Date Filed 11/10/2026 10:47 AM
Superior Court - Suffolk
Docket Number

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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss. SUPERIOR COURT DEPARTMENT

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|---|---|
| CENTER FOR BIOLOGICAL DIVERSITY,<br><br>*Plaintiff*,<br><br>v.<br><br>MASSACHUSETTS DIVISION OF MARINE FISHERIES,<br><br>*Defendant*. | CIVIL ACTION NO. |

**COMPLAINT**

1. The Center for Biological Diversity ("Plaintiff") brings this action against the Massachusetts Division of Marine Fisheries ("DMF" or "Defendant"), asserting that Defendant violated Massachusetts' Public Records Law by withholding records and portions of records in response to the Center's February 2026 public records request seeking data on the 2024 and 2025 harvests of horseshoe crabs in the Commonwealth of Massachusetts.

2. Plaintiff seeks a declaration that the requested records constitute public records under the Massachusetts Public Records Law ("PRL"), G.L. c. 66,  10, an order compelling Defendant to release the improperly withheld public records, and an injunction enjoining Defendant from withholding the requested records and information under the guise of confidentiality to avoid complying with the PRL. Defendant claims it has withheld this information from the horseshoe crab harvest and mortality records due to their "strictly confidential" nature.

3. The requested records, and portions of records pertaining to horseshoe crab fishing, handling, bleeding, and releasing, are in reality biological "take" records and wildlife

impact records, which have always been in the public domain under Massachusetts law. The Supreme Judicial Court, as well as the U.S. Supreme Court, have made it clear that domestic wildlife in the Commonwealth's jurisdiction is managed by the state on behalf of the public. Defendant relies upon an unwritten and non-binding administrative "policy" to reach an opposite conclusion in this case.

## PARTIES

4. Plaintiff is a national 501(c)(3) non-profit organization dedicated to the preservation of global biodiversity through the protection of animals, plants, and their habitats. Plaintiff has 4153 dues-paying members in Massachusetts and another 35,289 advocate supporters in the Commonwealth.

5. Defendant is an agency of the Commonwealth of Massachusetts responsible for managing the state's commercial and recreational saltwater fisheries and overseeing other services that support the marine environment and fishing communities.[1]

## JURISDICTION AND VENUE

6. This Court has exclusive jurisdiction over civil actions arising under the Massachusetts Public Records Law against an agency of the Commonwealth of Massachusetts and venue is proper pursuant to G.L. c. 66, § 10A(c).

## BASIC FACTS AND RELEVANT LAW

7. The American horseshoe crab is a 450-million-year-old species, making it older than the dinosaurs and putting it among some of the oldest wildlife species on Earth.[2] It

[1] Commonwealth of Massachusetts, *Division of Marine Fisheries*, Department of Fish and Game (2026), https://www.mass.gov/orgs/division-of-marine-fisheries.

[2] *See* David R. Smith, *et al.*, *Conservation Status of the American Horseshoe Crab, (Limulus polyphemus): A Regional Assessment*, Reviews in Fish Biology and Fisheries, Vol. 27, Issue 1 at 135, 152 (2017) ("Smith").

primarily resides along the Atlantic Coast with Massachusetts having the largest quota of crabs in 2025.[3] The horseshoe crab is tremendously important to the ecosystems of the Atlantic coastal beaches, but unfortunately, due primarily to substantial overfishing, the American horseshoe crab faces potential extinction.[4]

8. On February 10, 2026, pursuant to G.L. c. 66, § 10, Plaintiff properly submitted a public records request ("Request") to Defendant via electronic mail. In the Request, Plaintiff requested any and all records documenting the 2024 and 2025 harvests of horseshoe crabs, including but not limited to permits and associated reports, surveys and data, Massachusetts Environmental Policy Act ("MEPA") communications, and other relevant data. A true and accurate copy of the records request is attached hereto as **Tab A**.

9. Defendant responded via electronic mail on March 3, 2026, releasing 58 documents in full, withholding at least thirteen (13) records in part. Defendant provided a response letter ("Response") describing the documents provided, withheld, and not in possession. To justify withholding records, Defendant cites the exemption (a) to the PRL, provided at G.L. c. 4, § 7(26)(a) and the confidentiality provision of DMF's statistical reports statute at G.L. c. 130, § 21.

10. The relevant provision at G.L. c. 130, § 21 states that statistical reports collected by the director:

> shall be held strictly confidential by the director and shall not be disclosed except in compliance with a valid court order. The director may, by regulation, prescribe such procedures as may be necessary to preserve such confidentiality, except that the director may release

[3] *See* Atlantic States Marine Fisheries Commission, *2026 Horseshoe Crab Annual Quotas by State* (2026), https://asmfc.org/wp-content/uploads/2025/02/2026_Horseshoe-Crab-Annual-Quotas-by-State.pdf.

[4] *See* Atlantic States Marine Fisheries Commission, *Horseshoe Crabs*, Atlantic States Fisheries Commission (2026), https://asmfc.org/species/horseshoe-crab/; *see also* Carl N. Shuster, Jr. *et al.*, *The American Horseshoe Crab* at 133-154 (Harvard Univ. Press, 2004) *and* Smith, *supra*, at 29-30.

> or make public any such statistics in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such statistics.

11. The partially withheld documents are: 1) the 2024 compliance report to the Atlantic States Marine Fisheries Commission ("ASMFC"), 2) horseshoe crab harvest permits, and 3) materials from DMF horseshoe crab science meetings. Significant biological data, including charts, tables, and summaries, related to biomedical and other harvest is withheld. True and accurate copies of these partially withheld records with the redacted portions highlighted are attached hereto as **Tabs B-1, B-2, and B-3**.

12. Defendant also describes that it has provided annual commercial bait fishery monitoring reports for 2024 and 2025, but only one document, a table about the 2024 and 2025 horseshoe crab landing quota, is in the corresponding folder released to Plaintiff. No reports from any part of the commercial bait fishery industry are shown in the folder.

13. Additionally, as described in the initial Agency Response, there are whole reports and records that have been withheld. The number of withheld documents and records is unknown as Defendant did not describe the amount.

14. It is obvious that the information withheld in whole and in part do not qualify for the cited confidentiality exemption because they do not, directly or indirectly, identify persons nor vessels. These data are numbers reported about horseshoe crab harvest, landings, mortality, bleeding, transport, and release. The numbers requested and withheld are aggregated data, and do not directly or indirectly disclose the identity or business of any person who reported their harvest numbers to DMF.

15. Moreover, Defendant provides some aggregate harvest data, but withholds other data that uses the same information within the same document. For example, Defendant in its

compliance report submitted to ASMFC provides the total number of crabs harvested for bait, but withholds the number of male and female harvested for bait. *See* Attachment B-1 at 3. In addition, Defendant provides no justification as to why some bait data is released but no biomedical data at all is released. This is particularly confusing since Defendant reports itself in the released records that the two industries work closely together, where the biomedical industry may use a bait permit, bleed bait crabs, or return bled crabs to the bait industry. *See, e.g.*, B-1 at 2. Some call the relationship between the bait fishermen and biomedical industry as "Rent a Crab."

16. On July 9, 2026, in response to Defendant's March 3, 2026, Response letter, Plaintiff issued a Notice of Intent to Sue ("Notice") over redactions to horseshoe crab biological data pursuant to G.L. c. 66, § 10. In the Notice, Plaintiff addressed the Defendant's Response and explained that its request sought aggregate biological information concerning horseshoe crab take, harm, mortality, and harvest, the release of which would not disclose the identity or business of a reporting person, *inter alia*. A true and accurate copy of this notice letter by Plaintiff to Defendant is attached hereto as **Tab C**.

17. On July 21, 2026, Plaintiff's attorney and staff members met with Defendant to further discuss the Request, Response, and Notice in an effort to avoid litigation.

18. On August 4, 2023, Defendant issued a Second Response to Plaintiff, maintaining that its redactions and withholdings were required pursuant to G.L. c. 130, § 21 and exempt under G.L. c. 4, §7(26)(a).

19. In its Second Response, Defendant described its permitting and reporting framework for horseshoe crab fisheries. Defendant asserted that pursuant to G.L. c. 130, §§ 2, 80, and 83, it issues permits for biological processors, biomedical dealers, biomedical harvesters,

bait-fishery participants, and bait dealers, and that it requires each category of permit holder to `submit statistical reports concerning catch, purchases, processing activity and mortality. Defendant further asserted that those reporting obligations, and the confidentiality protections associated with them, supply the statutory basis for withholding the requested records.

20. Defendant's permitting and reporting framework does not support such a wide and categorical withholding. Plaintiff does not dispute that DMF may require statistical reporting from permit holders or protect personally identifying and commercially sensitive information within individual reports. G.L. c. 130, § 21, however, clearly does not prohibit the disclosure of all fishery statistics. In fact, as an example, it expressly permits Defendant to release statistics in aggregate or summary form that does not directly or indirectly disclose the identity or business of a reporting person. *See Id.*

21. Defendant next applied its internal and unwritten "rule of three" policy, which has never gone through public notice and comment. This policy apparently states that data must include contributions from at least three distinct fishers and three distinct dealer-processors. Defendant asserted that this policy is a longstanding interpretation of G.L. c. 130, § 21 and a generally accepted fisheries-data confidentially practice. Massachusetts administrative law does not permit an unwritten policy to have such significant and negative public impacts. In addition, the wildlife biological data that Plaintiff here seeks, which has historically been publicly available data, is not commercial in nature, is not being used for any business purpose, and will not create competition with the financial operations of the biomedical corporations operating in this Commonwealth.

22. The so-called rule of three policy does not justify categorical withholding under G.L. c. 130, § 21. The statute permits disclosure of aggregate or summary statistics that do not

directly or indirectly reveal a reporting person's identity or business. Plaintiff seeks aggregate biological information, not individual reports or proprietary information. Defendant has not shown how each withheld total would identify either processor or disclose its business, particularly where Defendant has publicly released other aggregate biomedical-harvest and mortality information.

23. Defendant also redacted bait-fishery data from the 2024 ASMFC report and did not send the report from 2025 as Plaintiff requested. Defendant asserted the same reasoning that fewer than three bait-fishery or bait-dealer permit holders reported data for those categories, months, regions, or years, citing the Rule of Three policy.

24. G.L. c. 130, § 21 permits Defendant to release statistics in aggregate or summary form that does not directly or indirectly disclose the identity or business of a reporting person and does not distinguish between bait-fishery and biomedical-fishery information. In addition, the biomedical permittees, who are not in the fishing industry, receive horseshoe crabs through dozens of different fishing interests. *See, e.g.*, Attachment B-1 at 3 and B-2.

25. Finally, in its second Response, Defendant stated that it contacted the biomedical processors to request voluntary consent for disclosure and did not obtain consent. G.L. c. 130, § 21 does not make public access to otherwise disclosable aggregate or summary statistics contingent on the consent of regulated permit holders. The statute permits DMF to release aggregate or summary information that does not directly or indirectly disclose a reporting person's identity or business, whether or not the reporting person consents.

## COUNT I

## (DECLARATORY RELIEF)

### Failure to Adequately Search, Failure to Produce, and Failure to Lawfully Segment Non-Confidential Records

26. Plaintiff repeats and realleges paragraphs 1-25.

27. Pursuant to G.L. c. 66, § 10A(d)(iv), there is a presumption that all records in the possession, custody, or control of a public entity are public records.

28. A requestor who is denied access to public records is permitted to bring an action in the Superior Court to enforce the provisions of the Public Records Law and demand the production of the disputed records.

29. In any action alleging a violation of G.L. c. 66, § 10, the Superior Court "shall have available all remedies at law or in equity" and only be restricted as to the damages it can award.

30. Defendant is an entity subject to the Public Records Law as defined in G.L. c. 4, § 7(26).

31. Defendant has wrongfully withheld the requested records from Plaintiff as the statutory confidentiality exemption does not apply aggregated harvest data, and does not apply to biological wildlife data that his historically been available to the public. Defendant has relied upon an unwritten policy in withholding these records.

32. Plaintiff seeks a declaration that the requested records constitute public records as defined by Massachusetts law, and that Defendant has unlawfully withheld records and portions of records under the Public Records Law that are covered by Plaintiff's valid request.

## COUNT II

## (INJUNCTIVE RELIEF)

### Failure to Adequately Search, Failure to Produce, and Failure to Lawfully Segment Non-Confidential Records

33. Plaintiff repeats and realleges paragraphs 1-32.

34. Pursuant to G.L. c. 66, § 10A(d)(iv), there is a presumption that all records in the possession, custody, or control of a public entity are public records.

35. A requestor who is denied access to public records is permitted to bring an action in the Superior Court to enforce the provisions of the Public Records Law and demand the production of the disputed records.

36. In any action alleging a violation of G.L. c. 66, § 10, the Superior Court "shall have available all remedies at law or in equity" and only be restricted as to the damages it can award.

37. Defendant is an entity subject to the Public Records Law as defined in G.L. c. 4, § 7(26).

38. Defendant's withholding of scientific data, records, and portions of records pertaining to horseshoe crabs violates G.L. c. 66, § 10 because Defendant failed to properly apply the statutory confidentiality exemption. Defendant has relied upon an unwritten policy in withholding these records.

39. The Court has the equitable power to enjoin Defendant to produce the withheld or redacted records, as well as to search for and produce any other relevant records pursuant to Plaintiff's valid Public Records request from February 2026.

## PRAYER FOR RELIEF

WHEREFORE, the Center for Biological Diversity requests that the honorable Court enter judgment in its favor on all counts and grant the following relief:

1. Declare that the requested records constitute public records;

2. Order and compel Defendant to disclose the improperly withheld information and produce copies of the disputed records to Plaintiff;

3. Ensure that Defendant's search and production was lawfully adequate;

4. Enjoin Defendant from continuing to withhold records, and portions of records, improperly;

5. Declare Defendant's unwritten policies on public records unlawful and enjoining application of the rule of three until at least it goes through public notice and comment;

6. Award Plaintiff costs and reasonable attorneys' fees; and

7. Grant any other or further relief as the Court may deem just and appropriate.

Respectfully submitted,

CENTER FOR BIOLOGICAL DIVERSITY

By its attorneys,



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*Application for Pro Hac Vice Admission Pending*

Dated: November 10, 2026

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# Tab A

Date Filed 11/10/2026 10:47 AM
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Docket Number

CENTER for BIOLOGICAL DIVERSITY Because life is good.

February 10, 2026

*VIA ELETRONIC MAIL*
Tori LaBate, Primary RAO
Massachusetts Department of Fish and Game
Assistant General Counsel
251 Causeway Street Suite 400
Boston, MA 02114
tori.labate@mass.gov

Re: Massachusetts Public Records Act Request: Massachusetts Horseshoe Crabs

Dear Ms. LaBate:

The Center for Biological Diversity ("Center") makes this request pursuant to Massachusetts Open Records Law[1], which requires state agencies to promptly respond to requests for public records. The Center is a non-profit organization that works to secure a future for all species hovering on the brink of extinction through science, law, and creative media, and to fulfill the continuing educational goals of its membership and the general public in the process.

## REQUESTED RECORDS

The Center requests from the Massachusetts Department of Fish and Game, Massachusetts Division of Marine Fisheries ("MDMF"):

1. The records, *including reports but excluding emails,* mentioning, referencing, and/or documenting the 2024 and 2025 horseshoe crab harvests including:
    a. Scientific collection permits and the information that must be reported to or by the State of Massachusetts in association with the permits, including the number of crabs collected, bled, or killed;
    b. Bait harvest permits and any associated reports, including information about crabs sold to in-state or out-of-state biomedical labs;
    c. Biomedical-only permits and any associated reports including crabs or crab blood sold to in-state or out-of-state biomedical labs;
    d. Other collection permits and associated reports aside from those responsive to Items #1 and #2 above, including information about the number crabs collected, bled, or killed;

[1] M.G.L. c. 66, § 10(a).

e. All permits and reports of horseshoe crabs transferred to Massachusetts from the state of Rhode Island; and
f. All reports sent to the Atlantic States Marine Fisheries Commission for horseshoe crab bait and biomedical harvesting.

2. From January 1, 2024 to the date MDMF conducts this search, the records, *including reports but excluding emails*, mentioning, referencing, and/or documenting surveys and population data collection of horseshoe crabs including the:
   a. Spawning surveys and data;
   b. Trawling surveys and data;
   c. Commercial fishery monitoring data; and
   d. Results of horseshoe crab population surveys presented at the 2024, 2025, and 2026 Massachusetts Horseshoe Crab Science Meetings.

3. From January 1, 2025 to the date MDMF conducts this search, the communications about horseshoe crab quota management between MDMF and:

   Record custodians:
   - Associates of Cape Cod, Inc.;
   - Charles River Laboratories; and
   - Smith, Costello & Crawford Public Policy Group.

   With these search terms:
   - Biomedical harvest
   - Bait harvest
   - Rent-a-crab program
   - Biomedical quota

4. From January 1, 2025 to the date MDMF conducts this search, the records documenting consultations and communications between MDMF and the Natural Heritage and Endangered Species Program mentioning, including, and/or documenting horseshoe crab quota proposal, as identified in MDMF Director McKiernan's December 12, 2025, letter.[2]

5. From January 1, 2025 to the date MDMF conducts this search, the documents, *excluding emails,* prepared pursuant to the Massachusetts Environmental Policy Act[3] and its implementing regulations about the horseshoe crab quota proposal identified in MDMF Director McKiernan's aforementioned December 12, 2025, letter.[4]

[2] *See* Attachment A (6_HSC Quota Reallocation Proposal).
[3] M.G.L. c. 30, §§ 61-62L.
[4] *Id.*

**Record custodians for email searches include:**

- Daniel McKiernan, MDMF
- Melanie Griffin
- Nichola Meserve
- Bradlie Morgan
- Jared Silva
- Kelly Whitmore, Fisheries Management and Policy
- Chrissy Petitpas, Shellfish

For this request, the term "records" refers to documents, minutes, memoranda, comments, files, presentations, consultations, biological opinions, assessments, evaluations, schedules, papers published and/or unpublished, reports, studies, photographs and other images, data (including raw data, GPS or GIS data, UTM, LiDAR, etc.), maps, and/or all other responsive records, in draft or final form.

This request is not meant to exclude any other records that, although not specially requested, are reasonably related to the subject matter of this request. If you or your office have destroyed or determine to withhold any records that could be reasonably construed to be responsive to this request, the Center asks that you indicate this fact and the reasons therefore in your response. Should you decide to invoke legal exemption, please include in your full or partial denial letter sufficient information for us to appeal the denial, including:

1. Basic factual material about each withheld item, including the originator, date, length, general subject matter, and location of each item; and

2. Complete explanations and justifications for the denial, including the category within the governing statutory provision under which the record (or portion thereof) was withheld and a full explanation of how each exemption fits the withheld material. Such statements will be helpful in deciding whether to appeal an adverse determination. Your written justification may help to avoid litigation.

If you determine that portions of the requested records are exempt from disclosure, we request that you produce the remainder portions of such records and mail the remaining records to my attention at the address below location within the statutory time limit of ten business days.[5]

FORMAT OF REQUESTED RECORDS

The Center ask that MDMF provide records in a readily accessible electronic format. "Readily-accessible" means text-searchable and OCR-formatted. Please provide all records in a readily accessible, electronic .pdf format. Additionally, please provide the records either in (1) load-ready format with a CSV file index or excel spreadsheet, or if that is not possible; (2) in .pdf format, without any "profiles" or "embedded files." Profiles and embedded files within files are not readily accessible. Please do not provide the records in a single, or "batched," .pdf file. We appreciate the inclusion of an index.

[5] *Id.*

If MDMF determines that the requested records are subject to a still-valid exemption, we further request that: (1) MDMF exercise discretion to disclose some or all of the records notwithstanding the exemption; and (2) with respect to records containing both exempt and nonexempt content; that MDMF redact the exempt content and disclose the rest. Should MDMF elect to withhold any documents, please explain under which provision this is justified.

## RECORD DELIVERY

If the MDMF is unable to promptly provide a response promptly after receipt of this request, we ask that you certify that fact in writing and set a date and hour within a reasonable time when the information will be available for inspection.

Please provide a complete reply as expeditiously as possible. You may email or mail copies of the requested records to:

Ann K. Brown
Center for Biological Diversity
P.O. Box 11374
Portland, OR 97211
foia@biologicaldiversity.org

If you find that this request is unclear, or if the responsive records are voluminous, please email me to discuss the scope of this request.

## REQUEST FOR FEE WAIVER

The Center ask MDMF for a waiver of all fees because the disclosure of the requested records is in the public interest. Disclosure of the requested records will contribute significantly to the public's understanding of the status of horseshoe crabs in the Commonwealth of Massachusetts. Responsive records will provide insight into the environmental impact on many species, as horseshoe crab eggs are the main food source for migratory birds including the red knot, a species listed as endangered under the Endangered Species Act[6] ("ESA"). The crabs are also harvested for bait and for their blood in the biomedical industry. The public has a right to know what the government is allowing for a keystone species that migratory and endangered birds rely upon, and what factors the government is considering (and not considering) when it is making its harvest quota decisions.

### I. The Center Qualifies for A Fee Waiver.

While we are not requesting photocopies at this time, the Center respectfully request a waiver for any fees associated with this matter. The Center are both non-profit conservation organizations dedicated to protecting the environment, and educating the public about environmental resources and threats to those resources. The Center have members throughout Massachusetts. Once the records are made available, the Center will analyze and use them in a manner that will meaningfully enhance the public's understanding of the conservation of horseshoe crabs in

[6] **16 U.S.C. §§ 1531-1544**

Massachusetts and the eastern seaboard. Through the Center' synthesis and dissemination (by means discussed in Section II, below), disclosure of information contained and gleaned from the requested records will contribute to a broad audience of persons who are interested in the subject matter. We believe that a fee waiver is consistent with the letter and spirit of the law.

II. The Center has a Demonstrated Ability To Disseminate The Requested Information Broadly.

The Center will use the requested records for outreach and education, including media, as well as or other legal efforts.

The Center are not-for-profit organizations that inform, educate, and counsel the public regarding environmental issues, policies, and laws relating to environmental issues.

The Center has been substantially involved in the activities of numerous government agencies for over 30 years, and has consistently displayed its ability to disseminate information granted to it through public records requests. In consistently granting the Center's fee-waivers, agencies have recognized: (1) that the information requested by the Center contributes significantly to the public's understanding of the government's operations or activities; (2) that the information enhances the public's understanding to a greater degree than currently exists; (3) that the Center possesses the expertise to explain the requested information to the public; (4) that the Center possesses the ability to disseminate the requested information to the general public; (5) and that the news media recognizes the Center as an established expert in the field of imperiled species, biodiversity, and impacts on protected species. The Center's track record of active participation in oversight of governmental activities and decision making, and its consistent contribution to the public's understanding of those activities as compared to the level of public understanding prior to disclosure are well established.

The Center's work appears in about 4,000 news stories online and in print, radio, and TV per month, including regular reporting in such important outlets as *The New York Times*, *CNN*, *The Washington Post*, *Los Angeles Times*, *USA Today*, National Public Radio, and the Associated Press. Many media outlets have reported on the plight of endangered species utilizing information obtained by the Center from state and federal agencies. In 2025, more than 2.3 million actions were completed by more than 1.2 million members and supporters, and more than 2.5 million people visited the Center's extensive website, viewing pages more than 4.5 million times. Last year the Center sent over 120,000 printed newsletters to more than 93,000 members. More than 644,000 people follow the Center on Facebook, and there are regular postings regarding the protection of species at risk of extinction. The Center also has more than 132,000 followers on Instagram. The Center intends to use any or all of these far-reaching media outlets to share with the public information obtained as a result of this request.

The Center intend to use any or all of these far-reaching media outlets to share with the public information obtained as a result of this request. Access to government records, disclosure forms, and similar materials through records requests is essential to the Center' roles of educating the general public. The Center have no commercial interest and will realize no commercial benefit from the release of the requested records (Center's EIN: 27-3943866).

III. Conclusion

Massachusetts law requires an agency to complete a record request response within ten business days.[7] We hope that MDMF will immediately grant this fee waiver request, and begin to search and disclose the requested records without any unnecessary delays.

If you have any questions, please contact me at foia@biologicaldiversity.org. All records and any related correspondence should be sent to my attention at the address below.

Sincerely,



Ann K. Brown
Open Government Coordinator
CENTER FOR BIOLOGICAL DIVERSITY
P.O. Box 11374
Portland, OR 97211-0374
foia@biologicaldiversity.org

Attachment

Attachment A (6_HSC Quota Reallocation Proposal)

[7] *See supra* note 2.

# Attachment A

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

MAURA T. HEALEY, Governor | KIMBERLEY DRISCOLL, Lt. Governor | REBECCA L. TEPPER, Secretary | THOMAS O'SHEA, Commissioner | DANIEL J. MCKIERNAN, Director

**MEMORANDUM**

**TO:** Marine Fisheries Advisory Commission (MFAC)

**FROM:** Daniel J. McKiernan, Director

**DATE:** December 12, 2025

**SUBJECT:** Public Hearing Proposal on Horseshoe Crab Quota Management

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**Proposal**

This memo serves to inform the MFAC that I intend to go out to public hearing later this winter to reduce the bait crab quota from 140,000 crabs to 100,000 crabs and reallocate these 40,000 crabs to the biomedical sector at a 1:2 ratio thereby increasing the biomedical quota from 200,000 crabs to 280,000 crabs.

**Rationale**

This proposal responds to increasing demand for horseshoe crabs from the biomedical sector coupled with decreasing effort in the state's conch pot fishery reducing the local demand for bait crabs. These dynamics have produced a situation whereby biomedical demand is driving bait harvest through the rent-a-crab program even when there is limited concurrent demand for bait crabs. This speaks to a misalignment in the quantity of horseshoe crabs allocated to each fishery that may be corrected by transferring quota between the sectors to better match demand. Further, this action will reduce overall mortality to the horseshoe crab stock.

DMF has analyzed effort trends in the state's conch pot fishery (Figure 1) and determined that the current local bait crab demand approximates 75,000 – 90,000 horseshoe crabs annually. Accordingly, reducing the bait quota from 140,000 crabs to 100,000 crabs will provide a more than sufficient supply of crabs for the state's conch pot fishery. Given the poor status of the channeled whelk resource in Massachusetts, DMF does not anticipate the conch pot fishery will rebound to prior peak effort levels (e.g., 2012), but it is conceivable this fishery could nominally rebound should market conditions improve and the proposed quota would provide bait at levels sufficient to meet such demand. See section below titled "Overview of the Conch Pot Fishery" for more information.

The 40,000 horseshoe crabs taken off the bait quota will be reallocated to the biomedical fishery at a ratio of 1:2. This will result in the biomedical quota increasing from 200,000 horseshoe crabs annually to 280,000 horseshoe crabs annually — a net increase of 40,000 horseshoe crabs potentially available to the biomedical industry[1]. When developing the biomedical quota in 2023, DMF used a 1:6 ratio when reallocating bait quota for biomedical purposes. This conversion factor was based on the estimated 15% mortality rate for the biomedical fishery. At present, I propose using the more conservative 1:2 conversion factor because there remains some uncertainty around the recapture[2] of these animals and the sublethal impacts of biomedical processing on horseshoe crabs. Finally, there is an undeniably strong public interest in managing horseshoe crabs for abundance, and if DMF is going to increase overall harvest, then it should be done in a manner that will not increase overall mortality. In this instance, the proposal will actually reduce overall mortality by about 28,000 crabs annually, assuming a 15% biomedical mortality rate.

DMF has heard from industry on a variety of potential alternative or additional management changes for 2026 and have spent the last several months engaging stakeholders in the interest of due diligence. Ultimately, I have decided to move forward to rulemaking with only the most straightforward option — the proposed quota reallocation — as it is the simplest way to address current market misalignment, is beneficial to conservation, and provides the various industries involved in the horseshoe crab fishery with the greatest amount of certainty for expectations in 2026. I worry that trying to address too many concerns or taking increasingly novel approaches to management will ultimately create additional issues. Instead, my preference is to make this single change and analyze its performance and then consider additional or alternative approaches only if warranted. See section titled “Additional Considerations” for more details.

**Background**

Development of Biomedical Quota

In 2023, DMF established a first ever biomedical horseshoe crab quota of 200,000 horseshoe crabs annually to be split evenly among permitted biomedical processors. This was done in response to concerns about increasing horseshoe crab mortality driven by growing biomedical demand in Massachusetts. The adoption of this quota effectively allowed DMF to cap overall mortality at 2022 levels, which the available data suggests would allow horseshoe crab abundance to continue to increase. Since the adoption of the biomedical quota, DMF has

[1] At present, the biomedical industry has access to 340,000 horseshoe crabs annually through the 200,000 crab biomedical quota, as well as the 140,000 crab bait quota through the rent-a-crab program. The proposed adjustment would provide the biomedical industry access to 380,000 horseshoe crabs through a 280,000 crab biomedical quota and a 100,000 crab bait quota.

[2] Note that biomedical harvest is primarily occurring within the northeastern portion of Nantucket Sound by mobile gear vessels. Fishery participants have expressed concern to DMF that there may be an over-reliance on this small area. As the biomedical crabs are released alive and are marked to identify it as a bled crab in season, future at-sea monitoring to determine the recapture of bled crabs would tell us if removals from this area become excessive.

received persistent comments from biomedical processors, dealers, and fishers requesting DMF increase the biomedical quota.

Demand for Horseshoe Crabs as Bait

Horseshoe crabs are the preferred bait in the conch pot fishery. Therefore, bait demand is a function of bait use per pot haul. DMF's understanding is that conch pot fishers generally mix between one-quarter and one-third of a horseshoe crab[3] with other bait per pot haul. Accordingly, with the state's conch pot fishery conducting fewer than 300,000 pot hauls annually since 2020 (Figure 1), DMF estimates the bait need for this fishery to be in the range of 75,000 to 90,000 horseshoe crabs annually.

This level of estimated bait demand is substantially lower than the current bait quota of 140,000 horseshoe crabs. Despite this, Massachusetts' routinely approaches fully utilizing its horseshoe crab bait quota (Table 1). This is occurring because biomedical demand for these crabs —through the rent-a-crab program — is driving bait harvest. As a result, DMF is receiving reports that crabs harvested against the bait quota often do not have a viable bait market and several whelk processors who provide bait to their conch pot fishers already have an ample quantity of horseshoe crabs in frozen storage. This speaks to a misalignment that could be remedied through a reduced bait quota and enhanced biomedical quota.

Overview of Conch Pot Fishery Performance

Effort in the conch pot fishery increased in the mid 2000s — in response to environmental related declines in the abundance of Southern New England lobster and displacement from the that fishery — before peaking at about 600,000 pot hauls annually in 2012 (Figure 1). Effort has steadily declined since then and for the past six years (2019-2024) it has been at or below 300,000 pot hauls annually[4]. This decline is likely driven by several factors — reduced abundance of channeled whelk, regulations to raise the size-at-harvest to protect spawning stock biomass, and more recently, unstable domestic and international market conditions.

Even within the context of this recent period of reduced productivity, 2024 was an extremely challenging year for the conch pot fishery (Table 2). Market conditions constrained effort and landings and our fishery conducted just over 200,000 pot hauls and the fishery landed only about 700,000 pounds of channeled whelk valued at about $2M. While market conditions reportedly remain tenuous, 2025 landings data suggest the fishery has nominally rebounded. As of December 11, 2025 almost 820,000 pounds of channeled whelk have been landed this year with an ex-vessel value of nearly $2.6 million. Assuming fairly static catch per unit effort this year compared to the past five years, DMF estimates the fishery will likely conduct about 250,000 pot hauls in 2025.

[3] The amount of horseshoe crab used per pot haul is generally dictated by the size of the horseshoe crab. This is informed by a 2015 DMF survey, observations of bait use while sea sampling, and informal conservations with bait dealers and conch pot fishers.

[4] 300,000 trap hauls annually is also consistent with where effort was in this fishery prior to the spike in the mid-2000s.

There is some tempered optimism among whelk dealers and processors that the market can support 2025-levels of effort and landings moving forward. However, I am skeptical that the fishery will soon return to prior peak levels — not just because of market conditions — but because the resource is depleted throughout its range within Massachusetts waters, as evidenced by a lack of larger whelk in the observed catches. Accordingly, I anticipate the conch pot fishery will continue to operate around (and more likely below) 300,000 pot hauls annually for the foreseeable future. The bait demand for this level of activity will be sufficiently met by the proposed quota, notwithstanding any improvements in the development and availability of alternative bait sources that may further reduce bait demand moving forward.

**Additional Considerations**

As a matter of routine due diligence, DMF networks with stakeholders to inform the development of regulatory proposals. This fall, DMF heard extensive concerns regarding a variety of issues related to the performance of the horseshoe crab fishery and the bait market. I do not intend to address these concerns and frustrations through regulatory actions at this time. However, I do want to acknowledge these issues to benefit of the MFAC's deliberation on this subject.

Eliminating the Rent-A-Crab Program

It has been suggested that DMF should prohibit the rent-a-crab program. Proponents argue this program has evolved beyond its intended function (i.e., use crabs harvested as bait for biomedical purposes) and is now driving bait harvest and warping the relationship between bait demand and bait harvest. This is further complicated by the fact that the rent-a-crab program is primarily pursued during the early summer months[5] — a time of year when the conch pot fishery is less active. This creates a further disconnect between bait harvest and bait demand and results in product being placed in frozen storage.

I support the continuation of the rent-a-crab program as it allows nearly all Massachusetts bait crab harvest to be repurposed for biomedical use thereby supplementing biomedical demand and optimizing the utility of each crab harvested. Eliminating this program would be wasteful and would likely also increase demand for additional biomedical quota. Further, biomedical demand has elevated the ex-vessel value of horseshoe crabs to the benefit of all bait fishers. If this value were to be lost, vessels may not target horseshoe crabs for bait purposes thereby reducing the overall supply of horseshoe crabs to market. Reduced profitability may lead to vessels leaving inshore mobile gear fisheries impacting the supply of other locally caught fish (e.g., squid, summer flounder, black sea bass, scup, quahogs).

[5] DMF has observed that it is common for inshore draggers to pursue the bait quota during the summer months when other profitable species like summer flounder are targeted on the same trip. This allows these boats to make profitable trips combining their summer flounder limit with the 300 horseshoe crabs bait fishery trip limit. Then in the fall, when summer flounder migrate out of the Sounds, some draggers switch over to target the biomedical horseshoe crab quota at the higher 1,000 crab biomedical trip limit.

Constraining Commercial Fisher Access to Participating in this Quota Managed Fishery

As the management and performance of the horseshoe crab fishery has evolved in recent years, there are persistent concerns about access. Historically, the fishery was prosecuted by hand harvesters and required limited capital investment. Over time, changes in management and fishery economics shifted harvest towards mobile gear fisheries. With the adoption of the spawning closures in 2025, hand harvest opportunities are now extremely limited, and bait harvest is almost exclusively conducted by mobile gear fishers. Additionally, the 2023 adoption of the biomedical processor quota further shifted the use of this resource towards more capitalized entities. These concerns persist as DMF is now proposing to allocate additional quota to the biomedical processors.

Given the biomedical fishery is catch and release, I think it is critical for participants to have working relationships with biomedical dealers and have their vessels outfitted in a manner that maximizes the survival of horseshoe crabs. I also recognize the logistical benefit provided to biomedical dealers and firms by working with a smaller number of reliable harvesters. However, I do think it is beneficial to have the economic benefits derived from the biomedical use of horseshoe crabs extend along the waterfront. To this goal, I continue my support for the rent-a-crab program and encourage biomedical dealers and processors to accommodate the greatest number of harvesters as practical. However, access remains a concern, and I anticipate further rule making may be warranted in the future to address it.

Dynamic Quota Adjustments and Trip Limit Management

As heard at the November MFAC business meeting, there is interest among the regulated community to have DMF adopt “dynamic management” program to address horseshoe crab quotas. My understanding is that there are several ways DMF could accommodate dynamic management. First, are in-season transfers of quota from the bait fishery to the biomedical fishery based on quota usage by a date certain. Alternatively, DMF could allow horseshoe crabs to be harvested for either purpose by any permitted commercial holder and then grant the purchasing dealer the discretion to determine their fate of each crab and which quota the crab counts against.

There has been some interest in reducing bait fishery trip limits or implementing additional in-season quota use triggers to reduce trip limits. The perceived benefits of these adjustments would be to slow bait quota usage to prevent market gluts. Lastly, there was some discussion of reducing the biomedical trip limit (particularly for trawlers) from 1,000 crabs to a lower number in line with the bait fishery limit. The argument for this is that it would force biomedical dealers to work with more vessels thereby addressing access concerns.

These are interesting concepts that may merit future analysis. However, at present, I worry they would introduce too many new variables to the management program for 2026, will further complicate management, and may contribute to or exacerbate existing fishery management challenges.

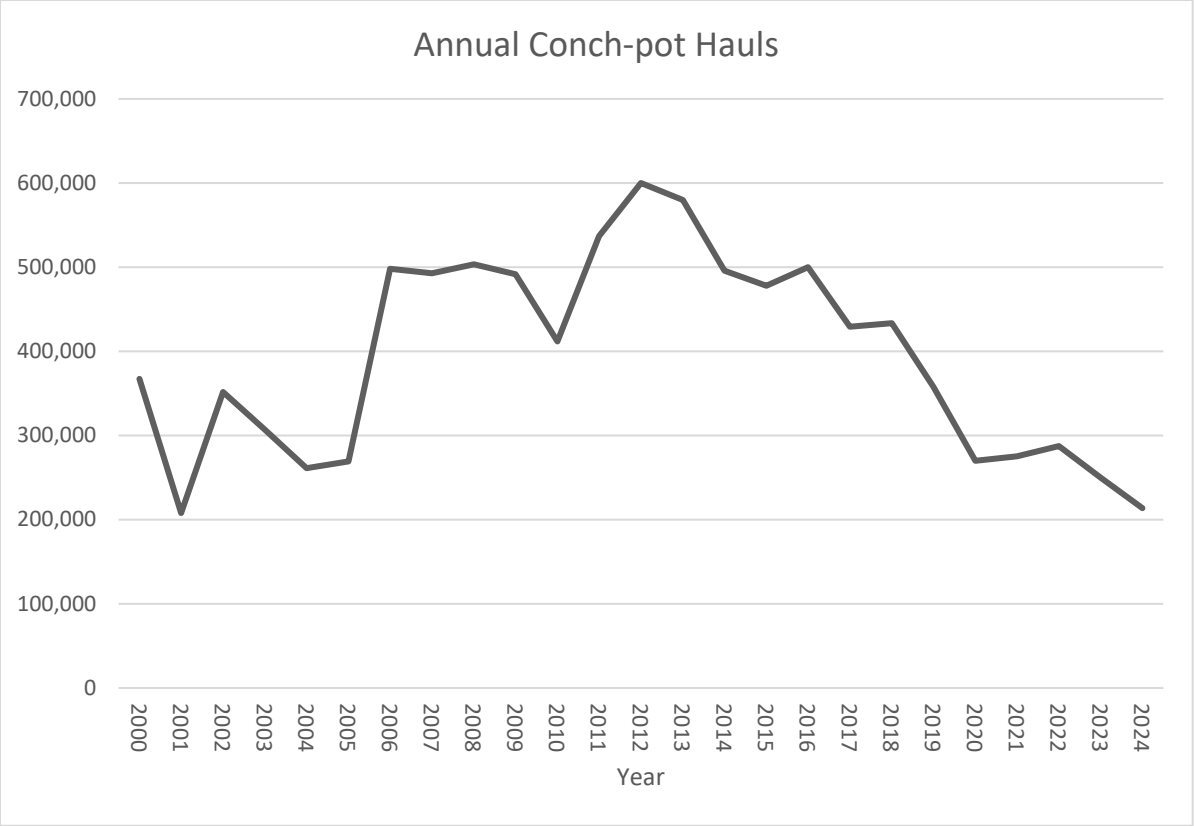



**Figure 1.** Annual Pot-Hauls in the Massachusetts Conch Pot Fishery, 2000 – 2024.
Data Source: Massachusetts commercial catch reports and federal vessel trip reports as of October 2025. Data for 2024 is preliminary and subject to change. Data for all years may be inflated as permit holders do not distinguish between conch pot and lobster trap hauls and lobster traps may produce some bycatch of channeled whelks.

| Year | Bait Crabs Landed | Total Ex-Vessel Value | Average Ex-Vessel Price per Crab |
|---|---|---|---|
| 2022 | 134,753 | $287,347 | $2.13 |
| 2023 | 139,846 | $335,386 | $2.40 |
| 2024 | 139,970 | $404,331 | $2.89 |
| 2025* | 137,171 | $446,853 | $3.26 |

**Table 1.** Dealer reported Massachusetts horseshoe crabs landing by count, total annual ex-vessel value, and average price per crab, 2022 – 2025. Data source: SAFIS Dealer Database as of December 11, 2025. *Data for 2025 is preliminary and subject to change. Only includes landings reported through December 11, 2025.

| Year | Channeled Whelk Landings | Total Ex-Vessel Value | Average Ex-Vessel Price Per Pound |
|---|---|---|---|
| 2022 | 917,700 | $3,803,336 | $4.14 |
| 2023 | 919,284 | $2,993,633 | $3.26 |
| 2024 | 718,156 | $2,041,735 | $2.84 |
| 2025* | 818,906 | $2,599,282 | $3.17 |

**Table 2.** Dealer reported Massachusetts channeled whelk landings, total annual ex-vessel value, and average ex-vessel price per pound. Data source: SAFIS Dealer Database as of December 11, 2025. *Data for 2025 is preliminary and subject to change. Only includes landings reported through December 11, 2025.

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# Massachusetts
# Division of Marine Fisheries

# Massachusetts 2024 Compliance Report to the Atlantic States Marine Fisheries Commission – Horseshoe Crab

Submitted by:
Derek Perry, Senior Marine Fisheries Biologist
Massachusetts Division of Marine Fisheries
South Shore Field Station
836 South Rodney French Boulevard
New Bedford, MA 02744

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## I. Introduction

The bait fishery harvested 99.9% (139,970 crabs) of the 2024 Massachusetts self-imposed quota (140,000 crabs), based on dealer reports. Prosomal widths were taken from 1,714 bait crabs and 2,433 biomedical crabs as part of our annual market sampling program. Sampling intensity of the biomedical fishery has increased since the addition of a second Massachusetts biomedical firm, which opened in July 2022. In addition to bait and biomedical market sampling, which Division of Marine Fisheries (DMF) has conducted since 2001, DMF now conducts at-sea sampling trips aboard biomedical collection trips, samples biomedical holding areas (e.g., pens), and biomedical release trips. Forty-eight commercial horseshoe crab sampling trips (bait and biomedical, combined) were conducted in 2024. The two biomedical companies operating in Massachusetts reported collecting and releasing (redacted-confidential) crabs from Massachusetts, and (redacted-confidential) from Rhode Island (based on biomedical reports). DMF staff and numerous volunteer groups conducted spawning beach surveys at 16 beaches during the full and new moons of May and June.

## II. Request for *de minimis* status – not applicable

## III. Previous calendar year's fishery

### a. Bait Harvest

Only 28 permits reported landings out of 190 issued permits in 2024, representing a decrease of 14 active permits and 12 issued permits from 2023. Four harvesters reported landings using Coastal Access Permits in 2024, up from 3 in 2023. See

Table 1 for associated
harvests. Massachusetts dealers reported purchasing 139,970 horseshoe crabs from harvesters in 2024, just below the 140,000 Massachusetts horseshoe crab bait quota. Harvesters reported landing 134,663 crabs (Table 2). Nearly all bait landings came from Nantucket Sound (97%), with another 2% coming from Vineyard Sound. Though Massachusetts landings are often concentrated in Nantucket Sound, a greater percentage of MA landings came from Nantucket Sound in 2024 due to regulation changes that prevented harvest from April 15 through June 7th, which limited resource access for hand harvesters who historically fished this period and are more dispersed across the southern part of the state. With hand harvesters unable to access crabs during the time when they are available in commercial quantities in shallow water, harvest shifted towards mobile gear fishermen who catch crabs in deeper water outside of the spawning season. Mobile gear fishers landed 92% of the Massachusetts bait landings in 2024 (Table 3). No crabs were landed in May (Table 4) due to the new spawning season closure.

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**Table 1. Number of permits issued, number of permits actively fished, and number of crabs fishers reported harvesting by permit type (data source: Massachusetts Trip Level Reports and NMFS Vessel Trip Reports). * indicates confidential information that has been redacted.**

| Permit Type | # of Permits Issued | # of Permits Fished | # of Crabs Harvested |
|---|---|---|---|
| Biomedical | 31 | 9 | * |
| Bait | 190 | 28 | 130,330 |
| Open Access | N/A | 4 | 4,576 |

**Table 2. Number of bait crabs reported by bait harvesters, by sex (data source: Massachusetts Trip Level Reports, NMFS Vessel Trip Reports). * indicates confidential information that has been redacted.**

| | Female | Male | Unknown |
|---|---|---|---|
| Bait Harvest | * | * | 134,663 |

**Table 3. Number of bait crabs captured by method, as reported by harvesters (data source: Massachusetts Trip Level Reports, NMFS Vessel Trip Reports).**

| Harvest Method | # of Crabs | % of Total |
|---|---|---|
| Hand | 10,155 | 8% |
| Mobile | 124,751 | 92% |

**Table 4. Number of bait crabs harvested per month, as reported by harvesters (data sources: Massachusetts Trip Level Reports and NMFS Vessel Trip Reports). * indicates confidential information that has been redacted.**

| Month | # of Crabs |
|---|---|
| JAN | * |
| FEB | * |
| MAR | * |
| APR | * |
| MAY | 0 |
| JUN | 32,264 |
| JUL | 32,327 |
| AUG | 45,667 |
| SEP | 9,487 |
| OCT | * |

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| | |
|---|---|
| NOV | 0 |
| DEC | 0 |

**b. Scientific and Research Harvest**

Organizations collecting horseshoe crabs for scientific or educational purposes are required to obtain a scientific collection permit from the state. The permits allow the permit holder to possess more crabs than the recreational limit (6) and possess crabs below the minimum legal size (7" prosomal width). As a condition of permit renewal, researchers are required to report the number of horseshoe crabs collected. Educational and research programs collected 65 crabs and tagged 317 crabs in 2024. Additionally, two organizations reported collecting horseshoe crab eggs.

**c. Biomedical Fishery**

DMF issued 31 biomedical permits in 2024, of which 9 were actively fished (

Table 1). Two Massachusetts biomedical companies bled horseshoe crabs to produce *Limulus* Amebocyte Lysate (LAL) in 2024, Associates of Cape Cod (ACC) and Charles River Laboratories (CRL). Both companies filed monthly catch reports listing the dealers from whom they purchased crabs, location of harvest, the number and sex of crabs purchased, and the ultimate disposition of the crabs (harvested with biomedical permit then released, or harvested with a bait permit and returned to the bait market). They also reported the number of crabs they rejected, received dead, and that were dead at release, by sex.

Massachusetts biomedical companies are required by regulation to adhere to the following: cannot accept more than 1,000 crabs per permitted biomedical harvester per day, crabs must be separated by source (e.g., location of harvest, permit type), crabs cannot be held out of water more than 36 hours, crabs must be returned to harvester/dealer in good condition, crabs must be released in same embayment where they were originally collected, crabs must be kept moist during transport and storage, crabs must be transported in a temperature-controlled environment with the thermostat set between 50 and 60° F, bleeding facilities must maintain temperatures ≤70° F in labs and holding areas, and hold crabs in barrels no more than approximately 2/3 full. DMF also requires that every bled crab harvested using a biomedical permit must be marked to indicate the crab was bled and that crab cannot be bled a second time in a calendar year. DMF assigns the mark annually, which is applied on the underside of the crab, and each company uses a waterproof paint color specific to that company.

In 2024, Massachusetts biomedical firms bled bait crabs from Massachusetts, New York, Delaware, and Virginia, and biomedical crabs from Massachusetts and Rhode Island (Table 5). ACC and CRL reported purchasing (redacted-confidential) crabs (all sources combined), which is an increase of (redacted-confidential) crabs over 2023. The bait market contributed (redacted-confidential) of all crabs bled (Table 6). Both biomedical companies participated in the rent-a-crab program in 2024, bleeding (redacted-confidential) bait crabs from several states, including (redacted-confidential) bait crabs from Massachusetts, which

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is (redacted-confidential) of Massachusetts' bait landings. Bait crabs were returned to the bait market after bleeding. Massachusetts biomedical firms bled (redacted-confidential) crabs collected with biomedical permits from Massachusetts and (redacted-confidential) crabs from Rhode Island collected solely for LAL production. Data reported by the two companies resulted in a combined pre-bleeding mortality rate of 0.87% for males, and 1.06% for female crabs for Massachusetts biomedical-only crabs. ACC reported pre-bleeding mortality rates of 0.22% and 0.22%, for male and female Rhode Island biomedical crabs, respectively (CRL did not bleed crabs from Rhode Island).

Nine DMF biologists participated in 35 sampling trips specifically to collect data on the biomedical fishery in 2024 (Table 7). These trips included at-sea biomedical collection trips, pen/holding sampling, market sampling, and observation of at-sea releases of biomedical crabs. In total, there were 48 horseshoe crab sampling trips in 2024 (35 biomedical, 13 bait), making the horseshoe crab fishery the third most observed fishery by DMF in 2024, behind the lobster and groundfish fisheries. Based on DMF samples of horseshoe crabs collected in Massachusetts, pre-bleeding mortality rates were 0.0% and 1.0% respectively, for males and females (Table 8). Additional 0.6% and 1.7% mortality rates were observed at the time of release (early-stage post-bleeding mortality) for males and females, respectively.

**Table 5. Number of crabs bled, rejected, and dead by month from 2024 biomedical facility reports.**

Table redacted-confidential

**Table 6. Number of purchased, rejected, and dead crabs from 2024 biomedical facility reports.**

Table redacted-confidential

**Table 7. Number of biomedical sampling trips conducted by DMF staff in 2024, and number of crabs observed during sampling trips.**

| | # of 2024 Trips | # of Crabs Observed |
|---|---|---|
| Biomedical collection samples | 7 | 3,117 |
| Biomedical pen samples | 7 | 1,409 |
| Biomedical market samples | 11 | 2,433 |
| Biomedical release samples | 10 | 2,242 |
| Total | 35 | 9,201 |

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*Commonwealth of Massachusetts*
*Division of Marine Fisheries*

**2024**

# SPECIAL PERMIT
# SCIENTIFIC COLLECTION

TYAN BASSETT
CAPE COD MUSEUM OF NAT HIST
869 MAIN ST
BREWSTER, MA 02631

**PERMIT #:** 176836

**ISSUED:** 03-04-2024
**EXPIRES:** 12-31-2024
**FTN:** 349989

**PERMIT HOLDER:**
**NAME:**
TYAN BASSETT

**DOB:** [redacted]

**CORPORATE NAME:**
CAPE COD MUSEUM OF NAT HIST

**PRIMARY ADDRESS:**
869 MAIN ST
BREWSTER, MA 02631

**PRIMARY COLLECTOR:**
TYAN BASSETT

**SECONDARY COLLECTOR(S):**
MAUREEN WARD
PAUL WARD
ALICE WYNN
DAN POWERS
BRIAN POWERS
PATRICK CONDELLI

**COLLECTION PURPOSE:**
EDUCATION

**VESSEL(S):**
THE YELLOW BIRD
THREE SONS

**VESSEL CAPTAIN(S):**
JAMIE ELDREDGE
CAMERON SMITH

**SUMMARY OF AUTHORIZED ACTIVITY:**

The permit covers the collection and possession of marine animals for education purposes and to stock aquarium tanks. The permit also covers the collection of horseshoe crab eggs for head start program and education. Horseshoe crab eggs will be collected by hand from a beach in Barnstable County and returned to the same beach after a yearlong head start at the aquarium.

**CONDITIONS:**

- No lobsters may be taken.
- This permit is valid only for the locations and activities listed.
- The sale of organisms collected under this permit is prohibited.
- An annual report of permitted ativities must be submitted.
- Contact local Shellfish Constable(s) 24 hours prior to any shellfish digging, collection, or planting.

*Signature*: _____ **DIRECTOR:** Daniel J. McKiernan

Daniel J. McKiernan

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*Commonwealth of Massachusetts*
*Division of Marine Fisheries*

**2024**

# SPECIAL PERMIT
# SCIENTIFIC COLLECTION

JESSICA R SHEPPARD
LETS EXPLORE TOGETHER
108 PALOMINO DR
BARNSTABLE, MA 02630

**PRIMARY COLLECTOR:**
JESSICA SHEPPARD

**SECONDARY COLLECTOR(S):**

**PERMIT #:** 186809

**ISSUED:** 03-27-2024
**EXPIRES:** 12-31-2024
**FTN:** 351628

**COLLECTION PURPOSE:**
EDUCATION

**VESSEL(S):**
N/A

**PERMIT HOLDER:**
**NAME:**
JESSICA R SHEPPARD

**DOB:** [redacted]

**VESSEL CAPTAIN(S):**
N/A

**CORPORATE NAME:**
LETS EXPLORE TOGETHER

**PRIMARY ADDRESS:**
108 PALOMINO DR
BARNSTABLE, MA 02630

**SUMMARY OF AUTHORIZED ACTIVITY:**

COLLABORATIVE TAGGING PROGRAM WITH THE USFWS-JOSH NEWHARD-TAG HORSESHOE CRABS AT MILLWAY BEACH, BARNSTABLE, MA. TAGGING WILL BE AS AN EDUCATIONAL PROGRAM FOR 4TH & 6TH GRADE STUDENTS TO LEARN ANATOMY, LOCAL SIGNIFICANT SPECIES, BLEEDING NEEDS, ENDANGERED STATUS, FISHERY CONNECTIONS AND MIGRATION. CRABS WILL BE TAGGED AND RELEASED. NO HORSESHOE CRABS WILL BE REMOVED FROM COLLECTION SITE.

**CONDITIONS:**

- The sale of organisms collected under this permit is prohibited.
- This permit is valid only for the locations and activities listed.
- An annual report of permitted ativities must be submitted.
- You must contact Derry Perry-DMF-New Bedford- Prior to tagging (508) 742-9726.
- Horseshoe Crabs may not be tagged on the following dates, 5/5/2024, 5/7/2024, 5/9/2024, 5/21/2024.5/23/2024, 5/25/2024,6/4/2024, 6/6/2024, 6/8/2024, 6/19/2024, 6/21/2024, & 6/23/2024 due to DMF spawning survey.

*Signature*: _____ **DIRECTOR:** Daniel J McKiernan
Daniel J. McKiernan

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*Commonwealth of Massachusetts*
*Division of Marine Fisheries*

**2024**

# SPECIAL PERMIT
# SCIENTIFIC COLLECTION

REBECA C LINHART
UNIVERSITY OF RHODE ISLAND
1 GREENHOUSE RD
NORTH KINGSTOWN, RI 02852

**PERMIT #:** 187019

**ISSUED:** 05-15-2024
**EXPIRES:** 12-31-2024
**FTN:** 353985

**PERMIT HOLDER:**
**NAME:**
REBECA C LINHART

**DOB:** [redacted]

**CORPORATE NAME:**
UNIVERSITY OF RHODE ISLAND

**PRIMARY ADDRESS:**
1 GREENHOUSE RD
NORTH KINGSTOWN, RI 02852

**PRIMARY COLLECTOR:**
REBECA LINHART

**SECONDARY COLLECTOR(S):**
ALAN KNEIDEL
LIANA DINUNZIO
JOHN HERBERT
RONALD LINHART
MARISSA ARDOVINO

**COLLECTION PURPOSE:**
RESEARCH

**VESSEL(S):**
N/A

**VESSEL CAPTAIN(S):**
N/A

**SUMMARY OF AUTHORIZED ACTIVITY:**

Collect small quantities of marine invertebrates to complete stable isotope analyses. The data will be used to assess shorebird diet during spring migration to improve conservation efforts in New England. Invertebrates will be collected by hand or metal sieve. Invertebrates will be sorted by taxa and then frozen until dried and analyzed. Polychaete worms from multiple families, small bivalves, mussel spat, meiofauna (including copepods) and horseshoe crab eggs will also be collected. Horseshoe crab eggs will be collected by egg cluster survey. This involves digging 20cm holes and counting egg clusters within the holes. The egg clusters are returned to the hole and re-buried after the survey. The second method is to assess surface eggs. This method involves taking core samples of the top 5 cm of sand and is typically used to assess the eggs available to foraging birds. All eggs in the sample are counted. Samples will be taken at low tide (May-June) from 8 sampling zones in Monomoy. Up to 9 egg cluster holes and 9 surface egg samples will be taken from each transect. This would total about 72 surface egg samples per visit.

**CONDITIONS:**

- The sale of organisms collected under this permit is prohibited.
- This permit is valid only for the locations and activities listed.
- No lobsters may be taken.
- An annual report of permitted ativities must be submitted.

*Signature*: _____

**DIRECTOR:** Daniel J McKiernan
Daniel J. McKiernan

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*Commonwealth of Massachusetts*
*Division of Marine Fisheries*

**2025**

**SPECIAL PERMIT**
**SCIENTIFIC COLLECTION**

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MARINE BIOLOGICAL LABORATORY
7 MBL ST AQUATIC RESOURCES DIVISON
WOODS HOLE, MA 02543

**PERMIT #:** 152087

**ISSUED:** 03-20-2025
**EXPIRES:** 12-31-2025
**FTN:** 368062

**PERMIT HOLDER:**
**NAME:**
MARINE BIOLOGICAL LABORATORY

**DOB:**

**CORPORATE NAME:**
MARINE BIOLOGICAL LABORATORY

**PRIMARY ADDRESS:**
7 MBL ST AQUATIC RESOURCES DIVISON
WOODS HOLE, MA 02543

**PRIMARY COLLECTOR:**
LISA ABBO

**SECONDARY COLLECTOR(S):**
WILLIAM GROSSMAN
NOLAN GIBBONS
OSCAR PINEDA
LORETTA ROBERSON
JOSHUA ROSENTHAL
BRET GRASSE
TAYLOR SAKMAR
MIRANDA VOGT
ERIN PYSZKA
DAVID BANK
SCOTT BENNETT
JENNIFER CAMERLENGO
JONATHAN HENRY
TAKATO HONDA
BRIAN MCGONAGLE
WILLIAM MYLETT

**COLLECTION PURPOSE:**
EDUCATION

**VESSEL(S):**
ORV GEMMA
SMALLER VESSELS

**VESSEL CAPTAIN(S):**
DAVID BANK & WILLIAM MYLETT

**SUMMARY OF AUTHORIZED ACTIVITY:**

collect various marine finfish, invertebrates, and algae in various life stages. Collection methods include sub-legal size mesh trawls, traps, SCUBA diving, seining, potting, and digging by hand. All collection is done for research and educational purposes. Horseshoe Crabs will be collected by hand from Pleasant Bay.

**CONDITIONS:**

- You must contact the Environmental Police Radio Room at 800-632-8075 24 hours prior to dragging in state waters.
- All buoy lines must be equipped with a weak link and a 1,700 pound breaking strength contrivance in accordance with 322 CMR 12.06 (2)(a)(b).
- An annual report of permitted ativities must be submitted.
- Permittee must notify local Shellfish Constable(s), town administrator(s) and/or town selectboard(s) at least 48 hours prior

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*Division of Marine Fisheries*

**2025**

**SPECIAL PERMIT**
**SCIENTIFIC COLLECTION**

to any shellfish field activities.

- Permittee must obtain permission from, and coordinate with, local Shellfish Constable(s), town administrator(s) and/or town selectboard(s) prior to any shellfish digging, collection, or planting.

*Signature*: _____ **DIRECTOR:** Daniel J McKiernan
Daniel J. McKiernan

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*Division of Marine Fisheries*

**2025**

# SPECIAL PERMIT
# SCIENTIFIC COLLECTION

TYAN BASSETT
CAPE COD MUSEUM OF NAT HIST
869 MAIN ST
BREWSTER, MA 02631

**PERMIT #:** 176836

**ISSUED:** 05-06-2025
**EXPIRES:** 12-31-2025
**FTN:** 369381

**PERMIT HOLDER:**
**NAME:**
TYAN BASSETT

**DOB:** [redacted]

**CORPORATE NAME:**
CAPE COD MUSEUM OF NAT HIST

**PRIMARY ADDRESS:**
869 MAIN ST
BREWSTER, MA 02631

**PRIMARY COLLECTOR:**
TYAN BASSETT

**SECONDARY COLLECTOR(S):**
MAUREEN WARD
PAUL WARD
ALICE WYNN
DAN POWERS
BRIAN POWERS
KAYLEAH UMBLAUGH

**COLLECTION PURPOSE:**
EDUCATION

**VESSEL(S):**
THE YELLOW BIRD
THREE SONS

**VESSEL CAPTAIN(S):**
JAMIE ELDREDGE
CAMERON SMITH

**SUMMARY OF AUTHORIZED ACTIVITY:**

The permit covers the collection and possession of marine animals for education purposes and to stock aquarium tanks. The permit also covers the collection of horseshoe crab eggs for head start program and education. Horseshoe crab eggs will be collected by hand from a beach in Barnstable County and returned to the same beach after a yearlong head start at the aquarium.

**CONDITIONS:**

- No lobsters may be taken.
- This permit is valid only for the locations and activities listed.
- The sale of organisms collected under this permit is prohibited.
- An annual report of permitted ativities must be submitted.
- Permittee must obtain permission from, and coordinate with, local Shellfish Constable(s), town administrator(s) and/or town selectboard(s) prior to any shellfish digging, collection, or planting.
- Permittee must notify local Shellfish Constable(s), town administrator(s) and/or town selectboard(s) at least 48 hours prior to any shellfish field activities.

*Signature*: _____

**DIRECTOR:** Daniel J McKiernan
Daniel J. McKiernan

Date Filed 11/10/2026 10:47 AM
Superior Court - Suffolk
Docket Number

*Commonwealth of Massachusetts*
*Division of Marine Fisheries*

**2025**

**SPECIAL PERMIT**
**SCIENTIFIC COLLECTION**

---

JESSICA R SHEPPARD
LETS EXPLORE TOGETHER
108 PALOMINO DR
BARNSTABLE, MA 02630

**PRIMARY COLLECTOR:**
JESSICA SHEPPARD

**SECONDARY COLLECTOR(S):**

**PERMIT #:** 186809

**ISSUED:** 03-20-2025
**EXPIRES:** 12-31-2025
**FTN:** 368060

**COLLECTION PURPOSE:**
EDUCATION

**VESSEL(S):**

**PERMIT HOLDER:**
**NAME:**
JESSICA R SHEPPARD

**DOB:** [redacted]

**VESSEL CAPTAIN(S):**

**CORPORATE NAME:**
LETS EXPLORE TOGETHER

**PRIMARY ADDRESS:**
108 PALOMINO DR
BARNSTABLE, MA 02630

**SUMMARY OF AUTHORIZED ACTIVITY:**

COLLABORATIVE TAGGING PROGRAM WITH THE USFWS-JOSH NEWHARD-TAG HORSESHOE CRABS AT MILLWAY BEACH, BARNSTABLE, MA. TAGGING WILL BE AS AN EDUCATIONAL PROGRAM FOR 4TH & 6TH GRADE STUDENTS TO LEARN ANATOMY, LOCAL SIGNIFICANT SPECIES, BLEEDING NEEDS, ENDANGERED STATUS, FISHERY CONNECTIONS AND MIGRATION. CRABS WILL BE TAGGED AND RELEASED. NO HORSESHOE CRABS WILL BE REMOVED FROM COLLECTION SITE.

**CONDITIONS:**

- The sale of organisms collected under this permit is prohibited.
- This permit is valid only for the locations and activities listed.
- An annual report of permitted ativities must be submitted.
- You must contact Derry Perry-DMF-New Bedford- Prior to tagging (508) 742-9726.
- Horseshoe Crabs may not be tagged on the following dates, 5/10/2025, 05/12/2025, 05/14/2025, 05/24/2025, 05/26/2025, 05/28/2025, 06/09/2025, 06/11/2025, 06/13/2025, 06/23/2025, 06/25/2025, 06/27/2025 due to DMF spawning survey.

*Signature*: _____

**DIRECTOR:** Daniel J McKiernan
Daniel J. McKiernan

Date Filed 11/10/2026 10:47 AM
Superior Court - Suffolk
Docket Number

*Commonwealth of Massachusetts*
*Division of Marine Fisheries*

**2025**

# SPECIAL PERMIT
# SCIENTIFIC COLLECTION

REBECA C LINHART
UNIVERSITY OF RHODE ISLAND
1 GREENHOUSE RD
NORTH KINGSTOWN, RI 02852

**PERMIT #:** 187019

**ISSUED:** 03-20-2025
**EXPIRES:** 12-31-2025
**FTN:** 368024

**PERMIT HOLDER:**
**NAME:**
REBECA C LINHART

**DOB:** [redacted]

**CORPORATE NAME:**
UNIVERSITY OF RHODE ISLAND

**PRIMARY ADDRESS:**
1 GREENHOUSE RD
NORTH KINGSTOWN, RI 02852

**PRIMARY COLLECTOR:**
REBECA LINHART

**SECONDARY COLLECTOR(S):**
ALAN KNEIDEL
LIANA DINUNZIO
JOHN HERBERT
RONALD LINHART
MARISSA ARDOVINO

**COLLECTION PURPOSE:**
RESEARCH

**VESSEL(S):**

**VESSEL CAPTAIN(S):**

## SUMMARY OF AUTHORIZED ACTIVITY:

Collect small quantities of marine invertebrates to complete stable isotope analyses. The data will be used to assess shorebird diet during spring migration to improve conservation efforts in New England. Invertebrates will be collected by hand or metal sieve. Invertebrates will be sorted by taxa and then frozen until dried and analyzed. Polychaete worms from multiple families, small bivalves, mussel spat, meiofauna (including copepods) and horseshoe crab eggs will also be collected. Horseshoe crab eggs will be collected by egg cluster survey. This involves digging 20cm holes and counting egg clusters within the holes. The egg clusters are returned to the hole and re-buried after the survey. The second method is to assess surface eggs. This method involves taking core samples of the top 5 cm of sand and is typically used to assess the eggs available to foraging birds. All eggs in the sample are counted. Samples will be taken at low tide (May-June) from 8 sampling zones in Monomoy. Up to 9 egg cluster holes and 9 surface egg samples will be taken from each transect. This would total about 72 surface egg samples per visit. This permit also covers transect sampling at Monomoy National Wildlife refuge. At each transect sediment cores will be taken and sieved to retain invertebrates. The invertebrates will be sorted by taxa to get biomass estimates of food availability for shorebirds at the site. Up to 5 transects with 15 samples each, resulting in 75 sediment cores.

## CONDITIONS:

- The sale of organisms collected under this permit is prohibited.
- This permit is valid only for the locations and activities listed.
- No lobsters may be taken.
- An annual report of permitted ativities must be submitted.

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Docket Number

*Commonwealth of Massachusetts*
*Division of Marine Fisheries*

**2025**

**SPECIAL PERMIT**
**SCIENTIFIC COLLECTION**

---

*Signature*: _____ **DIRECTOR:** Daniel J. McKiernan

Daniel J. McKiernan

[redacted]

Date Filed 11/10/2026 10:47 AM
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Docket Number

*Commonwealth of Massachusetts*
*Division of Marine Fisheries*

**2025**

# SPECIAL PERMIT
# SCIENTIFIC COLLECTION

RENEE K FUDALA
SANDWICH MIDDLE HIGH SCHOOL
75 TIMBERLANE DR
MASHPEE, MA 02649

**PRIMARY COLLECTOR:**
RENEE K FUDALA

**SECONDARY COLLECTOR(S):**

**PERMIT #:** 187622

**ISSUED:** 01-21-2025
**EXPIRES:** 12-31-2025
**FTN:** 361507

**COLLECTION PURPOSE:**
EDUCATION

**VESSEL(S):**
N/A

**PERMIT HOLDER:**
**NAME:**
RENEE K FUDALA

**DOB:** [redacted]

**VESSEL CAPTAIN(S):**
N/A

**CORPORATE NAME:**
SANDWICH MIDDLE HIGH SCHOOL

**PRIMARY ADDRESS:**
75 TIMBERLANE DR
MASHPEE, MA 02649

**SUMMARY OF AUTHORIZED ACTIVITY:**

Collect Horseshoe crabs in collaboration with the Museum of Natural History. Mrs. Maureen Ward from the Museum, will be supplying approximately 40/50 newly spawned eggs from Barnstable Harbor. The eggs will be split between two classrooms (Middle & High School). In late June, all juveniles will be returned to the waters from where they were taken.

**CONDITIONS:**

- The sale of organisms collected under this permit is prohibited.
- This permit is valid only for the locations and activities listed.
- An annual report of permitted ativities must be submitted.

*Signature*: _____

**DIRECTOR:** Daniel J McKiernan
Daniel J. McKiernan

Date Filed 11/10/2026 10:47 AM
Superior Court - Suffolk
Docket Number

*Commonwealth of Massachusetts*
*Division of Marine Fisheries*

**2025**

# SPECIAL PERMIT
# SCIENTIFIC COLLECTION

JOHN NEY
SOUTHERN MAINE COMMUNITY COLLEGE
61 ROBERTS ST APT 1
PORTLAND, ME 04102

**PRIMARY COLLECTOR:**
JOHN NEY

**SECONDARY COLLECTOR(S):**

**PERMIT #:** 188890

**ISSUED:** 08-14-2025
**EXPIRES:** 12-31-2025
**FTN:** 371128

**COLLECTION PURPOSE:**
RESEARCH

**VESSEL(S):**
N/A

**PERMIT HOLDER:**
**NAME:**
JOHN NEY

**DOB:** [redacted]

**VESSEL CAPTAIN(S):**
N/A

**CORPORATE NAME:**
SOUTHERN MAINE COMMUNITY COLLEGE

**PRIMARY ADDRESS:**
61 ROBERTS ST APT 1
PORTLAND, ME 04102

**SUMMARY OF AUTHORIZED ACTIVITY:**

Collect horseshoe crab leg samples for genetics work comparing genomes of the crabs found on Cape Cod to crabs found in Maine. Horseshoe crabs will be collected, by hand, on the Southern side of Cape Cod. Up to ten rear leg samples will be obtained. Samples will be returned to Southern Maine Community College lab.

**CONDITIONS:**

- The sale of organisms collected under this permit is prohibited.
- This permit is valid only for the locations and activities listed.
- An annual report of permitted ativities must be submitted.
- No lobsters may be taken.

*Signature*: _____

**DIRECTOR:** Daniel J. McKiernan

Daniel J. McKiernan

Date Filed 11/10/2026 10:47 AM
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# Tab B-3

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Docket Number

**Confidential Data Has Been Removed from This Report**

# Massachusetts
# Division of Marine Fisheries

# Massachusetts 2024 Compliance Report to the Atlantic States Marine Fisheries Commission – Horseshoe Crab

Submitted by:
Derek Perry, Senior Marine Fisheries Biologist
Massachusetts Division of Marine Fisheries
South Shore Field Station
836 South Rodney French Boulevard
New Bedford, MA 02744

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Docket Number

**Confidential Data Has Been Removed from This Report**

## I. Introduction

The bait fishery harvested 99.9% (139,970 crabs) of the 2024 Massachusetts self-imposed quota (140,000 crabs), based on dealer reports. Prosomal widths were taken from 1,714 bait crabs and 2,433 biomedical crabs as part of our annual market sampling program. Sampling intensity of the biomedical fishery has increased since the addition of a second Massachusetts biomedical firm, which opened in July 2022. In addition to bait and biomedical market sampling, which Division of Marine Fisheries (DMF) has conducted since 2001, DMF now conducts at-sea sampling trips aboard biomedical collection trips, samples biomedical holding areas (e.g., pens), and biomedical release trips. Forty-eight commercial horseshoe crab sampling trips (bait and biomedical, combined) were conducted in 2024. The two biomedical companies operating in Massachusetts reported collecting and releasing (redacted-confidential) crabs from Massachusetts, and (redacted-confidential) from Rhode Island (based on biomedical reports). DMF staff and numerous volunteer groups conducted spawning beach surveys at 16 beaches during the full and new moons of May and June.

## II. Request for *de minimis* status – not applicable

## III. Previous calendar year's fishery

### a. Bait Harvest

Only 28 permits reported landings out of 190 issued permits in 2024, representing a decrease of 14 active permits and 12 issued permits from 2023. Four harvesters reported landings using Coastal Access Permits in 2024, up from 3 in 2023. See

Table 1 for associated
harvests. Massachusetts dealers reported purchasing 139,970 horseshoe crabs from harvesters in 2024, just below the 140,000 Massachusetts horseshoe crab bait quota. Harvesters reported landing 134,663 crabs (Table 2). Nearly all bait landings came from Nantucket Sound (97%), with another 2% coming from Vineyard Sound. Though Massachusetts landings are often concentrated in Nantucket Sound, a greater percentage of MA landings came from Nantucket Sound in 2024 due to regulation changes that prevented harvest from April 15 through June 7th, which limited resource access for hand harvesters who historically fished this period and are more dispersed across the southern part of the state. With hand harvesters unable to access crabs during the time when they are available in commercial quantities in shallow water, harvest shifted towards mobile gear fishermen who catch crabs in deeper water outside of the spawning season. Mobile gear fishers landed 92% of the Massachusetts bait landings in 2024 (Table 3). No crabs were landed in May (Table 4) due to the new spawning season closure.

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**Table 1. Number of permits issued, number of permits actively fished, and number of crabs fishers reported harvesting by permit type (data source: Massachusetts Trip Level Reports and NMFS Vessel Trip Reports). * indicates confidential information that has been redacted.**

| Permit Type | # of Permits Issued | # of Permits Fished | # of Crabs Harvested |
|---|---|---|---|
| Biomedical | 31 | 9 | * |
| Bait | 190 | 28 | 130,330 |
| Open Access | N/A | 4 | 4,576 |

**Table 2. Number of bait crabs reported by bait harvesters, by sex (data source: Massachusetts Trip Level Reports, NMFS Vessel Trip Reports). * indicates confidential information that has been redacted.**

| | Female | Male | Unknown |
|---|---|---|---|
| Bait Harvest | * | * | 134,663 |

**Table 3. Number of bait crabs captured by method, as reported by harvesters (data source: Massachusetts Trip Level Reports, NMFS Vessel Trip Reports).**

| Harvest Method | # of Crabs | % of Total |
|---|---|---|
| Hand | 10,155 | 8% |
| Mobile | 124,751 | 92% |

**Table 4. Number of bait crabs harvested per month, as reported by harvesters (data sources: Massachusetts Trip Level Reports and NMFS Vessel Trip Reports). * indicates confidential information that has been redacted.**

| Month | # of Crabs |
|---|---|
| JAN | * |
| FEB | * |
| MAR | * |
| APR | * |
| MAY | 0 |
| JUN | 32,264 |
| JUL | 32,327 |
| AUG | 45,667 |
| SEP | 9,487 |
| OCT | * |

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| | |
|---|---|
| NOV | 0 |
| DEC | 0 |

**b. Scientific and Research Harvest**

Organizations collecting horseshoe crabs for scientific or educational purposes are required to obtain a scientific collection permit from the state. The permits allow the permit holder to possess more crabs than the recreational limit (6) and possess crabs below the minimum legal size (7" prosomal width). As a condition of permit renewal, researchers are required to report the number of horseshoe crabs collected. Educational and research programs collected 65 crabs and tagged 317 crabs in 2024. Additionally, two organizations reported collecting horseshoe crab eggs.

**c. Biomedical Fishery**

DMF issued 31 biomedical permits in 2024, of which 9 were actively fished (

Table 1). Two Massachusetts biomedical companies bled horseshoe crabs to produce *Limulus* Amebocyte Lysate (LAL) in 2024, Associates of Cape Cod (ACC) and Charles River Laboratories (CRL). Both companies filed monthly catch reports listing the dealers from whom they purchased crabs, location of harvest, the number and sex of crabs purchased, and the ultimate disposition of the crabs (harvested with biomedical permit then released, or harvested with a bait permit and returned to the bait market). They also reported the number of crabs they rejected, received dead, and that were dead at release, by sex.

Massachusetts biomedical companies are required by regulation to adhere to the following: cannot accept more than 1,000 crabs per permitted biomedical harvester per day, crabs must be separated by source (e.g., location of harvest, permit type), crabs cannot be held out of water more than 36 hours, crabs must be returned to harvester/dealer in good condition, crabs must be released in same embayment where they were originally collected, crabs must be kept moist during transport and storage, crabs must be transported in a temperature-controlled environment with the thermostat set between 50 and 60° F, bleeding facilities must maintain temperatures ≤70° F in labs and holding areas, and hold crabs in barrels no more than approximately 2/3 full. DMF also requires that every bled crab harvested using a biomedical permit must be marked to indicate the crab was bled and that crab cannot be bled a second time in a calendar year. DMF assigns the mark annually, which is applied on the underside of the crab, and each company uses a waterproof paint color specific to that company.

In 2024, Massachusetts biomedical firms bled bait crabs from Massachusetts, New York, Delaware, and Virginia, and biomedical crabs from Massachusetts and Rhode Island (Table 5). ACC and CRL reported purchasing (redacted-confidential) crabs (all sources combined), which is an increase of (redacted-confidential) crabs over 2023. The bait market contributed (redacted-confidential) of all crabs bled (Table 6). Both biomedical companies participated in the rent-a-crab program in 2024, bleeding (redacted-confidential) bait crabs from several states, including (redacted-confidential) bait crabs from Massachusetts, which

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is (redacted-confidential) of Massachusetts' bait landings. Bait crabs were returned to the bait market after bleeding. Massachusetts biomedical firms bled (redacted-confidential) crabs collected with biomedical permits from Massachusetts and (redacted-confidential) crabs from Rhode Island collected solely for LAL production. Data reported by the two companies resulted in a combined pre-bleeding mortality rate of 0.87% for males, and 1.06% for female crabs for Massachusetts biomedical-only crabs. ACC reported pre-bleeding mortality rates of 0.22% and 0.22%, for male and female Rhode Island biomedical crabs, respectively (CRL did not bleed crabs from Rhode Island).

Nine DMF biologists participated in 35 sampling trips specifically to collect data on the biomedical fishery in 2024 (Table 7). These trips included at-sea biomedical collection trips, pen/holding sampling, market sampling, and observation of at-sea releases of biomedical crabs. In total, there were 48 horseshoe crab sampling trips in 2024 (35 biomedical, 13 bait), making the horseshoe crab fishery the third most observed fishery by DMF in 2024, behind the lobster and groundfish fisheries. Based on DMF samples of horseshoe crabs collected in Massachusetts, pre-bleeding mortality rates were 0.0% and 1.0% respectively, for males and females (Table 8). Additional 0.6% and 1.7% mortality rates were observed at the time of release (early-stage post-bleeding mortality) for males and females, respectively.

**Table 5. Number of crabs bled, rejected, and dead by month from 2024 biomedical facility reports.**

Table redacted-confidential

**Table 6. Number of purchased, rejected, and dead crabs from 2024 biomedical facility reports.**

Table redacted-confidential

**Table 7. Number of biomedical sampling trips conducted by DMF staff in 2024, and number of crabs observed during sampling trips.**

| | # of 2024 Trips | # of Crabs Observed |
|---|---|---|
| Biomedical collection samples | 7 | 3,117 |
| Biomedical pen samples | 7 | 1,409 |
| Biomedical market samples | 11 | 2,433 |
| Biomedical release samples | 10 | 2,242 |
| Total | 35 | 9,201 |

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# Welcome to the 2024 Massachusetts Horseshoe Crab Science Meeting



March 13, 2024

Photo by Maureen Ward

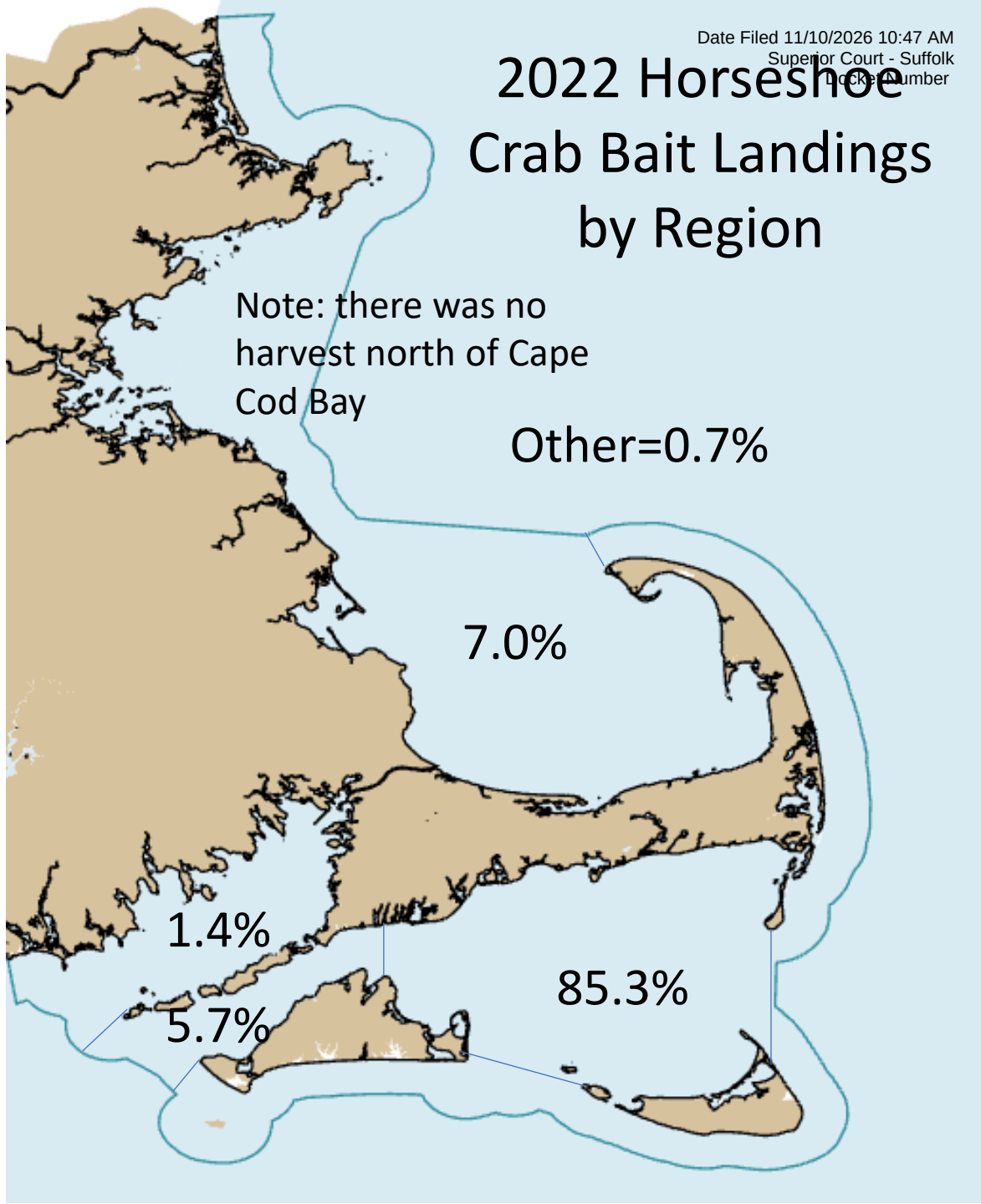
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# Massachusetts Fisheries Dependent Data

## 2022 MA Monthly HSC Bait Landings

| Month | Landings | % Hand |
|---|---|---|
| JAN | C | 0% |
| FEB | C | 0% |
| MAR | C | 0% |
| APR | 3,027 | C |
| MAY | 30,448 | 98% |
| JUN | 21,194 | 48% |
| JUL | 28,311 | 0% |
| AUG | 24,129 | 0% |
| SEP | 8,716 | 0% |
| OCT | 12,334 | 0% |
| NOV | 3,726 | 0% |
| DEC | C | 0% |

Data source: MATL Reports and NOAA VTRs C=confidential



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# Massachusetts Horseshoe Crab Survey Trends and Commercial Fishery Monitoring



March 14, 2025

Derek Perry
Senior Biologist
Massachusetts Division of Marine Fisheries
Derek.Perry@mass.gov

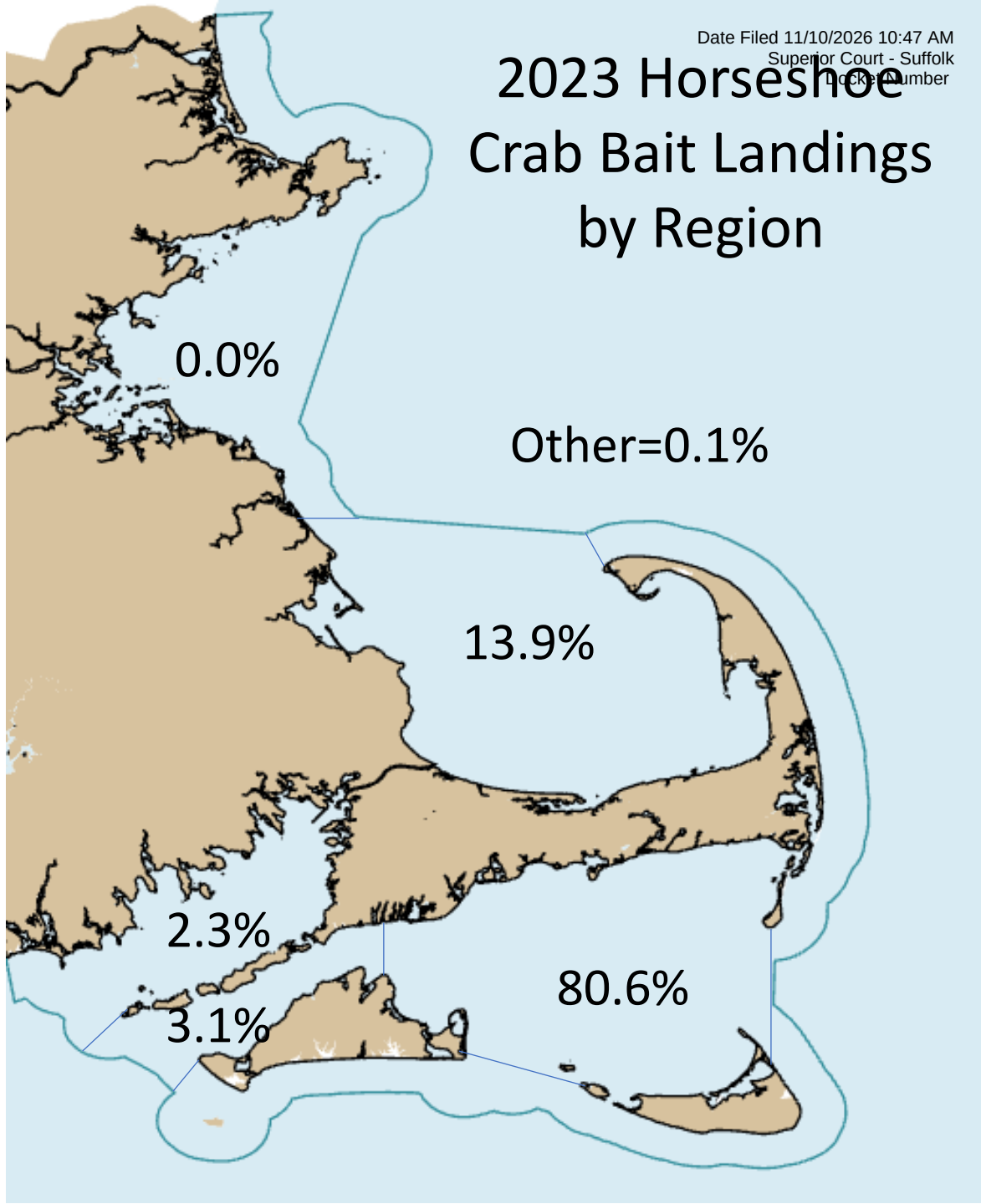
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# Seasonality and Location of MA Horseshoe Crab Bait Landings

## 2023 MA Monthly HSC Bait Landings

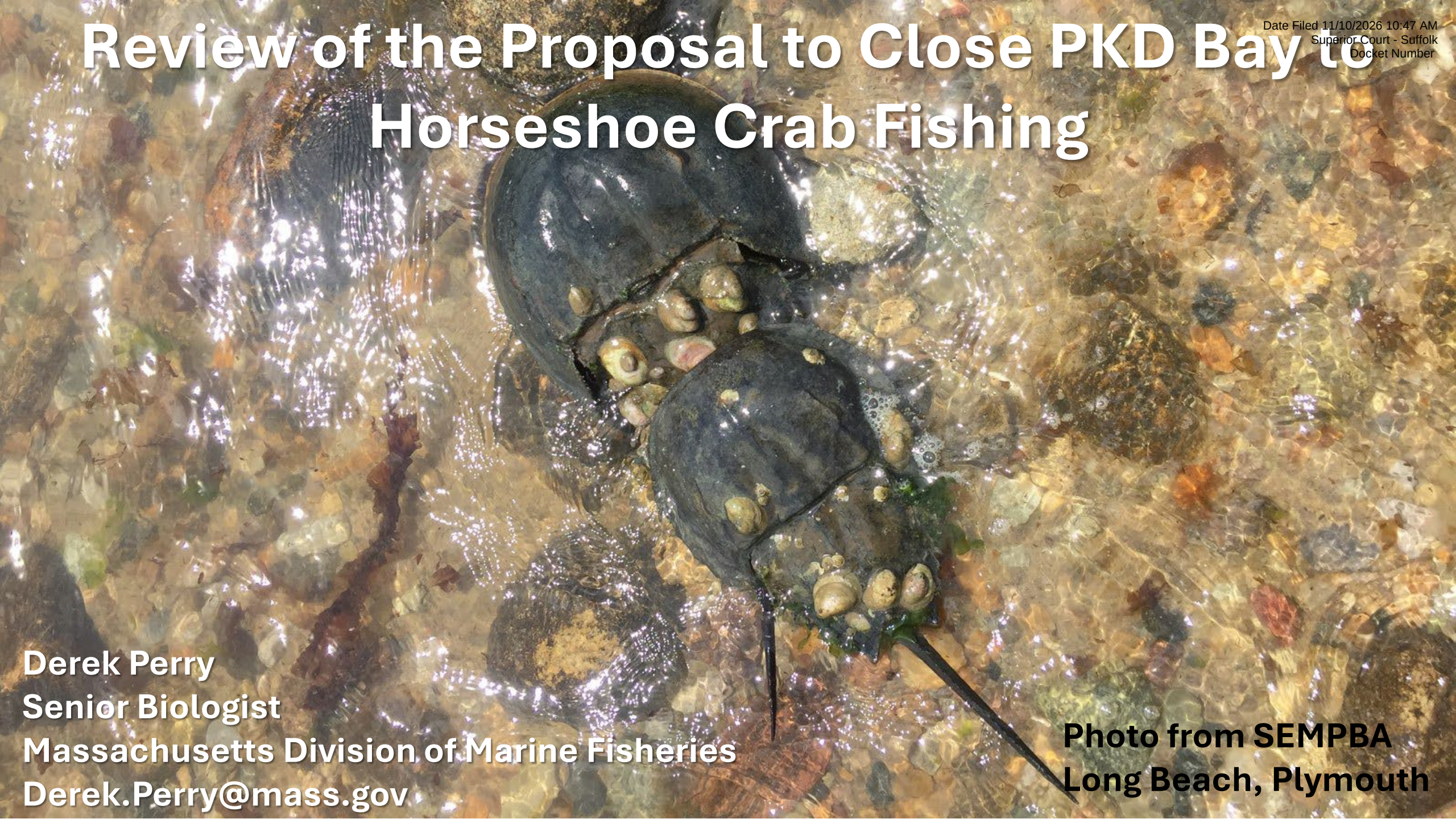
| Month | Landings | % Hand |
|---|---|---|
| JAN-APR | 14,454 | 0%-56% |
| MAY | 68,740 | 97% |
| JUN | 28,890 | 42% |
| JUL | 19,385 | C |
| AUG | 3,125 | 0% |
| SEP | 0 | 0% |
| OCT | 0 | 0% |
| NOV | 0 | 0% |
| DEC | 0 | 0% |

Data source: MATL Reports and NOAA VTRs
"C" indicates confidential data
JAN-APR combined because JAN-MAR are confidential



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# Review of the Proposal to Close PKD Bay to Horseshoe Crab Fishing

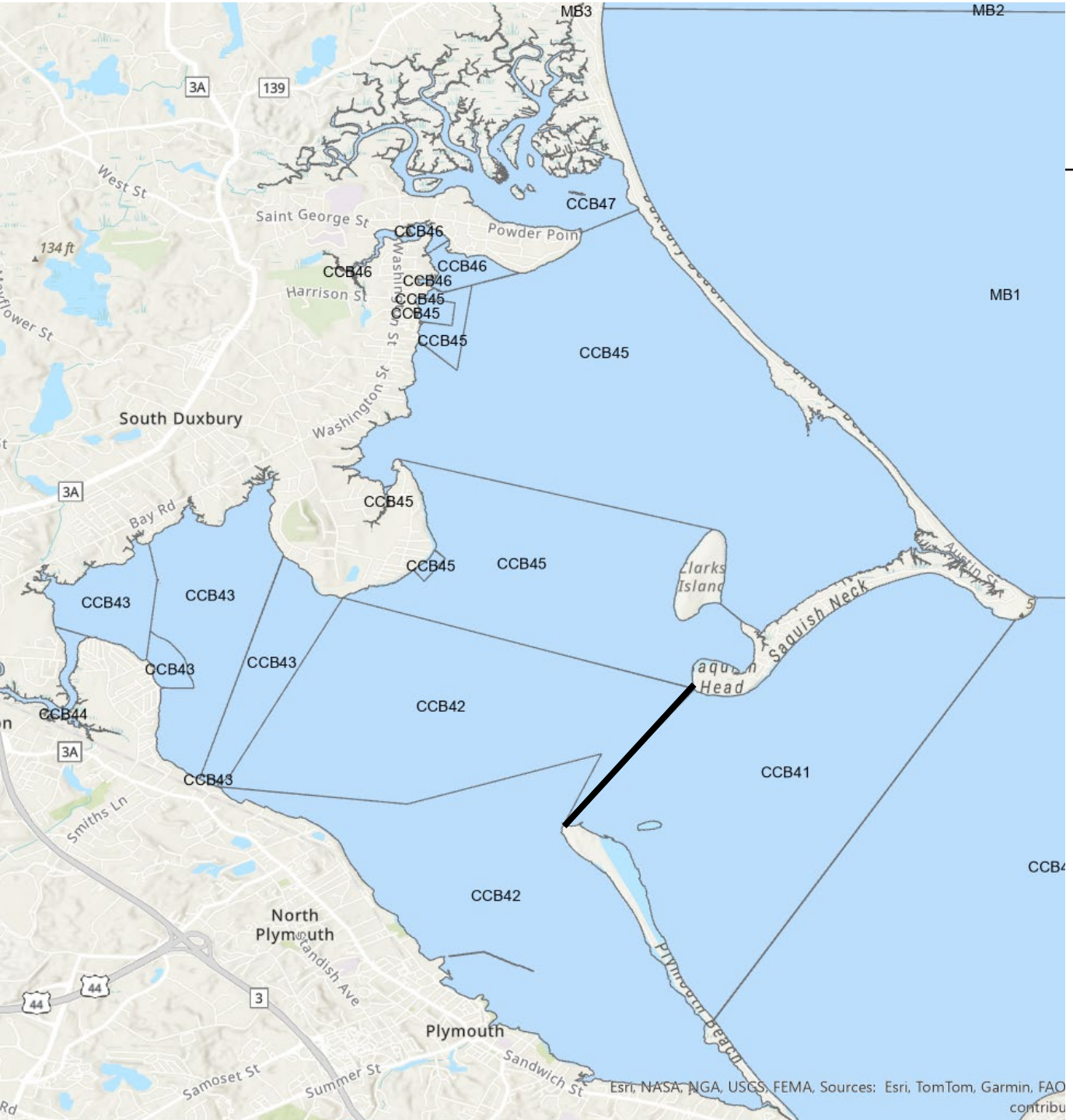


Derek Perry
Senior Biologist
Massachusetts Division of Marine Fisheries
Derek.Perry@mass.gov

Photo from SEMPBA
Long Beach, Plymouth

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# PKD Harvest




| Year | # Crabs | Fishers | |
|---|---|---|---|
| 2013 | C | 1 | |
| 2014 | C | 1 | 2013-2016 average= 967 crabs |
| 2015 | C | 2 | |
| 2016 | C | 1 | |
| 2017 | 6,690 | 6 | |
| 2018 | 1,342 | 3 | |
| 2019 | 4,346 | 3 | |
| 2020 | C | 1 | |
| 2021 | C | 2 | 2020-2023 average= 2,117 crabs |
| 2022 | C | 1 | |
| 2023 | C | 1 | |
| 2024 | C | 1 | |

Data Source: MA TLR and NMFS VTRs

C=Confidential due to state and federal laws

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# Tab C

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Docket Number

July 9, 2026

Mr. Thomas O'Shea

Mr. Daniel McKiernan

Mr. Jared Silva

Commonwealth of Massachusetts

Division of Marine Fisheries

** Transmitted by E-Mail **

*Re: Notice Letter of Intent to Sue Over Redactions to Horseshoe Crab Biological Data Pursuant to a Valid Commonwealth Public Records Request*

Dear Mr. O'Shea, Mr. McKiernan, and Mr. Silva:

While not legally required, we are issuing this "notice of intent to sue" letter as a means of seeking an amicable solution to your agency's refusal to release records, or portions of records, in its possession that relate to "horseshoe crab mortality, take, and/or related harm" in Massachusetts and in areas under the commonwealth's jurisdiction. The Center for Biological Diversity ("Center") sent its request letter on February 10, 2026, and the commonwealth responded on March 3, 2026 (attached). We believe your agency has unlawfully redacted Massachusetts wildlife take records that are, by definition, public information. As a matter of biological fact, the species at issue continues to decline to dangerous levels within the state and along its entire range, including Massachusetts.[1]

*In short, we strongly believe and assert that the biological take, harm, and contact data on horseshoe crabs in the state are not confidential records but records that must be and traditionally have been released to the public as part of the state's duty to manage resident wildlife. See the attached redacted document as a prime example of our concern and objection. Releasing the take and harm numbers would in no way harm the privacy right of either harvesters or corporate pharmaceutical companies.*

The Massachusetts Division of Marine Fisheries (DMF) responded to the Center's public records request seeking data on the 2024 and 2025 harvests of horseshoe crabs in the

[1] *See* Center for Biological Diversity, Petition to List the Horseshoe Crab under the federal Endangered Species Act, February 27, 2024. https://www.biologicaldiversity.org/species/invertebrates/pdfs/20240212-American-horseshoe-crab-petition.pdf

Commonwealth of Massachusetts by providing access to certain records, denying access in part to others, and entirely withholding an undisclosed number of records. Entirely released records are: (1) the list of horseshoe crab permit holders, (2) materials used and related to the 2024 meetings of the Marine Fisheries Advisory Commission, (3) materials used and related to the 2025 meetings of the Marine Fisheries Advisory Commission, (4) presentation materials used in DMF public hearings, (5) a 2024-2025 quota monitoring table, and (6) a compilation of 13 emails to and from Dan McKiernan, director of DMF. Partially redacted documentation included: (1) the 2024 compliance report to the Atlantic States Marine Fisheries Commission (ASMFC), (2) horseshoe crab harvest permits, and (3) materials from DMF horseshoe crab science meetings. All data, such as charts, tables, and summaries related to biomedical harvest have been redacted from each of the partially redacted documents. Lastly, the number of documents completely withheld was not disclosed by the Department.

The Commonwealth exclusively relies on G.L. c. 4, § 7(26)(a) and G.L. c. 130, § 21 in justifying the redaction of and refusal to release certain documentation. G.L. c. 4, § 7(26)(a) exempts, “materials or data” from disclosure which are “specifically or by necessary implication exempted from disclosure by statute”. As the response letter states, Certain data within the 2024 report has been redacted consistent with the statutory exemption to the Massachusetts public records law at G.L. c. 4, §7(26)(a). These data are held strictly confidential by the Division of Marine Fisheries under G.L. c. 130, §21 and may only be released in aggregate when the disclosure does not “directly or indirectly disclose the identity or business of any person who submits the statistics.” As we have demonstrated in states like Maryland (see attached order), there is a way to balance confidentiality of fishermen with the needs and rights of the public to access wildlife data historically available to the public.

The Commonwealth additionally cites G.L. c. 130, § 21 which states the privacy of statistical reports gathered:

> Shall be held strictly confidential by the director and shall not be disclosed except in compliance with a valid court order. The director may, by regulation, prescribe such procedures as may be necessary to preserve such confidentiality, except that the director may release or make public any such statistics in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such statistics.

Perhaps our discussion can focus on the type of aggregate data that the state could release. Again, the Center does not seek confidential information about names, addresses, phone numbers or the like.

Under the Massachusetts Public Records Law, all records sought from the state government are presumptively public and, if records are withheld, the agency or municipality withholding such records bears the burden of proving each record or portion of the record may be withheld by a preponderance of the evidence. MA ST 66 § 10A(iv). Due to the presumption

in favor of disclosure, exemptions are "strictly and narrowly construed" by Massachusetts courts. *Boston Globe Media Partners, LLC v. Department of Criminal Justice*, 140 N.E.3d 923, 932 (Mass. 2020) (quoting *Globe Newspaper Co. V. District Attorney for the Middle Dist.*, 788 N.E.2d 513, 518 (Mass. 2003).

Massachusetts courts have determined exemption under G.L. c. 4, § 7(26)(a) may occur in two instances: when the exempting statute expressly prohibits disclosure and, when the exempting statute, "protects the record from disclosure by necessary implication". *Boston Globe*, 140 N.E.3d at 927; *see also Rahim v. District Attorney for Suffolk District*, 159 N.E.3d 690, 696 (Mass. 2020). Courts presume records are public, and exemptions are narrowly construed, therefore DMF has a statutory obligation to identify whether G.L. c. 130, § 21 specifically or implicitly exempts the requested records or portions thereof from disclosure. *See Boston Globe*, 140 N.E.3d at 927. Due to the carve-out created for aggregate data which does not identify persons or businesses, DMF additionally must present evidence that release of aggregate biomedical horseshoe crab take data will disclose the identity or business of biomedical companies operating in the Commonwealth. *See id*.

In the Department's response, it provides no more explanation for redacting and withholding the requested records other than repeatedly quoting G.L. c. 130, § 21. The Department simply asserts records, "may only be released in aggregate when the disclosure does not directly or indirectly disclose the identity or business of any person who submits the statistics." The Department does not elaborate beyond this statement. Therefore, according to the Massachusetts caselaw and MA ST 66 § 10A(iv), the Department has not met their obligation to provide justification for redacting and withholding records pursuant G.L. c. 4, § 7(26)(a) and G.L. c. 130, § 21.

Massachusetts case law makes clear that the title to wild animals and game is in the commonwealth in trust for the public. *Commonwealth v. Worth*, 304 Mass. 313, 317 (Mass. 1939) ("The title or ownership of the deer being in the Commonwealth in trust for the public and no individual having any property rights to be affected, the result of the legislation is to grant to the individual upon carefully guarded conditions, a privilege, to hunt and possess the game.") *Id*. at 318.

The U.S. Supreme Court has spoken on this principle in *Hughes v. Oklahoma*, 441 U.S. 322, 342–43 (1979) (recognizing a "state's substantial interest in preserving and regulating the exploitation of fish and game and other natural resources within its boundaries for the benefit of its citizens.") State courts both inside and outside Massachusetts have long upheld this principle to hold wildlife in type of public trust for its citizens. *See Avery v. Beale*, 80 S.E.2d 584, 590 (Va. 1954); *Citizens for Responsible Wildlife Management v. State*, 103 P.3d 203, 205 (Wash. App. 2004); *O'Brien v. State*, 711 P.2d 1144, 1148 (Wy. 1986).

Amongst the states, the common law right to control and regulate wildlife, including horseshoe crabs, is entrusted in the state (or commonwealth) by the people. Specifically, forty-

eight states either explicitly or implicitly recognize a "public trust" or similar duties in wildlife conservation, including Virginia. *See* Michael C. Blumm & Aurora Paulsen, *The Public Trust in Wildlife*, 2013 Utah L. Rev. 1437, 1471-76.[2] At the federal level, the agency's duty to provide information on wildlife conservation also prevails. *See, e.g.*, *National Ass'n of Home Builders v. Norton*, 309 F.2d 26,30 (D.C. Cir. 2002) ("the public interest in disclosure" of specific wildlife locations, even on private land, outweighs the privacy interests reflected by the agency's withholding, specifically rejecting the confidential commercial exemption under the federal Freedom of Information Act).

We look forward to hearing from you. Thank you for your timely attention to this matter.

Sincerely,

/s/

William J. Snape, III

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Counsel for Center for Biological Diversity

Cc: Massachusetts Attorney General

Center for Biological Diversity

[2] Similarly, almost all states recognize that the "take" of state protected species is subject to public examination and inquiry. California, for example, posts the take information Plaintiffs request here on a public website. See https://nrm.dfg.ca.gov/documents/ContextDocs.aspx?cat=CESA-Permitting (last visited 5-28-26).