

4.04: Use of Sink Gillnets

(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.

4.06: Use of Mobile Gear

(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: *Surf Clam and Ocean Quahog Fisheries*, 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.

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

b. 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 15th through April 30th.

c. 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 1st through March 31st and from June 15th through September 30th.

d. 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:

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

ii. 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 five raised foot ropes are required.

iii. 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 1st through December 31st Closure. It is unlawful to use mobile gear during the period of April 1st through December 31st 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 1st through October 31st Closure. It is unlawful to use mobile gear during the period of April 1st through October 31st 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 1st through October 31st Closure. It is unlawful to use mobile gear during the period of May 1st through October 31st 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° 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 1st through October 31st Closure. It is unlawful to use mobile gear during the period of May 1st through October 31st 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° 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 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 1st through April 30th Closure. It is unlawful to use mobile gear during the period of April 1st through April 30th 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) Nantucket Town Waters May 1 through October 31 (Great Point to Nantucket Harbor) June 1st through September 15th Closure. It is unlawful to use mobile gear, except for scallop dredges, during the period of June 1st through September 15th 31 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.~~

It is unlawful to use mobile gear during the period of May 1 through October 31 in all waters within the territorial seas line, as depicted on NOAA Chart 13237, around the coast of Nantucket, Tuckernuck and Muskeget Island bounded to the west by an imaginary line between 41.269448 N latitude and -70.39736 W longitude to the south and 41.393778 N latitude and -70.325159 W longitude to the north that follows the line that delineates the Edgartown municipal waters from Nantucket municipal waters.

(h) Falmouth to Mashpee Shoreline Closures.

1. ¼ Mile Closure. It is unlawful to use mobile gear during the period of April 23rd through May 31st in the waters under the jurisdiction of the Commonwealth encompassed by an imaginary straight line beginning at the shoreline at Succunnesset Point in the town of Mashpee; thence seaward for ¼ nautical mile along an imaginary straight line extending from Succunnesset 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 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.

2. ½ Mile Closure. It is unlawful to use mobile gear during the period of June 1st through October 31st in the waters under the jurisdiction of the Commonwealth encompassed by an

imaginary straight line beginning at the shoreline at Succunnesset Point in the town of Mashpee; thence seaward for ½ nautical mile along an imaginary straight line extending from Succunnesset 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 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.

(i) Cuttyhunk Island to Falmouth Shoreline Closure. It is unlawful to use mobile gear during the period of May 1st through October 31st 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. 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.

(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 two centimeters in eight centimeters, inserted into the meshes under a pressure or pull of **eight 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 ten 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 6½ inches throughout the cod-end and six 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 23rd through June 9th, lawfully permitted vessels may fish small mesh trawls within the small mesh squid exempted area.

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

b. The seasonal mobile gear closures at 322 CMR 4.06(2)(h) and (i) apply.

c. 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, or summer flounder ~~or windowpane flounder~~, in any combination.

d. Vessels participating in this fishery shall use trawls with a minimum mesh size of 1 7/8 inch diamond or square mesh applied throughout the cod end for at least 150 continuous meshes forward of the terminus of the net, or, for cod ends with less than 150 meshes, the minimum mesh size cod end shall be the minimum of 1/3 of the net measured from the terminus of the cod end of the head rope.

e. ~~d.~~ Fishery Extension. The Director may extend the seasonal small mesh squid fishery if it is determined that continued fishing with small mesh will not result in large catches of small squid less than five inches mantle length, or juvenile scup, black sea bass or summer flounder.

2. Seasonal Whiting Small Mesh Raised Footrope Trawl Fishery.

a. Area 5. From September 1st through September 30th, lawfully permitted vessels may fish with a small mesh raised footrope trawl, as defined at 322 CMR 8.06(2): *White Perch*, within Area 5, defined at 322 CMR 4.06(1).

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

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

b. Upper Cape Cod. From September 1st through November 20th, lawfully permitted vessels may fish with a small mesh raised footrope trawl in the Upper Cape Cod Whiting Area defined in 322 CMR 8.06(1)(a): *Area*.

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

ii. Vessels participating in this fishery must comply with 322 CMR 8.06: *Minimum Size and Possession Limits*.

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

(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.

6.02: Lobster Conservation and Management

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

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

1. General Requirements. On each trap, separate parlors shall each have an escape vent, while only the outer of connected parlors must have an escape vent.
2. LCMA1. Commercial fishermen fishing or authorized to fish in LCMA 1, as defined in 322 CMR 6.33, shall rig their traps with vents that measure at least $1\frac{15}{16}$ inches by $5\frac{3}{4}$ inches or two circular vents that measure at least $2\frac{7}{16}$ inches.
3. LCMA 2, 3, 4, 5, 6 or Outer Cape Cod. Commercial fishermen fishing or authorized to fish in LCMA 2, 3, 4, 5, 6 or Outer Cape Cod, as defined in 322 CMR 6.33, shall rig their traps with vents that measure at least two inches by $5\frac{3}{4}$ inches or two circular vents that measure at least 2_ inches.
4. Gulf of Maine Recreational Lobster Area. Recreational fishermen fishing in or authorized to fish in the Gulf of Maine Recreational Lobster Area, as defined in 322 CMR 6.33, shall rig their traps with vents that measure at least $1\frac{15}{16}$ inches by $5\frac{3}{4}$ inches or two circular vents that measure at least $2\frac{7}{16}$ inches.
5. Outer Cape Cod or Southern New England Recreational Lobster Areas. Recreational fishermen fishing in or authorized to fish in the Outer Cape Cod or Southern New England Recreational Lobster Areas, as defined in 322 CMR 6.33 shall rig their traps with vents that measure at least two inches by $5\frac{3}{4}$ inches or two circular vents that measure at least 2_ inches.

(b) Ghost Panel. All lobster traps must have an unobstructed ghost panel located in the parlor sections on the sides or at the end, or on the top if the escape panel is placed directly over the head and meets the following specifications:

1. The opening covered by the panel or created by other approved mechanism shall be rectangular and measure at least $3\frac{3}{4}$ by $3\frac{3}{4}$ inches, shall be located in the outer parlor section(s) of the trap, and in a position which allows an unobstructed exit of lobsters from the trap.
2. The panel shall be constructed of, or fastened to the trap with, one of the following materials: wood lath; cotton, hemp, sisal or jute twine not greater than $\frac{3}{16}$ inch in diameter; or non-stainless, uncoated ferrous metal not greater than $\frac{3}{32}$ inch in diameter.
3. The door of the trap may serve as the ghost panel if fastened to the trap with a material specified in 322 CMR 6.02(3)(b).
4. The escape vent specified in 322 CMR 6.02(3)(a) may serve as a ghost panel if incorporated into a panel constructed of, or attached to the trap with, a material specified in 322 CMR 6.02(3)(b), and upon breakdown of the degradable materials, will create an opening for egress of lobsters at least $3\frac{3}{4}$ by $3\frac{3}{4}$ inches.
5. Traps constructed entirely or partially of wood shall be considered to be in compliance if constructed of wood lath to the extent that deterioration of wooden component(s) will result in an unobstructed opening as specified in 322 CMR 6.02(3)(b)1.

(c) Maximum Trap Size. Volume of any trap must not exceed 22,950 cubic inches.

(d) Open and Collapsible Traps. The taking of lobster by any collapsible device constructed of wire or other material(s) that is fished in an open configuration until retrieved is prohibited. This prohibition shall not apply to the taking of edible crabs.

(e) Non-Conforming Contrivances. It is unlawful for any person to:

- (1) set or attempt to set any contrivance, other than fishing gear regulated by the Division pursuant to G.L. c. 130 and 322 CMR, designed to or capable of attracting lobsters. For the purposes of 322 CMR 6.02(3)(e), contrivances shall include, but not be limited to, any

toilet tanks, planters or cement structures. The possession of any contrivance that violates 322 CMR 6.02(3)(e) is prima facie evidence of a violation of this section.

(2) take, possess or land or attempt to take, possess or land any lobster from any contrivance set in violation of 322 CMR 6.02(3)(e).

6.03: Regulated Multi-species Groundfish

(8) Witch Flounder Commercial Possession Limit. It is unlawful for any vessel fishing within waters under the jurisdiction of the Commonwealth to possess on board or land more than ~~1,000~~ **300** pounds of witch flounder during a trip or 24-hour period, whichever period is longer.

6.07: Striped Bass Fishery (*Morone Saxatilis*)

(4) Commercial Management Measures. For purposes of conservation and management of the resource the following measures shall apply to commercial fishermen who harvest, catch or take, and/or sell, barter or exchange, or attempt to sell, barter or exchange any striped bass:

(a) Massachusetts commercial striped bass harvest will be limited annually by the commercial quota less any amount deducted to compensate for the previous year's overage.

(b) Commercial fishermen may fish for striped bass only during the commercial season and open fishing days within said season beginning on June 23rd and ending upon the reaching of the commercial quota.

(c) Commercial fishermen engaged in commercial fishing for striped bass may not possess striped bass less than 34 inches in total length. If the number of striped bass aboard a vessel is greater than the number of fishermen, then all striped bass in possession must be greater than 34 inches in total length, and all fishermen must be commercially permitted as described in 322 CMR 6.07(3). Striped bass less than 34 inches in total length shall be returned immediately to the waters from which taken.

(d) Commercial fishermen engaged in striped bass fishing under the authority of a Commercial Fisherman Coastal Lobster, Offshore Lobster or Boat Permit, issued in accordance with 322 CMR 7.01(2)(a), (c), (d) or (e) **and on the registered vessel listed on the permit**, may not possess, land, offer for sale or sell more than 15 striped bass per day on Mondays and Thursdays. This limit applies to the individual fisherman regardless of the number of commercial striped bass regulated fishery permit endorsements held by the individual or number of trips taken in a day and the vessel regardless of the number of individual commercial striped bass regulated fishery permit endorsement holders onboard or the number of trips taken in a day.

(e) Commercial fishermen engaged in striped bass fishing under the authority of a Commercial Fisherman Individual or Rod and Reel permit, issued in accordance with 322 CMR 7.01(2)(h), (i) or (j), **or under the authority of a Commercial Fisherman Coastal Lobster, Offshore Lobster or Boat Permit, issued in accordance with 322 CMR 7.01(2)(a),(c),(d) or (e), while fishing from shore or any location other than the registered vessel listed on the permit** may not possess, land, offer for sale or sell more than two striped bass per day on Mondays and Thursdays. This limit applies to the individual fisherman whether fishing from shore or a vessel, regardless of the number of commercial striped bass regulated fishery permit endorsement assigned to the individual fisherman or the number of trips taken in a day.

(f) All striped bass which are the subject of a first sale shall be in the round, with the head, body and tail fully intact.

(g) Except as provided for in 322 CMR 6.07(5)(f), no striped bass may be filleted or processed in any manner except by evisceration. In all prosecutions or non-criminal citations issued, mutilation of a striped bass which interferes with or affects a proper or adequate measurement of the fish shall be *prima facie* evidence that the striped bass was or is less than 34 inches in total length.

(h) Commercial fishermen shall sell striped bass only to Primary Buyers.

(i) Commercial fishermen shall sell striped bass only during the commercial season and only during the open fishing days within the commercial season.

(j) Commercial fishermen may harvest, catch, or take striped bass by rod-and-reel or handline only.

(k) Commercial fishermen engaged in commercial fishing for striped bass may not fish aboard the same vessel at the same time as recreational fishermen.

(l) Fishing During Closed Fishing Days. Beginning on June 20th through the end of the commercial fishing season, any commercial fisherman fishing recreationally on a closed commercial fishing day may retain a striped bass provided that all striped bass comply with the recreational fishing limits at 322 CMR 6.07(5) and any striped bass that are 34 inches in total length or greater have their right pectoral fin entirely removed immediately upon retention. This requirement shall also apply to all persons on a vessel listed on a commercial fisherman permit with a regulated striped bass fishery permit endorsement and all persons aboard a vessel

whenever the holder of a commercial fisherman permit with a regulated striped bass fishery permit endorsement is aboard.

6.07: Striped Bass Fishery (*Morone Saxatilis*)

(7) Prohibitions. It shall be unlawful for:

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

- (s) any commercial fisherman fishing under the authority of a Commercial Fisherman Individual or Rod and Reel Permit, issued in accordance with 322 CMR 7.01(2)(h): *Individual*, (i): *Shellfish/Rod and Reel* and (j): *Rod and Reel*, **or under the authority of a Commercial Fisherman Coastal Lobster, Offshore Lobster or Boat Permit, issued in accordance with 322 CMR 7.01(2)(a), (c), (d) or (e), while fishing from shore or anywhere other than the registered vessel listed on the permit, to take, possess, land, offer for sale or sell more than two striped bass during a single open fishing day. This shall apply to the individual commercial fisherman whether fishing from shore or from a vessel regardless of the number of commercial striped bass regulated fishery permit endorsement holders aboard or trips taken in a day;**
- (t) a commercial fisherman to fillet or process any striped bass other than by evisceration;
- (u) a commercial fisherman to mutilate any striped bass in such a way as to interfere with or affect a proper or adequate measurement of the fish;
- (v) a commercial fisherman to participate in the primary purchase of any striped bass which is not in the round, or which has had the head or tail removed;
- (w) a commercial fisherman to possess or land striped bass once the Director has determined that 100% of the commercial quota has been reached;
- (x) any Primary Buyer to purchase or receive during a primary purchase any striped bass which has been mutilated in such a way as to interfere with or affect a proper or adequate measurement of the fish;
- (y) any Primary Buyer to purchase or receive from a commercial fisherman any striped bass which is less than 34 inches in total length;
- (z) any Primary Buyer to purchase or receive from a commercial fisherman any striped bass after the open commercial season has closed or on any calendar day that is not an open fishing day;
- (aa) any Primary Buyer to fail to report all striped bass purchases from commercial fishermen as prescribed by the Director;
- (bb) any commercial fishermen to harvest, catch, or take striped bass by longlines or tub-trawls;
- (cc) any vessel rigged for otter trawling, hauling sink gillnets, purse seines, or possessing baited or unbaited longline or tub-trawl gear to possess striped bass;
- (dd) any wholesale or retail dealer to possess, sell, barter or exchange or offer to sell, barter or exchange any whole striped bass imported into Massachusetts unless such fish so imported is tagged as specified by 322 CMR 6.07(6);
- (ee) commercial fishermen to discard dead striped bass that are 34 inches or greater in total length;
- (ff) any person to receive during a primary purchase any striped bass unless permitted as a wholesale or retail dealer pursuant to 322 CMR 7.01(3): *Dealer Permits* and authorized as a Primary Buyer pursuant to 322 CMR 7.07: *Dealers Acting as Primary Buyers*;
- (gg) any person involved in the re-sale of striped bass to fail to furnish, upon request of the Director or the Environmental Police, receipts documenting the purchase of striped bass;
- (hh) any person to apply a Striped Bass ID Tag to a striped bass harvested for commercial purposes without being a Primary Buyer;
- (ii) a Primary Buyer to tag a striped bass with a Striped Bass ID Tag that was not issued to said Primary Buyer by the Director for the current year or that has been defaced or modified in any manner;
- (jj) any person, other than the original harvester, to possess striped bass or portions thereof for the purpose of sale without the striped bass or portions thereof being tagged in accordance with 322 CMR 6.07(6)(g);
- (kk) any person to fail to surrender Striped Bass ID Tags to the Director or the Environmental Police upon request;

(ll) any person to sell, trade, loan or gift or offer to sell, trade, loan or gift to another person any Striped Bass ID Tags;

(mm) a Primary Buyer to file a false claim of Striped Bass ID Tag loss for purposes of obtaining additional Striped Bass ID Tags.

(nn) a primary buyer to purchase a striped bass that has had its right pectoral fin entirely removed.

6.12: Fish Pot Fishery Restrictions

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

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

Black Sea Bass Pot means any pot or trap that has six sides and at least two unobstructed escape vents or openings in the parlor section that are at least 2 ½ inches diameter, 2 inches square or 1 3/8 inch by 5 ¼ inch, and is set on the bottom of the ocean and designed to capture black sea bass.

Black Sea Bass Pot Regulated Fishery Endorsement means those limited entry regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130 §§ 2 and 80 and 322 CMR 7.01(4)(a) and 7.06, that authorize a named individual to use black sea bass pots for the taking of black sea bass for commercial purposes.

Coastal Commercial Lobster Permit means the commercial fisherman permit, issued and managed pursuant to M.G.L. c. 130 §§ 37 and 38 and 322 CMR 7.01(2) and 7.03 that authorizes a named individual to fish for, possess and land lobsters and finfish taken from the waters under the jurisdiction of the Commonwealth for commercial purposes.

Commercial fisherman means any person fishing under the authority of a permit issued in accordance with G.L. c. 130 §38 or 80 and 322 CMR §7.01(2) for the purpose of sale, barter or exchange, or to keep for personal or familial use any fish or shellfish taken under the authority of the commercial fisherman permit.

Conch Pot means any pot or trap, without side heads or horizontal laths and is set on the bottom of the ocean and designed to capture whelks.

Conch Pot Regulated Fishery Endorsement means those limited entry regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130 §§ 2 and 80 and 322 CMR 7.01(4)(a) and 7.06, that authorize a named individual to use conch pots for the taking of whelks for commercial purposes.

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

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

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

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

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

Night Fishing means to set, haul or tend any trap between ½ hour after sunset to ½ hour before sunrise.

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

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

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

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

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

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

Trap means any lobster trap, modified lobster trap, fish pot, conch pot, tautog pot, scup pot, or other device, other than weirs or nets, that placed on the ocean bottom and capable of catching black sea bass, scup, whelk, tautog, or other species.

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

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

(2) Closed Seasons.

(a) Conch Pots. From December 15th through April 14th **and from July 26 – September 6** it is unlawful for any person to take whelks by pots or set, haul, tend or abandon conch pots in the waters under the jurisdiction of the Commonwealth.

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

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

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

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

(3) Fish Pot and Conch Pot Marking.

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

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

(4) Gear Restrictions.

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

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

(c) It shall be unlawful for any person to engage in night fishing. Traps may be taken at night by the owner or by an agent approved by the owner and authorized by DMF when they are endangered by storm.

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

- (a) untreated hemp, jute, or cotton string of 3/16" (4.8 mm) diameter or smaller;
- (b) magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners; or
- (c) ungalvanized or uncoated iron wire of 0.094" (2.4 mm) diameter or smaller.

(6) Escape Vents.

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

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

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

- (a) scup, black sea bass and whelk under the authority of a species specific fish pot regulated fishery permit endorsement;
- (b) lobsters and edible crabs subject to the permit requirements specified at M.G.L. c. 130, §§ 37 and 38 and 322 CMR 7.01(2): *Commercial Fisherman Permits* and 7.03: *Coastal Lobster Permit and Trap Allocation Transfer Programs*;
- (c) American eels subject to M.G.L. c. 130, §§ 52 and 100D;
- (d) green crabs subject to M.G.L. c. 130 § 37A; and
- (e) any finfish or shellfish species under the authority of an experimental fishery letter of authorization issued by the Director pursuant to M.G.L. c. 130, § 17 and 322 CMR 7.01(4)(c): *Special Project*.

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

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

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

- (a) **for 2017:** 200 black sea bass pots by the holder of a black sea bass regulated fishery permit endorsement;
- (b) **for 2018 and beyond: 100 black sea bass pots by the holder of a black sea bass regulated fishery permit endorsement;**
- (c) ~~(b)~~ 200 conch pots by the holder of a conch pot regulated fishery permit endorsement holder;

(d) ~~(e)~~ 50 scup pots by the holder of a scup regulated fishery permit endorsement; and

~~(d) 200 black sea bass pots and scup pots combined by the holder of a black sea bass and scup pot regulated fishery permit endorsement.~~

6.17: Shad and River Herring

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

(2) Definitions.

Batch means all fish in any separate container.

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

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

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

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

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

Spawning run means those coastal rivers and streams that river herring migrate to for the purpose of spawning.

(3) River Herring.

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

(b) Exceptions. The Director may authorize the harvest and possession of river herring from a particular spawning run for personal use based on documentation that the spawning run from which herring are harvested is not depleted. **Any person in possession of river herring must possess a valid permit and a daily harvest card issued by the municipality where the spawning run is located.**

1. Process for Opening and Closing a Spawning Run. The Director shall open or close a previously open spawning run in accordance with the following procedure:

i. a written notification is filed with the Secretary of the Commonwealth for publication in the Massachusetts Register;

ii. a written notification is distributed via the Division's e-mail list serve;

iii. a written notification is posted on the Division's Legal Notice webpage;

iv. a written notification is provided to the board of aldermen or the city council of the municipality where the spawning run is located.

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

(4) Shad Possession Limits.

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

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

6.21: Whelk Conservation and Management

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

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

Chute gauge means an open top rectangular gauge made of sheet metal and manufactured to specifications specified by the Director in accordance with 322 CMR 6.21(2)(c).

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

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

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

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

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

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

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

(2) Effective Minimum Size.

~~(a) It shall be unlawful for any person to possess a knobbed or channeled whelk with a shell width less than three inches for a period longer than is necessary for immediate measurement and return to the sea.~~

(a) It shall be unlawful for any person to possess a knobbed or channeled whelk with an effective minimum shell width of less than:

1. 3 3/16" in 2017;
2. 3 5/16" in 2019;
3. 3 7/16" in 2021;
4. 3 9/16" in 2023;
5. 3 11/16" in 2025;
6. 3 13/16" in 2027.
7. 3 14/16" in 2029.

(b) Method of Measurement. The effective minimum size shall be determined by measuring the shell width of all knobbed or channeled whelk with the operculum facing down and laying as flat on the chute gauge as possible. If a whelk can be dragged through the chute gauge in this orientation with its siphonal canal at any angle to the side walls of the gauge, it shall be considered to have a shell width smaller than the effective minimum size.

(c) Chute Gauge Specifications. To determine compliance with the effective minimum size, all knobbed and channeled whelks shall be measured using a chute gauge. The dimensions of the chute gauge for the upcoming year shall be specified by a declaration of the Director prior to January 1. The Director shall declare the chute gauge dimensions in accordance with the following procedure:

1. i. a written notification is filed with the Secretary of the Commonwealth for publication in the Massachusetts Register;
2. a written notification is distributed via the Division's e-mail list serve;

3. a written notification is posted on the Division's Legal Notice webpage;

4. a written notification is provided via US mail to all commercial fisherman who sold knobbed or channeled whelks and to all dealers who purchased knobbed or channeled whelks during the previous year.

(d) Exemptions for Dealers. Dealers, permitted in accordance with 322 CMR 7.01(3), may obtain, possess and process knobbed and channeled whelks that do not comply with the effective minimum size at 322 CMR 6.21(2)(a), provided that all non-conforming knobbed and channeled whelks were lawfully harvested in the jurisdiction of another state. All containers of such knobbed and channeled whelks shall bear a shellfish tag, as required by M.G.L. c. 130 §§81 and 82.

~~(b) Method of Measurement. The minimum size for all knobbed and channeled whelks shall be determined by measuring the shell width with the operculum facing down and laying as flat as possible on the gauge in an orientation such that a line drawn through the shell's apex and siphonal canal would be parallel with the sides of the gauge.~~

~~(c) Processing. For the purpose of compliance with 322 CMR 6.21, all knobbed whelk and channeled whelk shall be landed whole in the shell and processed at a facility licensed for that purpose.~~

(e) Prohibitions. Except as otherwise provided at 322 CMR 6.21(2)(d), it shall be unlawful for any person to:

1. possess a knobbed or channeled whelk measuring less than the minimum shell width at 322 CMR 6.21(2)(a) for longer than is necessary for immediate measurement and return to the sea.

2. to possess or use any chute gauge other than the gauge specified at 322 CMR 6.21(2)(c) or to modify or alter the specified chute gauge in any manner that may affect the method of measurement.

3. to manipulate the orientation of a knobbed or channeled whelk to the chute gauge so that it is measured in a manner other than the method of measurement prescribed at 322 CMR 6.21(2)(b).

4. to possess any knobbed or channeled whelk in a disposition other than whole in-shell, except by a dealer licensed in accordance with 322 CMR 7.01(3) .

5. to process whelks at any location other than a facility of a dealer licensed in accordance with 322 CMR 7.01(3) 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: *Coastal Access Permit (CAP)*, it shall be unlawful to take, possess or land more than 1,000 pounds of channeled whelk and knobbed whelk combined during any single fishing trip or 24-hour day, whichever period of time is longer.

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

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

(4) Closed Periods. The possession and landing of whelks by any commercial fisherman using any gear is prohibited from July 26 through September 6.

6.27: Scup Fishery Management (~~6.27: Regulation of Catch: Reserved~~)

(1) Definitions.

Commercial Fishermen means any person fishing under the authority of a permit issued in accordance 322 CMR 7.01(2) for the purposes of sale, barter, or exchange, or to keep for personal use or family use any fish or shellfish caught under the authority of the commercial fisherman permit.

Commercial Scup Quota means the allowable annual Massachusetts commercial harvest of scup pursuant to the ASMFC Interstate Scup, Black Sea Bass and Summer Flounder Management Plan.

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

Director means the Director of the Division of Marine Fisheries.

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

Recreational Fishermen means any person who harvesters or attempts to harvest fish for personal or family use, sport, please and which are not sold, bartered or exchanged.

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

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

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

(2) Commercial Fishery Management

(a) Permit requirements. A regulated fishery permit endorsement, issued by the Director pursuant to 322 CMR 7.01(4)(a): *Regulated Fishery*, is required to sell scup, or to fish for, retain, possess or land scup in accordance with scup commercial fishery regulations at 322 CMR 6.27(2).

(b) Minimum Size. It is unlawful for any commercial fisherman or dealer to possess scup less than 9 inches in total length.

(c) Winter I Fishery. The Winter I fishery occurs during the period of January 1 through April 30. This is a federal commercial scup management period. Federal limits are set pursuant to 50 CFR 648.122 and 50 CFR 648.123. The Director shall establish state possession and landing limits through Declaration, in accordance with the procedure set forth at 322 CMR 6.41(2)(d).

(d) Summertime Fishery. The summertime fishery occurs during the period of May 1 through October 31 and subject to the commercial scup quota. The commercial scup quota is managed through gear type specific trip limits, seasons and fishing days.

1. Weirs. During this period, commercial fishermen, permitted in accordance with 322 CMR 7.01(4)(a) to operate a fish weir, shall not be subject to daily possession limits or closed commercial fishing days for scup caught in fish weirs. The weir fishery shall close when all permitted weir fishermen have combined to land 275,000 pounds of scup.

2. Trawlers. During this period, commercial fishermen, permitted in accordance with 322 CMR 7.01(4)(a) to fish for scup with trawl gear may fish for, possess and land scup seven days per week. Trawlers shall not land more than 10,000 pounds of scup per calendar week or possess more than 10,000 pounds of scup at any one time. The calendar week shall begin on Sunday at 12:01 AM and end on the following Saturday at 11:59 PM.

3. All Other Gear Types. Commercial fishermen, permitted in accordance with 322 CMR 7.01(4)(a) to fish for scup with any other gear type, including but not limited to hook and line and scup pots, are subject to the following seasonal limits:

a. May 1 through May 31. During this period, these commercial fishermen may fish for, possess and land scup Sundays – Thursdays and shall not possess or land more than 800 pounds of scup per calendar day or per fishing trip, whichever period is longer. The possession and landing of scup is prohibited on Fridays and Saturdays.

b. June 1 through June 31. During this period, these commercial fishermen may fish for, possess and land scup on Sundays, Tuesdays and Wednesdays and shall not possess or land more than 400 pounds of scup on per calendar day or per fishing trip. The possession and landing of scup is prohibited on Mondays, Thursdays, Fridays and Saturdays.

c. July 1 through October 31. During this period, these commercial fishermen may fish for, possess and land scup seven days per week and shall not possess or land more than 1,500 pounds of scup on per calendar day or per fishing trip.

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 commercial scup quota has been reached. The quota closure will be enacted and announced in accordance with the procedure set forth at 322 CMR 6.41(2)(c).

(e) Winter II Fishery. The Winter I fishery occurs during the period of November 1 through December 31. This is a federal commercial scup management period. Federal limits are set pursuant to 50 CFR 648.122 and 50 CFR 648.123. The Director shall establish state possession and landing limits through Declaration, in accordance with the procedure set forth at 322 CMR 6.41(2)(d).

(2) Recreational Fishery Regulations

(a) Minimum Size. It is unlawful for any recreational fisherman 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 recreational fishermen aboard a for-hire vessel to possess or land in excess of 45 scup per calendar day.

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

(1) Definitions.

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

Black Sea Bass Pot means any pot or trap that has six sides and at least two unobstructed escape vents or openings in the parlor section that are at least 2 ½ inches diameter, 2 inches square or 1 3/8 inch by 5 ¾ inch, and is set on the bottom of the ocean and designed to capture black sea bass.

Black Sea Bass Pot Regulated Fishery Endorsement means those limited entry regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130 §§ 2 and 80 and 322 CMR 7.01(4)(a) and 7.06, that authorize a named individual to use black sea bass pots for the taking of black sea bass for commercial purposes.

Black Sea Bass Regulated Fishery Endorsement means those limited entry regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130 §§ 2 and 80 and 322 CMR 7.01(4)(a) and 7.06, that authorize a named individual to harvest, possess and land black sea bass for commercial purposes.

Commercial Fishermen means any person fishing under the authority of a permit issued in accordance 322 CMR 7.01(2) for the purposes of sale, barter, or exchange, or to keep for personal use or family use any fish or shellfish caught under the authority of the commercial fisherman permit.

Commercial Black Sea Bass Quota means the allowable annual Massachusetts commercial harvest of black sea bass pursuant to the ASMFC Interstate Scup, Black Sea Bass and Summer Flounder Management Plan.

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

Director means the Director of the Division of Marine Fisheries.

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

Recreational Fishermen means any person who harvesters or attempts to harvest fish for personal or family use, sport, please and which are not sold, bartered or exchanged.

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

(2) Commercial Fishery Management

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

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

(c) Possession and Landing Limits.

1. Winter Incidental Catch Allowance. From January 1st through March 31st it shall be unlawful for a commercial fisherman to possess or land more than 100 pounds 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. Weirs. From April through December 31, commercial fisherman permitted in accordance with 322 CMR 7.01(4)(a) to operate a fish weir, shall not be subject to daily possession limits or closed commercial fishing days for black sea bass caught in fish weirs. The weir fishery shall close when all permitted weir fishermen have combined to land 10,000 pounds of black sea bass.

4. Black Sea Bass Pots. From the first Tuesday in August until the annual quota is reached, commercial fishermen who hold a commercial black sea bass pot regulated fishery permit endorsement may fish for, possess and land black sea bass taken by black sea bass pots on Mondays and Wednesdays and shall not possess or land more than 300 pounds of black sea bass per calendar day or trip, whichever is longer. The possession and landing of black sea bass is prohibited on Sundays, Tuesdays, Thursdays, Fridays and Saturdays.

5. All Other Gears. From the first Tuesday in August until the annual quota is reached, commercial fishermen who hold a commercial black sea bass regulated fishery permit endorsement may fish for, possess and land black sea bass on Mondays and Wednesdays and shall not possess or land more than 150 pounds of black sea bass per calendar day or trip, whichever is longer. The possession and landing of black sea bass is prohibited on Sundays, Tuesdays, Thursdays, Fridays and Saturdays.

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 commercial black sea bass quota has been reached. The quota closure will be enacted and announced in accordance with the procedure set forth at 322 CMR 6.41(2)(c).

(3) Recreational Fishery Regulations

(a) Minimum Size. It is unlawful for any recreational fisherman to possess black sea bass less than 15 inches in total length not including the tail tendril.

(b) Seasonal Possession Restrictions.

1. Closed Season. From September 1 through May 20, it is unlawful for a recreational fisherman to possess or land any quantity of black sea bass.

2. Open Fishing Season. From May 21 through August 31, it is unlawful for a recreational fisherman to possess or land more than 5 black sea bass per calendar day.

~~(1) Definitions~~

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

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

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

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

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

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

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

~~(2) Commercial Scup Possession and Size Limits~~

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

~~(b) May through October Commercial Scup Possession Limits.~~

~~1. Hook and Line and Pot Gear Possession Limits.~~

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

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

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

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

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

~~3. Trawler Possession Limits.~~

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

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

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

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

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

~~(3) Recreational Scup Restrictions.~~

~~(a) Minimum Size.~~

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

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

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

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

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

~~b. Open Season.~~

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

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

~~2. For-hire Vessels:~~

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

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

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

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

~~(a) Possession Limits.~~

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

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

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

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

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

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

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

~~(5) Recreational Black Sea Bass Restrictions.~~

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

~~(b) Seasonal Possession Restrictions.~~

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

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

~~(6) Permit Requirements. A regulated fishery permit endorsement, issued by the Director pursuant to 322 CMR 7.01(4)(a): *Regulated Fishery*, is required to sell black sea bass or scup, or to~~

~~fish for, retain, possess or land black sea bass or scup in accordance with scup commercial fishery regulations at 322 CMR 6.28(2) and black sea bass commercial fishery regulations at 322 CMR 6.28(4).~~

6.34: Horseshoe Crab Management

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

(2) Definitions.

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

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

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

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

(3) Permit.

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

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

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

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

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

1. January 1 – June 30. During the period of January 1st – June 30th, more than 300 horseshoe crabs during any fishing trip or calendar day, whichever duration is longer.

2. July 1 – December 31. During the period of July 1st – December 31st, more than 600 horseshoe crabs during any fishing trip or calendar day, whichever duration is longer.

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

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

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

(6) Biomedical/Research Harvest.

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

(b) Live Release.

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

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

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

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

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

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

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

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

(7) Closed Days.

(a) Lunar Closures. It shall be unlawful to harvest horseshoe crabs within a series of five day periods coinciding with each new and full moon during the period of April 16th through June 30th, as published by the US Naval Observatory and adjusted for Eastern Daylight Savings Time. Lunar closures shall commence at 12:00 A.M. two days prior to, and end at 11:59 P.M. two days after the date of the full or new moon. **This prohibition shall not apply to permit holders using mobile gear to harvest horseshoe crabs.**

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

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

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

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

(c) All permit holders and dealers are notified.

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

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

6.40: Tautog Fishery Limits

(1) Definitions.

Commercial Fishermen means any person fishing under the authority of a permit issued in accordance 322 CMR 7.01(2) for the purposes of sale, barter, or exchange, or to keep for personal use or family use any fish or shellfish caught under the authority of the commercial fisherman permit.

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

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

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

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

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

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

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

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

(3) Recreational Fisherman Possession Limits. It shall be unlawful for any recreational fisherman to possess or land more than three tautog per calendar day.

(4) Commercial Fishery Management. ~~Commercial Fisherman Possession Limits.~~

(a) Permit requirements. A commercial fisherman permit, issued by the Director pursuant to 322 CMR 7.01(2), is required to sell tautog or to fish for, retain, possess or land tautog in accordance with the tautog commercial fishery regulations at 322 CMR 6.40(4).

(b) Closed Season. It shall be unlawful for a commercial fisherman to possess, land or sell or attempt to possess, land or sell any tautog within any calendar year from January 1 through August 31 and after the commercial fishery quota closure through December 31.

(c) ~~(a)~~ Commercial Possession Limit ~~Open Season Limits.~~ It shall be unlawful for a commercial fisherman to possess more than 40 tautog within any calendar day during **the open commercial fishing season** ~~the Spring-Open Season or Fall-Open Season.~~

(d) Quota Closure. It shall be unlawful for commercial fishermen to possess or land tautog once the Director has determined that 100% of the annual commercial tautog quota has been reached. The quota closure will be enacted and announced in accordance with the procedure set forth at 322 CMR 6.41(2)(c).

~~(b) Closed Season Limits. It shall be unlawful for a commercial fisherman to possess any tautog during the time period outside of the after then Spring-Open Season and Fall-Open Season.~~

6.41: The Further Regulation of Possession and Size Limits

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

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

Domicile means a place of permanent residence.

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

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

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

(2) Commercial Fishing.

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

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

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

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

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

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

2. Declaration Process.

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

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

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

(3) Recreational Fishing

(a) Filleting Catch.

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

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

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

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

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

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

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

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

(4) Combining Recreational and Commercial Harvest. It shall be unlawful for any person to catch, possess or land fish taken under the authority of a commercial fisherman permit, issued in accordance with G.L. c. 130 § 80 and 322 CMR 7.01(2), to also take, possess or land any recreational fish authorized pursuant to G.L. c. 130 § 17C or 322 CMR §§ 6.00 and 7.10. This prohibition shall not apply to the commercial rod and reel fishery for Atlantic bluefin tuna.

6.43: Atlantic Menhaden Management

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

(2) Definitions.

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

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

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

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

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

Director means the Director of the Division of Marine Fisheries.

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

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

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

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

(4) Commercial Fishing Limits.

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

1. Until the Director declares that **85%** ~~75%~~ of the commercial menhaden quota has been landed, it shall be unlawful to possess or land more than 125,000 pounds of menhaden in the coastal waters of the Commonwealth per trip or calendar day, whichever duration is longer;
2. Once the Director has declared that **85%** ~~75%~~ of the commercial menhaden quota has been landed, it shall be unlawful to possess or land more than 25,000 pounds of menhaden in the coastal waters of the Commonwealth per trip or calendar day, whichever duration is longer; and
3. Once the Director has declared that 95% of the commercial menhaden quota has been landed, it shall be unlawful to possess or land more than 6,000 pounds of menhaden in the coastal waters of the Commonwealth during per trip or calendar day, whichever duration is longer.

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

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

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

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

6.44: Cancer Crab Management

(1) Definitions.

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

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

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

Gillnet means any anchored vertical wall of webbing that is buoyed at the top and weighted at the bottom and is designed to capture fish by entanglement, gilling or wedging.

Incidental Catch means fish, shellfish or other marine species, taken by a gear that is not the primary species targeted by that gear.

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

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

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, midwater trawls, Scottish seines, Danish seines, pair seines, purse seines or shellfish dredges.

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

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

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

(2) Permit Requirements. A commercial coastal or offshore lobster permit, issued by the Director in accordance with G.L. c. 130, §§ 37, 38 and 80 and 322 CMR 7.01(2), 7.03 and 7.08 is required to take, possess or land cancer crabs **by any method or gear** in the Commonwealth of Massachusetts for the purpose of sale, barter or exchange

(3) General Requirements.

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

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

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

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

(4) ~~**Fishery Requirements**~~ **Commercial Fishermen Using Lobster Trap Gear**

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

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

(b) Catch Limits. For commercial fishermen fishing exclusively with lobster trap gear in accordance with 322 CMR 6.44(4), there shall be no catch, possession or landing limit for cancer crabs.

(5) **Commercial Fishermen Using Gillnets or Mobile Gear. ~~Non-Trap Fishery Requirements.~~**

(a) Incidental Catch Limit. Commercial fishermen fishing with gillnets or mobile gear may possess and land an incidental catch of up to 1,000 cancer crabs per calendar day or per trip, whichever duration is longer. It is unlawful at any time for the incidental catch of cancer crabs to exceed the catch in weight of other species onboard.

(c) Catch Limit Exemption. The incidental catch limit at 322 CMR 6.44(5)(a) shall not apply to any commercial fisherman who has obtained rock crabs from lawfully permitted dealers for the purpose of use as bait.

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

(6) **Recreational Fishing Limits.**

(a) Catch Limits. It shall be unlawful for a recreational fisherman to take, possess or land more than 50 cancer crabs per calendar day or possess more than 50 cancer crabs while fishing. **This limit shall not apply to any fishermen who have obtained rock crabs from lawfully permitted dealers for the purpose of use as bait.**

7.01: Form, Use and Contents of Permits

(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 M.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 M.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 ~~onshore at-sea~~ for commercial or non-commercial purposes.

7.06: Transfer of Limited Entry Permits Endorsements

(1) Definitions.

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

Black Sea Bass Pot Regulated Fishery Permit Endorsement means those limited entry regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80 and 322 CMR 7.01(4)(a) and 7.06, that authorize a named individual to use black sea bass pots, as defined at 322 CMR 6.12(1): *Definitions*, for the taking of black sea bass for commercial purposes.

Coastal Access Permit means those limited entry regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130 §§ 2 and 80 and 322 CMR 7.01, 7.05 and 7.06, that authorize the permit holder to use mobile gear in the waters under the jurisdiction of the Commonwealth.

Coastal Commercial Lobster Permit means the commercial fisherman permit, issued and managed pursuant to M.G.L. c. 130 §§ 2, 37 and 38 and 322 CMR 7.01(2) and ~~322-CMR~~ 7.03, that authorizes a named individual to fish for, possess and land lobsters and finfish taken from the waters under the jurisdiction of the Commonwealth for commercial purposes.

Conch Pot Regulated Fishery Permit Endorsement means those limited entry regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80 and 322 CMR 7.01(4)(a) and 7.06, that authorize a named individual to use conch pots, as defined at 322 CMR 6.12(1): *Definitions*, for the taking of whelks for commercial purposes.

Director means the Director of the Division of Marine Fisheries

Immediate Family Member means the legal father, mother, wife, husband, sister, brother, son, daughter, grandparent or grandchild.

Fish Pot Regulated Fishery Permit Endorsement means those limited entry regulated fishery permit endorsements for black sea bass pots, scup pots and conch pots, issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80 and 322 CMR 7.01(4)(a) and 7.06.

Limited Entry Regulated Fishery Permit Endorsement means any regulated fishery permit endorsement that is issued, pursuant to M.G.L. c. 130, §§ 2 and 80 and 322 CMR 7.01(4)(a), and is limited in distribution to renewals only and may be transferred in accordance with this section. Limited entry regulated fishery permit endorsements include, but are not limited to: Atlantic menhaden; black sea bass; black sea bass pots; bluefish gillnets; bluefin tuna seines; coastal access permits; conch pots, fluke, horseshoe crabs, sink gillnets; ocean quahog, scup pots, state-waters groundfish, surf clams, and quahog dredges.

Owner-operator means that the named individual listed on the limited entry regulated fishery permit endorsement must be onboard the vessel when commercial fishing is being conducted under the authority of that limited entry regulated fishery permit endorsement.

Regulated Fishery Permit Endorsement means any required special permit, issued in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(4)(a), for a fishery, gear type or fishing activity regulated by the Director in the form of an endorsement to the commercial fishing permit.

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

Scup Pot Regulated Fishery Permit Endorsement means those regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80 and 322 CMR 7.01(4)(a) and 7.06, that authorize a named individual to use scup pots, as defined at 322 CMR 6.12(1): *Definitions*, for the taking of scup.

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

(2) Renewal of Limited Entry Regulated Fishery Permit Endorsements. Annual applications for the renewal of limited entry regulated fishery permit endorsements, which shall include any catch reports or other documentation required by any provision of M.G.L. c. 130 and 322 CMR must be post marked or otherwise marked with the date of receipt by the Division of Marine Fisheries no later than 12:00 midnight on the last day of February. Renewal applications not post marked or otherwise received by the Division of Marine Fisheries by this deadline may be denied and returned to the applicant. Limited entry regulated fishery permit endorsements that are not post marked or received by the Division of Marine Fisheries prior to 12:00 midnight on the last day of February may be approved by the Director.

(3) Retiring of Limited Entry Regulated Fishery Permit Endorsements. All limited entry regulated fishery permit endorsements that are not renewed in accordance with 322 CMR 7.06(2) are automatically forfeited to the Division of Marine Fisheries. All forfeited limited entry regulated fishery permits are retired.

(4) Transfers of Limited Entry Regulated Fishery Permit Endorsements.

(a) Transfer Eligibility Criteria. Limited entry regulated fishery permit endorsements are non-transferable unless approved by the Director. The Director may approve the transfer of a limited entry regulated fishery permit endorsement subject to the following criteria:

1. The holder of the limited entry regulated fishery permit endorsement is in good standing with the marine fisheries laws and regulations at M.G.L. c. 130 and 322 CMR.
2. The limited entry regulated fishery permit endorsement has been actively fished during four of the last five years, as evidenced by commercial fisherman catch reports and SAFIS dealer reports. Final determination of active fishing shall be specified in written policy provided by the Director.
3. If a permit holder transfers a limited entry regulated fishery Coastal Access Permit endorsement or a Coastal Lobster Permit other limited entry regulated fishery permit endorsements held in conjunction with that permit or permit endorsement may be transferred as part of that transaction, at the request of the permit holder and with approval of the Director.

(b) Transferee Eligibility Criteria.

1. Fish Pot Regulated Fishery Permit Endorsements. To be eligible to obtain a transferable limited entry regulated fishery fish pot permit endorsement, the transferee must document that he/she has one-year full-time or the equivalent part-time commercial fishing experience in a commercial pot fishery or two-year full-time or the equivalent part time commercial fishing experience in another commercial fishery, as determined by the Director.
2. All Other Limited Entry Regulated Fishery Permit Endorsements. To be eligible to obtain any limited entry regulated fishery permit endorsement, other than a limited entry regulated fishery fish pot permit endorsement, the transferee must document that he/she has one-year full-time or the equivalent part-time commercial fishing experience in a commercial fishery, as determined by the Director.

(c) Exceptions to Transfer Eligibility Criteria.

1. The actively fished performance criteria established at 322 CMR 7.06(4)(a)2. may be waived in instances of a posthumous transfer; a recent disability to the permit holder; or for persons on active military duty, provided that the limited entry regulated fishery permit endorsement was fished four out of the five years preceding the death, disability or military duty. In the case of disability there must be a signed statement from a physician that verifies that the disability prevents the permit holder from fishing. Final determination of active fishing shall be specified in written policy provided by the Director.
2. The experience criteria at 322 CMR 7.06(4)(b) may be waived for posthumous transfers to immediate family members.

(d) Restrictions.

1. Transfers shall involve the sale or transfer of fishing-related business assets.
2. Transfers may be denied if any evidence of fraud is found, or if the Director determines that the transfer is not in the best interests of the Commonwealth.

(e) Restrictions Specific to the Coastal Access Permit.

1. Coastal Access Permits are authorized for use on a specific vessel. If the Coastal Access Permit is issued to the recipient of a transfer, the vessel that is authorized may be either the same vessel as the original permit holder or another vessel that does not exceed by more than 20% the horsepower of the original vessel, nor exceed by more than 10% the length overall, gross registered or net tonnage of the original vessel for which the Coastal Access Permit was issued. Vessel length overall shall not exceed that specified in 322 CMR 7.05(13).

2. No person or corporation may hold more than 5% of the existing Coastal Access Permits issued by DMF.

3. The recipient of a transfer, after obtaining a permit, may not transfer the permit until he or she has fished said permit for two years. This requirement may be waived in instances of a posthumous transfer, a recent disability to the permit holder, or active military duty, provided the performance criteria at 322 CMR 7.06(4)(a)2. were met before death, disability or military service occurred.

(5) Owner-operator Requirements.

(a) Fish Pot Regulated Fishery Permit Endorsements. All fish pot regulated fishery permit endorsements are issued to a named individual who shall be the owner-operator of that commercial fishing business. This requirement may be waived by means of a letter of authorization from the Director for immediate family or active military duty or for up to two years and subject to annual renewal in instances of a posthumous transfer or disability to the permit holder provided that performance criteria at 322 CMR 7.06(4)(a)2. were met prior to the request for a letter of authorization.

7.08: Offshore Lobster ~~Fishery~~ Permit Control Date, ~~and~~ Moratorium, and Transfers

(1) Purpose. The purpose of 322 CMR 7.08 is to provide the Director and the Marine Fisheries Advisory Commission with controls on the offshore lobster fishery and to prevent holders of both coastal and federal offshore permits on a single vessel from increasing the cumulative effort attributable to both permits. The implementation of the control date and moratorium will prevent increases in lobster effort to accomplish the goals and objectives of the interstate lobster management plan.

(2) Definitions.

Offshore Lobster Permit means the commercial fisherman permit, issued and managed pursuant to M.G.L. c. 130 §§ 2 and 38 and 322 CMR 7.01(2) and 7.08, that authorizes the permit holder to possess and land 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.

~~(3) Control Date. After February 6, 2003 any person, vessel, or business entity issued a new offshore lobster permit may not be assured of future access to this fishery.~~

(3) Moratorium. After February 6, 2003, the Director may not issue new offshore lobster permits for the purpose of landing lobsters taken with traps from federal waters. The Director shall renew all existing Offshore Commercial Lobster Permits in accordance with M.G.L. c. 130, § 38B, and 322 CMR 7.01(2)(b), provided that catch reports and renewal applications are received by February 28th and the renewal process, including late renewals approved for sufficient cause, is completed prior to December 31st of any year.

Exception. Holders of federal permits authorized to fish traps in Lobster Conservation Management Area 2 and 3 may apply to the Director for a new offshore landing permit. The Director may issue the permit if it is determined to result in no increased trap fishing effort in waters adjacent to Massachusetts.

(4) Transfers of Offshore Lobster Permits.

(a) Transfer Eligibility Criteria. Limited entry Offshore Lobster permits are non-transferable unless approved by the Director. The Director may approve the transfer of a limited entry Offshore Lobster permit subject to the following criteria:

1. The holder of the Offshore Lobster permit is in good standing with the marine fisheries laws and regulations at M.G.L. c. 130 and 322 CMR.
2. The limited entry Offshore Lobster permit is being transferred in conjunction with a Federal American Lobster Trap permit that has been held on the same vessel for at least one year.

(b) Restrictions.

1. Transfers shall involve the sale or transfer of fishing-related business assets.
2. Transfers may be denied by the Director if any evidence of fraud is found, or if the Director determines that the transfer is not in the best interests of the Commonwealth.

(45) Forfeiture. All Offshore Lobster Permits which are not renewed in accordance with 322 CMR 7.08 shall be forfeited to the Division.