Atlantic States Marine Fisheries Commission

ISFMP Policy Board

May 5, 2022
8:30 – 11:00 a.m. and 11:30 a.m.-12:30 p.m.
Hybrid Meeting

Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary. **Part of this meeting will be conducted with the Mid-Atlantic Fishery Management Council (MAFMC).**

1.	Welcome/Call to Order *(S. Woodward)*	8:30 a.m.
2.	Board Consent *(S. Woodward)* • Approval of Agenda • Approval of Proceedings from January 2022	8:30 a.m.
3.	Public Comment	8:35 a.m.
4.	Executive Committee Report (*S. Woodward*)	8:45 a.m.
5.	Consider Changes to the Appeals Policy (*R. Beal*) **Final Action**	9:00 a.m.
6.	Update on Mode Split Work Group (*R. Beal*)	9:15 a.m.
7.	Report from *De Minimis* Work Group (*T. Kerns*) **Possible Action**	9:25 a.m.
8.	Update on East Coast Climate Change Scenario Planning (*T. Kerns*)	9:45 a.m.
9.	Committee Reports • Law Enforcement Committee (*T. Kerns*)	9:55 a.m.
10.	NOAA Report on Sea Turtle Bycatch in Trawl Fisheries (*C. Upite*) • Review Stakeholder Outreach on Action to Develop Bycatch Reduction Measure to Reduce Sea Turtle Takes	10:05 a.m.
11.	Update on MAFMC's Consideration of Re-initiating the Research Set Aside Program (*R. Beal*)	10:35 a.m.
12.	Review Information Related to Tautog Commercial Tagging Program (*J. Boyle*)	10:45 a.m.
13.	Review Noncompliance Findings (If Necessary) **Action**	10:50 a.m.
14.	Other Business/Recess	10:55 a.m.

The meeting will be held at The Westin Crystal City (1800 Richmond Highway, Arlington, VA; 703.486.1111) and via webinar; click here for details

This part of the meeting will be conducted with the MAFMC

15. Reconvene with the MAFMC	11:30 a.m.
16. Initial Discussion on Commission Harvest Control Rule Draft Addenda and MAFMC Framework (*D. Colson Leaning, J. Beatty*)	11:30 a.m.
17. Adjourn	12:30 p.m.

The meeting will be held at The Westin Crystal City (1800 Richmond Highway, Arlington, VA; 703.486.1111) and via webinar; click here for details

Atlantic States Marine Fisheries Commission

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ASMFC *De Minimis* Discussion Paper

May 2022

Background

The Atlantic States Marine Fisheries Commission (Commission) includes *de minimis* provisions in interstate Fishery Management Plans (FMP) to reduce the management burden for states that have a negligible effect on the conservation of a species. The *de minimis* provisions in the FMPs vary by species and include a range of requirements for management measures, reporting requirements, and *de minimis* qualification periods. Current *de minimis* provisions in Commission FMPs are summarized at the end of this document.

The ISFMP Charter includes a definition of *de minimis* and the requirement to include *de minimis* provisions in the FMP.

Definition: De minimis – A situation in which, under existing conditions of the stock and the scope of the fishery, conservation and enforcement actions taken by an individual state would be expected to contribute insignificantly to a coastwide conservation program required by an FMP or amendment.

FMP Provisions: … and provided that each fishery management plan shall address the extent to which States meeting de minimis criteria may be exempted from specific management requirements of the fishery management plan to the extent that action by the particular States to implement and enforce the plan is not necessary for attainment of the fishery management plan's objectives and the conservation of the fishery.

Previous ISFMP Policy Board Discussions

In May of 2021 the Policy Board had discussions that focused on the balance between standardization across FMPs for consistent application of the provisions and the flexibility for the species management boards in developing *de minimis* provisions to address data collection needs (fishery-independent and - dependent), commerce issues, and management loopholes. The Board formed a small work group to provide a recommendation for addressing *de minimis* that addresses the concerns raised by the Board. The work group met and developed recommendations for the Policy Board's review. The work group did not want to bring forward these recommendations until the Commission resumed in-person meetings.

Work Group Recommendations:

1. By definition states that meet *de minimis* standards would have a negligible effect on the conservation of a species, therefore those states should not have

to change regulations year-to-year to meet FMP requirements. A Board could establish a set of measures for *de minimis* states to follow that would not have to change year-to-year. These measures would establish a minimal level of the specie conservation s as well as potentially prevent regulatory loop holes. For each FMP the Commission manages, the specific species board could establish a set of *de minimis* measures. These measures could be for both the commercial and recreational fishery or different measures could be set for each fishery.

2. *De minimis* can apply to commercial or recreational fisheries or both. In some cases, a state could meet *de minimis* requirement for one fishery but not both, and depending on how the FMP defines *de minimis* the state may not meet the requirement and thus would not be consider *de minimis* (e.g. The FMP for species x sets the *de minimis* requirement by looking at total commercial and recreational landings together, state A has a very small commercial fishery but a recreational fishery that brings them just above the *de minimis* threshold. If the requirements had be separate, State A would have met *de minimis* for the commercial fishery but not the recreational fishery). Each species board should review the *de minimis* provisions to determine how *de minimis* should be considered (both fisheries together or separated). Alternatively, the Policy Board could make the decision that all FMP should consider *de minimis* provisions either both fisheries together or separated. The work group did not come to consensus if this should be a broad policy issue or species specific issue but there was agreement it should be reviewed and addressed. If there was a broad policy, some FMPs may need exceptions to address a unique characteristic of the fishery.
3. Currently, there is not a consistent amount of landings that determines *de minimis* thresholds. The work group looked at several FMPs and did not find a consistent method of evaluating *de minimis* thresholds. The group recognized the benefits of looking at average landings, which would prevent a state from taking action as a result of a rare event. But the Work Group was not prepared to comment if the same percentage across all FMPs was appropriate. The Policy Board could task the species boards to have the technical committees review the *de minimis* thresholds to determine an appropriate level that would have a negligible effect on the conservation of the species.
4. The work group discussed if all *de minimis* states should be exempt from sampling requirements. Members noted it may be difficult to meet the sampling requirements of the plan but for some stock assessments it is important to have some biological samples on the outer edges of a species range where *de minimis* states often fall. The work group concluded the assessment sub committee should review the sampling requirements for *de minimis* states to determine what level, if any, is appropriate.

Species	De Minimis Qualification (include # of landing years if applicable)	Sector Application: Commercial and/or Recreational; Both (can not split them)	Exemption From:
American Eel	Applicable by life stage if, for the proceeding 2 years, the average commercial landings (by weight) of that life stage constitute less than 1% of coastwide commercial landings for that life stage for the same 2 year period.	Commercial	Having to adopt the commercial and recreational fishery regulatoins for that particular life stage and any fishery-dependent monitoring elements for that life stage and any fishery-dependent monitoring elements for that life stage.
American Lobster	Average of last 2 years commercial landings is not more than 40,000 lbs	Commercial	All FMP requirements except coastwide measures and those deemed necessary by the Board when de minimis is granted
Atlantic Croaker	Average commercial or recreational landings (by weight) constitute <1% of the average coastwide commercial or recreational landings for the most recent three years in which data is available.	Commercial and/or recreational	A state that qualifies for de minimis for commercial and/or recreational fisheries is exempt from implementing management response for the de minimis fishery when the 30% moderate response level from the Traffic Light Approach is triggered.
Atlantic Herring	Average of last three years' combined commercial landings (weight) is < 1% of coastwide for same two years	Commercial	Not specified in Plan
Atlantic Menhaden	A state's bait landings must be less than 1% of the total coastwide bait landings for the most recent two years. State(s) with a reduction fishery are not eligible for de minimis	Commercial (There is no management of the recreational fishery)	If granted de minimis status by the Board, states are exempt from implementing biological sampling as well as pound net catch and effort data reporting.

	consideration		
Atlantic Sturgeon	NA	NA	NA
Black Drum	The average combined commercial and recreational landings (by weight) constitute less than 1% of the average coastwide commercial and recreational landings in the most recent three years in which data is available.	Both	Not specified in Plan
Black Sea Bass	NA	NA	NA
Bluefish	Commercial landings less than 0.1% of the total coastwide commercial landings in the last preceeding year for which data is available	Commercial	Allocated 0.1% of commercial quota. Exempt from the Biological Monitoring Program.
Cobia	In order for a state to be considered de minimis for its recreational fishery, its recreational landings for 2 of the previous 3 years must be less than 1% of the coastwide recreational landings for the same time period. In order for a state to be considered de minimis for its commercial fishery, its commercial landings for 2 of the previous 3 years	Commercial and/or recreational	A recreational de minimis state may choose to match the recreational management measures implemented by an adjacent non-de minimis state (or the nearest non-de minimis state if none are adjacent) or limit its recreational fishery to 1 fish per vessel per trip with a minimum size of 33 inches fork length (or the total length equivalent, 37 inches). Commercial de minimis states are subject to the same commercial regulations as the rest of the coastwide fishery but are not required to monitor their in-season harvests.

	must be less than 2% of the coastwide commercial landings for the same time period.		
Horseshoe Crab	For the last 2 years, a state's combined average landings, based on numbers, must be < 1% of coastwide landings for same 2-year period	Commercial	States that qualify for de minimis status are not required to implement any horseshoe crab harvest restriction measures, but are required to implement components A, B, E and F of the monitoring program.
Jonah Crab	States may qualify for de minimis status if, for the preceding three years for which data are available, their average commercial landings (by weight) constitute less than 10 1% of the average coastwide commercial catch	Commercial	States who qualify for de minimis are not required to implement fishery independent and port/sea sampling requirements
Northern Shrimp	NA	NA	NA
Red Drum	The PRT chose to evaluate an individual state's contribution to the fishery by comparing the two-year average of total landings of the state to that of the management unit.	Not specified in Plan	De minimis status does not exempt either state from any requirement; it may exempt them from future management measures implemented through addenda to Amendment 2, as determined by the Board.
Scup	NA	NA	NA

Shad and River Herring	A state can request de minimis status if commercial landings of river herring or shad are less than 1% of the coastwide commercial total.	Commercial	De minimis status exempts the state from the subsampling requirements for commercial biological data.
Spanish Mackerel	The previous three-year average combined commercial and recreational catch is less than 1% of the previous three-year average coastwide combined commercial and recreational catch.	Both	Those states that qualify for de minimis are not required to implement any monitoring requirements, as none are included in the plan.
Spiny Dogfish	Commercial landings are < 1% of coastwide commercial landings	Commercial only	State is exempt from the monitoring requirements of the commercial spiny dogfish fishery for the following fishing year. However, must continue to report any spiny dogfish commercial or recreational landings within their jurisdiction via annual state compliance reports.
Coastal Sharks	Not specified in Plan; determined on a case by case basis.	Not specified in Plan	Not specified in Plan, but unnecessary to implement all regulatory requirements in the FMP
Spot	A state qualifies for de minimis status if its past 3-years' average of the combined commercial and recreational catch is less than 1% of the past 3-years' average of the coastwide combined commercial and recreational catch.	Both	A state that qualifies for de minimis for both fisheries is exempt from implementing management response for the de minimis fisheries when the 30% moderate response level from the Traffic Light Approach is triggered.
Spotted Sea Trout	A state qualifies for de minimis status if its previous three-year average combined commercial and recreational catch is less than 1% of the previous three-year average	Both	Those states that qualify for de minimis are not required to implement any monitoring requirements, as none are included in the plan.

	coastwide combined commercial and recreational catch.		
Striped Bass	Average of last two years' combined commercial and recreational landings (lbs) is < 1% of coastwide for same two years	Both	State requested requirements that the Board approves (except annual reporting)
Summer Flounder	Landings from the last preceding calendar year which data are available are less than 0.1% of the total cocastwide quota for that year	Commercial	State quota will be 0.1 % of the coastwide quota and subtracted from the coastwide quota before allocation to the other states (state waters only)
Tautog	Most recent years commercial landings are < 1% of coastwide commercial landings or less than 10,000 lbs	Commercial	The de minimis state is required to implement the commercial minimum size provisions, the pot and trap degradable fastener provisions, and regulations consistent with those in the recreational fishery (including possession limits and seasonal closures). The state must monitor its landings on at least an annual basis. If granted de minimis status, a state must continue to collect the required 200 age/length samples.
Weakfish	Combined average commercial and recreational landings (by weight) constitute less than 1% of the coastwide commercial and recreational landings for the most recebt two year period.	Both	The recreational or commercial fishing provisions of Amendment 4, except BRD requirements and annual reporting
Winter Flounder	Preceding three years landings for which sector data are available	Commercial and/or recreational	Biological monitoring/sub-sampling activities for the sector for which *de minimis* has been granted

	average <1% sector coastwide landings		

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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New York State Tautog Tagging Feedback Survey DRAFT Results

The New York State Department of Environmental Conservation (DEC) received considerable feedback during the first year of the coastwide Commercial Tautog Tagging Program. In an effort to quantify the issues raised by the commercial fishing industry, a survey was developed and distributed to commercial food fish and shipper/dealer license holders the week of February 7, 2022. This document contains a preliminary summary of the results of these two surveys.

Commercial Tautog Harvester Feedback

Demographics:

This survey received a total of 56 responses (12%) out of the 479 license holders that received tautog tags during 2021. The responses were from hook and line fishers (57%), pot and trap fishers (38%), and trawlers (5%). This matches the 2021 fishery closely with 53% of landings coming from hook and line, 40% of landings coming from pots and traps, 4% of landings coming from trawlers, and 3% other. Respondents reported using a total of 43,923 tags (31%) out of the 142,488 tags reported used in 2021. Total tags used from individual respondents ranged from 3 to 4,800. Live storage was used for 65% of respondents.

Preliminary Results:

The three largest issues reported were tags not locking and falling out of the fish (32%), tags appearing to cause excess mortality (32%), and tags causing excessive damage (27%). Dying fish were reported throughout the season and for both management areas.

81% of respondents preferred changing the current style of tag that is used for the tagging program.

Tautog Shipper/Dealer Feedback

Demographics:

This survey received a total of 10 responses (22%) out of approximately 46 dealers that reported dealing tautog in 2021. Respondents reported that 89% sold live tautog during 2021. Live stored fish spent on average less than 2 months in storage for 43% of the respondents and greater than 2 months in storage for 57% of respondents.

Preliminary Results:

The three largest issues reported were tags not locking and falling out of the fish (27%), tags causing excessive damage (23%), and tags causing lesions to appear on the fish (19%). Dying fish were reported throughout the entire season.

50% of respondents preferred changing the current style of tag that is used for the tagging program. 50% did not respond to this question.

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Pictures of lesions submitted by respondents:

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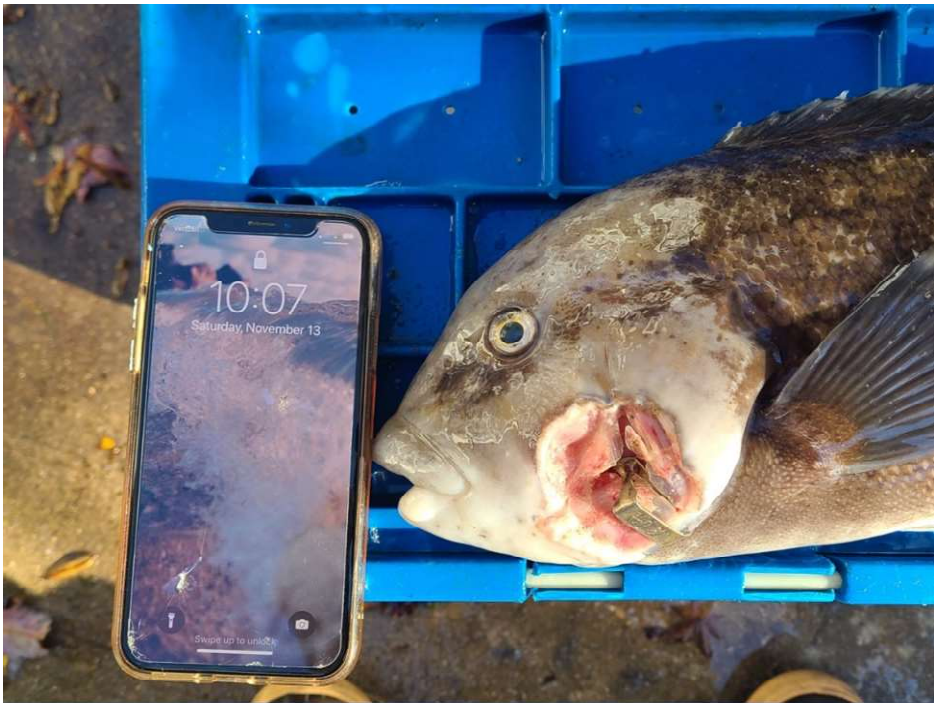


NEW YORK STATE OF OPPORTUNITY | Department of Environmental Conservation

James Boyle

From: Tor Vincent <duckislandmarine@gmail.com>
Sent: Tuesday, April 26, 2022 2:30 PM
To: MICHAEL LUISI
Cc: Michael Pentony
Subject: [External] Tautog Infected Tag Syndrome
Attachments: sea turtle tagging.webp; Cow ear tag.jpg; tank sample (2).pdf

Hello Michael,

It is disappointing that there is no spring meeting as James had thought there would be. The problems we have will continue this new fishing season. It was May 28 last year when I sent the first pictures of infected fish to NYSDEC.
Let's start with the basics. Your tag study was done in well water at the Flax Pond Lab. The water was drawn from a 121 ft deep pipe in a salt water aquifer. That water has seeped slowly through a massive silicate sand filter to get there. That travel is well known to remove biological matter including pathogens. There was no pathogen testing done of that basically sanitized water pumped into the tank continuously diluting and removing the bacteria the fish may have brought with them. It's similar to running the garden hose in a goldfish tank continuously. The data from that study was used to determine that the metal strap tags were safe. Then an arbitrary decision was made somehow to go from the small animal ear tag used in the study to a large animal ear tag with the massive bulky aluminum applicator meant to wrestle the tag onto seal flippers, sea turtle flippers and shark fins. The vendor states the tag could be used on fish over 10lbs. This is all available on their website. James was sent a copy of the page.

The effect of the infection is a disfiguring infected legion that expands over time. From a market perspective it is similar to lobster shell disease. The customer who purchases the live fish or lobster wants to take home a healthy looking creature to eat. A visible infection is a deal breaker.

It should be common knowledge that lobster and tautog are sold side by side in tanks. They often share the same water from my experience. These tanks are almost all closed system tanks with a biological filter. We could use the term "reef tank" to describe these. An expert I consulted saw two known fish pathogens in my tank sample, one that causes lesions that appear similar to what we have experienced. These are both common in local waters. For humans it is advised to avoid swimming with an open cut as it gives the bacteria an entry route. In reef tanks the most common reason a bacterial infection got started was because the fish suffered a cut first. The skin and slime layer is the natural barrier. The large animal ear tag puts a large incision in the gill plate which breaks the barrier then continues to wiggle and enlarge the opening. The mechanical damage that compromised the natural defense of the fish was caused by your rules.

Quotes from NOAA Technical Memorandum NMFS-F/NEC-74

. Shell disease in rock crabs and lobsters has been noted by biologists and commercial fishermen, and is recognized as affecting marketability because of their unsightly appearance .

s a cause of mortality. Death may also result from secondary systemic infections after the exoskeletal barrier has been breached, especially in the presence of high populations of facultative pathogens.

s been reported in numerous freshwater and marine species of economic importance, i.e., lobsters, crabs, shrimp, crayfish and prawns (Sindermann, 1989). Shell disease may result from mechanical damage due to

wounds or abrasions that permit invasion by chitin destroying bacteria or fungi, or from overcrowding and contact with infectious organims that may gain access to the shell through surface pores. The disease in natural or "wild" populations usually occurs at low levels, but may be enhanced by (1) overcrowding in traps or discard handling during commercial fishing operations, which increase the likelihood of shell damage, (2) stresses from unhealthy environments, or (3) high organic loading of containment waters which contributes to the multiplication of microorganisms, some of which may be pathogenic to crustaceans.

There clearly were people educated enough to understand what commercial holding facilities are. They were not fooled by a garden hose type experiment and had competent observations.

In my opinion the combined staff of the tautog boards and committees had to have had at least a few people educated enough to understand what you were doing here. The obvious question is were they silenced to expedite an agenda ? Harm has been done and it's time to own up to it. I think it is time for NOAA to step up and provide a competent researcher and document what has been done.

A Tautog Infected Tag Syndrome technical memorandum could have a good ending. The harmful practice was stopped, the harm was compensated for and the ASMFC staff got a basic education on commercial holding facilities.
I have attached my tank water study and some pictures of the large animal tag used on a properly sized animal. For your next meeting I will do a more complete job on this for the public comment.

Regards,

Tor Vincent

AquaBiomics Microbiome Test Report

Share

About this report

Generated on: Fri Mar 18 18:13:15 2022

These data provide detailed information on the community of microbes (Bacteria and Archaea) living in your aquarium. For this analyis we extracted DNA from microbes sampled from water and biofilm communities. Universal primers were used to amplify a genetic marker from this combined sample, and thousands of individual DNA molecules from this mixture were sequenced. Each sequence was then compared with public DNA databases to identify its origin.

This report summarizes the different kinds of microbes in your sample, and their relative abundance, with a special focus on beneficial and harmful microbes for the saltwater aquarium industry and hobby.

Information about the sample

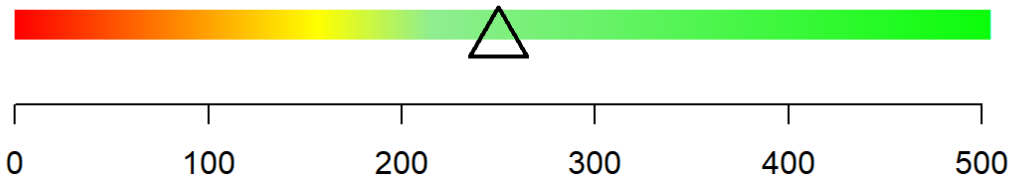
Sample ID	1001125
Sample Name	Tor first sample
Tank Name	garage indoor tank
Sample Date	2022-02-04 10:49 AM

Diversity

This score is a measurement of the number of different types of Bacteria or Archaea in the sample. Read more about Microbial Diversity here.

Diversity Score (Percentile)

250 (69)



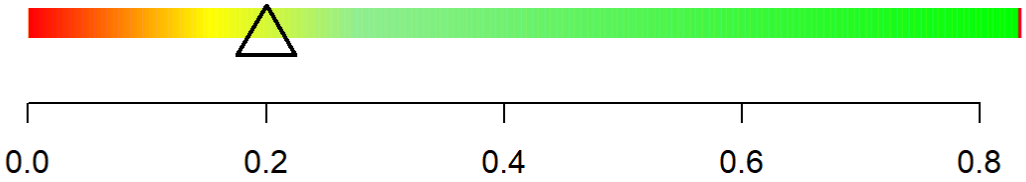
Your sample had a higher diversity than most tanks we've sampled. This is the kind of diversity we aim for in our tanks.

Balance

This score compares the microbiome in your tank with that of a typical reef tank. High scores indicate a typical community, while low scores indicate an atypical community. Read more about this score here.

Balance Score (Percentile)

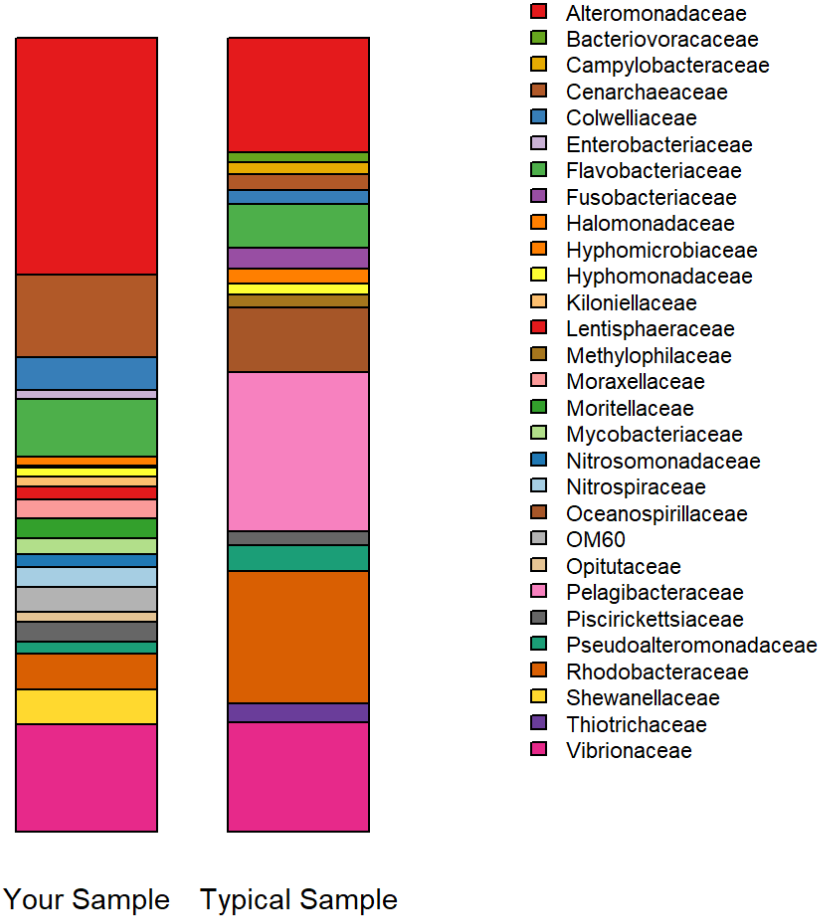
0.2 (38)



The balance of microbial groups in your tank differs from the typical tank. If you're interested in increasing this score, please see these notes.

Community Composition

This figure shows the reasons for your balance score. Compare your sample with the typical community to identify families that are unusually high or low in your sample. Read more about the major families of microbes in reef tanks here.



The size of each bar indicates the relative abundance of each microbial family, coded by color. For clarity, only the families accounting for at least 1% of either community are shown here.

Your sample showed differences in the relative abundance of one or more of the major microbial families, compared with the typical reef tank. Learn more about these families here or at the links below.

Higher than typical

Cenarchaeaceae

Alteromonadaceae

Lower than typical

Rhodobacteraceae

Pelagibacteraceae

Oceanospirillaceae

Nitrifying Community

These communities include ammonia-oxidizing Bacteria (AOB), ammonia-oxidizing Archaea (AOA), and nitrite-oxidizing Bacteria (NOB). Although present at detectable levels in most tanks, there turns out to be more variation in the levels of

these groups than many aquarists expected.

Ammonia-Oxidizing Microbes

Group	Your Frequency	Typical Range
Total	**0.05744**	**0.00085 - 0.05915**
Nitrosococcus	0	0 - 0
Nitrosomonadaceae	0.00651	0 - 0.00157
Nitrososphaeraceae	0	0 - 0
Cenarchaeaceae	0.05093	0.00085 - 0.05758

Note:
Typical range is between the 10th and 90th percentiles. High levels (>50th percentile) are color coded green, intermediate levels (between 10th and 50th percentiles) are coded yellow, and low levels (< 10th percentile) are coded red.

Nitrite-Oxidizing Bacteria

Group	Your Frequency	Typical Range
Total	**0.00821**	**0 - 0.0036**
Nitrobacter	0	0 - 0
Nitrococcus	0	0 - 0
Nitrotoga	0	0 - 0
Nitrospinaceae	0	0 - 0
Nitrospiraceae	0.00821	0 - 0.0036
Nitrolancea	0	0 - 0

Note:
Typical range is between the 10th and 90th percentiles. High levels (>50th percentile) are color coded green, intermediate levels (between 10th and 50th percentiles) are coded yellow, and low levels (< 10th percentile) are coded red.

Your sample showed a healthy nitrifying community with levels similar to a typical reef tank.

Cyanobacteria

Group	Your Frequency	Typical Range
Total	**0**	**0 - 3e-04**
Acaryochloridaceae	0	0 - 3e-04
Chlorarachniophyceae	0	0 - 0
Cyanobacteriaceae	0	0 - 0
Nostocaceae	0	0 - 0
Oscillatoriaceae	0	0 - 0
Phormidiaceae	0	0 - 0
Prochloraceae	0	0 - 0
Pseudanabaenaceae	0	0 - 0
Rivulariaceae	0	0 - 0
Spirulinaceae	0	0 - 0
Schizotrichaceae	0	0 - 0
Scytonemataceae	0	0 - 0
Synechococcaceae	0	0 - 0
Xenococcaceae	0	0 - 0

Note:
Typical range is between the 10th and 90th percentiles. High levels (>90th percentile) are color coded red, intermediate levels (between 50th and 90th percentiles) are coded yellow, and low levels (< 50th percentile) are coded green.

Your sample showed little or no evidence of Cyanobacteria.

Fish Pathogens

None of the DNA sequences from this sample matched known fish pathogens.

▶ View the full table

Coral Pathogens

None of the DNA sequences from this sample matched known coral pathogens.

▶ View the full table

None of the DNA sequences from this sample matched suspected coral pathogens.

DNA analysis conducted by AquaBiomics LLC.