

322 CMR: DIVISION OF MARINE FISHERIES

322 CMR 6.00: REGULATION OF CATCHES

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(6.01: Future Regulation of Lobsters or Finfish: Reserved)

6.02: Lobster Conservation and Management

(1) Definitions. For the purpose of 322 CMR 6.02, the following terms have the following meanings:

Commercial Fisherman means any person permitted in accordance with M.G.L. c. 130, §§ 37, 38 and 80 and 322 CMR 7.01(2)(a): *Coastal Lobster* and (b): *Offshore Lobster*, to catch, possess and land lobster for the purpose of sale, barter or exchange or that keeps for personal or family use any lobster taken under the authority of said permit.

Escape Vent means one or more unobstructed rectangular vent or opening or two or more unobstructed round openings in the parlor of the pot.

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Ghost Panel means a panel or other mechanism which is designed to create an opening in a pot to allow the escapement of lobsters within 12 months after a trap has been abandoned or lost.

Lobster means that species known as *Homarus americanus*.

Parlor means that section of the pot designed or intended to hold lobsters until they are removed by fishermen.

Recreational Fisherman means any person permitted in accordance with M.G.L. c. 130, § 38 and 322 CMR 7.01(4)(b) to catch, possess and land lobster for family use, sport or pleasure, which are not to be sold, traded or bartered.

Trap means any lobster trap, modified lobster trap or any other contrivance, other than nets, that is placed on the ocean bottom and designed to catch lobsters or crabs.

(2) Maximum and Minimum Sizes.

(a) Method of Measurement.

1. All lobsters shall be measured immediately. Any person diving for lobster shall measure all lobsters in possession prior to surfacing.
2. Lobsters shall be measured from the rear of the eye socket along a line parallel to the center line of the body shell to the rear end of the body shell.

(b) Commercial Fishery.

1. Commercial Fishermen Fishing or Authorized to Fish in LCMA 1 as defined in 322 CMR 6.33 are prohibited from possessing a lobster with a carapace length smaller than $3\frac{1}{4}$ inches or larger than five inches.
2. Commercial Fishermen Fishing or Authorized to Fish in LCMA 2, 4, and 5 as defined in 322 CMR 6.33 are prohibited from possessing a lobster with a carapace length smaller than $3\frac{3}{8}$ inches and larger than $5\frac{1}{4}$ inches.
3. Commercial Fishermen Fishing or Authorized to Fish in LCMA 3 as defined in 322 CMR 6.33 are prohibited from possessing a lobster with a carapace length smaller than $3\frac{17}{32}$ inches and larger than $6\frac{3}{4}$ inches.
4. Commercial Fishermen Fishing or Authorized to Fish in LCMA Outer Cape Cod as defined in 322 CMR 6.33 are prohibited from possessing a lobster with a carapace length smaller than $3\frac{3}{8}$ inches.
5. Commercial Fishermen Fishing or Authorized to Fish in LCMA Area 6 as defined in 322 CMR 6.33 are prohibited from possessing a lobster with a carapace length smaller than $3\frac{9}{32}$ inches and larger than $5\frac{1}{4}$ inches.

(c) Recreational Fishery.

1. Recreational fishermen fishing in the Gulf of Maine Recreational Area, as defined in 322 CMR 6.33, are prohibited from possessing a lobster with a carapace length smaller than $3\frac{1}{4}$ inches or larger than five inches.
2. Recreational fishermen fishing in the Outer Cape Cod Recreational Area, as defined in 322 CMR 6.33, are prohibited from possessing a lobster with a carapace length smaller than $3\frac{3}{8}$ inches.
3. Non-commercial fishermen fishing in the Southern New England Recreational Area, as defined in 322 CMR 6.33, are prohibited from possessing a lobster with a carapace length smaller than $3\frac{3}{8}$ inches or larger than $5\frac{1}{4}$ inches.

(3) Gear Restrictions. It is unlawful for any person to take or attempt to take lobsters from waters under the jurisdiction of the Commonwealth by use of traps without said traps having the following features:

(a) Escape Vent. All lobster traps must have a escape vents that conform to the following specifications:

1. General Requirements. On each trap, separate parlors shall each have an escape vent, while only the outer of connected parlors must have an escape vent.
2. LCMA 1. Commercial fishermen fishing or authorized to fish in LCMA 1, as defined in 322 CMR 6.33, shall rig their traps with vents that measure at least $1\frac{15}{16}$ inches by $5\frac{3}{4}$ inches or two circular vents that measure at least $2\frac{7}{16}$ inches.
3. LCMA 2, 3, 4, 5, 6 or Outer Cape Cod. Commercial fishermen fishing or authorized to fish in LCMA 2, 3, 4, 5, 6 or Outer Cape Cod, as defined in 322 CMR 6.33, shall rig their traps with vents that measure at least two inches by $5\frac{3}{4}$ inches or two circular vents that measure at least $2\frac{5}{8}$ inches.

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4. Gulf of Maine Recreational Lobster Area. Recreational fishermen fishing in or authorized to fish in the Gulf of Maine Recreational Lobster Area, as defined in 322 CMR 6.33, shall rig their traps with vents that measure at least $1^{15/16}$ inches by $5^{3/4}$ inches or two circular vents that measure at least $2^{7/16}$ inches.
 5. Outer Cape Cod or Southern New England Recreational Lobster Areas. Recreational fishermen fishing in or authorized to fish in the Outer Cape Cod or Southern New England Recreational Lobster Areas, as defined in 322 CMR 6.33 shall rig their traps with vents that measure at least two inches by $5^{3/4}$ inches or two circular vents that measure at least $2^{5/8}$ inches.
- (b) Ghost Panel. All lobster traps must have an unobstructed ghost panel located in the parlor sections on the sides or at the end, or on the top if the escape panel is placed directly over the head and meets the following specifications:
1. The opening covered by the panel or created by other approved mechanism shall be rectangular and measure at least $3^{3/4}$ by $3^{3/4}$ inches, shall be located in the outer parlor section(s) of the trap, and in a position which allows an unobstructed exit of lobsters from the trap.
 2. The panel shall be constructed of, or fastened to the trap with, one of the following materials: wood lath; cotton, hemp, sisal or jute twine not greater than $^{3/16}$ inch in diameter; or non-stainless, uncoated ferrous metal not greater than $^{3/32}$ inch in diameter.
 3. The door of the trap may serve as the ghost panel if fastened to the trap with a material specified in 322 CMR 6.02(3)(b).
 4. The escape vent specified in 322 CMR 6.02(3)(a) may serve as a ghost panel if incorporated into a panel constructed of, or attached to the trap with, a material specified in 322 CMR 6.02(3)(b), and upon breakdown of the degradable materials, will create an opening for egress of lobsters at least $3^{3/4}$ by $3^{3/4}$ inches.
 5. Traps constructed entirely or partially of wood shall be considered to be in compliance if constructed of wood lath to the extent that deterioration of wooden component(s) will result in an unobstructed opening as specified in 322 CMR 6.02(3)(b)1.
- (c) Maximum Trap Size. Volume of any trap must not exceed 22,950 cubic inches.
- (d) Open and Collapsible Traps. The taking of lobster by any collapsible device constructed of wire or other material(s) that is fished in an open configuration until retrieved is prohibited. This prohibition shall not apply to the taking of edible crabs.
- (4) Egg-bearing Lobsters.
- (a) It is unlawful to remove eggs from any berried lobster.
 - (b) It is unlawful to land or possess any lobster:
 1. from which eggs have been removed.
 2. that has come in contact with any substance capable of removing lobster eggs.
- (5) V-notched Female Lobster Protection.
- (a) Purpose. The purpose of 322 CMR 6.02(5) is to protect certain female lobsters from harvest that bear a v-shaped notch or the remnant of a healed notch on a specific flipper, evidence that the lobster has been marked and released for conservation purposes. Area-specific v-notch standards regarding the possession of previously notched lobsters for commercial fishermen are contained in 322 CMR 6.02(5)(e), consistent with the area-specific components of the interstate management plan, resulting in three different standards of measuring a "V" in the notched flipper, constituting varying degrees of protection from harvest. For non-commercial (recreational) fishermen and seafood dealers, uniform statewide standards for possessing previously v-notched lobster are contained in 322 CMR 6.02(5)(e).
 - (b) V-notching Methods. Any commercial fishermen required by 322 CMR or authorized to mark lobsters with a v-shaped notch shall carve a v-shaped notch in the base of a specific flipper by means of a sharp bladed instrument, at least $1/4$ inch and not greater than a $1/2$ inch in depth and tapering to a sharp point. For purposes of 322 CMR 6.02(5) the specific flipper is to the right of the center flipper as viewed from the rear of the female lobster when the underside of the lobster is down.
 - (c) Mutilated V-notch. For purposes of complying with 322 CMR 6.02(5), it is unlawful for any person to possess a female lobster that is mutilated in a manner that could hide, obscure or obliterate a v-shaped notch.

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- (d) LCMA Specific Requirements for Commercial Lobstermen to V-notch.
1. LCMA 1. Commercial fishermen authorized to fish in LCMA 1, as defined at 322 CMR 6.33, must v-notch and then immediately release all egg bearing female lobsters.
 2. LCMA 2. Commercial fishermen authorized to fish in LCMA 2, as defined at 322 CMR 6.33, must v-notch and then immediately release all egg-bearing female lobsters of legal size as defined at 322 CMR 6.02(2)(b)2.
- (e) Restrictions on Possessing V-notched Female Lobsters.
1. LCMA 1. It is unlawful for any commercial fisherman fishing or authorized to fish in LCMA 1, as defined at 322 CMR 6.33, to possess any female lobster bearing a v-shaped notch in the base of the flipper that is of any size with or without setal hairs.
 2. LCMAs 2, 3, 4, 5 and 6. It is unlawful for any commercial fisherman fishing or authorized to fish in LCMA 2, 3, 4, 5 and 6, as defined at 322 CMR 6.33(2), to possess any female lobster that bears a notch or indentation in the base of the flipper that is at least as deep as 1/8 inch with or without setal hairs.
 3. Outer Cape Cod LCMA. It is unlawful for any commercial fisherman fishing or authorized to fish in the Outer Cape Cod LCMA, as defined at 322 CMR 6.33(2), to possess any female lobster that bears a notch or indentation in the base of the flipper that is at least as deep as 1/4 inch and tapering to a sharp point without setal hairs.
 4. Recreational Lobster Fishermen. It is unlawful for any non-commercial lobster fisherman fishing or authorized to fish in the waters under the jurisdiction of the Commonwealth to possess any female lobster that bears a notch or indentation in the base of the flipper that is at least as deep as 1/8 inch with or without setal hairs.
 5. Seafood Dealers. It is unlawful for any seafood dealers, permitted in accordance with 322 CMR 7.01(3): *Dealer Permits* to possess any female lobster that bears a notch or indentation in the base of the flipper that is at least as deep as 1/4 inch and tapering to a sharp point without setal hairs.
- (6) Non-commercial Lobster Daily Possession and Landing Limit. It shall be unlawful for any person to harvest more than 15 lobsters per calendar day for personal use, or possess more than 15 lobsters while lobster fishing in waters under the jurisdiction of the Commonwealth.
- (7) Seasonal Closures. Fishing for lobster with traps is prohibited in the Outer Cape LCMA from February 1st through April 30th. Fishermen are required to remove all lobster traps from waters of the Outer Cape LCMA as defined in 322 CMR 6.33 during this closed period. It is unlawful for any fisherman authorized to fish traps in the Outer Cape LCMA to fish, set, or abandon any lobster pots in the Outer Cape LCMA or any other LCMA during this seasonal closure.

6.03: Regulated Multi-species Groundfish

- (1) Definitions. For the purpose of 322 CMR 6.00 only, the following words shall have the following meanings:

American Plaice means that species known as *Hippoglossoides platessoides*, and commonly referred to as dab or American dab.

Cod means that species of fish known as *Gadus morhua*.

For-hire Vessel means a vessel issued a permit pursuant to 322 CMR 7.10(5)(a): *Permit Categories* to carry paying customers for the purpose of recreational fishing.

Gonads means sex glands commonly known as ovaries or testes or any portions thereof removed from fish and retained for purposes of sale.

Gulf of Maine Groundfish Management Area means those waters under the jurisdiction of the Commonwealth north of 42° 00' including waters of Cape Cod Bay and the Cape Cod Canal that is bounded to the west by a line drawn from the Massachusetts Maritime Academy to the Bell's Neck Rd./Tidal Flats Recreation Area. The GOM Area also includes all estuaries and salt ponds that drain to these waters.

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Haddock means that species of fish known as *Melanogrammus aegleinus*.

Halibut means that species of fish known as *Hippoglossus hippoglossus*.

Land means to transfer or offload any cod, haddock, pollock or yellowtail flounder onto any vessel, boat, watercraft, land, dock, pier, wharf or other artificial structure used for the purpose of receiving fish.

Monkfish means the species of fish known as *Lophius americanus*.

Monkfish Tail means the section between the first, short, slender spine of the dorsal fin (fourth cephalic spine) and the end of the tail (caudal fin).

Monkfish Whole Weight means tail weight multiplied by 2.91 conversion factor.

Ocean Pout means the species of fish known as *Macrozoarces americanus*.

Pollock means that species of fish known as *Pollachius virens*.

Recreational Fishing means fishing with hand-held gear other than nets for a purpose or use other than sale, exchange or barter.

Redfish means that species of fish known as *Sebastes fasciatus*.

Regulated Groundfish Species means, inclusively, American plaice, cod, haddock, halibut, monkfish, ocean pout, pollock, redfish, windowpane flounder, winter flounder, witch flounder, wolfish and yellowtail flounder.

Southern New England Groundfish Management Area means those waters under the jurisdiction of the Commonwealth south of 42°00' excluding waters of Cape Cod Bay but including Pleasant Bay and Nauset Harbor and all connecting embayments in the County of Barnstable as well as all estuaries and salt ponds that drain to these waters.

Total Length means the greatest straight line length as measured on a fish with its mouth closed from the anterior most tip of the jaw or snout to the farthest end of the tail. For fish with forked tails, the upper and lower fork may be squeezed together to measure the tail extremity.

Trip means the time period that begins when a fishing vessel departs from a dock, berth, beach, seawall, ramp or port to carry out commercial fishing operations and that terminates with a return to a dock, berth, seawall, ramp or port.

Windowpane Flounder means that species of fish *Scophthalmus aquosus*.

Winter Flounder means that species of fish known commonly as blackback *Pseudopleuronectes americanus*.

Witch Flounder means gray sole or that species of fish known as *Glyptocephalus cynoglossus*.

Wolffish means that species of fish known as *Anarchichas lupus*.

Yellowtail Flounder means that species of fish known as *Limanda ferruginea*.

(2) Minimum Sizes. It is unlawful to land or possess multispecies groundfish of a total length less than the following:

(a) Commercial Fishing.

1. Cod: 19 inches;
2. Dabs: 12 inches;
3. Haddock: 16 inches;
4. Pollock: 19 inches;
5. Yellowtail flounder: 12 inches;

6.03: continued

6. Halibut: 41 inches;
 7. Monkfish: 17 inches in total length or monkfish tails less than 11 inches in total length;
 8. Windowpane Flounder: 12 inches;
 9. Winter Flounder: 12 inches;
 10. Witch Flounder: 13 inches;
 11. Redfish: seven inches.
- (b) Recreational Fishing.
1. Cod:
 - a. 19 inches for private anglers in the Gulf of Maine Groundfish Management Area;
 - b. 24 inches for anglers aboard for-hire vessels in the Gulf of Maine Groundfish Management Area;
 - c. 22 inches in the Southern New England Groundfish Management Area;
 2. Dabs: 14 inches;
 3. Haddock:
 - a. 17 inches in the Gulf of Maine Groundfish Management Area;
 - b. 18 inches in the Southern New England Groundfish Management Area.
 4. Yellowtail flounder: 13 inches;
 5. Halibut: 41 inches;
 6. Windowpane Flounder: 12 inches;
 7. Winter Flounder: 12 inches;
- (3) Method of Measurement.
- (a) Minimum Size. The minimum sizes established in 322 CMR 6.03(2) shall be determined by the greatest straight line length in inches as measured on a fish with its mouth closed from the anterior most tip of the jaw or snout to the farthest extremity of the tail. For fish with forked tails, the upper and lower fork may be squeezed together to measure the tail extremity.
 - (b) Exceptions for Possession of Cod Parts. For purposes of determining weights for trip limits as established by 322 CMR 6.03, the weight of fillets will be multiplied by three, and the weight of headless whole-gutted cod will be multiplied by 1.25. The weights of cheeks removed from cod heads and cod gonads consistent with 322 CMR 6.03(3)(b) shall be exempt from the possession limits.
 - (c) Prohibition. It shall be unlawful for a commercial fisherman to mutilate any cod in such a way as to interfere with or affect a proper or adequate measurement of the fish.
- (4) Recreational Fishery Cod Limit.
- (a) Gulf of Maine Groundfish Management Area.
 1. Private Anglers. It is unlawful for any recreational fisherman to possess or land more than one cod per calendar day.
 2. For-hire.
 - a. Closed Season. From January 1st through July 31st and October 1st through December 31st, it is unlawful for a recreational fisherman onboard a for-hire vessel to possess or land any cod.
 - b. Open Season. From August 1st through September 30th, it is unlawful for a recreational fisherman onboard a for-hire vessel to possess or land more than one cod per calendar day.
 - (b) Southern New England Groundfish Management Area. It is unlawful for recreational fishermen to possess more than ten cod per person, per day.
 - (c) Exceptions. Customers aboard for-hire vessels fishing in federal waters may possess cod in compliance with federal regulations.
- (5) Commercial Fishery Cod Trip Limits. The trip limits established in 322 CMR 6.03(5) shall be determined by the weight of whole, whole-gutted, or gilled fish and shall apply to any trip or 24-hour period, whichever period is longer. It is unlawful for a vessel fishing in:
- (a) Gulf of Maine Groundfish Management Area to possess on board or land more than 200 pounds of cod.
 - (b) Southern New England Groundfish Management Area to possess on board or land more than 1,000 pounds of cod.

6.03: continued

(6) Gonad Restrictions.

(a) Possession Limit. It is unlawful for fishermen to possess any quantity of gonads that in aggregate weighs in excess of 10% of the weight of Atlantic cod aboard the vessel.

(b) Prohibition. It is unlawful for fishermen to remove gonads from any fish that measures below the minimum size or from any legal-sized fish released due to state or federal possession limits.

(7) Seasonal Commercial Fishery Limits for Yellowtail Flounder. It is unlawful for any vessel fishing within waters under the jurisdiction of the Commonwealth to possess on board or land more than 250 pounds of yellowtail flounder during a trip or 24-hour period, whichever period is longer.

(8) Witch Flounder Commercial Possession Limit. It is unlawful for any vessel fishing within waters under the jurisdiction of the Commonwealth to possess on board or land more than 1,000 pounds of witch flounder during a trip or 24-hour period, whichever period is longer.

(9) Halibut Fishery Possession Limit. It is unlawful for:

(a) Commercial fishermen to possess on board or land more than one halibut per vessel per trip or 24-hour period, whichever period is longer.

(b) Recreational fishermen to possess on board or land more than one halibut per person per day.

(10) Commercial Fishery Monkfish Limit.

(a) It is unlawful for any vessel fishing within waters under the jurisdiction of the Commonwealth to possess on board or land more than 536 lbs. of monkfish tails or 1,560 lbs. whole weight, per trip or 24-hour period, whichever period is longer.

(b) Limitation on Possessing or Landing Monkfish Livers. During any trip it shall be unlawful for any vessel fishing in the waters of the Commonwealth to possess or land monkfish livers in excess of:

1. 25% the total weight of the monkfish tail;
2. 10% the total weight of the whole monkfish;

(11) Winter Flounder Fishery Limits.

(a) Commercial Fishery.

1. Possession Limits. It is unlawful for commercial fishermen to possess on board or land:

- a. more than 500-lbs of winter flounder taken from the Gulf of Maine Groundfish Management Area per trip or 24-hour period, whichever period is longer; or
- b. more than 50-lbs of winter flounder taken from Southern New England Groundfish Management Area per trip or 24-hour period, whichever period is longer.

(b) Recreational Fishery.

1. Gulf of Maine Groundfish Management Area. From January 1st through December 31st it shall be unlawful for recreational fishermen fishing in the Gulf of Maine Groundfish Management Area to possess more than eight winter flounder per day;

2. Southern New England Groundfish Management Area.

a. January 1st through the Last Day of February. It shall be unlawful for recreational fishermen fishing in the Southern New England Groundfish Management Area to possess any winter flounder; and

b. March 1st through December 31st. It shall be unlawful for recreational fishermen fishing in the Southern New England Groundfish Management Area to possess more than two winter flounder per day.

(12) Haddock Fishery Limits.

(a) Recreational Fishery in Gulf of Maine Groundfish Management Area.

1. Private Angler. It is unlawful for any recreational fisherman to possess or land more than 15 haddock per calendar day.

2. For-hire.

a. Closed Season. From March 1st through April 14th it is unlawful for a recreational fisherman on board a for-hire vessel to possess or land any haddock.

6.03: continued

b. Open Season. From January 1st through February 28th and from April 15th through December 31st, it is unlawful for a recreational fisherman on board a for-hire vessel to possess or land more than 15 haddock per calendar day.

(13) Exception to Possession Limits.

(a) Federal Permit Holders. Vessels with federal permits allowing the taking of regulated groundfish species from federal waters may possess and land more than the state possession limits prescribed in 322 CMR 6.03(13), provided said fish were lawfully taken from federal waters. It shall be unlawful for any vessel with federal permits allowing the taking of regulated groundfish to possess in excess of the state possession limits at 322 CMR 6.03 while actively fishing in waters under the jurisdiction of the Commonwealth.

(b) Open Access State-waters Regulated Groundfish. Those commercial fishermen, permitted in accordance with 322 CMR 7.01(2): *Commercial Fisherman Permits*, who do not hold a regulated groundfish permit endorsement, issued in accordance with 322 CMR 7.01(4)(a): *Regulated Fishery*, may possess, land and sell up to 25 pounds, in aggregate, of regulated groundfish species taken from the waters under the jurisdiction of the Commonwealth. This limit shall apply to the vessel per calendar day, regardless of the number of commercial fishing permits carried on board the vessel.

(14) Prohibitions.

(a) Commercial. It shall be unlawful for any commercial vessel to retain or land:

1. Ocean pout;
2. Windowpane flounder;
3. Wolffish.

(b) Recreational. It shall be unlawful for recreational fishermen to possess or land:

1. Wolffish;
2. Ocean pout;
3. Windowpane flounder; and
4. Cod caught aboard any for-hire vessel on a for-hire trip in the Gulf of Maine Groundfish Management Area between January 1st and July 31st and October 1st and December 31st.
5. Haddock caught aboard any for-hire vessel on a for-hire trip in the Gulf of Maine Groundfish Management Area between March 1st and April 14th.

(c) It shall be unlawful for recreational fishermen to land filets of groundfish species without two square inches or more of skin on each filet and in any quantity more than two times the possession limit per recreational fishermen or vessel, whichever is less.

6.04: Atlantic Bluefin Tuna

(1) Preamble. In 1974, the Massachusetts Division of Marine Fisheries promulgated regulations governing the taking, landing and sale of Atlantic bluefin tuna. 322 CMR 6.00 imposed reporting requirements on tuna fishermen, limited the size of the total catch permitted in Massachusetts, and limited the number of vessels in the purse seine fishery for Atlantic bluefin tuna to those vessels which operated in that fishery prior to 1964.

In 1975, Congress enacted the Atlantic Tunas Convention Act, 16 U.S.C. 971, *et seq.*, (ATCA). Regulations promulgated pursuant to ATCA established federal reporting requirements, annual catch limits and an inspection and certification scheme for tuna purse seine vessels (50 CFR Part 285).

Pursuant to 50 CFR 285.8 federal regulations were made applicable within Massachusetts territorial waters. In 1976 Massachusetts deleted all provisions of its 1974 regulations with the exception of the limit on the number of fishing vessels in the purse seine fishery for Atlantic bluefin tuna, and extended the grandfather provision to cover those purse seine vessels operating in the fishery prior to 1974.

6.04: continued

On June 22, 1979, the United States Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, (NMFS) published an interpretation of its regulations *vis-a-vis* the Massachusetts regulations stating that the application of federal regulations in state waters is not intended to prevent the application of state regulations which when concurrently applied do not conflict with federal regulations, and are not inconsistent with conservation and management of Atlantic bluefin tuna under recommendations made by the International Commission for the Conservation of Atlantic Tunas (44 Fed. Reg. 122, 50 CFR 285). This interpretation concluded by stating "No effort has been made in our continuing review of laws and regulations to prevent the concurrent application of regulations such as the Massachusetts limited entry scheme for tuna purse seine vessels." (44 Fed. Reg. at 3639).

(2) Definitions. For the purposes of 322 CMR 6.00 and unless the context requires otherwise the following words shall have the following meanings:

Director means the Director of the Massachusetts Division of Marine Fisheries, or his or her agents or representatives.

Division means the Massachusetts Division of Marine Fisheries.

Fish For means to harvest, catch, take or encircle, or attempt to harvest, catch, take or encircle any tuna by means of a purse seine.

Tuna means that species of Atlantic bluefin tuna, *Thunnus thynnus thynnus*, irrespective of size, weight or classification.

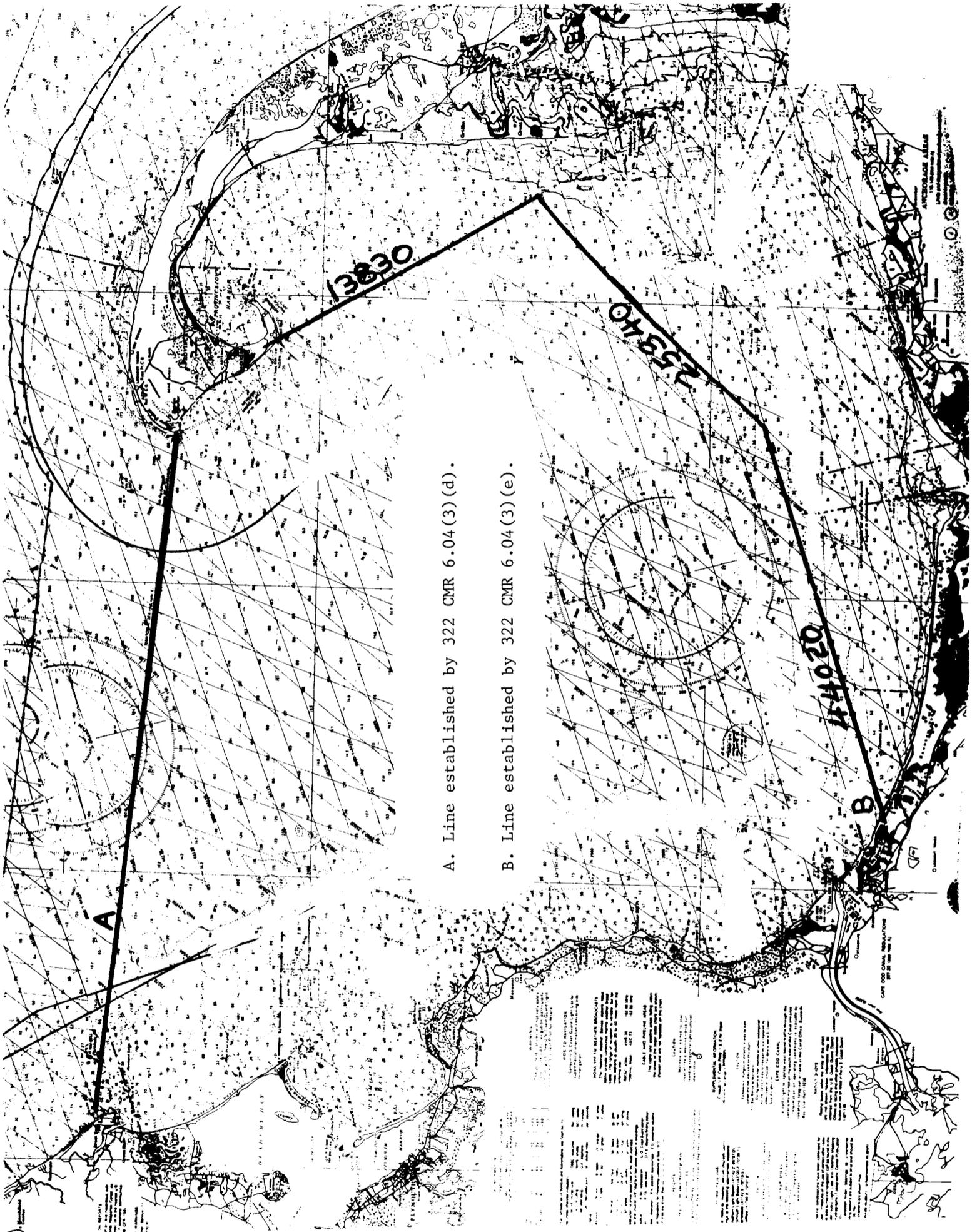
Vessel Allocation means a written letter, certificate or other documentation signed by the Regional Director, Northeast Region, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, United States Department of Commerce, verifying that the holder thereof has been allocated a specified amount of tuna authorized to be caught by means of a specified purse seine fishing vessel.

(3) Regulated Fishery. It shall be unlawful to fish for tuna by means of any net except as follows:

- (a) tuna may be taken in fish traps authorized pursuant to M.G.L. c. 130, § 29 as an incidental catch only. The Director shall have the right to inspect any authorized fish trap if he determines that the fish trap has been set or is being specifically operated to take and trap tuna, and he may modify the trap construction and its operations as he or she deems appropriate;
- (b) vessels may fish for tuna by means of a purse seine provided that said vessel has fully complied with the registration requirements contained in 322 CMR 6.04(4);
- (c) vessels may not fish for tuna prior to September 1st, of any year.
- (d) vessels may not fish for tuna within Cape Cod Bay, defined as those waters which lie south of an imaginary line running from Brant Rock in Marshfield to Race Point in Provincetown as appearing on charts of the National Oceanic and Atmospheric Administration and as line A on the attached published chart, during any weekend, defined as the 48 hour period beginning on Friday midnight and ending on Sunday midnight, and during any Massachusetts or federal holiday, during the period September 1st through September 30th, except that 322 CMR 6.04(3)(d) shall not apply when the federal tuna quota in the general category has been reached per notification of the National Marine Fisheries Service; and

6.04: continued

CHART 6.04-1



6.04: continued

(e) vessels may not fish for tuna from September 1st through September 15th within an area bounded as follows: beginning at the shoreline of the Loran 9960-Y-44020 line; then following the Loran 9960-Y44020 line in an easterly direction to its intersection with the Loran 9960-X25340 line; thence following the Loran 9960-X-25340 line in a northeasterly direction to its intersection with the Loran 9960-W-13830 line; thence following the Loran 9960-W-13830 line in a northerly direction to its intersection with the shoreline; thence following the shoreline within Cape Cod Bay to the point of beginning; all as appearing as line B on 322 CMR 6.04: *Chart 604-1*; except that 322 CMR 6.04(3)(e) shall not apply when the federal tuna quota in the general category has been reached per notification of the National Marine Fisheries Service.

(4) Vessel Registration. Vessels intending to fish for tuna by means of a purse seine must have on board the following authorizations:

(a) Commercial Fisherman Permit. This permit authorizes an individual to fish for tuna for commercial purposes within the territorial waters of the Commonwealth, and shall be issued in the name of the applicant.

(b) Regulated Fishery Permit. This permit authorizes an individual to fish for tuna by means of a purse seine within the territorial waters of the Commonwealth, shall be issued in the name of the applicant and validated for use on board one named purse seine vessel only.

(c) Conditions. Each regulated fishery permit issued may be accompanied by a Statement of Conditions to be determined by the Director relative to the use of that permit. Said conditions may include, but are not limited to:

1. the days or hours in which tuna fishing may be authorized;
2. the areas where tuna fishing may be authorized;
3. the quantity of purse seine gear to be used, and the manner in which it may be used;
4. requirements for accommodating state observers on board any registered purse seine vessel; and
5. reporting requirements for any registered purse seine vessel.

All conditions shall be subject to change by the Director and shall be effective upon written notice to the holder of the regulated fishery permit to which the Statement of Conditions apply.

(d) Requirements. In order to be eligible for a regulated fishery permit pursuant to 322 CMR 7.01(4)(a): *Regulated Fishery* an applicant must submit with the application a vessel allocation evidencing that the applicant has been given a tuna purse seine allocation.

(e) Validation. A regulated fishery permit shall be validated in the name of the purse seine vessel named in the vessel allocation. In the event of loss or damage to the vessel, change of vessel name, or replacement of the vessel, the regulated fishery permit shall become void and inoperative. In order to obtain a new regulated fishery permit the individual must make new application pursuant to 322 CMR 7.01: *Form, Use and Contents of Permits* and have the permit validated in the name of the new vessel.

(f) Signature. Each permit and the Statement of Conditions issued pursuant to 322 CMR 7.01: *Form, Use and Contents of Permits* shall be signed by the applicant. The signature of the applicant shall constitute notice of 322 CMR 6.04(4)(f) and the Statement of Conditions issued, and shall constitute an express agreement to abide thereby.

(g) Display. All permits and the Statement of Conditions issued pursuant to 322 CMR 7.01: *Form, Use and Contents of Permits* shall be carried on board the registered purse seine vessel during all aspects of tuna fishing operations, and shall be produced upon demand by any individual authorized to enforce 322 CMR.

(5) Enforcement. Each registered purse seine vessel shall conduct its fishing operations so as not to conflict with or disrupt any pleasure boat, charter boat, party boat, other commercial fishing vessel, or any fixed fishing gear.

If, in the opinion of the Director, the registered purse seine vessel has violated any condition as contained in the Statement of Conditions, or unnecessarily or unduly disrupted the fishing activities of any sport or commercial fisherman, or damaged any fixed fishing gear, the regulated fishery permit of the registered purse seine vessel shall be suspended immediately and surrendered forthwith to the Director. Thereafter, and in an expeditious manner, the Director or a Presiding Officer to be appointed by him shall conduct an adjudicatory proceeding pursuant to M.G.L. c. 30A and 801 CMR 1.01: *Formal Rules* to determine whether the regulated fishery permit shall be permanently revoked.

6.04: continued

- (6) Reservation. The Division has determined that:
- (a) 322 CMR 6.04 is intended to concurrently apply with 50 CFR Part 285, and is consistent with conservation and management of tuna under recommendations made by the International Commission for the Conservation of Atlantic Tunas; and
 - (b) any Special Acts of the Massachusetts Legislature governing purse seining activities in the territorial waters of Massachusetts are fully applicable and are not superseded or otherwise repealed by operation of law pursuant to M.G.L. c. 130, §§ 17A and 104.
- (7) Prohibitions. It shall be unlawful for any person:
- (a) to fish for tuna with a purse seine without a valid commercial fisherman permit and a regulated fishery permit issued by the Division;
 - (b) to fish for tuna with a purse seine prior to September 1st, of any year;
 - (c) to violate any conditions as set forth in the Statement of Conditions issued to any person who has received a valid regulated fishery permit;
 - (d) to fish for tuna with a purse seine during a period of permit suspension or revocation under 322 CMR 6.04(5);
 - (e) to harass, intimidate, disrupt, obstruct, conflict or interfere with the fishing activity of any other fishing vessel, sport boat, party boat, charter boat or head boat, or damage any fixed fishing gear;
 - (f) to fish for tuna with a purse seine within Cape Cod Bay, as those waters are set forth in 322 CMR 6.04(3)(d), on any weekend, defined as the 48 hour period beginning on Friday midnight and ending on Sunday midnight, or on any Massachusetts or federal holiday, during the period September 1st through September 30th, unless the federal tuna quota in the general category has been reached;
 - (h) to fish for tuna with a purse seine during the period September 1st through September 15th in those waters set forth in 322 CMR 6.04(3)(e) unless the federal tuna quota in the general category has been reached; or
 - (i) to fish for tuna by means of a purse seine without supplying the Director with a written report of the location(s), time(s), date(s), and catch of each purse seine set upon the completion of each fishing day.
- (8) Penalties. Violation of any provision of 322 CMR 6.00 shall be punishable by:
- (a) a fine of not less than \$10 nor more than \$1,000 or
 - (b) suspension and/or revocation of the commercial fisherman permit and the regulated fishery permit; or
 - (c) forfeiture of all tuna unlawfully taken or the proceeds thereof; or
 - (d) forfeiture of all boats, vehicles and apparatus used in violation of 322 CMR 6.00; or
 - (e) any combination of the above.

6.05: Atlantic Sea Scallop (*Placopecten Magellanicus*) Management

(1) Definitions.

Commercial Fisherman means any person or vessel permitted in accordance with 322 CMR 7.01(2): *Commercial Fisherman Permits*.

Discard means the return of live sea scallops to the sea.

Exclusive Economic Zone means all waters extending from the seaward boundary of the waters under the jurisdiction of the Commonwealth to two-hundred nautical miles from the coast.

Land means to transfer or attempt to transfer catch onto any land, pier, wharf, dock or other artificial structure or for a fishing vessel with any fish on board to tie-up to any dock, pier or other artificial structure.

Sea Scallop means the species known as *Placopecten magellanicus*.

Shuck means to remove from the shell and retain only the edible adductor muscle of a sea scallop.

Standard Fish Tote means a fish tote that does not exceed the volume of 6525 cubic inches.

(2) Minimum Size.

- (a) It is unlawful to fish for, catch, take, have on board, or off-load from any fishing vessel, Atlantic Sea Scallops the shells of which are less than 3½ inches in diameter from the hinge to the outer edge.

6.05: continued

(b) Notwithstanding 322 CMR 6.05(2)(a), it is lawful to fish for, catch, take, have on board, or off-load from any fishing vessel Atlantic Sea Scallops with shells less than 3½ inches in the longest diameter provided said Atlantic Sea Scallops comprise no more than 10% of the entire lot of Atlantic Sea Scallops. This 10% tolerance shall be determined by numerical count taken at random of not less than one peck no more than four pecks of the entire lot of Atlantic Sea Scallops.

(3) Possession and Landing Limits.

(a) Possession and Landing Limits.

1. Shucked Sea Scallops. It shall be unlawful for any commercial fisherman to, at any time, possess or land more than 200 lbs. of shucked sea scallops;
2. Whole In-shell Sea Scallops. It shall be unlawful for any commercial fisherman to, at any time, possess or land more than 2,000 lbs. of whole in-shell sea scallops
 - a. Possession Equivalency. For any commercial fisherman landing both whole in-shell sea scallops and shucked sea scallops the weight of whole in-shell sea scallops shall be multiplied by .10 to determine compliance with the possession and landing limits.
 - b. Volumetric Equivalency.
 - i. All whole in-shell sea scallops shall be placed in level filled standard fish totes upon landing;
 - ii. A level filled standard fish tote shall represent 100 lbs. of whole in-shell sea scallops
3. Exemption. Vessels permitted by the National Marine Fisheries Service to commercially harvest and land Atlantic sea scallops may possess and land more than the state possession and daily landing limits provided:
 - a. The vessel transits directly through the waters under the jurisdiction of the Commonwealth for the purpose of landing sea scallops;
 - b. The vessel makes no stops unless otherwise directed by the Massachusetts Environmental Police for the purpose of boarding and inspection;
 - c. The dredge gear is out of the water and properly stowed on board; and
 - d. The vessel, crew, gear and catch is otherwise in compliance with the applicable federal regulations.

(4) Commercial Harvest, Discarding and Disposition of Catch.

- (a) It shall be unlawful to fish for, harvest, possess or land sea scallops taken from the waters of the Exclusive Economic Zone unless so authorized by a sea scallop permit issued by the National Marine Fisheries Service;
- (b) It shall be unlawful to discard any sea scallops within the restricted coastal waters of the Commonwealth, as established at 322 CMR 4.02: *Use of Nets in Inshore Restricted Waters*; and
- (c) It shall be unlawful to land sea scallops in shell unless the area where the sea scallops were harvested from is classified as "Approved" by the Division of Marine Fisheries in accordance with the National Shellfish Sanitation Program.

(5) Recreational Fishery Limit. In any one day, it is unlawful for a recreational fisherman to harvest or possess more than one bushel of whole scallops or four quarts of shucked scallops for personal use.

(6) Permits.

- (a) No person shall take or possess scallops in excess of the recreational fishery limits as defined in 322 CMR 6.05(3) unless licensed as a commercial fisherman under the authority of 322 CMR 7.01: *Form, Use and Contents of Permits.*
- (b) Commercial fishermen who harvest sea scallops by hand must possess a commercial permit endorsed for sea scallop diving.
- (c) No person shall be issued a commercial permit endorsed for sea scallop diving unless he or she is a *bona fide* resident of the Commonwealth or is a resident of a state that grants equal access to Massachusetts residents.
- (d) Each individual diver on board a vessel where the scallop quantities exceed the recreational possession limit as noted in 322 CMR 6.05(3) must possess a commercial permit endorsed for sea scallop diving.

6.05: continued

(e) Commercial fishermen who harvest sea scallops by mobile gear from waters under the jurisdiction of the Commonwealth must possess a Coastal Access commercial permit as defined in 322 CMR 7.05: *Coastal Access Permit (CAP)*.

6.06: Atlantic Salmon Restoration

(1) Purpose. 322 CMR 6.06 is in support of the international management program for Atlantic salmon and interstate Atlantic salmon restoration programs.

(2) Prohibition. It shall be unlawful to harvest, catch, take, possess, transport, sell or offer to sell any Atlantic salmon from the coastal waters of the Commonwealth or from the U.S. Exclusive Economic Zone.

(3) Incidental Catch. All Atlantic salmon caught incidental to fisheries directed towards other species must be released in such a manner as to insure maximum probability of survival.

(4) Presumption. The possession of Atlantic salmon will be *prima facie* evidence that such Atlantic salmon were taken in violation of 322 CMR 6.06. Evidence that such fish were harvested from foreign waters or from aquaculture enterprises will be sufficient to rebut the presumption. This presumption does not apply to fish being sorted on deck.

6.07: Striped Bass Fishery (*Morone Saxatilis*)

(1) Purpose and Scope. Since approximately October 1981 the Atlantic coastal states, through the auspices of the Atlantic States Marine Fisheries Commission (ASMFC), have been developing conservation and management measures to arrest the severe decline in the stocks of striped bass and to manage restored stocks. This cooperative management effort has been successful and as a consequence, the Chesapeake Bay Stock of the Atlantic Coast striped bass resource has been declared recovered as of January 1, 1995.

The following regulations represent the Commonwealth's response to this cooperative and joint coastal state conservation management effort. The objective of 322 CMR 6.07 is to allow controlled sustained recreational and commercial fishing for striped bass pursuant to the provisions of the ASMFC striped bass plan.

322 CMR 6.07 is designed to identify the various user groups, implement conservation and management measures tailored to each group, and collect accurate statistics on striped bass catch levels. Persons intending to fish for striped bass have the option of classifying their activity as recreational or commercial. If a person intends to catch striped bass only for personal consumption and not for sale, that person must have a recreational saltwater fishing permit, and may fish year round, and retain striped bass that measure at least 28 inches, but may not retain more than one striped bass within any 24 hour period.

Any person intending to catch and possess striped bass in excess of the limits and/or sell striped bass so caught must be fishing under the authority of a commercial permit and a regulated fishery permit for striped bass. However, 322 CMR 6.07 establishes a commercial fishing season that closes upon reaching the commercial catch quota, establishes a minimum commercial size of 34 inches, and requires fish to be sold only to dealers licensed and authorized by the Commonwealth.

Finally, 322 CMR 6.07 allows wholesale and retail dealers to purchase and sell striped bass under certain conditions. To purchase striped bass directly from commercial fishermen, wholesale and retail dealers must be authorized as primary buyers of striped bass and must affix a Striped Bass ID Tag to all striped bass at the time of primary purchase from the commercial fisherman. Striped bass imported into the Commonwealth must be marked with a numbered tag that identifies the state of origin and must be accompanied by documents that verify state of origin. Nonconforming (undersized) striped bass that were caught in the wild may be imported into the Commonwealth only during the period corresponding to the Massachusetts closed commercial season, and those fish must have been legally taken, shipped and meet documentation requirements.

(2) Definitions. For purposes of 322 CMR 6.07 the following words shall have the following meanings:

6.07: continued

Closed Fishing Day means any Sunday, Tuesday, Wednesday, Friday and Saturday within the commercial season.

Commercial Fisherman means any person who may catch, possess and land striped bass for the purpose of sale, barter, or exchange or keeps for personal or family use any striped bass taken under the authority of a commercial fishing permit issued by the Director under the authority of 322 CMR 7.01: *Form, Use and Contents of Permits*.

Commercial Quota means the allowable annual Massachusetts' commercial harvest of striped bass pursuant to the ASMFC Interstate Striped Bass Management Plan, reduced by any overage incurred in the previous year.

Commercial Season means that period when commercial fishing is allowed beginning on June 23rd and ending when the quota is reached. The commercial season shall be further regulated by open and closed fishing days.

Consumer means any individual who obtains striped bass for personal use, rather than resale.

Dealer means any wholesale or retail seafood dealer permitted by the Director pursuant to M.G.L. c. 130 § 80 and 322 CMR 7.01(3): *Dealer Permits*.

Director means the Director of the Division of Marine Fisheries, 251 Causeway Street, Suite 400, Boston Massachusetts 02114.

For-hire Vessel means any vessel that holds a for-hire permit, issued in accordance with M.G.L. c. 130, § 17C and 322 CMR 7.10(5): *Permit Requirements Applicable to For-hire Vessels*, that is carrying paying customers for the purpose of recreational fishing.

High-grading means the discarding of a smaller legal-sized fish (previously captured and retained) in favor of a larger legal-sized fish.

Land means to transfer or attempt to transfer the catch of striped bass from any vessel to any other vessel or onto any land, pier, wharf, dock or other artificial structure, or for a fishing vessel with any striped bass on board to tie-up to any pier, wharf, dock, or artificial structure.

Open Fishing Days means Mondays and Thursdays within the commercial season when commercial fishermen may harvest or attempt to harvest striped bass.

Person means any individual, firm, corporation, association, partnership, club, bar, restaurant, supermarket, food warehouse, or private body.

Primary Buyer means any dealer authorized by the Director, pursuant to M.G.L. c. 130, § 80 and 322 CMR 7.07: *Dealers Acting as Primary Buyers*, to purchase striped bass directly from a commercial fisherman.

Primary Purchase means the first commercial transaction by sale, barter or exchange of any striped bass after its harvest.

Recreational Fisherman means any person who harvests or attempts to harvest striped bass for personal or family use, sport or pleasure, and which are not sold, traded or bartered.

Recreational Fishing means the non-commercial taking or attempted taking of striped bass for personal or family use, sport, or pleasure and which are not sold, traded or bartered.

Striped Bass ID Tags means the lockable, single-use, tamper evident, and non-transferable tags issued by the Director to Primary Buyers for affixing to striped bass. Striped Bass ID Tags are imprinted with the species, year, state, and unique identification number traceable to the Primary Buyer to whom they are issued.

6.07: continued

Total Length means the greatest straight line length in inches as measured on a fish with its mouth closed from the anterior most tip of the jaw or snout to the farthest extremity of the tail. For fish with forked tails, the upper and lower fork may be squeezed together to measure the tail extremity.

- (3) Regulated Fishery Permit. The following special permit shall be required:
- (a) A commercial fisherman shall have issued to him or her by the Director a regulated fishery permit for striped bass, in addition to any other permits required by the Massachusetts General Laws, in the following categories:
 1. resident; and
 2. non-resident.
 - (b) A striped bass regulated fishery permit authorizes the named individual and/or a commercial fishing vessel to engage in the harvest, possession, and landing of striped bass for commercial purposes in compliance with 322 CMR 6.07, 7.01: *Form, Use and Contents of Permits* and 7.04: *Commercial Fisheries Control Date*.
 - (c) A striped bass regulated fishery permit shall be valid only during the striped bass commercial season as provided for in 322 CMR 6.07(4)(b).
 - (d) A striped bass regulated fishery permit shall be carried by the holder at all times when catching, taking, possessing or selling striped bass, and shall be displayed forthwith on demand of any Environmental Police officer or other official authorized to enforce 322 CMR 6.07.
 - (e) All persons must apply for or apply to renew their striped bass regulated fishery permit endorsement by the last day of February in the effective permitted fishing year.
- (4) Commercial Management Measures. For purposes of conservation and management of the resource the following measures shall apply to commercial fishermen who harvest, catch or take, and/or sell, barter or exchange, or attempt to sell, barter or exchange any striped bass:
- (a) Massachusetts commercial striped bass harvest will be limited annually by the commercial quota less any amount deducted to compensate for the previous year's overage.
 - (b) Commercial fishermen may fish for striped bass only during the commercial season and open fishing days within said season beginning on June 23rd and ending upon the reaching of the commercial quota.
 - (c) Commercial fishermen engaged in commercial fishing for striped bass may not possess striped bass less than 34 inches in total length. If the number of striped bass aboard a vessel is greater than the number of fishermen, then all striped bass in possession must be greater than 34 inches in total length, and all fishermen must be commercially permitted as described in 322 CMR 6.07(3). Striped bass less than 34 inches in total length shall be returned immediately to the waters from which taken.
 - (d) Commercial fishermen engaged in striped bass fishing under the authority of a Commercial Fisherman Coastal Lobster, Offshore Lobster or Boat Permit, issued in accordance with 322 CMR 7.01(2)(a), (c), (d) or (e) may not possess, land, offer for sale or sell more than 15 striped bass per day on Mondays and Thursdays. This limit applies to the individual fisherman regardless of the number of commercial striped bass regulated fishery permit endorsements held by the individual or number of trips taken in a day and the vessel regardless of the number of individual commercial striped bass regulated fishery permit endorsement holders onboard or the number of trips taken in a day.
 - (e) Commercial fishermen engaged in striped bass fishing under the authority of a Commercial Fisherman Individual or Rod and Reel permit, issued in accordance with 322 CMR 7.01(2)(h), (i) or (j), may not possess, land, offer for sale or sell more than two striped bass per day on Mondays and Thursdays. This limit applies to the individual fisherman whether fishing from shore or a vessel, regardless of the number of commercial striped bass regulated fishery permit endorsement assigned to the individual fisherman or the number of trips taken in a day.
 - (f) All striped bass which are the subject of a first sale shall be in the round, with the head, body and tail fully intact.
 - (g) Except as provided for in 322 CMR 6.07(5)(f), no striped bass may be filleted or processed in any manner except by evisceration. In all prosecutions or non-criminal citations issued, mutilation of a striped bass which interferes with or affects a proper or adequate measurement of the fish shall be *prima facie* evidence that the striped bass was or is less than 34 inches in total length.

6.07: continued

- (h) Commercial fishermen shall sell striped bass only to Primary Buyers.
- (i) Commercial fishermen shall sell striped bass only during the commercial season and only during the open fishing days within the commercial season.
- (j) Commercial fishermen may harvest, catch, or take striped bass by rod-and-reel or handline only.
- (k) Commercial fishermen engaged in commercial fishing for striped bass may not fish aboard the same vessel at the same time as recreational fishermen.
- (l) Fishing During Closed Fishing Days. Beginning on June 20th through the end of the commercial fishing season, any commercial fisherman fishing recreationally on a closed commercial fishing day may retain a striped bass provided that all striped bass comply with the recreational fishing limits at 322 CMR 6.07(5) and any striped bass that are 34 inches in total length or greater have their right pectoral fin entirely removed immediately upon retention. This requirement shall also apply to all persons on a vessel listed on a commercial fisherman permit with a regulated striped bass fishery permit endorsement and all persons aboard a vessel whenever the holder of a commercial fisherman permit with a regulated striped bass fishery permit endorsement is aboard.

(5) Recreational Management Measures. For purposes of conservation and management of the resource the following measures shall apply to recreational fishermen who harvest, catch, take or possess or attempt to harvest, catch, take or possess any striped bass:

- (a) All striped bass shall be no less than 28 inches in total length. Striped bass less 28 inches in total length shall be released immediately to the waters from which taken. Recreational fishermen shall not mutilate any striped bass in a manner that prevents the accurate measurement of the fish.
- (b) Recreational fishermen may retain no more than:
 1. one striped bass per day; and
 2. may possess no more than one striped bass at any one time.
- (c) Recreational fishermen may not sell, barter or exchange any striped bass.
- (d) Recreational fishermen may not discard dead striped bass that are 28 inches or greater in total length.
- (e) To prohibit the practice of high-grading as defined in 322 CMR 6.07(2) recreational fishermen may not retain legal-sized striped bass and release said fish in favor of another larger legal-sized striped bass captured subsequently. Any legal-sized fish not immediately released into the water and held by stringer, live-well or another means shall be considered intent to high-grade.
- (f) Exceptions for For-hire Vessels.
 1. At-sea Filleting. Operators and crew onboard for-hire vessels permitted under the authority of 322 CMR 7.10(5): *Permit Requirements Applicable to For-hire Vessels* may fillet or process legal sized striped bass for their recreational customers at sea provided that:
 - a. The skin is left on the fillet; and
 - b. Not more than two fillets taken from legal striped bass are in the possession of each customer of that trip, representing the equivalent of one fish per angler.
 2. Sale of Striped Bass from Recreational For-hire Trips. Operators of for-hire vessels, permitted under the authority of 322 CMR 7.10(5): *Permit Requirements Applicable to For-hire Vessels*, may sell any striped bass caught during a recreational for-hire trip, provided:
 - a. The operator of the for-hire vessel or the vessel holds a commercial striped bass regulated fishery permit endorsement, in accordance with M.G.L. c. 130 § 80 and 322 CMR 6.07(3) and 7.01(4)(a)2: *Striped Bass*.
 - b. All catch complies with the recreational fishing management measures at 322 CMR 6.07(5) and prohibitions at 322 CMR 6.07(7).
 - c. The striped bass sold complies with the commercial fishing management measures at 322 CMR 6.07(4) and prohibitions at 322 CMR 6.07(7).

(6) Dealer Management Measures. For purposes of conservation and management of the resource the following measures shall apply to any dealer who possesses, sells or offers to sell any striped bass:

6.07: continued

- (a) Only Primary Buyers shall purchase striped bass directly from fishermen.
- (b) Primary Buyers shall report all striped bass purchases from commercial fishermen based on schedules and on forms to be provided by the Division.
- (c) Primary Buyers may not purchase or receive from a commercial fisherman any striped bass which is less than 34 inches in total length.
- (d) Primary Buyers may not purchase, receive or possess from a commercial fisherman any striped bass which has been mutilated in such a way as to interfere with or affect a proper or adequate measurement of the fish.
- (e) Primary Buyers may not purchase or receive from a commercial fisherman any striped bass during the no-fishing days within the commercial fishing season.
- (f) Primary Buyers may not purchase more than a single commercial trip limit of striped bass from any commercial fisherman regardless of the number of commercial striped bass regulated fishery permit endorsements in the possession of the commercial fisherman.
- (g) Primary Buyers may purchase and offer for sale striped bass that were caught in the wild and imported into Massachusetts from states where they have been lawfully landed provided that:
 - 1. all striped bass imported into Massachusetts shall be whole and individually tagged with state of origin listed. If fish are re-sold whole, tags shall remain attached to the fish. If fish are filleted after importation, all containers of fillets shall be documented describing fish origin, name of the Massachusetts dealer that processed the fish, quantity, and species. Original tags shall be maintained on the dealer's premises for 30 days after processing.
 - 2. all striped bass caught in the wild and imported into Massachusetts shall meet or exceed the minimum size in place for the state of origin, except that during the period that the Massachusetts commercial fishery is open plus five consecutive days after the season is closed, all striped bass must meet or exceed the Massachusetts minimum size as set forth in 322 CMR 6.07(4).
- (h) Primary Buyers shall tag each striped bass with a Striped Bass ID Tag in accordance with the following provisions:
 - 1. Issuance of Striped Bass ID Tags.
 - a. The Director shall annually issue Striped Bass ID Tags only to Primary Buyers.
 - b. The annual quantity of tags issued shall be determined by the Director based on the commercial quota.
 - 2. Use and Disposition of Striped Bass ID Tags.
 - a. Prior to departing any ramp, pier, parking lot or other location of primary purchase, the Primary Buyer shall affix a Striped Bass ID Tag through the mouth and gills or through the lower jaw of each striped bass and lock the Striped Bass ID Tag into place.
 - b. Striped Bass ID Tags shall remain affixed through the mouth and gills or lower jaw of any whole striped bass or accompany any processed or filleted striped bass while in the possession of any person for the purpose of re-sale.
 - c. If a person intends on selling portions of processed or filleted striped bass to a consumer, the tags shall remain on the premise of the seller until all portions are sold to a consumer.
 - d. Once all portions of a striped bass are sold, a person shall cut the Striped Bass ID Tag into two pieces and discard it.
 - 3. Striped Bass ID Tag Accounting.
 - a. Within 30 days of a written request by the Director, following the close of the commercial season, the Primary Buyer shall:
 - i. return all unused Striped Bass ID Tags issued to the Primary Buyer by the Director for that year; and
 - ii. submit a Striped Bass ID Tag Accounting Report, on forms provided by the Director, which documents the disposition of all Striped Bass ID Tags.
 - b. The Director may restrict a dealer from future participation as a Primary Buyer for failure to return all unused Striped Bass ID Tags or submit the Striped Bass ID Tag Accounting Report in accordance with 322 CMR 6.07(6)(g)3.i.
- (7) Prohibitions. It shall be unlawful for:
 - (a) a recreational fisherman to retain more than one striped bass per day;

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- (b) a recreational fisherman to possess more than one striped bass at any one time;
- (c) a recreational fisherman to sell, barter or exchange or offer to sell, barter or exchange any striped bass;
- (d) a recreational fisherman to take or possess any striped bass less than 28 inches in total length;
- (e) a recreational fisherman to mutilate any striped bass in a manner that prevents the accurate measurement of the fish; such mutilation shall be *prima facie* evidence of a violation of 322 CMR 6.07(7);
- (f) a recreational fishermen to discard dead striped bass that are 28 inches or greater in total length;
- (g) a recreational fisherman to “high-grade” striped bass or to keep striped bass alive in the water by attaching a line or chain to the fish or placing the fish in a live-well or holding car;
- (h) any person(s), whether from shore or onboard a vessel, to possess striped bass in any quantity exceeding one striped bass per person without a commercial striped bass regulated fishery permit and for those striped bass to violate the commercial management regulations at 322 CMR 6.07(4);
- (i) a for-hire vessel, permitted in accordance with 322 CMR 7.10(5): *Permit Requirements Applicable to For-hire Vessels*, during a for-hire trip to retain more than one striped bass for each person onboard;
- (j) a commercial fisherman to sell striped bass to any person other than a Primary Buyer.
- (k) a non-resident commercial fisherman to possess more than one striped bass upon leaving Massachusetts;
- (l) a commercial fisherman to catch, take, possess, sell, barter, exchange or attempt to sell, barter or exchange any striped bass without having issued to him or her a valid permit to do so;
- (m) a commercial fisherman to catch, take, possess, sell, barter, exchange or attempt to catch, take, possess, sell, barter or exchange any striped bass for commercial purposes once the commercial quota is reached and the commercial fishery is closed, or to retain, possess or land more than one striped bass during the closed fishing days;
- (n) a commercial fisherman fishing recreationally, a person fishing recreationally aboard a vessel that is listed on a commercial fisherman permit with a regulated striped bass fishery permit endorsement, or a person fishing recreationally aboard a vessel with a person who holds a regulated striped bass fishery permit endorsement beginning on or after June 20th through the end of the commercial fishing season to retain any striped bass on a closed commercial fishing day that are 34 inches in total length or greater if the right pectoral fin is not entirely removed.
- (o) any person to sell a striped bass that has had its right pectoral fin entirely removed.
- (p) a commercial fisherman to sell, barter, exchange or attempt to sell, barter, exchange any striped bass during the closed fishing days within the commercial season;
- (q) a commercial fisherman to catch, take, possess, sell, barter, exchange or attempt to sell, barter or exchange any striped bass less than 34 inches in total length;
- (r) any commercial fisherman fishing under the authority of a Commercial Fisherman Coastal Lobster, Offshore Lobster or Boat Permit, issued in accordance with 322 CMR 7.01(2)(a), (c), (d), and (e) to take, possess, land, offer for sale or sell more than 15 striped bass during a single open fishing day. This shall apply to the individual fisherman regardless of the number of commercial striped bass regulated fishery permit endorsements held by the individual or number of trips taken in a day and the vessel regardless of the number of commercial striped bass regulated fishery permit endorsement holders aboard;
- (s) any commercial fisherman fishing under the authority of a Commercial Fisherman Individual or Rod and Reel Permit, issued in accordance with 322 CMR 7.01(2)(h): *Individual*, (i): *Shellfish/Rod and Reel* and (j): *Rod and Reel* to take, possess, land, offer for sale or sell more than two striped bass during a single open fishing day. This shall apply to the individual commercial fisherman whether fishing from shore or from a vessel regardless of the number of commercial striped bass regulated fishery permit endorsement holders aboard or trips taken in a day;
- (t) a commercial fisherman to fillet or process any striped bass other than by evisceration;
- (u) a commercial fisherman to mutilate any striped bass in such a way as to interfere with or affect a proper or adequate measurement of the fish;

6.07: continued

- (v) a commercial fisherman to participate in the primary purchase of any striped bass which is not in the round, or which has had the head or tail removed;
- (w) a commercial fisherman to possess or land striped bass once the Director has determined that 100% of the commercial quota has been reached;
- (x) any Primary Buyer to purchase or receive during a primary purchase any striped bass which has been mutilated in such a way as to interfere with or affect a proper or adequate measurement of the fish;
- (y) any Primary Buyer to purchase or receive from a commercial fisherman any striped bass which is less than 34 inches in total length;
- (z) any Primary Buyer to purchase or receive from a commercial fisherman any striped bass after the open commercial season has closed or on any calendar day that is not an open fishing day;
- (aa) any Primary Buyer to fail to report all striped bass purchases from commercial fishermen as prescribed by the Director;
- (bb) any commercial fishermen to harvest, catch, or take striped bass by longlines or tub-trawls;
- (cc) any vessel rigged for otter trawling, hauling sink gillnets, purse seines, or possessing baited or unbaited longline or tub-trawl gear to possess striped bass;
- (dd) any wholesale or retail dealer to possess, sell, barter or exchange or offer to sell, barter or exchange any whole striped bass imported into Massachusetts unless such fish so imported is tagged as specified by 322 CMR 6.07(6);
- (ee) commercial fishermen to discard dead striped bass that are 34 inches or greater in total length;
- (ff) any person to receive during a primary purchase any striped bass unless permitted as a wholesale or retail dealer pursuant to 322 CMR 7.01(3): *Dealer Permits* and authorized as a Primary Buyer pursuant to 322 CMR 7.07: *Dealers Acting as Primary Buyers*;
- (gg) any person involved in the re-sale of striped bass to fail to furnish, upon request of the Director or the Environmental Police, receipts documenting the purchase of striped bass;
- (hh) any person to apply a Striped Bass ID Tag to a striped bass harvested for commercial purposes without being a Primary Buyer;
- (ii) a Primary Buyer to tag a striped bass with a Striped Bass ID Tag that was not issued to said Primary Buyer by the Director for the current year or that has been defaced or modified in any manner;
- (jj) any person, other than the original harvester, to possess striped bass or portions thereof for the purpose of sale without the striped bass or portions thereof being tagged in accordance with 322 CMR 6.07(6)(g);
- (kk) any person to fail to surrender Striped Bass ID Tags to the Director or the Environmental Police upon request;
- (ll) any person to sell, trade, loan or gift or offer to sell, trade, loan or gift to another person any Striped Bass ID Tags;
- (mm) a Primary Buyer to file a false claim of Striped Bass ID Tag loss for purposes of obtaining additional Striped Bass ID Tags.
- (nn) a primary buyer to purchase a striped bass that has had its right pectoral fin entirely removed.

(8) Penalties. Violations of any provision of 322 CMR 6.07 shall result in:

- (a) revocation of the special permit, wholesale dealer permit, retail dealer permit, or authorization to purchase striped bass;
- (b) confiscation of all striped bass caught, possessed or sold in violation of 322 CMR 6.07;
- (c) seizure and forfeiture of all property used in violation of 322 CMR 6.07;
- (d) a fine not less than \$100 nor more than \$1,000; or
- (e) a combination of 322 CMR 6.07(8)(a) through (d).

6.08: Surf Clam and Ocean Quahog Fisheries(1) Definitions. For the purposes of 322 CMR 6.08 the following words shall have the following meanings:

Batch means all shellfish in each separate container.

6.08: continued

Bushel means an industry standard bushel of 1.88 cubic feet in volume.

Cage means an industry standard container which is 60 cubic feet in volume and holds 32 bushels of clams in the shell.

Commercial Fishing means to harvest, catch or take surf clams or ocean quahogs for purposes of sale.

Container means any bag, box, basket, cage, or other receptacle containing loose shellfish which may be separated from the entire load or shipment.

Director means the Director of the Massachusetts Division of Marine Fisheries.

Dredge means any of a variety of towed devices which utilize blades, knives, or teeth to dig into the substrate and remove surf clams or ocean quahogs including the hydraulic dredge which utilizes pumped water to enhance fishing performance.

Dredging means the use of a dredge to harvest surf clams or ocean quahogs within the territorial waters of the Commonwealth.

Effective Fishing Width means the width of the sea bottom from which a dredge collects shellfish, including the width of the blades and carriers, bars, wires, suction heads or similar structures or openings, including any water jet area, which affect the swath or overall width of the path from which surf clams or ocean quahogs are taken.

Ocean Quahog means that species of shellfish known as *Arctica Islandica*.

Surf Clam means that species of shellfish known as *Spisula solidissima*.

Vessel means any fishing vessel which is licensed to operate for commercial purposes under the authority of M.G.L. c. 130, or any commercial fishing vessel which is operated for commercial purposes by any person licensed under the authority of M.G.L. c. 130.

(2) Management Areas. The following prohibitions shall apply to the following areas:

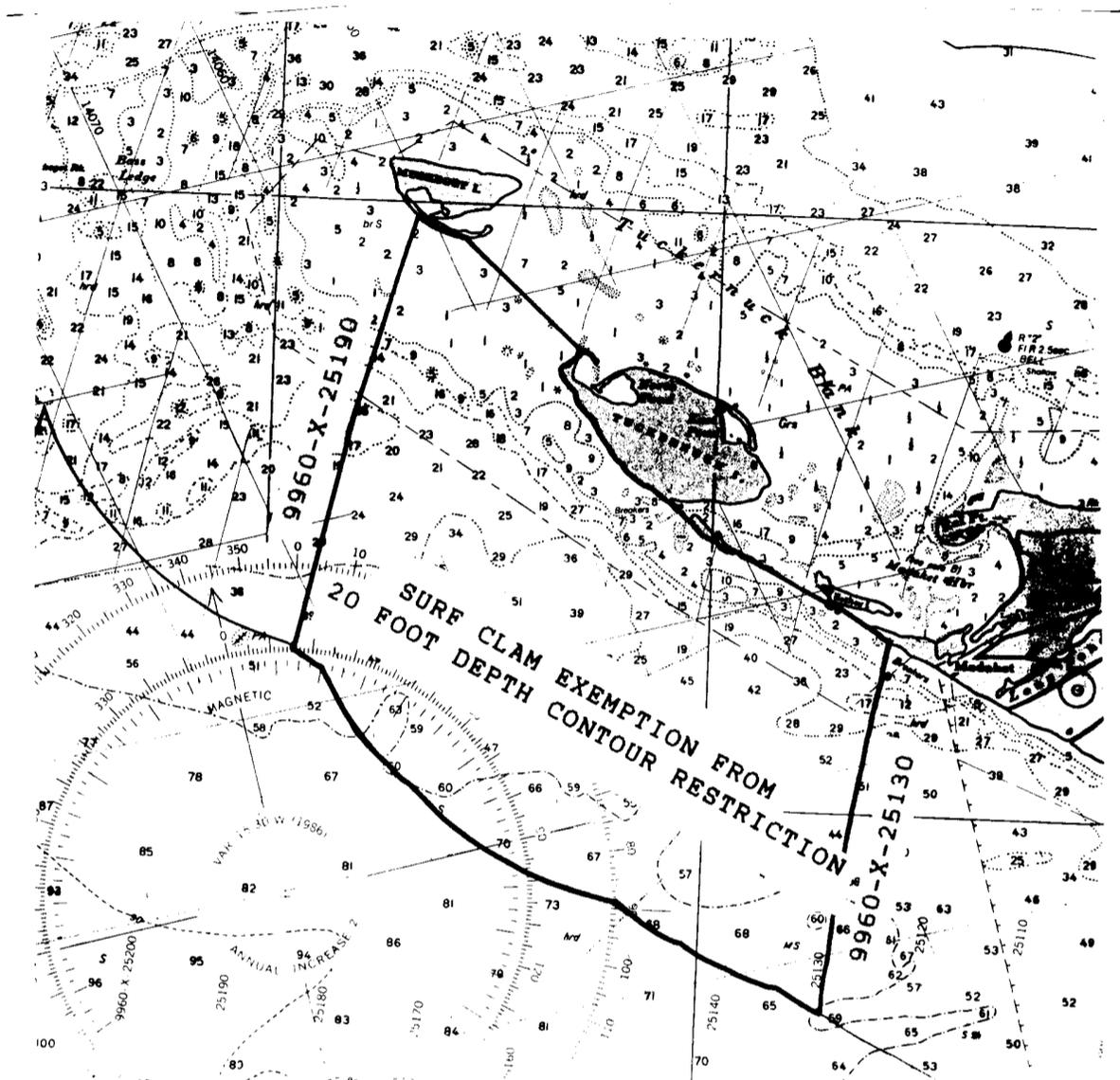
- (a) Dredging for surf clams is prohibited from November 1st to April 30th, within an area shoreward of the 12 foot depth contour as measured at mean low water beginning at Point Allerton, Hull, and extending southerly to the Massachusetts - Rhode Island Boundary, including Cape Cod and the Islands.
- (b) Dredging for surf clams is prohibited from May 1st to October 31st within an area shoreward of the 20 foot depth contour as measured at mean low water beginning at Point Allerton, Hull and extending southerly to the Massachusetts - Rhode Island boundary, including Cape Cod and the Islands.
- (c) Dredging for surf clams is prohibited shoreward of an imaginary line drawn from Long Point, Provincetown to the "Hopper" so called in North Truro, marked "D" on NOS chart 13246.
- (d) Dredging for surf clams is prohibited shoreward of an imaginary line from Jeremy Point, Wellfleet, to the "Spire" in Brewster.
- (e) Dredging for surf clams is prohibited inside an imaginary line from Seal Rocks off Scraggy Neck, Bourne, to the southernmost tip of Sandy Point Dike, Wareham.
- (f) Dredging for surf clams is prohibited from May 1st to October 31st, within an area measured from an imaginary line one mile seaward from mean low water from Great Point Light to Sankaty Light, Nantucket.
- (g) Commercial surf clam or ocean quahog fishing areas may be opened or closed for management purposes by the director provided that:
 1. a majority of the Marine Fisheries Advisory Commission approves the action;

6.08: continued

2. a notice of opening or closure is sent to the Secretary of State for publication in the Massachusetts Register;
 3. surf clam regulated fishery permit holders are notified by mail;
 4. the notice includes the rationale for the opening or closure; and
 5. during the effective date of any closure the Director shall consider any written comments on the closure which may be submitted to the Director by the public or a state or federal agency. Based upon these written comments the Director may alter, amend or rescind the closure pursuant to the procedural requirements of 322 CMR 6.08(2)(g).
- (h) Commercial surf clam and ocean quahog management areas may be opened or closed for sanitary purposes by following established procedures for the sanitary control of shellfish growing areas. Fishermen holding special permits for the harvest of these species shall be notified in writing of changes in classification status.
- (i) The provisions of 322 CMR 6.08(2)(a) and (b) shall not apply to the waters of the Town of Gay Head.
- (j) The provisions of 322 CMR 6.08(2)(a) and (b) shall not apply to the waters of the Town of Chatham bordering on Nantucket Sound which are found within an imaginary line drawn from a flag marker with radar reflector at Loran C 9960-W-13872.5, 9960-Y-43937.5 as shown NOS Chart 13237; thence proceeding easterly along the 43937.5 line to the western shore of Monomoy Island; thence proceeding in a southerly direction along the shoreline to the 43928 line; thence proceeding westerly along the 43928 line to a flag marker with radar reflector at 9960-W-13875, 9960-Y-43928; thence proceeding in a northerly direction to a pole at 9960-W-13874.2, 9960-Y-43930.4; thence proceeding to a pole at 9960-W-13873.2, 9960-Y-43934.0; thence proceeding to the starting point at 9960-W-13872.5, 9960-Y-43937.5.
- (k) The provisions of 322 CMR 6.08(2)(a) and (b) shall not apply to the waters of the town of Nantucket bounded as follows: beginning at the intersection of the Loran C 9960-X-25130 line with the shoreline at Madaket Beach, as shown on NOS chart 13237; thence proceeding northwesterly to the end of Madaket Beach; thence following an imaginary straight line to the southwesternmost point of Esther Island; thence following an imaginary straight line to the southernmost tip of Tuckernuck Island; thence following the west shore of Tuckernuck Island to its northernmost point; thence following an imaginary straight line to the southernmost point of Muskegat Island; thence following the western shore of Muskegat Island to the intersection of the Loran C 9960-X-25190 line; thence following the 9960-X-25190 line in a southerly direction to the territorial waters line; thence following the territorial waters line in a southeasterly direction to its intersection with the Loran C 9960-X-25130 line; thence following the Loran C 9960-X-25130 line in a northerly direction to the point of beginning, all as appearing on the following chart.

6.08: continued

CHART 322 CMR 6.08(2)



(3) Surf clam restrictions. The following restrictions shall apply to vessels dredging for surf clams in waters under the jurisdiction of the Commonwealth.

(a) Surf Clam Trip Limits.

1. It is unlawful for any vessel to catch or harvest greater than 200 bushels of surf clams per 24 hour day.
2. It is unlawful for any vessel to catch, harvest, possess, have on board, land or offload greater than 400 bushels of surf clams per 48 hour period, or at any time while fishing or having fished in waters under the jurisdiction of the Commonwealth during any trip.
3. Vessels properly licensed to do so may land surf clams legally taken outside the territorial waters of the Commonwealth in excess of the trip limit established by 322 CMR 6.08(3)(a) provided that no vessel engaged in fishing for surf clams within territorial waters may possess or have on board more than the prescribed limit.

6.08: continued

(b) Surf Clam Gear Restrictions.

1. It is unlawful for any vessel to operate with any hydraulic dredge with an effective fishing width greater than 48 inches.
2. It is unlawful for any vessel to operate more than one dredge while harvesting surf clams.
3. It is unlawful for any vessel to dredge for surf clams in those waters of the Town of Chatham designated in 322 CMR 6.08(2)(j) unless equipped with a hydraulic dredge with a 16" or less effective fishing width and powered by a three inch or smaller pump with 300 GPM or less capacity at a ten foot head (according to manufacturer's specifications).

(c) Surf Clam Minimum Size. It is unlawful for any vessel or person to take, possess, have on board, land or off-load any surf clams which are less than five inches in the longest shell diameter to the amount of more than 5% of any batch unless authorized by a permit issued by the Director.

1. Exemption for Federal Permit Holders. Commercial fishermen in possession of a federal surf clam permit may possess and land surf clams that do not comply 322 CMR 6.08(3)(c), provided said surf clams are caught lawfully in federal waters and gear is stowed when transiting state waters in possession of non-conforming surf clams.
2. Exemption for Dealers. Dealers may obtain, possess and process surf clams that do not comply with 322 CMR 6.08(3)(c). However, all batches of surf clams must have been lawfully taken from federal waters or from the waters under the jurisdiction of another state. All containers of surf clams must retain their original shellfish harvest tags and the origin of all containers of surf clams must be determinable through a federal trip report or bill of lading.
3. Exemption for Aquaculture Reared Product. No aquaculturist or his or her licensed employee shall possess for commercial purposes or sell aquaculture reared surf clams less than 1½ inch longest diameter. In addition to the shellfish tagging requirements at 322 CMR 16.03: *Tagging of Shellfish*, all aquaculturists or their licensed employees shall include the statement "Aquaculture Reared" or "Farm Raised" on all shellfish tags that are affixed to containers that hold aquaculture reared quahogs or oysters that do not conform to the minimum sizes at 322 CMR 6.08(3)(c).

(4) Ocean Quahog Restrictions.(a) Ocean Quahog Trip Limits.

1. It is unlawful for any vessel to catch, harvest, possess, have on board, land or off-load greater than 26 cages (832 bushels) of ocean quahogs during any 24 hour period.
2. Vessels properly licensed to do so may land ocean quahogs legally taken outside the jurisdiction of the Commonwealth in excess of the trip limit established by 322 CMR 6.08(4)(a)1. provided that no vessel engaged in fishing for ocean quahogs within waters under the jurisdiction of the Commonwealth may possess or have on board more than the prescribed limit.

(b) Ocean Quahog Gear Restrictions.

1. It is unlawful for any vessel to operate with any hydraulic dredge with an effective fishing width greater than 48 inches.
2. It is unlawful for any vessel to operate more than one dredge while harvesting ocean quahogs.
3. It is unlawful for any vessel rigged for the harvest of ocean quahogs to possess or have on board surf clams.

(5) General Restrictions. The following restrictions apply to vessels fishing for surf clams or ocean quahogs.

(a) Permitting Requirements. A regulated fishery permit endorsement, issued by the Director pursuant to 322 CMR 7.01(4)(a): *Regulated Fishery*, is required to dredge for surf clams and ocean quahogs.

(b) Incidental Catch. The possession of bay scallops (*Argopecten irradians*) and or quahogs (*Mercenaria mercenaria*) is prohibited by vessels using hydraulic dredges for surf clams or ocean quahogs for any period longer than required to remove said quahogs and bay scallops from the dredge or deck and return them to the waters unless said vessel is properly licensed by the town in whose waters the vessel is fishing to harvest and retain said species.

6.08: continued

(6) Prohibitions.

(a) It is unlawful to fish for surf clams or ocean quahogs in any area designated as contaminated and classified as PROHIBITED by the Division of Marine Fisheries pursuant to M.G.L. c. 130, §§ 74 or 74A, unless specifically authorized by the Director in accordance with 322 CMR 6.08(10).

(b) It is unlawful to fish for surf clams or ocean quahogs in any area closed for management purposes pursuant to 322 CMR 6.08(2)(g).

(c) It is unlawful to fish for surf clams or ocean quahogs in any area not classified as "APPROVED" according to the National Shellfish Sanitation Program.

(7) Fishing in Contaminated Areas. The following conditions apply to the harvest of surf clams for bait purposes from contaminated areas classified as PROHIBITED by the Division.

(a) Permits. A regulated fishery permit endorsement issued by the Director pursuant to 322 CMR 7.01(4)(a): *Regulated Fishery Permit Endorsement* is required to fish in contaminated areas for surf clams.

(b) Tagging and Labeling. All bags and containers used for contaminated surf clams shall be tagged or labeled on the vessel, before landing, with a waterproof red tag or label bearing the following information: CONTAMINATED SHELLFISH - FOR BAIT PURPOSES ONLY - Permit #---(area).

(c) Gear Restrictions. Dredges used for the harvest of contaminated surf clams shall conform to specifications established by 322 CMR 6.08(3)(b)3. All pumps shall be equipped with mufflers adequate to prevent excessive noise. All other methods of harvest must be approved in writing by the Division.

(d) Hours of Operation. No person may fish for contaminated surf clams except during daylight hours from sunrise to sunset at Boston, Massachusetts.

(e) Landing Restrictions. All shellfish harvested from specified contaminated areas shall be landed at a location to be named on the permit, and distributed according to conditions listed on the permit. Any transportation of contaminated surf clams shall be by a method and route approved by the Division in writing.

(f) Landing Limits. No person authorized under this 322 CMR 6.08(7) to fish for contaminated surf clams may harvest, possess or offload more than 50 bushels of shellstock or 100 gallons of shucked clams during any 24 hour day.

(g) Reporting Requirements. All persons authorized under 322 CMR 6.08(7) shall follow the reporting requirements established by 322 CMR 6.08(5)(a), except that a daily record of sales shall be kept and produced upon demand for inspection by any person authorized to enforce 322 CMR 6.08.

(h) Management Areas. Persons authorized under 322 CMR 6.08(7) to fish for contaminated surf clams in specific areas are exempt from the provisions of 322 CMR 6.08(2).

(i) Permit Restrictions. No person authorized to fish for contaminated surf clams under 322 CMR 6.08(7) may hold a Shellfish Transaction Card issued pursuant to 322 CMR 7.01(2)(k): *Shellfish Transaction Card*.

(6.09: Regulation of Catches: Reserved)6.10: Management of the Asiatic Freshwater Clam (*Corbicula Fluminea*)

(1) Purpose. Any importation, transportation, or possession of *Corbicula fluminea*, into or within the geographic boundaries of the Commonwealth of Massachusetts, is deemed to be injurious or potentially injurious to the maintenance, preservation, and/or protection of the marine fisheries resources of the Commonwealth. 322 CMR 6.10 is promulgated to manage the importation, transportation, and possession of *Corbicula fluminea* into or within Massachusetts so as to minimize the possibility of any such injury.

(2) Definitions. For the purposes of 322 CMR 6.10 the following words shall have the following meanings:

Corbicula Fluminea means that species of shellfish commonly known as the Asiatic freshwater clam.

6.10: continued

Importation means to land, bring into, or introduce into, or attempt to land, bring into, or introduce into any place.

Person means any individual, firm, corporation, association, partnership, club, or private body, any one or all, as the context requires.

Possession means detention, control, or manual or ideal custody for any use whatsoever, either as owner, principal or agent, including but not limited to the act or state of possessing, holding, maintaining, handling or touching.

6.10: continued

(e) Transportation means to ship, convey, carry or transport by any means whatever, and deliver or receive for such shipment, conveyance, carriage or transportation.

(3) General Restrictions. The importation, possession, and/or transportation by any person of *Corbicula fluminea* into or within the geographical boundaries or jurisdiction of the Commonwealth of Massachusetts is prohibited.

(4) Penalties. Violation of any provision of 322 CMR 6.10 shall be subject to the penalties set forth in M.G.L. c. 130, §§ 2, 9 and 12.

6.11: Bay Scallops Harvest Criteria

(1) Definitions.

Bay Scallop means that species of marine mollusk known as *Argopecten irradians*.

Shell Height means a straight line measurement from the middle of the hinge to the opposing valve margin.

Seed Scallop means scallops that are sexually immature and do not bear a well-defined raised annual growth line.

(2) Prohibition on Harvest and Possession of Seed Scallops. No person shall land or possess scallops without a well-defined raised annual growth line and that growth line shall measure at least ten millimeters from the hinge of the shell.

Exception. Bay Scallops that have a well-defined raised annual growth line located less than ten millimeters (mm) from the hinge of the shell, shall be lawful to harvest and possess if the shell height is at least 63.5 millimeters or 2.5 inches.

6.12: Fish Pot Fishery Restrictions

(1) Definitions. For the purposes of 322 CMR 6.12 the following words shall have the following meanings.

Black Sea Bass means that species of fish known as *Centropristes striata*.

Director means the Director of the Division of Marine Fisheries or his designee.

Fish or Fishing means to set pots on the ocean bottom.

Parlor Section of a Pot means that compartment of a pot that does not contain bait.

Pot means any lobster trap, modified lobster trap, fish pot, fish trap, conch pot, tautog pot, scup pot, or other device (except fish weirs) placed on the ocean bottom and capable of catching black sea bass, scup, whelk, tautog, or other species.

(a) A conch pot is further defined as any pot or trap without side heads or horizontal laths used for the taking of whelk conch.

(b) An eel pot is further defined as any wire pot or trap with wire mesh no less than ½ inch in length, enclosed on three sides with an inverted funnel on the fourth side where there is an opening not to exceed two inches in diameter and is designed to catch eels.

Scup means that species of fish known as *Stenotomus chrysops*.

Tautog means that species of fish known as *Tautoga onitis*.

Whelk means those species known as *Busycon carica* (knobbed whelk) and *Busycotypus canaliculatus* (channeled whelk).

6.12: continued

Director means the Director of the Division of Marine Fisheries or his or her designee.

Eel Pot means any wire pot, trap or other device designed to catch eels that is closed on two or three sides with an inverted funnel or throat on one or two sides that acts as an opening.

Fish or Fishing means to set pots on the ocean bottom.

Fish Pot means inclusively any black sea bass pot or scup pot.

Fish Pot Regulated Fishery Permit Endorsement means those limited entry regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80 and 322 CMR 7.01(4)(a): *Regulated Fishery* and 7.06: *Transfer of Limited Entry Permits*, that authorize a named individual to use for commercial purposes black sea bass pots for the taking of black sea bass, scup pots for the taking of scup or conch pots for the taking of whelks.

Parlor Section of a Pot means that compartment of a pot that does not contain bait.

Pot means any lobster trap, modified lobster trap, fish pot, fish trap, conch pot, tautog pot, scup pot, or other device (except fish weirs) placed on the ocean bottom and capable of catching black sea bass, scup, whelk, tautog, or other species.

Scup means that species of fish known as *Stenotomus chrysops*.

Scup Pot means any pot or trap that has six sides and at least two unobstructed escape vents or openings in the parlor section that are at least 3 1/10 inches in diameter or 2 ¼ inch square, and is set on the bottom of the ocean and designed to capture scup.

Scup Pot Regulated Fishery Permit Endorsement means those regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80 and 322 CMR 7.01(4)(a): *Regulated Fishery* and 7.06: *Transfer of Limited Entry Permits*, that authorize a named individual to use scup pots for the taking of scup.

Tautog means that species of fish known as *Tautoga onitis*.

Waters Under the Jurisdiction of the Commonwealth means all coastal waters, as defined at M.G.L. c. 130, § 1, including the waters of Massachusetts Bay, Cape Cod Bay, Buzzards Bay, Nantucket Sound, Vineyard Sound within the territorial waters of Massachusetts, as appearing on the most up-to-date Ocean and Survey Chart prepared by the National Oceanic and Atmospheric Administration.

Whelk means those species known as *Busycon carica* (knobbed whelk) and *Busycotypus canaliculatus* (channeled whelk).

(2) Closed Season.

(a) Conch Pots. From December 15th through April 14th it is unlawful for any person to take whelks by pots or set, haul, tend or abandon conch pots in the waters under the jurisdiction of the Commonwealth.

(b) Black Sea Bass Pots. It shall be unlawful to set, haul, tend or abandon black sea bass pots in the waters under the jurisdiction of the Commonwealth during the period that:

1. Begins three days following the effective quota closure date for the commercial black sea bass fishery, as specified in the Declaration of Closure notice published in accordance with 322 CMR 6.41; and
2. Ends on the Saturday prior to the first Tuesday in August.

(c) Scup Pots. It shall be unlawful to set, haul, tend or abandon scup pots in the waters under the jurisdiction of the Commonwealth during the period that:

1. Begins on November 4th or three days following the effective quota closure date of the commercial scup fishery, as specified in the Declaration of Closure notice published in accordance with 322 CMR 6.41, whichever occurs first; and
2. Ends on April 28th.

6.12: continued

(3) Fish Pot and Conch Pot Marking.

(a) All fish pots and conch pots and the buoys of individual fish and conch pots or pot trawls must be marked in accordance with 322 CMR 4.13: *Fixed Gear Marking and Maximum Length Requirements*.

(b) All vessels fishing with fish pots and conch pots must display the buoy color scheme by painting the color or colors on each side of the hull or upon panels attached to each side of the hull, or upon both sides of a single panel which is attached to the vessel on top of the bow, or by mounting a buoy, not less than 11" in length and four inches in diameter with his or her color scheme thereon, in an upright position at least six inches above the roof of the vessel. Color schemes painted on the hull of the vessel or upon panels shall be displayed as a solid color strip four inches high and 18" long, each strip abutting another on the longest side, if more than one color, to form a rectangle or square. The rectangle or square thus formed shall have a black border all the way around at least one inch wide. All color schemes so displayed shall be clearly visible from both sides of the boat.

(4) Gear Restrictions.

(a) Any person fishing with pots for whelk shall only use conch pots as defined in 322 CMR 6.12(1); and

(b) It shall be unlawful to use horseshoe crabs as bait in any pot other than a conch pot or an eel pot as defined at 322 CMR 6.12(1).

(5) Degradable Hinges and Fasteners. It is unlawful for any person to take or attempt to take fish from waters under the jurisdiction of the Commonwealth by use of pots without a panel or door with hinges and fasteners made of one of the following degradable materials:

(a) untreated hemp, jute, or cotton string of 3/16" (4.8 mm) diameter or smaller;

(b) magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners; or

(c) ungalvanized or uncoated iron wire of 0.094" (2.4 mm) diameter or smaller.

(6) Escape Vents.

(a) It is unlawful for any person to take or attempt to take scup from waters under the jurisdiction of the Commonwealth by use of pots without at least two unobstructed escape vents or openings in the parlor portion of the pot measuring at least 3 1/10 inches in diameter or 2 1/4 inches square.

(b) It is unlawful for any person to take or attempt to take black sea bass from waters under the jurisdiction of the Commonwealth by use of pots without at least two unobstructed escape vents or openings in the parlor portion of the pot measuring at least 2 1/2 inches in diameter, two inches square, or 1 3/8 inches by 5 3/4 inches.

(7) Restrictions on the Use of Pots. It shall be unlawful for any person(s) fishing in the waters under the jurisdiction of the Commonwealth to fish with pots except when fishing for:

(a) scup, black sea bass and whelk under the authority of a species specific fish pot regulated fishery permit endorsement;

(b) lobsters and edible crabs subject to the permit requirements specified at M.G.L. c. 130, §§ 37 and 38 and 322 CMR 7.01(2): *Commercial Fisherman Permits* and 7.03: *Coastal Lobster Permit and Trap Allocation Transfer Programs*;

(c) American eels subject to M.G.L. c. 130, §§ 52 and 100D;

(d) green crabs subject to M.G.L. c. 130 § 37A; and

(e) any finfish or shellfish species under the authority of an experimental fishery letter of authorization issued by the Director pursuant to M.G.L. c. 130, § 17 and 322 CMR 7.01(4)(c): *Special Project*.

(8) Restrictions on the Possession and Landing of Fish and Whelks Taken By Fish Pots. It shall be unlawful for any person(s), fishing with fish pots, in the waters under the jurisdiction of the Commonwealth to possess and land:

(a) any black sea bass taken by pots without a black sea bass pot regulated fishery permit endorsement;

(b) any scup by pot without a scup pot regulated fishery permit endorsement; and

6.12: continued

- (c) any whelk taken by pot without a conch pot regulated fishery permit endorsement.
- (d) Exceptions. Fishermen with a valid commercial coastal lobster permit may possess and land whelk and finfish species, including but not limited to black sea bass, scup, and tautog captured in a lobster pot, provided the aggregate weight of the finfish and whelk catch does not exceed the weight of lobsters during a single commercial fishing trip.

(9) Fish and Conch Pot Limits. It shall be unlawful for any person(s), to set, haul or tend fish pots and conch pots, in the waters under the jurisdiction of the Commonwealth, in excess of the following limits:

- (a) 200 black sea bass pots by the holder of a black sea bass regulated fishery permit endorsement;
- (b) 200 conch pots by the holder of a conch pot regulated fishery permit endorsement holder;
- (c) 50 scup pots by the holder of a scup regulated fishery permit endorsement; and
- (d) 200 black sea bass pots and scup pots combined by the holder of a black sea bass and scup pot regulated fishery permit endorsement.

6.13: Lobster Trap Limit in the Coastal Waters of the Commonwealth

(1) Definitions. For the purposes of 322 CMR 6.13 the following words shall have the following meanings.

Effective Traps Fished means a value used in:

- (a) the Outer Cape Cod Trap Allocation Determination that was calculated in the assessment of each eligible fisherman’s annual performance for the years 2000, 2001, and 2002. For each year that traps and landings were reported, Effective Traps Fished is the lower value of the maximum number of traps reported fished for the year and the predicted number of traps that is associated with the permit holder’s reported poundage of lobsters for the year. The value for predicted number of traps was calculated based on a DMF published analysis of traps fished and pounds landed for the OCCLCMA and that relationship is depicted in 322 CMR 6.13: *Figure 1*.

FIGURE 1.

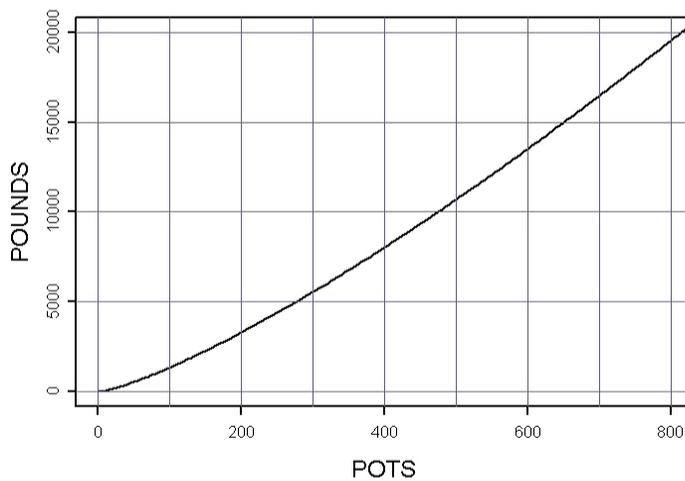


Figure 1. Relationship between pounds harvested and traps fished used to allocate Initial Trap Allocation. Data to calculate the relationship was obtained from catch reports from fishermen fishing primarily in Outer Cape Cod Lobster Conservation Management Area during years (1997-2001).

6.13: continued

(b) the LCMA 2 Trap Allocation Determination that was calculated in the assessment of each eligible fisherman's annual performance for the years 2001, 2002, and 2003. For each year that traps and landings were reported, Effective Traps Fished is the lower value of the maximum number of traps reported fished for the year and the predicted number of traps that is associated with the permit holder's reported poundage of lobsters for the year. The value for predicted number of traps was calculated based on the Interstate Lobster Management Plan Addendum VII published by the Atlantic States Marine Fisheries Commission that relationship is depicted in Figure 2.

FIGURE 2

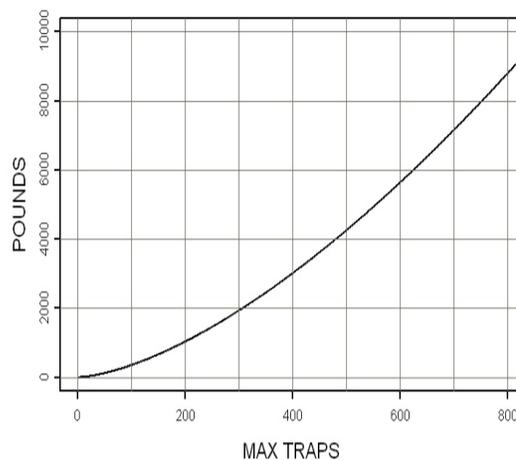


Figure 2. Relationship between pounds harvested and traps fished used to allocate Initial Trap Allocation. Data to calculate the relationship was obtained from catch reports from fishermen fishing primarily in LCMA 2 during years (2001-2003).

(c) Exception. For coastal lobster permit holders who fished for lobster primarily by hand using SCUBA gear in a LCMA under control of an effort control plan, Effective Traps Fished means the annual predicted number of traps that is associated with the permit holder's reported poundage of lobsters during the performance years specified for a LCMA under control of an effort control plan as defined in 322 CMR 6.13(1)(a) and (b). The value for predicted number of traps was calculated based on a DMF published analysis of traps fished and pounds landed for a LCMA and that relationship is depicted in 322 CMR 6.13: *Figures 1 and 2.*

Fish means to set lobster traps on the ocean bottom.

LCMA 2 Trap Allocation means the number of traps assigned to a coastal permit holder endorsed for LCMA 2 plus or minus any traps allocated through the trap transfer process outlined in 322 CMR 7.03: *Coastal Lobster Permit and Trap Allocation Transfer Programs.*

Lobster means that species known as *Homarus americanus*.

(2) Eligibility for Trap Allocation.

(a) To be Eligible for Trap Allocation in OCCLCMA, permit holders must have documented lawful fishing of lobster traps primarily in OCCLCMA during years 1999, 2000, or 2001. Any permit holder who held a permit endorsed for OCCLCMA during the years 1999, 2000, or 2001 but dropped OCCLCMA from their permit during a subsequent year is not eligible. Any permit holder who received their permit off the waiting list during 2001 and had no fishing performance in 2001 may appeal for an Initial Trap Allocation based on their 2002 fishing performance in OCCLCMA.

6.13: continued

(b) To be Eligible for Trap Allocation in LCMA 2, permit holders must have documented lawful fishing of lobster traps primarily in LCMA 2 during years 2001, 2002, and 2003. Any permit holder who held a permit endorsed for LCMA 2 during the years 2001, 2002, and 2003 but dropped LCMA 2 from their permit during a subsequent year is not eligible. Any permit holder who received their permit off the waiting list during 2003 and had no fishing performance in 2003 may appeal for an Initial Trap Allocation based on their 2004 fishing performance in LCMA 2. Any permit holder who had no documented fishing performance due to documented medically-based inability or military service may appeal for an Initial Trap Allocation based on their 1999 and 2000 fishing performance in LCMA 2.

(c) Exception. Coastal Lobster permit holders who fished for lobster primarily by hand using SCUBA gear during the years of eligibility for a LCMA under control of an effort control plan as defined in 322 CMR 6.13(2) may be eligible for Trap Allocation in a LCMA based on documented lawful landings of lobster as provided for in 322 CMR 6.13(1)(c) and (3).

(3) Trap Allocation Determination.(a) Outer Cape Cod.

1. Initial Trap Allocation shall be the highest value of Effective Traps Fished for each permit holder during the period 2000 through 2002. The Director may lower a permit holder's Initial Trap Allocation if the permit holder failed to purchase and use valid trap tags for any year used in the allocation determination or if after a DMF audit the values for traps fished or poundage are determined to be incorrect.

2. Trap Allocation shall be adjusted annually based on any Trap Allocation transfers approved by the Director pursuant to 322 CMR 7.03: *Coastal Lobster Permit and Trap Allocation Transfer Programs*.

(b) LCMA 2.

1. Initial Trap Allocation shall be the highest value of Effective Traps Fished for each permit holder during the period 2001 through 2003. The Director may lower a permit holder's Initial Trap Allocation if the permit holder failed to purchase and use valid trap tags for any year used in the allocation determination or if after a DMF audit the values for traps fished or poundage are determined to be incorrect.

2. Trap Allocation shall be adjusted annually based on any Trap Allocation transfers approved by the Director pursuant to 322 CMR 7.03: *Coastal Lobster Permit and Trap Allocation Transfer Programs*.

(4) Trap Limitation. It is unlawful for any person with a commercial lobster permit endorsed for:

(a) LCMA 1 to fish more than 800 lobster traps at any one time in LCMA 1;

(b) LCMA 2 to fish more than their trap allocation approved by the Director subject to trap allocation regulations established by 322 CMR 6.13;

(c) LCMA 3 to fish more traps than their allocation approved by NOAA Fisheries and the Director consistent with the interstate plan; or

(d) OCCLCMA to fish more than their trap allocation as approved by the Director subject to trap allocation regulations established by 322 CMR 6.13.

(5) Vessel Limitation.

(a) Commercial Lobster Permits Endorsed for LCMA 1, 2 or the OCCLCMA. It shall be unlawful to fish more than 800 traps aboard any vessel involved in the offshore commercial lobster fishery in LCMA 1, 2, or OCCLCMA or the coastal commercial lobster fishery, regardless of the number of fishermen holding coastal or offshore commercial lobster permits on board said vessel.

(b) Commercial Lobster Permits Endorsed for LCMA 3. It shall be unlawful to fish more than the allocation approved by NOAA Fisheries and the Director consistent with the interstate plan aboard any vessel involved in the offshore commercial lobster fishery in LCMA 3, regardless of the number of fishermen holding offshore commercial lobster permits on board said vessel.

6.14: Lobster Car Restrictions

- (1) Definition. Lobster car means any container, enclosure, crate, or any other container or contrivance designed to hold and store lobsters.
- (2) Prohibition. It is prohibited and unlawful for any person to place a buoyed or unbuoyed lobster car within waters of the Commonwealth except in inshore net areas defined in 322 CMR 4.02: *Use of Nets in Inshore Restricted Waters.*

6.15: Further Regulation of Catches (Reserved)

6.16: Atlantic Sturgeon Prohibition

- (1) Definition. Atlantic Sturgeon means that species of fish known as *Acipenser oxyrinchus*.
- (2) Purpose. Massachusetts needs to comply with the Atlantic States Marine Fisheries Commission Atlantic Sturgeon Management Plan that requests states to adopt either an elimination of all sturgeon harvest or a minimum size of seven feet. Since there is no directed fishery for sturgeon in Massachusetts and the state has already declared the sturgeon an endangered species, a prohibition on the landing and possession of sturgeon is appropriate. Now, both the Atlantic sturgeon and the endangered short-nosed sturgeon cannot be landed or possessed.
- (3) Prohibition. It is prohibited and unlawful for any person to land or possess any Atlantic sturgeon.

6.17: Shad and River Herring

- (1) Purpose. 322 CMR 6.17 is promulgated to conserve river herring and shad consistent with the Interstate Management Plan for Shad and River Herring, established by the Atlantic States Marine Fisheries Commission. The harvest of both shad and river herring is prohibited in Commonwealth waters, except when the Director determines that harvest from a particular run is sustainable. For river herring, a person may possess or land a batch of bait fish that comprises up to 5% of river herring, by count, if the bait fish is caught in federal waters.

6.17: continued

(2) Definitions.

Batch means all fish in any separate container.

Catch and Release means a method of angling whereby all catch is released immediately following capture to ensure survival.

Container means any box, tote, bag, bucket or other receptacle containing loose fish which may be separated from the entire load or shipment.

Land means to transfer or offload fish from a vessel onto any dock, pier, wharf or other artificial structure used for the purpose or receiving fish.

River Herring means those species of fish known as alewives (*Alosa pseudoharengus*) and bluebacks (*Alosa aestivalis*).

Shad means that species of fish known as *Alosa sapidissima*.

(3) River Herring.

(a) Taking and Possession of River Herring in Waters under the Jurisdiction of the Commonwealth. It shall be unlawful for any person to harvest, possess or sell river herring in the Commonwealth or in the waters under the jurisdiction of the Commonwealth.

(b) Exceptions. The Director may authorize the harvest and possession of river herring from a particular spawning run for personal use based on documentation that the spawning run from which herring are harvested is not depleted.

(c) By-catch Tolerance for Bait Fisheries Conducted in Federal Waters. A person may possess or land a batch of bait fish that comprises up to 5% of river herring, by count, provided the bait fish is caught in federal waters. Notwithstanding the foregoing, the operator of a vessel, as defined by 322 CMR 7.01(1): *Vessel*, that lands sea herring, or a wholesale dealer, as defined by 322 CMR 7.01(3)(a): *Wholesale Dealer*, that processes sea herring, may possess a batch of bait fish that exceeds 5% of river herring, by count, if said batch has been sorted and graded after the bait fish has landed.

(4) Shad Possession Limits.

(a) Merrimack and Connecticut Rivers. No fisherman may possess more than three shad taken from the Connecticut or Merrimack River.

(b) All Other Waters of the Commonwealth. It shall be unlawful for any fishermen to possess any American shad taken from any waters other than the Connecticut and Merrimack Rivers. All fishing for American shad in these waters shall be limited to catch and release only.

6.18: Bluefish Limits (*Pomatomus salatrix*)

(1) Recreational Bag Limit. No person may catch, land or possess more than ten bluefish per calendar day unless he or she is the holder of a commercial fishermen permit or a dealer permit.

(2) Commercial Catch Limits. For the period January 1st through December 31st, it is unlawful for commercial fishermen to land or possess more than 5,000 pounds of bluefish, per calendar day or per trip, whichever period of time is longer. Holders of valid commercial fishermen permits may sell bluefish to licensed dealers only.

(3) Use of Gillnets for Taking Bluefish for Commercial Purposes

(a) Management Areas. There is established the following management areas:

1. Northern Area shall be those territorial waters of the Commonwealth north of a straight line extending from the east entrance of the Cape Cod Canal through Race Point Light, Provincetown to the marine boundary of the Commonwealth.
2. Southern Area shall be those territorial waters of the Commonwealth south of straight line extending from the east entrance of the Cape Cod Canal through Race Point Light, Provincetown to the marine boundary of the Commonwealth, including all waters of Buzzards Bay, Vineyard Sound, and Nantucket Sound.

6.18: continued

- (b) Authorization. The following permits and conditions shall apply in the following areas:
1. In the northern and southern areas a regulated fishery permit shall be required to harvest, catch or take bluefish by any net as a directed fishing effort. Directed fishing effort is defined as any consecutive 30 day catch of which 50% or more is bluefish.
 2. In the southern area a regulated fishery permit shall be required to harvest, catch or take bluefish by means of a gillnet in the southern area and shall be issued only to those individuals who held a valid bluefish gillnet regulated fishery permit in 1982 as determined by the licensing records of the Division.
 3. Dealers may not purchase bluefish from commercial fishermen without written authorization from the Director.
 4. Commercial fishermen shipping bluefish to dealers outside the Commonwealth shall be required to become authorized dealers pursuant to 322 CMR 6.18(2)(b)3. 322 CMR 6.18(2)(b)4. shall not apply if the out of state dealer is licensed and authorized to purchase bluefish in Massachusetts.
- (c) Restrictions. The following restrictions on the use of gillnets for the harvesting, catching or taking of bluefish in the southern area shall apply:
1. the total length of any net to be set by each permittee and/or vessel may not exceed 1500 feet.
 2. all nets are to be conspicuously marked with high flyers or floats at both ends;
 3. each high flyer or float shall be conspicuously and legibly marked at both ends with the regulated fishery permit number of the individual operating the gear;
 4. minimum mesh size of gillnets to be used for taking bluefish may be no less than five inches stretched measure;
 5. nets are to be tended by the individual permittee or his/her authorized agent at all times; and
 6. harvesting, catching or taking or attempting to harvest, catch or take bluefish by means of a gillnet is prohibited during the night time, defined as ½ after sunset to ½ hour before sunrise.
- (d) Closures.
1. Permanent Closure. The following area is closed to any fishing for bluefish by means of a gillnet: all waters within an area bounded by an imaginary line beginning at the westernmost tip of the southern entrance jetty at Pamet Harbor to the Number 1 buoy on Billingsgate Shoal, thence southerly to the Number 1 gong off Sesuit Harbor, thence to the northernmost tip of the east entrance jetty off Sesuit Harbor, thence along the shoreline of Dennis, Orleans, Eastham, Wellfleet and Truro to the westernmost tip of the southern entrance jetty at Pamet Harbor.
 2. Contingency Closures. If the Director determines that gear conflicts are occurring or are likely to occur he may, as provided for in 322 CMR 6.18, close areas to gillnetting.
 3. Contingency Closure Procedure. An area closure shall not be effective until:
 - a. it has been approved by a majority of the members of the Marine Fisheries Advisory Commission;
 - b. a notice of closure has been filed with the *Massachusetts Register*; and
 - c. a copy of the notice of closure has been mailed to all gillnet regulated fishery permit holders.
- (e) Prohibitions. It is unlawful for any person to harvest, catch or take or attempt to harvest, catch or take any bluefish by means of a gillnet in the southern area;
1. without a valid regulated fishery permit;
 2. between ½ hour after sunset to ½ hour before sunrise;
 3. with greater than 1500 feet of net;
 4. with any net which is unmarked by high flyers or floats, or which has not been legibly marked with the regulated fishery permit number;
 5. with any net which has a stretched mesh opening of less than five inches;
 6. with any net that is left unattended;
 7. having failed to file a timely and accurate catch report or having falsified a catch report;
 8. when the gillnet fishery has been closed by a notice of closure; or
 9. when an area has been closed by the Director pursuant to 322 CMR 6.18(3)(d).

(4) Penalties. Violation of 322 CMR 6.18 shall be governed by the provisions of M.G.L. c. 130, §§ 2 and 80.

6.19: Blue Crab Restrictions

(1) Definition.

Blue Crab means that species of crustacean known as *Callinectes sapidus*.

(2) Minimum Size. No person shall take, offer for sale, or possess at any time any blue crab measuring less than five inches across the shell from tip to tip of the posterior-most, longest spines along the lateral margins of the carapace.

(3) Possession Limits. It shall be unlawful for any recreational fisherman or commercial fisherman to take or possess:

(a) more than 25 blue crabs per 24-hour day; or

(b) any egg-bearing blue crab or female crabs with the egg mass (sponge), egg pouch or bunion removed at any time.

6.20: Quahogs, Soft Shelled Clams and Oysters

(1) Definitions.

Aquaculturist means any person authorized by the Director to propagate or rear shellfish for commercial purposes under the authority of a shellfish propagation permit issued pursuant to 322 CMR 7.01(4): *Special Permits*.

Batch means all shellfish in each separate container.

Commercial Purposes means the possession of any oyster, quahog or soft shelled clam by a commercial fisherman or aquaculturist for primary purchase by a dealer acting as a primary buyer.

Container means any bag, box, basket, cage, tote or other receptacle containing loose shellfish or fish which may be separated from the entire load or shipment.

Dealer means any person, business or entity that is permitted in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(3): *Dealer Permits* to purchase or sell shellfish at a wholesale or retail level.

Hinge Width means the distance between the convex apex of the right shell and the convex apex of the left shell.

Market Size means any oyster, quahog or soft shelled clam that is at least the minimum size prescribed at 322 CMR 6.20(2) and may be harvested, possessed or sold for commercial purposes.

Oyster means that species of mollusk known as *Crassostrea virginica*.

Quahog or Hard Clam means that genus of mollusk known as *Mercenaria sp.*

Seed means any oyster, quahog or soft shelled clam that is less than the minimum size prescribed at 322 CMR 6.20(2).

Soft Shelled Clam means that species of mollusk known as *Mya arenaria*.

(2) Minimum Sizes.

(a) Quahogs. No person shall take or have in possession quahogs less than one inch shell thickness (hinge width).

(b) Soft Shelled Clams. No person shall take or have in possession soft shelled clams less than two inches in longest diameter.

(c) Oysters. No person shall take or have in possession oysters less than three inches in longest diameter.

(d) Exemptions for Aquaculture Reared Oysters and Quahogs Aquaculture Reared Minimum Sizes.

1. Quahogs. No aquaculturist or his or her licensed employee shall possess for commercial purposes or sell aquaculture reared quahogs less than $\frac{7}{8}$ inch shell thickness (hinge width).

6.20: continued

2. Oysters. No aquaculturist or his or her licensed employee thereof shall possess for commercial purposes or sell aquaculture reared oysters less than 2½ inches in longest diameter.
 3. In addition to the shellfish tagging requirements at 322 CMR 16.03: *Tagging of Shellfish*, all aquaculturists or their licensed employees shall include the statement "Aquaculture Reared" or "Farm Raised" on all shellfish tags that are affixed to containers that hold either quahogs or oysters that are aquaculture reared and do not conform to the minimum sizes at 322 CMR 6.20(a) and (c).
 - (e) Tolerance. All minimum sizes at 322 CMR 6.20(2) shall be subjected to a tolerance where the possession of undersized quahogs, soft shelled clams and oysters shall not exceed 5% the count of any batch.
- (3) Transplanting Seed or Adult Oysters.
- (a) It shall be unlawful for a person to plant, transplant, or introduce for the purpose of transplanting seed or adult oysters into any waters or into any designated shellfish growing areas within the Commonwealth without first obtaining a special permit issued by the Director in accordance with 322 CMR 7.01(4)(c): *Special Project*.
 - (b) Any oysters planted, transplanted or introduced in violation of 322 CMR 6.20(3) shall be confiscated and destroyed.
 - (c) Any violation of the provisions of this regulation is punishable by a fine of not less than \$10.00 and not more than \$1,000 or by imprisonment for a month.

6.21: Whelk Conservation and Management

- (1) Definitions. For the purpose of 322 CMR 6.21, the following terms shall have the following meanings:

Channeled Whelk means that species known as *Busycotypus canaliculatus*.

Commercial Fisherman means any person fishing under the authority of a permit issued in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(2): *Commercial Fisherman Permits* for the purpose of sale, barter or exchange.

Knobbed Whelk means that species known as *Busycon carica*.

Operculum is the lid that closes the aperture of the shell when the animal is retracted.

Recreational Fishing means the non-commercial taking or attempted taking of knobbed or channeled whelks for personal or family use, which are not to be sold, bartered or exchanged.

Shell width means the diameter of the shell measured across its greatest width perpendicular to the long axis of the shell.

Standard Fish Tote means a container that does not exceed the volume of 6,525 cubic inches.

Trip means that period of time that begins when a fishing vessel departs from a dock, berth, beach, seawall, ramp or port to carry out commercial fishing operations and that terminates with a return to a dock, berth seawall, ramp or port.

- (2) Minimum Size.

- (a) It shall be unlawful for any person to possess a knobbed or channeled whelk with a shell width less than three inches for a period longer than is necessary for immediate measurement and return to the sea.
- (b) Method of Measurement. The minimum size for all knobbed and channeled whelks shall be determined by measuring the shell width with the operculum facing down and laying as flat as possible on the gauge in an orientation such that a line drawn through the shell's apex and siphonal canal would be parallel with the sides of the gauge.
- (c) Processing. For the purpose of compliance with 322 CMR 6.21, all knobbed whelk and channeled whelk shall be landed whole in the shell and processed at a facility licensed for that purpose.

6.21: continued

(3) Possession Limit.

(a) Coastal Access Permit Holders. For commercial fishermen fishing with mobile gear under the authority of a Coastal Access Permit regulated fishery permit endorsement, issued in accordance with 322 CMR 7.05: *Coastal Access Permit (CAP)*, it shall be unlawful to take, possess or land more than 1,000 pounds of channeled whelk and knobbed whelk combined during any single fishing trip or 24-hour day, whichever period of time is longer.

(b) SCUBA or Hand Harvest. For commercial fishermen fishing with SCUBA or hand harvest gear, it shall be unlawful to take, possess or land a combination of channeled and knobbed whelk that exceeds one level filled standard fish tote.

(c) Recreational Fishing Limit. It shall be unlawful for any person engaged in recreational fishing to possess or land more than 15 channeled or knobbed whelk combined during any calendar day.

6.22: Summer Flounder (Fluke) Restrictions

(1) Definitions.

Commercial Fishermen means fishermen fishing for purposes of sale, barter, or exchange.

Longline means any fishing gear having a single weighted main line set along the ocean bottom to which many gangions or leaders (short-line sections) are attached with each one ending with a baited hook.

Possession Limits. For purposes of 322 CMR 6.22 all possession limits shall be per trip or per 24-hour day whichever is the longer period of time, except where noted otherwise and shall be vessel limits regardless of the number of commercial fishermen with fluke special permits on board said vessel.

Quota means the Commonwealth's 6.8% share of the annual commercial summer flounder quota adopted by the Atlantic States Marine Fisheries Commission.

Recreational Fisherman means fishermen fishing for purposes of personal or family use by angling.

Summer Flounder means fluke or that species of fish known as *Paralichthys dentatus*.

(2) Commercial Fishery.

(a) Minimum Size. It shall be unlawful for commercial fishermen to land or possess summer flounder less than 14 inches in total length.

(b) Seasonal Quota Allocations. The annual quota shall be split with a target allocation of 30% to the Period I from January 1st through April 22nd, 70% allocated to the Period II from April 23rd through December 31st. Any unused portion of the quota from Period I may be re-allocated to Period II. Overharvest of either period allocation may be deducted from the corresponding period in the following year.

(c) Period I. It is unlawful for any commercial fisherman during the period January 1st through April 22nd to land or possess during a 24-hour day:

1. any summer flounder during the period January 1st through January 31st;
2. more than 500 pounds of summer flounder caught with nets beginning February 1st;
3. more than 100 pounds of summer flounder caught with nets when 25% or more of the annual quota has been reached.

(d) Period II.

1. April 23rd through June 9th. It is unlawful for any commercial fisherman during the period April 23rd through June 9th to land or possess:
 - a. more than 100 pounds of summer flounder caught with nets or longlines during a 24-hour day.
 - b. summer flounder caught with handlines or rod-and-reel.
2. June 10th through December 31st.
 - a. It is unlawful for any commercial fisherman to possess or land summer flounder on Fridays or Saturdays.

6.22: continued

- b. It is unlawful for any commercial fishermen using nets to possess or land more than 300 lbs. of summer flounder and for any commercial fishermen using hooks to possess or land more than 200 lbs. of summer flounder.
- (e) Closure. It is unlawful for commercial fishermen to land or possess summer flounder when the Director closes the fishery during any of the two periods in 322 CMR 6.22.
- (f) Vessel Limits. The landing/possession limits described in 322 CMR 6.22(2) shall apply to any vessel involved in the commercial summer flounder fishery, regardless of the number of commercial fishermen with summer flounder special permits on board said vessel.
- (g) Exception for Transport Vessels.
1. The limits described in 322 CMR 6.22(2) do not apply to vessels which are transporting summer flounder for authorized summer flounder dealers.
 2. A vessel transporting summer flounder for an authorized dealer:
 - a. shall have a letter of authorization from the Director on board said vessel when transporting summer flounder in excess of the limits as allowed by 322 CMR 6.22(2) and
 - b. shall not have fishing gear capable of catching fish on board while transporting summer flounder.
- (h) Landing Prohibition. It is unlawful for commercial fishermen to land or possess summer flounder from 8:00 P.M. through 6:00 A.M.
- (i) Inspection. Commercial fishermen shall keep all summer flounder separate from the rest of the vessel's catch and readily available for immediate inspection by the Division of Environmental Law Enforcement.
- (3) Permitting Requirements. A regulated fishery permit endorsement, issued by the Director pursuant to 322 CMR 7.01(4)(a), is required to sell summer flounder, or fish for, retain, possess or land summer flounder in accordance with summer flounder commercial fishery regulations at 322 CMR 6.22(2).
- (4) Recreational Fishery Season and Limit.
- (a) Seasonal Possession and Landing Limits.
 1. Closed Season. From September 24th through May 21st, it shall be unlawful for a recreational fisherman to possess or land any quantity of summer flounder;
 2. Open Season. From May 22nd through September 30th, it shall be unlawful for a recreational fisherman to possess or land in excess of five summer flounder per calendar day.
 - (b) Minimum Size. It shall be unlawful for recreational fishermen to land or possess summer flounder less than 16 inches in total length.

6.23: Rainbow Smelt (*Osmerus Mordax*) Restrictions(1) Definitions

Coastal Waters means those waters as established by M.G.L. c. 130, § 1.

Rainbow Smelt means that species of fish known as *Osmerus mordax*.

(2) Possession Limits. It is unlawful for any fisherman to fish for and retain more than 50 smelt taken from coastal waters of the Commonwealth per 24-hour day.

(3) Prohibitions. It is unlawful for any person:

- (a) to fish for and retain smelt in any other manner than by hook-and-line as established by M.G.L. c. 130, § 35.
- (b) to fish for and retain smelt between March 15th and June 15th as established by M.G.L. c. 130, § 34.
- (c) to fail to release immediately any smelt unlawfully taken back into the waters from which they were taken.

6.24: Sea Urchin Management(1) Definitions.

Batch means all sea urchins in each separate container.

Container means any bag, box, cage or other receptacle containing loose urchins which may be separated from the entire load or shipment.

Effective Fishing Width means the width of the sea bottom from which a dredge collects sea urchins including the inside width of the opening or frame or other structures which affect the overall width of the path from which sea urchins are taken.

Sea Urchin means that species of echinoderm known as *Strongylocentrotus droebachiensis*.

(2) Minimum Size.

(a) No person shall take or possess sea urchins measuring less than two inches in the longest diameter, exclusive of the spines, to the amount of more than 5% of any batch.

(b) Sublegal sea urchins shall be culled immediately after capture, and returned immediately to the sea.

(3) Closed Season.

(a) It is unlawful for any person using mobile gear including urchin dredges to take or possess for commercial purposes sea urchins from waters under the jurisdiction of the Commonwealth during the period March 1st through October 31st.

(b) It is unlawful for any person using SCUBA or any method other than mobile gear including urchin dredges to take or possess for commercial purposes sea urchins from waters under the jurisdiction of the Commonwealth during the period May 1st through August 31st.

(4) Gear Restrictions.

(a) No person shall dredge for sea urchins in any area(s) closed to mobile gear fishing unless a single dredge meeting the following specifications is used:

1. The effective fishing width of the dredge is 48 inches or less.

2. The frame or bale is constructed of $\frac{3}{4}$ inch or smaller stock (bar or rod) with skids no longer than three feet in length.

3. The chain sweep section behind the bale shall be constructed of $\frac{1}{4}$ inch or smaller chain in a single layer square mesh pattern no longer than 4 $\frac{1}{2}$ feet.

4. The twine codend, measured from where the chain section ends shall be no longer than five feet in length.

5. Chafing gear to protect the codend shall be traditional twine chafing gear or a rubber mat five feet or less in length and four feet or less in width.

6. The dredge specified for areas closed to mobile gear may only be towed with wire or cable of $\frac{3}{8}$ inch or smaller diameter or rope of $\frac{5}{8}$ inch or smaller diameter.

((5) Closed Areas. Reserved)(6) Permits.

(a) No person shall take or possess for commercial purposes sea urchins from waters under the jurisdiction of the Commonwealth unless he or she is in possession of a valid regulated fishery permit endorsed for sea urchins, issued by the Director pursuant to 322 CMR 7.01(4)(a): *Regulated Fishery*.

(b) No person shall be issued a regulated fishery permit endorsed for the harvest of sea urchins unless he or she is a *bona fide* resident of Massachusetts or is a resident of a state which grants equal access to Massachusetts residents.

(c) Each individual SCUBA diver must be in possession of both a Commercial Fisherman Permit and a Regulated Fishery Permit endorsed for sea urchins, issued by the Director pursuant to 322 CMR 7.01(4)(a): *Regulated Fishery*.

(d) Each diver tender boat must be in possession of a Commercial Fisherman Permit (boat) and a regulated fisherman permit endorsed for sea urchins unless each person on board is in possession of a Commercial Fisherman Permit (individual) and a regulated fisherman permit endorsed for sea urchins, issued by the Director pursuant to 322 CMR 7.01(4)(a): *Regulated Fishery*.

6.24: continued

(e) Each dredge boat must be in possession of a Commercial Fisherman Permit (boat) and a regulated fishery permit endorsed for sea urchins unless each person on board holds a Commercial Fisherman Permit (individual) and a Regulated Fishery Permit endorsed for sea urchins, issued by the Director pursuant to 322 CMR 7.01(4)(a): *Regulated Fishery*.

(f) Each dredge boat fishing for sea urchins in waters open to mobile gear fishing with a dredge or combination of dredges greater than 48 inches must also possess a valid Coastal Access Permit. Boats fishing with a single sea urchin dredge of 48 inches or less are exempted from the requirements for a Coastal Access Permit, and may fish in areas closed to mobile gear fishing under other sections of 322 CMR 6.00.

(7) Prohibitions.

(a) It shall be unlawful for any vessel fishing in areas closed to mobile gear fishing under the exception provided in 322 CMR 6.24(5)(f) to conduct fishing operations during the period ½ hour after sunset to ½ hour before sunrise at Boston, MA.

(b) It shall be unlawful for any person fishing under the authority of a Regulated Fishery Permit endorsed for sea urchins to retain any bycatch of regulated species, including any lobsters, finfish, or shellfish.

(c) It shall be unlawful for any person to dredge for sea urchins in areas defined in 322 CMR 8.09: *Spawning Area Closures* during the period February 1st through April 30th.

6.25: Lobster Landing Window

(1) Definition.

To Land means to transfer the catch of any lobster from any vessel onto any land or dock, pier, wharf, or other artificial structure.

(2) It is unlawful during the period February 1st through April 30th, for commercial fishermen to land from 8:00 P.M. through 6:00 A.M. any lobsters caught with nets, pots, or any other fishing gear capable of catching lobster.

6.26: Bycatch Lobster Landing/Possession Limits

(1) Definitions. For the purposes of 322 CMR 6.26:

Bottom or Sink Gillnet means a gillnet, anchored or otherwise, that is designed to be, capable of being, or is fished on or near the bottom in the lower third of the water column.

Day means any 24-hour period.

1-day Fishing Trip means a trip 24 hours or less.

2-day Fishing Trip means a trip greater than 24 hours up to 48 hours.

3-day Fishing Trip means a trip greater than 48 hours up to 72 hours.

4-day Fishing Trip means a trip greater than 72 hours up to 96 hours.

5-day Fishing Trip means a trip greater than 96 hours up to 120 hours.

Lobster Car means any container, enclosure or any other container or contrivance designed to hold and store lobster away from the vessel.

Lobster Crate means a covered container with a volume equal to or less than 3.9 cubic feet.

Mobile Gear means any movable or encircling fishing gear or nets which are set, towed, hauled or dragged through the water for the harvest of fish, squid, and shellfish including but not limited to otter trawls, beam trawls, mid-water trawls, bottom and mid-water pair trawls, Scottish seines, Danish seines, pair seines, purse seines, shellfish dredges, and sea scallop dredges.

Net Hauler means any device capable of pulling all or portions of gillnets out of the sea for the purpose of removing catches of lobster and fish.

6.26: continued

Rigged for Netting means a vessel having a trawl net and doors on board.

Trips Greater than Five Days means a trip greater than 120 hours.

(2) Bycatch Limits in Commercial Fisheries.

(a) Non-lobster Commercial Permit Holders. It is unlawful for any person without a commercial lobster permit to land or possess any lobsters.

(b) Mobile Gear. It is unlawful for any person with either an offshore lobster permit or coastal lobster permit fishing or seen fishing with mobile gear to land or possess:

1. any lobsters harvested in waters under the jurisdiction of the Commonwealth; or
2. more than 100-lobsters harvested from federal waters per 24-hour day, provided the vessel they are fishing aboard is properly permitted by NOAA Fisheries to take lobster from federal waters, not to exceed more than 500 lobsters for any fishing trip five days or longer. When the duration of a trip in number of hours, cannot be documented for the Office of Environmental Law Enforcement, the 100-lobster commercial limit shall apply.

(c) Bottom or Sink Gillnets. It is unlawful for any person with an offshore lobster permit or a coastal lobster permit to land or possess more than:

1. 100 lobsters per 24-hour day when fishing or seen fishing with gillnets exclusively in waters outside of the Outer Cape Cod Lobster Conservation Management Area.
2. an amount of lobsters exceeding the capacity of two lobster crates, not to exceed 100 lobsters, per 24-hour day when fishing or seen fishing with gillnets in waters within the Outer Cape Cod Lobster Conservation Management Area (OCCLCMA), or authorized to fish with gillnets in the OCCLCMA. All lobsters retained in accordance with 322 CMR 6.26(2)(c)1. shall be separated from the rest of the catch and stored in lobster crates or placed in lobster crates immediately upon request of law enforcement.

(d) Presumption. It is a rebuttable presumption that a vessel:

1. rigged for netting or equipped with a net hauler, and
2. having both lobster and fish in possession, caught the lobsters with gear other than pots or traps and is thereby subject to the lobster limits described in 322 CMR 6.26.

(3) Duration of Fishing Trips. A vessel landing lobsters taken by any gear other than pots or traps during any fishing trip shall document the hourly duration of the fishing trip through vessel reports or through any other method prescribed by the Director. Such records shall be kept on board the vessel and made available for inspection by any agent of the Director.

(4) Exception. It is lawful for a vessel possessing lobsters caught by mobile gear or gillnets to exceed the daily possession limit as defined by 322 CMR 6.26(2)(b) and (c)1.:

- (a) lobsters are held separate from the fishing vessel in holding cars in locations subject to approval of the Director;
- (b) the landing limit described in 322 CMR 6.26(2) is not exceeded for any trip;
- (c) prior to carrying lobsters, fishermen notify the Office of Environmental Law Enforcement of their intent to carry lobster and the location of the holding cars;
- (d) not more than the daily authorized landing/possession limit are in possession for each day of fishing following notification;
- (e) not more than 500 lobsters are in possession at any one time; and
- (f) fishermen provide accurate records of their daily fishing activities and amounts of lobster carried each day.

(5) Prohibitions. It is unlawful for any commercial fisherman or vessel fishing gillnets in the Outer Cape Cod Lobster Conservation Management Area (OCCLCMA), or authorized to fish in the OCCLCMA, to store lobster in any lobster car in waters under the jurisdiction of the Commonwealth.

(6.27: Regulation of Catch: Reserved)

6.28: Scup and Black Sea Bass Fishery Restrictions

(1) Definitions.

Black Sea Bass means that species of fish known as *Centropristis striata*.

6.28: continued

Commercial Fishermen means fishermen fishing for purposes of sale, barter, or exchange.

For-hire Vessel means a vessel issued a permit pursuant to 322 CMR 7.10(5)(a): *Permit Categories* to carry paying customers for the purpose of recreational fishing.

Possession Limits. For purposes of 322 CMR 6.28 all possession limits shall be per trip or per 24-hour day whichever is the longer period of time, except where noted otherwise. Commercial possession limits shall be vessel limits regardless of the number of commercial fishermen with scup or black sea bass special permits on board said vessel.

Recreational Fishermen means fishermen fishing for purposes of personal or family use by angling.

Scup means that species of fish known as *Stenotomus chrysops*.

Winter I means the January 1st through April 30th federal commercial scup management period for which federal limits are set in accordance with 50 CFR 648.122 and 50 CFR 648.123.

Winter II means the November 1st through December 31st federal commercial scup management period for which federal limits are set in accordance with 50 CFR 648.122 and 50 CFR 648.123.

(2) Commercial Scup Possession and Size Limits.

(a) Winter I and Winter II Commercial Scup Possession Limits. Commercial fishery limits for these periods are established by the Director through declarations consistent with 322 CMR 6.28(6).

(b) May through October Commercial Scup Possession Limits.

1. Hook and Line and Pot Gear Possession Limits.

a. May 1st through May 31st. During this period it shall be unlawful for a commercial fisherman using hook and line or fish pots to possess or land more than 800 lbs of scup, except on Fridays and Saturdays when the possession of scup is prohibited.

b. June 1st through June 30th. During this period it shall be unlawful for a commercial fisherman using hook and line or fish pots to possess or land more the 400 lbs of scup, except on Mondays, Thursdays, Fridays and Saturdays when the possession of scup is prohibited.

c. July 1st through Labor Day. During this period, or until the Massachusetts commercial scup quota is reached, it shall be unlawful for a commercial fisherman using hook and line or fish pots to possess or land more than 1,500 lbs of scup, except on Fridays and Saturdays when the possession of scup is prohibited.

d. Tuesday following Labor Day through October 31st. During this period it shall be unlawful for a commercial fisherman using hook and lines or fish pots to possess or land more than 1,500 pounds of scup on any calendar day.

2. Weirs. Weir fishermen shall not be subject to daily possession limits until landings among all permitted weir fishermen combined reach 275,000 lbs.

3. Trawler Possession Limits.

a. May 1st through June 9th. During this period, it shall be unlawful for a commercial fisherman using trawl gear to possess or land more than 800 lbs of scup during any calendar day.

b. June 10th through Labor Day. During this period, it shall be unlawful for a commercial fisherman using trawl gear to possess or land more than 800 lbs of scup during any calendar day, except on Fridays and Saturdays when the possession of scup is prohibited.

c. Tuesday following Labor Day through October 31st. During this period, it shall be unlawful for a commercial fisherman using trawl gear to possess or land more than 1,500 lbs of scup on any calendar day.

4. Quota Closure. It shall be unlawful for commercial fishermen to land or possess scup once the Director has determined that 100% of the annual Massachusetts commercial scup fishery quota has been reached, as determined by the Director in accordance with 322 CMR 6.41(2)(c).

6.28: continued

(c) Commercial Minimum Size. It is unlawful for any commercial fisherman or dealer to possess scup less than nine inches in total length.

(3) Recreational Scup Restrictions.

(a) Minimum Size.

1. Anglers Aboard For-hire Vessels. It is unlawful for customers aboard for-hire vessels to possess scup less than ten inches in total length.

2. Private Anglers. It is unlawful for anglers aboard private vessels or fishing from shore to possess scup less than ten inches in total length.

(b) Seasonal Possession and Landing Limits for Recreational Fishermen.

1. Recreational Fishermen Fishing Aboard Private (Not For-hire) Vessels or Fishing From Shore:

a. Closed Season. From January 1st through April 30th, it is unlawful for a recreational fisherman to possess or land any quantity of scup;

b. Open Season.

i. Fisherman Limit. From May 1st through December 31st, it is unlawful for a recreational fisherman to possess or land in excess of 30 scup per calendar day;

ii. Vessel Limit. From May 1st through December 31st, it is unlawful for private vessels with six or more recreational fishermen aboard to possess or land in excess of 150 scup per calendar day.

2. For-hire Vessels:

a. Closed Season. From January 1st through April 30th, it is unlawful for a recreational fisherman aboard a for-hire vessel to possess or land any quantity of scup;

b. Bonus Fishing Season. From May 1st through June 30th it is unlawful for recreational fishermen aboard a for-hire vessel to possess or land in excess of 45 scup per calendar day.

c. Open Season. From July 1st through December 31st it is unlawful for recreational fishermen aboard a for-hire vessel to possess or land in excess of 30 scup per calendar day.

(4) Black Sea Bass Commercial Restrictions. The commercial black sea bass quota is managed with seasonal and gear-specific trip limits, no-fishing days and seasonal allocations of the quota.

(a) Possession Limits.

1. January 1st through March 31st. From January 1st through March 31st it shall be unlawful for a commercial fisherman to possess or land more than 100 lbs. of black sea bass.

2. Closed Season. From April 1st through the first Monday of August it shall be unlawful for any commercial fisherman, other than weir fishermen, to possess or land black sea bass.

3. Black Sea Bass Pots. From the first Tuesday in August until the annual quota is reached it shall be unlawful for a commercial fisherman using sea bass pots to possess or land in excess of 300 lbs of black sea bass, except on Mondays, Thursdays, Fridays and Saturdays when the possession black sea bass is prohibited.

4. Hook and Line and Mobile Gear. From the first Tuesday in August until the annual quota is reached it shall be unlawful for a commercial fisherman using hook and line or mobile gear to possess or land in excess of 150 lbs of black sea bass, except on Mondays, Thursdays, Fridays and Saturdays when the possession of black sea bass is prohibited.

5. Weirs. The weir fishery shall be open until all weir fishermen have combined to land more than 10,000 lbs of black sea bass. Weir fishermen shall not be subject to daily possession limits, closed fishing days or closed fishing seasons.

6. Quota Closure. It shall be unlawful for commercial fishermen to land or possess black sea bass once 100% of the annual Massachusetts commercial black sea bass fishery quota has been reached, as determined by the Director in accordance with 322 CMR 6.41(2)(c).

(b) Minimum Size. It is unlawful for commercial fishermen to possess black sea bass less than 12 inches in total length not including the tail tendril.

6.28: continued

(5) Recreational Black Sea Bass Restrictions.

(a) Minimum Size. It is unlawful for recreational fishermen to possess black sea bass less than 14 inches in total length not including the tail tendril.

(b) Seasonal Possession Restrictions.

1. Closed Season. From August 28th through May 22nd, it is unlawful for a recreational fisherman to possess or land any quantity of black sea bass;

2. Open Fishing Season. From May 23rd through August 27th, it is unlawful for a recreational fisherman to possess or land in excess of eight black sea bass per calendar day;

(6) Permit Requirements. A regulated fishery permit endorsement, issued by the Director pursuant to 322 CMR 7.01(4)(a): *Regulated Fishery*, is required to sell black sea bass or scup, or to fish for, retain, possess or land black sea bass or scup in accordance with scup commercial fishery regulations at 322 CMR 6.28(2) and black sea bass commercial fishery regulations at 322 CMR 6.28(4).

6.29: Acushnet River Estuary Fisheries Closures

(1) Definitions. For purposes of 322 CMR 6.30 the following words shall have the following meanings:

Area 1 means all waters north of the Hurricane Dike in New Bedford including all of New Bedford Harbor and the Acushnet River. This area corresponds to Area I described in 105 CMR 260.000: *Prohibition Against Certain Fishing in New Bedford Harbor*.

Area 2 means all waters encompassed by an imaginary straight line beginning at the southernmost part of Ricketsons Point in Dartmouth; thence in an easterly direction to the southernmost part of Wilbur Point in Sciticut Neck, Fairhaven; thence along the western shoreline of Sciticut Neck in a northerly direction along the Fairhaven shoreline; thence along the Hurricane Dike to the New Bedford shoreline; thence in a southerly direction to Clarks Point and along the shoreline of Clarks Cove to the starting point. This area corresponds to Area II described in 105 CMR 260.000: *Prohibition Against Certain Fishing in New Bedford Harbor*.

(2) Area 1 and 2 Prohibitions. It is unlawful to harvest, catch, or take lobster from Areas 1 and 2.

6.30: American Eels

(1) Definitions. The following words and terms shall have the following meanings:

American Eel means that species of eel known as *Anguilla rostrata*.

Commercial Fisherman means any person fishing under the authority of a permit issued in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(2).

Commercial Quota means the Commonwealth's annual total allowable commercial harvest of American eel as established by the Atlantic States Marine Fisheries Commission, as modified by any quota transfer or any quota overage incurred in the previous year.

Director means the Director of the Massachusetts Division of Marine Fisheries.

Eel Pot or Eel Trap means any wire pot, trap or other device designed to catch eels that is enclosed on two or three sides with an inverted funnel or throat on one or two sides that act as openings.

Fyke Net means any bag-shaped nets designed to catch eels that are held open by hoops and can be linked together to create long chains.

6.30: continued

Recreational Fisherman means any person authorized pursuant to M.G.L. c. 130, § 17C and 322 CMR 7.10: *Recreational Saltwater Fishing Permits* to take or attempt to take finfish for personal or family use, sport or pleasure and which are not sold, traded or bartered.

(2) Commercial Fishing Permit. A regulated fishery permit endorsement, issued by the Director pursuant to 322 CMR 7.01(4)(a): *Regulated Fishery*, is required to sell eels and to possess while fishing for eels or land eels in a quantity that exceeds the recreational harvest limit for eels at 322 CMR 6.30(6).

(3) Commercial Quota Management. It is unlawful for commercial fishermen to harvest or land American eel when the Commonwealth's commercial quota has been reached and the fishery is closed through a Declaration of Closure issued in accordance with 322 CMR 6.41(2).

(4) Dealers. Dealers who purchase American eels from licensed fishermen shall register with the Division and report all purchases of eels from commercial fishermen to the Division.

(5) Minimum Size. It is unlawful for any person to fish for, take, or have in possession American eels measuring less than nine inches in total length, unless authorized by a special permit issued by the Director in accordance with 322 CMR 7.01(4): *Special Permits*.

(6) Recreational Harvest Limit. It is unlawful for recreational fishermen to harvest or land more than 25 eels per calendar day, or possess more than 25 eels while fishing. This limit shall apply to the vessel regardless of the number of persons on-board.

Exemption. It is lawful for for-hire permit holders, permitted pursuant to M.G.L. c. 130, § 17C and 322 CMR 7.10(5): *Permit Requirements Applicable to For-hire Vessels*, to harvest or land up to 50 eels per calendar day, or possess up to 50 eels while fishing. This limit shall apply to the vessel regardless of the number of persons on-board.

(7) Restrictions of Fishing Gear.

(a) Small Mesh Prohibition. During the period of February 15th through June 15th, it is unlawful for any person, while in the coastal waters of the Commonwealth or upon the banks of rivers and streams within the coastal waters of the Commonwealth, to abandon, set, possess or have under his or her control any device capable of catching eels with openings or mesh measuring less than 1/8 inch in inside diameter. These devices include, but are not limited to, dip nets, set nets, fyke nets and traps adapted for the taking of juvenile eels.

(b) Eel Pot Restrictions. It is unlawful to abandon, set, possess or have under his or her control any eel pot that does not have a wire mesh of at least 1/2 x 1/2 inch inside area.

(c) Other Gear Restrictions. During the period of September 1st through December 31st, it is unlawful to harvest American eels with any gear except for rod and reel, eel pots, eel traps and spears.

6.31: Trap Tags

(1) Lobster Traps.

(a) It shall be unlawful for any commercial fisherman licensed by the Commonwealth to fish lobster traps:

1. In any waters under the jurisdiction of the Commonwealth without a valid state waters lobster trap tag permanently attached to the trap bridge or central cross-member.
2. In the EEZ portions of Lobster Conservation Management Areas 1, 2 and Outer Cape Cod as designated by the Atlantic States Marine Fisheries Commission Lobster Management Plan without a valid state waters trap tag or a DMF - issued EEZ lobster trap tag permanently attached to the trap bridge or central cross-member.

(b) If the limit established by the ASMFC Plan in any of the management areas exceeds the limit established by 322 CMR 6.13, additional EEZ tags may be purchased by federal permit holders to reach the overall limit established by the plan for each area.

(c) Fishermen licensed to fish in Lobster Conservation Management Area 3 shall be subject to trap limits and tagging requirements established by the ASMFC Plan.

6.31: continued

(d) Official commercial lobster trap tags shall be purchased by permit holders directly from a manufacturer selected by the Division according to established competitive bidding procedures. New tags for the following year will be available after December 1st, and must be purchased and installed in the traps before

1. March 16th of the following year for traps fished in the Outer Cape Cod Lobster Conservation Management Area; and
2. June 1st of the following year for traps fished in Lobster Conservation Management Areas 1, 2 and 3.

(e) In any year, the maximum number of state lobster trap tags authorized for direct purchase by each permit holder shall be the trap limit set by 322 CMR 6.13 plus an additional 10% to cover trap loss. Permit holders may purchase as many tags as needed up to the maximum. Under no circumstance shall the number of traps fished at any time exceed the established trap limit.

(2) Fish and Conch Pots.

(a) It shall be unlawful to set or fish any scup pot, as defined at 322 CMR 6.12(1), in the waters under the jurisdiction of the Commonwealth without an official state scup pot trap tag permanently attached to the bridge or central cross-member of the trap.

(b) It shall be unlawful to set or fish any black sea bass pot, as described at 322 CMR 6.12(1), in the waters under the jurisdiction of the Commonwealth without an official state black sea bass pot trap tag permanently attached to the bridge or central cross-member of the trap.

(c) It shall be unlawful to set or fish any conch pot, as defined at 322 CMR 6.12(1), in the waters under the jurisdiction of the Commonwealth without an official state conch pot trap tag permanently attached to the bridge or central cross-member of the trap.

(d) Official fish pot and conch pot tags shall be purchased directly from a manufacturer selected by the Division according to competitive bidding procedures. All fish pot and conch pot trap tags shall expire on December 31st for the year of issuance. New tags for the following year will be available after December 1st and must be purchased and affixed to the gear, in accordance with 322 CMR 6.31(2)(a), prior to setting that year.

(e) In any year the maximum number of state fish pot authorized for direct purchase by each permit holder shall be the trap limit established by 322 CMR 6.12 plus 10% to cover trap loss. Permit holders may purchase as many tags as needed up to the maximum for the authorized species plus 10%. Under no circumstances shall the number of traps fished at any time exceed the established trap limit.

(f) In any year the maximum number of state conch pot trap tags authorized for direct purchase by each permit holder shall be the trap limit established by 322 CMR 6.12 plus 20% to cover trap loss. Permit holders may purchase as many tags as needed up to the maximum for the authorized species plus 20%. Under no circumstances shall the number of traps fished at any time exceed the established trap limit.

(3) Replacement.

(a) In the event of trap or tag losses over and above the maximum limit established by 322 CMR 6.31(1)(h), replacement tags shall be issued to the permit holder by the Division according to the following procedure:

1. Gear loss shall be reported to the Division and the Division of Environmental Law Enforcement on an official form, signed by the permit holder under the pains and penalties of perjury;
2. The form shall be reviewed by both Divisions and a decision reached on the number of replacement tags to be issued, if any;
3. If a decision cannot be reached, a hearing will be scheduled in a Division office to examine evidence and reach a conclusion on the validity of the claim.

(4) Prohibitions.

(a) It shall be unlawful for any person to set or fish a lobster, fish or conch trap in waters under the jurisdiction of the Commonwealth or the EEZ portions of Lobster Conservation Management Areas 1, 2 and Outer Cape Cod or have a lobster trap in possession or under control while on said waters unless said trap is tagged with an official Massachusetts trap tag in accordance with 322 CMR 6.31(1) and (2) that was issued to that person valid for the current year.

6.31: continued

- (b) It shall be a violation of 322 CMR 6.00 to file a false claim of trap or tag loss for purposes of obtaining additional tags.
- (c) It shall be a violation of 322 CMR 6.00 to alter or deface a tag, or tamper with the tag(s) of another permit holder.
- (d) Administrative Penalty. A person found guilty of violating 322 CMR 6.31 by a court of law or pursuant to an adjudicatory proceeding shall have his or her permit suspended and shall be required to remove all gear from waters under the jurisdiction of the Commonwealth for a specified period of time.

6.32: Shell-on Lobster Parts

- (1) Definitions. For purposes of 322 CMR 6.32 the following words shall have the following meanings:

Carapace means the upper body of a lobster excluding the tail and claws.

Mutilated means a lobster that has been altered in any way that affects its measurement.

- (2) Requirements for the Processing of Shell-on Lobster Parts. The processing of shell-on lobster parts by wholesale dealers is authorized pursuant to M.G.L. c. 130, § 44 and c. 94, § 77G subject to the following restrictions:

- (a) Authorization to Process Lobster.

- 1. The processor shall be in possession of or obtain a wholesale dealer permit;
- 2. The Department of Public Health (DPH) shall inspect and approve in writing frozen shell-on lobster part processing;
- 3. Upon receipt of DPH approval, the Director shall endorse the Wholesale Dealer Permit to include frozen shell-on lobster part processing.

- (b) Rules Specific to Lobster Processing.

- 1. All lobsters at the approved lobster processing facility or at any location associated with the approved processing facility shall meet the minimum size requirement in M.G.L. c. 130, § 44;
- 2. All lobsters utilized in the processing of shell-on lobster tails shall be live and shall meet the minimum size requirement in M.G.L. c. 130, § 44;
- 3. For purposes of producing shell-on lobster parts, processors may only process and possess carapaces and shell-on lobster tails;
- 4. All shell-on lobster tails shall weigh three ounces or more;
- 5. All processing, freezing, packaging and labeling of carapaces and shell-on lobster tails shall take place within the approved lobster processing facility at the address appearing on the permit;
- 6. All shell-on lobster tails or packages of shell-on lobster tails shall be labeled with a description of the product and the license number and address of the facility where they are processed and the date they are processed; and
- 7. Packaged and labeled shell-on lobster tails may be stored on the premises or off-site at a facility approved by DPH, provided that accurate records of inventory and disposition are kept and made available for inspection by Environmental Police Officers and Division of Food and Drug Inspectors.

- (3) Requirements for the Sale of Shell-on Lobster Parts. The sale of shell-on lobster parts is authorized pursuant to M.G.L. c. 130, § 44 and c. 94, § 77G subject to the following restrictions:

- 1. Only legal sized lobster carapaces and shell-on lobster tails may be possessed, offered for sale or sold;
- 2. All shell-on lobster tails shall be accompanied by a bill of sale and a description of the product, the identity of the processor and the country of origin.

6.33: Lobster Management Areas(1) Definition.

Lobster Management Area means one of three Recreational Lobster Areas or one of seven Lobster Conservation Management Areas (LCMA) as specified in the Atlantic States Marine Fisheries Commission American Lobster Fishery Management Plan (FMP) and endorsed on the Massachusetts Commercial Fisherman Permit pursuant to 322 CMR 7.01: *Form, Use and Contents of Permits.*

(2) Area Boundaries.

(a) LCMA 1. Beginning at the Massachusetts/New Hampshire border, following the outer boundary of the territorial waters of New Hampshire and Maine to the US/Canada border, thence to the intersection of LORAN C 9960-Y-44400 with the boundary of the US Exclusive Economic Zone, thence to the intersection of 9960-Y-44400 with 70° West Longitude, thence following the 70th meridian to its intersection with 9960-W-13700, thence following 9960-W-13700 to its intersection with 9960-Y-44120, thence following 9960-Y-44120 westerly to its intersection with 9960-W-13850, thence following 9960-W-13850 southeasterly to its intersection with 9960-Y-44110, thence following 9960-Y-44110 easterly to Race Point in Provincetown, thence following the MA shoreline back to the beginning.

(b) Outer Cape LCMA. Beginning at Race Point in Provincetown, following 9960-Y-44110 westerly to its intersection with 9960-W-13850, thence following 9960-W-13850 northwesterly to 9960-Y-44120, thence following 9960-W-44120 easterly to its intersection with 9960-W-13700, thence following 9960-W-13700 southerly to 9960-Y-43780, thence following 9960-Y-43780 westerly to its intersection with 70° five minutes West Longitude, thence following 70° five minutes West Longitude north through Nantucket Island to the shoreline of Harwich, thence following the shoreline of Cape Cod east and north back to the beginning.

(c) Overlap- Area 1/OCLMA. Beginning at Race Point in Provincetown, following 9960-Y-44110 westerly to its intersection with 9960-W-13850, thence following 9960-W-13850 southeasterly to its intersection with 9960-X-25330, thence following 9960-X-25330 northeasterly to the shoreline of Great Island in Wellfleet, thence following the shoreline northerly back to the beginning.

Fishermen endorsed for either LCMA 1 or OCLMA may fish in the overlap zone under the rules of the area(s) endorsed on their permits. Fishermen with both areas endorsed must observe the most restrictive rules.

(d) Overlap- Area 1/Area 2. The Cape Cod Canal, from the Massachusetts Maritime Academy pier at the southern end to the end of the east breakwater on the northern end.

Fishermen from either LCMA 1 or LCMA 2 may fish in the overlap zone under the rules of the area(s) endorsed on their permits. Fishermen with both areas endorsed must observe the most restrictive rules.

(e) LCMA 2. Beginning at the shoreline of Harwich, following the 70° five minutes West Longitude south through the Island of Nantucket to its intersection with 9960-Y-43780, thence following 9960-Y-43780 easterly to its intersection with 9960-W-13700, thence following 9960-W-13700 southerly to its intersection 9960-W-14610, thence following 9960-14610 northerly to the outer boundary of New York territorial waters, thence following the outer boundary of the territorial waters of New York and Rhode Island to the Massachusetts/Rhode Island boundary, thence following the Massachusetts/Rhode Island boundary to the shoreline, thence following the shoreline of Massachusetts back to the beginning.

(f) LCMA 3. All waters of the Exclusive Economic Zone (EEZ) of the United States seaward of LCMA 1, OC, 2, 4, 5, and 6.

(g) Overlap- Area 2/Area 3. Fishermen from either Area 2 or Area 3 may fish in an area bounded as follows under their respective LCMA rules: Beginning at the intersection of 9960-W-13700 and 9960-Y-43700, thence westerly along the 43700 line to the intersection with 9960-W-14610, thence southwesterly along a line whose extension reaches the intersection of 9960-Y-43500 with 9960-X-26400 to 9960-Y-43600, thence easterly along the 43600 line to 9960-W-13700, thence northwesterly along the 13700 line to the beginning.

(h) LCMA 4. All waters including state and federal waters that are near-shore in the northern Mid-Atlantic area, as defined by the area bounded by straight lines connecting the following points:

6.33: continued

Point	LATITUDE (°N)	LONGITUDE (°W)
M	40° 27.5'	72° 14'
N	40° 45.5'	71° 34'
O	41° 07'	71° 43'
P	41° 06.5'	71° 47'
S	40° 58'	72° 00'
T	41° 00.5'	72° 00'
From pt. "T", along the NY/NJ coast to pt. "W"		
W	39° 50'	74° 09'
V	39° 50'	73° 01'
U	40° 12.5'	72° 48.5'
From pt. "U" back to pt. "M".		

(i) LCMA 5. All waters including state and federal waters that are near-shore in the southern Mid-Atlantic area, as defined by the area bounded by straight lines connecting the following points, in the order stated:

Point	LATITUDE (°N)	LONGITUDE (°W)
W	39° 50'	74° 09'
V	39° 50'	73° 01'
X	38° 39.5'	73° 40'
Y	38° 12'	73° 55'
Z	37° 12'	74° 44'
ZA	35° 34'	74° 51'
ZB	35° 14.5'	75° 31'
From pt "ZB", along the coasts of NC/VA/MD/DE/NJ back to pt. "W".		

(j) LCMA 6. All state waters as defined by the area bounded by straight lines connecting the following points, in the order stated:

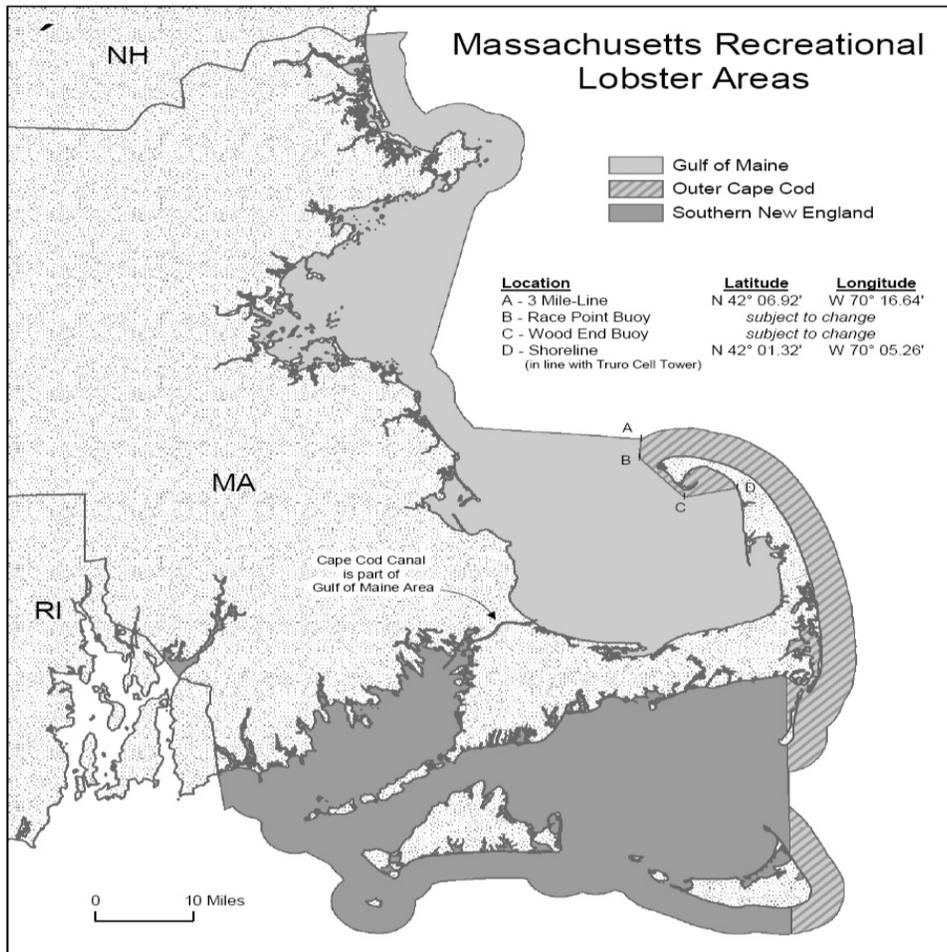
Point	LATITUDE (°N)	LONGITUDE (°W)
T	41° 00.5'	72° 00'
S	40° 58'	72° 00'
From pt. "S", boundary follows the three mile limit of NY state waters as it curves around Montauk Pt. To pt. "P"		
P	41° 06.5'	71° 47'
Q	41° 18' 30"	71° 54' 30"
R	41° 11' 30"	71° 47' 15"
From pt. "R", along the maritime boundary between CT & RI to the coast; then west along the coast of CT to the western entrance of Long Island Sound; then east along the NY coast of Long Island Sound and back to pt. "T".		

6.33: continued

(k) Gulf of Maine Recreational Lobster Area means those state waters north of Cape Cod Bay to the New Hampshire border including waters of the Cape Cod Canal.

(l) Outer Cape Cod Recreational Lobster Area means all state waters eastward of 70° longitude off Nantucket and eastward and northward of Outer Cape Cod from Chatham to Provincetown's Race Point, including a portion of upper Cape Cod Bay as defined by a line drawn from the three nautical mile line northwest of race Point at 42° 7 minutes latitude and 70° 16 minutes longitude south to the Race Point Buoy then southeast to the Wood End Buoy and east to the shoreline at 42° 01.32 minutes latitude and 70° 05.26 minutes longitude.

(m) Southern New England Recreational Lobster Area means those state waters west of 70° and south of Cape Cod.



6.34: Horseshoe Crab Management

(1) Purpose. The purpose of 322 CMR 6.34 is to comply with the Interstate Management Plan for horseshoe crabs to manage horseshoe crab populations for continued use by current and future generations of the fishing and non-fishing public including the biomedical industry, scientific and educational research; migratory shorebirds; and, other dependent fish and wildlife. The plan requires the Commonwealth to monitor and control harvest levels by all sectors and conserve crabs through a commercial quota for crabs harvested as bait.

(2) Definitions.

Asian Horseshoe Crab means those species of horseshoe crab identified as *Carcinoscorpius rotundicauda*, *Tachypleus gigas* and *Trachypleus tridentatus*.

Horseshoe Crab means that species known as *Limulus polyphemus*.

Trip means that period of time that begins when a fishing vessel departs from a dock, berth, beach, seawall, ramp or port to carry out commercial fishing operations and that terminates with a return to a dock, berth seawall, ramp or port.

(3) Permit.

(a) Horseshoe Crab Harvest Regulated Fishery Permit Endorsement. It shall be unlawful for any person to take, land or possess more than six horseshoe crabs (*Limulus polyphemus*) per day for any purpose without a regulated fishery permit for horseshoe crabs issued by the Director pursuant to 322 CMR 7.01(4)(a): *Regulated Fishery*. Licensed pot fishermen using horseshoe crabs as bait may possess more than six horseshoe crabs without a regulated permit, provided their documented source is a wholesale or bait dealer.

(b) Special Biomedical Horseshoe Crab Harvest Permit. Harvesters collecting horseshoe crabs exclusively for use by the biomedical industry for the manufacture of *limulus lysate* or sale to a permitted scientific institution for research purposes must obtain a special permit issued in accordance with 322 CMR 7.01(4)(f): *Special Biomedical Horseshoe Crab Harvest Permit* limited to that purpose. The holder of the biomedical special permit shall not be allowed to obtain a Horseshoe Crab Permit.

(4) Bait Harvest Quota. The annual quota for horseshoe crabs harvested for bait purposes shall be 165,000 crabs. Horseshoe crabs harvested solely for biomedical or research purposes by harvesters licensed under 322 CMR 6.34(3)(a) which are bled and released alive in the area of capture or used for display or research shall not be counted against the annual quota established by the Atlantic States Marine Fisheries Commission. When 100% of the annual quota is reached, the Division shall file a notice of the horseshoe crab bait fishery closure with the Massachusetts Register, email a notice via the Marine Fisheries Listserv and post a notice on the Division's website.

(5) Possession Limits. Possession limits shall be vessel limits and shall apply regardless of the number of persons or permit holders aboard a vessel or working in conjunction with a vessel. It shall be unlawful for any person to harvest more than the possession limit in a day regardless of the number of permits held.

(a) Bait Crab Harvesters Using Mobile Gear. It shall be unlawful for any commercial fisherman using mobile gear, as defined at 322 CMR 4.06(1): *Definitions*, permitted to harvest horseshoe crabs for bait purposes, in accordance with 322 CMR 7.01(4)(a): *Regulated Fishery*, to take, possess or land more than 300 horseshoe crabs during any fishing trip or calendar day, whichever is longer.

(b) Bait Crab Harvesters Using Gears Other Than Mobile Gear. It shall be unlawful for any commercial fisherman using gears other than mobile gear, as defined in 322 CMR 4.06(1): *Definitions*, permitted to harvest horseshoe crabs for bait purposes, in accordance with 322 CMR 7.01(4)(a): *Regulated Fishery*, to take, possess or land more than 400 horseshoe crabs during any 24-hour period beginning at 12:00 P.M.

(c) Biomedical Crab Harvester. It shall be unlawful for any fishermen permitted to harvest horseshoe crabs for biomedical purposes, in accordance with 322 CMR 7.01(4)(a): *Regulated Fishery*, to take, possess or land more than 1,000 horseshoe crabs during any 24-hour period beginning at 12:00 P.M.

(d) Exemption. Possession limits shall not apply to lawfully harvested horseshoe crabs held in storage by licensed conch pot or eel pot fishermen permitted in accordance with 322 CMR 7.01(4)(a): *Regulated Fishery* or bait dealers permitted in accordance with 322 CMR 7.01(3): *Dealer Permits*.

6.34: continued

(6) Biomedical/Research Harvest.

(a) Authorization. Biomedical harvest permit holders must sell horseshoe crabs only to a dealer authorized by the Director to receive crabs harvested exclusively for biomedical purposes.

(b) Live Release.

1. Biomedical Permit Holders shall return all horseshoe crabs not used for display or research, other than bleeding, alive to the area of capture.

2. Dealers authorized by the Director to receive crabs harvested exclusively for biomedical purposes shall:

a. keep horseshoe crabs supplied by biomedical permit holders separate from horseshoe crabs supplied by bait permit holders; and

b. ensure horseshoe crabs supplied by biomedical permit holders are returned for live-release back into the same area of capture.

(c) Temporary Use of Horseshoe Crabs Harvested for Bait Purposes. If a biomedical company or permitted scientific institution chooses to purchase horseshoe crabs from bait dealers:

1. the company or institution shall keep records sufficient to show the number and source(s) of said horseshoe crabs;

2. horseshoe crabs purchased by a biomedical company from bait dealers may be returned to bait dealers to be sold as bait.

(d) Horseshoe Crabs Imported from Other States for Biomedical Purposes shall be counted against the quota of the producing state or returned to the producing state for release, according to established rules and regulations of the state of origin.

(7) Closed Days.

(a) Lunar Closures. It shall be unlawful to harvest horseshoe crabs within a series of five day periods coinciding with each new and full moon during the period of April 16th through June 30th, as published by the US Naval Observatory and adjusted for Eastern Daylight Savings Time. Lunar closures shall commence at 12:00 A.M. two days prior to, and end at 11:59 P.M. two days after the date of the full or new moon.

(b) Mobile Gear No-fishing Days. In addition to closures described in 322 CMR 6.34(8)(a), Permit Holders using mobile gear shall be prohibited from fishing for horseshoe crabs on Fridays and Saturdays during the summer flounder summer season beginning on June 10th and ending when the summer-time summer flounder quota is reached.

(8) Closed Areas. The Director may close any area to the taking of horseshoe crabs provided:

(a) A majority of the members of the Massachusetts Marine Fisheries Commission approve, and;

(b) A notice of closure has been filed with the *Massachusetts Register* stating the rationale for the closure, the duration of the closure and a description of the area to be closed, and;

(c) All permit holders and dealers are notified.

(9) Minimum Size. It is unlawful to possess a horseshoe crab for commercial purposes with a prosomal width of less than seven inches.

(10) Asian Horseshoe Crab Prohibition. It shall be unlawful to import, transport, purchase, possess, offer for sale or release into state waters Asian horseshoe crab species.

6.35: Spiny Dogfish Management

(1) Definitions. For the purposes of 322 CMR 6.35:

Fin or Finning means the act of taking a spiny dogfish and removing the fins.

Night means the time between ½ hour after sunset to ½ hour before sunrise during the period March 1st through October 31st or from 6:00 P.M. to 6:00 A.M. during the period November 1st through the last day of February.

Spiny Dogfish means that species of fish known as *Squalus acanthias*.

Spiny Dogfish Commercial Quota means the allowable annual commercial harvest of spiny dogfish, as specified by the Atlantic States Marine Fisheries Commission under the authority of the interstate and federal management plans.

6.35: continued

- (2) Permit. A regulated fishery permit endorsement, issued by the Director pursuant to 322 CMR 7.01(4)(a): *Regulated Fishery* shall be required of all commercial fishermen taking or landing spiny dogfish in accordance with 322 CMR 6.35.
- (3) Dealer Authorization. It is unlawful for dealers without written authorization from the Director to purchase spiny dogfish from commercial fishermen.
- (4) Dealer Reporting. Dealers shall report all purchases of spiny dogfish by phone and in writing based on schedules established and on forms to be provided by the Division.
- (5) Possession Limit.
- (a) Declaration of Annual Specifications. In accordance with the procedure set forth at 322 CMR 6.35(5)(b), the Director may, by declaration, establish and adjust the manner and times of taking spiny dogfish, and the legal size limits, numbers and/or quantities of spiny dogfish to be taken as prescribed by M.G.L. c. 130, § 17A and specified by the Atlantic States Marine Fisheries Commission (ASMFC).
- (b) Declaration Process. Annual specifications shall not be effective until:
1. notice has been filed with the *Massachusetts Register*;
 2. a notice has been published by at least one local newspaper;
 3. a copy of the notice has been emailed *via* the Marine Fisheries Listserv and posted on the Division's website;
 4. a two-week comment period has been conducted by the Division; and
 5. it has been approved by a majority of the members of the Massachusetts Marine Fisheries Advisory Commission.
- (6) Commercial Quota. It is unlawful for commercial fishermen to land or possess spiny dogfish when the Director projects that 100% of the Commonwealth's spiny dogfish commercial quota is taken and the fishery is closed through a Declaration of Closure, issued in accordance with 322 CMR 6.41(2).
- (7) Prohibitions. It is unlawful for any person while at sea to fin a spiny dogfish or to possess spiny dogfish fins.

6.36: Quahog Dredge Management in State Waters

(1) Definitions.

Batch means all shellfish in each separate container.

Bushel means a standard 32 quart (volume) container.

Dredge means any variety of towed devices which utilize blades, knives or teeth to dig into the substrate and remove shellfish including the hydraulic dredge which utilizes pumped water to enhance fishing performance.

Effective Fishing Width means the width of the sea bottom from which the dredge collects shellfish, including the width of the blades and carriers, bars, wires, suction heads or similar structures or openings, including any water jet area, which affect the swath or overall width of the path from which the shellfish are taken.

Hinge Width means the distance between the convex apex of the right shell and the convex apex of the left shell, also known as shell thickness.

Quahog means the hard clam or bay quahog, *Mercenaria mercenaria*, including its various subspecies.

State Waters for purposes of 322 CMR 6.36 means those waters between the outer jurisdiction of the coastal cities and towns to regulate shellfish pursuant to M.G.L. c. 130, § 52, as appearing on official maps of the Commonwealth prepared pursuant to M.G.L. c. 1, § 3 and the outer fisheries jurisdiction of the Commonwealth (Territorial Sea), including all of Nantucket Sound outside town jurisdiction and west of 70.00° longitude.

6.36: continued

(2) Permit. No person may dredge for quahogs in state waters as defined in 322 CMR 6.36(1)(g) unless in possession of a bay quahog dredge regulated fishery permit endorsement, issued by the Director pursuant to 322 CMR 7.01(4)(a): *Regulated Fishery*. The quahog dredging endorsement is not necessary if dredging in city or town waters pursuant to a local shellfish permit.

(3) Quahog Trip Limits. It is unlawful for any person or vessel fishing in state waters to harvest, possess or land more than 40 bushels of quahogs per 24-hour day. No quahog dredging is authorized at night pursuant to 322 CMR 8.03: *Night Closure to Mobile Gear Fishing*.

(4) Sorting. The catch shall be sorted in the area of harvest, and seed quahogs (less than one inch hinge width) amounting to more than 5% of the catch by count shall be released in the area of harvest. It shall be unlawful to release legal-sized quahogs to change the size composition of the catch. All legal-sized quahogs must be landed in one bushel containers, tagged pursuant to 105 CMR 533.005: *Adoption of the National Shellfish Sanitation Program Model Ordinance*, and counted as part of the daily limit.

(5) Quahog Gear Restrictions. It shall be unlawful for any person or vessel to dredge for quahogs in state waters using more than one dredge or a dredge with an effective fishing width greater than 48 inches.

(6) Reporting Requirements.

(a) Any person to whom a quahog dredge endorsement is issued must provide the Director with an accurate monthly record of the following:

1. Areas fished
2. Times fished
3. Daily record of quahogs harvested by bushel

(b) Forms for such reporting may be obtained from the Director.

(c) Failure to supply the Director with an accurate statistical report within five days following the end of the reporting period specified on the form or falsification of any form supplied by the Director shall result in the suspension of the quahog dredge endorsement.

6.37: Coastal Shark Conservation and Management

(1) Purpose. 322 CMR 6.37 seeks to ensure coordinated state and federal management towards establishing healthy self-sustaining populations of Atlantic coastal sharks. Coastal shark conservation and management is interstate and state-federal in nature; effective assessment and management can be enhanced through cooperative efforts with all Atlantic state and federal scientists and fisheries managers. 322 CMR 6.37 creates two groups of sharks: Permitted Species that are allowed to be harvested, and Prohibited Species that are protected and may not be harvested unless specifically authorized by the Director or NOAA Fisheries.

For purposes of 322 CMR 6.37, coastal sharks do not include spiny dogfish, *Squalus acanthias*, which are managed separately under 322 CMR 6.35.

(2) List of Species by Groups. The following sections contain the species categorized as prohibited or permitted. Each species is listed as its common name along with its associated taxonomic name.

(a) Permitted Shark Species. The following species are allowed to be harvested under the provisions of 322 CMR 6.37(3):

- Atlantic sharpnose (*Rhizoprionodon terraenovae*)
- Blacknose (*Carcharhinus acronotus*)
- Blacktip (*Carcharhinus limbatus*)
- Blue (*Prionace glauca*)
- Bonnethead (*Sphyrna tiburo*)
- Bull (*Carcharhinus leucas*)
- Common thresher (*Alopias vulpinus*)
- Finetooth (*Carcharhinus isodon*)
- Great hammerhead (*Sphyrna mokarran*)
- Lemon (*Negaprion brevirostris*)
- Nurse (*Ginglymostoma cirratum*)
- Oceanic whitetip (*Carcharhinus longimanus*)
- Porbeagle (*Lamna nasus*)
- Scalloped hammerhead (*Sphyrna lewini*)
- Shortfin mako (*Isurus oxyrinchus*)

6.37: continued

Smooth dogfish (*Mustelus canis*)
 Smooth hammerhead (*Sphyrna zygaena*)
 Spinner (*Carcharhinus brevipinna*)
 Tiger (*Galeocerdo cuvier*)

(b) Prohibited Shark Species. The following species are prohibited from harvest under the provisions of 322CMR 6.37(3):

Atlantic angel (*Squatina dumeril*)
 Basking (*Cetorhinus maximus*)
 Bigeye sand tiger (*Odontaspis noronhai*)
 Bigeye sixgill (*Hexanchus nakamurai*)
 Bigeye thresher (*Alopias superciliosus*)
 Bignose (*Carcharhinus altimus*)
 Bluntnose sixgill (*Hexanchus griseus*)
 Caribbean reef (*Carcharhinus perezii*)
 Caribbean sharpnose (*Rhizoprionodon porosus*)
 Dusky (*Carcharhinus obscurus*)
 Galapagos (*Carcharhinus galapagensis*)
 Longfin mako (*Isurus paucus*)
 Narrowtooth (*Carcharhinus brachyurus*)
 Night (*Carcharhinus signatus*)
 Sandbar (*Carcharhinus plumbeus*)
 Sand tiger (*Carcharias taurus*)
 Sharpnose sevengill (*Heptranchias perlo*)
 Silky (*Carcharhinus falciformis*)
 Smalltail (*Carcharhinus porosus*)
 Whale (*Rhincodon typus*)
 White (*Carcharodon carcharias*)

(3) Regulation of Catches.

(a) Permitted Species Size Limits. All sharks shall be measured from the tip of the snout to the fork of the tail.

1. Recreational Fishing Size Limits.

- There shall be no recreational minimum size limit for smooth dogfish, Atlantic sharpnose, bonnethead, finetooth and blacknose sharks;
- For great hammerhead, scalloped hammerhead, and smooth hammerhead sharks, it shall be unlawful to possess or land a shark that is less than 78 inches in length; and
- For all other Permitted Shark Species, it shall be unlawful to possess or land a shark that is less than 54 inches in length.

2. Commercial Size Limits. For commercial fishermen, there shall be no minimum size for any of the Permitted Species.

(b) Permitted Species Possession Limits.

1. Recreational Catch Limits. A recreational shore angler may harvest only one fish among all Permitted Species and one additional Bonnethead, one additional Atlantic sharpnose, and one additional smooth dogfish per trip. A recreational vessel may possess on board or land only one fish among all Permitted Species per trip regardless of the number of recreational fishermen aboard, and one additional Bonnethead, one additional Atlantic sharpnose, and one additional smooth dogfish per person.

2. Commercial Catch Limits. Commercial fishermen shall not retain:

- more than 100 pounds of smooth dogfish per trip or per day, whichever is the longer period of time; or
- any quantity of a Permitted Shark Species after the Director has announced a commercial fishery closure.

(c) Gear Restrictions.

1. Recreational Gears. Recreational fishermen may take coastal sharks only by rod and reel or handline.

2. Commercial Gears. Commercial fishermen may take coastal sharks by rod and reel, handlines, gillnets, trawl nets, pound nets, fish traps, and weirs. It shall be unlawful to fish for, possess on board, or land coastal sharks taken by a longline of any length.

(d) Catch Disposition.

- It shall be unlawful for:
 - any fisherman to fillet sharks at sea;

6.37: continued

- b. any fisherman to remove fins or tails from sharks;
- c. recreational fishermen to possess on board or land sharks whose heads, tails, and fins are not attached naturally to the carcass;
- d. commercial fishermen to possess on board or land sharks whose fins and tails are not attached naturally to the carcass.

Exception: Commercial fishermen may cut fins as long as the fins remain attached to the carcass with at least a small portion of uncut skin.

- 2. Commercial fishermen may eviscerate sharks and remove the heads.
- 3. All sharks caught incidental to fisheries directed toward other species must be released in such manner as to ensure maximum probability of survival.

(e) Authorization to Possess Prohibited Species. The Director may authorize persons to land and possess certain Prohibited Species for research or other scientific purposes. Commercial fishermen who possess authorization from NOAA Fisheries to harvest certain species from federal waters may fish for, possess on board, or land those species in Massachusetts provided said fish were taken lawfully from federal waters.

(f) Dealer Measures. All dealers purchasing Atlantic Coastal Shark species from commercial fishermen must obtain a federal Commercial Shark Dealer Permit from the National Marine Fisheries Service.

(4) White Shark Conservation Measures.

(a) Definitions.

Attract means to conduct any activity that lures or may lure any white shark to a person or vessel by using food, bait, chum, dyes, decoys, acoustics or any other means, excluding the mere presence of persons on the water including those persons conducting commercial or recreational fishing activity.

Capture means to forcefully gain control of a white shark. Capture includes, without limitation, the restraint or detention of a white shark or any act of intrusive research performed on a white shark. Capture shall not include the incidental catch of white sharks during the course of lawfully permitted fishing activity.

Chum means fish, chopped fish, fish fluids or other organic materials disposed of in the water for the purpose of attracting white sharks.

Director means the Director of the Division of Marine Fisheries.

Intrusive Research means a procedure conducted for scientific research involving a break or a cut in the skin, the application or insertion of an instrument, the introduction of a foreign substance or object onto the animal's immediate environment, or a stimulus directed at animals that may affect white shark behavior.

(b) Restricted Activities Related to White Sharks. It shall be unlawful for any person to attract or capture a white shark, unless the person has been issued a special white shark project permit by the Director in accordance with 322 CMR 7.01(4): *Special Permits*.

6.38: Shellfish Landing Restrictions Necessitated by Marine Biotoxins

(1) Purpose and Scope. To protect public health, welfare, and safety, the Director may determine through studies and reports regarding concentration levels of toxic phytoplankton and associated biotoxin levels in certain shellfish species that the harvest of certain species should be restricted. In addition to closures enacted within waters under the jurisdiction of the Commonwealth under authority of M.G.L. c. 130, §§ 74A and 75, the Director may restrict the taking of certain shellfish species and the landing of those products by any vessel registered under the laws of the Commonwealth from areas determined to contain levels of toxic phytoplankton, including waters within the Exclusive Economic Zone, that may place the public health at risk from consumption of shellfish products.

(2) Emergency Closure Areas. The Director shall determine areas where the taking of certain shellfish species and shellfish products and/or the landing of such species and product is prohibited to protect public health.

6.38: continued

(3) Prohibited Species and Products. The Director shall determine those species and products for which it shall be prohibited to harvest and/or possess for commercial or recreational purposes within the Commonwealth.

(4) Procedure. These closures and landing prohibitions shall apply to any vessel registered under the laws of the Commonwealth provided that:

- (a) a notice has been filed with the *Massachusetts Register*;
- (b) a copy of the notice has been emailed *via* the Division's email listserve and notice posted on the Division's website; and
- (c) said notice contains the rationale for the closure.

After the effective date of the closure the Director shall consider any written comments on the closure from the public or state or federal agency. Based on these comments the Director may alter, amend or rescind the closure pursuant to the procedural requirements of 322 CMR 6.38.

6.39: Loligo Squid Management

(1) Season. It is unlawful for any commercial fisherman to land or possess *Loligo* squid using small-mesh otter trawls as specified in 322 CMR 8.07: *Mesh Size Restrictions* from June 10th through April 22nd, unless the period when trawlers are allowed to use small-mesh nets to fish for squid is amended by the Director.

(2) Possession Limits. It is unlawful for commercial fishermen using mobile gear to land or possess greater than 2,500 pounds of *Loligo* squid per vessel per 24-hour day when:

- (a) NOAA Fisheries has announced that the federal incidental trip limit is in effect;
- (b) the Director has filed a notice with the *Massachusetts Register*; and
- (c) the Director has sent notice *via* the Division's email listserve and posted notice on the Division's website.

(3) Commercial Fishery Limit Adjustments. The director may adjust *Loligo* squid commercial fishery landing/possession limits to correspond to limits established by NOAA Fisheries.

6.40: Tautog Fishery Limits

(1) Definitions.

Commercial Fisherman means any person fishing under the authority of a permit issued in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(2): *Commercial Fisherman Permits*.

Dealer means any person permitted in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(3): *Dealer Permits* to process, distribute, sell or re-sell fish.

Fall Open Season means that period when commercial fishing is allowed that begins on September 1st and ends when the Director projects 100% of the quota is taken and the fishery is closed through Declaration of Closure issued in accordance with 322 CMR 6.41(2).

Quota means the Commonwealth's annual total allowable commercial catch of tautog as allocated by the Atlantic States Marine Fisheries Advisory Commission.

Recreational Fisherman means anglers that are authorized pursuant to M.G.L. c. 130, § 17C and 322 CMR 7.10: *Recreational Saltwater Fishing Permits* to take or attempt to take finfish for personal or family use, sport or pleasure and which are not sold, traded or bartered.

Spring Open Season means that period when commercial fishing is allowed that begins on April 16th and ends when the Director projects that 28% of the quota is taken and the fishery is closed through a Declaration of Closure issued in accordance with 322 CMR 6.41(2).

Tautog means that species of fish known as *Tautoga onitis*.

(2) Minimum Size. It shall be unlawful for any person to retain or possess a tautog that measures less than 16 inches in total length.

6.40: continued

- (3) Recreational Fisherman Possession Limits. It shall be unlawful for any recreational fisherman to possess or land more than three tautog per calendar day.
- (4) Commercial Fisherman Possession Limits.
- (a) Open Season Limits. It shall be unlawful for a commercial fisherman to possess more than 40 tautog within any calendar day during the Spring Open Season or Fall Open Season.
- (b) Closed Season Limits. It shall be unlawful for a commercial fisherman to possess any tautog during the time period outside of the Spring Open Season and Fall Open Season.

6.41: The Further Regulation of Possession and Size Limits

- (1) Definitions. For the purpose of 322 CMR 6.41, the following terms and words shall have the following meanings:

At-sea Processing means to receive or transfer, fillet or shuck, and freeze any fin-fish or shellfish within the waters under the jurisdiction of the Commonwealth, including on any vessels that are moored, tied to other vessels or docked at a pier or other artificial structure.

Domicile means a place of permanent residence.

Personal Use means for personal or familial consumption and not for sale, barter or exchange.

Quota Managed Species means any species for which the Division of Marine Fisheries manages commercial fisheries by an annual quota that corresponds to Massachusetts' annual share quota for that species as established by federal or interstate fishery management plans. Examples of quota managed species include, but are not limited to, striped bass, bluefish, black sea bass, scup, fluke, menhaden and horseshoe crabs.

Temporary Residence means any place where an individual may reside on a temporary basis, including but not limited to a hotels, motels, campgrounds, and rental properties.

- (2) Commercial Fishing.

(a) Possession of Fish Parts by Commercial Fishermen. When commercial fishermen, permitted pursuant to 322 CMR 7.01(2), are authorized at 322 CMR to fillet or mutilate fish at sea for personal use, those fillets and parts of fish will be multiplied by three to determine compliance with species specific commercial possession limits at 322 CMR. 322 CMR 6.41(2) shall not apply to whole-gutted or gilled fish, cod parts regulated at 322 CMR 6.03(3)(b) and 322 CMR 6.03(6) and monkfish parts regulated at 322 CMR 6.03(10). Commercial fishermen may keep for personal use up to 25 pounds of fillets per person onboard the vessel, except for striped bass, which may not be mutilated.

(b) Trip Limits for All Quota Managed Species. Except as otherwise specifically provided for in any provision of 322 CMR, all possession limits shall be applied to the vessel per calendar day, regardless of the number of commercial fishing permits or letters of authorization carried on board the vessel.

(c) Procedure to Close Quota and Quota Managed Fisheries. To prevent an overage of the annual Massachusetts quota or a period or seasonal quota allocation, when the Director projects that 100% of an annual Massachusetts quota or a period or seasonal allocation will be landed, based upon data compiled by the Division, the Director shall issue a Declaration of Closure to close the fishery. This Declaration of Closure shall set forth the closure date for the quota managed fishery. A written copy of the Declaration of Closure shall be:

1. Filed with the Secretary of the Commonwealth, for publication in the *Massachusetts Register*;
2. distributed via the Division's e-mail list-serve;
3. posted a written Declaration of Closure on the Division's Legal Notice webpage; and
4. distributed by fax or e-mail to all primary buyers of the quota managed species, permitted in accordance with 322 CMR 7.01(3): *Dealer Permits* and 7.07: *Dealers Acting as Primary Buyers*.

6.41: continued

(d) Commercial Fishery Limit Adjustments for Quota Managed Species.

1. The Director may, by declaration, adjust the manner and times of taking fish, legal size limits, as well as the quantities of fish to be taken to prevent overages of the annual Massachusetts quota or a period or seasonal allocation, to increase landings to ensure available quota is taken, and to address issues resulting from limits implemented by other states.

2. Declaration Process.

a. Adjustment has been approved by a majority of the Massachusetts Marine Fisheries Advisory Commission;

b. A Notice of Declaration is filed with the *Massachusetts Register*, published in at least one newspaper, emailed *via* the Division's email listserve and Declaration is posted on the Division's legal notice website; and

c. A two-week comment period is conducted. This comment period may be ongoing when a Declaration is issued. The Director may adjust the Declaration, subject to the Declaration Process, based on comment received during this comment period.

(3) Recreational Fishing(a) Filleting Catch.

1. Black Sea Bass and Scup. Recreational fishermen may fillet black sea bass and scup, provided the recreational fisherman complies with the following conditions to determine compliance with the daily recreational bag limits:

a. it shall be unlawful to possess a fillet that does not have all the skin affixed until the recreational fisherman reaches their domicile or temporary residence; and

b. it shall be unlawful to possess more than two times the number of fillets than the recreational bag limits for black sea bass and scup specified at 322 CMR 6.28.

2. Groundfish Species. Recreational fishermen may fillet any groundfish species, managed under the authority of 322 CMR 6.03, provided the recreational fisherman complies with the following conditions to determine compliance with the daily recreational bag limits:

a. it shall be unlawful to possess a fillet that does not have at least two inches of skin affixed to the fillet until the recreational fisherman reaches their domicile or temporary residence; and

b. it shall be unlawful for any person or vessel to possess more than two times the number of fillets than the species specific possession limits at 322 CMR 6.03.

(b) Comingling of Recreational Catch. In instances where recreational fishermen have comingled their catch, the comingled catch will be divided by the number of anglers on board the vessel to determine compliance with per angler or per vessel bag limits and fillet limits.

(c) Liability for Violations Onboard For-hire Recreational Vessels. With respect to recreational for-hire fishing operations permitted in accordance with 322 CMR 7.10(5): *Permit Requirements Applicable to For-hire Vessels*, an individual patron, as well as the named for-hire permit holder or for-hire vessel operator, may each be held liable for any violations of recreational size, possession or daily bag limits established at 322 CMR that are attributable to the patron fishing onboard the for-hire recreational fishing vessel. In enforcing this provision, law enforcement officers may exercise their discretion on whether to cite the named for-hire permit holder or for-hire vessel operator for such violations in instances where the best industry practices required by 322 CMR 7.10(5): *Permit Requirements Applicable to For-hire Vessels* have been used on the for-hire vessel.

6.42: Other Minimum Sizes and Possession Limits(1) Definitions.

Weakfish means that species of fish known as *Cynoscion regalis*.

White Perch means that species of fish known as *Morone americana*.

(2) Weakfish.

(a) It is unlawful for any person to possess weakfish less than 16 inches in total length.

(b) It is unlawful for recreational fishermen to possess more than one weakfish per day.

(c) It is unlawful for commercial fishermen to possess on board or land more than 100 pounds of weakfish per 24-hour day or trip, whichever period is longer.

6.42: continued

(3) White Perch.

(a) It is unlawful for recreational fishermen to possess white perch less than eight inches in total length.

(b) It is unlawful for recreational fishermen to possess more than 25 white perch at any time.

(c) These limits apply only to white perch harvested in coastal waters as defined by M.G.L. c. 130, § 1.

6.43: Atlantic Menhaden Management

(1) Purpose. The purpose of 322 CMR 6.43 is to comply with the Interstate Fishery Management Plan for Atlantic Menhaden to manage the Atlantic menhaden fishery in a manner that is biologically, economically, socially and ecologically sound, while protecting the resource and those who benefit from it.

(2) Definitions.

Atlantic Menhaden means that species known as *Brevoortia tyrannus* or commonly referred to as pogy or bunker.

Bait Dealer means any person issued a bait dealer permit in accordance with 322 CMR 7.01(3)(g): *Bait Dealer*.

Bycatch means the non-targeted commercial catch and possession of a species.

Commercial Fisherman means any person fishing under the authority of a permit issued in accordance with 322 CMR 7.01(2): *Commercial Fisherman Permits*.

Declare means to file an advisory notification with the *Massachusetts Register* and publish it via the Marine Fisheries electronic mailing list and website.

Director means the Director of the Division of Marine Fisheries.

Land means to transfer or attempt to transfer the catch of fish from any vessel to any other vessel or onto any land, pier, wharf, dock or other artificial structure, or for a fishing vessel with any fish on board to tie up to any dock, pier or other artificial structure.

Quota means the Commonwealth of Massachusetts' annual commercial Atlantic menhaden quota adopted by the Atlantic States Marine Fisheries Commission and amended by required paybacks and authorized quota transfers and rollovers.

Trip means the time period that begins when a vessel departs from any land, pier, wharf, dock or other artificial structure to carry out commercial fishing operations, including the at-sea transfer and transport of fish, and that terminates with a return to any land, pier, wharf, dock or other artificial structure.

(3) Regulated Fishery Permit Endorsement Requirement. It shall be unlawful for any fisherman or vessel to take, land, or possess Atlantic menhaden in excess of 6,000 pounds per trip or 24-hour day, whichever duration is longer, without a regulated commercial fishery permit endorsement for Atlantic menhaden issued by the Director, in accordance with 322 CMR 7.01(4)(a)4: *Renewals*.

(4) Commercial Fishing Limits.

(a) Regulated Fishery Trip Limits. Commercial fishermen who have been issued a regulated Atlantic menhaden fishery permit endorsement, in accordance with 322 CMR 6.43(3) and 7.01(4)(a)4.: *Renewals*, shall abide by the following trip limits:

1. Until the Director declares that 75% of the commercial menhaden quota has been landed, it shall be unlawful to possess or land more than 125,000 pounds of menhaden in the coastal waters of the Commonwealth per trip or calendar day, whichever duration is longer;

6.43: continued

2. Once the Director has declared that 75% of the commercial menhaden quota has been landed, it shall be unlawful to possess or land more than 25,000 pounds of menhaden in the coastal waters of the Commonwealth per trip or calendar day, whichever duration is longer; and

3. Once the Director has declared that 95% of the commercial menhaden quota has been landed, it shall be unlawful to possess or land more than 6,000 pounds of menhaden in the coastal waters of the Commonwealth during per trip or calendar day, whichever duration is longer.

(b) Open Access Fishery Trip Limits. Commercial fishermen who have not been issued a regulated Atlantic menhaden fishery permit in accordance with 322 CMR 6.43(3) and 7.01(4)(a)4.: *Renewals* may possess and land up to 6,000 lbs of Atlantic menhaden per trip or 24-hour day, whichever duration is longer.

(c) Closure. It shall be unlawful to catch and retain or land Atlantic menhaden once the Director has declared that 100% of the quota has been harvested, except as provided at 322 CMR 6.43(4)(d).

(d) Bycatch Tolerance. When the commercial quota has been harvested and the commercial fishery is closed, commercial fishermen may possess or land up to 1,000 pounds of Atlantic menhaden bycatch per trip or per 24-hour day, whichever is longer. The weight of the Atlantic menhaden bycatch shall not exceed 5% of the weight of the entire catch being landed.

(5) Daily Catch Reporting. All regulated Atlantic menhaden fishery permit endorsement holders must obtain a bait dealers permit, as defined at 322 CMR 7.01(3)(g): *Bait Dealer*, and report to the Division of Marine Fisheries their directed commercial Atlantic menhaden landings in the Commonwealth on a daily basis on forms provided by the Director.

6.44: Cancer Crab Management(1) Definitions.

Cancer Crab means that genus of crab, that includes jonah crab (*Cancer borealis*) and rock crab (*Cancer irroratus*).

Commercial Fisherman means any person who holds a commercial coastal or offshore lobster permit, issued by the Director in accordance with M.G.L. c. 130, §§ 37, 38 and 80 and 322 CMR 7.01(2): *Commercial Fisherman Permits*, 7.03: *Coastal Lobster Permit and Trap Allocation Transfer Programs* and 7.08: *Offshore Lobster Fishery Control Date and Moratorium*, to take, possess and land lobsters and edible crabs in the Commonwealth of Massachusetts for the purpose of sale, barter, or exchange or keep for personal or family use any edible crabs, including cancer crabs, taken under the authority of the commercial coastal or offshore lobster permit.

Dealer means wholesale or retail seafood dealer permitted by the Director pursuant to M.G.L. c. 130, § 80 and 322 CMR 7.01(3): *Dealer Permits*.

Jonah Crab means the species of crab known as *Cancer borealis*.

Non-trap Gear means any fishing gear capable of catching cancer crabs, including but not limited to nets.

Pot or Trap means any lobster trap, modified lobster trap, fish pot, fish trap, conch pot, scup pot or other, other than nets, that is placed on the ocean bottom and designed to catch finfish or lobsters.

Recreational Fisherman means any person who takes, possesses or lands edible crabs, including cancer crabs, in the Commonwealth for personal or family use, sport or pleasure, which are not to be sold, traded or bartered.

Rock Crab means that species of crab known as *Cancer irroratus*.

6.44: continued

(2) Permit Requirements. A commercial coastal or offshore lobster permit, issued by the Director in accordance with M.G.L. c. 130, §§ 37, 38 and 80 and 322 CMR 7.01(2): *Commercial Fisherman Permits*, 7.03: *Coastal Lobster Permit and Trap Allocation Transfer Programs* and 7.08: *Offshore Lobster Fishery Control Date and Moratorium* is required to take, possess or land cancer crabs in the Commonwealth of Massachusetts for the purpose of sale, barter or exchange

(3) General Requirements.

(a) Size Limit. Commercial fishermen and dealers are prohibited from taking, possessing or landing Jonah crabs that have a carapace width less than 4¾ inch. The mutilation of any Jonah crab which affects its measurement shall be *prima facie* evidence that the Jonah crab was or is less than the required length.

(b) Disposition. Commercial and recreational fishermen are prohibited from landing any parts of cancer crabs other than whole cancer crabs.

(c) Egg Bearing Females. Commercial and recreational fishermen and dealers are prohibited from taking, possessing or landing female cancer crabs:

1. that are egg bearing;
2. from which eggs have been removed; or
3. that have come in contact with any substance capable of removing eggs.

(4) Trap Fishery Requirements.

(a) Commercial fisherman are prohibited from setting any trap gear to take or attempt to take cancer crabs, unless the trap gear complies with the applicable:

1. trap gear marking regulations at 322 CMR 4.13: *Fixed Gear Marking and Maximum Length Requirements*;
2. lobster gear restrictions at 322 CMR 6.02(1);
3. lobster trap limits or allocations at 322 CMR 6.13;
4. lobster trap tag requirements at 322 CMR 6.31(a); and
5. protected species regulations at 322 CMR 12.00: *Protected Species*.

(5) Non-trap Fishery Requirements. Catch Limits. It shall be unlawful for a commercial fisherman using non-trap gear to take, possess or land more than 200 cancer crabs per 24-hour period, not to exceed more than 500 cancer crabs for a trip that exceeds 48 hours. This possession limit shall not apply to any fishermen who have obtained rock crabs for purposes of bait from lawfully permitted fishermen or dealers.

(6) Recreational Fishing Limits. Catch Limits. It shall be unlawful for a recreational fisherman to take, possess or land more than 50 cancer crabs per calendar day or possess more than 50 cancer crabs while fishing.

REGULATORY AUTHORITY

322 CMR 6.00: M.G.L. c. 130, §§ 2, 17A, 80, 100A and 104.