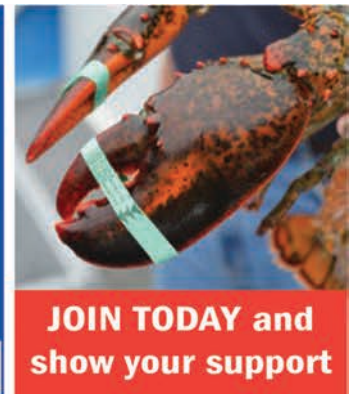




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The MASS LOBSTER Tracer Ribbon is One Step Closer to Being Approved as a Massachusetts Gear Marking



Tested 1700 lb. red rope with MASS LOBSTER tracer ribbon



Tested 1700 lb. candy cane rope with MASS LOBSTER tracer ribbon

Over the summer the Massachusetts Lobstermen's Association (MLA) worked with the Massachusetts Division of Marine Fisheries (MADMF) and the National and Oceanic Atmospheric Administration to test the 1700lb. candy cane and red rope with the easily visible MASS LOBSTER tracer ribbon to make sure the breaking strength was still within the acceptable threshold. The red and candy cane ropes were tested 10 times each following the recommended procedures. Results are in the table to the right.

| Rope | Red | Candy Cane |
|---------------------|------|------------|
| Mean Break (lbs.) | 1578 | 1781 |
| Standard Dev (lbs.) | 65 | 64 |
| 10% Upper (lbs.) | 1736 | 1959 |
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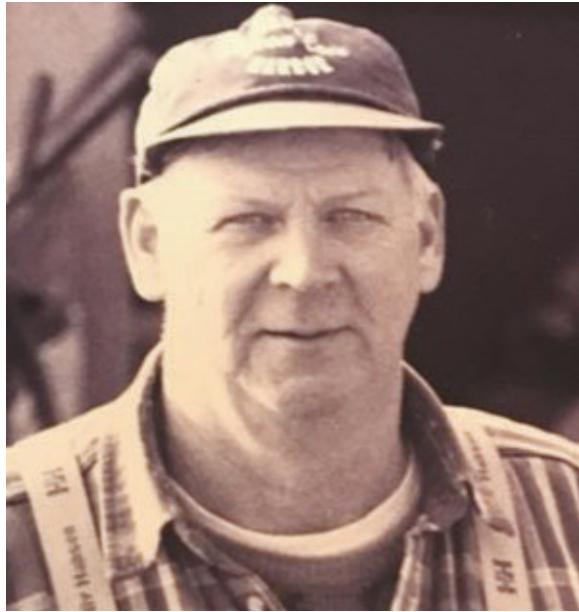
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IN MEMORIAL



Fred Hillier

AUGUST 4, 2023

It is with heavy heart that we must tell you lifelong MLA member, Fred C. Hillier, 81, died peacefully at his home on Friday, August 4, 2023, after a two-year battle with Parkinson's. Fred was one of the most outstanding athletes to come out of Rockport. Fred was scouted by the Boston Red Sox all through high school. One of his most memorable comments to the Red Sox scout was "talk to my coach, I need to go haul my pots." He was recently honored by the Rockport athletic association for being one of the 1000 scoring basketball players. To date, nobody has broken Fred's basketball record of 58 points in one game.

He was awarded a full athletic scholarship to Boston University and left in his freshman year for the call of the ocean and to marry his high school sweetheart, Karen Holgerson Hillier.

Fred served on the Board of Directors for the Atlantic Lobsterman's Cooperative, he was a member of the Rockport Harbor Advisory Committee, and he had been lobstering for over 60 years. Fred enjoyed cruises and gambling trips to Foxwoods. He loved animals and little critters and over the years had many seagull friends. He loved his trips to Peggy's Cove, Nova Scotia to see great friends.

Fred is survived by Karen Holgerson Hillier who was his primary care giver to the end. He had six children, Craig Read, Rebecca Lyn, Christina Ann, Pingree Full, and twins Matthew Albert and Michael Leon. Christina and Matthew predeceased their father. Fred could always be seen at Rockport High School cheering for his kids and the Rockport team.

Godspeed Captain, may the winds blow at your back and calms seas ahead.



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The Massachusetts Lobstermen's Association

would like to welcome the following new members to the Association. Your Association will continue its efforts on your behalf to conserve the resource, protect your livelihood, keep you informed, promote the industry and provide you with increasing benefits as they are developed. MLA stands ready to help you in anyway, at anytime — just let us know how! Safe on the water and good fishing!

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F/V: Solitude • Port: Menemsha

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As the HAULER TURNS

In the blink of an eye the fall is here. But I am hanging on to the summer for as long as I can as this summer has been the 2nd wettest summer since 1872. I truly hope that you all were able to enjoy what sunshine we had this summer with family and friends and lots of barbeques and lobster boils.

Over the summer the Massachusetts Lobstermen's Association (MLA) has been working on several initiatives and projects all to help make your life a little easier and to help reduce some of your expenses.

The largest time saver for you is our efforts to help reduce the amount of time you must spend configuring your endlines. And I am happy to report that finally, this fall the MA Division of Marine Fisheries (MADMF) will be taking the MASS LOBSTER tracer ribbon weak rope out to Public Hearings as a gear marking. More information can be found on the cover of this issue.

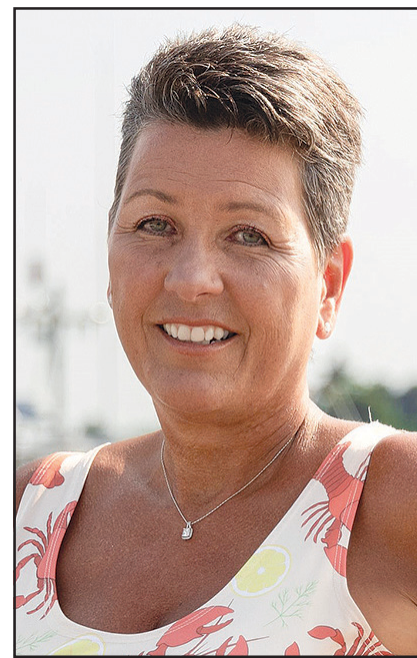
Just think about how much time you will get back in your life, hundreds of hours annually. Also, the MLA and MADMF are working on procuring as much of the weak red and candy cane rope with the tracer ribbon to give out to the industry as possible. This is a huge financial savings for you all. The MLA and LFoM will shake every tree possible if it

will help reduce your expenses and give you time back in your life.

Furthermore, Lobster Foundation of Massachusetts and MLA were awarded a grant to educate and promote Massachusetts lobsters through our "Preservation the Right Way" program. This grant will also fund the purchase of 800~ cases of green lobster bands that will be distributed at the MLA office before the 2024 lobster season.

We will also be looking for any commercial lobstermen that is interested in participating in the associated lecture series that will be ongoing over the next two years. If you are interested, please reach out to either me or Tracey in the MLA office. Please keep an eye out in this paper for more information this winter for dates and times.

Also, this summer, the MLA met with Representative Paul Schmid, the Chairman of the Agriculture Committee, and Senator Patrick O'Connor this summer to discuss how to move Bill S.552 An Act relative to lobstering closure mitigation (Fund) along in the process. Chairman Schmid and Senator O'Connor both agreed that this legislation needs to be moved along. This Fund would help the commercial lobster industry for a three-year period



to provide them with the funds to become incorporated and contributing to the unemployment program. Stay tuned!

So, when you are thinking about what the MLA has been doing this summer, remember to read your paper and stay informed so you don't miss out on all the upcoming give-away events we will be holding. There is not a day, a week, a month, or a season that goes by without us thinking about ways on and how we can help make all our lives better. One coil, one case or one Bill at a time!

Safe on the water,

Beth Casoni

Executive Director



Protected Species Update 2023 – Quarters 1 and 2



The 2023 right whale season saw plenty of whale activity, plus successful collaboration between DMF, researchers, fishermen and environmental law enforcement. Right whale abundance was once again high in the Massachusetts Restricted Area from late winter to spring 2023, with the observation of approximately 58% of the known population (n=197 individuals) over the course of the season. DMF has partnered with the Center for Coastal Studies (CCS) to conduct aerial surveillance of Cape Cod Bay (CCB) and adjacent water since 1998. Those surveys were expanded to include Massachusetts Bay and the North Shore in response to shifting right whale distribution patterns. In 2023, a season high of 88 individual right whales was documented in CCB on April 9th and whale abundance slowly declined after that until the seasonal trap closure was lifted on May 8th when whales had fully departed the area. In addition, 10 of the 11 mother/calf pairs seen in the Southeast US were also observed in CCB, highlighting the importance of the area as a nursery habitat for that vulnerable life stage. The CCS aerial team is continuing to analyze photos from the season and the number of whales observed could increase.

In 2023, DMF again implemented the Massachusetts Restricted Area (MRA), a seasonal trap gear

closure from February 1 through May 15 in Cape Cod Bay, the Outer Cape, Massachusetts Bay and the North Shore, which protects right whales from entanglement risk posed by trap gear. To ensure the conservation benefit of the closure, DMF conducts a derelict gear removal program to remove lost, abandoned or illegal gear from the MRA. This season DMF again partnered with the Massachusetts Environmental Police, commercial fishermen and the Center for Coastal Studies aerial team to identify and remove any gear left in the closure. Compliance was improved over levels seen the previous year, with 368 traps and 208 buoy lines removed from the water in 2023. This is a third of the gear removed in 2022 when compliance with the closure was poor in Mass Bay and the North Shore.

Right whales still face significant threats across their range however and the population has continued its downward trend. Although that decline has slowed in recent years due to a reduction in observed mortalities which peaked in 2017 and 2019. The latest population estimate from 2021 numbers around 340 individuals, with serious entanglements and ship strike remaining significant issues for the species. In the majority of recent cases, the known origin of entanglements has been Canadian snow crab and Canadian lobster gear.

In 2023, DMF continued to support the testing of ropeless or on-demand fishing gear by collaborating with the Northeast Fisheries Science Center (NEFSC) on expanded trials of ropeless systems under their Exempted Fishing Permit. The permit allows the testing of alternatives to traditional buoy lines in the Massachusetts Restricted Area (MRA), however authorization from DMF is required to test ropeless gear in state waters. Between Feb 1 and April 30, NEFSC worked with six commercial fishermen in state and federal waters portions of the MRA to

test fully ropeless systems, resulting in 257 ropeless gear hauls. The goal was to test ropeless deployments that minimize the potential for gear conflict. The relatively shallow and sheltered MA state waters provide an ideal testing lab for alternative gear technologies that could be used in a variety of fishing habitats.

*By Erin Burke,
DMF Protected Species Specialist*

<https://www.mass.gov/news/protected-species-update-2023-q1-and-q2>

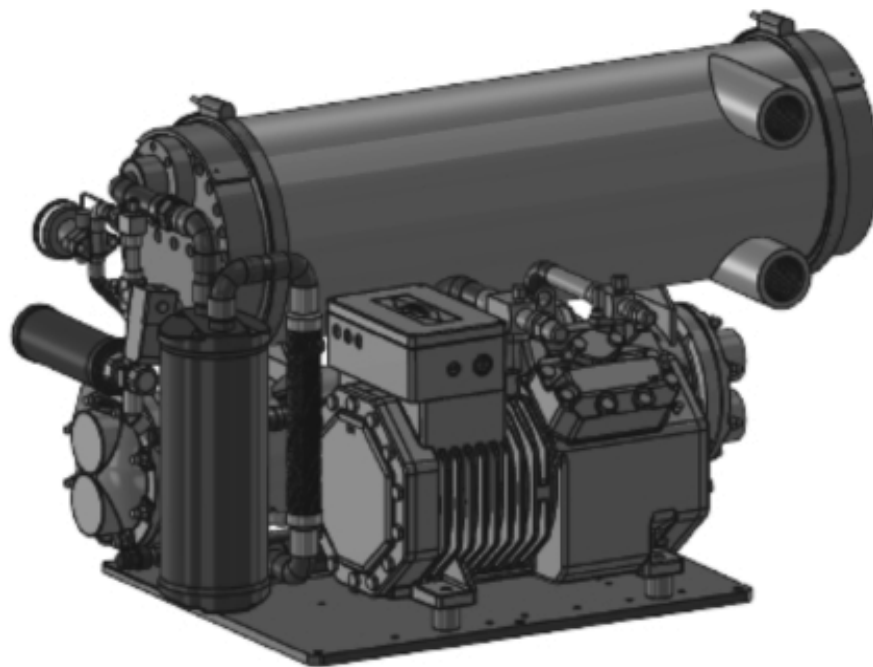




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Energy Efficient Fisheries

This year, Massachusetts fishermen are launching a new initiative: Energy Efficient Fisheries (EEF). Funded entirely by Congress with a mission to support industry-led solutions for fuel efficiency and emissions reductions, EEF will help fishing and seafood businesses save money, adopt efficient technology, and continue leading ocean conservation.

“Cape Cod Bay is warming at an alarming rate, and so the pace of our investment in innovative technologies and in our historic fishing industry have to keep up. I am proud to have secured \$2 million in funding to support fishermen and seafood processors throughout the Commonwealth as they work to embrace energy-efficient technologies that will cut costs, protect jobs, and lower emissions. I thank the Gloucester Fishermen’s Wives Development Program, the Massachusetts Fishermen’s Partnership, and all those involved in Energy Efficient Fisheries for their work to bring this landmark program to the Massachusetts coast.”

-Massachusetts Senator Edward Markey



WHO IS INVOLVED?

EEF is a Massachusetts project hosted by the Gloucester Fishermen’s Wives Development Program and led by a diverse fishing industry steering committee with members from throughout the state representing businesses large and small across fisheries, gear types, and ports. The first phases of our work will focus on Massachusetts ports and fishing vessels, with future efforts designed to scale across the region.

WHY ARE WE DOING THIS WORK?

v *Lowering emissions, reducing fuel consumption, and saving money are valuable goals*

Energy efficiency is one of the easiest ways to reduce fixed costs in a fishing or seafood business. Lowering your fuel or electricity bill while reducing greenhouse gas-driving emissions is a win-win for your bottom line, the resources we depend on, and our communities.

v *Getting out ahead of mandates means better outcomes for the industry*

Fishing business owners know that uninformed, untested mandates are never ideal. From safety to cost effectiveness, next-generation technologies must prove themselves in some of the harshest environments on the planet. With fishermen and seafood business owners leading the assessment and adoption of fuel efficiency technologies, the industry can avoid mandates and adopt next-generation technologies that work for their unique application at the right pace.

▼ ***The time to take action is right now***

Food producing industries like ours have a once-in-a-generation opportunity to access state and national programs that support the adoption of emission reduction technologies right now, but the open window won't last forever. The US fishing industry, particularly smaller businesses, must plan, advocate, and organize in order to compete for these important and valuable programs. EEF is a great way to lay out a workable plan and bring funds home to our ports.

▼ ***EEF continues the fishing industry's long legacy of ocean conservation leadership***

Fishermen and their organizations have fought against ocean dumping, destructive offshore energy development, and harm to marine habitat for generations. This legacy is often overlooked or dismissed. By developing voluntary de-

carbonization and fuel efficiency efforts, the fishing industry will continue to lead true ocean conservation efforts that are deeper and more beneficial than campaigns led by those who don't make their living from the ocean.

WHAT WORK WILL EEF DO, AND WHAT WILL BE THE RESULT?

EEF projects will include a fishing and seafood industry baseline and energy needs assessment, fishing vessel energy audits, professional development for advanced technology installation and service for specialized marine applications, and consultancy services for business owners seeking to access low-cost capital and grant funding for fuel efficiency investments. Our work is designed to be participatory and scalable, all in service to the industry and the seafood consumers of the United States.

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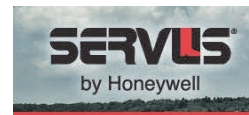
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Lobster Institute Appoints Chris Cash as New Director



Our Mission:
“To foster collaboration and communication in support of a sustainable and profitable lobster industry in the Northeast U.S. and Canada.”

As many of you know, the University of Maine (UMaine) has been conducting listening sessions across the state and meeting with a wide variety of groups that interact, partner, and rely on the Lobster Institute (LI) for its expertise and support of the industry. We have learned a great deal about the value of the LI, and about other opportunities that we might pursue to reach an even broader group of partners on- and off-campus. This has helped us develop a plan for how we transition the LI into the future, ensuring we continue delivering what it does best while expanding those strengths. We are grateful for everyone who participated in these sessions and your feedback.

Since 1987 the Lobster Institute has been a center of discovery, innovation, and outreach at the University of Maine. Its mission is to promote, conduct

and communicate research focused on the sustainability of the American lobster fishery in the US and Canada. The Institute also provides technical and educational outreach, disseminates research findings in understandable and accessible ways, and convenes conferences and workshops to engage stakeholders in solving challenges faced by this iconic fishery.

Until UMaine finishes this process, **we are pleased to announce that Chris Cash, the current Assistant Director of the LI, will step in as interim LI Director.** She will ensure the operations, projects, and service that the LI delivers will continue until our revised structure is in place. We are grateful for Chris’ leadership and vision and know the LI will be in good hands. We would expect our final structure to be transitioned during this upcoming fall season.



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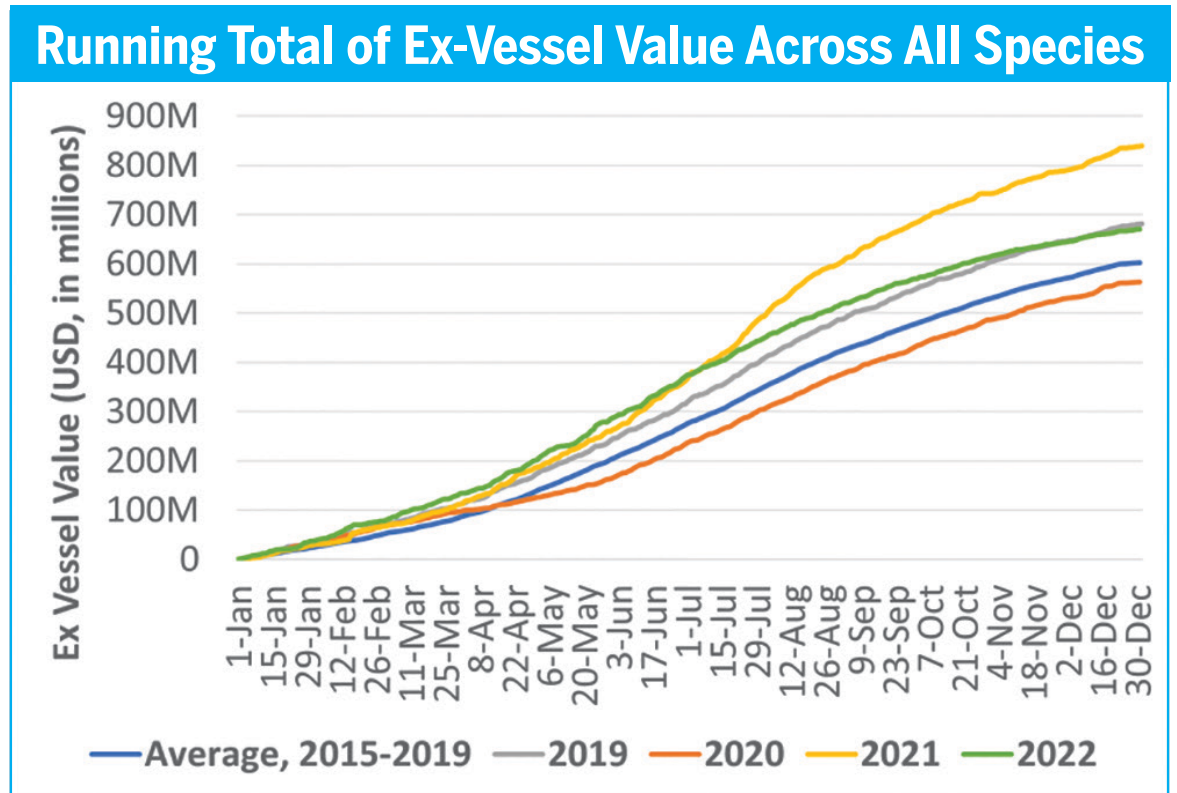


Mass seafood value returns to more normal levels in 2022

After reaching an all-time high of over \$800 million in 2021, the ex-vessel value of seafood landed in Massachusetts returned closer to pre-pandemic norms with a total value of approximately \$670 million. This value is similar to 2019 and still well above the previous 5-year average (see Figure 1). The previous two years were preceded by a very difficult year for the seafood industry in 2020 when the ex-vessel value of seafood was down significantly due to pandemic-related impacts.

The biggest drivers to the reduction in value for 2022 as compared to 2021 can be traced to two major factors. First, sea scallop landings were down 23% in 2022, resulting in a reduction of \$125 million in ex-vessel value. Second the ex-vessel price/lb paid for lobster was down nearly 25% from 2021, resulting in a reduction of \$44 million in ex-vessel value. In recent years, sea scallops and lobsters have accounted for approximately 70% of the ex-vessel value of seafood landed in Massachusetts, so it is no surprise that large fluctuations in the value of these species impact the overall value.

The reduction in value in the sea scallop and lobster fisheries was offset, somewhat, by gains in other fisheries. For example, the ex-vessel value of oysters was up \$2 million dollars (~6 %) from 2021. The oyster industry was particularly hard hit during the pandemic, but the value has now recovered



to pre-pandemic levels. Commercial fishers reported increased expenses in 2022 for fuel, bait, dockage, and ice shrinking their profit margins. Trucking capacity was also an issue for the seafood industry as it was for many other sectors. DMF will be monitoring seafood landings and value, as well as

other challenges that arise for the industry throughout 2023.

By Story Reed
DMF Assistant Director

<https://www.mass.gov/news/massachusetts-seafood-value-returns-to-more-normal-levels-in-2022>

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Let's Talk about Balloons In our Ocean!

Balloons are used for special occasions as decorations and gifts. They are purposely released into the air as a sentiment for a loved one that has passed or for celebratory occasions.

Unfortunately, once they go up, they must come down! Balloons that are released into the air don't just disappear, they fall back down and end up in the ocean as well as on land. Balloons become hazardous marine debris for not only marine wildlife when they enter the ocean, but also wildlife on land.

Balloons are mistaken for food to marine wildlife and lead to loss of nutrition, starvation, and death. String or ribbon that is found attached to balloons cause entanglement for marine life which can lead to injury, illness, and suffocation.

Balloons contribute to our plastic pollution problem! They take hundreds of years to biodegrade and over time balloon pieces

get smaller and smaller and turn into microplastics.

This is 100% preventable! There are replacements to balloons, such as flowers, bubbles, biodegradable confetti, candles, decorative lights, photos, and ornaments etc.

Be mindful and responsibly dispose of balloons should you decide to use them, keep them inside and if you are using them outdoors attach a weight to prevent unexpected releases.

Properly deflate and cut them and any ribbon or string attached into small pieces and tightly secure them in a bag before discarding them into your trash bin.

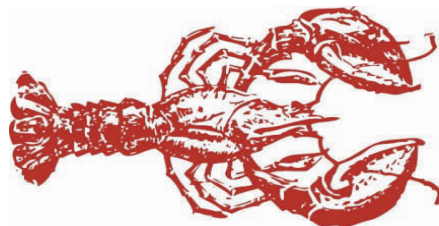
Data collected from Ocean Conservancy on average states that approximately 31,000 balloons per year are found along the U.S. coastlines and in the ocean. This has a major impact on the environment and marine wildlife.



It is our societal responsibility to prevent balloons from becoming marine debris!

Remember, if you are still going to use balloons at your celebratory events hold on tight and don't let them go!!

*Tracey Abboud,
Lobster Foundation of Massachusetts,
Program Coordinator*



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DMF Receives Partner in the Spotlight Award

On July 25, at Massachusetts State House, NOAA Fisheries gave its Partner in the Spotlight Award to the Massachusetts Division of Marine Fisheries (DMF) for their conservation efforts regarding the endangered North Atlantic right whale. This award is presented biennially to a single outstanding partner who has expanded and enhanced the recovery of our most imperiled marine species.

The award was presented to DMF by NOAA Fisheries Deputy Assistant Administrator for Regulatory Programs, Samuel D. Rauch, III. Rauch added, “As a NOAA partner, the Massachusetts Division of Marine Fisheries has led the way on the protection of endangered North Atlantic right whales when they are in Massachusetts waters by implementing regulations to reduce whale entanglements in fishing gear and the potential for vessel strikes. DMF regulations are especially important because they complement federal regulations and support right whale recover efforts.”

Director Daniel J. McKiernan received the award on behalf of DMF. McKiernan stated, “it was a great honor to receive this recognition from NOAA Fisheries.” He added, “Massachusetts faces a unique challenge. Our inshore waters are a critical late-winter and early-spring habitat for right whales with up to two-thirds of the known population seasonally aggregating here. This places enormous responsibility on the Commonwealth to ensure the whales are safe while in our local waters. Working with the fishing industry and vessel operators, we have tried to devise conservation strategies that are as surgical as possible while minimizing impacts on our maritime industries and seafood economy. Massachusetts has the most restrictive rules in the nation to protect right whales, including a three-month closure to fixed gear fishing to prevent entanglements, the mandatory deployment of weak buoy lines designed to part if an entanglement should occur, and

a March – April speed limit for all vessels in Cape Cod Bay to reduce the risk of ship strikes.”

McKiernan also recognized the contributions to the state’s conservation program by the Center for Coastal Studies, who perform aerial surveillance documenting the presence of right whales; the Massachusetts Environmental Police for their patrol efforts to enforce conservation rules and to look after whales, including mother/calf pairs, when in vulnerable locations; the Marine Fisheries Advisory Commission for approving the DMF’s conservation rules; and the commercial fishing industry for their leadership and cooperation.

Senator Bruce Tarr provided introductory remarks and spoke on behalf of the Massachusetts Legislature’s Coastal Caucus. The Senator stated, “in 2023, the Massachusetts Legislature designated April 24 as Right Whale Day in the Commonwealth to celebrate the importance of this species to the

state and has appropriated funds for substantive measures to protect right whales. Therefore, it is fitting that NOAA Fisheries is here today to recognize the state’s dedication to the conservation of this species.” He also noted the sacrifices made by commercial fishermen to the conservation efforts, especially the extended season closures and the costly and time-consuming buoy line modifications.

Commissioner Tom O’Shea provided remarks on behalf of the Department of Fish and Game. He stated that, “few species in Massachusetts are as imperiled or iconic as the right whale. The future of the right whale and the health of our oceans depends on critical conservation measures. This award is an outstanding honor and celebration of 27-years of leadership and efforts of DMF, in partnership with NOAA Fisheries and the commercial fishing industry to protect right whales.”



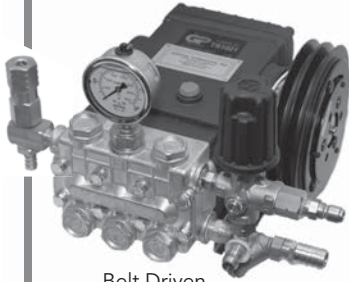
Left to Right: Michael Pentony, NOAA Fisheries Regional Administrator for Greater Atlantic Regional Fisheries Office; Samuel D. Rausch III., NOAA Fisheries Deputy Assistant Administrator for Regulatory Programs; Thomas O’Shea, Commissioner for the Massachusetts Department of Fish and Game; Daniel McKiernan, Director for the Massachusetts Division of Marine Fisheries; Robert Glenn, Deputy Director for the Massachusetts Division of Marine Fisheries; Julia Kaplan, Outreach Coordinator for the Massachusetts Division of Marine Fisheries; Kevin Creighton, Assistant Director for the Massachusetts Division of Marine Fisheries; Story Reed, Assistant Director for the Massachusetts Division of Marine Fisheries; Jared Silva, Policy Analyst for the Massachusetts Division of Marine Fisheries; Collen Coogan, NOAA Fisheries Marine Mammal and Sea Turtle Branch Chief

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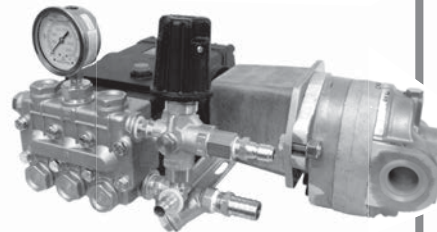
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David Borden Retires as AOLA Executive Director



After ten years with AOLA, David Borden retired as Executive Director earlier this month. He brought extensive experience; a wide-ranging professional network; and well-honed diplomatic, communication, and consensus building skills to the role of Executive Director. During his tenure, AOLA was able to expand its membership, despite LMA3 consolidation, and right its financial woes by tapping into revenue from cooperative research and research administration.

His successes leading AOLA should be no surprise, since before coming to AOLA David worked for the State of Rhode Island DEM for over 30 years, and while in that role, served stints on the leadership teams of the Atlantic States Marine Fisheries Commission and New England Fishery Management Council. David then spent nearly 10 years after his RI DEM retirement continuing New England fisheries work as an advisor and facilitator for academic, state, and fisheries advocacy groups, before joining

AOLA in 2013. During David's tenure, AOLA was involved in a long list of fisheries issues. Some highlights include: • The development of the ASFMC and NMFS

Jonah Crab Fishery Management Plan; • The Northeast Canyons and Seamounts Marine Monument designation and respondent fisheries lawsuit that went all the way to Supreme Court. The resulting opinion, written by Chief Justice Roberts, lays the foundation for a future case to limit marine monuments via the Antiquities Act; • The North Atlantic Right Whale issue, where AOLA was able to expand the offshore lobster/crab seats on the Atlantic Large Whale Take Reduction Team and get risk reduction credit for existing fisheries management regulations (i.e. trap cuts and proposed trap cap reductions), helping to lessen the direct LMA3 impacts of Phase 1 rule-making; • Work on the ASMFC Lobster Board to craft management responses to the 2015 and 2020 lobster stock assessments; • Negotiated provisions in the New England Council's Coral Amendment which prevented closed areas in active LMA3 fishing areas; • Negotiated provisions in the New England Omnibus Habitat Amendment which excluded lobster traps from closures and developed a Closed Area II bottom sharing agreement between fixed and mobile gear. • And so much more because fisheries issues are never ending...

Thank you, David, for your dedication to the offshore lobster and Jonah Crab fishery. David may now be officially retired from his retirement gig, but he will remain an ASMFC Commissioner and continue to serve on the Lobster Board.

<https://offshorelobster.org>

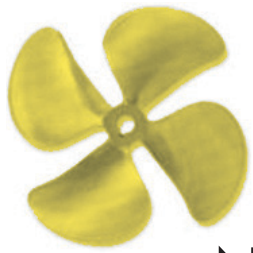
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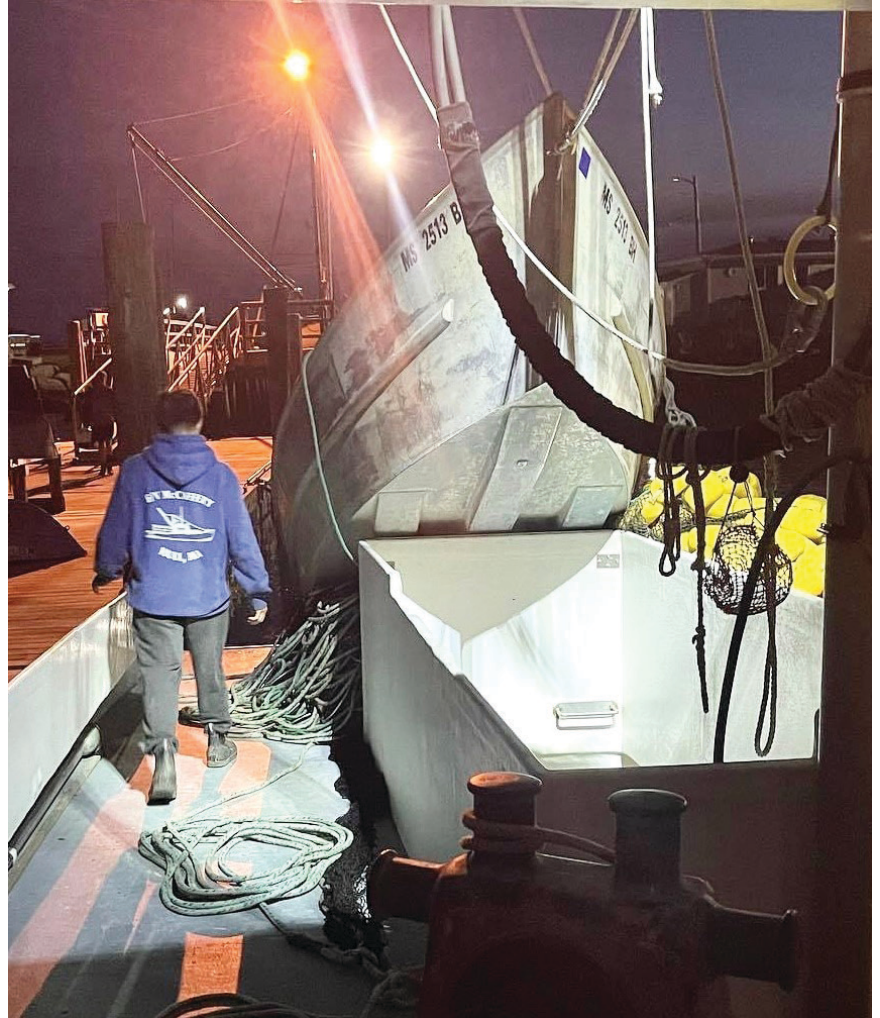
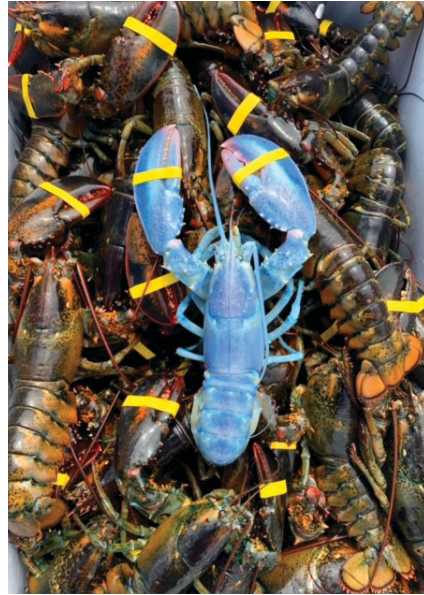
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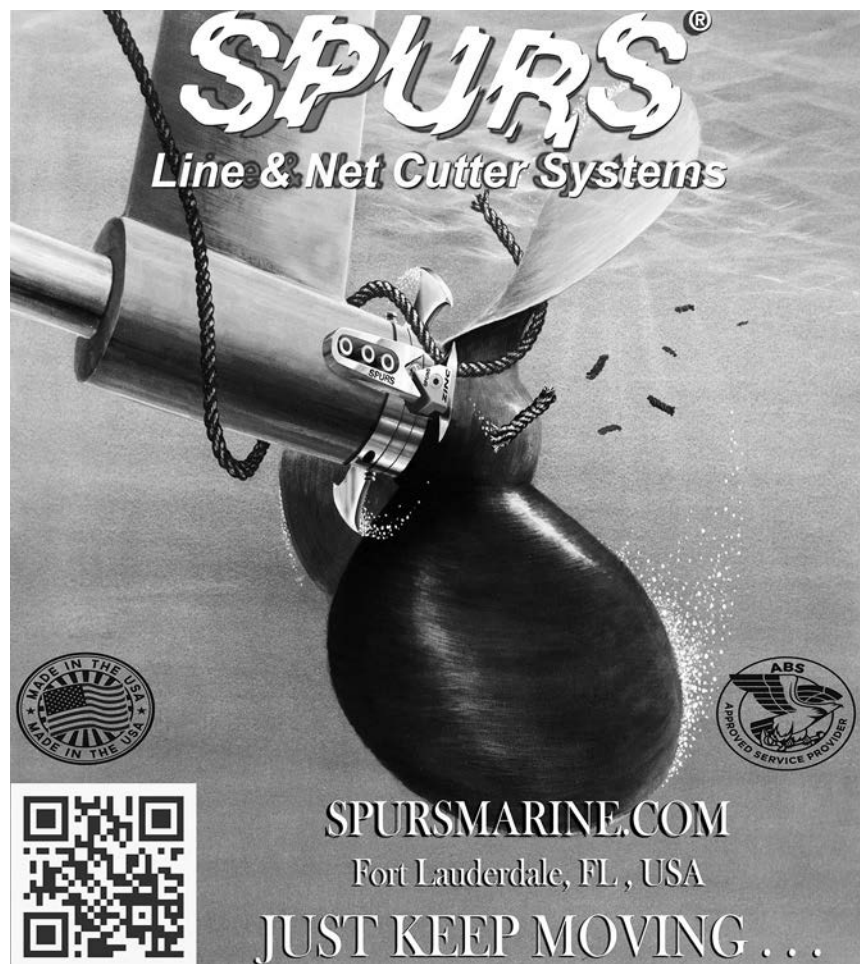
FROM PAGE 1

The mean breaks were within the expected breaking strengths, using the 10% rule. The candy cane rope did have an actual mean higher than 1700 lbs. The labeled tracer does begin to fall apart at the point of tension, but it is still viewable throughout the rope. Both ropes stretch to smaller diameters as they are pulled under tension and each of the three strands seems to break in succession.

While nothing is perfect, these weak ropes are currently being fished in full vertical lines with swivels at the top to reduce kinking up in the vertical line. The goal is to have these weak ropes used

as a full vertical line and let the MASS LOBSTER tracer ribbon be the gear marking. This would free up hundreds of hours spent by the commercial lobster industry that will no longer have to mark or insert weak contrivances into their vertical lines. This is a game changer.

The MLA has been working on the development of this rope for over 5 years now with Ketcham Trap and we are thrilled that these weak ropes with the tracer ribbon have been tested and accepted. Stay tuned as, both weak ropes with the MASS LOBSTER tracer ribbon are now in the MADMFs que to go out to Public Hearings this fall as an acceptable and approved gear marking. Stay tuned!



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2023 Mass Lobster Gear Relief Program for Dual Permit Holders

The Massachusetts Lobster Gear Relief Program for Dual Permit Holders was created to help defray the cost of requiring two sets of fishing gear to protect endangered North Atlantic right whales. The Massachusetts Legislature allocated \$500,000 for eligible Massachusetts commercial lobster permit holders pursuant to c. 126 of the Acts of 2022. Due to fisheries management requirements, commercial trap fishers are subject to different buoy line marking requirements based on the jurisdiction where the gear is being fished. This creates a unique problem for trap fishers who have a single fishing business authorized to fish trap gear in both state and federal waters (dual permit holders). Effectively, these permit holders are now required to alter their buoy lines when moving trap gear from state to federal waters or vice versa. This may be accommodated by either adding or removing marks and weak points from the buoy line when moving the gear from one jurisdiction to another or more likely, carrying separate buoy lines marked and configured for each jurisdiction and then removing and replacing buoy lines when gear is moved across jurisdictional boundaries.

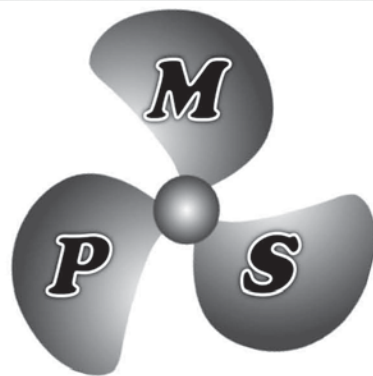
The Massachusetts Division of Marine Fisheries worked with the Lobster Foundation of Massachusetts in cooperation with the Mas-

sachusetts Lobstermen's Association to efficiently distribute these funds to eligible fishers. To be eligible for this program lobster fishers must have had both state and federal lobster trap permits in 2022 and renewed or intended to renew both state and federal lobster trap permits for 2023, in addition to a history of ordering MA/EEZ tags. Catch report data from 2021 was used to show proof of dual fishing and the number of traps fished. There were 162 eligible lobster fishers in this program, 155 qualified for the maximum tier (\$3,025) of funding, and seven qualified for the minimum tier (\$1000) of funding. Maximum and minimum tiers were based on the number of traps historically dual-fished, and the amounts per tier were determined by the available funds dispersed across the eligible applicants. Checks were mailed out by the Lobster Foundation of Massachusetts on the week of June 5, 2023.

*By Amanda Meli
DMF Grants Coordinator*

<https://www.mass.gov/news/massachusetts-2023-lobster-gear-relief-program-for-dual-permit-holders>

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New England Young Fishermen's Alliance Goals & Mission Summary

HISTORY

Founded in 2021, New England Young Fishermen's Alliance (NEYFA) has been a conceptual work in progress since 2017, catalyzed in 2019 when NH Community Seafood, NH Food Alliance and NH Sea Grant held three "focus groups" called Dock Talks: Next Generation around the NH Seacoast, including commercial fishermen from a variety of fisheries from southern Maine, NH and northern Massachusetts. Based on the responses from those focus groups and countless conversations with young commercial fishermen, NEYFA formed with a 3-year grant funded by the USDA, FMPP grant program in cooperation with Yankee Fishermen's Cooperative, the administrator of the grant.

MISSION

To empower the next generation in our local commercial fishing industry by providing critical networking, training, and resources. Through values-based initiatives, we plan to preserve, protect, and promote the future of our small boat fishing businesses in northern New England.

VISION

We will develop a resource and networking enrichment center for young commercial fishermen and women and their families. Services that our resource center will offer are: business management resources, health insurance resources, mental health counseling re-

sources, safety training resources and tax preparation assistance. We will also provide a Deckhand to Captain Training (DTC) course annually and seek funding to support Apprentice or "Greenhorn" Programming to train entry level men and women to work in the local fishing industry.

In addition to providing these services, NEYFA will promote advocacy and fisheries management education for the industry as well as collaborative marketing and cooperative research opportunities. We will also seek to further increase local access to fresh, locally harvested seafood.

STRATEGIC PLAN

By participating in the Goodwork Incubator Program, Board members and ED Andrea Tomlinson will learn nonprofit development skills and governance techniques and be provided with professional mentorship. Through these services, we will develop fundraising strategies for our nonprofit that include a combination of the following: grant writing, foundation and corporate sponsorships as well as event fundraising and private philanthropic donations. Commissions charged for brokering local seafood to collaborative marketing outlets can also contribute to future operational funding.

With proper funding, NEYFA can hire an administrative assistant in the near future, increase training and resource/networking opportunities and continue with advocacy, collaborative marketing

and cooperative research objectives.

Future goals/dreams include a brick and mortar wholesale/retail facility that sells primarily young fishermen and women's local seafood and the development of a profit-generating permit bank for regional groundfishermen.

CURRENT GOALS OF USDA GRANT

There are four main objectives to complete for our 3 year USDA funded grant. They are:

- 1) Connect and Cultivate Regional Food Economies Through Public-Private Partnerships
- 2) Provide Training and Mentor Programs that promote Business Planning/ Management and Collaborative Marketing
- 3) Expand mid-tier food chains, Strengthen Capacity and Regional Food System Development, Collaborative Marketing Training, and Implementation
- 4) Improve Income and Economic Opportunities for Produces and Food Business Through Job Creation

This includes incorporating as a nonprofit and continuing to provide annual Deckhand to Captain Training courses, while providing young fishermen and women who have established owner-operator businesses or brokers with collaborative marketing strategies.

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July 11, 2023

Fixed Gear Fishermen of Massachusetts,

MarineFisheries will be conducting its annual fall trawl survey throughout state coastal waters beginning September 5, 2023. Surveys have been conducted each May and September since 1978 to provide a consistent sampling of benthic fishes and mobile invertebrates. Survey data is used to monitor the condition of various marine stocks. The data is also used to inform the environmental review process, which advises on ways to minimize construction impacts on fisheries resources. Maintaining access to the planned sampling sites is critical to the integrity of the survey.

Please review either the live map on our website or the attached tables and maps of station locations. The live map displays all remaining tow locations, the map can be found on our website (<https://www.mass.gov/service-details/review-trawl-survey-updates>). The live map has a feature which allows you to display your current location. Within see the map in full screen, on the upper lefthand side of the map page select the "scope icon" button  just below the home button. With the location feature toggled on, your device will display your live location on the map in relation to tow circles and historical tows. This feature can be used to assure gear is not in conflict with planned tows. **We kindly ask for your cooperation and insist that all fixed gear be kept clear of the shaded station tow circles by the dates listed in the table.** The coordinates of each selected point are provided in the attached table. The live map and attached figures show the station with a 1.5 n. mi. diameter circle around the selected point. All station circles are trimmed to the appropriate stratum which represents actual station outline. A list of station location information can also be accessed on our website (<https://www.mass.gov/service-details/review-trawl-survey-updates>). We will make every attempt to complete stations as timely as possible to minimize inconvenience to fixed gear fishermen. Completed stations will be updated and announced daily to notify fishermen that gear can be returned to the area. *MarineFisheries* is prepared to attach restrictions to permits (under 322 CMR 7.01 (7)), mandating that fixed gear is not set on designated trawl survey sites between the announced date and notification of station completion. It remains our hope that this action will be unnecessary.

Each day the MLA will be notified of survey progress and all completed stations will be removed from the live map. The Massachusetts Lobstermen's Association will also post survey information on their webpage (<http://www.lobstermen.com>), as well as on Facebook (username: lobstermensassoc) and Twitter (handle: @masslobstermens).

In the event of a delay due to weather, the schedule will be resumed as soon as working conditions permit. Fishermen can contact the R/V *Gloria Michelle* on VHF channels 13 or 16 to determine the updated daily schedule.

Personnel aboard the NOAA R/V *Gloria Michelle*, a 65' western rigged steel stern trawler with a blue hull and white deckhouse, will carefully check each site for marked gear by cruising along a selected tow path before the net is set. Twenty-minute tows undertaken at 2.5 knots cover approximately 0.8 nautical miles. We encourage communicating helpful information to the R/V officers (via channels 13 or 16).

Your cooperation is greatly appreciated and is vital to the effective monitoring of marine resources in the Commonwealth. If you have any questions about the survey, please contact me (steve.wilcox@mass.gov or 508-742-9731). If you have any questions about the *MarineFisheries* website, or Facebook, please contact Story Reed (story.reed@mass.gov or 617-626-1524).

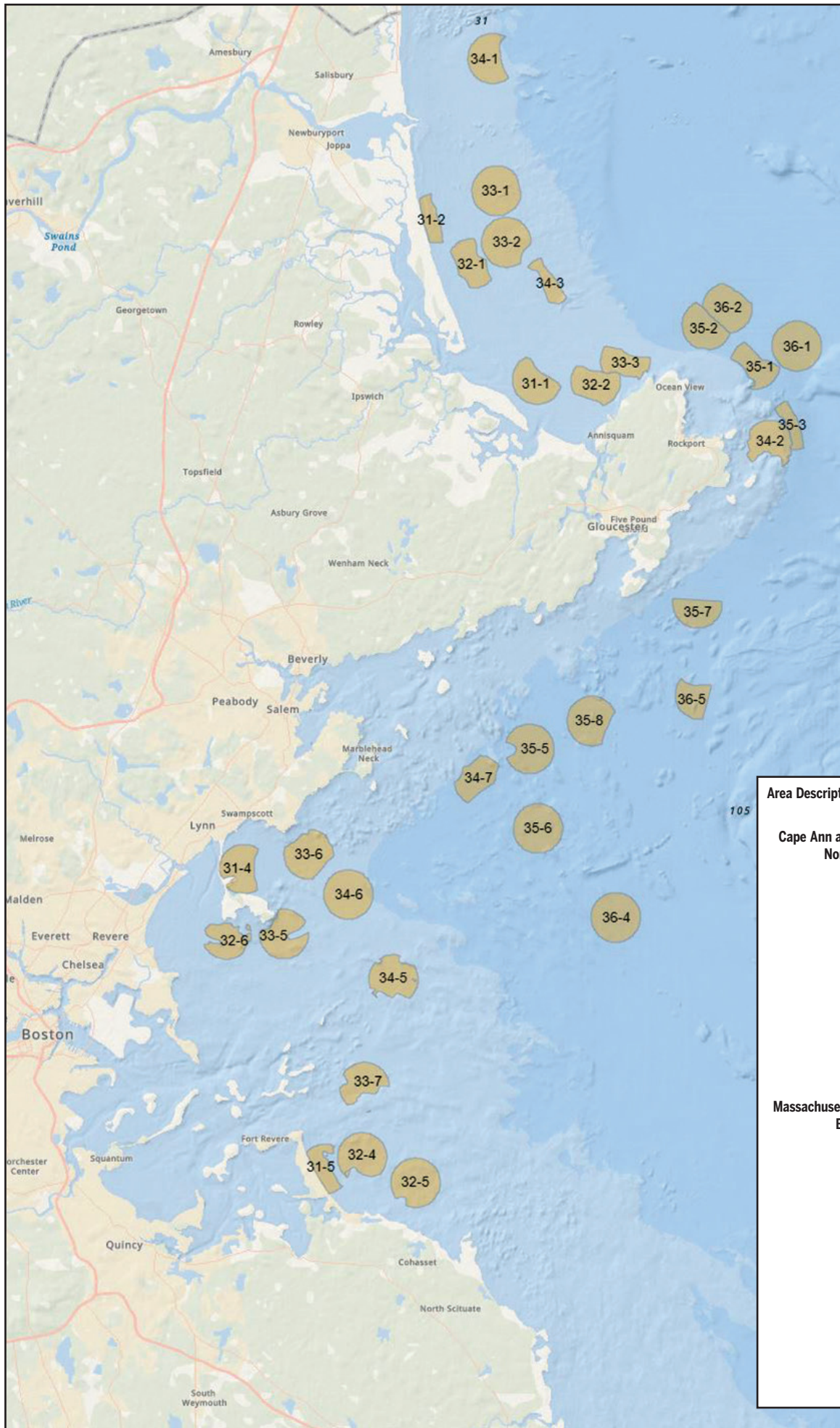
Sincerely,

Steven Wilcox
Senior Marine Fisheries Biologist

Cc. Dan McKiernan, Director



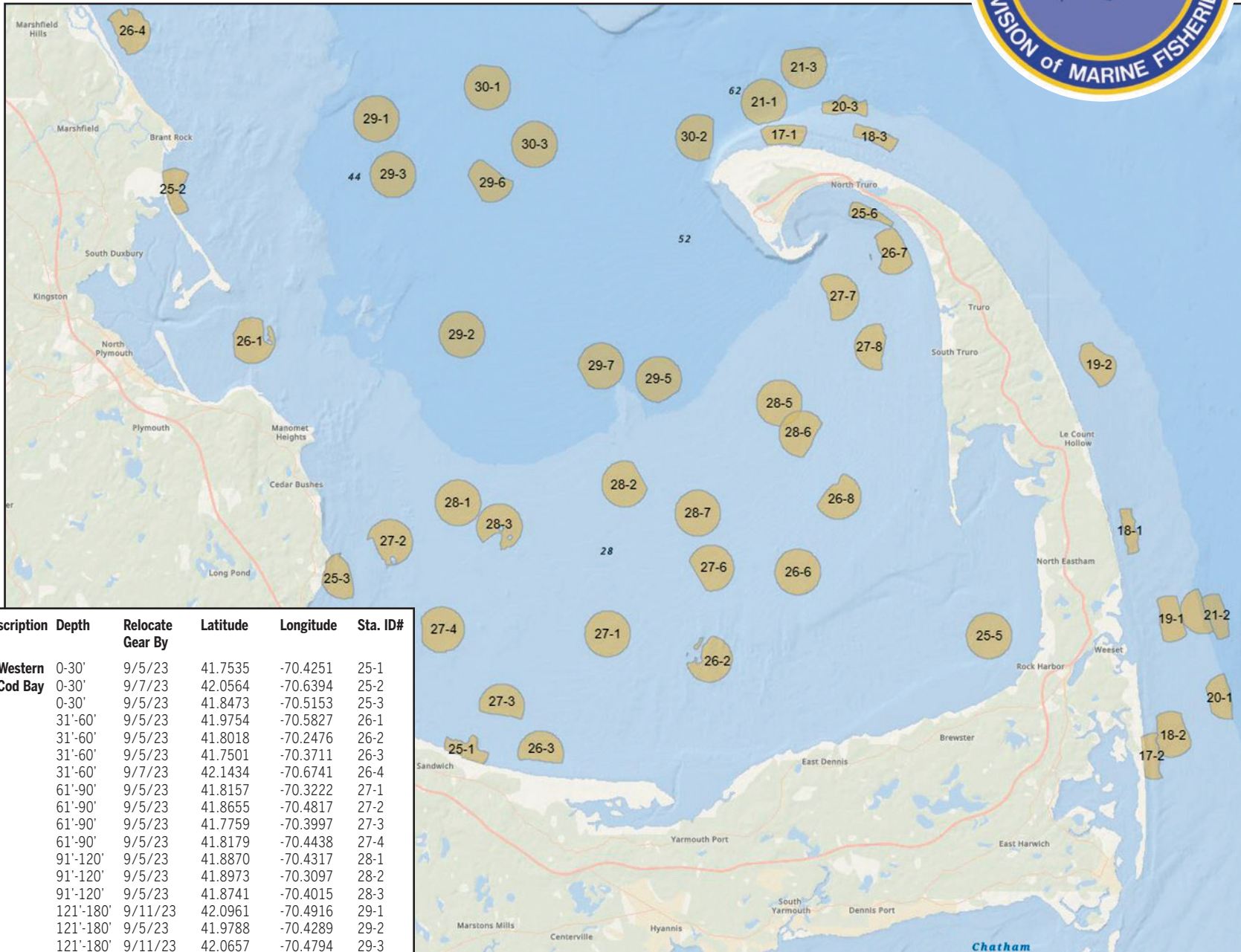
Massachusetts Division of Marine Fisheries Fall 2023 Planned Tow Locations Massachusetts Bay to New Hampshire



*Note Latitude/Longitude is in decimal degrees

| Area Description | Depth | Relocate Gear By | Latitude | Longitude | Sta. ID# |
|---------------------------|-----------|------------------|----------|-----------|----------|
| Cape Ann and North | 0-30' | 9/9/23 | 42.6882 | -70.7221 | 31-1 |
| | 0-30' | 9/9/23 | 42.7691 | -70.7910 | 31-2 |
| | 31'-60' | 9/9/23 | 42.6958 | -70.5733 | 32-1 |
| | 31'-60' | 9/9/23 | 42.7155 | -70.6062 | 32-2 |
| | 61'-90' | 9/9/23 | 42.6654 | -70.5469 | 33-1 |
| | 61'-90' | 9/9/23 | 42.7049 | -70.5448 | 33-2 |
| | 61'-90' | 9/9/23 | 42.7240 | -70.5922 | 33-3 |
| | 91'-120' | 9/9/23 | 42.7464 | -70.7663 | 34-1 |
| | 91'-120' | 9/9/23 | 42.6871 | -70.6821 | 34-2 |
| | 91'-120' | 9/9/23 | 42.7828 | -70.7497 | 34-3 |
| | 121'-180' | 9/9/23 | 42.7569 | -70.7432 | 35-1 |
| | 121'-180' | 9/9/23 | 42.6974 | -70.6619 | 35-2 |
| | 121'-180' | 9/9/23 | 42.8491 | -70.7525 | 35-3 |
| | 181'+ | 9/9/23 | 42.6552 | -70.5632 | 36-1 |
| 181'+ | 9/9/23 | 42.7369 | -70.7152 | 36-2 | |
| Massachusetts Bay | 0-30' | 9/8/23 | 42.4418 | -70.9225 | 31-4 |
| | 0-30' | 9/7/23 | 42.2905 | -70.8671 | 31-5 |
| | 31'-60' | 9/7/23 | 42.2964 | -70.8417 | 32-4 |
| | 31'-60' | 9/7/23 | 42.2836 | -70.8052 | 32-5 |
| | 31'-60' | 9/8/23 | 42.4089 | -70.9343 | 32-6 |
| | 61'-90' | 9/8/23 | 42.4091 | -70.8951 | 33-5 |
| | 61'-90' | 9/8/23 | 42.4493 | -70.8782 | 33-6 |
| | 61'-90' | 9/7/23 | 42.3318 | -70.8401 | 33-7 |
| | 91'-120' | 9/7/23 | 42.3862 | -70.8203 | 34-5 |
| | 91'-120' | 9/8/23 | 42.4290 | -70.8511 | 34-6 |
| | 91'-120' | 9/8/23 | 42.4865 | -70.7619 | 34-7 |
| | 121'-180' | 9/8/23 | 42.5024 | -70.7274 | 35-5 |
| | 121'-180' | 9/8/23 | 42.4623 | -70.7216 | 35-6 |
| | 121'-180' | 9/8/23 | 42.5757 | -70.6126 | 35-7 |
| | 121'-180' | 9/8/23 | 42.5164 | -70.6847 | 35-8 |
| 181'+ | 9/8/23 | 42.4175 | -70.6685 | 36-4 | |
| 181'+ | 9/8/23 | 42.5297 | -70.6110 | 36-5 | |

Massachusetts Division of Marine Fisheries Fall 2023 Planned Tow Locations Cape Cod Bay and East of Cape Cod



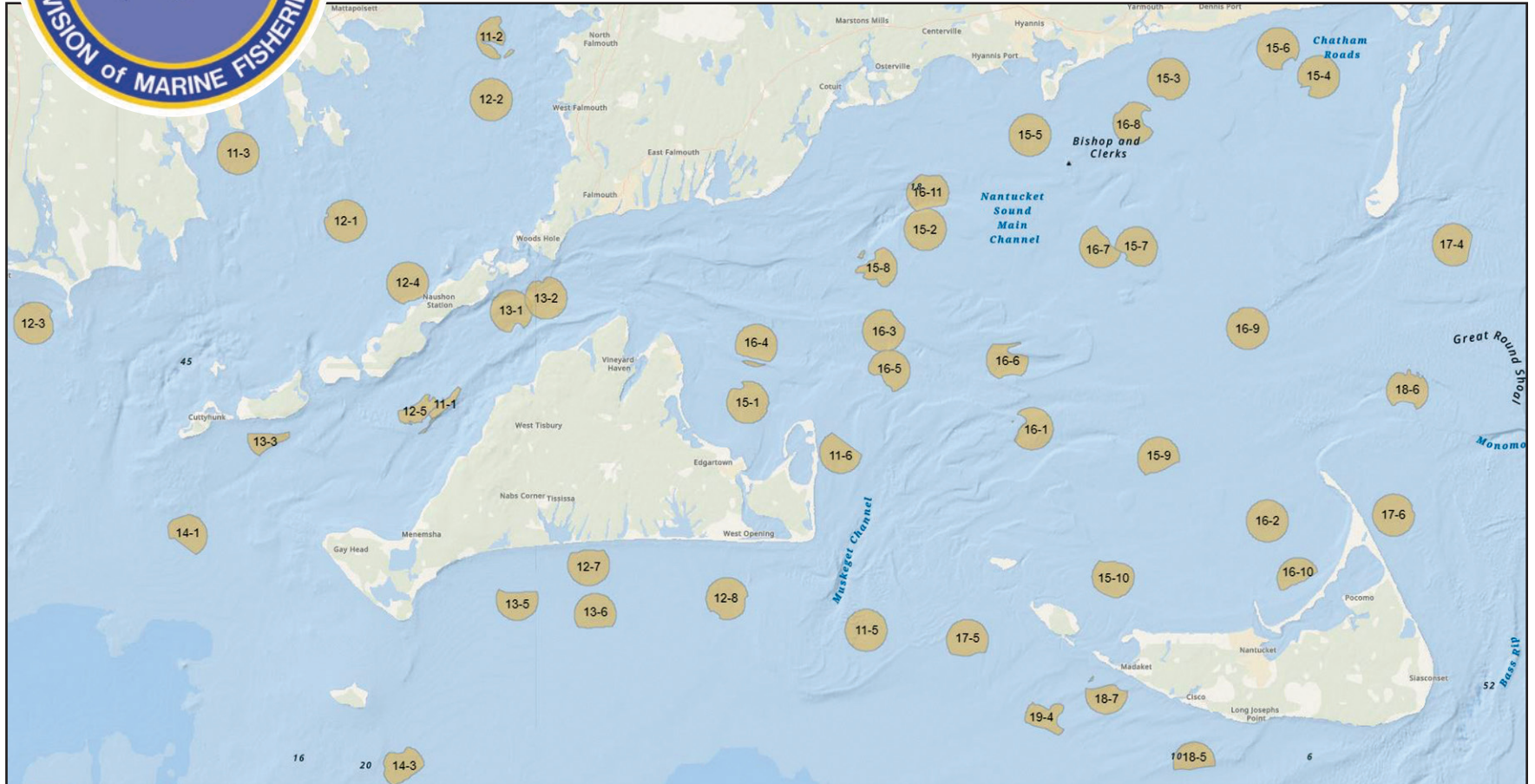
| Area Description | Depth | Relocate Gear By | Latitude | Longitude | Sta. ID# |
|----------------------|-----------|------------------|----------|-----------|----------|
| Western Cape Cod Bay | 0-30' | 9/5/23 | 41.7535 | -70.4251 | 25-1 |
| | 0-30' | 9/7/23 | 42.0564 | -70.6394 | 25-2 |
| | 0-30' | 9/5/23 | 41.8473 | -70.5153 | 25-3 |
| | 31'-60' | 9/5/23 | 41.9754 | -70.5827 | 26-1 |
| | 31'-60' | 9/5/23 | 41.8018 | -70.2476 | 26-2 |
| | 31'-60' | 9/5/23 | 41.7501 | -70.3711 | 26-3 |
| | 31'-60' | 9/7/23 | 42.1434 | -70.6741 | 26-4 |
| | 61'-90' | 9/5/23 | 41.8157 | -70.3222 | 27-1 |
| | 61'-90' | 9/5/23 | 41.8655 | -70.4817 | 27-2 |
| | 61'-90' | 9/5/23 | 41.7759 | -70.3997 | 27-3 |
| | 61'-90' | 9/5/23 | 41.8179 | -70.4438 | 27-4 |
| | 91'-120' | 9/5/23 | 41.8870 | -70.4317 | 28-1 |
| | 91'-120' | 9/5/23 | 41.8973 | -70.3097 | 28-2 |
| | 91'-120' | 9/5/23 | 41.8741 | -70.4015 | 28-3 |
| | 121'-180' | 9/11/23 | 42.0961 | -70.4916 | 29-1 |
| 121'-180' | 9/5/23 | 41.9788 | -70.4289 | 29-2 | |
| 121'-180' | 9/11/23 | 42.0657 | -70.4794 | 29-3 | |
| Eastern Cape Cod Bay | 0-30' | 9/5/23 | 41.8146 | -70.0427 | 25-5 |
| | 0-30' | 9/11/23 | 42.0436 | -70.1287 | 25-6 |
| | 31'-60' | 9/5/23 | 41.8494 | -70.1828 | 26-6 |
| | 31'-60' | 9/12/23 | 42.0239 | -70.1135 | 26-7 |
| | 31'-60' | 9/5/23 | 41.8906 | -70.1532 | 26-8 |
| | 61'-90' | 9/5/23 | 41.8516 | -70.2463 | 27-6 |
| | 61'-90' | 9/12/23 | 41.9990 | -70.1549 | 27-7 |
| | 61'-90' | 9/12/23 | 41.9720 | -70.1244 | 27-8 |
| | 91'-120' | 9/12/23 | 41.9415 | -70.1964 | 28-5 |
| | 91'-120' | 9/12/23 | 41.9246 | -70.1798 | 28-6 |
| | 91'-120' | 9/5/23 | 41.8815 | -70.2561 | 28-7 |
| | 121'-180' | 9/11/23 | 41.9543 | -70.2848 | 29-5 |
| | 121'-180' | 9/11/23 | 42.0632 | -70.4078 | 29-6 |
| | 121'-180' | 9/11/23 | 41.9616 | -70.3270 | 29-7 |
| | 181'+ | 9/11/23 | 42.1133 | -70.4102 | 30-1 |
| 181'+ | 9/11/23 | 42.0859 | -70.2555 | 30-2 | |
| 181'+ | 9/11/23 | 42.0820 | -70.3757 | 30-3 | |

| Area Description | Depth | Relocate Gear By | Latitude | Longitude | Sta. ID# |
|------------------|-----------|------------------|----------|-----------|----------|
| East of Cape Cod | 0-30' | 9/13/23 | 42.0908 | -70.1931 | 17-1 |
| | 0-30' | 9/13/23 | 41.749 | -69.9214 | 17-2 |
| | 31'-60' | 9/13/23 | 41.8715 | -69.9422 | 18-1 |
| | 31'-60' | 9/13/23 | 41.7608 | -69.9094 | 18-2 |
| | 31'-60' | 9/13/23 | 42.088 | -70.1253 | 18-3 |
| | 61'-90' | 9/13/23 | 41.8239 | -69.9104 | 19-1 |
| | 61'-90' | 9/13/23 | 41.962 | -69.9663 | 19-2 |
| | 91'-120' | 9/13/23 | 41.7816 | -69.868 | 20-1 |
| | 91'-120' | 9/13/23 | 41.8281 | -69.8859 | 20-2 |
| | 91'-120' | 9/13/23 | 42.1015 | -70.1484 | 20-3 |
| | 121'-180' | 9/13/23 | 42.1049 | -70.2075 | 21-1 |
| | 121'-180' | 9/13/23 | 41.8251 | -69.8766 | 21-2 |
| 121'-180' | 9/13/23 | 42.1251 | -70.1785 | 21-3 | |

*Note Latitude/Longitude is in decimal degrees



Massachusetts Division of Marine Fisheries Fall 2023 Planned Tow Locations South of Cape Cod



| Area Description | Depth | Relocate Gear By | Latitude | Longitude | Sta. ID# | |
|--|---|------------------|----------|-----------|----------|------|
| Buzzards Bay and Vineyard Sound | 0-30' | 9/14/23 | 41.4287 | -70.7384 | 11-1 | |
| | 0-30' | 9/14/23 | 41.6461 | -70.6994 | 11-2 | |
| | 0-30' | 9/14/23 | 41.5780 | -70.9043 | 11-3 | |
| | 31'-60' | 9/14/23 | 41.5379 | -70.8195 | 12-1 | |
| | 31'-60' | 9/14/23 | 41.6096 | -70.7043 | 12-2 | |
| | 31'-60' | 9/14/23 | 41.4775 | -71.0652 | 12-3 | |
| | 31'-60' | 9/14/23 | 41.5012 | -70.7705 | 12-4 | |
| | 31'-60' | 9/14/23 | 41.4246 | -70.7612 | 12-5 | |
| | 61'-90' | 9/14/23 | 41.4845 | -70.6886 | 13-1 | |
| | 61'-90' | 9/14/23 | 41.4923 | -70.6611 | 13-2 | |
| | 61'-90' | 9/14/23 | 41.4101 | -70.8803 | 13-3 | |
| | 91'-120' | 9/14/23 | 41.3516 | -70.9453 | 14-1 | |
| | Southwest of Gay Head and South of Martha's Vineyard | 0-30' | 9/14/23 | 41.2954 | -70.4082 | 11-5 |
| | | 0-30' | 9/14/23 | 41.4010 | -70.4284 | 11-6 |
| 31'-60' | | 9/14/23 | 41.3343 | -70.6274 | 12-7 | |
| 31'-60' | | 9/14/23 | 41.3143 | -70.5181 | 12-8 | |
| 61'-90' | | 9/14/23 | 41.3137 | -70.6839 | 13-5 | |
| 61'-90' | | 9/14/23 | 41.3048 | -70.6222 | 13-6 | |
| 91'-120' | | 9/14/23 | 41.2138 | -70.7736 | 14-3 | |

| Area Description | Depth | Relocate Gear By | Latitude | Longitude | Sta. ID# |
|------------------------------------|---------|------------------|----------|-----------|----------|
| Nantucket Sound | 0-30' | 9/14/23 | 41.4305 | -70.5017 | 15-1 |
| | 0-30' | 9/14/23 | 41.533 | -70.3616 | 15-2 |
| | 0-30' | 9/14/23 | 41.6218 | -70.1694 | 15-3 |
| | 0-30' | 9/14/23 | 41.6231 | -70.0507 | 15-4 |
| | 0-30' | 9/14/23 | 41.5887 | -70.2789 | 15-5 |
| | 0-30' | 9/14/23 | 41.6398 | -70.0829 | 15-6 |
| | 0-30' | 9/14/23 | 41.5219 | -70.1948 | 15-7 |
| | 0-30' | 9/14/23 | 41.5103 | -70.4003 | 15-8 |
| | 0-30' | 9/14/23 | 41.3975 | -70.1773 | 15-9 |
| | 0-30' | 9/14/23 | 41.3270 | -70.2132 | 15-10 |
| | 31'-60' | 9/14/23 | 41.4150 | -70.2771 | 16-1 |
| South and East of Nantucket | 31'-60' | 9/14/23 | 41.3603 | -70.0913 | 16-2 |
| | 31'-60' | 9/14/23 | 41.4730 | -70.3945 | 16-3 |
| | 31'-60' | 9/14/23 | 41.4644 | -70.4949 | 16-4 |
| | 31'-60' | 9/14/23 | 41.4492 | -70.3901 | 16-5 |
| | 31'-60' | 9/14/23 | 41.4558 | -70.2967 | 16-6 |
| | 31'-60' | 9/14/23 | 41.5227 | -70.2230 | 16-7 |
| | 31'-60' | 9/14/23 | 41.5957 | -70.1966 | 16-8 |
| South and East of Nantucket | 31'-60' | 9/14/23 | 41.4744 | -70.1068 | 16-9 |
| | 31'-60' | 9/14/23 | 41.3260 | -70.0670 | 16-10 |
| | 31'-60' | 9/14/23 | 41.5545 | -70.3596 | 16-11 |
| | 0-30' | 9/14/23 | 41.5239 | -69.9443 | 17-4 |
| | 0-30' | 9/14/23 | 41.2894 | -70.3282 | 17-5 |
| | 0-30' | 9/14/23 | 41.3638 | -69.9916 | 17-6 |
| | 31'-60' | 9/14/23 | 41.2165 | -70.1492 | 18-5 |
| | 31'-60' | 9/14/23 | 41.4375 | -69.9807 | 18-6 |
| | 31'-60' | 9/14/23 | 41.2582 | -70.2186 | 18-7 |
| | 61'-90' | 9/14/23 | 41.2428 | -70.2661 | 19-4 |

*Note Latitude/Longitude is in decimal degrees

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Legal Defense Fund Updates

The Massachusetts Lobstermen's Association (MLA) Legal Defense Fund (LDF) needs your support now more than ever. This dedicated fund is for the purpose of defending the Massachusetts commercial lobster fishermen from legal and fisheries management actions that could seriously impact our commercial lobstermen's ability to conduct their businesses and earn a living.

Currently, the MLA is actively engaged in several ongoing lawsuits that could have negative impacts on the commercial lobster industry and is working with multiple lawyers in Washington D.C. and here in the Commonwealth to fight for you and your industry.

UPDATE AUGUST 23, 2023 — (Washington D.C.) Maine Lobstermen's Association, et al. v. NMFS

Our long saga fighting against NMFS' 2021 Biological Opinion has finally resulted in a win, and what a win it was! On June 16, 2023, the D.C. Circuit Court issued its ruling, unanimously finding that Judge Boasberg was wrong to uphold the Biological Opinion and ruling against NMFS on every ground raised by us. This is an excellently written opinion that not only finally understands the stakes faced by our members, but fully holds NMFS to account for its illegal attempts to destroy our industry.

As a reminder, NMFS argued against us on several grounds: (1) we lacked standing to bring the appeal; (2) we did not preserve the appeal; (3) the appeal was moot because of the Consolidated Appropriations Act ("CAA"); (4) it was allowed to use worst case scenarios; (5) it did not use worse case scenarios in actuality; (6) even if it used worst case scenarios, the outcome would have been the same if it was not; (7) courts have to defer to agencies; and (8) the error was harmless. The D.C. Circuit ruled against them on every ground.

For standing, this is a legal concept that we cannot go to court unless we have suffered harm. NMFS tried to argue that the Biological Opinion itself did not harm the lobster industry, rather the Phase 1 plan harmed us. The D.C. Circuit disagreed, opining that the Biological Opinion hurt us by influencing agency action and because there are civil and criminal penalties for an illegal take in violation of the Biological Opinion. Thus, we had standing, and the Court could address our actual arguments.

The Court was very blunt in brushing off NMFS "failure to preserve" argument, noting NMFS did not raise that it its initial appeal, that

we did in fact preserve our argument against the BiOp, and that the argument was irrelevant anyways.

For mootness, this is an argument that the Court cannot grant relief because the issue is no longer live. Effectively, NMFS argued that the CAA said the Phase 1 plan was sufficient to bring the lobster industry into compliance, so there was no controversy. NMFS also argued that it wasn't going to enforce the Framework timeline. Again, the Court disagreed. First, it correctly noted that promises of future (non)action cannot serve as the basis for mootness. Second, it ruled that the CAA only said the Phase 1 rule was sufficient, not that it was necessary. Because we argued it was overprotective, we could still bring the challenge. Thus, the mootness challenge failed.

Turning to the merits, the Court determined that NMFS was not allowed to use worst case scenarios, that the ESA does not permit a presumption in favor of endangered species, but rather requires outcomes reasonably certain to occur. In other words, the Court completely adopted our argument against worst case scenarios. The Court was especially harsh against NMFS arguments that because the ESA does not say how to handle uncertain data, it could use worst case scenarios. It said NMFS "legal reasoning was not just wrong; it was egregiously wrong". The Court also took the rare step of critiquing Judge Boasberg, noting, as we have argued all along, that "The district court bought the gambit, even as it purported to avoid a "deference debate."

In breaking down this argument, the Court noted that NMFS was "inconsistent" (a legally nice word for lying) about the facts. First, it noted that NMFS had said repeatedly that nothing required it to use worst case scenarios, and then it suddenly decided that it had to use worst case scenarios. Second, it noted NMFS relied on one line of legislative history (an issue we flagged) not the actual text of the statute, and that was entirely unacceptable. Third, it noted that the cases cited by NMFS do not actually support what NMFS claimed it did. For these reasons, it found that NMFS acted arbitrary and capriciously such as to make the Biological Opinion illegal.

The Court, attacking the idea it had to defer to agencies, noted that its first duty is to interpret the law, and it cannot uphold an agency action contrary to law. Nothing in the ESA requires worst case scenarios, the Court determined, and thus, even though NMFS tried to claim that the Court had to defer on scientific questions (and

that, it didn't really use worst case scenarios because the result would be the same), NMFS was wrong. The Court also noted that NMFS completely failed to consider the severe economic damage that could befall the lobster industry, not consider the other worst-case scenario that none of the new technology it wants to mandate would actually help.

Finally, the Court determined that the error was not harmless because the use of worst-case scenarios tainted the entire Biological Opinion. It especially noted how absurd it was for NMFS to allocate entanglements 50/50, when substantially more entanglements occurred in Canada and the Canadian data was outdated.

Having ruled against NMFS, the Court next had to decide the remedy. It decided to vacate the Biological Opinion (requiring NMFS to develop a new one) while remanding without vacatur the Phase 1 Rule, which is what we argued for in our briefs. This allows the lobster industry to continue operating until a new Framework is developed in 2028. And the new Framework will necessarily have to follow the instructions contained in this opinion.

Ultimately, this is a huge win for the Lobster industry founded on the arguments advanced were the ones our lawyers, Sam Blatchley, Dan Cragg, and Robby Dube of Eckland & Blando LLP pushed for ever since we brought them onto the case.

Some highlights from the Court's opinion include:

"The service's legal reasoning was not just wrong; it was egregiously wrong."

"As any high school civics student should know, legislators vote on and the president signs bills, not their legislative history. Statutory text and structure do not authorize [NMFS] to 'generally select the value that would lead to conclusions of higher, rather than lower, risk to endangered or threatened species whenever it faces a plausible range of values or competing analytical approaches. The statute is focused upon 'likely' outcomes, not worst-case scenarios. It requires [NMFS] to use the best available scientific data, not the most pessimistic."

With a nod to lobstermen, the Court wrote - "worst-case scenarios lie on all sides. It is not hard to indulge in one here: ropeless fishing technologies, weak links, inserts, and trawls may not work; permanent fishery closures may be the only solution. The result may be great physical and human capital destroyed, and thousands of



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jobs lost, with all the degradation that attends such dislocations.”

“Some of the assumptions [NMFS] made along the way are quite important—as we have explained, [NMFS] ultimately concluded the lobster and Jonah crab federal fisheries kill 46 whale deaths per decade, a staggering departure from the two documented deaths known to have originated in all U.S. fisheries over a period of nine years.”

NMFS requested a standard extension of time to determine whether to bring a motion for rehearing en banc before the entire D.C. Circuit. This extension was granted and NMFS now has until August 30, 2023, to file a motion for rehearing en banc. Alternatively, NMFS could still appeal this ruling to the Supreme Court.

We continue to monitor the case as it develops.

UPDATE AUGUST 23, 2023 — (Washington D.C.) Case 1:18-cv-00112-JEB - CENTER FOR BIOLOGICAL DIVERSITY et al v. ROSS et al.

On May 16, 2023, NMFS moved to dismiss Judge Boasberg’s Order requiring it to create a new Biological Opinion by the end of 2024 and dismissing the remainder of the NGOs claims. NMFS’s basis for doing this was claiming that the Consolidated Appropriations Act doesn’t require a new Biological Opinion until 2028, making the decision moot. This is an almost identical argument to the one NMFS raised to the D.C. Circuit, which has not yet ruled on the motion to dismiss.

Given this, we asked the Court to stay briefing on the motion to dismiss until the D. C. Circuit has ruled.

The Court granted our motion to stay, delaying briefing until after the D.C. Circuit ruled. However, in the ruling, the Court said its order requiring a new Biological Opinion by December 2024 was no longer operative, giving clear relief to the lobstermen. We expect briefing to occur shortly after the D.C. Circuit issues its mandate, which will not occur until after the deadline for the motion to rehearing en banc expires.

UPDATE AUGUST 23, 2023 — (E.D. Louisiana.) Case No. 2:23-cv-00796; Sawyer, et al. v. Monterey Bay Aquarium, et al.

MLA members Sooky Sawyer, Jarrett Drake, Bill Souza, and Eric Meschino led the charge against the Monterey Bay Aquarium’s false and defamatory statements about the lobster industry and our fishing practices. Through MLA counsel, Sawyer, Drake, Souza, and Meschino filed a class action lawsuit in Louisiana under Louisiana’s food libel laws, which forbid false statements about aquacultural products. The lawsuit alleges that Monterey Bay, and the Marine Stewardship Council, falsely claimed that our lobster fisheries are killing the Right Whale, which we all know is untrue and reflects an arrogant ignorance about the numerous

practices we have implemented to protect the Right Whale over the years. Let us be clear, we are just as committed to protecting the Right Whale as any NGO, which is why the false statements against us cannot be allowed to go unanswered.

On April 21, 2023, Monterey Bay Aquarium filed a Motion to Transfer due to Improper Venue or Lack of Personal Jurisdiction, claiming that the Aquarium has no contacts in Louisiana that make it subject to a lawsuit there. These arguments are based on the principle that, in order for a court in this country to exercise power over a party, there must be a sufficiently strong connection between either that party or the acts underlying the lawsuit and the particular state the court sits in. The Aquarium argues that because it is located in California, the harm occurred in Massachusetts, and it lacks business ties in Louisiana, that a Louisiana court cannot exercise authority over it.

We countered that the Aquarium does have business contacts—substantial business contacts—with the state of Louisiana. The companies that have refused to continue to buy your lobster, like Whole Foods, HelloFresh, and Blue Apron, are all corporate “partners” of Monterey Bay Aquarium. It is our position that, given the corporate relationship between the Aquarium and these huge companies doing business in Louisiana, the Aquarium could have reasonably foreseen being called into court in Louisiana, and therefore the court has the authority to exercise its power over the Aquarium. That is the position we took with our Response, which was filed on May 16, 2023.

After filing our Response on May 16, 2023, which asserted that Monterey Bay Aquarium’s corporate partner relationship with Louisiana businesses justified calling them into court in Louisiana, Monterey Bay Aquarium sought leave to file supplemental briefing, and attempted to argue that the Aquarium lacks the ability to enforce its purchasing decrees; therefore, because the Aquarium has no real control, they should not be dragged into court in a state that their partners operate in. That reply brief was filed on May 23.

We too sought leave to file supplemental briefing, in which we argued that whether the Aquarium can truly enforce its purchasing decrees on Whole Foods and other partners is irrelevant. All that matters is that, per the corporate partnership arrangement, partners such as Whole Foods have agreed to follow the word of the Aquarium. Whether or not the Aquarium is able to hold the partners to that agreement does not matter; all that matters is that such an agreement is in place to begin with. And to dispel any doubt about the control the Aquarium exercises over its partners, we submitted photographs taken in a Louisiana Whole Foods, in which the store proudly displays its connections to the Aquarium. These photographs are important because they not only demon-

strate the control the Aquarium exhibits over its partners, but also that the aquarium specifically publishes its Seafood Watch materials in the jurisdiction. We filed this sur-reply on June 9.

Unsurprisingly, the Aquarium filed a sur-reply of their own on June 15 in which they once again attempted to downplay the connection between themselves and their partner companies. Although they objected to our use of the photographs, they did not directly respond to the substance of the photographs. They also continue to attempt to muddy the waters on what “control” over a partner company actually looks like, insisting that because the Aquarium has no recourse to punish a partner that does not follow its instructions (and by the way, we don’t actually know that that assertion is true), the Aquarium doesn’t really control its partners. Our position continues to be that the Aquarium conflates “control” with the ability to punish, and that the Aquarium very obviously has the ability to control what seafood its partners refrain from purchasing.

We continue to await a ruling on the Motion to Transfer.

If you are a Massachusetts lobsterman interested in joining the Massachusetts class action, please contact the MLA.

The commercial lobstermen’s businesses are at stake as well as the thousands of jobs and shore side businesses that depend upon the continued success of the commercial lobster industry. The commercial lobstermen in Massachusetts are NOT to the problem and have done everything asked of them by National Marine Fisheries Service and have been working under the strictest conservation rules for the right whales anywhere in the world since 2014. Yet here we are, still fighting these lawsuits to keep the Massachusetts commercial lobstermen fishing.

The Massachusetts Lobstermen’s Association has been actively involved in these lawsuits since 2018 and we need your generous support today to continue our fight to keep the commercial lobstermen fishing. As we all know, any legal action costs lots of money and over the last 5 years the Massachusetts Lobstermen’s Association Legal Defense Fund has spent over \$300,000 fighting these legal battles. These are real threats to the historic and iconic commercial lobster industry and we are doing everything to keep the Massachusetts commercial lobstermen fishing.

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CLASS ACTION INFORMATION INTEREST FORM

Please fill out the following information to receive updates on the putative class action against the Monterey Bay Aquarium and Marine Stewardship Counsel.

This is NOT a class action sign-up sheet.

The prospective class definition is already as follows: “[a]ll Massachusetts-based lobstermen who experienced a drop in income reasonably attributable to the actions of Monterey Bay Aquarium and Seafood Watch.” We have reserved the right to amend this definition should discovery in this case warrant it. Should the judge certify this class, if you fit the above definition, you will be considered a member of the class.

Filling out this form does NOT create an attorney-client relationship. Filling out this form does NOT make you a member of the prospective class. This form is for the receipt of information regarding the lawsuit ONLY.

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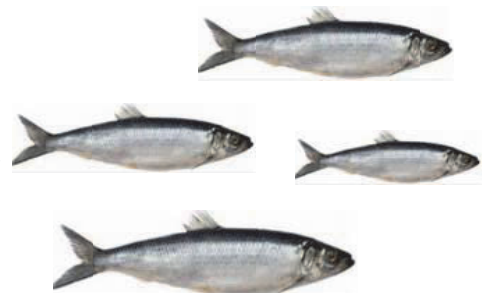
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AD #1 (5/23) **FOR SALE** – 55' wooden offshore lobster boat with 2 fresh 67ls. Just off railway. Boat is turnkey. In very good condition. Full electronics & safety gear. Asking 70k OBO. Also have NJ conch license and conch pots could make deal with purchase of boat. Boat and gear ready to fish. Also have Virginia Commercial Registration License. Call Joe at 609 233 4255

AD#2 (3/23) **FOR SALE** – Trap Trailer 6x12 can hold approx. 50-3 footers. Good shape. \$1,200.00 Call Ben at 978-578-8882.

AD#3 (4/23) **FOR SALE** – Hydraulic Components, parts and service. Pumps, Motors, Valves and Accessories. Hydraulic Hoses made while you wait. Great Prices– Same day service (in many cases)-Wide selection of in-stock items. Rebuilt items occasionally available. ROSE MARINE, Gloucester, MA 877-283-3334.

AD#4 (8/23) **FOR SALE** –400 Lobster traps 36x22 1/2 x 15 New to 5 years old \$60-100 each Call 978-774-4074

AD#5 (3/23) **FOR SALE** – KC Trap & Mesh– Traps-Heads-Finished Kits. Call for more information. 774.280.6638

AD#6 (3/23) **FOR SALE** – 1981 50 Ft., Jersey Boat- Twin disc 507- Detroit 671- Needs wiring & electronics. BRO \$25,000.00 Call for more info-781.834.6733

AD#7 (3/23) **FOR SALE**- 38 ft Novi fiberglass over wood- John Deere 6068. 225hp 5.670 hours on engine-Steamers at 8.5/9 knots 14" hauler Simrad Autopilot Inside/Outside steering stations- 150-gal fuel tank- Lobster tank holds 600lbs. Furuno GP-39 S inside- Furuno GP- 32 GPS outside- Furuno Radar, Furuno FCV-292 color video sounder-2VHF. Inside/Outside 2 computer monitors, one face inside- other faces outside steering station. Very quiet engine. Asking \$15,000. Call 978-290-9929

AA#8 (5/23) **FOR SALE**- Wooden conch pots & repair stock made to order -774-201-0712

AD#9 (5/23) **FOR SALE**-1977 Dyer Fiberglass 29ft lobster boat, currently on dry dock until May 20 in E. Boston. The engine is a 5-year-old 351 Ford gas engine w/new overhauled gear by Nopper Marine. Currently, the engine & gear were removed from the boat. Recently rebuilt hydraulic steering pump & new stern bearing as well as one new fuel tank. Good deck room for a smaller boat. 15 4 ft trawls or 45 4ft take home capacity. Could be used as lobster or sports fishing boat. 2 fuel tanks approx 60 gal. total. Two hauler stations (electric & or hydraulic option) Private showings only. Tom 617-504-4153. BRO.

AD#10 (8/23) **FOR SALE**-SIZE CORRECTION- Warp–Used & some new, mostly knot free. 76 lbs. 5/16, 33 lbs. 3/8 \$99 takes all 508-269-1406 Plymouth.

AD#11 (3/23) **FOR SALE** – Warp–Used & some new, mostly knot free. 76 lbs. 5/16, 33 lbs. 3/18 \$99 takes all 508-269-1406 Plymouth.

AD#11 (4/23) **LOOKING for a site on an offshore lobster boat.** I have 5 years' experience lobstering & other fishing experience. Reliable, dependable & ready to go fishing. Call/ text 518-804-5264 or email j95merritt@gmail.com

AD#12 (5/23) **TAKING OFFERS on TRAPS** located in **GLOUCESTER** – 100, 40 1/2" X 24" X 15" Single parlor traps. Color RED, Jungle wood runners, 70 of them were fished 5 months on soft bottom, 30 of them never in the water. 50, 48" X 22 1/2" X 15" Double parlor traps. Color YELLOW, Jungle wood runners, 40 of them fished one season, 10 of them never in water. Pictures available by text. Bob at 508 284 5896

AD#17 (5/23) **FOR SALE** – 3/32 7x7 Bottom Longline galvanized cable, 20,000 ft (2spools) new with electric reels. \$600. 2 Hydro Slave Standard Boom Winches 400- 20 3ft x 22in Shrimp Mesh Lobster Pots \$35. each – Bill @ 508-264-1076

AD#18 (8/23) **FOR SALE**-1980 Bob Rich 40 wooden lobster boat. 471 Detroit diesel, twin disc gear, hydro-slave pot hauler w/diverter valve for other fisheries. Two 75-gal fuel tanks (fiberglass) under deck, full cabin, GPS, Furuno depth sounder, VHF radio, MA coastal Area 1 lobster permit, 800 trap. Federal Area 1 lobster permit w/endorsements (groundfish/dogfish) 800 pot limit. 140 wire lobster traps, some never used (brand new) 60-70 buoy's, extra ropes, safety equipment, sea anchor, 12 fiberglass skiff misc; lobster related equipment, spare propeller (never used) trap related repair equipment. \$65,000. firm. Bill @ 781-834-7418

MLA Classifieds Update

The MLA Classifieds page on our website has now been locked to prevent scammers from acquiring the contact information of individuals that have items listed. This is most unfortunate that we have come to this but, in today's world of technology and the access to our personal information we want to prevent anyone from being scammed.

Please be advised that the password is **EATLOBSTER** and it is case sensitive. We will bury this password on the MLA's website Members page on the Why Join page.

We are truly sorry for any inconvenience regarding this and encourage individuals to share this password with their peers so everyone can access the MLAs Classifieds.

AD#13 (5/23) **FOR SALE**- 12"hauler stainless steel plates 10 gal., hydraulic tank aluminum Davit which hauler can be mounted on \$1000. Tom 781-831-1609

AD#14 (3/23) **FOR SALE** – 100 Totes-Brand New Bait Net, Numerous buoys-all sizes, Bait Barrels, Two Trailers, Compressor, Numerous tools, too many to list. Call for more info & pricing 781.834.6733

AD#15 (7/23) **FOR SALE**-100 -Yellow lobster traps 48 x 24 x 15 good runners & vents -Some patches ready to fish. \$20. Call 508-367-0757

AD#16 (6/23) **FOR SALE** – 200 used traps 13 1/2 x 21 1/2 x 39" \$25.00 per trap. Call 401-635-4371

AD#19 (5/23) **FOR SALE**- 30 4' Traps 48x24x13 1/2 Color White-Call 508-577-4868

AD#20 (5/23) **FOR SALE**- MA Conch pot license w/ history. Best offer over 30K -Call 774-775-2827

AD#21 (5/23) **FOR SALE** -38 ft fiberglass Atkinson NOVI, Gloucester Ma., alum/glass windows, rebuilt by Downeast Diesel 6081 JD 375 hp/1500 hrs., ZF trans, 2 steer stations, 14" ss pot hauler, ss davit, gear locker, 4 bunks, life raft, EPERB, 295 Furuno color machine, Furuno radar, Northstar GPS 952, Sinrad auto pilot, wash down, 2 ss fuel tanks – 200 gallons – 1000 lb lobster tank very well maintained, motivated seller \$130,000. OBO Cell 781-424-6946

AD#22 (8/23) **FOR SALE** -Federal Area 1 Permit: Offers over \$35,000 will be considered. MA Area 1 State Permit: Offers over \$25,000 will be considered. IHsea@aol.com 781-639-0001

AD#23 (3/23) **LINE FOR SALE**-3-10 pot trawls of 7/16" Everson line-14 Fathom between traps-7/16" gangions-2–20 F x3/8 "buoy lines- In totes included -\$60. / Trawl. Call Joel @ 781 581 0324 or E-mail joel.w.marie@gmail.com

AD#24 (3/23) **FOR SALE**- 5" Superior hauling block-Aluminum construction with stainless sheave \$250. Joel @ 781-581- 0324 or E-mail joel.w.marie@gmail.com

AD#25 (3/23) **FOR SALE** -Spare new stainless sheave for 5" Superior block-\$150. Call Joel at 781-581-0324-E-mail joel.w.marie@gmail.com

AD#26 (6/23) **FOR SALE** -1990 42 ft PEI lobster boat in excellent condition. Cummins 8.3L -6 CTA w/ ZF gear. 1700 hours on each. Electronics, safety gear, very well equipped.700 Brooks Trap Mill custom traps. 3/8 Everson ground line, & whale safe compliant end lines, Hi flyers & tide balls. State & federal licenses. As of June 1st, all gear in the water. Baited, tagged & fishing. Buy today & fish tomorrow Complete package \$290,000. Will separate Boat \$210,000, traps \$75,000. state license \$30,000. & fed license \$40,000. Call 978-745-6182, leave message. Serious inquiries only

AD#27 (3/23) **FOR SALE**- Selling two used -1-inch Jabsco pumps. Pump 1 is on a 4-inch pulley, belt driven with mounting bracket – pump 2 has 12-volt clutch. \$100. each. Also, a 2-inch direct gear driven Jabsco raw water pump -\$150. Also, a used 24-inch chrome destroyer type steering wheel with a 3/4 tapered shaft. \$100.00 Call-781-929-3837

AD#28 (4/23) **REDUCED-FOR SALE**- Complete lobster business. Area 1 MA State license 800 trap allocation with long history. Dog & shellfish endorsement. 1987 Gummond 31' w/12' beam enclosed cabin w/ "bus" heater 12kts cruise w/20+top end Cummings re-manufactured "Diamond" version 370 HP with 3500 hours. 300+ traps w/ ropes & buoys. 14ft tender w/ 3yr old Suzuki 4s 15 hp w/electric start. GPS/bottom sounder, life jackets, fish totes, etc. Would like to sell it as a package but will accept separate offers on boat, license & fishing gear. \$70,000. OBRO Call Bob- 508-224-1664 or e-mail @ roalward@comcast.net Pictures available.

AD#29 (2/23) **FOR SALE**- #1 Bellhousing 2:1 gear reduction – re-built 51 14A – twin disc transmission- Down Angle-North Atlantic Power Products. 0- hours. 1000 hours or 6-months warranty. \$14,200.00 Call Peter at 203-627-6070

CLASSIFIEDS continue on Page 38

AD#30 (4/23) **FOR SALE** -Lobster business-42 ft South-shore lobster boat (Brady R – Chatham Harbor) in excellent condition (built 2017). All composite construction with a 750 John Deere Model #6135 main engine (4,100 hours). Full electronics & all safety gear. Whale regulations compliant. Knotless ground lines, highflyers, buoys, anchors, mixture of wood & wire traps in excellent condition, trailer, freezer, totes, etc. State & Federal Lobster licenses, both w/a 645 tag history & many federal endorsements. Prefer to sell as a package. Serious inquiries only: 774-313-6287 or joneSeven@aol.com

AD#31 (3/23) **FOR SALE** -Hook gear for sale 5 totes 125 hooks per tote all brand new.5 totes of used gear. Brand new Danforth anchors included. \$1000.00 Call 781-831-1609

AD#32 (6/23) **FOR SALE** -Lobster Business-28.2ft boat, built in 1976 engine cat 3208, 265HP trans 2.1 twin disk fiberglass JC hull. Area 1 Coastal lobster permit 800 trap allocation, 700 3ft lobster traps with rope and buoys. 80,000. Joe at 978-239-5927

AD#33 (6/23) **FOR SALE Price Reduction** -36.5' Wayne Beal Lobster Boat. 3208 CAT 375 hp Turbo w/7600hrs. Motor was completely overhauled prior to 2022 fishing season. Furuno chart plotter, depth, radar & radio. 2nd Simrad below. Switlik life raft, survival suits & Epirb. Small galley w/sink, insulated icebox & 2500-watt inverter for coffee. 4 bunks w/mattresses. Working head. Pacer pump & separate washdown pump. Redundant spare equipment (all new in box), Inc. Pacer pump w/hydraulic

hoses, belts, starter motor, 2 alternators, windshield wiper arms & motors, bilge pumps, deck hoses, etc. The boat is clean & in excellent, fishable condition. \$205,000.00 Traps & Permits available. Ben@ 978-578-8882

AD#34 (6/23) **FREE FREE FREE** - Window weights-approx: 60-70 of them located in Lynn. Call Glenn @ 617-538-5821

AD#35 (6/23) **FOR SALE** – 35' Novi, 1989 Atwood solid fiberglass hull, Cummins 6BT (~4,000hr since reman.), rigged for pot fishing, needs a lot of work – \$16k or best offer. Currently in dry dock on Cape Cod. Call 508-737-1052

AD#37 (7/23) **FOR SALE** -2001 Sea Pride Lobster Boat w/2016 Evinrude E-tec 90hp 2 stroke w/ low hours (under 1000) well maintained & perfect running condition. Commercially fished last 2 years. Boat is ready to fish. New in 2021: Transom Deck & stringers 27 gal; gas tank under deck 2 bilge pumps & washdown pump, Trap Table, Hydraulic Steering, hauling motor, Hauling block, Deck hatches, Scuppers. All hardware for EZ Loader trailer including u bolts, bunk slides, guideposts w/trailer lights elevated, recently replaced winch, trailer jack & rewired w/new lights, 2 new tires 20mph @ 4600 rpm \$18,000 call/text Tony 774-239-1599

AD#38 (5/23) **WANTED** -Stern-man-Boston- Call Frank at 617-653-3782

AD#39(5/23) **FOR SALE** - 80 brand new Casco Bay traps 1/2 hoops & 1/2 hake mouths. Call 508-843-8614

AD#40 (6/23) **FOR SALE** -22' Sisu Lobster Boat w/150 HP Evinrude OB needs work-12" hydraulics hauler runs off Honda hydraulics power pack, Comes w/ bunk trailer. Asking \$13,000.00 or B.O. Robert after 5:00 p.m. 617-846-3714 or 617-650-3842

AD#41 (7/23) **FOR SALE** -120 Green & Yellow lobster traps 36x24x14 – Some hoop heads & some shark heads. In good shape. Call 508-951-6400

AD#42 (6/23) **HELP WANTED** – Stern-man inshore- 46'lobster boat -North River -Call Bob 508-510-7792

AD#43 (6/23) **FOR SALE** – 200 45" Friendship lobster traps 8-6 years old \$25.00 each Call 508-510-7792

AD#44 (6/23) **FOR SALE** – 32" – 4 blade Dyna Quad Prop-2 1/2" bore, left hand \$2,500.00 Call 508-510-7792

AD#45 (6/23) **FOR SALE** – 1-34" Hytorg prop 2 1/2" bore, left hand \$1,000.00 Call 508-510-7792

AD#46 (7/23) **FOR SALE** -1982 34' Makou Mahogany built lobster boat built in Mattapoisett Ma. area. Was repowered about 10 years ago with a Cat 3208 210 hp natural. Approx 3600 hours. Hull and bottom in very good condition. No need to glass it. In the water and currently fishing. Older basic electronics. Located in Scituate Ma. Pictures can be seen on craigslist or some of the Facebook sites. \$12,500. No permits. Call or text 617 984 9965

AD#47 (7/23) **FOR SALE** -400 36x21 1/2x15 good to brand new condition shrimp mesh ss bait spike \$60-\$135- 978 774 4074 for more info.

AD#48 (7/23) **FOR SALE** -Commercial Worthington Air compressor. 80 gal. tank, 175 PSI, 7 hp 220 single phase motor w/ magnetic switch. Cost new \$ 7000. Asking \$3000 or B.O. Call Bill 978-594-4258

AD#49 (7/23) **FOR SALE** – Outer Cape Lobster Permit-511 trap allocation. \$150,000. Traps available will send pictures upon request, most are 1-3 years old. Call Eric @ 508-255-8526

AD#50 (8/23) **FOR SALE** -2002 40 hp Johnson Outboard motor long shaft, tiller steering, trim/tilt Electric and manual start Extra parts and manuals Been in storage for past 3-4 yrs. \$1,500. Call 508-246-4009

AD#51 (8/23) **FOR SALE** -1985 25ft., Privateer Lobster Boat. Fresh water cooled Mercruiser v8 engine-260 hp. Runs great- spare re-built engine. An IO spare re-built prop-hydraulics steering new in box. Re-built 4-wheel trailer. Gantry system to lift-boat off trailer. Garmen chart plotter GPS Map Garmen depth sounder-fish finder. VHF radio. The engine has stainless steel heat exchanger. Stainless steel exhaust risers. 50-30" lobster pots ready to fish. 100 spare buoys 2- coils rope-440-gal refrigerator lobster tank-platform scale for weighing. Ice chipper. 3- 28" scallop drags-system is ready to fish. X-actic polar box 48x44x36- 5-boat stands. 8' Pram- Many other items- Call between 4-7 p.m. \$22,000.00 508-979-0568



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