Meeting Minutes

April 24, 2025

Kingston Town Hall

In attendance:

Marine Fisheries Advisory Commission: Raymond Kane, Chairman; Bill Doyle, Vice Chair; Bill Amaru; Tim Brady; Chris McGuire; Kalil Boghdan. Absent: Shelley Edmundson, Clerk; Arthur "Sooky" Sawyer

Division of Marine Fisheries: Daniel McKiernan, Director; Kevin Creighton, Assistant Director; Melanie Griffin; Bradlie Morgan; Jared Silva; Kelly Whitmore; Anna Webb; Dr. Forest Schenck

Massachusetts Environmental Police: Captain Robert Forsythe

Members of the Public: Beth Casoni, Sharl Heller

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Raymond Kane called the April 24, 2025, MFAC business meeting to order. The Chairman noted that he had encouraged DMF—to the extent practicable—to work to schedule virtual MFAC meetings only during the winter months and avoid marathon meetings with many action items.

REVIEW OF APRIL 2025 BUSINESS MEETING AGENDA

Chairman Kane asked if the April 2025 MFAC business meeting agenda needed to be adjusted. Jared Silva asked to remove 'updates from Law Enforcement' and 'updates from Fish and Game' since the Commissioner and Law Enforcement were not present at today's meeting. The Chairman agreed. Massachusetts Environmental Police (MEP) Captain Robert Forsythe later arrived and provided the Massachusetts Environmental Police update.

REVIEW AND APPROVAL OF MARCH 2025 DRAFT BUSINESS MEETING MINUTES

Chairman Kane asked for edits to the March 2025 business meeting minutes. No requests were made. **The Chair called for a motion. Tim Brady moved to approve the draft March 2025 business meeting minutes. Bill Amaru seconded the motion. Motion was approved unanimously (5-0-1) with the Chairman abstaining.**

DIVISION OF MARINE FISHERIES: PERSONNEL, RECENT MEETINGS AND EVENTS, AND AGENCY ACTIVITIES AND PROJECTS

Director Dan McKiernan anticipated that the regulatory amendments approved by the MFAC at their March 2025 business meeting will go into effect on May 9.

With the upcoming horseshoe crab spawning season, Director McKiernan wrote to the Town of Wareham to ask them to refrain from grooming Swifts Beach during May and June when spawning is occurring given concerns that grooming machinery may disrupt spawning and harm eggs. Swifts Beach is an area where DMF's spawning surveys continue to show poor trends despite there being limited harvest. McKiernan anticipated Wareham would oblige, but described a misunderstanding whereby the town's website mistakenly portrayed DMF's ask as a mandate, which necessitated a follow-up clarifying call with town officials.

Bill Amaru remarked on healthy horseshoe crab spawning near Nauset Marsh and noted that the fishing restrictions during spawning have been a success. Chairman Kane noted that the enhanced presence of adult crabs on beaches now is likely attributable to the historic lunar spawning closures (implemented in 2010). Bill Amaru emphasized the importance of long-term monitoring, and the Director noted that DMF collaborates with NGOs to conduct surveys across the state. Chairman Ray Kane expressed interest in participating in a survey.

The Director stated that Commissioner Tom O'Shea drafted a letter to the US Secretary of Commerce urging NOAA Fisheries to finalize rule-making to open the commercial groundfish fishery on May 1 to prevent adverse impacts to the states groundfish fleet and seafood industry. The Director noted that DMF recently met with industry members and state representatives in Gloucester to discuss allowable catch limits, particularly the anticipated haddock quotas for Georges Bank. Chairman Kane, Bill Amaru, Melanie Griffin, and the Director discussed haddock size of maturity on Georges Bank and how the recent strong year classes may have contributed to stunted growth of individual fish and fish reaching maturity at a smaller than normal length. Griffin indicated she would provide Kane with the size-at-maturity information for Georges Bank haddock after the meeting.

Director McKiernan updated the MFAC on the seasonal presence of North Atlantic right whales around Massachusetts waters. The most recent aerial survey observed 97 whales in Cape Cod Bay. A disentanglement team was able to identify and partially remove large mesh gillnet gear from a four-year old male right whale—this whale was first observed entangled in December 2024 in federal waters south of Nantucket. This young male and several other whales were also observed around the eastern entrance to the Cape Cod Canal, which caused the waterway to be temporarily closed. The Director noted that today (April 24) is Right Whale Day in Massachusetts and the New

England Aquarium and New Bedford Whaling Museum were hosting events which DMF staff were attending. Lastly, DMF's Protected Species Team is scheduled to present on the development of a passive acoustic monitoring network at the May MFAC business meeting.

McKiernan discussed the Boston Seafood Expo, highlighting an encounter with a representative from a Massachusetts processor of Jonah crabs. The American lobster and Jonah crab fishery was "red listed" by the Monterey Bay Aquarium's Seafood Watch Program largely due to right whale entanglement concerns. This listing negatively impacted the firm's market access. DMF views this red listing as inappropriate given the extent to which industry has taken action to minimize entanglement risk and provided a letter to the firm regarding the strict management of this fishery and its interactions with large whales. The representative indicated that this letter helped the firm regain markets. Dan intended to have a follow-up phone call with the Monterey Bay Aquarium about the factual basis for this listing.

DMF is scheduled to host it's first-ever "Marine Quest" event on Saturday, June 14 at its Cat Cove facility in Salem. This is an outdoor public facing and family-oriented happening allowing for DMF staff and interested partners to engage with the public on marine science and fishing. The effort is being spearheaded by DMF Senior Biologist Gary Nelson. Gary previously worked for the marine fisheries agency in Florida where they would host similar annual events.

Chairman Ray Kane asked about the upcoming MFAC meeting schedule. Jared Silva stated the MFAC would meet again on May 29, but did not anticipate the need for a June or July meeting. Unless NOAA Fisheries finalizes the FY25 recreational cod and haddock limits, in which case DMF may need to schedule short virtual MFAC meeting to adopt complementary state rules.

Lastly, the Director introduced Bradlie Morgan. Bradlie recently started with DMF as a Policy Administration and Communications Specialist.

OFFICE OF LAW ENFORCEMENT: PERSONNEL, RECENT OPERATIONS, & MARINE FISHERY INCIDENTS

Captain Robert Forsythe provided comments for MEP. He began by providing a personnel update indicated that MEP currently has 103 officers and just made three recent hires to backfill positions vacated through retirements. Forsythe then discussed operations. MEP has fulfilled around 500 hours of right whale patrol since the beginning of 2025. Secretary Tepper joined a patrol on April 23rd. MEP is also in the process of obtaining new patrol vehicles. On marine fishery violations, a concerted effort has been made to look into lobster violations by draggers operating out of Provincetown. This resulted in a recent seizure of a large number of non-compliant lobsters. Forsythe then

highlighted MEP's appreciation for the recent horseshoe crab training that Jared Silva coordinated. He and Jared noted that DMF would work with MEP to develop similar trainings for a variety of fishery management topics.

McKiernan expressed his appreciation for the MEP taking action to address lobster violations in the mobile gear fishery noting this has been a "hot button" issue in recent years. However, Dan also recognized there are serious enforcement and compliance challenges related to this fishery given the various LCMA-specific size and v-notch standards. DMF recently met with the mobile gear fleet to discuss how best to simplify regulations without negatively impacting the fleet and intends to raise potential solutions with ASMFC, as it likely requires an addendum to the FMP.

Bill Amaru emphasized that most of the fleet is willing to and has worked within these regulations. He argued that the draggers are already restricted by the 100 lobsters per day limit, and with groundfish square mesh, they generally catch larger lobster. McKiernan noted that he was seeking to simplify the gauge and v-notch rules across LCMAs for the mobile gear fleet. Amaru expressed his support for such an initiative. Captain Forsythe noted that MEP would also appreciate more straightforward rules.

Chairman Kane, Kalil Boghdan, and Captain Forsythe discussed MEP personnel and the need for additional capacity. Director McKiernan noted that MEP was currently in the process of hiring a new Colonel and suggested the MFAC and DMF reach out to the new Colonel once they are onboard, invite them to an MFAC business meeting, and discuss how best for the MFAC to advocate for MEP to increase their capacity.

ACTION ITEMS

Refinement to Mechanized Bait Deployment Restriction Recommendation

At its March 2025 business meeting, the MFAC approved a DMF recommendation to prohibit the mechanized deployment of bait in rod and reel fisheries. Director McKiernan explained that DMF was now returning to the MFAC to refine this recommendation because it was insufficiently clear in two regards. First, the rule should apply to shore-based rod and reel fishing only. Second, mechanized deployment should have been better defined to clearly include motorized, remote-controlled, and compression propulsion devices. The recommended prohibition would continue to exclude other bait deployment means such as kites and kayaks, as well as the use of power reels given these retrieve baits.

Kalil Boghdan made a motion to adopt the Director's recommendation. Chris McGuire seconded the motion.

Jared Silva explained that he felt the March recommendation approved by the MFAC was too nebulous to be enacted as approved. First, it would apply to any rod and reel

fishing activity, which was overbroad, as the proposal was designed to more narrowly address shore-based fishing. Additionally, vessels can just be moved closer to aggregations of fish diminishing the need for mechanized bait deployment devices in this mode of fishing. Moreover, the recommendation was unclear as to whether compression propulsion devices (e.g., bait cannons) would be included. Prohibiting the use of bait cannons was consistent with the intention of the recommendation and DMF did not want vague language to encourage fishers to move from using one method (e.g., remote-controlled devices) to another (e.g., bait cannons) and instead preferred a stronger worded regulation.

Bill Amaru noted that he supported the recommendation at the March meeting, largely because it was coupled with shore-based shark fishing restrictions but felt the bait deployment restrictions were overregulating shore-based fishing.

For reasons similar to Amaru's, Tim Brady did not support the recommendation. Tim was also unfamiliar with bait cannons and was uncertain what DMF was aiming to regulate. Tim asked Captain Forsythe if MEP could speak to the issue from an enforcement perspective. Captain Forsythe stated he was similarly unfamiliar with these devices. However, Forsythe acknowledged that Jared Silva had reviewed this refinement with Lt. Bass who did not raise any concerns to MEP.

There was some discussion about the process to move this recommendation forward. It was determined that there should be an action to move the motion if there was no further deliberation. **Kalil moved the motion on board. Bill Doyle seconded moving the motion.** There was no further deliberation. **The Chair called the vote, and the motion passed (3-2-1) with the Chair abstaining.**

EMERGENCY RULE MAKING

Implementing Addendum 32 to the American Lobster Fishery Management Plan

In preparation for today's business meeting, DMF provided the MFAC with an extensive memorandum on Addendum XXXII. Director McKiernan noted that the ASMFC will vote on Addendum XXXII at their May meeting, and if approved, the gauge and escape vent rules in Addendum XXVII will be repealed from the FMP. Addendum XXXII would not repeal trap tag standardization rules for LCMA 1 and 3 and v-notch standardization rules among federal and state permit holders in the Outer Cape Cod LCMA (OCCLCMA).

While states can maintain stricter regulations than required by the FMP, DMF initiated emergency rule making to implement Addendum XXXII and rescind relevant state regulations prior to their scheduled implementation date to ensure Massachusetts fishers are not subject to more restrictive regulations than others fishing in the same

LCMA. DMF will host a virtual public hearing at 6PM on May 19th and will return to the MFAC with a final recommendation at their May 29th business meeting.

The Director then described the history of how the OCCLCMA diverged from LCMA 1 and why there were disparate v-notch standards in the OCCLCMA between state-only and federal permit holders.

Chairman Kane and Bill Amaru both expected that the state-only OCCLCMA fishers would oppose this action. These fishers feel singled out by this process given Addendum XXXII repeals other aspects of the addendum that would affect the lion's share of the commercial harvesters. Additionally, they have argued the v-notch standardization rule will have a substantial negative economic impact on them, many state-only permit holders gave up their federal permit to keep oversized and v-notched lobsters, the OCCLCMA fishery is subject to tight effort control rules that do not exist in LCMAs 1 and 3, and that there is a historic legal settlement addressing mandatory v-notch in OCCLCMA which is not being honored by the ASMFC in their development of Addenda XXVII and XXXII.

The Chairman then asked DMF to clarify two issues. First, there is a claim being made by OCCLCMA fishers that the v-notch standardization rule would decrease landings by 35%. Second, there are varying figures being used to describe the number of participants in the OCCLCMA fishery.

McKiernan stated that DMF sea sampling data shows that only 2-4% of the catch by the state-only OCCLCMA fishers is between the current ¼" v-notch standard and the pending 1/8" v-notch standard and the 35% figure exaggerated the likely impact on landings. Anna Webb, DMF's Statistic Project Lead, noted that DMF issues 65 OCCLCMA permits. One-third of these permit holders hold a federal lobster trap permit and the other two-thirds are state-only. Of the state-only permit holders, only about 30 have been active. McKiernan added that there is a geographic divide among where these permit holders are homeported, with state-only permit holders primarily fishing out of Provincetown and Nauset and federal permit holders fishing out of Chatham and Harwich.

Kane suggested that DMF conduct additional sea sampling of large lobsters in the OCCLCMA before moving forward with these regulations. McKiernan noted DMF increased its sea sampling in the OCCLCMA in response to concerns raised by these fishers during the development of Addendum XXVII. Additionally, he did not intend to go out of compliance with the FMP.

Kane noted that many state-only permit holders surrendered their federal permits about 25-years ago so that they could retain v-notched and oversized lobsters. To this point, he questioned whether Massachusetts should request NOAA Fisheries consider giving

these affected fishers federal permits. Amaru supported this noting how warming waters around Cape Cod may force fishermen to fish deeper offshore waters. However, this may require vessel upgrades for some permit holders and the ability to fish larger vessels out of Nauset is challenging. McKiernan indicated this is something that could be raised to NOAA Fisheries.

Chairman Kane and Director McKiernan discussed the upcoming stock assessment for American lobster and how this may influence the conservation management strategies being developed in Maine and New Hampshire in response to their decisions to push non-compliance with Addendum XXVII.

Kalil Boghdan asked about the consequences if Addendum XXXII does not pass at the ASMFC. Director McKiernan indicated with certainty that the addendum would pass. However, if this were not to occur, then the ASMFC would likely find Maine and New Hampshire out-of-compliance with Addendum XXVII at the August meeting, as they would not have met the July 1 implementation deadline. The non-compliance finding would then be submitted to the US Secretary of Commerce for review and further action.

DISCUSSION ITEMS AND UPDATES

Decision on Commercial Striped Bass Management Proposal

Director McKiernan explained that DMF was not moving forward final recommendations on a commercial striped bass maximum size limit and gaffing prohibition, as taken out to public hearing this past winter. This decision was influenced by three factors. Under the FMP the adoption of a maximum size in Massachusetts would trigger quota adjustments and Board approval to ensure it the action was conservationally equivalent. The confounded rule-making, as the ASMFC process could not play out on a timeline that would allow DMF to adequately describe the likely change in quota for each of the various size limit options proposed. For this reason alone, Dan opined that he could not move forward a recommendation. Additionally, the public comment received highlighted that DMF needed to further consider and document the conservation benefit of adopting a maximum size limit. Lastly, any changes to commercial striped bass management measures should be considered within the framework of the pending ASMFC addendum to the FMP.

The Director highlighted current management strategies and noted several concerns regarding the commercial striped bass fishery. McKiernan noted that while Bill Doyle and Bill Amaru have expressed reservations about the cost of permit acquisitions, others are concerned over the discrepancy between the number of commercial striped bass endorsement holders (~5,000) and the number of active fishers (~800) in this fishery. A common argument is that many obtain the permit to circumvent strict

recreational fishing limits, and this catch goes unreported. Rhode Island and Massachusetts are also the only two states on the coast with a commercial fishery and a point-of-sale tagging program. All other states have point-of-harvest tagging programs which are perceived as producing greater accountability. For Massachusetts to administer a point-of-harvest tagging program, DMF would have to substantially reduce the number of potential fishers, noting those states with these programs have limited entry fisheries with Individual Fishing Quotas. Lastly, some worry that suboptimal year classes could heavily impact the fishery moving forward and may result in substantial quota reductions in coming years and increased pressure to curtail commercial fishing for this species.

Bill Doyle raised the issue of permit fees noting the low cost of the striped bass endorsement may enable high levels of issuance. He suggested DMF consider the potential to raise the cost of the permit to deter folks who are not going to fish it from obtaining it and potentially offering rebates based on final participation in the fishery. He added this is a strategy some municipalities use with boat ramp access permits.

McKiernan noted that he was interested in reviewing permit fees adding that — except for a $50 surcharge on lobster permits to support research — commercial permit fees have not changed since the 1990s. DMF also does not have the authority to unilaterally adjust fees, this is done through the Governor's Executive Office of Administration and Finance (ANF) and the current administration has an averse posture towards fee increases. Therefore, any increase would likely have to have broad support from the regulated community. Kevin Creighton, Assistant Director for DMF, added that fee changes could just narrowly recategorize and reprice the striped bass endorsement or could represent a restructuring of DMF's fee schedule at large.

Kalil asked for clarification on page two of the memorandum and what was meant by 'commercial discard length'. Director McKiernan noted that this refers to the release of all fish in the commercial fishery (e.g., undersized fish), not just dead discards.

Chairman Kane added that commercial fishermen are concerned that a daily catch limit of 15 with a 32 – 40-inch slot limit would harm their livelihoods because it would substantially reduce the weight of fish they would get paid on commercial fishing day. Kane opined that if DMF were to consider a maximum size limit in the future it should also consider a responsive trip limit adjustment to balance the ledger. The Director appreciated this comment and noted that Jared Silva had also heard from commercial anglers who preferred a straight quota cut in the name of additional conservation rather than a more complicated management program.

In conclusion, the Director thought it would be beneficial to convene the MFAC's Striped Bass Focus Group, as well as an ad-hoc industry advisory panel, to help navigate the various permitting and management questions moving forward. At present, the MFAC's

Striped Bass focus group consisted of Bill Doyle, Kalil Boghdan, and Ray Kane, but as MFAC membership changes this may need to evolve.

Federal Fishery Management

Melanie Griffin provided an overview of the January and April 2025 New England Fishery Management Council (NEFMC) meetings and an outline of the June NEFMC business meeting agenda.

On groundfish management, Melanie discussed (1) NEFMC-approved changes to recreational cod and haddock limits informed by NOAA Fisheries' bioeconomic model; and (2) the development and pending implementation of Amendment 25 and Framework 69 of the Multi-Species Groundfish FMP and Phase 2 of the Cod Transition Plan. Given concerns about low cod limits, DMF has initiated a federal Exempted Fishery Permit proposal that would allow closely monitored access to certain areas within spawning cod closures to target non-cod species.

Melanie discussed Atlantic sea herring management. The NEFMC approved specifications in September 2024, but implementation was delayed to resolve some uncertainty issues. This resulted in a coordinated review process between the NEFMC and the ASMFC to assist in finalizing catch limits for Fishing Year 2025 and 2026. The ASMFC will be able to use these finalized limits to develop effort controls for the inshore Gulf of Maine fishery (Area 1A) during this upcoming season.

Other on-going NEFMC priorities were discussed. In an effort to manage species and habitat more effectively, the Essential Habitat Review—a joint five-year review at the England and Mid-Atlantic Council—will be updated to include revised life history information for a variety of FMPs. Similarly, the NEFMC's revised Risk Policy will consider seven weighted and scored factors to determine risk for a given stock. The NEFMC is also interested in developing more management flexibility across various FMPs, but there is substantial uncertainty as to how this will play out. The On-Demand Working Group continued to meet and discuss challenges relevant to on-demand gear and a joint NEMFC and MAFMC omnibus framework was initiated to revise surface gear marking requirements across all FMPs to allow for potential use of on-demand gear. The NEFMC also discussed persistent concerns regarding how declining federal surveys and port sampling efforts are affecting fisheries science and how these issues may be more acute given expected cuts to NOAA Fisheries capacities. In response, NEFMC sent a letter to the Northeast Fisheries Science Center to voice these issues. Melanie expected these concerns will also be discussed in more depth at the upcoming Northeast Regional Coordinating Council meeting, which Director McKiernan will attend. Lastly, the NEMFC discussed the recent Executive Order on Restoring American Seafood Competitiveness, which directed the Secretary of Commerce to reduce regulatory burden on fisheries, modernize elements of the industry, and increase

participation. The actual impacts of this Executive Order on the NEFMC, the Council process, and NOAA Fisheries are still largely unknown.

Chairman Kane, Bill Amaru, and Melanie Griffin discussed the potential for enhanced flexibility in federal fisheries management, how it may play out in practicality and process, and whether it would actually help address catch limit utilization issues.

Amaru questioned whether the recreational cod fishery in the Gulf of Maine would approach its sub-ACL and if improved management flexibility could result in more liberal limits for fishers. Melanie explained that the bioeconomic model used to develop recreational limits for this fishery indicated the recommended limits would result in the sub-ACL being achieved without being exceeded. Further, Melanie explained that it was unlikely that recreational limits could be manipulated in-season given the limitations of using MRIP data in real time. Tim Brady added that all federally permitted charter boats fishing for cod and haddock are required to fill out vessel trip reports and record what is caught and released by species. Kalil Boghdan noted that the bioeconomic model also considers cod caught and released incidental to targeting other species (e.g., haddock) and the release mortality associated with this catch.

Amaru noted the challenges fishermen had at gaining access to certain scallop beds in the past and was hopeful that improved federal management processes could eliminate some of this red tape. He also recognized there are unique challenges related to accessing the Northern Edge. Bill thanked DMF advocating to NOAA Fisheries the importance of implementing final rules for the Northern Gulf of Maine (NGOM) sea scallop season to ensure the full quota for this fishery could be accessed. Bill also spoke to the success of the NGOM fishery this year.

McKiernan, McGuire, Griffin, and Kane discussed challenges related to the development of scientific information to inform fishery management plans and reductions in capacities at NOAA Fisheries. McKiernan noted that DMF has emphasized the importance of robust survey work and port sampling. While NOAA's port sampling efforts have been in decline, DMF is investigating ways to fill the data gaps created.

Massachusetts Commercial Fisheries Commission

Director McKiernan reminded the MFAC that the Commercial Fisheries Commission (CFC) is a public body created by legislation three years ago in response to concerns raised by the industry over the impacts of offshore energy development of fisheries. The public body is chaired by the Directors of DMF and the Office of Coastal Zone Management (CZM) and includes a representative from the Executive Office of Energy and Environmental Affairs, the New Bedford Port Authority, the University of Massachusetts School for Marine Science and Technology, and 12 different organizations representing commercial fishing interests. The enabling statute identifies

two primary purposes for this public body: (1) develop and recommend strategies, methods, and tools to promote sustainability of the state's commercial fishing industry, and (2) to address the responsible development of offshore wind projects' impacts on fisheries.

Director McKiernan hoped this group will bridge communication from the commercial fishing industry to the Governor and Legislature without wading into the jurisdiction of various other public bodies, such as the MFAC. The Director then listed several different subjects he expects the CFC will be able to deliver on. This includes: (1) improved seafood marketing through advocacy for more funds to DMF's Seafood Marketing Program and fishing representation on the Food Policy Council; (2) industry training; (3) improved port infrastructure and working waterfronts; (4) improved port assessments; (5) developing positions on offshore wind (e.g., mitigation, boulder movement); and (6) contributions to various state projects and plans (e.g., MA Ocean Plan, DFG's Biodiversity Plan).

The CFC met for the first time on April 8th and is scheduled to meet again on June 27 (a short, virtual meeting to review CZM's ResilientCoasts Plan is scheduled for June 4). McKiernan hoped the Legislature would provide funding for DMF to hire the Consensus Building Institute (CBI) to help administer this public body until it sunsets in 2028. Dan felt CBI was uniquely situated to monitor and administer this public body given their work to facilitate the Fisheries and Habitat Working Groups on Offshore Wind.

Chris McGuire asked how often the group meets. McKiernan stated the body is required by law to meet four times annually and produce an annual report to the legislature.

PRESENTATION ON DMF'S EEL GRASS RESTORATION WORK

Dr. Forest Schenck presented on eelgrass trends and restoration in Massachusetts. Current restoration strategies in Massachusetts include vegetative transplants, seeding, and conservation moorings. Vegetative transplanting is the status quo in the state but is up to 24% successful long-term. Forest then explained that seed-based restoration can be a potential way to scale up effort and cover significantly greater area; however, addressing underlying issues harming eelgrass is crucial to truly restore habitat.

Kalil asked about what was driving the low rate of success for restoration. Forest responded that the primary stressors on eel grass are environmental (e.g., water quality and climate change) and this also impacts restoration success.

Chairman Kane wondered if failed restoration near Boston could be impacted by the MWRA outfall pipe. Forest responded that the outfall pipe is likely too far from the restoration sites to have an impact.

Bill Amaru and Ray Kane asked about potential collaborations with the Center for Coastal Studies and SMAST. Forest noted that DMF has collaborated with the Center for Coastal Studies but added that enhanced collaboration is a priority in the restoration community.

Amaru and Kane then asked about differences in success across short distances and the state. Forest responded that the state's dynamic shoreline creates significant differences in water quality and temperature across short distances, and there is still much uncertainty about where restoration will be most successful.

Chris McGuire agreed that seed-based restoration can be an effective way to expand operations. Schneck and McGuire then discussed seed-based restoration efforts along Virginia's Eastern Shore.

McGuire posed whether aquaculture can positively impact eelgrass by improving water quality and how DMF's work with shellfish restoration may intersect with eelgrass restoration. Director McKiernan noted that this work is all housed within DMF's Habitat Program allowing for internal collaboration. Forest noted that ecological dynamics are nuanced.

Bill Doyle added that WHOI Sea Grant and DMF work on projects on his farm to examine how eelgrass and aquaculture can coexist, noting that storm velocity is important to understand sediment impacts.

OTHER BUSINESS AND PUBLIC COMMENT

Sharl Heller of the Southeastern Massachusetts Pine Barrens Alliance in Plymouth petitioned DMF and the MFAC to close Duxbury, Kingston, and Plymouth Bays to all horseshoe crab harvest thereby creating a refuge for the local population. She provided printed materials to the MFAC and DMF in support of the petition. DMF will review the petition and respond at an upcoming MFAC business meeting.

Beth Casoni, Executive Director of the Massachusetts Lobstermen's Association, thanked Bob Glenn and Jared Silva for attending a recent delegates meeting to discuss gear marking rules and other management issues. She expressed concern about Addendum XXXII and the likelihood that New Hampshire and Maine are able to develop management strategies moving forward and urged the MFAC to not support a trap reduction if it is proposed through the interstate process. She also thanked the MFAC and Chairman Kane for advocating that state-only OCCLCMA permit holders. She also thanked law enforcement for their efforts addressing non-compliance with lobster management rules among mobile gear fishers landing in Provincetown and Bill Doyle for suggesting increased permit fees. Lastly, Beth discussed ongoing gear conflicts between scallopers and fixed gear fishers in Massachusetts Bay and sought a means to

address this, including a potential notice regarding where highfliers are mandated and where no such mandate exists.

ADJOURN

There were no further questions or comments. **The Chairman asked for a motion to adjourn. Tim Brady moved to adjourn the meeting. The motion was seconded by Bill Doyle.** The meeting was adjourned.

EXHIBIT 9

Date Filed 6/27/2025 10:55 PM
Superior Court - Barnstable
Docket Number 2572CV00232

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, ss.

SUPERIOR COURT
C.A. NO. 2572CV00232

DANA PAZOLT,

Plaintiff,

v.

MASSACHUSETTS DIVISION OF MARINE FISHERIES; DANIEL MCKIERNAN, in his official capacity as Director of the Division of Marine Fisheries; ANDREA JOY CAMPBELL, in her official capacity as Attorney General,

Defendant.

DECLARATION OF DANIEL MCKIERNAN IN SUPPORT OF DEFENDANTS' MEMORANDUM IN OPPOSITION TO PLAINTIFF'S EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION, AND ADMINISTRATIVE STAY

1. I am Daniel McKiernan, Director of the Massachusetts Division of Marine Fisheries (DMF). I have worked at DMF for over 40 years, having originally joined DMF as a field biologist, and I was appointed Director in 2020. I hold a B.S. in marine biology from University of Massachusetts Dartmouth and an M.S. in fisheries biology from Auburn University.

2. In my role as Director, and pursuant to M.G.L. c. 131, § 17A, I promulgate regulations relating to the harvest of marine fish and the effect of that harvesting on marine fisheries. To assist in my efforts to promulgate such regulations, there are a wide array of resources at DMF that I rely upon, including the expertise of marine biologists on DMF's staff.

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Docket Number 2572CV00232

3. I have reviewed Plaintiff's Complaint filed in this litigation, as well as Plaintiff's Emergency Motion for Temporary Restraining Order, Preliminary Injunction, and Administrative Stay. I understand that Plaintiff seeks to challenge the legality of the prohibition on possession of v-notched lobsters reflected in 322 C.M.R. 6.02, as modified by the regulations that I promulgated in my capacity as Director on January 3, 2025. Below, I have provided background on the impetus for those regulations, and I have outlined some of the support that I relied upon in promulgating them.

4. Lobster v-notching is a longstanding and well-established practice for conserving lobster stock. Pursuant to that practice, female egg-bearing lobsters are marked with a v-shaped notch using a tool that creates a v-shaped indentation on one of the lobster's tail flippers that is designed to be between greater than ¼ inch and up to ½ inch in depth. That v-notch signals to fishermen that the lobster may not be harvested, and thus, these female lobsters that are sexually mature are kept alive for longer, which increases the likelihood that they will lay eggs. That practice increases the lobster population by selectively preserving the lobsters most likely to grow the population.

5. In 1997, the Atlantic States Marine Fisheries Commission ("ASMFC") adopted Amendment 3 to the Interstate Fishery Management Plan for American Lobster. Amendment 3 included a prohibition on possession of any female lobster bearing a straight-sided triangular cut without setal hairs, at least 1/4 inch in depth and tapering to a sharp point" on its right-of-center tail flipper. *See* Amendment 3 to the Interstate Fishery Management Plan, at 20 (Sec. 3.1.4) (December 1997), *available at* https://asmfc.org/wp-content/uploads/2025/01/lobsterAmendment3.pdf.

6. In 2000, DMF's former Director promulgated a regulation implementing that policy in Massachusetts. The regulation made it unlawful for any person to possess any v-

notched female lobster. For a v-notch to meet the requirements of that rule, the v-notch needed to be at least 1/4 inch in depth. While that rule was tightened in certain areas, that rule has remained essentially the same in an area of coastal waters near Cape Cod known as the Outer Cape Cod Lobster Conservation Management Area ("OCCLCMA").

7. Since DMF promulgated that rule in 2000, other jurisdictions have created slightly more stringent rules related to the harvest of v-notched lobsters, including by reducing the minimum size (depth) for a v-notch to render a lobster off-limits for harvesting. Because lobsters molt, a v-notch will heal and therefore shrink with each molt after it is initially created. So, a rule with a lower v-notch size standard has the effect of prohibiting that lobster's harvest for a longer period of time, which provides an increased opportunity for that lobster to lay eggs, and thereby enhances the rule's effect on conservation.

8. As an example of a rule more stringent than the rule in the OCCLCMA, in a Lobster Conservation Management Area ("LCMA") known as Area 1, there is a zero-tolerance rule: a v-notch of any size, with or without setal hairs, renders a female lobster off-limits for harvesting. Similarly, five of the other six LCMAs have rules requiring that a v-notch be at least 1/8 inch in depth, with or without setal hairs. All of those rules are stricter than the rule that has applied in the OCCLCMA for the last 25 years, which, as described above, defined a v-notch as having a depth of at least 1/4 inch, without setal hairs.[1]

9. The inconsistency in rules between LCMAs has undermined conservation efforts in a few ways. For instance, lobster that have migrated to the OCCLCMA from other LCMAs might be harvested sooner than they otherwise would have been if they had remained in an

[1] Setal hairs are stiff hair-like structures on the terminal end of the lobster tail flippers (known as uropods). When a lobster molts the setal hairs grow back.

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Docket Number 2572CV00232

LCMA with a stricter rule. Thus, the OCCLCMA's lower standard lessens the impact of v-notch conservation efforts in other areas.

10. Additionally, the disparate standards have created significant problems with enforcement efforts, particularly with respect to lobsters already in commerce. After a lobster has been harvested and sold, it is extremely difficult, if not impossible, to determine where that lobster was harvested. Accordingly, in order to fairly enforce the rules and avoid wrongly sanctioning lobstermen who have lawfully harvested lobster in the LCMA with the least-restrictive rules, enforcement authorities must generally assume that any lobster in commerce was harvested under the least-restrictive rule. With respect to v-notching, the least-restrictive rule has been the one that applies in the OCCLCMA (i.e., with a v-notch that is at least 1/4" without setal hairs). Thus, the existence of the lower standard in the OCCLCMA risks encouraging violation of v-notch rules in other LCMAs, which has the effect of undermining conservation, including in waters subject to Massachusetts jurisdiction.

11. Finally, the 1/8" v-notch possession standard already applies to the approximately one-third of the permitted lobstermen in the OCCLCMA who hold both federal and state lobster permits. These lobstermen's businesses are similar to the plaintiffs in their homeport and scale of operation, and they fish from eastern Cape Cod ports. The 1/8" v-notch standard applies to them because they have a federal lobster permit and NOAA Fisheries adopted this more conservative standard in 2010. Allowing state-only permitted lobstermen to harvest lobsters that may have been released by their fellow federally permitted lobstermen operating in the same fishing grounds undermines conservation efforts. Thus, the enforcement issues described above particularly acute on Cape Cod, where lobsters are purchased from both federal-permit holders and DMF-permit holders harvesting lobsters from the OCCLCMA, as those two different types of permit holders have been subject to different standards.

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12. Because of those problems, DMF has been evaluating for years the impacts of changing the v-notch standard in the OCCLCMA. For example, Dr. Tracy L. Pugh, a Senior Marine Fisheries Biologist at DMF, conducted an analysis on the effect that a change would have on the size of lobstermen's catches in the OCCLCMA. Ex. 1 (Pugh Memorandum). She estimated that making the standard more stringent, such that a v-notch is defined as having a minimum depth of 1/8", with or without setal hairs, would cause state-permit holders in the OCCLCMA to discard only an additional "1.6% to 3.9% of their catch depending on region." Ex. 1 (Pugh Memorandum) at 5.

13. As the Director of DMF, I am authorized to support cooperative fisheries management with local, state and federal authorities by enacting and enforcing rules for the protection and conservation of marine fisheries. *See* G.L. c. 130, § 21. Based on Dr. Pugh's analysis, the input of other experts at DMF, and my own expertise, I ultimately concluded that the costs of making OCCLCMA v-notch restriction more stringent, to match that of other jurisdictions, were acceptable in light of the conservation benefits. Accordingly, I supported changes to the FMP pursued by ASMFC through Addendum XXVII and worked with the rest of ASMFC to effect a more stringent requirement in the OCCLCMA. And after ASMFC adopted changes implementing a more stringent requirement, I initiated notice-and-comment procedures to promulgate state regulations to implement the FMP.

14. Pursuant to G.L. c. 130, §17A the Marine Fisheries Advisory Commission (MFAC) approved these state regulations on April 23, 2024 for implementation on January 1, 2025. Implementation was subsequently delayed coastwide under Addendum XXXI to July 1, 2025. Consequently, the MFAC reapproved these regulations on October 29, 2024 for implementation on July 1, 2025. Final implementing regulations were promulgated on January 3, 2025.

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I swear under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

/s/ Daniel McKiernan
Daniel McKiernan
Director, Division of Marine Fisheries

Dated: June 27, 2025

EXHIBIT H

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 K. O'SHEA, Commissioner | DANIEL J. MCKIERNAN, Director

September 24, 2025

MarineFisheries Advisory

Reminder to Seafood Dealers that All Lobsters Possessed Must Comply with

1/8-Inch V-Notch Standard

Effective October 1, 2025, all lobsters in the possession of Commonwealth seafood dealers must comply with the 1/8-inch v-notch standard. This standard makes unlawful the purchase and possession of any female lobster with a v-notch or indentation in the base of the tail flipper immediately to the right of the center flipper as viewed from the rear of the lobster when the underside of the lobster is facing down that is 1/8-inch or greater with or without setal hairs.

On July 1, 2025, the v-notch standard for the state-only Outer Cape Cod Lobster Conservation Management Area (OCCLCMA) was amended from the larger 1/4-inch standard to the smaller 1/8-inch standard, consistent with all other Lobster Conservation Management Areas (LCMA) along the Atlantic coast (except LCMA1 which has a stricter so-called "zero tolerance" standard). Accordingly, the 1/8-inch standard became the most lenient standard in the state and the one that all dealers are to comply with. However, dealers were given three months (through September 30) to sell off any non-conforming product in their possession that may have been lawfully purchased from state-only OCCLCMA fishers before July 1.

Visit our website: www.mass.gov/marinefisheries

SOUTH COAST FIELD STATION
836 S. Rodney French Blvd
New Bedford, MA 02744

CAT COVE MARINE LABORATORY
92 Fort Avenue
Salem, MA 01970

NORTH SHORE FIELD STATION
30 Emerson Avenue
Gloucester, MA 01930

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 K. O'SHEA, Commissioner | DANIEL J. MCKIERNAN, Director

September 26, 2025

MarineFisheries Advisory

Reminder to Outer Cape Cod Lobster Permit Holders that All Lobsters Possessed Must Comply with 1/8-Inch V-Notch Standard

This advisory serves as a reminder to commercial lobster permit holders authorized to fish in the Outer Cape Cod Lobster Conservation Management Area (OCCLCMA) that all lobsters possessed must comply with the 1/8" v-notch standard. On July 1, 2025, the v-notch standard for the state-only OCCLCMA was amended from the deeper $^1/_4$-inch standard to the shallower $^1/_8$-inch standard, consistent with all other Lobster Conservation Management Areas (LCMA) along the Atlantic coast (except LCMA1 which has a stricter so-called "zero tolerance" standard).

A similar advisory was recently sent to seafood dealers, reminding them that effective October 1, 2025, all lobsters in the possession of Commonwealth seafood dealers must comply with the $^1/_8$-inch v-notch standard. This standard makes unlawful the purchase and/or possession of any female lobster with a v-notch or indentation in the base of the tail flipper immediately to the right of the center flipper as viewed from the rear of the lobster when the underside of the lobster is facing down that is $^1/_8$-inch or greater with or without setal hairs. Moreover, because this is a possession standard in the Commonwealth, possession of a nonconforming v-notched lobster by any person is unlawful. This applies to dealers who purchase the lobsters from commercial fishermen (so-called primary dealers) as well as any other wholesale and retail dealers (including restaurants) in the re-sale of lobsters, as well as consumers.

Visit our website: www.mass.gov/marinefisheries

EXHIBIT I

Xfinity Email <stephens_7@comcast.net> 8/27/2026 1:37 PM

RE: OCLMA trap allotment

To Pugh, Tracy (FWE) <tracy.pugh@mass.gov>

Thank you

On 08/27/2026 9:06 AM EDT Pugh, Tracy (FWE) <tracy.pugh@mass.gov> wrote:

Hi Steve

Here is what our Stats program has for LCMA OCC allocations:

OCCLMA Trap Allocation Bin	Number of Permits
<=200	11
201-300	6
301-400	4
401-500	8
501-600	4
601-700	6
>700	18

There are 4 permits with 0 allocation.

Tracy

From: Xfinity Email <stephens_7@comcast.net>
Sent: Friday, August 21, 2026 8:10 AM
To: Pugh, Tracy (FWE) <tracy.pugh@mass.gov>
Subject: OCLMA trap allotment

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

Hello Tracy

I'd like the OCLMA trap numbers in 100 trap groups 1-800. I don't want specific names or numbers but only grouping. Let me know if this is easily attainable.

EXHIBIT J

TO: LCMT Members and Alternates

FROM: Dan McKiernan, Deputy Director

DATE: February 21, 2008

SUBJECT: LCMT Meeting

DMF reconstituted the Lobster Conservation Management Team that has not met for over four years. A meeting has been scheduled for Chatham Library on Tuesday March 4th. The last meeting occurred prior to the Effort Control Plan being implemented in 2003.

The LCMT serves to advise DMF and the Lobster Management Board about management options for the fishery in OCC LCMT. The membership has been expanded from the remaining three members to nine with representation from each of the three major ports: Provincetown, Nauset, and Chatham/Harwich.

I have attached an agenda for the meeting. At the meeting, I hope to provide the members with background and ground rules, conduct elections among the nine members and turn the meeting over to the new Chairman, discuss DMF initiatives on future management measures (including the ramifications of upcoming ASMFC Addenda), and allow discussion of recent petition to lower the maximum trap limit.

This meeting is open to the public but is not a public hearing. LCMT members will engage in the Team's business and if time allows comments may be taken from Alternates as well as the general public who may be in attendance.

If you have any questions, contact me at 617 626-1536 or dan.mckiernan@state.ma.us.

See you on the 4th.

Outer Cape Cod
Lobster Conservation Management Team
Meeting Agenda

March 4, 2008
Chatham Public Library, 5:00 pm

1. **Introductions**

2. **Background (past LCMT deliberations)**

3. **Elections of Chairman and Vice-chairman**

4. **Discussion of possible DMF proposal to amend deadline for trap tags to March 16**

5. **Discussion of upcoming ASMFC Addenda (12 and 13)**

6. **Discussion of recent petition from within OCC to reduce trap limit to 600**

7. **Other discussion items as needed**

ADJOURN

LOBSTER CONSERVATION MANAGEMENT TEAMS (LCMT)

Description - The Lobster Conservation Management Teams were created through Amendment 3 for each of the seven lobster management areas. The LCMTs are appointed and convened by the Lobster Board to advise the Board on each management area and recommend changes to the management program. The lobster FMP identifies goals, objectives and a rebuilding schedule. The LCMTs provide recommendations for management measures that will accomplish the goals of the FMP while taking into consideration local fishing practices. For example, the LCMTs recommended trap limits, area closures, limits on vessel upgrades, gauge increases and vent size increases to limit effort and meet egg production goals. The LCMTs do not make recommendations on coastwide issues.

Meeting arrangements and staff support is provided by the states.

Process for Submitting Management Area Recommendations/Proposals – LCMTs and the jurisdictions adjacent to the area of concern shall be responsible for the development of recommendations for each lobster management area. Adjacent jurisdictions will be responsible for preparing a management proposal containing said recommendations. Concerns regarding conservation, enforcement, administration, and socio-economic implications should be addressed during this time period. Upon finalization of the management proposal, the area/state contact for each LCMT will forward the proposal to Commission staff for distribution to and review by the Lobster Management Board. Upon receipt of the proposal or during the next scheduled lobster Board meeting, the Board will take action on the management area proposal.

Composition - Amendment 3 identifies a minimum number of LCMT members and the states involved with the selection of members (see table on the next page). The LCMT process can demand a large amount of time and it is important to have members that are willing to participate.

Area	Minimum number of members	States involved in selection of members
1	15	ME, NH, MA
2	10	MA, RI, CT, NY
3	10	ME, NH, MA, RI, CT, NY, NJ, DE, MD, VA, NC
4	7	NY, NJ
5	7	NJ, DE, MD, VA, NC

6	6	CT, NY
OCLMA	3	MA

State personnel, including representatives from the Technical Committee, are expected to staff meetings of the LCMTs. The states should keep the Commission informed of all meetings and provide meeting summaries/minutes for all LCMT meetings.

Leadership - Each LCMT shall elect a Chair and Vice-Chair. The Commission will reimburse the Chairs of each LCMT for travel expenses to Lobster Board meetings only. The Chairs must represent the view of the LCMTs at Board meetings, not the views of the individual, state or the associations to which they belong. The state may choose to appoint a LCMT chair or other member to the AP. At AP meetings, such LCMT members would be expected to represent their personal views and/or those of industry associations or segments to which they belong.

In addition, a state contact person and technical advisor shall be appointed to each LCMT.

EXHIBIT K

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

OUTER CAPE LOBSTERMEN'S ASSOCIATION, Plaintiff, v. ATLANTIC STATE MARINE FISHERIES COMMISSION and PHILIP COATES, *in his capacity as Director of the Massachusetts Division of Marine Fisheries*, Defendants.	Case No. 1:24-cv-10332 (WGY) **DECLARATION OF BRENDAN ADAMS IN SUPPORT OF EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION, AND ADMINISTRATIVE STAY**

Pursuant to 28 U.S.C. § 1746, I, Brendan Adams, hereby declare, under penalty of perjury, as follows:

1. This declaration is made upon personal knowledge unless noted otherwise.

2. I am the President of Plaintiff Outer Cape Lobstermen's Association ("OCLA").

3. OCLA represents state and federally licensed commercial fishermen who harvest lobster in the Outer Cape Code Lobster Conservation Management Area ("OCC"), one of four Lobster Conservation Management Areas off the coast of Massachusetts.

4. OCLA is funded by dues paid by those fishermen.

5. To the best of my knowledge, there are only 67 Commonwealth-licensed lobster trap fishers in the OCC.

6. To the best of my knowledge, of those 67, 40 possess only a Massachusetts permit, not a federal permit.

7. The Massachusetts Division of Marine Fisheries ("DMF") oversees lobstering activity of Massachusetts-licensed lobstermen in the Commonwealth of Massachusetts' waters.

8. Federal waters, including those off the coast of Massachusetts, are governed by the Atlantic States Marine Fisheries Council ("ASMFC") pursuant to the Atlantic Coastal Fisheries Cooperative Management Act, 16 U.S.C. § 5101 et seq. ("ACFCMA")

9. In 2000, a settlement was reached in this action that established a district regulatory regime for the OCC wherein OCC lobstermen would not have to V-Notch female lobster catches and could fish the same, but would be subject to a 3 5/16" minimum gauge size requirement compared to a 3 ¼" minimum for other LCMAs (the "OCC Settlement").

10. Shortly after the OCC Settlement, two DMF marine biologists, one of whom is now DMF's Deputy Director, conducted a review of DMF regulations and concluded that the OCC Settlement's scheme led to a 1.338% increase in egg production, compared to a mere 0.502% increase under the 3 ¼" minimum gauge size and V-Notching requirements. **Attached hereto as Exhibit A is a true and correct copy of that review.**

11. In March 2000, DMF's then-Director Philip Coates told the *Cape Cod Times* that: "[W]e're not going to save the lobster resource with V-notching and a maximum gauge. In my heart, I know the Outer Cape lobstermen are correct. There should be real trap reductions and an increase in the minimum size." **Attached hereto as Exhibit B is a true and correct picture of that *Cape Cod Times* article, with highlighting supplied.**

12. On January 24, 2025, DMF published "Regulatory Updates – 2024 Q3 and Q4," which announced changes to the existing regime of lobstering regulation codified in 322 CMR 6.02. **Attached hereto as Exhibit C is a true and correct copy of "Regulatory Updates – 2024 Q3 and Q4."**

13. DMF prepared a Small Business Impact Statement that many areas of inquiry were inapplicable because "the prescribed regulations are required by and designed to comply with

federal law at 16 U.S.C. 5100." I am not aware that the DMF conducted an economic impact analysis studying the specific effect of the new regulations on OCC lobstermen. **Attached hereto as Exhibit D is a true and correct copy of DMF's Small Business Impact Statement.**

14. The ACFCMA is the federal law purportedly underpinning DMF's recent regulatory change. Under the ACFCMA, the Secretary of Commerce develops fishery management plans to support the ASMFC.

15. The American Lobster fishery is managed under Amendment 3 to the FMP and its 32 Addenda.

16. In May 2023, ASMFC approved Addendum XXVII to the FMP, ostensibly to further the conservation of lobster stock in the Gulf of Maine/Georges Bank.

17. Addendum XXVII imposed new gauge and escape vent size regulations, styled as an effort "to improve consistency of measures across the GOM/GBK stock" and "to provide additional protection of the Gulf of Maine/Georges Bank (GOM/GBK) spawning stock biomass" and directed Massachusetts to implement new standards by May 2024.

18. In February 2025, ASMFC approved Addendum XXXI, which postponed implementation of Addendum XXVII until July 1, 2025.

19. Then, in April 2025, ASMFC published proposed amendments to Addendum XXVII which would prohibit fishing V-Notched lobster in the OCC.

20. In response, on April 18, 2025, DMF Director Daniel McKiernan issued a Memorandum titled "Emergency Rule Making to Implement Addendum XXXII to the American Lobster Management Plan." **Attached hereto as Exhibit E is a true and correct copy of DMF's Emergency Rule Making to Implement Addendum XXXII to the American Lobster Management Plan.**

21. Addendum XXXII repeals Addendum XXVII's gauge and escape vent size standards, but not the prohibition of V-Notching in the OCC.

22. ASMFC adopted Addendum XXXII in May 2025 in response to political pressure from Maine and New Hampshire, both of which had refused to comply with the novel standards set forth in Addendum XXVII.

23. That same month, Massachusetts' delegation to ASMFC moved to amend Addendum XXXII to lift the prohibition on V-Notching in the OCC.

24. Upon information and belief, Delaware's delegation refused to second the motion, citing not environmental or sustainability concerns, but rather its desire for "an increase in their commercial striper" limit. Indeed, at this May 2025 meeting, a member of Delaware's delegation stated to the Commissioner of the Massachusetts Fisheries Advisory Commission and ASMFC Board Member that Delaware would not second Massachusetts' motion to amend Addendum XXXII to remove the V-Notching mandate in the OCC because "they wanted an increase in their commercial striper." This same ASMFC Board Member stated that "it gets very political at the Commission table."

25. Before a DMF emergency regulation can become final, it must be presented to the Massachusetts Marine Fisheries Advisory Committee ("MFAC").

26. On May 29, 2025, DMF Director Daniel McKiernan presented the Emergency Rule to the MFAC.

27. MFAC rejected the proposal to make the Emergency Rule final.

28. Several members (who are not OCC fishermen) expressed opposition to Director McKiernan's emergency rulemaking to implement Addendum XXXII, primarily on the grounds that it was unfair to OCC fishermen.

29. While the Emergency Rule will not be made final immediately, DMF retains the power to make it final notwithstanding MFAC's rejection and DMF has indicated that it intends to do so.

30. Regardless, beginning on July 1, 2025, Plaintiff's members will not be permitted to fish V-Notched lobsters, and may be required to V-Notch lobster catches in accordance with 322 CMR 6.02(5)(d)(3)(b).

31. Based on OCLA's calculations, our members will suffer a 25% reduction in their catch if the prohibition takes effect and is enforced.

32. This will cause our members severe economic hardship, likely putting many out of business with a corresponding reduction in dues from those members.

33. Under Amendment 3 to the FMP, before enacting any regulatory change to LCMA,

> LCMTs and the jurisdictions adjacent to the area of concern shall be responsible for the development of recommendations for each lobster management area. Adjacent jurisdictions will be responsible for preparing a management proposal containing said recommendations. Concerns regarding conservation, enforcement, administration, and socio-economic implications should be addressed during this time period. Upon finalization of the management proposal, the area/state contact for each LCMT will forward the proposal to Commission staff for distribution to and review by the Lobster Management Board. Upon receipt of the proposal or during the next scheduled lobster Board meeting, the Board will take action on the management area proposal.

The final proposal is then submitted to ASMFC.

34. Upon information and belief, Massachusetts did not consult with an LCMT, ASMFC, or the Secretary of Commerce regarding its revisions to 322 CMR 6.02.

35. Upon information and belief, ASMFC did not consult with an or the Secretary of Commerce regarding its revisions to the Addenda.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 20th day of June 2025, in the City of Eastham and Commonwealth of Massachusetts.

Brendan Adams

Commonwealth of Massachusetts

Division of Marine Fisheries

Southeast Marine Fisheries Station
50A Portside Drive
Pocasset, MA 02559
(508) 563-1779
Fax: (508) 563-5482

Paul J. Diodati
Director

To: Carl Wilson, MEDMR
ASMFC Lobster Technical Committee Chair
cc: Paul Diodati, MADMF
John Nelson, NH F&G
George LaPointe MEDMR
From: Bob Glenn, MADMF
Josef Idoine, NMFS
Bruce Estrella, MADMF
Clare McBane, NHF&G

Re: Status of the Area 1 LCMT management proposal.

Carl,

As technical advisors to the Area 1 LCMT it is our duty to evaluate any proposed management measure and provide advice on it's efficacy. After careful consideration of the merits of the Area 1 LCMT management proposal it is our opinion that this proposal lacks elements necessary to safeguard the Gulf of Maine lobster resource from over-exploitation. Furthermore, this proposal does not adequately meet the 11 objectives set forth in Amendment 3 to the ASMFC American Lobster Interstate Fisheries Management Plan.

While v-notching does provide some protection to egg-bearing female lobsters, it in itself is not adequate to protect the American lobster resource. If you examine the concept of 100% V-notching of ovigerous females, fisherman will be giving up a significant percentage of their yield. This percentage theoretically would increase as size increases and thus as females mature. There is the potential for most (or all) ovigerous females to be V-notched and thus place the burden of harvest on males and non-ovigerous females. Eventually, too few males would be available spatially, and with the correct body size to fertilize the abundant number of females available in order to attain increased egg production.

Attached is an evaluation of the Area 1 LCMT proposal. This evaluation has three parts; Specific Concerns Relative to the Mandatory 100% V-notching Measure, An EPR Evaluation of the Mandatory 100% V-notching Measure, and a Qualitative Review of How the Measures (measure) in the Area 1 Proposal Compare to the 11 Plan Objectives Set Forth in Amendment 3

Based on this evaluation it is our recommendation that the Area 1 LCMT be informed of the shortfalls of their proposal, and that they be requested to re-convene to construct a management proposal that adequately addresses the requirements of Amendment 3.

Sincerely,

Bob Glenn
Marine Fisheries Biologist
Massachusetts Division of Marine Fisheries

Qualitative Review of how the measures (measure) in the Area 1 proposal compare with the 11 plan objectives set forth in Amendment 3.

Objective 1: Protect, increase or maintain, as appropriate, the brood stock abundance at levels which would minimize risk of stock depletion and recruitment failure.

The Area 1 proposal has the potential to protect existing broodstock, however it does not provide a definitive mechanism to increase or maintain brood stock abundance under heavy or increasing exploitation. Without effort controls or a gauge increase it does not protect females before the become sexually mature, and hence recruit to the "broodstock".

Objective 2: Develop flexible regional programs to control fishing effort and regulate fishing mortality rates;

The Area 1 proposal does not address effort controls. The 800 trap limit adopted in Amendment 3 does not represent an effective trap reduction. Currently, if all license holders in Area 1 fished 800 traps, the total number of traps fished would more than double. Even with a flat trap limit of 600, if all licenses fished that amount, the total number of traps fished would increase far above it's current level.

Objective 3: Implement uniform collection, analysis, and dissemination of biological and economic information; improve understanding of the economics of harvest;

This objective is not applicable to the status of the resource. However, it is vital to ensure that long term uniform collection, analysis, and dissemination of biological and economic information is implemented and a cooperative relationship is fostered between the fishing industry and government resource agencies. This responsibility should largely fall on governmental agencies and not be a criteria for a LCMT's plan.

Objective 4: Maintain existing social and cultural features of the industry wherever possible;

The Area 1 proposal does an excellent job of maintaining exiting social and cultural features of the industry in the short run. Should the stock decline due to insufficient protection (see Objectives 1, 2, and 6) the social/cultural features of the industry would be adversely affected.

Objective 5: Promote economic efficiency in harvesting and use of the resource;

The Area 1 proposal does not meet objective 5. Mandatory 100% v-notching could mathematically reach approximately 9% EPR, however it would do so with more work, greater expense, and a permanent loss in yield.

Objective 6: Minimize lobster injury and discard mortality associated with fishing;

The Area 1 proposal is contrary to objective 6. The increased amount of handling and the resulting break in the lobster's integument associated with mandatory v-notching increases the potential risk for discard mortality.

Objective 7: Increase understanding of biology of American lobster, improve data, improve stock assessment models; improve cooperation between fishermen and scientists;

This objective is not applicable to the status of the resource. However, it is vital to ensure that long term uniform collection, analysis, and dissemination of biological and economic information is implemented and a cooperative relationship is fostered between the fishing industry and government resource agencies. This responsibility should largely fall on governmental agencies and not be a criteria for a LCMT's plan.

Objective 8: Evaluate contributions of current management measures in achieving objectives of the lobster FMP;

The management measures in the Area 1 proposal only adequately meet three of the nine objectives that relate to stock and fishery status outlined in Amendment 3 of the American Lobster FMP. Two of the objectives in Amendment 3 relate specifically to improved collection of biological and economic data and therefore are not applicable criteria for evaluation of the Area 1 proposal.

Objective 9: Ensure that changes in geographic exploitation patterns do not undermine success of ASMFC management program;

The Area 1 proposal has no elements that address changes in geographic exploitation patterns. Continued areal expansion of the lobster fishery would increase fishing mortality and exploit areas that previously acted as refugia.

Objective 10: Optimize yield from the fishery while maintaining harvest at a sustainable level;

Mandatory 100% v-notching would reduce yield to the fishery and would provide only minimal protection to maintain harvest at sustainable levels.

Objective 11: Maintain stewardship relationship between fishermen and the resource.

The Area 1 proposal does not do an adequate job of maintaining a productive stewardship relationship between the industry and the resource. This is mostly due to the an over-reliance on the v-notching measure and an overestimation of its benefits in safegaurding the resource and providing a buffer against recruitment shortfalls.

An EPR analysis of the Area I Mandatory V-notching Proposal

The assumptions of the analyses include:

a) that the Freal = 0.74 applies to the nearshore (Area 1) GOM
b) this policy will continue forever from its starting date (to allow the resource to gain the benefits)and during that time
c) that there will be no increase in effective effort (as measured by the model's Fcapture)
d) there is no change in the seasonal effort distribution (i.e., between non-berried and berried periods)
e) there is complete compliance with the actual v-notching
f.) there is no change in survivorship from egg to mature female

Given the above assumptions, the "result" of the model indicates that at an Fcapture(Fnom) of approx. 1.35, and:

with 35% v-notching, the GOM EPR is approx. 4.x%,
with 75% v-notching, the GOM EPR is approx. 6.x%,
with 100% v-notching, the GOM EPR is approx. 9.x%

The analyses also imply that, in order for these gains in egg production to occur, this would necessitate a reduction in Freal on females

with 75% v-notching, this Freal reduction is approx. 28%,
with 100% v-notching, this Freal reduction is approx. 40%

This program would also, at these high encounter rates, require a significant amount of handling of the female berried lobsters (with notching, releasing, re-capturing and re-releasing) that could possibly reduce the viability of eggs produced, and thereby decrease the benefit of the "enhanced" EPR

Unless there were a comparable reduction in F on males, there would be a significant loss in landings (on the order of 30-40% as a rough guess)... if there is no reduction in total landings, then the F on males would have to increase to make up the difference. This brings on questions of the importance of male abundance and size composition (ability to mate with large females, sperm limitations/recharge times, etc).

In conclusion, if all of the assumptions of these analyses are met (which is doubtful), the endgame is one in which the result (F10%MSP) can be reached by two paths. Under the mandatory v-notching path, a reduction in realized F could be reached with increased expense, more work, and a permanent loss of yield. The other path to achieve this goal is through reductions in effective effort which could be achieved with less expense, less work, no loss of yield, and the potential for a long term gain in yield. This all could be achieved without additional stress on the females (more handling associated with notching) and higher probability of increased removal rates of males.

Specific Concerns Relative to the Mandatory 100% V-notching Measure

BIOLOGICAL CONCERNS

Despite v-notching, F remains high on females. It is logical to expect that the exploitation rate of female lobsters would be significantly less than males given the extra protection they receive from v-notching and the prohibition on possession of egg-bearing females. This is not the case, fishing mortality rates were higher for females in GOM 13 out of 16 years between 1982 and 1997. This fact questions the effectiveness of v-notching

Differential protection of females without any regard for males. Potential increase of exploitation rate on males from fishermen trying to compensate from catching fewer females. Spawning compatibility issues include ability of small males to mate with large females, sperm limitation/recharge times, etc.

Does not alleviate the high exploitation rate on smaller, sexually immature lobsters. The Area I plan and fishery are tailored to exploit newly recruited lobsters, the majority of which are not sexually mature. The 5" maximum gauge and v-notching of egg bearing females are intended to provide protection for larger lobsters. Instead, they essentially provide protection only to what is left over after the majority of the resource has been sent to the market.

Mandatory v-notching only protects egg bearing females. A significant amount of potential egg production is lost with all of the non-egg bearing female lobsters that are harvested.

Effort control is not addressed by the Area 1 plan. Any egg production benefits gained by mandatory v-notching could be easily eroded if effort continues to increase. Under current trap limits Area 1 has the potential to double the number of traps currently being fished. This could lead to an areal expansion of the fishery and an increase in fishing effort.

Increased risk of contracting a disease because of the breach in the integument caused by v-notching.

Potential egg loss due to increased handling from v-notching. The increased handling time associated with notching each female has the potential to increase egg loss and decrease egg viability.

V-notched egg-bearing females are given conservation credit for being v-notched when in fact they would have received protection for being berried anyway. The only females that receive protection specifically from v-notching are female, non-berried lobsters between 3 ¼" and 5" carapace length.

LOGISTICAL CONCERNS

Enforcement. The bottom line is that it is impractical to enforce "mandatory" v-notching. There is no way to ensure that every egg bearing female is notched.

Voluntary measure. When the stock size declines and landings decline there will be less incentive to v-notch. In such a situation the resource gets a declining amount of protection when it needs it the most.

Practicality. When catch rates are very high it is not a reasonable expectation to v-notch every female. It would be difficult to maintain speed and efficiency hauling gear while v-notching every egg-bearing female when catch rates were high. This measure would be particularly difficult for one and two man operations.

To the Atlantic States Marine Fisheries Commission

I am writing in regards to the options for lobster stock management. First I'd like to address the attempt to standardize measurements throughout all of the management areas in state waters. I see this as a particular problem for Massachusetts in that the catches in each area vary significantly. For the purposes of my comment, though, I tried making a case for uniformity in Massachusetts. Using all of the sea sampling data in the state over the years 2002 -2021 I applied a single minimum size (84mm) and a single maximum size (127mm or 5"). I also wanted to look at the data in terms of molts so I added a 96mm (1 ½ ib) and a 110mm (2 ¼ lb) group. Twenty years of MA data on the Outer Cape Cod (OCC) area was gathered from at least 9 boats.

It is evident in **Table 1** that the OCC catch is spread out in a wider size range than are the other two MA areas. The impact of a minimum size there is smaller than other areas while the impact of the maximum size is greater. Vice versa is true for Southern New England (SNE) and Gulf of Maine (GOM). It even appears that the OCC catch may be impeded by the large catches at 84mm (1 lb) in the two other areas. The data in **Table 1** is divided into two ten year periods in order to assess changes in each area over many years.

Table 1. Annual average lobsters from MA sea sampling over ten year periods									
		84 mm (1lb)		96 mm (1½ lb)		120 mm (2¼ lb)		127 mm (5 in Max)	
Area	Time Frame	F	M	F	M	F	M	F	M
Gulf of Maine	2012 - 2021	670	329	90	114	45	6	7	0.5
	2002 - 2011	545	292	85	69	50	4	6	0.3
Southern New England	2012 - 2021	493	125	35	25	2	2	0.3	0
	2002 - 2011	553	114	49	14	6	0.6	0.4	0
Outer Cape Cod	2012 - 2021	85	40	155	133	91	23	30	6
	2002 - 2011	61	47	93	80	77	21	21	3

A particular unexpected observation from the data is the quantity of females compared to the quantity of males. **Table 2** adds more information to this.

Table 2. Percent egg - bearers In MA areas within ten year periods

	Gulf of Maine		So. New England		Outer Cape Cod	
Time Frame	Sublegal Egger %	Legal Egger %	Sublegal Egger %	Legal Egger %	Sublegal Egger %	Legal Egger %
2012 - 2021	**13.4**	**20**	**20.2**	**20.4**	**19.2**	**41**
2002 - 2011	**10.2**	**15**	**27.4**	**24.8**	**16.4**	**42.4**

The OCC area has approximately double the percentage of legal size egg-bearing lobsters in its population. It does not seem to me to be the problem if it has better than 40% eggers in its catch.

The comparative results of a uniform lobster regulation for all of Massachusetts indicate that it could not work without local problems.

In addition to the stock assessment is the economic impact to the OCC area. In **Table 3** I looked at the catch in the over 5" maximum size according to MA sea sampling between 2002 - 2021. Since SNE had virtually none in that size I only used GOM and OCC data.

Table 3. Greater than 5” lobsters in MA sea sampling 2002 - 2021

	Gulf of Maine			Outer Cape Cod		
	F	M		F	M	
3 lbs	524	32		2417	467	
4 lbs	386	31		2331	444	
5 ibs	108	17		909	216	
6+ lbs	68	17		561	240	
Total	1086	97		6218	1367	

The quantity of 5”+ lobsters in the OCC compared to GOM is so significant that the economic impact does not warrant a one - measure for all regulation policy. Also the male lobster numbers in the GOM indicate there isn’t much left after the catch below 5” anyways.

The following weigh out sheet is a sample from one lobster wholesaler. The value of a lobster increases in respect to size and quality (hardshell, firmshell, processor aka softs). The economic impact report needs to take this into account when calculating financial loss.

CODE	PRODUCT	PRICE	
LBC	CHIX- HARD	6.75	
LBQ	1/4 - HARD	7.00	
LBH	1/2 - HARD	7.75	
LB2	2 - 2.5 - HARD	10.00	
B2.5	2.5-3 - HARD	9.25	
LB3	3 to 4's - HARD	9.00	
LB3	4 to 6's - HARD	9.00	
LB6	6 & UP HARD	8.00	
BSC	SMALL CULLS HARD	5.75	
BCU	LARGE 2+ CULLS HARD	6.50	
BFR	FIRM U/2	5.00	
BFL	FIRM 2+	5.25	
LBP	PROCESSOR	3.75	
		0.00	
HLFF	1/2'S - FIRM		
3/4F	3/4 - FIRM		
B2F	2-3'S - FIRM		
B3F	3-4'S - FIRM		
B4F	4-6 FIRM		
UMF	6+ FIRM		
	DEAD DISCARD	0.00	
	TOTAL CULLED WEIGHT		
	SHRINK PERCENTAGE		

Summary: If the ASMFC needs more egg production from the lobster stock there are plenty of eggers in count in the GOM 84mm (1 lb) group in **Table 1** which could be protected with a minimum size increase Furthermore there isn't a loss in catch weight since those remaining lobsters become 1 ½ lb lobsters after molting. Fishermen get a return on a minimum size increase. Maximum size is a direct financial loss to fishermen. The only gain is that those few remaining might produce more small lobsters in a future catch. The MA data however indicates that the pattern of 1 - 1 ½ lb GOM exploitation will continue since there isn't any real trap reduction. In fact, the GOM can increase their trap effort. The proposed plan would be a risky gamble which would threaten OCC businesses.

I am only able to endorse **Option A: Status Quo.** Twenty years ago the OCC fishermen put in place effort reduction measures with strict trap transfer requirements which have reduced traps in the area. The minimum size was increased. The data indicates a solid lobster resource in the OCC area. The ASMFC needs to eliminate v-notching and maximum size as ineffective and unprovable management tools. I suggest that the ASMFC copy the OCC plan.

Stephen Smith

Orleans MA

PERCENT OF FEMALES SAMPLED THAT HAD EGGS, BY SIZE CATEGORY

	LMA 1		LMA 2		LMA OCC	
	sublegal	legal	sublegal	legal	sublegal	legal
1985	1.21	5.45	23.27	21.25	0.79	30.69
1986	1.32	4.94	26.85	26.19	1.35	29.73
1987	1.59	5.57	30.43	26.61	0.72	23.10
1988	1.53	4.55	23.76	22.52	1.37	32.04
1989	1.61	9.11	27.64	33.74	2.03	34.58
1990	2.33	6.88	37.55	37.17	5.05	33.15
1991	3.15	6.49	14.97	20.89	9.76	26.43
1992	3.83	8.56	30.80	22.26	9.27	36.03
1993	5.76	9.45	42.41	34.34	10.70	30.94
1994	4.75	5.46	18.69	13.25	9.55	31.32
1995	5.55	8.04	27.36	19.30	16.57	41.49
1996	6.50	9.14	25.88	22.18	16.52	41.25
1997	6.61	8.14	20.31	22.26	22.80	37.27
1998	7.73	11.44	24.97	21.93	19.62	33.53
1999	9.83	11.82	21.40	20.29	5.76	37.27
2000	8.70	8.52	25.97	19.95	13.37	35.01
2001	12.29	15.52	27.67	19.69	22.48	41.93
2002	10.72	10.80	32.90	28.04	20.63	38.52
2003	11.24	11.29	28.20	26.11	16.36	46.93
2004	11.63	16.42	25.84	21.99	14.71	39.24
2005	9.08	15.43	28.00	29.64	14.77	47.87
2006	9.96	14.46	19.29	30.55	17.32	44.86
2007	9.30	17.07	28.52	22.65	10.57	38.39
2008	9.07	16.21	37.77	27.25	15.93	43.98
2009	8.62	17.07	32.51	24.28	14.64	38.39
2010	11.17	13.16	19.39	21.86	16.19	42.51
2011	11.63	17.63	21.27	15.97	22.43	52.39
2012	13.01	18.67	18.53	20.32	21.83	47.43
2013	10.89	17.90	20.55	25.50	24.03	48.25
2014	12.17	19.85	25.51	27.90	18.25	43.26
2015	11.92	20.38	40.81	34.81	15.88	34.98
2016	13.14	23.76	28.47	27.52	12.04	35.80
2017	13.36	24.51	23.07	19.66	18.44	40.19
2018	18.02	22.54	11.61	14.95	19.66	39.00
2019	17.10	15.40	14.37	10.88	20.96	42.53
2020	11.83	22.37	13.12	13.91	29.32	47.39
2021	12.77	14.58	6.86	8.47	11.61	31.49
						42.36
2002-11	10.2	15	27.4	24.8	16.4	42.4

2012-21	13.4	20	20.2	20.4	19.2	41

THSE DATA COME FROM MADMF'S COMMERCIAL LOBSTER TRAP SEA SAMPLING PROGRAM

LMA OCC data

- includes sea sampling data from vessels in the Chatham, Nauset, and Provincetow
- vessels are all LMA OCC permit holders

LMA 1 data

- includes sea sampling data from vessels in the Cape Cod Bay, Boston, Beverly/Sale
- vessels are all LMA 1 permit holders

LMA 2 data

- includes sea sampling data from vessels from various ports within Buzzards Bay, fis
- vessels are all LMA 2 permit holders

Eggers

- sublegal and legal are distinguished based solely on the minimum legal size, and a
- females are included as egg-bearing if they had a clutch of eggs attached to the ab

MADMF's Commercial Trap Sea Sampling Program methods can be reviewed at:
https://www.mass.gov/files/documents/2016/08/wh/tr29-lobster-monitoring.pdf

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ccount for any changes in the minimum legal size throughout the time seri
odomen. This does NOT included females classified as 'spent' (a recently ha