

~~322 CMR 3.00: 1971 COMPILATION~~

~~Section~~

~~3.01: Transplanting Seed or Adult Oysters (Special Permit)~~

~~3.02: Use and Operation of Mobile Gear in Territorial Waters of the Commonwealth~~

~~3.03: Taking of Anadromous Fish, Except Alewives and River Herring, in the Territorial Waters of
Massachusetts~~

~~3.04: Marking of Lobster Equipment~~

~~3.01: Transplanting Seed or Adult Oysters (Special Permit)~~

~~(1) No person shall plant, transplant or introduce for the purpose of transplanting seed or adult oysters into any waters or into any shellfish areas within the Commonwealth without first obtaining a special permit therefore from the director of Marine Fisheries.~~

~~(2) Any violation of the provisions of this order is punishable by a fine of not less than \$10.00 nor more than \$1,000.00 or by imprisonment for one month or both.~~

~~(3) Any oysters introduced or moved in violation of 322 CMR 3.03 shall be confiscated and destroyed.~~

~~3.02: Use and Operation of Mobile Gear in Certain Territorial Waters of the Commonwealth~~

~~(1) Definitions. For purposes of 322 CMR 3.02 the following words shall have the following meanings:~~

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

~~NOAA chart means the official and reproduced nautical charts of the National Oceanic and Atmospheric Administration, United States Department of Commerce.~~

~~Territorial seas line means that line as it appears on NOAA charts.~~

~~Line of 1881 means the otter and beam trawl line otherwise known as the old exterior line of the Commonwealth as defined by St. 1881, c. 196.~~

~~3.02:—continued~~

~~(2) North Shore Region Year-round Closure (New Hampshire border to Winthrop).— It is unlawful to use mobile gear in territorial waters encompassed by an imaginary line beginning at the shoreline in Winthrop; thence following the Loran C 44290 line in an easterly direction to the line of 1881; thence in a northeasterly direction along the line of 1881 to its intersection with the territorial seas line; thence in a northeasterly direction along the territorial seas line to the seaward junction of the New Hampshire/Massachusetts boundary; thence shoreward along the New Hampshire/Massachusetts boundary to the shoreline; thence in a southerly direction to the starting point, except as provided for in 322 CMR 3.02(2)(a) and (b) as subject to the provisions of 322 CMR 3.02(2)(c), and as provided for in 322 CMR 4.02 dealing with the use and regulation of nets in inshore waters.~~

~~(a) Area 6 opening (New Hampshire border to Rockport).— Subject to the provisions of 322 CMR 3.02(2)(c) and the groundfish closures in 322 CMR 8.12, it is lawful to use mobile gear from December 15 to April 30 inclusive in an area beginning at the intersection of the northerly Rockport/Gloucester town line and the territorial seas line; thence along the territorial seas line to the Massachusetts/New Hampshire boundary; thence shoreward along the boundary to a point one nautical mile from shore; thence in a southerly direction along an imaginary line parallel to and one nautical mile from shore to a point on the Rockport/Gloucester town line one nautical mile from shore; thence seaward to the starting point.~~

~~(b) Area 5 opening ("Whiting Area" off Rockport).— Subject to the provisions of 322 CMR 3.02(2)(c), it is lawful to use mobile gear from February 1 to March 31 inclusive and from June 15 to September 30 inclusive in an area beginning at a point 2.80 nautical miles from shore on the northernmost Gloucester/Rockport marine boundary; thence 136° true 4.35 nautical miles to a point 055° true 1.85 nautical miles from Straitsmouth Island Light; thence 162° true 1.40 nautical miles to a point 100° true 1.85 nautical miles from Straitsmouth Island Light; thence 180° true 1.65 nautical miles to a point 137° true 2.70 nautical miles from Straitsmouth Island Light; thence 210° true 2.60 nautical miles to a point on the southernmost Gloucester/Rockport marine boundary where said boundary line intersects a line bearing 130° true 2.70 nautical miles from Salt Island; thence seaward along the southernmost Gloucester/Rockport marine boundary to the territorial seas line of the Commonwealth; thence northerly along said line to its intersection with the northernmost Gloucester/Rockport marine boundary; thence shoreward along said boundary to the starting point.~~

~~(c) Special Permit Conditions.~~

- ~~1. A special permit shall be obtained from the Director on an annual basis to fish in Areas 5 and 6.~~
- ~~2. The intent of this regulated fishery is to provide access to coastal waters for smaller and/or older trawlers, and special permits shall be limited to vessels that usually fish and land their catch on a daily basis.~~
- ~~3. Trawl nets shall have a sweep or footrope no greater than 80 feet. Sweeps or footropes shall be chain, wire or discs. No roller gear shall be allowed. In addition, during the month of September in the Area 5 opening, raised footrope trawl nets shall be used as specified in 322 CMR 8.14(2).~~
- ~~4. Use of mobile gear shall be allowed only during daylight hours defined as the period from ½ hour before sunrise to ½ hour after sunset. It is a violation of 322 CMR 3.00 to have mobile gear in the water before or after this period.~~
- ~~5. Conflicts with properly set and marked, regularly tended fixed fishing gear shall be avoided.~~
- ~~6. No lobsters shall be possessed or be on board any vessel while in Areas 5 and 6, whether taken within or outside Areas 5 and 6, for any period longer than that required to return them safely to the water.~~
- ~~7. Annual catch reports are required, and as a condition of this permit, all holders agree to allow Division agents safe access to their vessels during fishing operations.~~
- ~~8. The Director shall have the authority to revoke permits, suspend fishing operations, limit the hours and dates of operation within the time periods of permitted fishing, limit the number of permits, limit quantities of fish to be taken, or take any other action which, in his judgement, shall prevent conflicts between~~

~~user groups and prevent overharvesting of the resources.~~

~~3.02: continued~~

~~(3) Area 4 (Outer Boston Harbor) April 1 through December 31 Closure. It is unlawful to use mobile gear during the period April 1 through December 31 inclusive in territorial waters encompassed by an imaginary line beginning at the intersection of the Loran C 44250 line with the shoreline of the town of Hull; thence following the 44250 line to the line of 1881; thence following the line of 1881 in a northerly direction to the intersection with the Loran C 44290 line; thence following the 44290 line in a westerly direction to the intersection with the Loran C 25840 line; thence following the 25840 line in a southerly direction to the intersection with the Loran C 14015 line; thence following the 14015 line in a southerly direction to the intersection with the shoreline of the town of Hull; thence following the shoreline to the starting point.~~

~~(4) Area 3 (Hull to Plymouth) April 1 through October 31 Closure. It is unlawful to use mobile gear during the period April 1 through October 31 inclusive in territorial waters encompassed by an imaginary line beginning at the shoreline of the town of Hull, thence following the Loran C 44250 line to the line of 1881; thence following the line of 1881 in a southerly direction to its intersection with the territorial seas line; thence following said line in a southerly direction to its intersection with an imaginary line drawn from Gurnet Point in Plymouth to Race Point in Provincetown; thence following said imaginary line in a westerly direction to the shoreline of Plymouth; thence following the shoreline to the starting point.~~

~~(5) Area 2(b) (Plymouth to Provincetown) May 1 through October 31 Closure. It is unlawful to use mobile gear during the period May 1 through October 31 inclusive in territorial waters encompassed by an imaginary line beginning at the shoreline of Gurnet Point Plymouth; thence following in an easterly direction along an imaginary line drawn from Gurnet Point to Race Point in Provincetown to the intersection of said imaginary line with the line of 1881; thence following the line of 1881 around Cape Cod Bay to its intersection with the imaginary line from Gurnet Point to Race Point; thence easterly along said line to the shoreline of Race Point; thence in a southerly direction following the shoreline to the starting point; except that waters which lie within the following area are excluded: beginning at a point on the imaginary line from Gurnet Point to Race Point 1.0 nautical mile from Race Point Light; thence running 132° true to the 70° 10' W meridian of longitude; thence running 180° true to the line of 1881; thence following the line of 1881 in a northerly direction to the imaginary line from Gurnet Point to Race Point, thence running easterly along said line to the point of beginning.~~

~~(6) Area 2(a) (Eastham to Mashpee) May 1 through October 31 Closure. It is unlawful to use mobile gear during the period May 1 through October 31 inclusive in territorial waters encompassed by an imaginary line beginning at Nauset Light in Nauset; thence following the 41° 51.6' N parallel of latitude to a point where it intersects the territorial seas line; thence following the territorial seas line in a southerly direction to a point where the territorial seas line intersects the 70° 00' W meridian of longitude; thence in a northerly direction along the 70° 00' W meridian of longitude to a point where it intersects the line of 1881; thence in a westerly direction following the line of 1881 to a point where it intersects with the territorial seas line and the Loran C 9960-X-25190 line; thence following the territorial seas line to its intersection with a straight line drawn from Succonnesset Point in the town of Mashpee to Cape Pogue in the town of Edgartown; thence following the imaginary line in a northerly direction to the shoreline at Succonnesset Point; thence following the shoreline to the starting point.~~

~~3.02:—continued~~

~~(7) Area 1(a) (Nantucket Island North Shore) April 1 through April 30 Closure. It is unlawful to use mobile gear during the period April 1 through April 30 inclusive in territorial waters encompassed by an imaginary line beginning at Great Point in the town of Nantucket; thence following the imaginary line from Great Point to Monomoy Point to a point where it intersects the territorial seas line; thence following the territorial seas line in a westerly direction to a point where it intersects with an imaginary line which extends the Nantucket/Edgartown town waters line in a northerly direction; thence in a southerly direction along the extended Nantucket/Edgartown town waters line to a point where it intersects an imaginary line drawn from Cape Pogue in the town of Edgartown to Eel Point in the town of Nantucket; thence following the imaginary line from Cape Pogue to Eel Point in a southeasterly direction to the shoreline of Eel Point; thence following the shoreline to the starting point.~~

~~(8) Area 1(b) (Great Point to Nantucket Harbor) June 1 through September 15 Closure. It is unlawful to use mobile gear, except for scallop and surf clam dredges, during the period June 1 through September 15 inclusive in territorial waters encompassed by an imaginary line beginning at the most northerly end of Great Point in the town of Nantucket; thence following the imaginary line from Great Point to the light at the end of the easternmost jetty at the entrance of Nantucket Harbor; thence along the jetty to the shore and northeasterly to the starting point.~~

~~(9) Reservation. Nothing in 322 CMR 3.02(7) or (8) is intended to supercede or repeal the provisions of St. 1907, c. 301.~~

~~(10) Falmouth to Mashpee Shoreline Closures.~~

~~(a) ¼-mile closure. It is unlawful to use mobile gear during the period April 23 through May 31 inclusive in an area encompassed by a line beginning at the shoreline at Succonnesset Point in the town of Mashpee; thence seaward for ¼ nautical mile along a straight line extending from Succonnesset Point to Cape Pogue in the town of Edgartown, the western boundary of Area 2(a) described in 322 CMR 3.02(6); thence in a westerly direction along a line parallel to and ¼ nautical mile from shore to its intersection with the Loran C 9960-W-14130 line; thence shoreward along the Loran C 14130 line to the shore at Nobska Point in the town of Falmouth; thence following the shoreline in an easterly direction to the starting point.~~

~~(b) ½-mile closure. It is unlawful to use mobile gear during the period June 1 through October 31 inclusive in an area encompassed by a line beginning at the shoreline at Succonnesset Point in the town of Mashpee; thence seaward for ½ nautical mile along a straight line extending from Succonnesset Point to Cape Pogue in the town of Edgartown, the western boundary of Area 2(a) described in 322 CMR 3.02(6); thence in a westerly direction along a line parallel to and ½ nautical mile from shore to its intersection with the Loran C 9960-W-14130 line; thence shoreward along the Loran C 14130 line to the shore at Nobska Point in the town of Falmouth; thence following the shoreline in an easterly direction to the starting point.~~

~~(11) Cuttyhunk Island to Falmouth Shoreline Closure. It is unlawful to use mobile gear during the period May 1 through October 31 inclusive in an area encompassed by a line beginning at the shoreline at Nobska Point in the town of Falmouth; thence seaward for ¼ nautical mile along the LORAN C 9960-W-14130 line; thence in a westerly direction along a line parallel to and ¼ nautical mile from shore to its intersection with a straight line extending from the southernmost point of Cuttyhunk Island to the westernmost point of Gay Head on Martha's Vineyard; thence in a northwesterly direction along this line to the shore at Cuttyhunk Island; thence to the starting point by following in an easterly direction the shoreline of the Elizabeth Islands connected by the following baselines: the shortest straight line between Cuttyhunk Island and Nashawena Island; the shortest straight line between the easternmost point of Nashawena and the southernmost point of Pasque Island; the shortest straight line between Pasque Island and Naushon Island; a straight line from Jobs Neck on the eastern side of Naushon Island to the southernmost point on Nonamesset Island; a straight line from Mink Point at the northernmost point of Nonamesset Island to Juniper Point at the western entrance of Little Harbor.~~

~~3.03: continued~~

~~(12) Surf Clam Dredging Area Closures. It is unlawful to use surf clam dredges in areas and at times described in 322 CMR 6.07: *Surf Clam Fishery.*~~

~~(13) Presumption. It is a rebuttable presumption that a vessel is using its mobile gear if its otter trawls, beam trawls, midwater or bottom pair trawls, seines, or dredges are not out of the water and on board the vessel, or the mouth of the net or dredge is not out of the water and secured to the vessel's sides or stern.~~

~~3.03: Taking of Anadromous Fish, Except Alewives and River Herring, in the Territorial Waters of Massachusetts~~

~~(1) The taking of anadromous fish, except alewives or river herring, in the territorial waters of Massachusetts by snagging, snatching or hooking is prohibited. For the purpose of 322 CMR 3.00, snagging, snatching or hooking are defined as taking fish, not attracted by bait or artificial lure, with hooks, gangs or lures, whether baited or unbaited, in a manner so as to pierce and hook a fish in any part of the body other than the mouth.~~

~~(2) Violation of 322 CMR 3.00 shall be punished by a fine of not less than \$10.00 nor more than \$1,000.00 and may result in other penalties as provided by law.~~

~~3.04: Marking of Lobster Equipment~~

~~Rules and Regulations adopted under the provisions of M.G.L. c. 30A and St. 1969 c. 737, which is an act providing for better identification and marking of lobster buoys, pots, traps, cars and boats.~~

~~(1) All lobster buoys, pots, traps and cars described in M.G.L. c. 130, § 38, shall be marked with the permit number assigned by the Director. Non-commercial lobstermen shall also add the letter "N" prior to the four-digit permit number, and a dash (-) with a single digit from 0 through 9 shall follow the four-digit permit number, indicating the sequential pot number in the series, up to ten pots. The permit numbers shall not be less than 1/2 inch in height nor less than 1/4 inch in thickness or width of line. Said numbers shall be burned or cut into a wooden lath or a plate made of durable synthetic material, which shall be permanently secured to the inside of the trap. For purposes of 322 CMR 3.00 all lobster traps fished by commercial fishermen permitted in accordance with 322 CMR 7.01(2) may be marked solely with trap tags in accordance with 322 CMR 6.31 to meet marking requirements.~~

~~(2) Both the air tank(s) of a diver and the floating marker described in M.G.L. c. 130, § 38A, as amended, shall be marked so as to display the permit number assigned by the Director to said diver. The permit numbers shall be not less than one inch in height nor less than one-eighth inch in thickness or width of line until December 31, 1971. As of January 1, 1972 the size of said numbers shall be not less than three inches in height nor less than 1/2 inch in thickness or width of line.~~

~~REGULATORY AUTHORITY~~

~~322 CMR 3.00: M.G.L. c. 130, §§, 17A, 38, 38A, 94 through 97, and 104.~~

NON-TEXT PAGE

322 CMR 4.00: FISHING AND SHELLFISH EQUIPMENT

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4.01: Use of Purse Seines in Cape Cod Bay

Rules and Regulations Governing the Use of Purse Seines in Cape Cod Bay, adopted under provisions of M.G.L. c. 30A and M.G.L. c. 130, §§ 2, 17A and 104.

(1) General.

- ~~(a) No person shall fish with nets or seines, commonly known as purse seines, in Cape Cod Bay inside of a line drawn from Sesuit Harbor in Dennis, northerly to #1 buoy on Billingsgate Shoal, thence northeasterly to Jeremy Point, so-called, in Wellfleet unless he is the holder of a Special Permit for a Regulated Fishery which may be issued by the Division.~~
- ~~(b) All persons fishing within the regulated area shall, inasmuch as possible, monitor channel 2638 on the marine radio or channel 23 CB for information pertaining to sport fishing activity in the area and shall avoid fishing in the immediate areas where sports fishermen are concentrated.~~
- ~~(c) The Director or his agents shall have the right to board and inspect any vessels engaged in the regulated fishery and to immediately suspend fishing operations, if in his judgement, such action is warranted to protect any fishery.~~

(1) ~~(2)~~ Restricted Area. No person shall fish with purse seines in Cape Cod Bay shoreward of an imaginary straight line drawn from Sesuit Harbor in Dennis, northerly to the #1 buoy on Billingsgate Shoal, thence northeasterly to Jeremy Point in Wellfleet, unless that person holds a Letter of Authorization that may be issued by the Director. ~~In addition to 322 CMR 4.01(1) governing seining in the said portion of Cape Cod Bay, seining inside of a line drawn from Rock~~

~~Harbor, Orleans, northwesterly to the #2 flashing red/bell buoy, thence northerly to Jeremy Point, so-called, in Wellfleet shall be subject to the following specific regulations:~~

- ~~(a) Permittees shall obtain special authorization from the Director to seine within the restricted area.~~
- ~~(b) Permittees wishing to seine in the restricted area shall post a bond in the amount of \$1,500 to cover any costs incurred by local or state government for picking up and disposing of any fish that may be spilled by the permittee.~~
- ~~(c) Seining shall be prohibited in the restricted area prior to June 7th of each year.~~
- ~~(d) Not more than two vessels may seine in the restricted area at any one time.~~
- ~~(e) Applications for special authorization to seine in the restricted area must be received at the office of the Director by June 1st, of each year. In the event that there are more than two applicants for special authorization, the Director shall have the right to set up a drawing by chance to determine the allocation of special authorizations.~~
- ~~(f) Permittees shall notify the Division (at 727-3189) and the Harbor Master of the Town of Wellfleet on each day that they intend to conduct seining operations in the restricted area.~~
- ~~(g) All carrier boats must "stand by" or "lay off" outside of the #10 buoy in the Wellfleet Harbor channel and shall not operate inside of said buoy except for direct ingress or egress from the harbor or to immediately take on or land the catch from the permitted seining operation.~~

~~(3) Closed Area. Seining is prohibited at all times in Wellfleet Harbor north of latitude 41° 55'.~~

4.02: Use of Nets in Inshore Restricted Waters

(1) Purpose. The purpose of 322 CMR 4.02 is to manage net fishing participation in the nearshore harbors, bays, estuaries, tidal creek, river, and salt ponds inshore waters of the Commonwealth on a year-round basis with a particular focus on winter flounder and the spawning season. In addition, it is designed to reduce conflicts between different fisheries and users and to identify and regulate all inshore net fisheries for purposes of resource conservation and management.

(2) Inshore Restricted Waters. 322 CMR 4.02 contains a listing of the defined inshore waters and the description of the outer boundaries as delineated by specific structures such as jetties, points, and other landmarks.

(a) Boston and North

1. Merrimack River. Waters inside a line drawn between easternmost tips of north and south jetties.

2. Plum Island Sound. Waters inside an **imaginary straight** line drawn

from the dome on Castle Hill, Ipswich to the southernmost tip of Plum Island -- Approx. 5° True.

3. Essex Bay. Waters inside **an imaginary straight line drawn from the** northwesternmost point of Wingersheek Beach to the southeasternmost point of Castle Neck -- Approx. 72° True.

4. Annisquam River, Gloucester. Waters inside **an imaginary straight line drawn** from northern tip of Farm Point to the Annisquam River Horn on Wigwam Point -- Approx. 53° True.

5. Rockport Harbor. Waters inside **an imaginary straight** line drawn from the spit on the southern shore of the Harbor to the flasher on the easternmost tip of the north breakwater -- Approx. 354° True.

6. Gloucester Harbor. Waters inside **an imaginary straight** line drawn from Eastern Point Flashing beacon to Mussel Point -- Approx. 350° True.

7. Manchester Harbor. Waters inside **an imaginary straight** line drawn from westernmost tip of Proctor Point to Tucks Point -- Approx. 350° True.

8. Beverly Harbor. Waters inside **an imaginary straight** line drawn **from the** eastern most tip of Yacht Club Pier to southernmost tip of Woodbury Point -- Approx. 29° True.

9. Salem Harbor. Waters inside **an imaginary straight** line drawn from Ft. Pickering Light to northernmost tip of Naugus Head, Marblehead -- Approx. 148° True.

10. Marblehead Harbor. Waters inside **an imaginary straight** line drawn from flashing green beacon on northernmost tip of Marblehead Neck to the flag tower at Ft. Seawall -- Approx. 302° True.

11. Lynn Harbor. Waters inside **an imaginary straight** line drawn from easternmost tip of Point of Pines to the Cupola on Little Nahant -- Approx. 108° True.

12. Boston Harbor. ~~All~~ Waters inside **imaginary straight** lines drawn from the tower on Telegraph Hill in the town of Hull to the southernmost point of Lovells Island thence from the northernmost point of Lovells Island to the southeasternmost tip of Deer Island.

(b) Cape Cod Canal to Boston.

1. Little Harbor, Cohasset. ~~All~~ Waters west and south of Atlantic Avenue.

2. Cohasset Harbor. ~~All~~ Waters inside **an imaginary straight** line drawn from northernmost point of Strawberry Point to easternmost point of Quarry Point -- Approx. 268° True.

3. Scituate Harbor. Waters inside **an imaginary straight** line drawn from northernmost point of First Cliff to the flashing red beacon on the eastern tip of the breakwater on Cedar Point -- Approx. 43° True.

4. North River/South River. Waters inside **an imaginary straight** line drawn from northernmost point of Fourth Cliff to the southernmost point of Third Cliff -- Approx. 322° True.

5. Green Harbor, Marshfield. Waters inside **an imaginary straight** line drawn between the southernmost tips of the entrance jetties.

6. Plymouth, Kingston, Duxbury Harbors. All waters inside **an imaginary straight** line drawn from the southwestern point of Saquish Head to the

northernmost point of Plymouth Beach -- Approx 218° True.

(c) Cape Cod.

1. Sandwich Harbor. Waters inside an **imaginary straight** line drawn between northernmost tips of entrance jetties.
2. Scorton Harbor, Sandwich -- Waters inside an **imaginary straight** line drawn between northernmost tips of entrance jetties.
3. Barnstable Harbor -- Waters inside an **imaginary straight** line drawn from the easternmost tip of Beach Point to the western tip of the eastern shore of Bass Hole -- Approx. 84° True.
4. Sesuit Harbor, Dennis -- Waters inside an **imaginary straight** line drawn between northernmost tips of entrance jetties.
5. Wellfleet Harbor -- Waters inside an **imaginary straight** line drawn from the southernmost tip of Jeremy Point due east (90° True) to the shore of Sunken Meadow, Eastham.
6. Pamet Harbor, Truro -- Waters inside an **imaginary straight** line drawn between the westernmost tips of the entrance jetties.
7. Provincetown Harbor -- Waters inside an **imaginary straight** line drawn from the northernmost tip of Long Point 13° True to the tank west of Mayflower Heights.
8. Nauset Harbor -- Waters inside an **imaginary straight** line drawn from the northernmost point of Nauset Heights to the southeasternmost part of Nauset Beach, Orleans -- Approx. 329° True.
9. Pleasant Bay -- Waters inside an **imaginary straight** line drawn from the southwesternmost point of Nauset Beach, Chatham to the southernmost point of Morris Island -- Approx. 334° True.
10. Stage Harbor, Chatham -- Waters inside an **imaginary straight** line drawn from westernmost point of Harding Beach Point to the southernmost point of Stage Harbor -- Approx. 268° True.
11. Taylors Pond, Chatham -- All waters including Cockle Cove and Bucks Creek.
12. Saquatucket Harbor, Harwich -- Waters inside an **imaginary straight** line drawn southernmost tips of entrance breakwaters.
13. Wychmere Harbor, Harwich -- Same as Saquatucket Harbor.
14. Allen Harbor, Harwich -- Same as Saquatucket Harbor.
15. Herring River, Harwich -- Waters inside an **imaginary straight** line drawn between southernmost tips of entrance breakwaters.
16. Swan Pond River and Swan Pond, Dennis -- All waters.
17. Bass River, Yarmouth- Dennis -- ~~All~~ Waters inside an **imaginary straight** line drawn between southernmost tips of entrance jetties.
18. Parker River, Yarmouth -- ~~All~~ Waters inside entrance.
19. Hyannis Harbor- Lewis Bay -- Waters inside an **imaginary straight** line drawn from Point Gammon to the flashing green beacon on the Hyannisport breakwater -- Approx. 307° True.
20. Hall Creek - Hyannisport -- ~~All~~ Waters inside entrance.
21. East Bay, Barnstable -- Waters ~~within~~ **inside** an **imaginary straight** line drawn from the southernmost tip of Long Beach to the southernmost tip

of the south breakwater.

22. West Bay, Barnstable -- Waters inside an **imaginary straight** line drawn between southernmost tips of entrance breakwaters.
23. Cotuit Bay- North Bay, Barnstable -- Waters inside an **imaginary straight** line drawn from northwesternmost point of Oyster Harbors Beach (Sampsons Island) to Bluff Point -- Approx. 212° True.
24. Popponeset Bay, Mashpee- Barnstable -- Waters an **imaginary straight** inside line drawn from northernmost point of Thatch Island to Meadow Point -- Approx. 289° True
25. Waquoit Bay, Mashpee- Falmouth -- Waters inside an **imaginary straight** line drawn between southernmost tips of entrance jetties.
26. Eel Pond, Falmouth -- Waters inside an **imaginary straight** line drawn between southernmost tips of entrance jetties.
27. Bournes Pond, Falmouth -- ~~AH~~ Waters inside entrance.
28. Green Pond, Falmouth -- Waters inside an **imaginary straight** line drawn between southernmost tips of entrance jetties.
29. Little Pond, Falmouth -- ~~AH~~ Waters inside entrance.
30. Falmouth Inner Harbor -- Waters inside of an **imaginary straight** line drawn between tips of entrance breakwaters.
31. Salt Pond, Falmouth -- Waters inside entrance.
32. Oyster Pond, Falmouth -- Waters inside entrance.
33. Little Harbor, Falmouth -- Waters inside an **imaginary straight** line drawn from Juniper Point to Nobska Point Light -- Approx. 100° True.
34. Great Harbor, Woods Hole -- Waters inside an **imaginary straight** line drawn from Juniper Point to Penzance Point -- Approx. 287° True.

(d) The Islands.

1. Nantucket Harbor. Waters inside an **imaginary straight** line drawn between the outermost tips of the entrance jetties.
2. Madaket Harbor, Nantucket. **Waters inside** ~~Inside~~ an **imaginary straight** line drawn from Eel Point -- Approx. 196° True -- to the southwesternmost tip of Madaket.
3. Vineyard Haven Harbor. Waters inside an **imaginary** straight line drawn from the northern tip of the breakwater north of Lagoon Pond Bridge to the northern tip of the Vineyard Haven Breakwater and thence to the west shore of Vineyard Haven Harbor (includes Lagoon Pond).
4. Oak Bluffs. Waters inside an **imaginary straight** line drawn between outermost tips of breakwaters.
5. Hart Haven Harbor-Farm Pond, Oak Bluffs. ~~AH~~ Waters inside entrance jetties.
6. Sengekontackett Pond, Oak Bluffs-Edgartown. ~~AH~~ Waters west of Beach Road (includes Trapps Pond).
7. Edgartown Inner Harbor-Katama Bay. Waters inside area bounded as follows - Edgartown Light to Chappaquiddick Point and Norton Point to southwesternmost part of Chappaquiddick Island.
8. Cape Poge Bay, Edgartown. ~~AH~~ Waters inside an **imaginary straight**

line drawn south 180° True from the north side of Cape Poge Gut.

9. Edgartown Great Pond. ~~AI~~ Waters inside entrance.

10. Tisbury Great Pond. ~~AI~~ Waters inside entrance.

11. Menemsha Pond. Waters inside an **imaginary straight** line drawn between outermost tips of entrance jetties.

12. James Pond, West Tisbury. ~~AI~~ Waters inside entrance.

13. Lake Tashmoo, Tisbury. ~~AI~~ Waters inside an **imaginary straight** line drawn between outermost tips of entrance jetties.

(e) Buzzards Bay to Mount Hope Bay, and Cuttyhunk Pond.

1. Buzzards Bay. ~~AI~~ Waters inside Buzzards Bay north and east of a **imaginary straight** line drawn from the southernmost point of Gooseberry Neck to Cuttyhunk Light.

2. Westport River. Waters inside an **imaginary straight** line drawn from Westport Light to the westernmost tip of Horseneck Point - Approx. 331° True.

3. Richmond Pond, Westport. ~~AI~~ Waters inside entrance.

4. Mount Hope Bay. ~~AI~~ Waters north of the Massachusetts/Rhode Island boundary line including Mount Hope Bay, Cole's River, Lee's River, and Taunton River,

5. Cuttyhunk Pond. ~~AI~~ Waters inside entrance.

(f) Narragansett Bay Tributaries.

1. Runnins River. ~~AI~~ Waters within the river.

2. Palmer River. ~~AI~~ Waters above the Massachusetts/Rhode Island boundary.

(3) Inshore Restricted Waters Regulated Fishery Permit. Except as otherwise provided by 322 CMR 4.02(5), any person who intends to use any net to catch and take fish inside those waters set forth in 322 CMR 4.02(2) or inside any other estuary, embayment, salt pond, tidal creek, river or other similar body of inshore waters shall possess a special regulated fishery permit **endorsement** issued by the Director pursuant to 322 CMR § 7.01(4)(a).

(4) Permit Eligibility. The Director may limit the number of permits issued each year. In determining eligibility to receive special regulated fishery permits, the Director may take into consideration the following criteria:

(a) the extent of traditional participation in the inshore net fishery;

(b) the degree of economic dependence on the inshore net fishery; and

(c) the extent that the nets to be used are compatible with existing fisheries in the area; as well as with the physical environment of the areas to be fished, as evaluated by the Director and;

(d) the abundance of target species in the area(s) to be fished and/or the overall stock condition of the resource as determined by the Director.

(5) Exception.

(a) Cast Net. A person may, without a special permit, use a cast net for purposes of taking bait.

(b) Small Bait Net. A person may, without a special permit, use a small net of no more than 250 square feet inside those inshore waters listed in 322 CMR 4.02(2) or inside any estuary, embayment, salt pond, tidal creek, river or other similar body of inshore water for the sole purpose of obtaining bait fish for personal use provided all other requirements of law are met.

(6) Conditions. The Director may establish any conditions to the special permit that are necessary for purposes of conservation of the resource or management of the fishery.

(7) Prohibitions. Except as otherwise provided by 322 CMR 4.02(5), it is unlawful to set or use any net inside any inshore water set forth in 322 CMR 4.02(2) or any estuary, embayment, salt pond, tidal creek, river or other similar body of inshore water:

- (a) to take winter flounder between February 1st and May 31st ~~of any year~~; or
- (b) without a special permit issued from the Director or contrary to the terms or conditions of the special permit.

4.03 4.04: Fish Weirs Buffer Zone

(1) Purpose. Unlike mobile fishing gear that is used in active pursuit of fish or fixed gear such as fish pots or gillnets that can be moved to follow migrating fish, weirs, authorized by M.G.L. c. 130, § 29 and set in coastal waters with permission of appropriate cities or towns, are completely stationary and dependent on fish coming to them. Since fish tend to follow the weir's leader to the head (heart and bowl), they become concentrated and attract other fishermen to the weir where fish are available and more easily caught. This use of the weir's fish-attracting traits by other fishermen; for example, by fishing in the bowl or heart or alongside the leader, can interfere with the weir's operation and/or success and cause conflicts on the water between the weir and other fishermen. Consequently, to avoid these conflicts, a reasonable buffer zone within which no person may conduct commercial or recreational fishing, except the weir owner or those with the owner's consent to remove fish and squid from the head(s), has been established.

(2) Definitions.

Buffer zone means the area around the fish weir which is circumscribed by buoys attached to weir pole anchors. The zone's boundary around the bowl is defined by imaginary straight lines between the buoys. The zone's extension from the bowl towards shore and parallel to the leader is defined by imaginary straight lines between the buoys on either side of the bowl to buoys attached to leader pole anchors. The shoreward end of the zone is defined by an imaginary straight line between the leader pole anchor buoys 500 feet from the first leader pole at the entrance to the weir's heart. When a weir has two heads, the zone extends the entire distance from the most seaward head to leader pole buoys 500 feet shoreward of the first leader pole at the entrance to the most shoreward head.

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

Fish Weir (also known as pound net or fish trap) means a stationary or fixed

maze of nets attached to poles anchored to the sea bed and comprised of the leader (line of poles with net attached) extending from near-shore seaward to the heart which is adjacent to the bowl where fish and squid accumulate. A weir may have two heads each with a heart and bowl.

Fishing means to harvest, catch or take or attempt to harvest, catch or take any fish or squid.

Recreational Fishing means fishing for purposes of personal or family use by angling or hook and line.

(3) Marking

(a) Weirs with one head shall have anchors marked on the surface by buoys tied to the end of anchor lines of the most seaward pole of the bowl and of the poles on both sides of the bowl. The shoreward extension of the zone along and parallel to the leader shall be marked on the surface by buoys tied to the anchor at the end of anchor lines on both sides of the leader 500 feet from the leader pole at the entrance to the heart.

(b) Weirs with two heads shall have anchors marked on the surface by buoys tied to the end of the anchor line of the most seaward pole of the most seaward bowl and tied to the ends of anchor lines of the poles on both sides of the two heads' bowls. The shoreward extension of the zone along and parallel to the leader shall be marked on the surface by buoys tied to the anchor at the end of anchor lines on both sides of the leader 500 feet from the leader pole at the entrance to the most shoreward head's heart.

(c) All buoys shall be 12 inches diameter, orange, inflated balls marked with the weir number assigned by DMF. A weir with one head shall be marked with five buoys. A weir with two heads shall be marked with seven buoys.

(4) Prohibition. It is prohibited for any person to conduct commercial or recreational fishing within the buffer zone except the weir owner and those with the owner's consent to remove fish and squid from the bowl(s).

(5) Maximum buffer zone width.

(a) The maximum distance between the anchor line buoys and the weir poles of the bowl shall be 150 feet.

(b) The maximum distance between the anchor line buoys and the weir poles of the leader shall be 200 feet.

4.04 Use of Sink Gillnets

(1) **Definition.** For the purposes of 322 CMR 4.03 the following terms have the following meanings:

East End means that part of the gillnet extending from 01° through 180° magnetic.

Gillnet means any anchored or drifting vertical wall of webbing that is buoyed at the top and weighted at the bottom and designed to capture fish by entanglement, gilling or wedging. This includes, but is not limited to, flatfish gillnets, surface gillnets and sink gillnets.

Sink Gillnet means any gillnet, anchored or otherwise, that is designed to be, capable of being, or is fished on or near the lower third of the water column. Sink gillnets include, but are not limited to, stand up and tie down gillnets.

West End means that part of the gillnet extending from 181° through 00° magnetic.

(2) **Permitting Requirements.** A regulated sink gillnet fishery permit endorsement, issued in accordance with 322 CMR 7.01(4)(a), is required to set or fish a sink gillnet in the waters under the jurisdiction of the Commonwealth.

(3) **Sink Gillnet Specifications.**

(a) **Maximum Length.** Within the waters under the jurisdiction of the Commonwealth, the total continuous length of connected sink gillnets shall not exceed 2,400 feet from end to end of an entire net.

(b) **Gear Marking and Configuration Requirements.**

1. All buoys used to mark sink gillnets shall be permanently and visibly marked with the permit number of the lawfully permitted owner.
2. The east end of a sink gillnet shall be marked with a high flyer and a standard 12-inch tetrahedral corner radar reflector.
3. The west end of a sink gillnet shall be marked with a high flyer with a flag and a standard 12-inch tetrahedral corner radar reflector.
4. All buoy lines affixed to sink gillnet shall be marked with a 12 inch green mark at the top, bottom and midway on the buoy line. Except that if the color of the buoy line is green then it shall be marked with white marks.

(c) **Mesh Size and Measurement.**

1. **Mesh Size.** Sink gillnets shall have mesh openings not less than 6 ½ inches.
2. **Measurement of Mesh.** Mesh size is measured by a wedge-shaped gauge having a taper of 2 centimeters in 8 centimeters and a thickness of 3.2 millimeters, inserted into the meshes under a pressure or pull of five kilograms. The mesh size will be the average of the measurements of any series of 20 consecutive meshes.

(4) **Areas Closures.**

(a) **South and West of Cape Cod.** It is unlawful to use, set, maintain, or fish with any sink gillnets during the period of April 1st through November 15th in waters under the jurisdiction of the Commonwealth in Mount Hope Bay and circumscribed by an imaginary line beginning at the intersection of the Loran C line 9960-Y-43940 with the Chatham shoreline; thence seaward following

the Loran C line 9960-Y-43940 to the territorial seas line; thence in a southerly direction following the territorial seas line to its intersection with a point at 70° 00'; thence in a southerly direction following the 70° 00' line to its intersection with the territorial seas line; thence following the territorial seas line in a southerly direction and south of Nantucket Island and Martha's Vineyard to the Massachusetts/Rhode Island boundary; thence in a northerly direction following the Massachusetts/Rhode Island boundary to the shoreline; thence following the shoreline in an easterly direction to the starting point.

- (b) **Greater Boston Harbor.** It is unlawful to use, set, place or maintain any sink gillnet from May 15th to November 1st beginning at the intersection of the Loran C 9960-Y-44250 line with the shoreline of the town of Hull; thence following the 44250 line to the so-called otter and beam trawl line otherwise known as the old exterior line of the Commonwealth; thence following said line in a northerly direction to the intersection with the Loran C 9960-Y-44290 line; thence following the 44290 line in a westerly direction to the shoreline north of Deer Island; thence along the shoreline of Deer Island in a southerly direction to the southeasternmost tip of Deer Island; thence along an imaginary straight line to the northernmost point of Lovell Island; thence along the shore of Lovell Island to its southernmost point; thence along an imaginary straight line to the tower on Telegraph Hill in the town of Hull; thence along the shore eastward to Pt. Allerton and southward along Nantasket Beach to the intersection of the shore with the Loran C 44250 line at the point of beginning, all as appearing on the following chart.

4.05: Further Regulation of Fishing Gear

4.06: Use of Mobile Gear

- (1) **Definitions:** For purposes of 322 CMR 4.06 the following terms shall have the following meanings:

Area 5 means that area within the waters under the jurisdiction of the Commonwealth beginning at a point 2.80 nautical miles from shore on the northernmost Gloucester/Rockport marine boundary; thence 136° true 4.35 nautical miles to a point 055° true 1.85 nautical miles from Straitsmouth Island Light; thence 162° true 1.40 nautical miles to a point 100° true 1.85 nautical miles from Straitsmouth Island Light; thence 180° true 1.65 nautical miles to a point 137° true 2.70 nautical miles from Straitsmouth Island Light; thence 210° true 2.60 nautical miles to a point on the southernmost Gloucester/Rockport marine boundary where said boundary line intersects a line bearing 130° true

2.70 nautical miles from Salt Island; thence seaward along the southernmost Gloucester/Rockport marine boundary to the territorial seas line of the Commonwealth; thence northerly along said line to its intersection with the northernmost Gloucester/Rockport marine boundary; thence shoreward along said boundary to the starting point.

Area 6 means that area within the waters under the jurisdiction of the Commonwealth beginning at the intersection of the northerly Rockport/Gloucester town line and the territorial seas line; thence along the territorial seas line to the Massachusetts/New Hampshire boundary; thence shoreward along the boundary to a point one nautical mile from shore; thence in a southerly direction along an imaginary line parallel to and one nautical mile from shore to a point on the Rockport/Gloucester town line one nautical mile from shore; thence seaward to the starting point.

Coastal Access Permit (CAP) means the regulated fishery permit endorsement for certain mobile gear, issued pursuant to G.L. c. 130 § 80 and 322 CMR §§ 7.01(4)(a) and 7.05.

Cod end means all parts of a net a distance of 50 continuous meshes forward of the terminal portion of the net where fish are retained.

Director means the Director of the Division of Marine Fisheries.

Division means the Division of Marine Fisheries

Fishing or Fish For means to harvest, catch or take or attempt to harvest, catch or take any fish or shellfish for commercial purposes. A vessel is presumed to be fishing unless its trawl doors are out of the water and secured to the vessel's side or stern or unless the mouth of the net is out of the water and secured to the vessel's side or stern.

Ghost gear means any fixed fishing gear including but not limited to gillnets and lobster traps with their associated ropes which are no longer buoyed to the surface of the water, are not visible from the surface and become entangled with mobile gear.

Hauling back means retrieving a net from the ocean bottom and placing the contents of the cod end on the deck or hold of the vessel.

Line of 1881 means the otter and beam trawl line, otherwise known as the old exterior line of the Commonwealth, as defined by St. 1881, c. 196.

Mobile Gear means any moveable or encircling fishing gear or nets which are towed, hauled or dragged through the water for the harvest of fish including but not limited to pair trawls, otter trawls, beam trawls, mid-water trawls,

scottish seines, danish seines, pair seines, purse seines or shellfish dredges.

Molted Lobster means any newly molted lobster whose carapace has not hardened and may be dented by exerting lateral pressure with the fingertips.

Night Fishing means fishing ½ hour after sunset to ½ hour before sunrise during the period of March 1 through October 31, or from 6:00 pm to 6:00 am during the period of November 1 through the last day of February.

NOAA Chart means the official and reproduced nautical charts of the National Oceanic and Atmospheric Administration, United States Department of Commerce.

Person means any individual, including the captain, master or crew member of a fishing vessel, or any firm, partnership, corporation or other business entity.

Small Mesh Squid Exempted Area means the area circumscribed by an imaginary line beginning at the intersection of the Loran C line 9960-Y-43940 with the Chatham shoreline; thence seaward following the Loran C line 9960-Y-43940 to the territorial seas line; thence in a southerly directions following the territorial seas line to its intersection with the 70° W meridian; thence in a southerly direction along the 70° W meridian to its intersection with the territorial seas line; thence following the territorial seas line in a southerly direction and south of Nantucket Island and Martha's Vineyard to the Massachusetts/Rhode Island boundary; thence in a northerly direction following the Massachusetts/Rhode Island boundary to the shoreline; thence following the shoreline in an easterly direction to the starting point.

Small Mesh Trawl means any trawl with net mesh openings that are less than 6 ½ inch in the cod end and 6 inches throughout the remainder of the net.

Territorial Seas Line means that line as it appears on NOAA charts demarcating the waters under the jurisdiction of the Commonwealth.

Trawl means any mobile fishing gear or nets which are towed, hauled, or dragged through the water for the harvest of fish including but not limited to otter trawls, beam trawls, pair trawls, scottish seines, danish seines, or pair seines.

Vessel means any commercial fishing vessel registered under the laws of the state and conducting commercial fishing operations within waters under the jurisdiction of the Commonwealth.

(2) **Seasonal Mobile Gear Closures**. These closures apply to any vessel fishing with mobile gear authorized by CAP. These closures do not apply to any vessel fishing with surf clam, ocean quahog, or bay quahog dredge, regulated pursuant to 322 CMR § 6.08, or any vessel fishing with in shellfish fishery

regulated by a city or a town within those city or town waters.

(a) **North Shore Region Year-round Closure (New Hampshire border to Winthrop)**. It is unlawful to use mobile gear in the waters under the jurisdiction of the Commonwealth encompassed by an imaginary line beginning at the shoreline in Winthrop; thence following the Loran C 44290 line in an easterly direction to the line of 1881; thence in a northeasterly direction along the line of 1881 to its intersection with the territorial seas line; thence in a northeasterly direction along the territorial seas line to the seaward junction of the New Hampshire/Massachusetts boundary; thence shoreward along the New Hampshire/Massachusetts boundary to the shoreline; thence in a southerly direction to the starting point.

1. **Exceptions.**

i. **Inshore Net Areas.** Vessels that are lawfully permitted and fishing in accordance with the 322 CMR 4.02.

ii. **Area 6.** Vessels that are fishing with mobile gear authorized by a CAP and further endorsed for North Shore Mobile Gear may fish in Area 6 during the period of December 15 through April 30.

iii. **Area 5.** Vessels that are fishing with mobile gear authorized by a CAP and further endorsed for North Shore Mobile Gear may fish in Area 5 during the period of February 1 through March 31 and from June 15 through September 30.

iv. **Restrictions specific to Area 5 and Area 6.** When fishing with mobile gear within Area 5 and Area 6, vessels are subject to the following restrictions:

aa. Vessels using trawl nets shall have a sweep or footrope no greater than 80 feet.

bb. Vessels using trawl nets shall use sweeps or footropes composed of chain, wire or discs; roller gear is not authorized. Except that during September in Area 5 raised foot ropes are required.

cc. No lobsters shall be possessed by any vessel while fishing in Area 5 or Area 6, regardless of whether the lobsters were taken within the areas. Any lobsters caught in Area 5 or Area 6 shall be immediately returned to the sea.

(b) **Area 4 (Outer Boston Harbor) April 1 through December 31 Closure.** It is unlawful to use mobile gear during the period of April 1 through December 31 in the waters under the jurisdiction of the Commonwealth encompassed by an imaginary line beginning at the intersection of the Loran C 44250 line with the shoreline of the town of Hull; thence following the 44250 line to the line of 1881; thence following the line of 1881 in a northerly direction to the intersection with the Loran C 44290 line; thence following the 44290 line in a westerly direction to the intersection with the Loran C 25840 line; thence following the 25840 line in a southerly direction to the intersection with the Loran C 14015 line; thence following the 14015 line in a southerly direction to the intersection with the shoreline of the town of Hull; thence following the shoreline to the starting point.

(c) Area 3 (Hull to Plymouth) April 1 through October 31 Closure. It is unlawful to use mobile gear during the period April 1 through October 31 in the waters under the jurisdiction of the Commonwealth encompassed by an imaginary line beginning at the shoreline of the town of Hull, thence following the Loran C 44250 line to the line of 1881; thence following the line of 1881 in a southerly direction to its intersection with the territorial seas line; thence following said line in a southerly direction to its intersection with an imaginary line drawn from Gurnet Point in Plymouth to Race Point in Provincetown; thence following said imaginary line in a westerly direction to the shoreline of Plymouth; thence following the shoreline to the starting point.

(d) Area 2(b) (Plymouth to Provincetown) May 1 through October 31 Closure. It is unlawful to use mobile gear during the period May 1 through October 31 in the waters under the jurisdiction of the Commonwealth encompassed by an imaginary line beginning at the shoreline of Gurnet Point Plymouth; thence following in an easterly direction along an imaginary line drawn from Gurnet Point to Race Point in Provincetown to the intersection of said imaginary line with the line of 1881; thence following the line of 1881 around Cape Cod Bay to its intersection with the imaginary line from Gurnet Point to Race Point; thence easterly along said line to the shoreline of Race Point; thence in a southerly direction following the shoreline to the starting point; except that waters which lie within the following area are excluded: beginning at a point on the imaginary line from Gurnet Point to Race Point 1.0 nautical mile from Race Point Light; thence running 132° true to the $70^{\circ} 10'$ W meridian of longitude; thence running 180° true to the line of 1881; thence following the line of 1881 in a northerly direction to the imaginary line from Gurnet Point to Race Point, thence running easterly along said line to the point of beginning.

(e) Area 2(a) (Eastham to Mashpee) May 1 through October 31 Closure. It is unlawful to use mobile gear during the period May 1 through October 31 in the waters under the jurisdiction of the Commonwealth encompassed by an imaginary straight line beginning at Nauset Light in Nauset; thence following the $41^{\circ} 51.6'$ N parallel of latitude to a point where it intersects the territorial seas line; thence following the territorial seas line in a southerly direction to a point where the territorial seas line intersects the $70^{\circ} 00'$ W meridian of longitude; thence in a northerly direction along the $70^{\circ} 00'$ W meridian of longitude to a point where it intersects the line of 1881; thence in a westerly direction following the line of 1881 to a point where it intersects with the territorial seas line and the Loran C 9960-X-25190 line; thence following the territorial seas line to its intersection with an imaginary straight line drawn from Succunnesset Point in the town of Mashpee to Cape Pogue in the town of Edgartown; thence following the imaginary line in a northerly direction to the shoreline at Succunnesset Point; thence following the shoreline to the starting point.

(f) Area 1(a) (Nantucket Island North Shore) April 1 through April 30 Closure. It is unlawful to use mobile gear during the period April 1 through

April 30 in the waters under the jurisdiction of the Commonwealth encompassed by an imaginary line beginning at Great Point in the town of Nantucket; thence following the imaginary line from Great Point to Monomoy Point to a point where it intersects the territorial seas line; thence following the territorial seas line in a westerly direction to a point where it intersects with an imaginary line which extends the Nantucket/Edgartown town waters line in a northerly direction; thence in a southerly direction along the extended Nantucket/Edgartown town waters line to a point where it intersects an imaginary line drawn from Cape Pogue in the town of Edgartown to Eel Point in the town of Nantucket; thence following the imaginary line from Cape Pogue to Eel Point in a southeasterly direction to the shoreline of Eel Point; thence following the shoreline to the starting point.

(g) Area 1(b) (Great Point to Nantucket Harbor) June 1 through September 15 Closure. It is unlawful to use mobile gear, except for scallop dredges, during the period June 1 through September 15 in the waters under the jurisdiction of the Commonwealth encompassed by an imaginary line beginning at the most northerly end of Great Point in the town of Nantucket; thence following the imaginary line from Great Point to the light at the end of the easternmost jetty at the entrance of Nantucket Harbor; thence along the jetty to the shore and northeasterly to the starting point.

(h) Falmouth to Mashpee Shoreline Closures.

1. **1/4-mile closure.** It is unlawful to use mobile gear during the period April 23 through May 31 in the waters under the jurisdiction of the Commonwealth encompassed by an imaginary straight line beginning at the shoreline at Succunnet Point in the town of Mashpee; thence seaward for 1/4 nautical mile along an imaginary straight line extending from Succunnet Point to Cape Pogue in the town of Edgartown, the western boundary of Area 2(a) described in 322 CMR 4.06(2)(e); thence in a westerly direction along a line parallel to and 1/4 nautical mile from shore to its intersection with the Loran C 9960-W-14130 line; thence shoreward along the Loran C 14130 line to the shore at Nobska Point in the town of Falmouth; thence following the shoreline in an easterly direction to the starting point.

2. **1/2-mile closure.** It is unlawful to use mobile gear during the period June 1 through October 31 in the waters under the jurisdiction of the Commonwealth encompassed by an imaginary straight line beginning at the shoreline at Succunnet Point in the town of Mashpee; thence seaward for 1/2 nautical mile along an imaginary straight line extending from Succunnet Point to Cape Pogue in the town of Edgartown, the western boundary of Area 2(a) described in 322 CMR 4.06(2)(e); thence in a westerly direction along a line parallel to and 1/2 nautical mile from shore to its intersection with the Loran C 9960-W-14130 line; thence shoreward along the Loran C 14130 line to the shore at Nobska Point in the town of Falmouth; thence following the shoreline in an easterly direction to the starting point.

(i) Cuttyhunk Island to Falmouth Shoreline Closure. It is unlawful to use

mobile gear during the period May 1 through October 31 in the waters under the jurisdiction encompassed by an imaginary straight line beginning at the shoreline at Nobska Point in the town of Falmouth; thence seaward for ¼ nautical mile along the LORAN C 9960-W-14130 line; thence in a westerly direction along an imaginary straight line parallel to and ¼ nautical mile from shore to its intersection with an imaginary straight line extending from the southernmost point of Cuttyhunk Island to the westernmost point of Gay Head on Martha's Vineyard; thence in a northwesterly direction along this imaginary straight line to the shore at Cuttyhunk Island; thence to the starting point by following in an easterly direction the shoreline of the Elizabeth Islands connected by the following baselines: the shortest straight imaginary line between Cuttyhunk Island and Nashawena Island; the shortest straight imaginary line between the easternmost point of Nashawena and the southernmost point of Pasque Island; the shortest straight imaginary line between Pasque Island and Naushon Island; a straight imaginary line from Jobs Neck on the eastern side of Naushon Island to the southernmost point on Nonamesset Island; a straight imaginary line from Mink Point at the northernmost point of Nonamesset Island to Juniper Point at the western entrance of Little Harbor.

(j) **Other Provisions.**

1. It is a rebuttable presumption that a vessel is using its mobile gear if its otter trawls, beam trawls, midwater or bottom pair trawls, seines, or dredges are not out of the water and on board the vessel, or the mouth of the net or dredge is not out of the water and secured to the vessel's sides or stern.

(3) **Night Closures.** Within the waters under the jurisdiction of the Commonwealth, it is unlawful for any vessel using mobile gear to night fish, except lawfully permitted vessels fishing for sea herring with purse seines or mid-water trawls.

(4) **Trawl Net Mesh Minimum Size.**

(a) **Trawl Net Mesh Measurement.** Minimum mesh size is measured by the inside stretch of the net mesh. The net mesh is measured by a wedge-shaped gauge having a taper of 2 centimeters in 8 centimeters, inserted into the meshes under a pressure or pull of five kilograms. The mesh size will be the average of measurements of any series of 20 consecutive meshes. The mesh in the cod end will be measured at least 10 meshes from the lacings beginning at the after-end and running parallel to the long axis. Upon request, the Director may approve in writing the use of other mesh size gauges or methods.

(b) **Minimum Trawl Net Mesh Size.** Except as authorized at 322 CMR 4.08(2)(c), all vessels fishing with trawl gear within the waters under the jurisdiction of the Commonwealth shall only possess and fish with nets that have a minimum mesh size opening that measures at least 6 ½ inches throughout the cod-end and 6 inches throughout the remainder of net.

(c) **Exempted Small Mesh Fisheries.** To authorize commercial trawl

fishermen to seasonally target valuable finfish species that cannot be caught in commercially viable quantities without the use of small mesh trawls, the following exemptions are authorized. While fishing in an exempted small mesh trawl fishery, a vessel shall not also possess nets that conform with the minimum mesh size at 322 CMR 4.08(2)(b)

1. **Seasonal Small Mesh Squid Fishery.** From April 23 through June 9, lawfully permitted vessels may fish small mesh trawls within the small mesh squid exempted area.

i. Vessels participating in this fishery must hold a CAP further endorsed for squid, issued in accordance with G.L. c. 130 § 80 and 322 CMR § 7.01(4)(a).

ii. The seasonal mobile gear closures at 322 CMR § 4.06(2)(h)-(i) apply.

iii. No vessel that is in possession of small mesh trawls within the small mesh squid exempted area may possess, retain and land more than 100 pounds of winter flounder, yellowtail flounder, summer flounder or windowpane flounder, in any combination.

2. **Seasonal Whiting Small Mesh Raised Footrope Trawl Fishery**

i. **Area 5.** From September 1 - September 30, lawfully permitted vessels may fish with a small mesh raised footrope trawl, as defined at 322 CMR 8.06(2), within Area 5, defined at 322 CMR § 4.06(1).

aa. Vessels participating in this fishery must hold a CAP further endorsed for whiting and North Shore mobile gear, issued in accordance with G.L. c. 130 § 80 and 322 CMR § 7.01(4)(a).

bb. Vessels participating in this fishery must comply with the Area 5 restrictions set forth at 322 CMR § 4.06(2)(a)(1)(iv).

ii. **Upper Cape Cod.** From September 1 – November 20, lawfully permitted vessels may fish with a small mesh raised footrope trawl in the Upper Cape Cod Whiting Area defined at 322 CMR § 8.06(1)(a).

aa. Vessels participating in this fishery must hold a CAP further endorsed for whiting, issued in accordance with G.L. c. 130 § 80 and 322 CMR § 7.01(4)(a).

bb. Vessels participating in this fishery must comply with the regulations set forth at 322 CMR § 8.06.

iii. **Raised Footrope Trawl Specifications.** The raised footrope trawls fished by vessels under these exemptions must comply with the trawl and sweep specifications set for at 322 CMR § 8.14(2).

(d) **Net Modifications.**

1. No fishing vessel may use any means, device, or material, including

but not limited to ropes, lines, chafing gear, liners, net strengtheners, or double nets, if it obstructs the meshes of the net or otherwise diminishes the size of meshes of the net described in 322 CMR 4.08(2).

2. All netting in trawl nets not made on a braiding machine, whether of braided or twisted twine, whether machine made or hand-made, shall use only one knot, the weavers knot or sheet bend or a knot by another name, which in *only* a weavers knot.

3. The ends of the twine, called the bars, that exit the knot are constructed so their lay does not cross or twist.

4. One splitting strap and one bull rope (if present) consisting of line or rope no more than two inches in diameter, may be used if such splitting strap and/or bull rope does not obstruct the meshes of the net or otherwise diminish the size of meshes of the net.

5. Canvas, netting, or other material may be attached to the underside of the cod end to reduce wear and prevent damage provided that no more than 25% of the meshes are obstructed.

(5) Other Specifications for Mobile Gear Using Nets.

(a) Vessels using nets may not fish with disks, rollers or rockhoppers greater than 12 inches in diameter.

(6) **Experimental Fisheries.** The Director may, at his discretion, authorize the use of non-conforming trawls. This will be done to collect data to determine if certain gear modifications may be appropriate. Permit holders must request and obtain a Letter of Authorization to participate in any authorized experimental fishery.

(7) **Declaration of Temporary Mobile Gear Closures.** The Director may declare temporary mobile gear closures within the waters under the jurisdiction of the Commonwealth, if the Director has determined that the closure is necessary to immediately resolve gear conflicts due to high densities of fixed fishing gear or to protect high densities of molted lobsters.

(a) **Procedure for Declaring Temporary Mobile Gear Closures.** The declaration of a temporary closure is not effective until:

1. It has been approved by a majority of the Marine Fisheries Advisory Commission.

2. A notice of closure has been filed with the Massachusetts Register and published or posted in conspicuous places accessible to fishermen. The notice of closure must state:

i. a determination of need or basis for the closure;

ii. the exact area to be closed; and

iii. the duration during which the closure will be in effect.

3. During the temporary closure the Director shall consider comments on the closure by the public or a state or federal agency. Based on these written comments the Director may alter, amend or rescind the closure in accordance with this procedure.

(8) Gear Retrieval. Any vessel using mobile gear whose gear becomes entangled with ghost gear may haul said ghost gear on board for the purpose of identification and shall return the ghost gear to the rightful owner, if authorized in writing by said owner of the ghost gear.

(9) Prohibitions. It shall be unlawful:

- (a) to violate any provision of 322 CMR 4.06;
- (b) for any vessel or its occupants to molest, damage, destroy, cut or deface any fixed and stable fishing gear;
- (c) for any vessel or its occupants to possess any ghost gear without proper written authorization of the owner; or
- (d) to use in any manner any mobile fishing gear in or possess any fish including lobsters harvested from an area which has been closed pursuant to 322 CMR 4.06(7)

~~(1) Definitions. For purposes of 322 CMR 4.06 only the following words shall have the following meanings:~~

~~Director means the Director of the Division of Marine Fisheries, 100 Cambridge Street, Boston, MA.~~

~~Ghost gear means any fixed fishing gear including but not limited to gillnets with their flyers and floats and lobster pots with their buoys and line, which are no longer buoyed to the surface of the water, are not visible from the surface and become entangled with mobile gear.~~

~~Hauling back means retrieving a net from the ocean bottom and placing the contents of the cod end on the deck or hold of the vessel.~~

~~Mobile Gear means any moveable or encircling fishing gear or nets which are towed, hauled or dragged through the water for the harvest of fish including but not limited to pair trawls, otter trawls, beam trawls, mid-water trawls, scottish seines, danish seines, pair seines, purse seines or shellfish dredges.~~

~~Molted Lobster means any newly molted lobster whose carapace has not hardened and may be dented by exerting lateral pressure with the fingertips.~~

~~Night Fishing means conducting fishing operations with mobile gear by a vessel between ½ hour after sunset to ½ hour before sunrise.~~

~~Vessel means any commercial fishing vessel registered under the laws of the state and conducting commercial fishing operations within waters under the jurisdiction of the Commonwealth.~~

~~(2) Gear Retrieval.— Any vessel with mobile gear whose gear becomes entangled with ghost gear may haul said ghost gear on board for the purpose of identification and return to the rightful owner, if authorized in writing by said owner.~~

~~(3) Closures.— The Director may close those waters under the jurisdiction of the Commonwealth determined by him to be either:~~

- ~~(a) susceptible to gear conflicts at night due to high densities of fixed fishing gear; or~~
- ~~(b) in need of special and immediate conservation measures based upon high densities of molted lobsters.~~

~~(4) Procedure. A 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 stating:
 - ~~1. a determination of need and the basis for the closure;~~
 - ~~2. the exact area to be closed; and~~
 - ~~3. the duration during which the closure shall remain in effect; and~~~~
- ~~(c) the notice of closure has been posted in conspicuous places accessible to the fishermen.~~

~~(5) Comment Period.— 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 4.06(5).~~

~~(6) Prohibitions. It shall be unlawful:~~

- ~~(a) for any vessel fishing with mobile gear or hauling back in waters under the jurisdiction of the Commonwealth to exceed the lobster landing/possession limits established in 322 CMR 6.26;~~
- ~~(b) for any vessel or its occupants to molest, damage, destroy, cut or deface any fixed and stable fishing gear;~~
- ~~(c) for any vessel or its occupants to possess any ghost gear without proper written authorization of the owner; or~~
- ~~(d) to use in any manner any mobile fishing gear in or possess any fish including lobsters harvested from an area which has been closed pursuant to 322 CMR 4.06(5)~~

~~(7) Penalties.— Violations of any provision of 322 CMR 4.06 may result in:~~

- ~~(a) forfeiture of all fish and lobsters unlawfully possessed;~~
- ~~(b) forfeiture of all vessels and gear unlawfully used;~~
- ~~(c) suspension of the commercial fisherman permit;~~
- ~~(d) a fine of not less than \$50 nor more than \$1,000; or~~

~~(e) any combination of the above.~~

4.08 Fishing and Shellfish Equipment (Reserved)

4.09: Restrictions on Hook and Line Gear~~Use of Gillnets South and West of Cape Cod~~

(1) Use of Natural Bait with Embedded or Attached Weights. It shall be unlawful for any person to fish with natural bait that has been rigged with embedded or attached weights or other materials, unless such weights or other materials are attached to the end of the fishing line.

~~(1) Definition. For the purposes of 322 CMR 4.09 gillnets are defined as anchored or drifting vertical walls of webbing, buoyed on top and weighted at the bottom, designed to capture fish by entanglement, gilling, or wedging.~~

~~(2) Prohibition. It is unlawful to use, set, maintain, or fish with any gillnets during the period of April 1st through November 15th in waters under the jurisdiction of the Commonwealth in Mount Hope Bay and circumscribed by an imaginary line beginning at the intersection of the Loran C line 9960-Y-43940 with the Chatham shoreline; thence seaward following the Loran C line 9960-Y-43940 to the territorial seas line; thence in a southerly direction following the territorial seas line to its intersection with a point at 70° 00'; thence in a southerly direction following the 70° 00' line to its intersection with the territorial seas line; thence following the territorial seas line in a southerly direction and south of Nantucket Island and Martha's Vineyard to the Massachusetts/Rhode Island boundary; thence in a northerly direction following the Massachusetts/Rhode Island boundary to the shoreline; thence following the shoreline in an easterly direction to the starting point.~~

~~(3) Exception. 322 CMR 4.09 shall not apply to persons:~~

~~(a) without a surface gillnet permit using surface gillnets less than 250 square feet to take bait for personal use in the Inshore Restricted Waters as defined in 322 CMR 4.02;~~

~~(b) permitted to fish surface gillnets in accordance with 322 CMR 4.14 and fishing in the Inshore Restricted Waters as defined in 322 CMR 4.02;~~

~~(c) permitted to take bluefish in accordance with 322 CMR 4.05.~~

4.10: Use of Sea Scallop Dredges

(1) Definitions.

(a) Effective Fishing Width. The distance measured between the extreme

outside edges of the mouth of a dredge or dredges.

- (b) Twine Top. Net material or other material on top of a scallop dredge.
- (2) Dredge Width. It is unlawful to possess a sea scallop dredge or combination of dredges with an effective fishing width greater than ten feet while fishing in waters under the jurisdiction of the Commonwealth.
- (3) Dredge Rings.
- (a) Minimum Ring Size. It is unlawful to possess a sea scallop dredge with rings less than four inches.
 - (b) Ring Size Measurement. The minimum ring size authorized for use on a sea scallop dredge shall be determined by measuring the length of the shortest straight line passing through the center of the ring from one inside edge to the opposite inside edge of the ring. The measurement shall not include normal welds from ring manufacturing or links. The rings to be measured will be at least five rings away from the mouth of the dredge and at least two rings away from other rigid portions of the dredge.
- (4) Twine Top.
- (a) Minimum Net Mesh Size. It is unlawful to possess a twine top with a net mesh of less than ten inches square or diamond.
 - (b) Twine Top Configuration. It shall be unlawful to configure or construct a twine top in any manner that it obstructs the net mesh so that it is less than ten inches square or diamond.

4.11: Marking of Dive Gear ~~Use of Gillnets in Massachusetts Bay~~

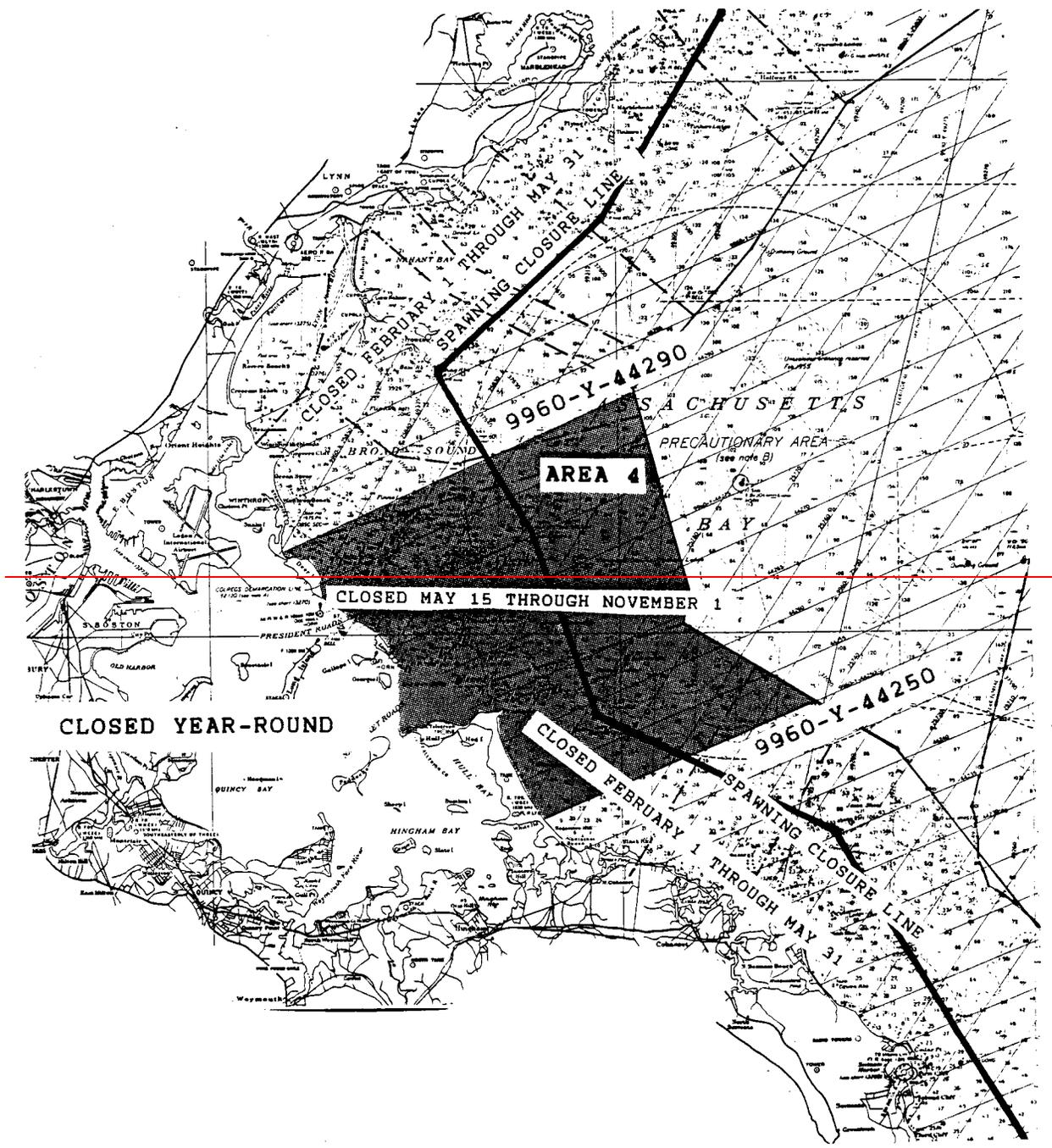
- (1) Dive Fishing for Lobsters. Any person authorized to take lobster by dive gear, in accordance with G.L. c. 130 §§ 37, 38 or 80 and 322 CMR §§ 7.01(2) or (4), shall mark a floating marker, described at G.L. c. 130 § 38A so as to display the permit number assigned by the Director. The permit numbers shall be not less than three inches in height nor less than ½ inch in thickness or width of line.
- (2) Marking of SCUBA Air Tanks. Any person authorized to take lobster by dive gear, in accordance with G.L. c. 130 §§ 37, 38 or 80 and 322 CMR §§ 7.01(2) or (4), that is using SCUBA gear shall mark the air tank(s) of the diver to display the permit number assigned by the Director. The permit numbers shall be not less than 3 inches in height nor less than ½ inch in thickness or width of line.

~~(1) Definition. For the purpose of 322 CMR 4.11 a bottom gillnet is defined as vertical walls of webbing, whether anchored or drifting, which is buoyed on the top and weighted on the bottom to remain in an upright position, designed to capture fish on or near the seabed by entanglement, gilling or wedging.~~

~~(2) Prohibition. It is unlawful to use, set, place or maintain any bottom gillnet from May 15th to November 1st within the management area set forth in 322 CMR 4.11(3).~~

~~(3) Management Area. Beginning at the intersection of the Loran C 9960-Y-44250 line with the shoreline of the town of Hull; thence following the 44250 line to the so-called otter and beam trawl line otherwise known as the old exterior line of the Commonwealth; thence following said line in a northerly direction to the intersection with the Loran C 9960-Y-44290 line; thence following the 44290 line in a westerly direction to the shoreline north of Deer Island; thence along the shoreline of Deer Island in a southerly direction to the southeasternmost tip of Deer Island; thence along an imaginary straight line to the northernmost point of Lovell Island; thence along the shore of Lovell Island to its southernmost point; thence along an imaginary straight line to the tower on Telegraph Hill in the town of Hull; thence along the shore eastward to Pt. Allerton and southward along Nantasket Beach to the intersection of the shore with the Loran C 44250 line at the point of beginning, all as appearing on the following chart.~~

~~Chart 322 CMR 4.11(3)~~



(4) ~~Exception.~~ 322 CMR 4.11 shall not apply to inshore net areas set forth in 322 CMR 4.02 or to persons permitted to take bluefish in accordance with 322 CMR 4.05.

4.12: Use of Nets for Taking Striped Bass (*Morone saxatilis*) or Shad (*Alosa sapidissima*)

- (1) It is unlawful to offload onto any vessel within waters under the jurisdiction of Massachusetts or to offload or land onto any pier, wharf or other structure within Massachusetts any striped bass or shad which was harvested, caught or taken by any net.
- (2) It is unlawful for any vessel registered under the laws of the state as that term is defined in M.G.L. c. 130, § 1 to harvest, catch or take any striped bass or shad by any net in any waters under the jurisdiction of Massachusetts or in those waters within the United States 200 miles exclusive economic zone bounded in such a way that the inner boundary is a line coterminous with the seaward boundary of each coastal state and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured, as depicted on nautical charts of the National Oceanic and Atmospheric Administration.
- (3) It is unlawful for any person, firm, corporation, restaurant, supermarket or other retail or wholesale distributor ~~of or~~ fish or fish products to possess any striped bass or shad harvested, caught, or taken by nets except striped bass or shad lawfully harvested, caught, taken or possessed in jurisdictions other than Massachusetts.

4.13: ~~Requirements Specific to Fixed Gear~~ Trap Gear Marking and Maximum Length Requirements

~~(1) Purpose. A vast amount of fixed gear is being fished in and outside of Massachusetts waters on fishing grounds which must be shared by fishermen using many different gear types. These fixed gear marking requirements will assist fishermen to see and avoid each other's gear thereby reducing conflicts between fixed and mobile gear fishermen fishing in waters under the jurisdiction of the Commonwealth. Fixed gear marking requirements also help identify entangled or abandoned gear. Maximum length requirements also will help fishermen identify the ends of fixed gear and will facilitate co-existence of fishermen on the same fishing grounds. The gillnet length requirement only pertains to gillnets set in waters under the jurisdiction of the Commonwealth.~~

(2) Definitions.

Boston Harbor and its approaches means those waters under the jurisdiction of the Commonwealth circumscribed by an imaginary line beginning at Point Allerton in Hull; thence in an easterly direction to the #1 buoy at Thieves Ledge; thence in a northerly direction to the BG buoy; thence in a westerly direction to Grovers Cliff in Winthrop.

East End means that part of the ~~gillnet or~~ trawl extending from 01° through 180° magnetic.

Recreational Fishing means the non-commercial taking or **attempted attempting** taking of lobsters and crabs for personal or family use, sport or pleasure, which are not to be sold, traded or bartered.

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

Trawls means a series of single traps that are tied together and buoyed at one or both ends.

Single means individually set and buoyed traps.

~~Twin Orange Markers means a pair of identical orange flag-like strips of material that are clearly visible and attached to the buoy stick or high flyer.~~

West End means that part of a **gillnet or** trawl extending from 181° through 00° magnetic.

~~(3) Gillnet Requirements. The following requirements apply to gillnets set within the waters under the jurisdiction of the Commonwealth.~~

~~(a) the east end of a gillnet shall be marked with a high flyer and standard 12-inch tetrahedral corner radar reflector; the west end shall be marked with a high flyer with flag and a standard 12-inch tetrahedral corner radar reflector;~~

~~(b) the buoy line shall be marked with a four inch green mark midway on the buoy line, except if the color of the rope is green a four inch white mark may be substituted for the required four inch green mark;~~

~~(c) all buoys shall be permanently and visibly marked with the permit number of the owner; and~~

~~(d) the total continuous length of gillnets shall not exceed 2,400 feet from end to end of an entire net set in waters under the jurisdiction of the Commonwealth.~~

~~(4)~~ (3) Traps. The following requirements apply to marking of **pots traps** set within the waters under the jurisdiction of the Commonwealth.

(a) Buoy and Trap Marking

i. All buoys set by commercial fishermen permitted in accordance with G.L. c. 130 §§ 37, 38 or 80 and 322 CMR § 7.01(2) or (4), shall be marked with the permit number assigned by the Director.

ii. All traps or cars set by commercial fishermen permitted in accordance with G.L. c. 130 §§ 37, 38 or 80 and 322 CMR § 7.01(2) or (4), shall be marked with trap tags in accordance with 322 CMR 6.31.

iii. All buoys set by non-commercial lobster and crab trap fishermen, permitted in accordance with G.L. c. 130 §§ 37 and 38 and 322 CMR § 7.01(4), shall be marked with the letter "N"} prior to the permit number assigned by the Director then a dash (-) with a single digit from 0 – 9 shall follow**ing** the permit number indicating the sequential **pot trap** number in the series up to ten traps. Said alpha numerical sequence shall be permanently secured to the inside of the **pot trap** through the use of a synthetic plate or by being burned or cut into a wooden lath.

iv. The buoy markings required in this section shall not be less than ½ inch in height nor less than 1 inch in thickness or width of line.

(b) Buoy Line Marking Requirements

i. Single Traps in LCMA1. The buoy line on single traps fished or authorized to fish in LCMA 1, as defined at 322 CMR 6.33, shall be marked with three twelve inch marks located at the top, midway and bottom of the buoy line. Each mark shall be composed of at least six inches of red and at least six inches of white.

ii. Single Traps in LCMA2. The buoy line on single traps fished or authorized to fish in LCMA 2, as defined at 322 CMR 6.33, shall be marked with three twelve inch marks located at the top, midway and bottom of the buoy line. Each mark shall be composed of at least six inches of red and at least six inches of black.

iii. Single Traps in Outer Cape Cod LCMA. The buoy line on single traps fished or authorized to fish in Outer Cape Cod LCMA, as defined at 322 CMR 6.33, shall be marked with three twelve inch marks located at the top, midway and bottom of the buoy line. Each mark shall be composed of at least six inches of red and at least six inches of yellow.

iv. Trawls in LCMA1, LCMA2 and Outer Cape Cod LCMA. The buoy line on trawls fished or authorized to fish in LCMA 1, LCMA 2 or the Outer Cape Cod LCMA, as defined in 322 CMR 6.33, shall be marked with three red marks of at least twelve inches. A mark shall be located at the top, midway and bottom of the buoy line.

v. Trawls in LCMA 3. The buoy line on trawls fished or authorized to fish in LCMA 3, as defined in 322 CMR 6.33, shall be marked with three black marks of at least twelve inches. A mark shall be located at the top, midway and bottom of the buoy line.

vi. Non-Commercial Lobster and Crab Traps. The buoy line on traps fished or authorized to be fished by recreational lobster and crab fishermen, permitted in accordance with 322 CMR 7.01(4) shall be marked with a red mark midway on the buoy line of at least four inches.

vii. Exception to Buoy Line Marking Requirements. If the color of the buoy line is the same as or similar to the buoy line marking requirement color code, a similar sized white mark may be substituted for that color code at the appropriate location(s) on the buoy line.

(c) Surface Identification of Traps.

i. Single Traps. Single traps shall each be marked with a single seven inches by seven inches or five inches by eleven inches buoy. Sticks are optional, but if used, shall not have a flag attached.

ii. Trawls. The east end of a trawl shall be marked with a double buoy, consisting of any combination of two seven inches by seven inches or five inches by eleven inches buoys and one or more three foot sticks. The west end of a trawl shall be marked with a single seven inches by seven inches or five inches by eleven inches buoy with a three foot stick and a flag.

iii. Exemption for Boston Harbor and its Approaches. It shall be lawful to fish with trawls marked on one end with a plastic bottle attached by at least ten feet of ½ inch cotton line or similar light material, provided that said substitute buoy shall be painted with the buoy colors and permit number of

the owner. A single seven inches by seven inches or five inches by eleven inches buoy shall mark the other end of the trawl. Sticks need not be used.

(d) Trawl Maximum Length. The total length of ~~pot~~-trawls set in waters under the jurisdiction of the Commonwealth shall not exceed 2,500 feet from end to end.

~~(3) Fixed Gear Marking Requirements. The following minimum requirements apply to the marking of fixed gear within waters under the jurisdiction of the Commonwealth.~~

~~(a) Gillnets.~~

~~1. the east end of a gillnet shall be marked with a high flyer and standard 12-inch tetrahedral corner radar reflector; the west end shall be marked with a high flyer with flag and a standard 12-inch tetrahedral corner radar reflector;~~

~~2. the buoy line shall be marked with a four inch green mark midway on the buoy line.~~

~~3. all buoys shall be permanently and visibly marked or branded with the permit number of the owner.~~

~~4. Exception. Regarding 322 CMR 4.13(3)(a)2., if the color of the rope is the same as or similar to a color code, a white mark may be substituted for that color code.~~

~~(b) Pot Trawls and Single Pots.~~

~~1. the east end of a pot trawl shall be marked with a double buoy, consisting of any combination of two seven inches x seven inches or five inches x 11 inches buoys and one or more three foot sticks. The west end of a pot trawl shall be marked with a single seven inches x seven inches or five inches x 11 inches buoy with a three foot stick and a flag. Single pots shall each be marked with a single seven inches x seven inches or five inches x 11 inches buoy. Sticks are optional, but if used, shall not have a flag attached.~~

~~2. all buoys shall be permanently and visibly marked or branded with the permit number of the owner;~~

~~3. fished or authorized to fish in LCMA 1, LCMA 2 or the Outer Cape Cod LCMA as defined in 322 CMR 6.33, the buoy line shall be marked with a four inch red mark midway on the buoy line;~~

~~4. fished or authorized to fish in LCMA 3 as defined in 322 CMR 6.33, the buoy line shall be marked with a four inch black mark midway on the buoy line;~~

~~5. fished or authorized to fish in the Gulf of Maine, Outer Cape Cod and Southern New England Recreational Lobster Area as defined in 322 CMR 6.33, the buoy line shall be marked with a four inch red mark midway on the buoy line beginning January 1, 2010.~~

~~6. Exception, regarding 322 CMR 4.13(3)(b)3., 4. and 5., if the color of the rope is the same as or similar to a color code, a white mark may be substituted for that color code.~~

~~(c) Trawl Marking Exemptions. Within the prescribed areas listed in 322 CMR 4.13(3)(c) it shall be lawful to fish with trawls marked on one end with a plastic bottle attached by at least ten feet of ½ inch cotton line or similar light material, provided that said substitute buoy shall be painted with the buoy colors and permit number of the owner. A standard buoy as specified in 322 CMR 4.13(3)(b) shall be attached to the other end of the trawl, except that sticks need not be used. Single pots shall be marked with a standard buoy attached by light line in channel areas.~~

~~Boston Harbor and its Approaches. In waters under the jurisdiction of the Commonwealth and circumscribed by an imaginary line beginning at Point Allerton in Hull; thence in an easterly direction to the #1 buoy at Thieves Ledge; thence in a northerly direction to the BG buoy; thence in a westerly direction to Grovers Cliff in Winthrop.~~

~~(d) Cape Cod Bay Critical Habitat Restrictions. Lobster pots set in Cape Cod Bay Critical Habitat as defined in 322 CMR 12.10 during January through May 15th that are properly modified with those features required in 322 CMR 12.03 designed to reduce the risk of whale entanglement must be marked as follows:~~

~~1. Two-pot trawls or “doubles” shall be marked with a single buoy line. The buoy shall be rigged with a three-foot stick and twin orange markers visibly attached to the top of the buoy stick.~~

~~2. All bouys marking either ends of a trawl shall have twin orange markers visibly attached to the buoy stick in addition to the existing marking requirements in 322 CMR 4.13(3)(b).~~

~~These twin orange markers must be removed from all buoy sticks after May 15th and before June 1st and fishermen may not re-attach them until after November 30th of each year.~~

~~(e) Prohibition. It shall be unlawful to mark fixed gear as required in 322 CMR 4.13(3)(d) if the lobster pots are not properly rigged with those features required in 322 CMR 12.05 to reduce risk of whale entanglement.~~

~~(4) Gillnet Maximum Length: the total continuous length of gillnets shall not exceed 2,400 feet from end to end of an entire net set in waters under the jurisdiction of the Commonwealth.~~

~~(5) Pot Trawl Maximum Length: The total length of pot trawls set in waters under the jurisdiction of the Commonwealth shall not exceed 2,500 feet from end to end.~~

~~(6) All buoys used to mark all fixed gear shall be permanently and visibly marked or branded with the permit number of the owner.~~

4.14: Surface Gillnet Restrictions

(1) Tending Requirement. Fishermen setting or fishing surface gillnets shall

remain within 200 feet of the net at all times.

(2) Gear Specifications.

(a) Floatation. Surface gillnets must have a headrope sufficiently buoyant to float at the surface. If any portion of a gillnet when fished is exposed at the water's surface then the net shall be considered a surface gillnet.

(b) Marking. All buoys shall be marked with reflective tape. The holder's permit number shall be marked on all buoys and at least once every 50 feet on the headrope. Holders may burn or carve their number into floats attached to the headrope **which and** shall measure at least ½ inch in height; alternatively if permit holders opt to mark the net with synthetic durable material, then the numbers shall be clearly visible and measure at least ¼" in height. The net ends shall be marked with bullet-shaped buoys with a size of nine x 16 inches and clearly marked with the letters SGN and the six-digit permit number of the holder.

(3) Net Dimensions. It shall be unlawful to fish more than 300 linear feet of surface gillnets at any one time.

(4) Mesh Size Openings. It shall be unlawful to fish with a surface gillnet with mesh openings larger than 3¾ inches or smaller than **1 7/8 inches 1— inches.**

(5) Area and Season Closures.

(a) In addition to area and season closures in 322 CMR 4.09(2) and 12.04(1), it is unlawful to fish surface gillnets year-round in Buzzards Bay.

(b) Southern New England Inshore Restricted Waters January 1st through May 15th Seasonal Closure. During January through May 15th it is unlawful to fish surface gillnets in any Inshore Restricted Waters as defined by 322 CMR 4.02 that are south and east of Cape Cod and the Islands including Vineyard Sound and Nantucket Sound. This area includes in the County Of Barnstable Pleasant Bay and Nauset Harbor, including all connecting embayments.

(c) Gulf of Maine Inshore Restricted Waters January 1st through May 31st Seasonal Closure. During January through May 31st it is unlawful to fish surface gillnets in any Inshore Restricted Waters as defined by 322 CMR 4.02 that are north of Cape Cod to the New Hampshire Border. This area also includes all estuaries and embayments that drain to Cape Cod Bay.

(6) Retained Species. No other species except, menhaden, sea herring, or mackerel may be retained by fishermen using a surface gillnet.

4.15: Use of Cast Nets for Harvest of Bait

(1) Definitions. For purposes of 322 CMR 4.15 the following words have the following meanings:

(a) Cast Net means any circular net weighted along the perimeter that is

operated by one person throwing the net out over the water and designed to catch bait fish beneath the net as it falls through the water.

(b) Bait Fish means those species commonly used as bait and includes menhaden, sea herring, sand lance, and mackerel.

(2) Permit. A person may, without a special permit, use a cast net for purposes of taking bait.

4.16: Marking of Dive Gear

~~(1) Dive Fishing for Lobsters. Any person authorized to take lobster by dive gear, in accordance with G.L. c. 130 §§ 37, 38 or 80 and 322 CMR §§ 7.01(2) or (4), shall mark a floating marker, described at G.L. c. 130 § 38A so as to display the permit number assigned by the Director. The permit numbers shall be not less than three inches in height nor less than ½ inch in thickness or width of line.~~

~~(2) Marking of SCUBA Air Tanks. Any person authorized to take lobster by dive gear, in accordance with G.L. c. 130 §§ 37, 38 or 80 and 322 CMR §§ 7.01(2) or (4), that is using SCUBA gear shall mark the air tank(s) of the diver to display the permit number assigned by the Director. The permit numbers shall be not less than three inches in height nor less than ½ inch in thickness or width of line.~~

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.

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:

(a) Director means the Director of the Massachusetts Division of Marine Fisheries, or his agents or representatives.

(b) Division means the Massachusetts Division of Marine Fisheries, ~~100 Cambridge Street, Boston, Massachusetts 02202.~~

(c) 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.

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

(e) 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 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 1, 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 1 through September 30, 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

(e) vessels may not fish for tuna from September 1 through September 15 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 the attached published chart 6.04-1; 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 6.00~~ **322 CMR 7.01(4)(a)** 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** ~~322 CMR 6.00~~ 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** ~~322 CMR 6.00~~ shall be signed by the applicant. The signature of the applicant shall constitute notice of these regulations 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** ~~322 CMR 6.00~~ 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 6.00**.

(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 to determine whether the regulated fishery permit shall be permanently revoked.

- (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 1, 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 1 through September 30, 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 1 through September 15 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.

6.08: 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.

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, ~~100 Cambridge Street, Boston, Massachusetts 02202.~~

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.

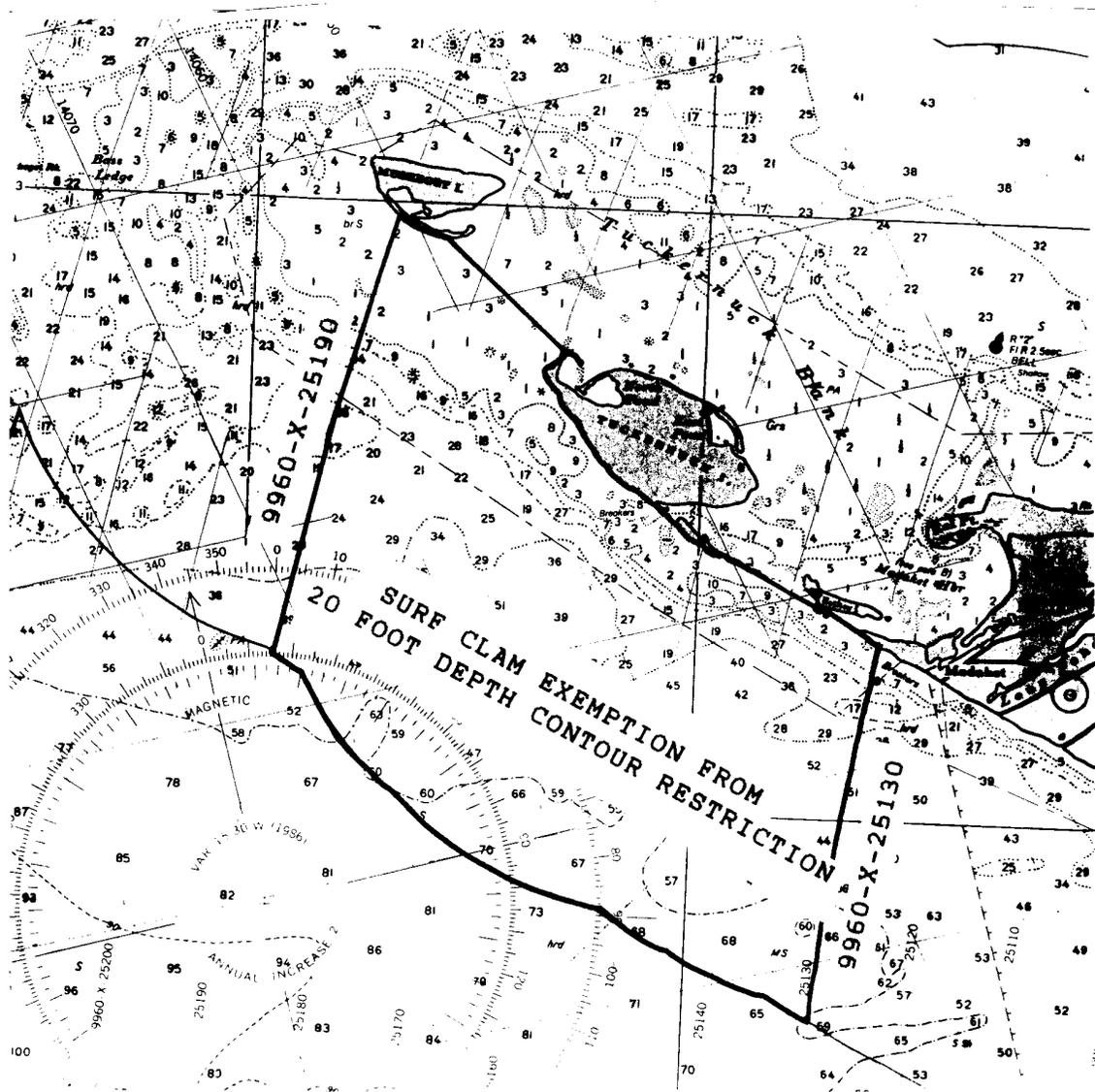
(2) Management Areas. The following prohibitions shall apply to the following areas:

- (a) Dredging for surf clams is prohibited from November 1 to April 30, 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 1 to October 31 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 1 to October 31, 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;
 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.

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.

(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. ~~except in the following area where it is unlawful for any vessel to operate with any hydraulic dredge with an effective fishing width greater than 100 inches: south of Cape Cod within an area circumscribed by an imaginary line beginning at the intersection of the Loran C line 9960-Y-43940 with the Chatham shoreline; thence seaward following the Loran C line 9960-Y-43940 to its intersection with the territorial seas line; thence following the territorial seas line in a southerly direction to its intersection with the 70° W meridian of longitude; thence in a southerly direction along the 70° W meridian of longitude to its intersection with the territorial seas line; thence following the territorial seas line in a southerly direction and south of Nantucket Island and Martha's Vineyard to the Massachusetts/Rhode Island boundary; thence in a northerly direction following the Massachusetts/Rhode Island boundary to the shoreline; thence following the shoreline in an easterly direction to the starting point.~~

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 with 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 1 ½ inch longest diameter. All aquaculturists and their licensed employees, in possession of aquaculture reared surf clams that do not conform to the wild caught minimum sizes at 322 CMR 6.08(3), shall be placed in containers affixed with a red tag or label that clearly displays that the product is “aquaculture reared”.

(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 100 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) Reporting Requirements.~~

~~1. All commercial surf clam and ocean quahog fishing vessels operating in waters under the jurisdiction of the Commonwealth shall provide the Director with an accurate monthly record of the following information:~~

~~a. areas fished;~~

~~b. times fished; and~~

~~c. daily record of surf clams or ocean quahogs harvested by bushel.~~

~~2. Forms for such reporting may be obtained from the Director.~~

~~3. Failure to supply the Director with a monthly report by the fifth day of each month for activities conducted during the preceding month or falsification of any report shall result in the suspension of the Regulated~~

Fishery Permit.

(a) ~~(b) Licensing-Permitting Requirements.~~ A regulated fishery permit endorsement, issued by the Director pursuant to 322 CMR 7.01(4)(a), is required to dredge for surf clams and ocean quahogs. ~~No person shall dredge for surf clams and/or ocean quahogs within waters under the jurisdiction of the Commonwealth without a valid regulated fishery permit issued in the name of the applicant pursuant to the authority of M.G.L. c. 130, §§ 17A and 80. Permits are limited to renewals only pursuant to 322 CMR 7.06.~~

(b) ~~(e) 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) 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 ~~The~~ regulated fishery permit endorsement issued by the Director pursuant to ~~322 CMR 6.08(5)(b)~~ 322 CMR 7.01(4)(a) is required to fish in contaminated areas for surf clams. ~~shall be endorsed by the Division for fishing in contaminated areas specifically named on the permit. No person whose permit is so endorsed may fish for surf clams in areas classified as APPROVED.~~

(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(k).

6.20: Minimum Sizes for 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).

Batch means all shellfish in each separate container.

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.

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) No person shall take or have in possession quahogs less than one inch shell thickness (hinge width) to the amount of more than 5% of any batch unless authorized by a permit issued by the Director.~~

~~(b) No person shall take or have in possession soft shelled clams less than two inches in longest diameter to the amount of more than 5% of any batch unless authorized by a permit issued by the Director.~~

~~(c) No person shall take or have in possession oysters less than three inches in longest diameter to the amount of more than 5% of any batch unless authorized by a permit issued by the Director.~~

(a) **Tolerance for undersized shellfish.** The following minimum sizes shall be subject to a tolerance where the possession of undersized shellfish shall not exceed 5% by count of any batch.

(b) **Wild Caught Minimum Sizes.**

1. **Quahogs.** No person shall take or have in possession quahogs less than 1 inch shell thickness (hinge width).

2. Soft Shelled Clams. No person shall take or have in possession soft shelled clams less than 2 inches in longest diameter.

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

(b) 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 7/8 inch shell thickness (hinge width).

2. Oysters. No aquaculturist or his or her licensed employee thereof shall possess for commercial purposes or sell aquaculture reared oysters less than 2 1/2 inches in longest diameter.

3. All aquaculturists and their licensed employees, in possession of aquaculture reared oysters and quahogs that do not conform to the wild caught minimum sizes at 322 CMR 6.20(2)(b), shall be placed in containers affixed with a red tag or label that clearly displays that the product is "aquaculture reared".

~~(3) Restrictions on Oysters and Quahogs Raised by Aquaculturists and Sold to Dealer. Holders of an aquaculture propagation permit may possess undersized oysters or quahogs produced under the authority of the permit, and may be authorized to sell said shellfish provided the oysters are at least 2 1/2" in longest diameter and the quahogs are at least 7/8 inches in diameter.~~

~~(a) Sales of undersized shellfish by authorized aquaculture propagation permit holders shall be allowed only outside of the Commonwealth by authorized wholesale dealers who are approved as primary buyers by the Director pursuant to 322 CMR 7.07, and are certified by the Department of Public Health for the transport and sale of shellfish outside the Commonwealth.~~

~~(b) Wholesale dealers who receive undersized shellfish from authorized holders of an aquaculture propagation permit are prohibited from selling said product to any person or dealer within the Commonwealth and are prohibited from receiving or selling undersized shellfish from any source outside the Commonwealth.~~

~~(c) No naturally occurring non-aquaculturally reared wild seed may be sold in an amount of more than 5% of any batch as defined at 322 CMR 6.20(1).~~

~~(d) Dealer records shall denote that undersized shellfish are aquaculturally reared and such shellfish shall bear red tags that state "aquaculturally reared."~~

6.21: Whelk Conservation and Management

(1) Definitions. For the purpose of this section, the following terms shall have the following meanings:

(a) Channeled whelk means that species known as *Busycotypus canaliculatus*.

(b) **Commercial fisherman** means any person fishing under the authority of a permit issued in accordance with G.L. c. 130 § 80 and 322 CMR § 7.02 for the purpose of sale, barter or exchange.

(c) Knobbed whelk means that species known as *Busycon carica*.

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

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

(f) **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.

(g) **Standard fish tote** means a container that does not exceed the volume of 6,525 cubic inches.

(h) 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 **3 inches for a period longer than is necessary for immediate measurement and return to the sea.**

~~—i. 2 7/8 inches in 2014; and
i 3 inches in 2015 and beyond.~~

(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 this section, all knobbed whelk and channeled whelk shall be landed whole in the shell and processed at a facility licensed for that purpose.

(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, 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.
 - 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.
- (j) Notice. When 100% of the January 1st through December 31st quota has been reached, notice thereof shall be filed with the Massachusetts Register and made available to all commercial summer flounder permit holders and dealers authorized to purchase summer flounder.

~~**(k) Quota, Seasonal Allocation, and Commercial Fishery Limit Adjustments. The Director may adjust:**~~

- ~~1. the annual quota to correspond to each year's Massachusetts share of the Atlantic States Marine Fisheries Commission annual commercial quota for fluke and to account for other states' transfers of portions of their shares of the annual commercial quota to Massachusetts;~~
- ~~2. seasonal allocations downwards to account for quota overages of the previous year or upwards to account for state quota transfers to Massachusetts; and~~
- ~~3. commercial fishery limits to prevent overages of seasonal allocations, to prevent limits from exceeding limits implemented by other states at any time during the year, and to allow increased landings in response to state quota transfers and/or to ensure that the annual quota is reached~~

~~before December 31st.~~

(3) Permitting Requirements ~~Permits and Reporting Requirements~~.

(a) 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).

~~(a) Dealers shall not purchase summer flounder from commercial fishermen without written authorization from the Director.~~

~~(b) Dealers shall report all purchases of summer flounder by phone and in writing based on schedules established and on forms to be provided by the Division.~~

~~(c) Commercial fishermen selling on consignment shall be considered dealers subject to the permit and reporting requirements of 322 CMR 6.22(3).~~

~~(d) Dealers accepting summer flounder shall weigh and record all summer flounder purchases at the time of landing with pounds landed, date, time, and fishermen's name and permit number for inspection by the Division of Environmental Law Enforcement.~~

~~(e) It is unlawful for dealers to purchase summer flounder in excess of possession limits defined in 322 CMR 6.22(2)(b) and (c).~~

~~(f) A Special Permit shall be:~~

- ~~1. required of all commercial fishermen taking or landing summer flounder in the Commonwealth;~~
- ~~2. carried by the holder at all times when catching, taking, possessing, or selling summer flounder;~~
- ~~3. displayed forthwith on demand by any Environmental Police officer or other official authorized to enforce 322 CMR 6.22; and~~

~~(g) Commercial fishermen shall accurately report their catch of summer flounder to the Director on forms supplied by the Division. Failure to complete and submit an accurate reporting form prior to January 31st or falsification of any such reporting form shall result in suspension, revocation, or a non-renewal of the summer flounder special permit. Said catch reports shall be:~~

- ~~1. filed no later than January 31st of each year;~~
- ~~2. held strictly confidential by the Director; and~~
- ~~3. signed under the pains and penalties of perjury.~~

(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 23rd, 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.

6.24: Sea Urchin Management

(1) Definitions.

(a) Batch means all sea urchins in each separate container.

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

(c) 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.

(d) 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 _ inch or smaller diameter or rope of _ 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).**

(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).**

(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).**

(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).**

(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 during the period February 1st through April 30th.

6.27: Reserved Scup and Black Sea Bass Permitting and Reporting Requirements

~~(1) Permits. A scup and black sea bass special permit issued by the Director shall be:~~

- ~~(a) required of all commercial fishermen taking or landing scup and black sea bass in the Commonwealth;~~
- ~~(b) carried by the holder at all times when catching, taking, or landing scup and black sea bass in the Commonwealth;~~
- ~~(c) displayed forthwith on demand by any Environmental Police officer or other official authorized to enforce 322 CMR 6.27.~~

~~(2) Dealers. It is unlawful for dealers to purchase scup and black sea bass from commercial fishermen without written authorization from the Director.~~

~~(3) Consignment. Commercial fishermen selling on consignment shall be considered dealers subject to the permit and reporting requirements of 322 CMR 6.27(2) and (4).~~

~~(4) Reporting Requirements.~~

- ~~(a) Commercial fishermen shall accurately report their catch of scup and black sea bass to the Director on forms supplied by the Division. Pursuant to M.G.L. c. 130, § 21, catch reports shall be held strictly confidential by the Director, and shall be signed under the pains and penalties of perjury. Failure to complete and submit an accurate reporting form or the falsification of any such reporting form shall result in suspension, revocation or non-renewal of the scup and black sea bass special permit.~~
- ~~(b) Dealers shall report all purchases of scup and black sea bass by phone and in writing based on schedules established and on forms provided by the Division; and~~
- ~~(c) Dealers accepting scup and black sea bass shall weigh and record all scup and black sea bass purchases at the time of landing with pounds landed, date, time, and fishermen's name and permit number for inspection by the Division of Environmental Law Enforcement.~~

6.28: Scup and Black Sea Bass Fishery Restrictions

(1) Definitions.

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

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

Dealer means any wholesale or retail seafood dealer, permitted in accordance with M.G.L. c. 130 § 80 and 322 CMR 7.01(3), who accepts fish from commercial fishermen or other dealers for the purpose of resale, barter or exchange.

For-hire Vessel means a vessel issued a permit pursuant to 322 CMR 7.10(5)(a) 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*.

(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.

i. 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.

ii. 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.

iii. July 1st through Labor Day ~~October 31st~~. 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.

iv. Tuesday following Labor Day through October 31. 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.

i. May 1 through June 9. 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.

ii. June 10 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.

ii Tuesday following Labor Day through October 31. 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.

~~**i. 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 ii.**~~

~~**June 10th through October 31st. During this period, or until the Massachusetts commercial scup quota is reached, it shall be unlawful for a commercial fisherman using trawl gear to possess or land more than 800 lbs of scup, except on Fridays and Saturdays when the possession of scup is prohibited.**~~

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(c).**

(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 10 inches in total length.

2. Private Anglers. It is unlawful for anglers aboard private vessels or fishing from shore to possess scup less than 10 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 a recreational fisherman 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 a recreational fisherman 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 ~~the Director has determined that~~ 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(c).

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

(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 September 16th through May 16th, it is unlawful for a recreational fisherman to possess or land any quantity of black sea bass;

2. Open Fishing Season. From May 17th to September 15th, it is unlawful for a recreational fisherman to possess or land in excess of 8 black sea bass per calendar day;

3. Exemption for For-hire Vessels. For-hire permit holders who apply for and obtain a Letter of Authorization from the Director prior to May 1st may operate for-hire trips with higher bag limits during certain periods and will be subject to closed fishing periods when the retention and landing of black sea bass is prohibited. For-hire permit holders with this authorization may possess black sea bass in accordance with the following limits:

a. Closed Periods. During the period of June 1st through August 31st and October 1st through May 16th, it shall be unlawful for any person onboard an authorized for-hire vessel to possess or land any quantity of black sea bass.

b. Open Periods and Possession Limits.

i. May 17th through May 31st. During this period it shall be unlawful for persons onboard an authorized for hire vessel to possess or land in excess of 8 black sea bass per calendar day.

ii. September 1st through September 30th. During this period it shall be unlawful for persons onboard an authorized for-hire vessel to possess or land in excess of 20 black sea bass per calendar day.

~~(6) Quota, Seasonal Allocation, and Commercial Fishery Limit Adjustments. The Director may adjust through declaration:~~

~~(a) the annual quota to correspond to each year's Massachusetts share of the Atlantic States Marine Fisheries Commission annual commercial quota for scup and black sea bass and to account for other states' transfers of portions of their shares of the annual commercial quota to Massachusetts;~~

~~(b) seasonal allocations downwards to account for quota overages of the previous year or upwards to account for state quota transfers to Massachusetts; and~~

~~(c) commercial fishery limits, including the manner and times of taking fish, legal size limits, as well as numbers and/or quantities of fish to be taken, to prevent overages of seasonal allocations, to prevent limits from exceeding limits implemented by other states at any time during the year, and to allow increased landings in response to state quota transfers and/or~~

~~to ensure that the annual quota is reached before December 31st.~~

~~(d) Declaration Process. A notice has been filed with the Massachusetts Register; a notice has been published by at least one local newspaper; a copy of the notice has been emailed via the Marine Fisheries listserv and posted on the Division's website; a two-week comment period has been conducted by the Division and it has been approved by a majority of the members of the Massachusetts Marine Fisheries Advisory Commission.~~

(6) Permit Requirements

(a) A regulated fishery permit endorsement, issued by the Director pursuant to 322 CMR 7.01(4)(a), 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).

6.30: 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.

Recreational Fisherman means any person authorized pursuant to M.G.L. c. 130 § 17C and 322 CMR 7.10 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), 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).

~~It shall be unlawful for any person to sell or take, possess or land American eels in excess of the non-commercial harvest limit at 322 CMR 6.30(6) without a regulated fishery permit for American eels issued by the Director pursuant to M.G.L. c. 130 § 80 and 322 CMR 7.01(2) and 322 CMR 7.01(4)(a).~~

~~(3) Commercial Reporting. Each holder of commercial fisherman permit, issued pursuant to 322 CMR 7.01(2), shall file a monthly catch report on forms supplied by the Division. This catch report shall include any catch of eels that were harvested to be sold or kept for bait or personal use. Failure to report shall be grounds for suspension and non-renewal of the permit.~~

(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.** ~~Wholesale~~ 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.

(6) **Non-commercial Recreational Harvest Limit.** It is unlawful for **any person recreational fishermen** to **take harvest, possess** or land more than 25 eels per calendar day, or possess more than 25 eels while ~~eel~~ fishing, ~~unless said person holds a regulated fishery permit for American eel~~. This limit shall apply to the vessel regardless of the number of persons on-board.

(a) **Exemption.** It is lawful for for-hire permit holders, permitted pursuant to M.G.L. c. 130 § 17C and 322 CMR 7.10(5), to **take, possess 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 15, 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 $\frac{1}{8}$ 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 $\frac{1}{2}$ x $\frac{1}{2}$ inch inside area.

(c) **Other Gear Restrictions.** During the period of September 1 – December 31, it is unlawful to **attempt to catch or to catch 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.

(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 **fish 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.** ~~or conch pot in waters under the jurisdiction of the Commonwealth without an official state 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 31 for the year of issuance. New tags for the following year will be available after December 1 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 ~~or conch pot tags~~ 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)~~ ~~6.30(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.

(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.

6.34: 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. In addition, the sale and possession of Asian horseshoe crabs is prohibited, to safeguard human and environmental health the importation.

(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. ~~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. 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.~~

(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). 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.

(ab) 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 limited to that purpose. The holder of the biomedical special permit shall not be allowed to obtain a Horseshoe Crab Permit.

~~(b) Permit Moratorium. As of March 28, 2008, the Director may not issue any new regulated fishery permit endorsements for horseshoe crabs. Failure to renew the horseshoe crab regulated fishery endorsement in any calendar year shall result in permit forfeiture to the Division.~~

(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), permitted to harvest horseshoe crabs for bait purposes, in accordance with 322 CMR 7.01(4)(a), 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 fisherman using gears other than mobile gear, as defined in 322 CMR 4.06(1), permitted to harvest horseshoe crabs for bait purposes, in accordance with 322 CMR 7.01(4)(a), to take, possess or land more than 400 horseshoe crabs during any 24-hour period beginning at 12:00 PM (noon).

(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), to take, possess or land more than 1,000 horseshoe crabs during any 24-hour period beginning at 12:00 PM (noon).

(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) or bait dealers permitted in accordance with 322 CMR 7.01(3).

(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) Reporting.~~

~~(a) Harvesters. Each holder of a regulated fishery permit for horseshoe crabs, or a scientific collecting permit shall file a monthly catch report on forms supplied by the Division. Failure to report shall be grounds for suspension or non-renewal of the permit.~~

~~(b) Dealers. Wholesale Dealers and Bait Dealers who purchase horseshoe crabs from licensed fishermen shall register with the Division and record purchases on forms supplied by the Division. Failure to report purchases by the fifth day of each successive month shall be grounds for administrative action.~~

(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.

~~(11) Fishery Limit Adjustments.~~

~~(a) The Director may, by declaration, adjust the manner and times of taking horseshoe crabs, and the legal size limits, numbers and/or quantities of horseshoe crabs 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.~~

- ~~1. a two-week comment period has been conducted by the Division;~~
- ~~2. it has been approved by a majority of the members of the Massachusetts Marine Fisheries Advisory Commission;~~
- ~~3. a notice has been filed with the *Massachusetts Register*;~~
- ~~4. a notice has been published by at least one local newspaper; and~~
- ~~5. a copy of the notice has been emailed via the Marine Fisheries Listserv and posted on the Division's website.~~

(10) Asian Horseshoe Crab Prohibition

- (a) It shall be unlawful to import, transport, purchase, possess, offer for sale, use as bait or release into state waters Asian horseshoe crab species.

6.35: Spiny Dogfish Management

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

Finning means the act of taking a spiny dogfish, removing the fins, and returning the remainder of the spiny dogfish to the sea.

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 allowable commercial landings established by the Director each year. For 2000, the quota is 7,000,000 lbs.

(2) Permit. A regulated fishery **permit endorsement, issued by the Director pursuant to 322 CMR 7.01(4)(a) ~~Special Permit issued by the Director~~** shall be **required of all commercial fishermen taking or landing spiny dogfish in accordance with 322 CMR 6.35. :**

~~(a) required of all commercial fishermen taking or landing spiny dogfish from waters under the jurisdiction of the Commonwealth; and~~

~~(b) carried by the holder at all times when catching, taking, possessing, or selling spiny dogfish taken from waters under the jurisdiction of the Commonwealth; and~~

~~(c) displayed forthwith on demand by any Environmental Police Officer or other official authorized to enforce 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. 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. a 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 Commonwealth's spiny dogfish quota has been reached.

(7) Prohibitions. It is unlawful for any fisherman to fin dogfish. Fins removed at sea must be retained, landed at the same time and in the same location with carcasses, and not exceed a maximum 5% fin to carcass ration, by weight.

~~(8) Commercial Quota. It is unlawful for commercial fishermen to land or possess spiny dogfish when the Commonwealth's spiny dogfish quota has been reached.~~

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 sub-species.

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.

(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)** ~~Commercial Fisherman Permit (boat) endorsed for shellfishing and endorsed for quahog dredging~~. 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.

(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, 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.

~~(7) Control Date. After December 31, 2001, no new quahog dredge endorsements shall be issued. Endorsements issued prior to December 31, 2001, may be renewed. Existing endorsements may be transferred pursuant to 322 CMR 7.06.~~

6.41: The Further Regulation of Possession and Size Limits

- (1) Definitions for the purpose of this section, 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.

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.

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.

- (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. This regulation 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 Allocation-Managed Fisheries. ~~Quota managed species include but are not limited to black sea bass, bluefish, dogfish, fluke, horseshoe crabs, menhaden, scup, sea herring, striped bass, and tautog. The Division of Marine Fisheries manages these commercial fisheries by an annual quota that corresponds to Massachusetts' annual share of the Atlantic States Marine Fisheries Commission's coast-wide quota for that species. In certain instances, the Massachusetts annual quota is divided into period or seasonal allocations that ensure the annual Massachusetts quota is available to the various commercial fishermen that target the species.~~ 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:
- ~~a.~~ **1.** Filed with the Secretary of State, for publication in the Massachusetts Register;
 - ~~b.~~ **2.** distributed via the Division's e-mail list-serve;
 - ~~c.~~ **3.** posted a written Declaration of Closure on the Division's Legal Notice webpage; and
 - ~~d.~~ **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) and 322 CMR 7.07.

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

1. 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 *Marine Fisheries List Serve* and posted on the Division of Marine Fisheries 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.

- i.** 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.** ~~1.~~ 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.** ~~2.~~ 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.
- ii.** 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.** ~~1.~~ 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.** ~~2.~~ 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), 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) have been used on the for-hire vessel.

6.42: Other Minimum Sizes and Possession Limits ~~Restrictions on Hook and Line Gears~~

~~Use of Natural Bait with Embedded or Attached Weights. It shall be unlawful for any person to fish with natural bait that has been rigged with embedded or attached weights or other materials, unless such weights or other materials are attached to the end of the fishing line.~~

(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.

(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.

7.01: Form, Use and Contents of Permits

(1) Definitions. For purposes of 322 CMR 7.01, unless the context requires otherwise, the following words shall have the following meanings:

At-Sea Processing means to receive or transfer fish, fillet fish or shuck shellfish and/or freeze fish or shellfish. At-sea processing does not include the filleting of finfish for personal use as authorized pursuant to 322 CMR 6.41(2)(a); the evisceration of finfish, including the removal of codfish gonads and monkfish livers; the separating of monkfish tails from whole monkfish; and the shucking of bay scallops and sea scallops under the authority of a regulated fishery permit endorsement.

Bait means marine organisms including but not limited to fish, shellfish and seaworms exclusively used to attract and harvest other fish and shellfish.

Commercial Fishing means to take or harvest any fish or shellfish for purposes of sale, barter or exchange, or to keep for personal or family use any fish or shellfish taken under the authority of a commercial permit issued by the Director.

Commercial Purposes means the possession or attempted possession of any fish or shellfish in connection with any person, business or other undertaking intended for sale, barter, exchange or other forms of profit, excluding for-hire recreational fishing businesses permitted in accordance with 322 CMR 7.10(5).

Director means the Director of the Division of Marine Fisheries.

Harvest means to catch, dig, take or attempt to catch, dig or take any fish, shellfish or bait.

Land or Landing as that term is used in 322 CMR 7.00 and in M.G.L. c. 130, § 80 means to transfer or attempt to transfer the catch of fish or shellfish 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.

Mobile Device means any electronic device that can be carried on one's person, such as a smartphone, which is capable of displaying a true, complete and legible image of a current and valid permit issued by the Division.

Mobile Gear means any movable 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, bottom and mid-water pair trawls, Scottish seines, Danish seines, pair seines, purse seines, and sea scallop dredges. For the purpose of this section, mobile gear does not include surf clam and ocean quahog dredges, bay quahog dredges or the use of moveable fishing gear by shellfish fishermen authorized under a local permit to take shellfish and are fishing only within those city or town waters.

Online System means the online recreational permitting system of the Department of Fish and Game and the Division of Marine Fisheries, accessible via the Department's and the Division's website, which allows for the automated issuance of recreational saltwater and non-commercial lobster fishing permits. The purchase online of a recreational saltwater or non-commercial lobster permit requires an electronic signature made after an online affirmation under the pains and penalties of perjury by the applicant that the information provided is true and accurate and that the applicant shall comply with all applicable marine fisheries regulations.

Possession or to Possess means to have custody or control of, or to handle or hold.

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

Registered Length means that length set forth in either the U.S. Coast Guard or Massachusetts Boat and Recreational Vehicle Safety Bureau, whichever is applicable.

Shellfish means clams, conchs, limpets, mussels, oysters, periwinkles, quahogs, razor clams, bay scallops, sea scallops, surf clams, ocean quahogs and winkles.

Vessel means any commercial fishing vessel, boat, ship or other water craft registered under the laws of the Commonwealth (state) as that term is defined in M.G.L. c. 130, § 1, and which is used exclusively to harvest fish or shellfish for purposes of sale, barter or exchange, and shall include any vessel documented under the laws of the United States to carry passengers for hire exclusively to harvest fish or shellfish.

(2) Commercial Fisherman Permits. In order to harvest, possess or land fish, shellfish or bait for commercial purposes, the following permits are required for the following fishing activities:

(a) Coastal Lobster. Issued to a named individual in accordance with 322 CMR 7.01 authorizing the possession and landing of lobster and fish for commercial purposes from waters within the jurisdiction and authority of the Commonwealth in accordance with M.G.L. c. 130, § 38B and 322 CMR 7.01. This permit may be endorsed for the harvest, possession and landing of shellfish and seaworms for commercial purposes. The permit shall include a restriction that memorializes the permit holder's declaration of the ASMFC Lobster Management Areas that the permit holder will fish during a calendar year. If the permit authorizes fishing in more than one Lobster Management Area, the permit holder shall be subject to the most restrictive ASMFC lobster management regulations governing the permitted fishing area, as set forth at 322 CMR 6.01(1)(a) and 6.02(1)(a)&(3).

(b) Offshore Lobster. Authorizes the possession and landing of lobsters harvested from waters outside the jurisdiction of the Commonwealth using a vessel registered under the laws of the state and validly endorsed for FCZ

fishing. This permit shall be further endorsed for gear type to enhance management, reporting, and enforcement of gear-specific trip limits by requiring a non-trap endorsement for those permit holders fishing with non-trap gear; permits fished with trap gear will be the default category and not require a distinct endorsement. Offshore lobster permit holders or users may not also hold, use or have on board an individual non-commercial or family non-commercial lobster permit. The permit shall include a restriction that memorializes the permit holder's declaration of the ASMFC Lobster Management Areas that the permit holder will fish during a calendar year. If the permit authorizes fishing in more than one Lobster Management Area, the permit shall be subject to the most restrictive ASMFC lobster management regulations governing the permitted fishing area, as set forth at 322 CMR 6.01(1)(a) and 6.02(1)(a)&(3).

(c) Boat 100 Feet or Greater. Authorizes the harvest, possession and landing of fish for commercial purposes using a vessel 100 feet registered length or greater. Said permits shall authorize the crew of said vessel to fish under its authority and may be endorsed upon request of the applicant for the harvest, possession and landing of shellfish and seaworms for commercial purposes.

(d) Boat 60 to 99 Feet. Authorizes the harvest, possession and landing of fish for commercial purposes using a vessel from 60 to 99 feet registered length. Said permit shall authorize the crew of the vessel to fish under its authority and may be endorsed upon request of the applicant for the harvest, possession and landing of shellfish and seaworms for commercial purposes.

(e) Boat 0 to 59 Feet. Authorizes the harvest, possession and landing of fish for commercial purposes using a vessel from 0 to 59 feet registered length. Said permit shall authorize the crew of said vessel to fish under its authority and may be endorsed upon request of the applicant for the harvest, possession and landing of shellfish and seaworms for commercial purposes.

(f) Seasonal Lobster. Authorizes only the named individual to harvest, possess and land lobsters for commercial purposes, to be issued only to full-time students no less than 12 years of age and conditioned to authorize the harvest, possession and landing of lobsters for commercial purposes only from June 15th to September 15th of each year and further conditioned to the use of not more than 25 lobster pots.

(g) Shellfish and Seaworms. Authorizes only the named individual to harvest, possess and land shellfish and seaworms for commercial purposes, and may be endorsed for the shucking of bay scallops.

(h) Individual. Authorizes only the named individual to harvest, possess and land fish for commercial purposes. Said permit may be endorsed upon request of the applicant for the harvest, possession and landing of shellfish and seaworms for commercial purposes.

(i) Shellfish/Rod and Reel. Authorizes the harvest, possession and landing of shellfish for commercial purposes and/or the harvest, possession or landing of fish by means of a rod and reel for commercial purposes subject to 322 CMR 7.01(10).

(j) Rod and Reel. Authorizes only the named individual to harvest, possess and land for commercial purposes by means of a rod and reel.

(k) Shellfish Transaction Card. Authorizes only the named individual holding a

commercial fishermen permit endorsed for shellfish and seaworms to sell shellfish and seaworms, and shall be used in conjunction with either a Massachusetts driver's license or a Registry of Motor Vehicles identification card.

(3) Dealer Permits. The following categories of permits may be issued by the Director and are required for the following activities:

(a) Wholesale Dealer. Authorizes the wholesale possession, distribution, processing, sale or resale of raw fish and shellfish. Said permit includes authorization for the retail sale and retail resale of fish and shellfish from a fixed location approved in writing by the Massachusetts Department of Public Health.

(b) Wholesale Broker. Authorizes the wholesale brokering, directing the transport of or any commercial transaction in the sale of raw or processed fish or shellfish.

(c) Wholesale Truck. Authorizes the wholesale possession or distribution of raw or processed fish and shellfish for commercial purposes from a vehicle approved in writing by the Massachusetts Department of Public Health.

Exception: Commercial Lobster Permit holders who also hold a Retail Boat Permit as defined in 322 CMR 7.01(3)(f) shall be exempt from the requirements to obtain this wholesale truck dealer's permit when transporting only live lobsters and live crabs for commercial sale.

(d) Retail Dealer. Authorizes the retail sale of raw fish and shellfish from a fixed location approved in writing by the Massachusetts Department of Public Health.

(e) Retail Truck. Authorizes the retail sale of raw fish from a vehicle approved in writing by a local or county Board of Health.

(f) Retail Boat. Authorizes a fisherman with a Massachusetts commercial fishing permit to sell from a boat to the general public, product he lawfully harvested, including the sale of live lobsters and whole raw fish from a boat. For holders of any commercial lobster permit, the authorization granted under this retail boat dealer's permit shall also include the transport of live lobsters or live crabs, caught aboard the holder's permitted vessel, for sale to the public including to persons and businesses that are not retail or wholesale dealers of raw or processed fish or shellfish.

(g) Bait Dealer. Authorizes the possession and sale of bait.

(4) Special Permits. The following special permits may be issued by the Director for the following activities:

(a) **Regulated Fishery Permit Endorsement**. In accordance with G.L. c. 130 §§ 2 and 80, regulated fishery permit endorsements may be added to commercial fisherman permits, issued pursuant to 322 CMR 7.01(2), to authorize the named individual and/or commercial fishing vessel to harvest, possess or land fish or shellfish or use certain fishing gear in a fishery regulated pursuant to G.L. c. 130 § 17A.

1. Open Access Regulated Fishery Permit Endorsements. The following regulated fishery permit endorsements may be added to commercial fisherman permits, issued in accordance with 322 CMR 7.01(2), and

shall be required:

- a. **American Eel**. For a named individual and/or vessel to commercially fish for American eels within the waters under the jurisdiction of the Commonwealth, or to harvest, possess or land American eels for commercial purposes in the Commonwealth.
- b. **Bay Scallop Shucking**. For a named individual and/or vessel to shuck bay scallops at-sea for commercial or non-commercial purposes.
- c. **Contaminated Surf Clam**. For a named individual and/or vessel to operate a surf clam dredge in shellfish growing area designated by the Division as “PROHIBITED” and to harvest, possess or land surf clams taken from a shellfish growing area designated by the Division “PROHIBITED” for the purpose of being kept or sold as bait.
- d. **Fish Weir**. To operate a fish weir in the waters under the jurisdiction of the Commonwealth or to harvest, possess or land fish or shellfish taken by a fish weir in the Commonwealth.
- e. **Inshore Net Permit**. To operate net gear within the inshore net areas described at 322 CMR 4.02. This regulated fishery permit endorsement is not required for the use of a bait net that measures less than 250 square feet.
- f. **Northern Shrimp**. For a named individual and/or vessel to commercially fish for Northern shrimp within the waters under the jurisdiction of the Commonwealth, or to harvest, possess or land northern shrimp for commercial purposes in the Commonwealth.
- g. **Sea Herring**. For a named individual and/or vessel to commercially fish for Atlantic sea herring within the waters under the jurisdiction of the Commonwealth, or harvest, possess or land Atlantic sea herring for commercial purposes in the Commonwealth.
- h. **Sea Scallop Diving**. For a named individual to commercially fish for sea scallops by hand within the waters under the jurisdiction of the Commonwealth, or to harvest, possess or land sea scallops for commercial purposes that were taken by hand in the Commonwealth.
- i. **Sea Scallop Shucking**. For a named individual and/or vessel to shuck sea scallops at-sea for commercial or non-commercial purposes.
- j. **Sea Urchin Diving**. For a named individual to commercially fish for sea urchins by hand within the waters under the jurisdiction of the Commonwealth, or to harvest, possess or land sea urchins for commercial purposes that were taken by hand in the Commonwealth.
- k. **Sea Urchin Dredge**. For a named individual to operate a sea urchin dredge in the waters under the jurisdiction of the Commonwealth or to harvest, possess or land any sea urchins taken by a sea urchin dredge from the waters under the jurisdiction of the Commonwealth.
- l. **Scup**. For a named individual and/or vessel to commercially fish

for scup within the waters under the jurisdiction of the Commonwealth or harvest, possess or land scup for commercial purposes in the Commonwealth.

l. Spiny Dogfish. For a named individual and/or vessel to commercially fish for spiny dogfish within the waters under the jurisdiction of the Commonwealth, or to harvest, possess or land spiny dogfish for commercial purposes in the Commonwealth.

n. Striped Bass. For a named individual and/or vessel to commercially fish for striped bass within the waters under the jurisdiction of the Commonwealth or to harvest, possess or land striped bass for commercial purposes in the Commonwealth.

o. Surface Gillnet. For named individual named individual and/or vessel to set or fish a gillnet – anchored, drifting or otherwise – that is designed to be, capable of being or is fished in the upper two-thirds of the water column. This regulated fishery permit endorsement is not required for the use of a surface gillnet that measures less than 250 square feet. A named individual and/or vessel that holds a sink gillnet regulated fishery permit endorsement shall not also hold a surface gillnet regulated fishery permit endorsement to fish surface gillnets that exceed 250 square feet.

2. Limited Entry Regulated Fishery Permit Endorsements. Commercial fisherman permits, issued in accordance with 322 CMR 7.01(2), may be endorsed with the following regulated fishery permit endorsements. Pursuant to the authority at G.L. c. 130 § 2, the following regulated fishery permit endorsements are limited entry and may only be renewed and transferred subject to the provisions set forth at 322 CMR 7.06. These regulated fishery permit endorsements are required for the following:

a. Black Sea Bass. For a named individual and/or vessel to commercially fish for black sea bass within the waters under the jurisdiction of the Commonwealth, or to harvest, possess or land any black sea bass for commercial purposes in the Commonwealth.

b. Bluefin Tuna Seine. For a named individual and/or vessel to set or fish for tuna by means of purse seine within the waters under the jurisdiction of the Commonwealth.

c. Bluefish Gillnet. For a named individual and/or vessel to set or fish for bluefish by means of a gillnet, in accordance with 322 CMR 6.18(3), within the waters under the jurisdiction of the Commonwealth.

d. Coastal Access Permit. For a named individual and/or vessel to set or fish with mobile gear within the waters of the jurisdiction of the Commonwealth. Coastal Access Permits may be further endorsed for participation in exempted fisheries authorized at 322 CMR 4.06:

i. Small Mesh Trawl Fishery for Whiting. A Coastal Access regulated fishery permit endorsement may be further endorsed for the use and possession of small mesh trawls to commercially fish for whiting within certain waters under the jurisdiction of

the Commonwealth.

ii. Small Mesh Trawl Fishery for Longfin Squid. A Coastal Access regulated fishery permit endorsement may be further endorsed for the use and possession of small mesh trawls to commercially fish for squid within certain waters under the jurisdiction of the Commonwealth.

iii. North Shore Mobile Gear. A Coastal Access regulated fishery permit endorsement may be further to fish with mobile gear within the Area 5 and Area 6 exemptions to the North Shore Year Round Mobile Gear Closure.

e. Fish Pots. For a named individual to set or fish species-specific fish pots for black sea bass, scup or whelks within the waters under the jurisdiction of the Commonwealth, or to possess, take or land black sea bass, scup or whelks by fish pot for commercial purposes in the Commonwealth. A black sea bass or scup pot regulated fishery permit endorsement holder shall be required to also hold a black sea bass or scup regulated fishery permit endorsement to harvest, possess or land black sea bass and scup for commercial purposes in the Commonwealth.

f. Fluke. For a named individual and/or vessel to commercially fish for summer flounder (fluke) within the waters under the jurisdiction of the Commonwealth, or to harvest, possess or land any summer flounder for commercial purposes in the Commonwealth.

g. Horseshoe Crab Harvest. For a named individual and/or vessel to commercially fish for horseshoe crabs in the waters under the jurisdiction of the Commonwealth or land horseshoe crabs for commercial purposes in the Commonwealth.

h. Menhaden. For a named individual and/or vessel to commercially fish for menhaden within the waters under the jurisdiction of the Commonwealth, or to harvest, possess or land any menhaden for commercial purposes in the Commonwealth. A menhaden regulated fishery permit endorsement is not required to commercially fish for menhaden in the Commonwealth, provided no more than 6,000 pounds of menhaden are possessed at any one time or landed within a calendar day or fishing trip, whichever period is longer.

i. Ocean Quahog and Surf Clam Dredge. For a named individual and/or a vessel to operate an ocean quahog and/or surf clam dredge or to commercially fish for, harvest, possess or land ocean quahogs or surf clams taken by ocean quahog and/or surf clam dredge gear from the waters under the jurisdiction of the Commonwealth.

j. Quahog Dredge. For a named individual and/or vessel to operate a bay quahog dredge or to commercially fish for, harvest, possess or land bay quahogs taken by bay quahog dredge gear from the waters under the jurisdiction of the Commonwealth seaward of the outer jurisdiction of coastal cities and towns to regulate shellfish pursuant to G.L. c. 130 § 52, as appearing on official maps of the Commonwealth prepared pursuant to G.L. c. 1 § 3.

k. Sink Gillnet. For a named individual or vessel to set or fish a gillnet – anchored or otherwise – that is designed to be, capable of being or is fished in the lower third of the water column in waters under the jurisdiction of the Commonwealth. Sink gillnet regulated fishery permit endorsements are not transferable. Holders of a sink gillnet regulated fishery permit may fish surface gillnets under the authority of this permit.

l. State-Waters Groundfish. For a named individual or vessel to commercially fish for regulated groundfish, as defined at 322 CMR 6.03(1), or to harvest, possess or land any regulated groundfish for commercial purposes taken from waters under the jurisdiction of the Commonwealth. A state-waters groundfish regulated fishery permit endorsement is not required for vessels that hold a federal multi-species groundfish or monkfish permit or for a commercial fisherman to harvest, possess and land up to 25 pounds of whole or eviscerated regulated groundfish for commercial purposes.

~~—(a) Regulated Fishery Authorizes the named individual and/or a commercial fishing vessel to engage in the harvest, possession and landing of fish or shellfish from a fishery regulated pursuant to M.G.L. c. 130, § 17A, to be issued in addition to those permits required pursuant to 322 CMR 7.01(2).~~

~~1. State Waters Multispecies Groundfish Endorsement. Authorizes only the named individual and/or vessel to harvest and possess for commercial purposes from waters under the jurisdiction of the Commonwealth any regulated groundfish species, as defined at 322 CMR 6.03(1).~~

~~a. State Waters Multispecies Groundfish Endorsement Eligibility. The Director may issue a single State Waters Multispecies Groundfish Endorsement to permit holders who held a state-issued commercial permit on November 4, 2004, renewed their permit in 2005, and are not authorized by a federal permit to take Multispecies Groundfish or monkfish. The Multispecies Groundfish Endorsement may only be issued as an endorsement on the state-issued commercial boat and lobster permits, but not the seasonal lobster permit.~~

~~b. Exceptions.~~

~~i. Limited Harvest of Multispecies Groundfish in State Waters. Notwithstanding permit prohibitions on the take of finfish described in 322 CMR, any state permitted commercial fisherman who does not hold a State Waters Multispecies Groundfish Endorsement may take, possess and sell regulated groundfish species, as defined at 322 CMR 6.03(1), in accordance with 322 CMR 6.03(13)(b).~~

~~ii. Eligibility for Permit Holders Who Have Surrendered Their Federal Permits. Notwithstanding permit prohibitions on~~

~~eligibility described in 322 CMR 7.01(4)(a), the Director may issue a single State Waters Multispecies Groundfish Endorsement to a state-issued commercial permit holder for a vessel that has been authorized by a federal permit to take Multispecies groundfish or monkfish if the permit holder has surrendered said federal permit to NOAA Fisheries.~~

~~e. Renewals. In 2007 and beyond, the Director may issue a State Waters Multispecies Groundfish Endorsement only to those commercial fishermen who received a State Waters Multispecies Groundfish Endorsement in 2006 and renew their permits in accordance with 322 CMR 7.00.~~

~~2. Striped Bass. Authorizes only the named individual and/or commercial fishing vessel to take, possess and land striped bass for commercial purposes in accordance with 322 CMR 6.07: Striped Bass Fishery (*Morone Saxatilis*). All persons must apply for or apply to renew their commercial striped bass regulated fishery permit prior to the last day of February in the effective permitting year.~~

~~3. Gillnets. A regulated fishery permit shall be required to set, fish, or harvest any species by means of a gillnet.~~

~~a. Sink Gillnet Permit. Authorizes only the named individual and/or vessel to use 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. Sink gillnet permits are limited to renewals only and are not transferable. Holders of sink gillnet permits may fish surface gillnets under the authority of their sink gillnet permit.~~

~~b. Surface Gillnet Permit. Authorizes only the named individual and/or vessel to use a gillnet, anchored, drifting or otherwise, that is designed to be, capable of being, or is fished in the upper of the water column. Exemptions: No permit shall be required for fishermen using a surface gillnet less than 250 square feet.~~

~~c. Catch Reports. All sink gillnet and surface gillnet permit holders shall report their catch to the Director on forms supplied by the Division.~~

~~4. Menhaden. A regulated fishery permit shall be required to harvest, possess or land Atlantic menhaden for commercial purposes. This permit authorizes only the named individual and/or vessel to catch and retain or land more than 6,000 lbs. of menhaden.~~

~~a. Eligibility. For 2014, the Director may issue a single Atlantic Menhaden Regulated Fishery Permit Endorsement to a Massachusetts commercial fisherman permit holder, provided:~~

~~i. there is valid documentation of landing more than 6,000 pounds of Atlantic menhaden in Massachusetts during any trip in 2009, 2010, 2011 or 2012; or~~

~~ii. the individual holds a commercial inshore net permit endorsement that authorizes the use of purse seines in the inshore net areas, as described at 322 CMR 4.02; or~~

~~iii. the individual held a 2013 Coastal Access Permit, issued~~

~~pursuant to M.G.L. c. 130 §§ 2 and 80 and 322 CMR 7.05, prior to July 1, 2013 or obtains a limited entry Coastal Access Permit through transfer, pursuant to M.G.L. c. 130 § 2 and 322 CMR 7.06, after July 1, 2013.~~

~~b. Renewals. In 2015 and beyond the Director may issue an Atlantic Menhaden Regulated Fishery Permit Endorsement to only those commercial fisherman permit holders who received an Atlantic Menhaden Regulated Fishery Permit Endorsement in 2014 and have renewed their permits in accordance with 322 CMR 7.00.~~

(b) Non-Commercial Fishing Permits.

1. Recreational Saltwater Fishing Permits. Pursuant to M.G.L. c. 130 § 17C and 322 CMR 7.10, the Director may issue a recreational saltwater fishing permit to authorize:

- a. recreational saltwater fishing; and
- b. for-hire vessels.

2. Non-commercial Lobster. Pursuant to M.G.L. c. 130 § 38, the Director may issue a non-commercial lobster permit to authorize:

- a. Pot Fishing. Issued to a named individual authorizing the harvest, possession and landing of lobsters by means of pots for non-commercial purposes by that individual or by members of that individual's immediate family residing in the same household.
- b. Diver Fishing. Issued to a named individual authorizing the harvest, possession and landing of lobsters by diving for non-commercial purposes by that individual only. A noncommercial lobster permit may not be carried on board any vessel fishing under authority of an offshore lobster permit.

(c) Special Project. Authorizes only the named individual to engage in a specified marine fishery project including but not limited to aquaculture, mariculture, scientific, environmental or biological collection and study, assessments or experimentation, collection and possession for educational purposes, shellfish relay and shellfish propagation.

(d) Anadromous Fish Passageway. Authorizes the named individual to carry out activities related to the construction, reconstruction, repair, or alteration of any anadromous fish passageway as defined in M.G.L. c. 130, §§ 1 and 19.

(e) At-Sea Processing. **A special permit is required for the commercial at-sea processing of fish or shellfish in the waters under the jurisdiction of the Commonwealth. This permit is not required for the evisceration of finfish, including the removal of cod gonads and monkfish livers; the removal of monkfish tails from monkfish; the shucking of bay scallops and sea scallops under the authority of a bay scallop or sea scallop shucking regulated fishery permit endorsement; or to keep fish parts for personal use as authorized pursuant to 322 CMR 6.41(2)(a).**

(f) Special Biomedical Horseshoe Crab Harvest Permit. **For a named individual to harvest horseshoe crabs exclusively for use by the biomedical industry for the manufacturing of *limulus lysate* or for sale to a permitted scientific**

institution for the purpose of research. The holder of a biomedical harvest permit shall not also hold a horseshoe crab harvest regulated fishery permit endorsement.

- (5) Application. Applicants for a permit shall comply with the following requirements:
- (a) Forms. Applications for a permit shall be on forms supplied by the Director. A separate application shall be made for each individual, boat, vessel, plant, firm, establishment, corporation, partnership or other business entity.
 - (b) Information. An application for a permit required by M.G.L. c. 130 and 322 CMR 7.01 shall contain and include the following:
 - 1. the name and address of the applicant;
 - 2. the date of birth of the applicant;
 - 3. the last four digits of either the applicant's social security number or federal identification number;
 - 4. for applicants for a commercial fishermen permit endorsed for shellfish, the applicant's Massachusetts driver's license number or Registry of Motor Vehicles identification number;
 - 5. the name of the commercial fishing vessel;
 - 6. the required length of the fishing vessel;
 - 7. the Massachusetts vessel registration number;
 - 8. the homeport of the commercial fishing vessel; and
 - 9. the true and accurate signature of the applicant;
 - 10. any other information sufficient to fully identify the particular activity to be undertaken and the intended use for the permit.
 - (c) Conditions. The following permit applicants shall comply with the following conditions:
 - 1. Master digger permit applicants shall submit with their application a valid bond as required by 322 CMR 7.02(2)(b);
 - 2. Dealer permit applicants shall submit with their application an approved health inspection certificate validly issued by the Department of Public Health pursuant to a health inspection of the applicant's premises;
 - 3. Seasonal lobster permit applicants shall submit an affidavit supplied by the Director signed under the pains and penalties of perjury attesting to their full-time student status; and
 - 4. Shellfish and seaworm permit applicants shall, for a bay scallop endorsement, submit a certified sanitary inspection approved by the Massachusetts Department of Public Health.
 - (d) Multiple Applications. A separate application shall be made for each individual, boat, vessel, plant, firm, establishment, corporation, partnership or other business entity.
 - (e) Signature. Permit applicants shall comply with the following applicable signature requirements:
 - 1. Applicants for recreational saltwater fishing permits and non-commercial lobster fishing permits issued in accordance with 322 CMR 7.01(4)(b) and 322 CMR 7.10 through the Online System shall electronically sign their

permit after making an online affirmation under the pains and penalties of perjury that the information provided is true and accurate and that the applicant shall comply with all applicable marine fisheries regulations.

2. Applicants for all other permits issued to an individual in accordance with 322 CMR 7.01 shall sign their name on the paper application and the permit.

3. Except as otherwise provided at 322 CMR 7.01(5)(f), whenever a permit is issued to a boat, vessel or business entity, the permit may be signed by of the owner of the boat or vessel or by a duly authorized officer of the business entity that includes the true and correct business title of the duly authorized officer.

(f) Exception. Coastal lobster permits shall be issued to and renewed by a named individual only. The permit application and the permit itself shall be signed by a named individual who shall be the holder. In no event may a coastal lobster permit be issued to or renewed by a business entity or an officer of a business entity.

(g) Effect of Signature. The applicant's signature on either the paper application or their electronic signature through the Online System shall constitute:

1. a declaration under the pains and penalties of perjury that all information contained in the application is true and accurate to the best belief of the applicant;

2. a statement that the applicant and all individuals conducting the activity under authority of the permit have read and are familiar with all applicable statutes contained in M.G.L. c. 130, all applicable regulations contained in 322 CMR and agree to fully comply therewith; and

3. an agreement to display all fish in possession of the applicant and all individuals conducting the activity under authority of the permit to any officer authorized to enforce the marine fishery laws of the Commonwealth.

(h) Fees. All fees required in accordance with M.G.L. c. 130, § 83 shall accompany each application in the form of checks or money orders made payable to the Commonwealth of Massachusetts. Cash may be used only when the application is made in person. In the event an applicant's personal check is not honored by the payor or bank, the permit issued to such applicant shall be void until such time as the required fee in the form of a bank check, certified check or postal money order is received by the Director. Any activity conducted by the applicant under the purported authority of said permit five or more days subsequent to the mailing to the applicant of a notice of the dishonored check shall constitute a violation of the applicable provisions of M.G.L. c. 130 and 322 CMR.

(6) Issuance. Permits shall not be validly issued or of full force and effect unless following applicable requirements are met:

(a) Paper permits must:

1. identify the activity which is authorized or the privilege which is granted by the Director;

2. contain a financial transaction number;
3. contain a permit number;
4. contain a date of issuance;
5. contain a true and accurate copy of the Director's signature;
6. contain a true and accurate signature of the holder, or if a boat, vessel or business entity, the owner, master or duly authorized officer of the business entity including his or her business title.

(b) Recreational salt water fishing permits and non-commercial lobster permits issued through the Online System must be based on a completed form provided by the Director through the Online System and electronically signed in accordance with 322 CMR 7.01(5)(e).

(7) Conditions. The Director may at any time, in his discretion, attach any written conditions or restrictions to the permit deemed necessary or appropriate for purposes of conservation and management or to protect the public health, welfare and safety.

(8) Duplicates. Duplicate permits may be issued by the Director provided that a satisfactory affidavit signed under the pains and penalties of perjury is submitted by the person who signed the original application and permit attesting to the disposition of the original permit sought to be replaced.

(9) Suspension and Revocation. In accordance with M.G.L. c. 30A, §§ 10, 11 and 13, and pursuant to the procedural rules of 801 CMR 1.00, any permit issued by the Director may be suspended or revoked for falsifying any application form, violation of any condition or restriction of the permit, or for violation of any provision of M.G.L. c. 130 or 322 CMR.

(10) Alteration. Any permit validly issued by the Director which is subsequently and substantially altered, erased or mutilated is invalid.

(11) Expiration. All permits validly issued shall expire on December 31 following the date of issuance unless otherwise provided by law, modified or extended by the Director in writing, or suspended or revoked by the Director or a court of competent jurisdiction.

(12) Transfer. Unless otherwise provided in writing by the Director, or in accordance with 322 CMR or M.G.L. c. 130, permits may not be transferred, loaned, leased, exchanged, bartered, sold or possessed by a person other than the holder, boat, vessel, or business entity to which it was issued.

(13) Requirement to Accommodate Sea Samplers. For the purpose of observing and acquiring information about fishing operations and sampling catches for biological information, all permit holders, as condition of their permit, shall agree to take on board and provide safe access for sea samplers authorized by the Division of Marine Fisheries at a location established by the Division.

(14) Prohibitions. It is unlawful to:

- (a) conduct any marine fishery activity which is subject to a permit pursuant to M.G.L. c. 130 or 322 CMR without such permit or during a period of suspension or revocation of the permit, or five days after the mailing of a notice pursuant to 322 CMR 7.01(5)(d);
- (b) falsify any application form, documentation or letters of support in conjunction with any application form;
- (c) alter, erase, mutilate or falsify any permit issued by the Director;
- (d) violate or fail to comply with any permit condition or restriction;
- (e) transfer, loan, lease, exchange, barter or sell any permit or for any person other than the holder to possess a permit except as otherwise provided for in writing by the Director or in accordance with 322 CMR or M.G.L. c. 130;
- (f) violate any provision of M.G.L. c. 130 or 322 CMR when conducting an activity authorized by permit;
- (g) fail to produce a permit upon demand of any officer authorized to enforce the marine fishery laws of the Commonwealth, except that persons who have purchased a recreational saltwater fishing permit or non-commercial lobster permit through the Online System may produce their permit by displaying a true, complete and legible image of it on their mobile device;
- (h) fail to display fish harvested or possessed under authority of a permit to any officer authorized to enforce the marine fishery laws of the Commonwealth;
- (i) harass, threaten, intimidate, coerce or assault any officer authorized to enforce the marine fishery laws of the Commonwealth;
- (j) have more than one individual, boat, vessel or business entity fish or conduct business under authority of a permit, unless otherwise provided for in M.G.L. c. 130, 322 CMR or in writing by the Director;
- (k) sell or offer to sell any shellfish harvested under authority of a commercial fishermen permit endorsed for shellfish to any person without a valid Massachusetts shellfish transaction card and either a valid Massachusetts driver's license or a Registry of Motor Vehicles Identification card;
- (l) have a non-commercial lobster permit on board any vessel fishing under authority of an offshore lobster permit;
- (m) conduct any activity designed to construct, reconstruct, rebuild, repair, or alter any anadromous fish passageway as defined in M.G.L. c. 130, §§ 1 and 19, or to construct or build any new anadromous fish passageway without a special permit issued pursuant to 322 CMR 7.01(4).
- (n) to sell or offer to sell any regulated groundfish species as defined in 322 CMR 8.12(1) harvested by persons aboard vessels that are engaged in for-hire fishing.
- (o) obtain multiple State Waters Multispecies Groundfish Endorsements for the same vessel regardless of the number of commercial permits associated with said vessel.
- (p) obtain a State Waters Multispecies Groundfish Endorsement for a vessel authorized to take Multispecies Groundfish or monkfish under a federal permit.

(q) obtain a State Waters Multispecies Groundfish Endorsement for a vessel authorized on or before January 1, 2006 to take Multispecies Groundfish or monkfish under a federal permit if that federal permit has been transferred, leased or sold on or after January 1, 2006;

(r) any vessel to engage in the at-sea transfer of any fish or shellfish subject to possession limits established pursuant to 322 CMR 6.41.

~~(r) take, possess or sell greater than 75 lbs. of cod harvested from waters under the jurisdiction of the Commonwealth without a State Waters Multispecies Groundfish Endorsement or a valid federal permit authorizing the take and/or possession of Multi-species Groundfish or monkfish.~~

(t) any vessel with an at-sea processing permit to process any fish or shellfish subject to minimum size limits established pursuant to 322 CMR.

(u) any wholesale truck or retail dealer permit holder to accept raw shellfish from a commercial fisherman or to act as a primary buyer of shellfish.

7.02: Master and Subordinate Digger Permits

(1) Definitions. For purposes of 322 CMR 7.02 only the following words shall have the following meanings:

Moderately Contaminated Shellfish means any shellfish from an area classified as "restricted" and suitable for the harvest of shellfish with purification.

Purification means the process of purifying moderately contaminated shellfish at the purification plant operated by the Division and located at Plum Island, Newburyport, Massachusetts.

Director means the Director of the Division of Marine Fisheries or his designee, ~~251 Causeway Street, Suite 400, Boston, MA 02114.~~

Division means the Massachusetts Division of Marine Fisheries.

DPH means the Massachusetts Department of Public Health, ~~Division of Food and Drugs, 305 South Street, Jamaica Plain, Massachusetts.~~

Master Digger means any person authorized by the Director pursuant to 322 CMR 7.02 to engage in the harvest, possession and transportation of moderately contaminated shellfish.

Subordinate Digger means any person authorized by the Director pursuant to 322 CMR 7.02 to harvest and possess moderately contaminated shellfish for sale to a master digger only.

- (2) Master Digger Eligibility. An applicant for a master digger permit shall:
- (a) be at least 18 years of age or older, and, except for renewals, shall present documented proof of birth date in person at the Division office in Boston;
 - (b) be bonded by a recognized insurance bonding company to assure full faith and compliance with 322 CMR 7.02, 322 CMR 10.00, DPH regulations at 105 CMR 515.000: *Action Levels for Poisonous or Deleterious Substances in Food*, 105 CMR 520.000: *Labeling*, 105 CMR 525.000: *Newburyport Shellfish Treatment Plant*, and 105 CMR 533.000: *Fish and Fishery Products*, M.G.L. c. 130, §§ 74, 75 and 80 and any other conditions or restrictions applicable to the master digger permit. Said bond shall be a surety bond in the sum of \$1,000.00 fully executed with an effective term coextensive with that of the master digger permit, generally from January 1 to December 31 of each year. Master diggers with one prior judicial or administrative conviction related to the above mentioned statutes and regulations shall be required to obtain a bond in the amount of \$2,500.00. Master diggers with two or more prior judicial or administrative sanctions shall be required to obtain a bond in the amount of

\$5,000.00;

(c) submit a satisfactory annual DPH inspection certificate certifying that the transport vehicle used by the applicant fully complies with appropriate sanitary standards and requirements of the latest revision of part II of the National Shellfish Sanitation Program manual of operations pertaining to the interstate shipment of shellfish; and

(d) submit a signed statement on forms supplied by the Director that the applicant has read, is familiar with and agrees to fully comply with 322 CMR 7.02, 322 CMR 10.00, DPH regulations at 105 CMR 515.000: *Action Levels for Poisonous or Deleterious Substances in Food*, 105 CMR 5.20.000: *Labeling*, 105 CMR 525.000: *Newburyport Shellfish Treatment Plant*, and 105 CMR 533.000: *Fish and Fishery Products*, M.G.L. c. 130, §§ 74A, 75 and 80 and any other conditions or restrictions applicable to the master digger permit.

(3) Subordinate Digger Eligibility. An applicant for a subordinate digger permit shall:

(a) be at least eighteen years of age or older, and, except for renewals, shall present documented proof of birth date in person at the Division;

(b) submit a signed statement on forms supplied by the Director that the applicant has read, is familiar with and agrees to fully comply with 322 CMR 7.02, 322 CMR 10.00, DPH regulations at 105 CMR 515.000: *Action Levels for Poisonous or Deleterious Substances in Food*, 105 CMR 520.000: *Labeling*, 105 CMR 525.000: *Newburyport Shellfish Treatment Plant*, and 105 CMR 533.000: *Fish and Fishery Products*, M.G.L. c. 130, §§ 74, 74A, 75 and 80 and any other conditions or restrictions applicable to the subordinate digger permit.

(4) Restrictions. A master or subordinate digger shall not harvest, possess, transport, or sell any shellfish from:

(a) an approved area, unless the master or subordinate digger permit is in the possession of a duly appointed shellfish constable in a city or town with shellfish management plan approval by the Director;

(b) an area classified as prohibited and closed to shellfishing by the Director;

(c) any other area which is not opened by the Director for moderately contaminated shellfishing and classified as restricted.

(5) Conditions. Master and subordinate digger permits may be conditioned by the Director, at any time, to limit the days on which moderately contaminated shellfish may be harvested, the number of racks to be harvested by each digger, or any other condition necessary to limit the harvest of moderately contaminated shellfish to the capacity of the purification plant, or to insure proper maintenance of shellfish growing areas. Permit conditions shall be effective upon posting and five days after mailing to the master digger permit holders; except that permit conditions shall be effective upon verbal notification from any Division employee, environmental police officer, or shellfish constable when the Director determines that immediate action is necessary for the public health, welfare and safety.

(6) Enforcement Report. Alleged violations by a master digger or subordinate digger of 322 CMR 7.02, 322 CMR 10.00, DPH regulations at 105 CMR 515.000: *Action Levels for Poisonous or Deleterious Substances in Food*, 105 CMR 520.000: *Labeling*, 105 CMR 525.000: *Newburyport Shellfish Treatment Plant*, and 105 CMR 533.000: *Fish and Fishery Products*, M.G.L. c. 130, §§ 74, 74A, 75 and 80, or any other condition or restriction applicable to the permit shall be submitted to the Director in writing by any officer authorized to enforce the marine fishery laws of the Commonwealth, or charged to investigate alleged violations thereof.

(7) Permit Suspension. Upon receipt of a written enforcement report alleging violations by a master or subordinate digger, the master digger permit or subordinate digger permit shall be suspended. Such suspension shall not be effective until the master or subordinate digger is in receipt of:

- (a) the written enforcement report;
- (b) a notice of statutory permit suspension setting forth the grounds and authority for the suspension; and
- (c) an order to show cause establishing a date, time and location for an adjudicatory proceeding and informing the respondent of his or her right to request an expedited proceeding at an earlier date.

(8) Adjudicatory Proceeding. The Director, or his authorized designee, shall as expeditiously as possible conduct an adjudicatory proceeding to adjudicate the alleged violations contained in the enforcement report under authority of M.G.L. c. 130, § 80, and pursuant to M.G.L. c. 30A and the formal rules of adjudicatory practice and procedure appearing at 801 CMR 1.01.

(9) Sanctions. Based on the record of the adjudicatory proceeding including the findings of fact, conclusions of law and the recommendation of the presiding officer as contained in the memorandum of final decision, the Director, if a violation of violations are found of 322 CMR 7.02, 322 CMR 10.00, DPH regulations at 105 CMR 515.000: *Action Levels for Poisonous or Deleterious Substances in Food*, 105 CMR 520.000: *Labeling*, 105 CMR 525.000: *Newburyport Shellfish Treatment Plant*, and 105 CMR 533.000: *Fish and Fishery Products*, M.G.L. c. 130, §§ 74, 74A, 75 and 80, or any other condition or restriction applicable to the master digger permit, may take the following administrative action:

- (a) For the first offense - a 30 day suspension of the master digger or subordinate digger permit.
- (b) For a second offense:
 1. a 60 day suspension of the master digger or subordinate digger permit; and
 2. in the case of a master digger, enforcing the terms and conditions of the bond through payment of the bond value or portion thereof by the master digger and, in the event of his or her default, by the insurance company as surety.
- (c) For a third offense:
 1. not less than a 90 day nor more than one year suspension of the master or

subordinate digger permit; and

2. in the case of a master digger, enforcing the terms and conditions of the bond through payment of the bond value or portion thereof by the master digger and, in the event of his or her default, by the insurance company as surety.

(d) For a fourth offense:

1. revocation of the master or subordinate digger permit;

2. prohibiting for a period of time to be determined by the Director the issuance of a new mater digger or subordinate digger permit; and

3. in the case of a master digger, enforcing the terms and conditions of the bond through payment of the bond value or portion thereof by the master digger and, in the event of his or her default, by the insurance company as surety.

(10) Administrative Action. The Director may take additional administrative action necessary for the public health, welfare and safety whenever an enforcement report is submitted to him an an order to show cause is issued by him including but not limited to:

(a) establishing a temporary moratorium on the approval and issuance of any new master digger or subordinate digger permits to any applicant pending the outcome of the scheduled adjudicatory proceeding;

(b) disapproval of the nomination by any master digger or a new supervisor or transportation agent pending the outcome of the adjudicatory proceeding; and

(c) disapproval of the use by any master digger of the shellfish transportation vehicle used by the master digger who is the subject of the adjudicatory proceeding pending the outcome of said proceeding.

7.05: Coastal Access Permit (CAP)

- (1) The purpose of 322 CMR 7.00 is to help prevent:
 - (a) uncontrolled, opportunistic, new mobile gear fishing effort from developing in state waters by commercial fishermen not traditionally dependent on state waters' fisheries, and
 - (b) a shift of mobile gear effort from federal to state waters in response to the 50% fishing effort reduction scheduled by the New England Fishery Management Council to occur by 1998 and described in the Council's Amendment #5 to the Northeast Multispecies Fishery Management Plan. Furthermore, its purpose is to establish the basis for developing a more comprehensive limited access program involving additional conservation measures and CAP transfers.

- (2) **Definitions. For the purpose of this regulation the following terms shall have the following meanings:**

Baseline vessel means the length and horsepower of the authorized vessel listed on the permit when the permit was first issued in 1992 or the length and horsepower of the most recently upgraded vessel.

Eligibility Period means January 1, 1989 through the April 2, 1992 commercial fisheries control date described in 322 CMR 7.04.

Mobile Gear means any movable 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, bottom and mid-water pair trawls, Scottish seines, Danish seines, pair seines, purse seines, and sea scallop dredges.
~~Shellfishermen authorized by city or town regulations to take shellfish under authority of a local permit and fishing only within those city or town waters are exempt from 322 CMR 7.05.~~

Vessel Overall Length means the horizontal distance between the outboard side of the foremost part of the stem and the outboard side of the aftermost part of the stern, excluding rudders, outboard motor brackets, and other similar fittings and attachments.

- (3) **Permit Holders. All mobile gear fishermen fishing in waters under the jurisdiction of the Commonwealth shall obtain a coastal access regulated fishery permit endorsement, issued pursuant to 322 CMR 7.01(4). This permit endorsement is not required for shellfish fishermen that either hold a regulated fishery permit endorsement to operate an ocean quahog, surf clam, or bay quahog dredge or are authorized by city or town regulations to take shellfish under the authority of a local permit and are fishing only within those city and town waters.**

(4) Permit Endorsements. The coastal access permit may be endorsed by the Director allowing the permit holder to participate in fisheries described in 322 CMR 3.02(2), 8.08(3), (4), (5) and (6).

(5) Prohibition. It is unlawful for mobile gear fishermen to fish in waters under the jurisdiction of the Commonwealth without a coastal access permit. The coastal access permit shall be carried by the holder at all times and shall be displayed forthwith on demand of any Environmental Police officer or other official authorized to enforce regulations in 322 CMR.

(6) Renewals. The Director shall renew all limited entry permits for which transfers are authorized by 322 CMR 7.06, in accordance with 322 CMR 7.01, provided that renewal applications and all required catch reports are received by February 28th of each year, and the renewal process, including late renewals approved for sufficient cause, is completed prior to June 30th of each year.

(7) Forfeiture. Beginning January 1,2000, all limited entry permits subject to 322 CMR 7.06 which are not renewed in accordance with 322 CMR 7.06(2) shall be forfeited to the Division. All forfeited permits shall be retired.

(8) Moratorium. A Coastal Access Permit will be issued only to mobile gear fishermen who renew their permits in accordance with 322 CMR 7.05(6). Purse seiners fishing for sea herring, menhaden, may apply for a Coastal Access permit exclusively for purse seining and are exempted from the moratorium.

(9) Eligibility Criteria. (Reserved)

(10) Appeals Process. (Reserved)

(11) Coastal Access Permit (CAP) Transfer Criteria. (Reserved)

(12) Vessel Replacement

(a) Guidelines. A Coastal Access Permit holder may change the authorized vessel listed on the permit provided that the replacement vessel does not exceed the horsepower of the **baseline** vessel ~~being replaced~~ by more than 20%, and **overall length of the baseline vessel overall, gross registered or net tonnage does not exceed those of the vessel being replaced** by more than 10%. Vessel length overall shall not exceed that specified in 322 CMR 7.05(13). ~~Changes~~ **Vessel upgrades** may occur only once during any five year period. The permit holder must document his/her ownership of the authorized vessel.

(b) Exception. Coastal Access Permit holders authorized to fish a vessel that measures ~~40~~ **50** feet or less in length overall may appeal to the Director for an exemption to exceed the allowed increases in **overall length and/or tonnage** up to 20%. The Director may not grant the appeal if the vessel being replaced remains in a federal fishery using mobile gear.

(13) Vessel Length Limit.

(a) Limit. Beginning in 1995 the issuance of a Coastal Access Permit shall be limited to those fishermen who held a Coastal Access Permit in 1994 and with vessels equal to or less than 72 feet in overall length. For those vessels determined by the Director to need verification of overall length, written certification of overall length shall be obtained by the vessel owner based on the vessel's construction plans or by a marine surveyor certified by the National Association of Marine Surveyors or accredited by the Society of American Marine Surveyors, and shall be submitted to the Director.

(b) Exceptions.

1. The maximum vessel length limit of 72 feet in overall length may be waived for vessels that were built in or prior to the year 1945 provided the mobile gear fisherman held a 1994 Coastal Access Permit for that vessel, and provided further that the mobile gear fisherman had not previously exercised his right to replace the vessel listed on his 1994 Coastal Access Permit. Replacement vessels shall meet the length and performance requirements effective at the time of transfer.

2. The maximum vessel length limit of 72 feet in overall length may be waived for permit holders who apply for a Coastal Access Permit exclusively for purse seining provided that the permit holder and vessel legally fished with a purse seine for menhaden, herring or mackerel in Massachusetts waters since 1995. Replacement vessels shall meet the 72 foot maximum vessel length requirement.

8.01: Purpose and Scope

The Massachusetts Marine Fisheries Advisory Commission, concerned about impacts from increased fishing effort on the Commonwealth's inshore fisheries resources, has adopted conservation and management strategies to cap fishing effort in state waters and has established timetables for further actions in the future. Regulations which implement these strategies are designed to address both the recent, sharp decline in abundance of many of the most important fisheries resources inhabiting state waters and the poor near-term prospects for inshore fisheries. Inshore fisheries resources are limited and stressed, and overall fishing pressure is increasing. ~~322 CMR 8.00 is designed to address the efforts of mobile gear fishermen who have a major impact on fish and shellfish abundance by virtue of their ability to pursue fish and their increased fishing power.~~

8.02: Definitions

For purposes of 322 CMR 8.00:

At-sea means any location in all waters under the jurisdiction of the Commonwealth including within harbors. For the purposes of 322 CMR 8.00, vessels that are moored, tied to other vessels, or docked at a pier are considered "at-sea". Vessels on the water are at-sea.

At-sea transfer means to convey or move fish or shellfish from one vessel to another vessel at-sea.

At-sea processing means to fillet or freeze fish, or to freeze or shuck shellfish at-sea.

~~Buzzards Bay means all waters which lie within a closing line running southeasterly from a point on the mean low water line at Gooseberry Neck (approximately 41° 28' 43" N, 71° 02' 05" W on NOS chart 13218, 21st Ed.) to a point on the mean low water line on the southwestern extremity of Cuttyhunk Island (approximately 41° 24' 44" N, 70° 57' 07" W on the same NOS chart).~~

~~Cod end means all parts of a net a distance of 50 continuous meshes forward of the terminal portion of the net where fish are retained.~~

~~Coastal waters means those waters which lie three geographical miles from the shoreline.~~

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

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

Division means the Massachusetts Division of Marine Fisheries, ~~Department of Fisheries, Wildlife and Recreational Vehicles, 251 Causeway Street, Suite 400, Boston, Massachusetts 02114.~~

Fishing or Fish For means to harvest, catch or take or attempt to harvest, catch or take any fish or shellfish for commercial purposes. **For vessels using trawl gear, a vessel is presumed to be fishing unless its trawl doors (if present) are out of the water and secured to the vessel's side or stern or unless the mouth of the net is out of the water and secured to the vessel's side or stern.**

~~Flatfish Gillnet means any sink gillnet rigged specifically for catching flatfish and is constructed with no floats on the float line, or that is constructed with floats on the float line and that has tie-down twine between the float line and the lead line not more than 48 inches in length and spaced not more than 15 feet apart.~~

Line Trawl means any fishing gear having a single anchored and weighted main line to which many gangions or leaders are attached, each armed with a hook.

~~Monkfish means that species of fish known as goosefish or *Lophius americanus*.~~

~~Nantucket Sound means all waters which lie within an area encompassed by a straight line drawn from Great Point in Nantucket to Monomoy Point in Chatham; thence following the shoreline to Suceonnesset Point in Mashpee; thence following a straight line to Cape Poge in Edgartown; thence following a straight line to Madaket Point in Nantucket; thence following the shoreline to Great Point in Nantucket.~~

~~Night fishing means fishing ½ hour after sunset to ½ hour before sunrise during the period March 1 through October 31, inclusive, or fishing from 6:00 p.m. to 6:00 a.m. during the period November 1 through the last day of February, inclusive.~~

Person means any individual, including the captain, master or crew member of a fishing vessel, or any firm, partnership, corporation or other business entity.

~~Processing means to receive or transfer fish and/or freeze or fillet any fish or shellfish.~~

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

~~Red drum means that species of fish known as *Sciaenops ocellatus*.~~

~~Redfish means that species of fish known as *Sebastes marinus*.~~

Registered length means the official length of a commercial fishing vessel documented by and found in the records of the United States Coast Guard.

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

~~Sea bass means that species of fish known as *Centropristis striata*.~~

Shoreline means the mean low water mark unless otherwise provided.

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

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

~~Total length means that length of a fish as measured from the tip of the snout to the farthest end of the tail.~~

Trawl means any mobile fishing gear or nets which are towed, hauled, or dragged through the water for the harvest of fish including but not limited to otter trawls, beam trawls, pair trawls, scottish seines, danish seines, or pair seines.

~~Vineyard Sound means all waters encompassed by a straight line drawn from Cape Poge in Edgartown to Suceonnesset Point in Mashpee; and a straight line drawn from the tip of Gay Head to the southwestern most point of Cuttyhunk Island.~~

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

8.03: Vessel Length Limits ~~Night Closure to Mobile Gear Fishing~~

Vessels greater than 90 feet registered length may not conduct fishing activities in any waters under the jurisdiction of the Commonwealth.

~~All waters under the jurisdiction of the Commonwealth shall be closed to night fishing with trawls or shellfish dredges but shall not be closed to purse seines or mid-water trawls used to harvest sea herring by vessels issued a special permit pursuant to 322 CMR 8.08(3).~~

8.04: Winter Flounder Spawning Area Closures ~~Mobile Gear Restriction~~

(1) Except as provided for in 322 CMR 8.04(2) and (3), the following waters shall be closed to commercial fishing for any finfish between the dates of February 1 through May 31, in all of the waters shoreward of an area bounded by an imaginary line beginning at a point 42°02.0' N latitude and 70°10.2' W longitude; thence following an imaginary line to a point at 42°00.7' N latitude and 70°06.4' W longitude; thence following an imaginary line to a point at 41°56.3' N latitude and 70°05.9' W longitude; thence following an imaginary line to a point at 41°48.9' N latitude and 70°10.9' W longitude; thence following an imaginary line to a point at 41°46.4' N latitude and 70°09.8' W longitude; thence following an imaginary line to a point at 41°45.1' W latitude and 70°16.5' W longitude; thence following an imaginary line to a point at 41°47.1' N latitude and 70°28.1' W longitude; thence following an imaginary line to a point at 41°55.2' N latitude and 70°30.4' W longitude; thence following an imaginary line to a point at 41°59.9' N latitude and 70°35.1' W longitude; thence following an imaginary line to a point at 42°05.6' N latitude and 70°36.5' W longitude; thence following an imaginary line to a point at 42°16.4' N latitude and 70°44.8' W longitude; thence following an imaginary line to a point at 42°18.6' N latitude and 70°50.1' W longitude; thence following an imaginary line to a point at 42°21.9' N latitude and 70°52.2' W longitude; thence following an imaginary line to a point at 42°24.7' N latitude and 70°54.4' W longitude; thence following an imaginary line to a point at 42°27.6' N latitude and 70°50.3' W longitude; thence following an imaginary line to a point at 42°32.8' N latitude and 70°45.9' W longitude; thence following an imaginary line to a point at 42°34.3' N latitude and 70°39.9' W longitude; thence following an imaginary line drawn to Thatcher's Island Light to a point along said line where it intersects with the boundary line separating the towns of Rockport and Gloucester; thence following the Rockport/Gloucester boundary southeasterly to a point 42°35.5' N, 70°34.6' W; thence following an imaginary line 31° true to a point at 42°37.8' N, 70°32.8' W; thence following an imaginary line 360° true to a point at 42°39.5' N, 70°32.8' W; thence following an imaginary line 340° true to a point at 42°40.8' N, 70°33.5' W; thence following 314° true to a point at 42°43.8' N, 70°37.6' W; thence following an imaginary line in a southerly direction 193° true to a point one nautical mile from the shoreline; thence following an imaginary line drawn in such a manner that each point on it is one nautical mile from the shoreline to the Massachusetts/New Hampshire boundary.

(2) Exemptions. The following fishing activities are exempted from the winter flounder spawning areas described at 322 CMR 8.04(1).

(a) Sea Herring. Commercial fishing for sea herring is permitted provided that a special permit is obtained pursuant to 322 CMR 7.01(4)(a).

(b) Cod. Line trawling for cod is permitted provided that only hook sizes with a gape of not less than 11/16 of an inch measured from the point of the hook to the inside of the shank or circle hooks (so-called) with a gape of not less than 1/2 inch may be used, and provided further that the area is open to groundfish as set forth in 322 CMR 8.05.

~~Vessels using nets may not conduct any fishing activity with disks, rollers of rockhoppers greater than 12 inches in diameter.~~

8.05: Commercial Groundfish Closures ~~Vessel Length Limits~~**(1) Definition.**

Regulated Groundfish Species means those regulated groundfish species defined at 322 CMR 6.03(1), which include: American plaice, cod, haddock, halibut, monkfish, ocean pout, pollock, redfish, windowpane flounder, winter flounder, witch flounder, wolfish and yellowtail flounder.

(2) May in Massachusetts Bay from Boston to the New Hampshire Border. Except as provided at 322 CMR 8.05(8), from May 1st through May 31st, it is unlawful for commercial fishermen to fish for, possess or land regulated groundfish species taken within the waters under the jurisdiction of the Commonwealth from latitude 42°20' north to the Massachusetts/New Hampshire border.

(3) June in Upper Massachusetts Bay and Ipswich Bay from Marblehead to the New Hampshire Border. Except as provided in 322 CMR 8.05(8), during June 1st through June 30th, it is unlawful for commercial fishermen to fish for, possess or land regulated groundfish species taken within the waters under the jurisdiction of the Commonwealth from latitude 42°30' north to the Massachusetts/New Hampshire border.

(4) October through January Closure in Massachusetts Bay and Upper Cape Cod Bay. Except as provided at 322 CMR 8.12(8), from October 1st through January 31st, it is unlawful for commercial fishermen to fish for, possess or land regulated groundfish species within the waters under the jurisdiction of the Commonwealth from latitude 42°00' north, south of latitude 42°30' north and west of longitude 70°24' west.

(5) May Closure East of Cape Cod. Except as provided at 322 CMR 8.05(8), during May 1st through May 31st, it is unlawful for commercial fishermen to retain, possess or fish for any regulated groundfish species within the waters under the jurisdiction of the Commonwealth east of Cape Cod south of latitude 42°00' north and east of longitude 70°00' west.

(6) Gear Types. Except as provided at 322 CMR 8.05(8), these closures apply to any gear capable of catching groundfish, including but not limited to, sink gillnets, otter trawls, line trawls, and hook and line.

(7) Experimental Fishery. The Director, under the authority at M.G.L. c. 130 § 80 and 322 CMR 7.01(7), may authorize experimental fishery activities for fishing for species with certain gear types in the aforementioned closed areas and times to investigate catch by-catch composition to ascertain the need for potential future exemptions.

(8) Exemptions.

(a) The closures at 322 CMR 8.05(2-5) do not apply to the lawful use of hook and lines for the purpose of catching dogfish, bluefish, striped bass, Atlantic bluefin tuna and mackerel; mid-water trawls; pots and traps; sea scallop, ocean quahog and surf clam dredges; and cast nets, surface gillnets and purse seines.

(b) A vessel may fish with a small-mesh raised footrope trawl in a portion of upper Cape Cod Bay during October and November subject to the rules in 322 CMR 4.08(2) and 322 CMR 8.06.

(c) A vessel in possession of groundfish may transit through the closures at 322 CMR 8.05(2-5), provided that the groundfish was lawfully caught outside of the closure areas and the vessel is not engaged in any fishing activity while inside the groundfish closure areas.

~~Vessels greater than 90 feet registered length may not conduct fishing activities in any waters under the jurisdiction of the Commonwealth.~~

8.06: Upper Cape Cod Whiting Area and Fixed Gear Free Zone ~~Minimum Size and Possession Limits~~

(1) Subject to the conditions set forth in 322 CMR 8.06(1) through (3) and permit requirements in 322 CMR 7.01(4) and 7.05 it is lawful to fish for whiting during September 1st through November 20th within a portion of Cape Cod Bay as defined in 322 CMR 8.06(1) and subject to the conditions in 322 CMR 8.06(2) and (3).

(a) Area. Unless otherwise authorized by 322 CMR 8.07(3), vessels fishing in Cape Cod Bay may fish for whiting only in an area enclosed by straight lines connecting the following coordinates.

POINT NUMBER	LATITUDE		LONGITUDE	
	Degrees	Minutes	Degrees	Minutes
1	42	0	70	24.076
2	42	0	70	13.225
3	42	7.85	70	30.1
4	42	14.05	70	8.8
5	42	8.35	70	4.05
6	42	4.75	70	16.95
1	42	0	70	24.076

(b) By-catch Prohibitions. Any vessel fishing in the Upper Cape Cod Bay Whiting Area with small mesh aboard shall not possess the following species: cod, haddock, pollock, redfish, white hake, yellowtail flounder, winter flounder, windowpane flounder, American plaice and witch flounder, summer flounder, skates, monkfish, lobster, crabs, ocean pout, sculpin, and sea raven.

(c) Fixed Gear-free Zone. During the period September 1st - October 31st, it shall be unlawful to set, store, or abandon lobster pots in a portion of the upper Cape Cod whiting area. The closure area is defined as follows using LORAN C coordinates: beginning at the intersection of the 9960-W-13880 line with the state/federal territorial seas line; then following in a southeast direction along the aforementioned 13880 line to the intersection with the 9960-Y-44100 line; then in a northeast direction following the aforementioned 44100 line to the intersection with LORAN C 9960-W-13845 line; then in a northeast direction to the intersection with the 9960-Y-44120 line; then in a northeasterly direction along the 44120 line to the intersection with the 9960-W-13830 line; then in a northwest direction following the 13830 line to the state/federal waters line; then in a westerly direction back to the origin at the intersection of the 9960-W-13880 line and the state/federal territorial sea line.

(2) Trawl Specifications.

(a) Minimum codend mesh size must be at least 2.5 inches. Minimum mesh size is measured by the inside stretch of the net. Nets can consist of either square or diamond mesh.

(b) Headrope must be rigged with floats that measure at least eight inches diameter and must be attached along the entire length of the headrope with a maximum spacing between each float of four feet.

(c) Groundgear must be all bare wire not larger than 1/2-inch in diameter for the top leg, not larger than 3/8-inch in diameter for the bottom leg, and not larger than 3/4-inch in diameter for the ground cables. The top legs must be at least as long as the bottom legs. The total length of the ground cables must not be greater than 40 fathoms from the doors to the wing ends.

(d) Footrope must be longer than the headrope, but not more than 20 feet longer than the headrope and rigged so that it does not contact the bottom while fishing.

(e) Drop Chains must be 42-inches in length or greater; maximum size drop chain stock when used with a sweep is 5/16-inch. Drop chains may be a maximum of 1/2-inch stock when no sweep is used. Only bare chain may be used; cookies or additional weights on the drop chains are prohibited. Drop chains must be hung from the center of the footrope and each corner (the quarter, or the junction of the

bottom wing to the belly at the footrope). Drop chains must be hung at eight foot intervals along the footrope from the corners to the wing ends.

(f) **Sweep Specifications.** The raised footrope trawl may be used with a chain sweep or without a chain sweep. The sweep, if used, must be rigged in the following manner: The sweep must be bare chain the same length as the footrope. (Note: The required drop chains at the wing ends of the footrope effectively makes the sweep seven feet longer than the footrope.) The maximum size of the sweep is 5/16-inch stock chain. The sweep must be attached to the ends of the drop chains. The center of the sweep must be attached to the drop chain from the center of the footrope. The attachment points of each drop chain on the sweep and the footrope must be the same distance from the center drop chain attachments. The ends of the sweep must be attached to the drop chains at the end of the footrope.

~~(1) **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.~~

~~(2) **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.~~

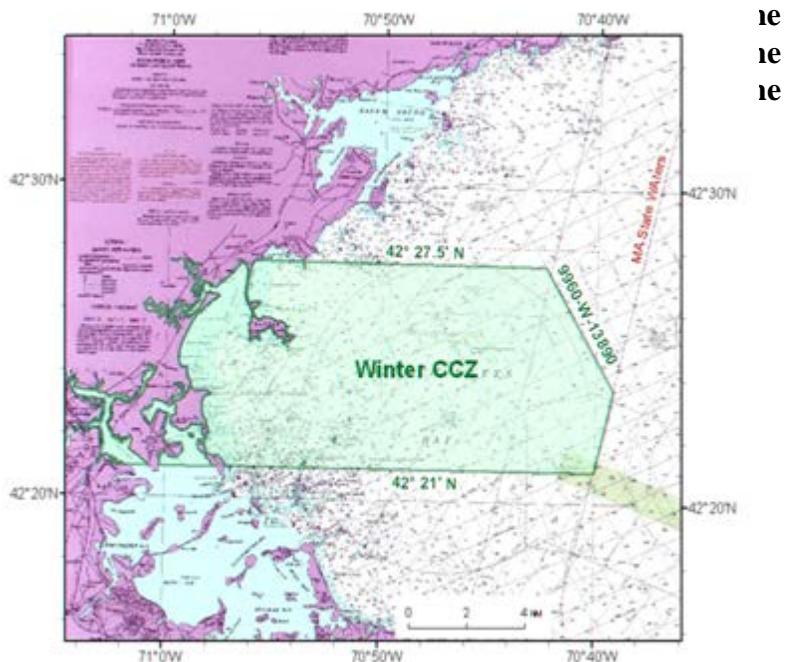
~~(c) The limits established by 322 CMR 8.06(8)(a) and (b) apply only to white perch harvested in coastal waters as defined by M.G.L. c. 130, § 1.~~

8.07: Seasonal Cod Spawning Protections Mesh Size Restrictions

(1) Winter Cod Conservation

(a) **Boundaries.** For purposes of this section, the boundaries shall apply to the area of the Commonwealth bounded in the order stated starting from

Point



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(b) **Season.** The restricted season shall be November 15th through January 31st.

(c) **Fishing Prohibitions.**

1. It is unlawful for any person to take, possess or land cod from the Winter Cod Conservation Zone during the restricted season.

2. It is unlawful for any person to fish, set, or abandon any gear capable of harvesting cod in the Winter Cod Conservation Zone during the restricted season. 322 CMR 8.07(1) shall apply to all gillnets, otter trawls, mid-water trawls, seines, and all hook-and-line gears including longlines, rod-and-reel, and handlines.

(d) **Exemptions.**

1. It shall be lawful for persons to transit the Winter Cod Conservation Zone in the possession of cod, provided the cod was caught outside of the Winter Cod Conservation Zone and all fishing gear is stowed.

2. Lawfully permitted persons may set and tend lobster traps and set and haul dredges for scallops and urchins in the Winter Cod Conservation Zone during the restricted season.

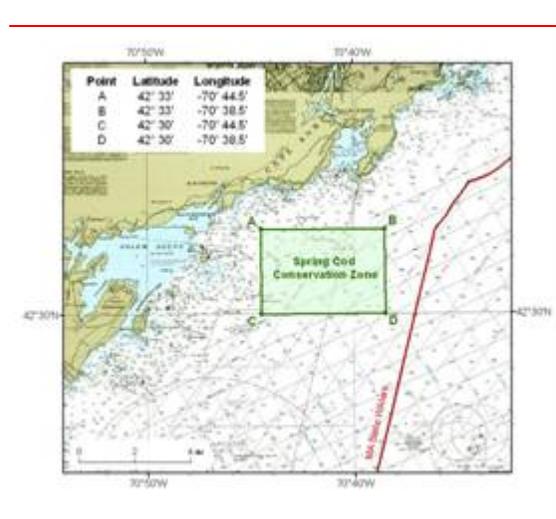
(2) **Spring Cod Conservation Zone.**

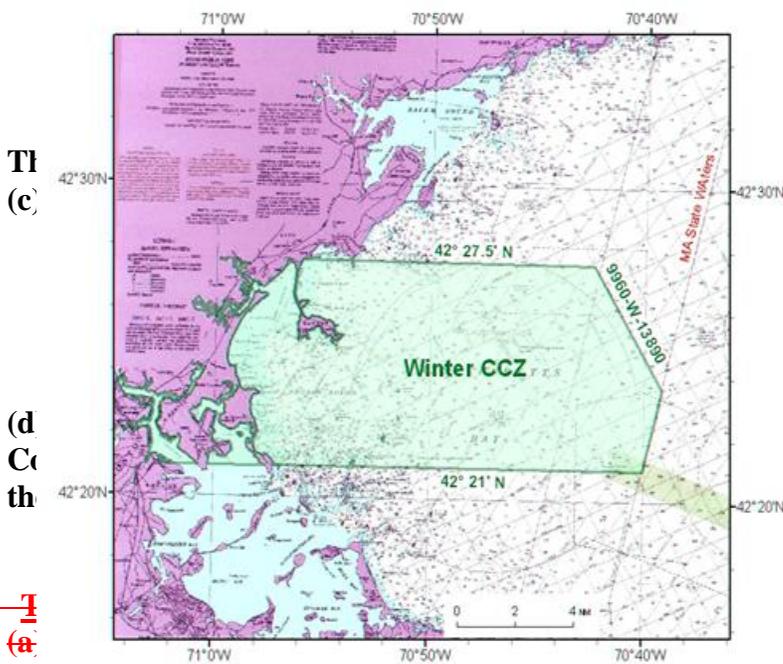
(a) **Boundaries.** For purposes of 322 CMR 8.07 the Spring Cod Conservation Zone shall apply to an area within the waters under the jurisdiction of the commonwealth bounded by straight lines connecting the following points in the order stated starting from the point furthest south and west:

Point	North Latitude	West Longitude
SCCZ1	42 degrees 30.0'	70 degrees 44.5'
SCCZ2	42 degrees 30.0'	70 degrees 38.5'
SCCZ3	42 degrees 33.0'	70 degrees 38.5'
SSCZ4	42 degrees 33.0'	70 degrees 44.5'

The following map depicts the Cod Conservation Zone and its coordinates.

Spring Cod Conservation Zone





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~~in waters under the jurisdiction of the Commonwealth north and east of Cape Cod from January 1st through December 31st, within an area circumscribed by an imaginary line beginning at the intersection of the Loran C line 9960-Y-43940 with the Chatham shoreline; thence seaward following the Loran C line 9960-Y-43940 to the territorial seas line; thence in a northerly direction following the territorial seas line to the Massachusetts/New Hampshire boundary; thence in a westerly direction following the Massachusetts/New Hampshire boundary to the shoreline; thence following the shoreline in a southerly direction to the starting point.~~

~~(b) A minimum mesh size of 6½ inches throughout the cod-end and six inches throughout the remainder of the net shall apply for all vessels fishing with trawls in waters under the jurisdiction of the Commonwealth south of Cape Cod from November 1st through April 22nd, within an area circumscribed by an imaginary line beginning at the intersection of the Loran C line 9960-Y-43940 with the Chatham shoreline; thence seaward following the Loran C line 9960-Y-43940 to the territorial seas line; thence in a southerly directions following the territorial seas line to its intersection with the 70° W meridian; thence in a southerly direction along the 70° W meridian to its intersection with the territorial seas line; thence following the territorial seas line in a southerly direction and south of Nantucket Island and Martha's Vineyard to the Massachusetts/Rhode Island boundary; thence in a northerly direction following the Massachusetts/Rhode Island boundary to the shoreline; thence following the shoreline in an easterly direction to the starting point.~~

~~(i) Exception for Squid Trawling-~~

~~1. April 23th through June 9th. From April 23rd through June 9th, a commercial fisherman permitted in accordance with 322 CMR 7.05 and 322 CMR 8.08(5), may fish trawl gear with a minimum mesh sizes less than 6½ inches throughout the cod-end and 6 inches throughout the remainder of the net in the area described in 322 CMR 8.07(1)(b). The Director may extend the small-mesh squid trawling season if he determines that continued fishing with small mesh will not result in large catches of small squid less than five inches mantle length and/or juvenile scup, black sea bass, or fluke.~~

~~2. June 10th through December 31 or Commercial Summer Flounder Fishery Closure. From June 10th through December 31st or until the commercial summer flounder fishery is closed in 322 CMR 6.22(2)(c), a commercial fisherman permitted in accordance with 322 CMR 7.05 and 322 CMR 8.08(5), may fish trawl gear with a minimum mesh sizes less than 6½ inches throughout the cod-end and 6 inches throughout the remainder of the net in all state waters south of Martha's Vineyard and Nantucket between 70°46' west longitude to the west and 70°00' west longitude to the east.~~

~~(c) No mesh size less than 6½ inches throughout the cod-end and six inches throughout the remainder of the net shall be possessed by vessels fishing from June 10 through April 22 in the area defined in 322 CMR 8.07(1)(b).~~

~~(d) No mesh size less than 6½ inches throughout the cod-end and six inches throughout the remainder of the net shall be possessed by vessels fishing in the area defined in 322 CMR 8.07(1)(b) when more than a total of 100 pounds of winter~~

~~and six inches throughout
— apply — for — all
vessels fishing with trawls~~

~~flounders, yellowtail flounder, fluke, or windowpane flounder, in any combination, is in possession.~~

~~(2) Small Mesh Exemption for Vessels Fishing for Whiting. Vessels may use raised footrope trawls as defined in 322 CMR 8.14(2) to fish for whiting in two areas:~~

~~(a) Cape Ann Whiting Area during September as defined in 322 CMR 3.02(2)~~

~~(b) Upper Cape Cod Bay Whiting Area during September through November 20 as defined in 322 CMR 8.14.~~

~~(3) Experimental Fisheries. The Director may in his discretion authorize small-mesh trawling in other areas and times for the purposes of collecting data to determining other appropriate times and places that small-mesh trawling may be appropriate. Vessels must request and obtain a letter of authorization to conduct experimental fishing.~~

~~(4) Mesh Measurements. Mesh sizes are measured by a wedge-shaped gauge having a taper of two centimeters in eight centimeters and thickness of 3.2 millimeters, inserted into the meshes under a pressure or pull of five kilograms. The mesh size will be the average of the measurements of any series of 20 consecutive meshes. The mesh in the cod end will be measured at least ten meshes from the lacings beginning at the after-end and running parallel to the long axis. The Director may approve in writing the use of other mesh size gauges or methods.~~

~~(5) Net Modifications. No fishing vessel may use any means, device, or material, including but not limited to ropes, lines, chafing gear, liners, net strengtheners, or double nets, if it obstructs the meshes of the net or otherwise diminishes the size of meshes of the net described in 322 CMR 8.07. All netting in trawl nets not made on a braiding machine, whether of braided or twisted twine, whether machine made or hand made, shall use only one knot, the weavers knot or sheet bend or a knot by another name, which in *only* a weavers knot. The ends of the twine, called the bars, that exit the knot are constructed so their lay does not cross or twist. One splitting strap and one bull rope (if present) consisting of line or rope no more than two inches in diameter, may be used if such splitting strap and/or bull rope does not obstruct the meshes of the net or otherwise diminish the size of meshes of the net. Canvas, netting, or other material may be attached to the underside of the cod end to reduce wear and prevent damage provided that no more than 25% of the meshes are obstructed.~~

8.08: Prohibitions Permits

It is Unlawful for:

(1) any vessel greater than 90 feet in registered length to conduct fishing activities in any waters under the jurisdiction of the Commonwealth;

(2) any person to conduct commercial fishing for any finfish except as otherwise provided for in 322 CMR 8.03(2) or (3) between February 1st to May 31st of any year within the areas set forth in 322 CMR 8.03 (1)(a);

(3) any person to line trawl for cod between February 1st to May 31st of any year within the area set forth in 322 CMR 8.03 (1)(a) with hook sizes having a gape of less than 11/16 of an inch measured from the point of the hook to the inside of the shank or with circle hooks having a gape of less than 1/2 inch;

~~In addition to any other permit required by law, the following permits are required for the following activities:~~

~~(1) At-sea Processing. At-sea processing of any fish or shellfish in any waters under the jurisdiction of the Commonwealth, including all of Nantucket Sound and Cape Cod Bay, requires a special permit of the Director pursuant to 322 CMR 7.01, unless~~

~~otherwise authorized pursuant to 322 CMR 11.00, or unless 25 pounds or less of fish fillets per person are in possession and intended for personal use only and not for purposes of sale, barter, or exchange. The 25-pound limit on fillets does not apply to fish caught by hook and line recreational fishing, and it does not apply to species which cannot be mutilated, such as striped bass.~~

~~(2) Fish and Shellfish. Fishing for seup, sea bass or conch by means of a pot requires a special permit of the Director pursuant to 322 CMR 7.01.~~

~~(3) Sea Herring. Commercial fishing for sea herring requires a special permit of the Director pursuant to 322 CMR 7.01.~~

~~(4) Whiting. Vessels fishing for whiting during the dates and within the area set forth in 322 CMR 8.07(2) require a special permit in accordance with 322 CMR 7.01.~~

~~(5) Loligo Squid. Commercial fishing with trawls having less than six inches mesh size in any part of the trawl and in the area described in 322 CMR 8.07(1)(b) during the period April 23 through June 9 requires a special permit of the Director pursuant to 322 CMR 7.01.~~

~~(6) Application. Applicants may apply for special permits on forms supplied by the Director.~~

~~(7) Review. In reviewing any application the Director may consider the following:~~

- ~~(a) effect on traditional fisheries;~~
- ~~(b) gear conflicts;~~
- ~~(c) effect on the stock status;~~
- ~~(d) economic impact; and~~
- ~~(e) any other factor deemed necessary or appropriate for the conservation and management of fishery resources.~~

~~(8) Conditions. The Director may condition the issuance of any special permit as necessary or appropriate for the conservation and management of fishery resources, or for the public health, welfare or safety.~~

~~(9) Revocation. A special permit may be suspended or revoked for violation of any condition or restriction of the permit; for any provision of 322 CMR or for any provision of M.G.L. c. 130.~~

8.09: Spawning Area Closures Restrictions on Fishing in Certain Artificial Reef Areas

~~(1) Except as provided for in 322 CMR 8.09(2) and (3), the following waters shall be closed to commercial fishing for any finfish between the dates of February 1 through May 31, in all of the waters shoreward of an area bounded by an imaginary line beginning at a point 42°02.0' N latitude and 70°10.2' W longitude; thence following an imaginary line to a point at 42°00.7' N latitude and 70°06.4' W longitude; thence following an imaginary line to a point at 41°56.3' N latitude and 70°05.9' W longitude; thence following an imaginary line to a point at 41°48.9' N latitude and 70°10.9' W longitude; thence following an imaginary line to a point at 41°46.4' N latitude and 70°09.8' W longitude; thence following an imaginary line to a point at 41°45.1' W latitude and 70°16.5' W longitude; thence following an imaginary line to a point at 41°47.1' N latitude and 70°28.1' W longitude; thence following an imaginary line to a point at 41°55.2' N latitude and 70°30.4' W longitude; thence following an imaginary line to a point at 41°59.9' N latitude and 70°35.1' W longitude; thence following an imaginary line to a point at 42°05.6' N latitude and 70°36.5' W longitude; thence following an imaginary line to a point at 42°16.4' N latitude and 70°44.8' W longitude; thence following an imaginary line to a point at 42°18.6' N latitude and 70°50.1' W longitude; thence following an imaginary line to a point at 42°21.9' N latitude and 70°52.2' W longitude; thence following an imaginary line to a point at 42°24.7' N latitude and 70°54.4' W longitude; thence following an imaginary line to a point at 42°27.6' N latitude and 70°50.3' W longitude; thence following an imaginary line to a point at 42°32.8' N latitude and 70°45.9' W longitude; thence following an imaginary line to a point at~~

~~42°34.3'N latitude and 70°39.9'W longitude; thence following an imaginary line drawn to Thatcher's Island Light to a point along said line where it intersects with the boundary line separating the towns of Rockport and Gloucester; thence following the Rockport/Gloucester boundary southeasterly to a point 42°35.5'N, 70°34.6'W; thence following an imaginary line 31° true to a point at 42°37.8'N, 70°32.8'W; thence following an imaginary line 360° true to a point at 42°39.5'N, 70°32.8'W; thence following an imaginary line 340° true to a point at 42°40.8'N, 70°33.5'W; thence following 314° true to a point at 42°43.8'N, 70°37.6'W; thence following an imaginary line in a southerly direction 193° true to a point one nautical mile from the shoreline; thence following an imaginary line drawn in such a manner that each point on it is one nautical mile from the shoreline to the Massachusetts/New Hampshire boundary.~~

~~(2) Sea Herring. Commercial fishing for sea herring is permitted during the time and area closure set forth in 322 CMR 8.09(1) provided that a special permit is obtained pursuant to 322 CMR 7.01.~~

~~(3) Cod. Line trawling for cod is permitted during the time and area closure set forth in 322 CMR 8.09(1) provided that only hook sizes with a gape of not less than 11/16 of an inch measured from the point of the hook to the inside of the shank or circle hooks (so-called) with a gape of not less than 1/2 inch may be used, and provided further that the area is open to groundfish as set forth in 322 CMR 8.12.~~

1) Purpose. This regulation restricts commercial fishing activity and other deployment of buoyed vertical lines in designated recreational fishing reef areas. These restrictions are being implemented to prevent gear and user group conflicts that may result from commercial fishing or the presence of buoyed vertical lines occurring in areas designated for recreational fishing.

2) Definitions. For the purpose of this section, the following words shall have the following meaning:

Commercial fishing means to take or harvest, or attempt to take or harvest, any fish or shellfish for the purposes of sale, barter or exchange or to keep for personal or family use any fish or shellfish taken under the authority of a commercial permit issued by the Director. This includes, but is not limited to, the setting or hauling of any fixed or mobile gear.

Fixed Gear means any bottom or sink gillnets, or pots or traps that are set on the ocean bottom or in the water column and are usually connected to lines that extend to the water's surface.

Mobile Gear means any moveable fishing gear or nets which are towed, hauled or dragged through the water for the harvest of finfish or shellfish.

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

3) Harwich Recreational Fishing Reef Boundaries. The Harwich Recreational Fishing Reef is bounded by straight line drawn between the following coordinates:

Coordinate	Latitude	Longitude
NE Corner	41°62755' N	-70°06769 W
NW Corner	41°62755' N	-70°07251 W
SW Corner	41°62395' N	-70°07251 W
SE Corner	41°62395' N	-70°06769 W

4) Restrictions. It shall be unlawful for any person within the Harwich Recreational Fishing Reef Boundaries:

- a. to conduct commercial fishing activity;
- b. to set, fish or abandon any recreational lobster or crab traps; and
- c. to set or abandon any buoyed vertical line for any other purpose.

8.10: Reserved Gillnet Mesh Size and Permit Requirements

~~(1) Mesh Size. Sink gillnets and flatfish gillnets shall have mesh openings not less than 6½ inches.~~

~~(2) Mesh Measurements. Except as otherwise provided for in 322 CMR 8.10(3), mesh sized are measured by a wedge-shaped gauge having taper of two centimeters in eight~~

~~centimeters and a thickness of 3.2 millimeters, inserted into the meshes under a pressure or pull of five kilograms. The mesh size will be the average of the measurements of any series of 20 consecutive meshes.~~

8.11: Reserved Prohibitions

It is Unlawful for:

- ~~(1) any vessel greater than 90 feet in registered length to conduct fishing activities in any waters under the jurisdiction of the Commonwealth;~~
- ~~(2) any vessel to conduct fishing activities in any waters under the jurisdiction of the Commonwealth with nets having disks, rollers or rockhoppers greater than 12 inches in diameter;~~
- ~~(3) any person to use bottom trawls during the dates and within the areas set forth in 322 CMR 8.07(1)(a) and (b) with mesh sizes measuring less than those sizes prescribed in 322 CMR 8.07(1)(a) and (b);~~
- ~~(4) any person without a special permit to fish with nets having a cod end mesh with an opening of less than 6½ inches during the dates and within the areas set forth in 322 CMR 8.07;~~
- ~~(5) any person with a special permit issued pursuant to 322 CMR 8.08(4), (5) and (6) to retain flounders of any kind, cod, haddock or pollock;~~
- ~~(6) any person to process fish on board a vessel within any waters under the jurisdiction of the Commonwealth without a special permit in accordance with either 322 CMR 11.00 or 8.08;~~
- ~~(7) any person to fish for sea bass, scup or conch by means of a pot without a special permit;~~
- ~~(8) any person to conduct commercial fishing for sea herring without a special permit;~~
- ~~(9) any person to conduct commercial fishing for any finfish except as otherwise provided for in 322 CMR 8.09(2) or (3) between February 1st to May 31st of any year within the areas set forth in 322 CMR 8.09(1)(a);~~
- ~~(10) any person to line trawl for cod between February 1st to May 31st of any year within the area set forth in 322 CMR 8.09(1)(a) with hook sizes having a gape of less than 11/16 of an inch measured from the point of the hook to the inside of the shank or with circle hooks having a gape of less than ½ inch;~~
- ~~(11) any person to fish, store, or abandon gillnets in any waters under the jurisdiction of the Commonwealth;~~
- ~~(12) any person to conduct commercial fishing with Scottish, Danish or Pair seines, without a special permit in waters north of Boston;~~
- ~~(13) for any person to conduct commercial fishing between February 1st and April 30th using Scottish, Danish or Pair seines, within the area established in 322 CMR 3.02(5)(a);~~
- ~~(14) for any person to conduct commercial fishing between April 1st and December 31st using Scottish, Danish or Pair seines within Mobile Gear Area 4 (Outer Boston Harbor) established in 322 CMR 3.02(3);~~
- ~~(15) for any person to conduct commercial fishing between April 1st and October 31st using Scottish, Danish or Pair seines within Mobile Gear Area 3 (Hull to Plymouth) established in 322 CMR 3.02(4);~~

~~(16) for any person to conduct commercial fishing between May 1st and October 31st using Scottish, Danish or Pair seines within Mobile Gear Areas 2(a) and (b) (Eastham to Mashpee and Plymouth to Provincetown) in 322 CMR 3.02(5) and (6);~~

~~(17) for any person to fish for commercial purposes with trawls or shellfish dredges in waters under the jurisdiction of the Commonwealth 1/2 hour after sunset to 1/2 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, unless fishing with purse seines or mid-water trawls used to harvest sea herring as provided by 322 CMR 8.03.~~

~~(18) any vessel fishing with trawls in area and at time defined in 322 CMR 8.07(1)(a) during a single fishing trip to have on board said vessel or land at any given time during that same fishing trip and possess mesh less than six inches.~~

~~(19) for any person to harvest, catch, or take any species of fish by means of a gillnet without a special permit issued pursuant to 322 CMR 8.10(3).~~

~~(20) any vessel to engage in at-sea transfer of any fish or shellfish subject to possession limits established pursuant to 322 CMR.~~

~~(21) any vessel to engage in at-sea processing without an at-sea processing permit issued pursuant to 322 CMR 8.08(1), except that it is lawful for any vessel to shuck scallops or eviscerate finfish at-sea without an at-sea processing permit.~~

~~(22) any vessel with an at-sea processing permit to process any fish or shellfish subject to minimum size limits established pursuant to 322 CMR.~~

8.12: Reserved Groundfish Closures in the Gulf of Maine

(1) Definition.

~~Regulated Groundfish Species means those regulated groundfish species defined at 322 CMR 6.03(1), which include: American plaice, cod, haddock, halibut, monkfish, ocean pout, pollock, redfish, windowpane flounder, winter flounder, witch flounder, wolfish and yellowtail flounder.~~

~~(2) May in Massachusetts Bay from Boston to the New Hampshire Border. Except as provided at 322 CMR 8.12(8), from May 1st through May 31st, it is unlawful for commercial fishermen to fish for, possess or land regulated groundfish species taken within the waters under the jurisdiction of the Commonwealth from latitude 42°20' north to the Massachusetts/New Hampshire border.~~

~~(3) June in Upper Massachusetts Bay and Ipswich Bay from Marblehead to the New Hampshire Border. Except as provided in 322 CMR 8.12(8), during June 1st through June 30th, it is unlawful for commercial fishermen to fish for, possess or land regulated groundfish species taken within the waters under the jurisdiction of the Commonwealth from latitude 42°30' north to the Massachusetts/New Hampshire border.~~

~~(4) October through January Closure in Massachusetts Bay and Upper Cape Cod Bay. Except as provided at 322 CMR 8.12(8), from October 1st through January 31st, it is unlawful for commercial fishermen to fish for, possess or land regulated groundfish species within the waters under the jurisdiction of the Commonwealth from latitude 42°00' north, south of latitude 42°30' north and west of longitude 70°24' west.~~

~~(5) May Closure East of Cape Cod. Except as provided at 322 CMR 8.12(8), during May 1st through May 31st, it is unlawful for commercial fishermen to retain, possess or fish for any regulated groundfish species within the waters under the jurisdiction of the Commonwealth east of Cape Cod south of latitude 42°00' north and east of longitude 70°00' west.~~

~~(6) Gear Types. Except as provided at 322 CMR 8.12(7), these closures apply to any gear capable of catching groundfish, including but not limited to, sink gillnets, otter trawls, line trawls, and hook and line.~~

~~(7) Experimental Fishery. The Director, under the authority at M.G.L. c. 130 § 80 and 322 CMR 7.01(7), may authorize experimental fishery activities for fishing for species with certain gear types in the aforementioned closed areas and times to investigate catch by-catch composition to ascertain the need for potential future exemptions.~~

~~(8) Exemptions.~~

~~(a) The closures at 322 CMR 8.12(2-5) do not apply to the lawful use of hook and lines for the purpose of catching dogfish, bluefish, striped bass, Atlantic bluefin tuna and mackerel; mid-water trawls; pots and traps; sea scallop, ocean quahog and surf clam dredges; and cast nets, surface gillnets and purse seines.~~

~~(b) A vessel may fish with a small-mesh raised footrope trawl in a portion of upper Cape Cod Bay during October and November subject to the rules in 322 CMR 8.07(2) and 322 CMR 8.14.~~

~~(c) A vessel in possession of groundfish may transit through the closures at 322 CMR 8.12(2-5), provided that the groundfish was lawfully caught outside of the closure areas and the vessel is not engaged in any fishing activity while inside the groundfish closure areas.~~

8.13: Reserved

8.14: Reserved Upper Cape Cod Whiting Area

~~(1) Subject to the conditions set forth in 322 CMR 8.14(1) through (3) and permit requirements in 322 CMR 8.08(6) and 7.05 it is lawful to fish for whiting during September 1st through November 20th within a portion of Cape Cod Bay as defined in 322 CMR 8.14(1) and subject to the conditions in 322 CMR 8.14(2) and (3).~~

~~(a) Area. Unless otherwise authorized by 322 CMR 8.07(3), vessels fishing in Cape Cod Bay may fish for whiting only in an area enclosed by straight lines connecting the following coordinates.~~

POINT NUMBER	LATITUDE		LONGITUDE	
	Degrees	Minutes	Degrees	Minutes
1	42	0	70	24.076
2	42	0	70	13.225
3	42	7.85	70	30.1
4	42	14.05	70	8.8
5	42	8.35	70	4.05
6	42	4.75	70	16.95
1	42	0	70	24.076

~~(b) By-catch Prohibitions. Any vessel fishing in the Upper Cape Cod Bay Whiting Area with small mesh aboard shall not possess the following species: cod, haddock, pollock, redfish, white hake, yellowtail flounder, winter flounder, windowpane flounder, American plaice and witch flounder, summer flounder, skates, monkfish, lobster, crabs, ocean pout, sculpin, and sea raven.~~

~~(c) Fixed Gear-free Zone. During the period September 1st – October 31st, it shall be unlawful to set, store, or abandon lobster pots in a portion of the upper Cape Cod whiting area. The closure area is defined as follows using LORAN C coordinates: beginning at the intersection of the 9960-W-13880 line with the state/federal territorial seas line; then following in a southeast direction along the aforementioned 13880 line to the intersection with the 9960-Y-44100 line; then in a northeast direction following the aforementioned 44100 line to the intersection with LORAN C 9960-W-13845 line; then in a northeast direction to the intersection with~~

~~the 9960-Y-44120 line; then in a northeasterly direction along the 44120 line to the intersection with the 9960-W-13830 line; then in a northwest direction following the 13830 line to the state/federal waters line; then in a westerly direction back to the origin at the intersection of the 9960-W-13880 line and the state/federal territorial sea line.~~

~~(2) Trawl Specifications.~~

~~(a) Minimum codend mesh size must be at least 2.5 inches. Minimum mesh size is measured by the inside stretch of the net. Nets can consist of either square or diamond mesh.~~

~~(b) Headrope must be rigged with floats that measure at least eight inches diameter and must be attached along the entire length of the headrope with a maximum spacing between each float of four feet.~~

~~(c) Groundgear must be all bare wire not larger than 1/2-inch in diameter for the top leg, not larger than 3/8-inch in diameter for the bottom leg, and not larger than 3/4-inch in diameter for the ground cables. The top legs must be at least as long as the bottom legs. The total length of the ground cables must not be greater than 40 fathoms from the doors to the wing ends.~~

~~(d) Footrope must be longer than the headrope, but not more than 20 feet longer than the headrope and rigged so that it does not contact the bottom while fishing.~~

~~(e) Drop Chains must be 42-inches in length or greater; maximum size drop chain stock when used with a sweep is 5/16-inch. Drop chains may be a maximum of 3/8-inch stock when no sweep is used. Only bare chain may be used; cookies or additional weights on the drop chains are prohibited. Drop chains must be hung from the center of the footrope and each corner (the quarter, or the junction of the bottom wing to the belly at the footrope). Drop chains must be hung at eight foot intervals along the footrope from the corners to the wing ends.~~

~~(f) Sweep Specifications. The raised footrope trawl may be used with a chain sweep or without a chain sweep. The sweep, if used, must be rigged in the following manner: The sweep must be bare chain the same length as the footrope. (Note: The required drop chains at the wing ends of the footrope effectively makes the sweep seven feet longer than the footrope.) The maximum size of the sweep is 5/16-inch stock chain. The sweep must be attached to the ends of the drop chains. The center of the sweep must be attached to the drop chain from the center of the footrope. The attachment points of each drop chain on the sweep and the footrope must be the same distance from the center drop chain attachments. The ends of the sweep must be attached to the drop chains at the end of the footrope.~~

8.15: Reserved ~~Seasonal Cod Protection Measures~~

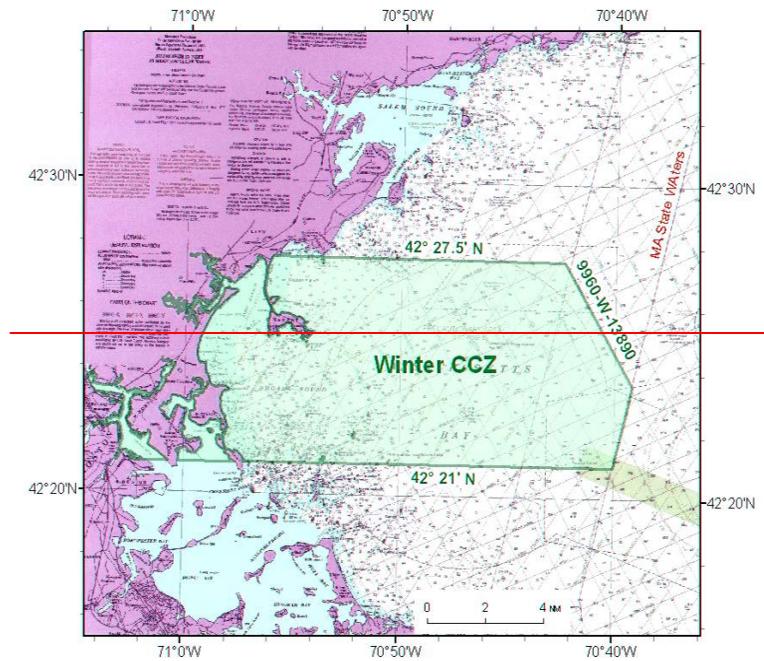
~~(1) Winter Cod Conservation Zone:~~

~~(a) Boundaries. For purposes of 322 CMR 8.15 the Winter Cod Conservation Zone shall apply to the area within the waters under the jurisdiction of the Commonwealth bounded by straight lines connecting the following points in the order stated starting from the point furthest south and west:~~

Point	North Latitude	West Longitude
WCCZ1	42 degrees 21.0'	MA Coast
WCCZ2	42 degrees 21.0'	70 degrees 40.0'
WCCZ3	42 degrees 23.6'	70 degrees 39.2'
WCCZ4	42 degrees 27.5'	70 degrees 42.4'
WCCZ5	42 degrees 27.5'	MA Coast

~~The following map depicts the Cod Conservation Zone and its coordinates.~~

~~Winter Cod Conservation Zone~~



~~(b) Season:~~

~~The restricted season shall be November 15th through January 31st.~~

~~(c) Fishing Prohibitions:~~

- ~~1. It is unlawful for any person to take, possess or land cod from the Winter Cod Conservation Zone during the restricted season.~~
- ~~2. It is unlawful for any person to fish, set, or abandon any gear capable of harvesting cod in the Winter Cod Conservation Zone during the restricted season. 322 CMR 8.15(1) shall apply to all gillnets, otter trawls, mid-water trawls, seines, and all hook-and-line gears including longlines, rod-and-reel, and handlines.~~

~~(d) Exemptions:~~

- ~~1. It shall be lawful for persons to transit the Winter Cod Conservation Zone in the possession of cod, provided the cod was caught outside of the Winter Cod Conservation Zone and all fishing gear is stowed.~~
- ~~2. Lawfully permitted persons may set and tend lobster traps and set and haul dredges for scallops and urchins in the Winter Cod Conservation Zone during the restricted season.~~

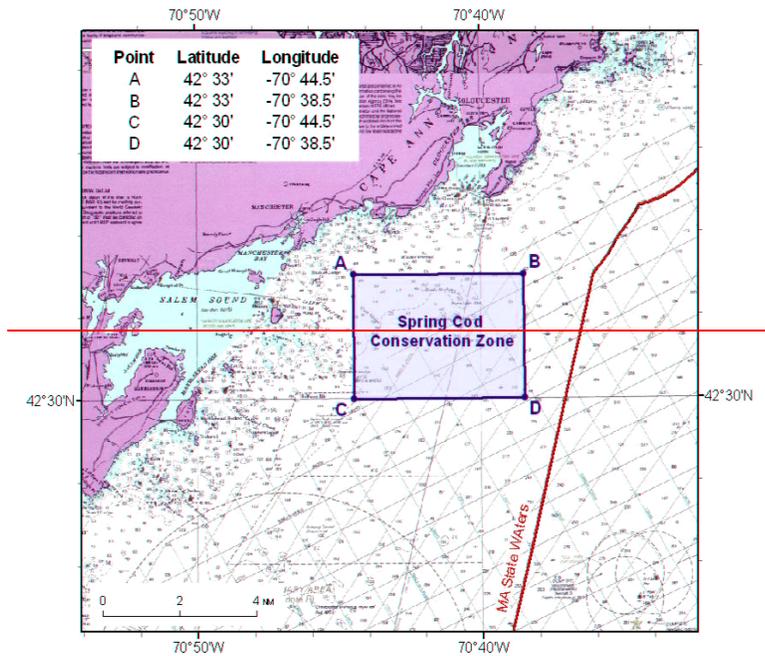
~~(2) Spring Cod Conservation Zone.~~

~~(a) Boundaries. For purposes of 322 CMR 8.15 the Spring Cod Conservation Zone shall apply to an area within the waters under the jurisdiction of the commonwealth bounded by straight lines connecting the following points in the order stated starting from the point furthest south and west:~~

Point	North Latitude	West Longitude
SCCZ1	42 degrees 30.0²	70 degrees 44.5²
SCCZ2	42 degrees 30.0²	70 degrees 38.5²
SCCZ3	42 degrees 33.0²	70 degrees 38.5²
SSCZ4	42 degrees 33.0²	70 degrees 44.5²

~~The following map depicts the Cod Conservation Zone and its coordinates.~~

~~Spring Cod Conservation Zone~~



~~(b) Season. The restricted season shall be April 16th through July 21st.~~

~~(c) Fishing Prohibitions.~~

~~1. It is unlawful for any person to possess on board or land cod in the Spring Cod Conservation Zone.~~

~~2. It is unlawful for any person to fish, set, or abandon gillnets, beam trawls, otter trawls or longlines in the Spring Cod Conservation Zone during the restricted season.~~

~~(d) Exemptions. It shall be lawful for persons to transit the Spring Cod Conservation Zone in the possession of cod, provided the cod was caught outside of the Spring Cod Conservation Zone and all fishing gear is stowed.~~

~~322 CMR 8.16 Restrictions on Fishing in Certain Artificial Reef Areas~~

~~1) Purpose. This regulation restricts commercial fishing activity and other deployment of buoyed vertical lines in designated recreational fishing reef areas. These restrictions are being implemented to prevent gear and user group conflicts that may result from commercial fishing or the presence of buoyed vertical lines occurring in areas designated for recreational fishing.~~

~~2) Definitions. For the purpose of this section, the following words shall have the following meaning:~~

~~Commercial fishing means to take or harvest, or attempt to take or harvest, any fish or shellfish for the purposes of sale, barter or exchange or to keep for personal or family use any fish or shellfish taken under the authority of a commercial permit issued by the Director. This includes, but is not limited to, the setting or hauling of any fixed or mobile gear.~~

~~Fixed Gear means any bottom or sink gillnets, or pots or traps that are set on the ocean bottom or in the water column and are usually connected to lines that extend to the water's surface.~~

~~Mobile Gear means any moveable fishing gear or nets which are towed, hauled or dragged through the water for the harvest of finfish or shellfish.~~

~~Recreational fishing means the non-commercial taking or attempted taking of finfish for personal or family use, sport or pleasure, which are not sold, traded or bartered.~~

~~3) Harwich Recreational Fishing Reef Boundaries. The Harwich Recreational Fishing Reef is bounded by straight line drawn between the following coordinates:~~

Coordinate	Latitude	Longitude
NE Corner	41°62755' N	-70°06769' W
NW Corner	41°62755' N	-70°07251' W
SW Corner	41°62395' N	-70°07251' W
SE Corner	41°62395' N	-70°06769' W

~~4) Restrictions. It shall be unlawful for any person within the Harwich Recreational Fishing Reef Boundaries:~~

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- ~~a. to conduct commercial fishing activity;~~
- ~~b. to set, fish or abandon any recreational lobster or crab traps; and~~
- ~~c. to set or abandon any buoyed vertical line for any other purpose.~~

REGULATORY AUTHORITY

322 CMR 8.00: M.G.L. c. 130, §§ 2, 17A, 80 and 104.

10.01: Definitions

For purposes of this 322 CMR 10.00 only, the following words shall have the following meanings:

Approved Area as used by the Division when classifying or reclassifying a shellfish growing area in accordance with M.G.L. c. 130, § 74 or 74A means that shellfish may be grown or harvested for direct marketing.

DPH means the Massachusetts Department of Public Health, ~~Division of Food and Drugs, 305 South Street, Jamaica Plain, MA, 02130.~~

Dig or Take (in all of its tenses) means to harvest, dig, take, remove or attempt to harvest, dig, take or remove any moderately contaminated shellfish by any method or means.

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

Division means the Massachusetts Division of Marine Fisheries, ~~100 Cambridge Street, Boston, MA 02202.~~

Landing Site means an area or areas designated by the Director as that location where moderately contaminated shellfish shall be deposited immediately after harvesting and from which the loading of said contaminated shellfish onto a transport vehicle shall take place.

Master Digger means any individual authorized by the Director pursuant to 322 CMR 7.02 to engage in the harvest, possession, transportation and sale of moderately contaminated shellfish.

Moderately Contaminated Shellfish means moderately contaminated shellfish harvested from an area which has been classified by the Division as "restricted" and has been opened by the Division for harvesting by master and subordinate diggers conditioned upon the purification of said shellfish at the shellfish purification plant.

Prohibited as used by the Division when classifying or reclassifying a shellfish area in accordance with M.G.L. c. 130, §§ 74 or 74A means the prohibition of any digging or taking of shellfish from the area so classified.

Purification Plant, or Depuration Plant, means the shellfish purification plant operated by the Division located at Plum Island, Newburyport, Massachusetts.

Rack means a ½ bushel container which may be filled pursuant to 322 CMR 10.04 with moderately contaminated shellfish harvested by each subordinate digger on a given day as a condition of the permit.

Subordinate Digger means any individual authorized by the Director pursuant to 322 CMR 7.02 to harvest and possess at a landing site moderately contaminated shellfish for purposes of sale to a master digger only.

Transport Vehicle means any motor vehicle equipped with a separate, fully enclosed mechanically refrigerated cargo area not ~~accessible~~ **accessible** from the cab, approved by DPH as complying with the transporting requirements of the National Shellfish Sanitation Program, marked in accordance with DPH regulations and authorized by the Director. No more than one such vehicle may be approved, authorized and used by a master digger for purposes of transporting moderately contaminated shellfish. Exception: mechanical refrigeration will not be required prior to July 1, 1989.

10.02: Authorization

(1) Permits. Any person authorized by 322 CMR 7.02 as a master digger or subordinate digger conducting activities under said authorization may not at the same time have in their possession a bait permit, a commercial fisherman permit endorsed for shellfish, or a shellfish transaction card unless it is validated for use by a master digger for the sale of purified shellfish. In no instance will a permit to harvest contaminated shellfish from a prohibited area be issued by the Director.

(2) Areas. Any person authorized as a master or subordinate digger may harvest moderately contaminated shellfish only from an area or areas classified as restricted and opened for such harvest by written notice of the Director, and if applicable, opened by local officials in accordance with M.G.L. c. 130, § 52.

(3) Supervision. The master digger, or his approved supervisor or transportation agent, shall at all times be present and supervise the harvesting, loading and transportation of all moderately contaminated shellfish taken under authority of a master or subordinate digger permit. As a condition to the master digger permit the master digger:

- (a) shall be responsible, accountable and liable for all of the shellfish activities of his or her supervisor, transportation agents, and subordinate diggers;
- (b) shall maintain an accurate list of subordinate diggers authorized to harvest moderately contaminated shellfish on each day in which harvesting activities take place, except that this requirement shall not apply to the master digger if the duly authorized supervisor maintains the list;
- (c) shall not authorize subordinate diggers to dig or take any moderately contaminated shellfish until such time as their true and accurate name and subordinate digger number is entered upon such list, and the area from which harvesting will take place is described to him or her by the master digger;
- (d) shall remain informed of the status of each area from which moderately contaminated shellfish is harvested under authority of the master digger permit;
- (e) shall receive and accept all regular and certified mail sent to him or her by the Division; and
- (f) agrees as a condition to the master digger permit to fully accept the provisions of 322 CMR 10.08(6) and 10.09.

10.03: Agents

(1) Supervisors. A master digger may employ no more than three persons who may also be subordinate diggers to act as supervisors provided that;

- (a) the individual is designated as a supervisor on forms supplied by the Director;
- (b) the individual designated as a supervisor on such forms is approved in writing by the Director;
- (c) the approved supervisor shall be authorized to and responsible for supervising the digging and taking, placement at a landing site, and loading onto a transport vehicle of all moderately contaminated shellfish harvested under authority of a master or subordinate digger permit;

(d) the approved supervisor signs a statement certifying his or her knowledge of and agreement to fully comply with 322 CMR 7.02 and 10.00, applicable regulations of DPH, M.G.L. c. 130, §§ 74, 74A, 75 and 80 and any applicable condition or restriction of the master digger permit; and

(e) the approved supervisor carries on his or her person during moderately contaminated shellfishing activities his or her approved authorization form as required by 322 CMR 7.02(1)(b) and shall display said authorization on request of any officer authorized to enforce 322 CMR 7.02 and 10.00.

(2) Transportation Agents. A master digger may employ no more than two persons, who may also be subordinate diggers, to act as transportation agents. An approved transportation agent shall be considered an approved supervisor if responsible for supervising the harvesting and landing of moderately contaminated shellfish. Applicants for a transportation agent:

(a) shall be designated as transportation agents on forms supplied by the Director;

(b) shall have such designated forms approved in writing by the Director;

(c) shall be authorized to and responsible for the transportation of moderately contaminated shellfish from its loading onto the transport vehicle to its off-loading at the purification plant;

(d) shall sign a statement certifying his or her knowledge of and agreement to fully comply with 322 CMR 7.02 and 10.00, applicable regulations of DPH, M.G.L. c. 130, §§ 74, 74A, 75 and 80, and applicable conditions or restrictions of the master and subordinate digger permits; and

(e) shall carry on his or her person during transporting activities his or her approved authorization form as required by 322 CMR 7.02(b) and shall display said authorization on request of any officer authorized to enforce this chapter.

(3) Prohibitions. It is unlawful for a supervisor or transportation agent to:

(a) sell or offer to sell any moderately contaminated shellfish;

(b) possess or transport any shellfish from an approved area while in possession of a master or subordinate digger permit or supervisor or transportation agent authorization form;

(c) possess or transport any moderately contaminated shellfish from an area closed by the Director or from an area not otherwise classified as restricted by the Director.

(4) Plan. Cities and towns may develop alternate harvesting measures for approved and moderately contaminated shellfish areas by submitting a plan to the Director. The plan shall ensure that permits for such activities may not be possessed by a master digger or subordinate digger at the same time. Shellfish transaction cards and commercial fisherman permits shall be turned in to an authorized official during harvesting activities in moderately contaminated areas. Master and subordinate digger permits shall be turned in during harvesting activities in approved areas.

10.04: Containers

(1) Racks. Immediately upon harvesting, and for the purpose of loading onto a transport vehicle, all moderately contaminated shellfish shall be deposited in a rack that has been approved for such use in writing by DPH.

(2) Filing. Said rack shall be filled level with the bottom of the handles (**see Appendix 1**) with no more nor less than ½ bushel of moderately contaminated shellfish, except the one rack from each day's harvest may contain less than the prescribed amount.

(3) Contents. Each rack may not contain any dead or broken shellfish or any foreign matter.

(4) Washing. All moderately contaminated shellfish in each rack shall be thoroughly washed prior to its loading onto the transport vehicle with water from the harvest area.

(5) Condition. All racks shall be kept in good repair.

- (6) Protrusions. Racks with protruding wires or staples may not be used.

10.05: Transportation

- (1) Loading. Except as provided for in 322 CMR 10.06 all moderately contaminated shellfish harvested under authority of a master or subordinate digger permit shall be loaded onto a transport vehicle only at an approved landing site designated by the Director.
- (2) Identification. Moderately contaminated shellfish shall be accurately recorded in the master digger book and physically separated in the transport vehicle by designated area where harvested.
- (3) Route. Moderately contaminated shellfish shall be transported in the following manner.
- (a) immediately upon loading and with no delays to the purification plant;
 - (b) only in the master digger's approved transport vehicle; and
 - (c) via the approved route or routes designated and authorized by the Director.

10.06: Hold-Over

- (1) Moderately contaminated shellfish may be held-over for delivery to the purification plant in the case of a demonstrated emergency, **notwithstanding notwithstanding** 322 CMR 10.05, provided that such hold-over has been approved in advance by an environmental police officer or a duly appointed and authorized shellfish constable, and provided further that said officer or constable notifies the Division of Law Enforcement through its radio room of such approval.

10.07: Records

- (1) Books. Master diggers shall maintain complete and accurate records of their moderately contaminated shellfishing activities written in ink, in books supplied by the Director.
- (2) Entries. The master digger shall accurately record in such books, in triplicate, by date:
- (a) the amount of moderately contaminated shellfish harvested;
 - (b) the location where the harvesting occurred; and
 - (c) all entries shall be made subsequent to the loading of moderately contaminated shellfish on the transport vehicle but prior to the moment at which the transport vehicle departs from the landing site.
- (3) Placement. Upon completing an accurate entry the record book shall be placed in a secure and clean part of the cargo area wherein the moderately contaminated shellfish is located.
- (4) Production. The record book shall be produced upon demand of any officer authorized to enforce the provisions of 322 CMR 10.00 including but not limited to environmental police officers, shellfish constables and employees of the Division and DPH.
- (5) Disposition. The record books shall be disposed of as follows:
- (a) the white sheet shall be removed only by an official of the Division at the purification plant upon proper verification and validation.
 - (b) the transparent sheet shall remain attached to and form a part of the book at all times; and
 - (c) the yellow sheet may be removed by a duly appointed shellfish constable in a city or town authorized by the Director to manage contaminated shellfish areas pursuant to M.G.L. c. 130, § 75.
- (6) Diggers. The master digger shall, on a daily basis, record the true and accurate name and permit number of each subordinate digger employed and the number of racks of moderately contaminated shellfish harvested by each. Said records shall be produced upon demand of any officer authorized to enforce 322 CMR 10.00 or the supervisor of the shellfish purification plant.

10.08: Purification

- (1) Responsibility. The master digger shall be responsible for all moderately contaminated shellfish delivered to the purification plant.
- (2) Pick-up. The master digger shall pick up all of his or her purified shellfish within 24 hours after its purification. Unclaimed shellfish shall be disposed of at the discretion of the plant supervisor.
- (3) Records. Prior to departing with the purified shellfish, the master digger shall record the amount of all purified shellfish released to his or her custody, the date of release and the designated area from which the purified shellfish had been harvested.
- (4) Tags. Prior to departing with the purified shellfish, the master digger shall supply and place a tag in each rack of purified shellfish or attach a tag to each rack by means other than by staples. Said tag shall be durable, of water proof material and contain the following information:
 - (a) the name of the master digger;
 - (b) the permit number of the master digger;
 - (c) the date when the purified shellfish was originally harvested;
 - (d) the designated area from which the purified shellfish was harvested;
 - (e) a Division stamp affixed by an official of the purification plant.
- (5) Dealers. Any licensed wholesale dealer certified to deal in shellfish may pick up purified shellfish for the master digger at the purification plant, provided that all tagging requirements are met, and DPH shellfish traceability regulations have been fully complied with by the transporting dealer.
- (6) Liability. The master digger agrees that the purification plant supervisor may refuse to treat improperly washed or culled moderately contaminated shellfish, and may dispose of any moderately contaminated shellfish which in his opinion will adversely ~~effect~~ **affect** the purification process. The master digger further agrees that said actions shall be taken without liability of any kind, may not subject the Division or the plant supervisor to any civil action for damages and may not form the basis for a tort claim of any kind.

10.09: Shellfish Release

If upon completion of the first 48 hour purification period the shellfish delivered does not meet the required purification standards as established by DPH, an additional purification period may be attempted. If upon completion of an additional 24 hour purification period the shellfish do not meet or exceed the purification standards as established by DPH, the shellfish may not be released to the master digger but shall instead be disposed of by the purification plant supervisor in the best interests of the Commonwealth. The Commonwealth, the Division and its officials and employees shall not be liable to the master digger for any claim of any kind arising out of the disposition of the shellfish.

10.10: Prohibitions

In addition~~s~~ to any other prohibition contained in 322 CMR 10.00, it is unlawful:

- (1) to harvest, possess, transport, sell or offer to sell any moderately contaminated shellfish unless properly authorized as a master digger, supervisor, transportation agent or subordinate digger pursuant to 322 CMR 7.02;
- (2) for a master or subordinate digger to have in possession during his or her moderately contaminated shellfish ~~activites~~ **activities** a clean shellfish permit, a shellfish endorsement on his or her commercial fishermen permit or a shellfish transaction card other than a special master digger transaction card.
- (3) for the holder of a master or subordinated digger permit to harvest, possess, transport, sell or offer to sell any shellfish from a prohibited area or from any area which are otherwise clean, open and classified as approved by the Division.

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- (4) for a master digger or duly approved supervisor not to maintain an accurate list of subordinate diggers authorized to harvest moderately contaminated shellfish each day in which harvesting activities take place;
- (5) for a supervisor or transportation agent not to carry on his or her person during moderately contaminated shellfishing activities his or her approved authorization form or to fail or refuse to display said form on request of any officer authorized to enforce 322 CMR 10.10;
- (6) for a master or subordinate digger to conduct any moderately contaminated shellfish harvesting activities from sunset to ½ hour before sunrise as established by the United States Weather Bureau;
- (7) for a master or subordinate digger to leave any moderately contaminated shellfish at any location other than a designated landing site, or at a landing site which is not supervised at all times by the master digger or an agent as provided for in 322 CMR 10.03;
- (8) for a master or subordinate digger, supervisor or transportation agent to load any moderately contaminated shellfish onto a transport vehicle at any time between hour after sunset to sunrise, as established by the United States Weather Bureau;
- (9) for a master digger or transportation agent to delay the transportation of moderately contaminated shellfish to the purification plant, unless authorized to hold-over pursuant to 322 CMR 10.06;
- (10) to hold-over any moderately contaminated shellfish without fully complying with 322 CMR 10.06;
- (11) for a master digger or transportation agent to transport any contaminated shellfish by any method or in any vehicle other than the transport vehicle authorized by the Director for use by the master digger;
- (12) for a master digger or transportation agent to transport any contaminated shellfish in anything other than containers or racks approved by the DPH;
- (13) for a master digger or a supervisor to fill any container or rack in a manner which is not level with the bottom of the handles with more or less than ½ bushel of moderately contaminated shellfish except as provided for in 322 CMR 10.04(1);
- (14) for a master digger or transportation agent to transport contaminated shellfish which has not been washed or which contains broken or dead shellfish;
- (15) for a master digger, transportation agent, supervisor or subordinate digger to wash or clean moderately contaminated shellfish in water from a prohibited or unclassified area;
- (16) to transport moderately contaminated shellfish without the master digger or transportation agent present;
- (17) to transport any moderately contaminated shellfish which is not accurately identified in writing and physically separated by designated area where harvested;
- (18) for a master digger or transportation agent to transport any moderately contaminated shellfish over any route or routes other than those routes designated and authorized by the Director;
- (19) to transport any moderately contaminated shellfish in a transport vehicle which contains any other shellfish, either shucked or in the shell, which did not originate from the areas designated on that day as evidenced by entries in the master digger book;

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- (20) to deposit the master digger book after an entry has been made prior to the transport of the moderately contaminated shellfish in any place other than a secure and clean part of the cargo area wherein the shellfish is located;
- (21) to falsify, forge or counterfeit the signature of an environmental police officer or a shellfish constable when the signature is required by 322 CMR 10.06(2);
- (22) to store moderately contaminated shellfish in accordance with an approved hold-over in an area which is not sanitary or secure, or which has a temperature less than 32°F or greater than 50°F or where other clean shellfish is stored.
- (23) for a master digger not to maintain **complete in-complete** and accurate records by a medium other than ink, or to falsify any such record, or to dispose of any pages in a master digger book in any manner other than that provided for in 322 CMR 10.07;
- (24) for a master digger or subordinate digger not to pick up regular mail or sign for certified mail of the Division which is addressed to the master or subordinate digger;
- (25) for a master digger to possess any purified shellfish after its release from the purification plant without properly affixing tags, or affixing tags which do not contain all of the requirements of 322 CMR 10.08(4);
- (26) to falsify, forge, counterfeit, alter or steal the Division stamp required by 322 CMR 10.08(4)(e);
- (27) for a **master mater** digger or subordinate digger to conduct any moderately contaminated shellfishing activities, to be present at the purification plant, or to be present at or near a restricted area during a suspension of his or her master digger or subordinate digger permit;
- (28) for any master digger of his or her agent to discuss or negotiate the sale of any shellfish at the purification plant;
- (29) for a subordinate digger to sell any moderately contaminated shellfish to any person other than a master digger;
- (30) for a subordinate digger to harvest moderately contaminated shellfish without the permission, authorization and supervision of a master digger or supervisor;
- (31) for any person to violate any condition or restriction of:
- (a) the master digger permit;
 - (b) the subordinate digger permit;
 - (c) the supervisor's authorization form; or
 - (d) the transportation agent's authorization form;
- (32) for any master digger, supervisor or transportation agent to mix moderately contaminated shellfish with clean shellfish, whether shellstock or shucked, in the transportation vehicle.
- (33) for any person to refuse to pay the purification fee as established by the Executive Office of Administration and Finance, by check or money order, or to deliver shellfish to the purification plant before restitution is made for checks which have not been honored by the payor bank;
- (34) for any person to refuse to display for inspection upon demand of any authorized officer or Division personnel a master digger or subordinate digger permit, a supervisor or transportation agent's authorization form, or any moderately contaminated shellfish possessed at the time **time**;
- (35) for any person to **harass harrass**, threaten, intimidate, abuse or assault any environmental police officer, shellfish constable, or employee of the Division or DPH.

10.11: Penalties

A violation of any provision of 322 CMR 10.00 may result in:

- (1) a fine of not less than \$50 nor more than \$1,000;
- (2) the seizure and forfeiture of all shellfish unlawfully taken, possessed or sold;
- (3) the seizure and forfeiture of all shellfishing gear, equipment and the transport vehicle;
- (4) suspension or revocation of the master digger permit or subordinate digger permit in accordance with 322 CMR 7.02(b);
- (5) suspension or revocation of any agent authorization;
- (6) enforcing the terms and conditions of the applicable bond maintained pursuant to 322 CMR 7.02(2)(b); or
- (7) any combination of the above.

REGULATORY AUTHORITY

322 CMR 10.00: M.G.L. c. 130, §§ 2, 17A, 75, 80 and 104.

~~11.01: Definitions~~

~~Unless the context indicates otherwise in 322 CMR 11.00, the following words shall have the following meanings:~~

~~Director means the Director of the Massachusetts Division of Marine Fisheries, 100 Cambridge Street, Boston, MA 02202.~~

~~Fishery Conservation Zone means the zone established by section 101 of the Magnuson Fishery Conservation and Management Act of 1976, P.L. 94-265; 16 U.S.C. § 1811.~~

~~Fishery Management Plan means any plan developed by a Regional Fishery Management Council in accordance with and pursuant to 16 U.S.C. § 1853.~~

~~Internal waters of Massachusetts means all waters within the boundaries of the Commonwealth except those seaward of the baseline from which the territorial sea is measured.~~

~~Non-permitted species means those species which must be returned to the sea or to United States fishing vessels.~~

~~Over-the-side sale means the act of transferring any fish authorized to be transferred from a United States fishing vessel to a foreign processing vessel.~~

~~Prohibited species means those species which must immediately be returned to the water and are commonly called striped bass, shad, smelt, lobster, coho salmon, and Atlantic salmon.~~

~~Processed and fish processing means the application of preservative means and/or methods to the flesh of fish to maintain quality and prevent deterioration and includes but is not limited to:~~

- ~~(a) transportation, transferring, storage, or possession of unprocessed fish;~~
- ~~(b) preparation for preservation; or~~
- ~~(c) cooking, canning, smoking, salting, drying, freezing, icing, refrigeration, vacuum packing, gas, microwave preservation, or other preservation means.~~

~~11.02: Authorization~~

~~A foreign fishing vessel may engage in fish processing within internal waters of Massachusetts if:~~

~~(1) the foreign nation under which it is flagged is a party to a governing international fishery agreement or treaty described in 16 U.S.C. §§ 1821 and 1822 during the time the vessel will engage in fish processing in internal waters of Massachusetts;~~

~~(2) the owner or operator of the foreign fishing vessel or a person authorized to represent the owner or operator applies to the Director for a permit; the Governor approves the issuance of a permit; and a permit is issued for the vessel to engage in fish processing in internal waters of Massachusetts;~~

~~(3) no fish harvested from the Fishery Conservation Zone are part of the operation unless a federal joint venture permit has been obtained from the National Marine Fisheries Service;~~

- ~~(4) a dealer permit has been issued by the Director for each foreign processing vessel, and a commercial fisherman permit has been issued by the Director for all fishing vessels involved in the over-the-side sale;~~
- ~~(5) commitments, requirements or other obligations of past internal waters processing in any state and joint ventures in federal waters have been complied with;~~
- ~~(6) all other state permits, conditions and other requirements have been complied with; and~~
- ~~(7) all catches associated with the over-the-side sale will be reported to the Director.~~

11.03: Exception

~~The Governor may not approve the issuance of a permit by the Director if it is determined that:~~

- ~~(1) U.S. fish processors within Massachusetts have adequate capacity and will utilize such capacity, to process all of the United States harvested fish from the fishery concerned that are landed in Massachusetts. In making this determination, the governor may consider:
 - ~~(a) the availability of harvesting vessels in Massachusetts and the capability of such vessels to harvest the species in the fishery concerned;~~
 - ~~(b) the availability of the labor force, the adequacy of processing machinery, freezers, and cold storage facilities of Massachusetts fish processors, and the processors' ability, intent, and plans to process the particular species;~~
 - ~~(c) the geographical proximity of the over-the-side sale harvest locations to the facilities of Massachusetts processors;~~
 - ~~(d) the processors' claims as to their capacity versus their actual processing performance in any given year; and~~
 - ~~(e) potential for processors to compete in foreign markets including but not limited to the existence of trade barriers and the abundance of a competing product in other parts of the world.~~~~
- ~~(2) fishing operations associated with the permit are expected to cause gear conflicts or interfere with other inshore fishing operations;~~
- ~~(3) non-permitted species will not be returned to United States fishing vessels or to the sea, or prohibited species will not be returned to the sea;~~
- ~~(4) the optimum yield or acceptable biological catch of a Fishery Management Plan would be exceeded; or~~
- ~~(5) fishing operations associated with the permit might have a deleterious effect on the forage base as determined by biological data, catch data and traditional fishing practices.~~

11.04: Application

~~A permit application to engage in fish processing in the internal waters of Massachusetts shall be submitted at least 90 days prior to the requested date of the beginning of the over-the-side sale on forms to be supplied by the Director and shall state:~~

- ~~(1) foreign processing vessel description and identification information;~~
- ~~(2) the names and descriptions of the vessels from which the applicant expects to purchase fish;~~
- ~~(3) the species and quantity of fish proposed to be processed and the processing methods to be used;~~

~~(4) the date for which permission is sought;~~

- ~~(5) the specific locations in internal waters proposed for fish processing;~~
- ~~(6) the existence of a governing international fisheries agreement or treaty as described in 16 U.S.C. §§ 1821 and 1822;~~
- ~~(7) the ability to comply with all applicable laws and regulations of the United States and the Commonwealth of Massachusetts and any permit requirements and conditions; and~~
- ~~(8) the intended sales market for the product.~~

~~11.05: Conditions~~

~~The Director may specify times and areas of operations, species and quantities to be processed, and any other conditions of operation determined to be necessary and appropriate including but not limited to:~~

- ~~(1) consent by all vessel masters, including the foreign processing vessel, to take on board an observer assigned by the Director;~~
- ~~(2) assisting in the transfer of the observer to and from the fishing vessels and/or the foreign processing vessel; and~~
- ~~(3) reimbursement for the cost of the observer's presence.~~

~~11.06: Termination~~

~~The Director may terminate the harvesting, over the side sale or the foreign processing activity at any time upon written notification if he determines that:~~

- ~~(1) foreign processing and associated fishing activities are causing user group conflicts or interfering with inshore fishing operations;~~
- ~~(2) prohibited species are not being returned to the sea;~~
- ~~(3) non-permitted species are not being returned to the sea or to United States fishing vessels by the foreign processing vessel;~~
- ~~(4) catches of prohibited species are excessive as determined by the Director based on observer data, catch data, and other relevant biological information;~~
- ~~(5) any permit condition has not been complied with;~~
- ~~(6) the over the side sale does not strictly adhere to application specifications;~~
~~or~~

~~(7) an emergency action is necessary to protect the public health, welfare or safety.~~

~~REGULATORY AUTHORITY~~

~~322 CMR 11.00: M.G.L. c. 130, §§ 2, 17A, 80 and 104.~~

14.01: Aquaculture Raised Hybrid Striped Bass

(1) Purpose and Scope. Aquaculture raised hybrid striped bass (*Morone saxatilis* x *Morone chrysops*) produced for market create a potential outlet for undersized striped bass that could undermine management and enforcement goals. Since aquaculture raised hybrid striped bass are readily shipped and marketed in all parts of the country, regulations governing transport, handling, and sale are most effective if standardized among states. For this reason, 322 CMR 14.00 is drafted to be consistent with provisions of Resolution IV adopted by the Atlantic States Marine Fisheries Commission at their 48th annual meeting on October 25, 1989.

(2) Hybrids. Whole aquaculture raised striped bass shall have a tag or label affixed to each fish container holding fish in accordance with 322 CMR 14.01(2)

(3) Fillets. Fillets from aquaculture raised hybrid striped bass shall have the skin attached.

(4) Tags and Labels. All tags and labels affixed to containers of whole aquaculture raised hybrid striped bass and fillets from aquaculture raised hybrid striped bass shall be clearly marked *Hybrid Striped Bass* and provide the following information:

- (a) state of origin,
- (b) Name and address of shipping and receiving dealers,
- (c) permit number of shipping and receiving dealers,
- (d) date shipped,
- (e) net weight of container.

(5) Nomenclature. It is unlawful for any person to market, promote, advertise or sell whole hybrid striped bass or hybrid striped bass fillets as "striped bass". Only the term "hybrid striped bass" shall be used when marketing, promoting, advertising or selling at retail hybrid striped bass and hybrid striped fillets.

14.02: Other Aquaculture Raised Finfish

(1) **Purpose and Scope.** Since aquaculture raised finfish is readily shipped and marketed throughout the country, regulations governing their transport, handling, and sale are necessary to differentiate the aquaculture raised finfish product from wild caught finfish. To that end 322 CMR 14.02, shall apply to all aquaculture raised finfish species for which such finfish species are also wild caught and landed in Massachusetts and regulated under 322 CMR.

(2) **Tags and Labels.** All whole aquaculture raised finfish and fillets from aquaculture raised finfish shall be placed in containers affixed with tags or labels that clearly display the following information:

- (a) A statement that the product is aquaculture raised;
- (b) The common name of the species;
- (c) The name, address and permit number of the shipping dealer;
- (d) The name, address and permit number of the receiving dealer;
- (e) The date the product was shipped; and
- (f) The net weight of the container.

(3) **Live Product.** All persons in possession of live aquaculture raised finfish shall maintain records containing the following information during the duration of time that the live aquaculture raised finfish is in their possession:

- (a) That the product is aquaculture raised;
- (b) The common name of the species;
- (c) The name, address and permit number of the shipping dealer;
- (d) The name, address and permit number of the receiving dealer; and
- (e) The date the product was shipped.

(4) **Non-Conforming Product.** A person in compliance with 322 CMR 14.02 may possess aquaculture raised finfish that do not conform to Massachusetts commercial fishing regulations at 322 CMR.

(4) **Prohibitions.** It shall be unlawful for any person to:

- (a) Market, promote, advertise or sell aquaculture raised finfish without identifying the products as being aquaculture raised; or
- (b) Transport, possess, sell or offer for sale any aquaculture raised finfish that is not tagged or labeled in accordance with 322 CMR 14.02.

322 CMR 14.03 Sale of Aquaculture Reared Shellfish That Do Not Conform to Wild Caught Minimum Sizes

(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).

Aquaculture Reared Minimum Size means those minimum sizes for aquaculture reared surf clams prescribed at 322 CMR 6.08(3)(c) and aquaculture reared quahogs and oysters and 322 CMR 6.20(2)(c).

Dealer means any person, business or entity that is permitted in accordance with 322 CMR 7.01(3) to purchase and/or sell shellfish at a wholesale or retail level.

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

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

Surf Clam means that species of mollusk known as *Arctica islandica*.

Wild Caught Minimum Size means those minimum sizes for wild caught surf clams prescribed at 322 CMR 6.08(3)(c) and wild caught quahogs and oysters and 322 CMR 6.20(2)(c).

(2) Aquaculture Reared Minimum Sizes. Aquaculturists and/or their authorized agent may possess and sell for commercial purposes oysters, quahogs and surf clams provided that they conform to the aquaculture reared minimum sizes.

(3) Rules Affecting Dealers.

a. Dealers may only purchase oysters, quahogs and surf clams from aquaculturists or their licensed employees that conform to the aquaculture reared minimum sizes.

b. Dealers may only possess, offer for sale and sell oysters, quahogs and surf clams purchased from aquaculturists or their licensed employees that conform to the aquaculture reared minimum sizes.

c. Dealers in possession of aquaculture reared oysters, quahogs and surf clams that do not conform to the wild caught minimum sizes shall keep them in containers affixed with a red tag or label that clearly displays that the product is “aquaculture raised”

d. All dealers receiving aquaculture reared shellfish from outside the Commonwealth must ensure that the shellfish conform to aquaculture minimum sizes and are tagged as required by 322 CMR 14.03(3)(c).