

## 6.07: Striped Bass Fishery (*Morone Saxatilis*)

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

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

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

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

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

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

**Circle Hook is defined as a fishing hook designed and manufactured so that the barb of the hook is not offset from the plane of the shank and bend and is turned perpendicularly back towards the shank to form a circular or oval shape.**

Closed Commercial Fishing Day means any Sunday, Tuesday, ~~Wednesday,~~ **Thursday**, Friday and Saturday within the commercial season, as well as any Monday or ~~Wednesday~~ **Thursday** that falls on July 3<sup>rd</sup>, July 4<sup>th</sup> and Labor Day.

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

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

Commercial Season means that period when commercial fishing is allowed beginning on **the first open fishing day on or after June 13<sup>th</sup>** ~~June 23<sup>rd</sup>~~ and ending when the quota is reached **or on December 31<sup>st</sup>, whichever occurs first**. The commercial season shall be further regulated by open and closed fishing days.

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

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

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

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

**Gaff means a pole with a hook on the end that is used to lift a fish out of the water and onto a vessel or the shore.**

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

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

Open Commercial Fishing Days means Mondays and ~~Wednesdays~~ **Thursdays** within the commercial season when commercial fishermen may harvest or attempt to

harvest striped bass. Open fishing days shall not apply to any Monday or **Wednesday Thursday** that falls on July 3<sup>rd</sup>, July 4<sup>th</sup> and Labor Day.

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

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

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

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

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

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

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

- (3) Regulated Fishery Permit. The following special permit shall be required:
- (a) A commercial fisherman shall have issued to him or her by the Director a regulated fishery permit for striped bass, in addition to any other permits required by the Massachusetts General Laws, in the following categories:
    - 1. resident; and
    - 2. non-resident.
  - (b) A striped bass regulated fishery permit authorizes the named individual and/or a commercial fishing vessel to engage in the harvest, possession, and landing of striped bass for commercial purposes in compliance with 322 CMR 6.07, 7.01: *Form, Use and Contents of Permits* and 7.04: *Commercial Fisheries Control Date*.
  - (c) A striped bass regulated fishery permit shall be valid only during the striped bass commercial season as provided for in 322 CMR 6.07(4)(b).
  - (d) A striped bass regulated fishery permit shall be carried by the holder at all times when catching, taking, possessing or selling striped bass, and shall be

displayed forthwith on demand of any Environmental Police officer or other official authorized to enforce 322 CMR 6.07.

(e) All persons must apply for or apply to renew their striped bass regulated fishery permit endorsement by the last day of February in the effective permitted fishing year.

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

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

(b) Commercial fishermen may fish for striped bass only during the commercial season and open fishing days within said season beginning on **the first open fishing day on or after June 13<sup>th</sup> and ending when the commercial quota is taken or on December 31<sup>st</sup>, whichever occurs first.** ~~June 23<sup>rd</sup> 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 **open commercial fishing days, as set forth at 322 CMR 6.07(2).** ~~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 **open commercial fishing days, as set forth at 322 CMR 6.07(2).** ~~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 **commercial** 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 Commercial Fishing Days. Beginning on ~~June 20<sup>th</sup>~~ **June 10<sup>th</sup>** 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). ~~Any and any~~ striped bass that are 34 inches in total length or greater **shall** have their right pectoral fin entirely removed immediately upon retention. This requirement shall also apply to all persons on a vessel listed on a commercial fisherman permit with a regulated striped bass fishery permit endorsement and all persons aboard a vessel whenever the holder of a commercial fisherman permit with a regulated striped bass fishery permit endorsement is aboard.

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

(a) All striped bass shall be no less than 28 inches in total length. Striped bass less 28 inches in total length shall be released immediately to the waters from which taken. Recreational fishermen shall not mutilate any striped bass in a manner that prevents the accurate measurement of the fish.

(b) Recreational fishermen may retain no more than:

1. one striped bass per day; and

2. may possess no more than one striped bass at any one time.

(c) Recreational fishermen may not sell, barter or exchange any striped bass.

(d) Recreational fishermen may not discard dead striped bass that are 28 inches or greater in total length.

(e) To prohibit the practice of high-grading as defined in 322 CMR 6.07(2) recreational fishermen may not retain legal-sized striped bass and release said fish in favor of another larger legal-sized striped bass captured subsequently. Any

legal-sized fish not immediately released into the water and held by stringer, live-well or another means shall be considered intent to high-grade.

(f) Exceptions for For-hire Vessels.

1. At-sea Filleting. Operators and crew onboard for-hire vessels permitted under the authority of 322 CMR 7.10(5): *Permit Requirements Applicable to For-hire Vessels* may fillet or process legal sized striped bass for their recreational customers at sea provided that:

- a. The skin is left on the fillet; and
- b. Not more than two fillets taken from legal striped bass are in the possession of each customer of that trip, representing the equivalent of one fish per angler.

2. Sale of Striped Bass from Recreational For-hire Trips. Operators of for-hire vessels, permitted under the authority of 322 CMR 7.10(5): *Permit Requirements Applicable to For-hire Vessels*, may sell any striped bass caught during a recreational for-hire trip, provided:

- a. The operator of the for-hire vessel or the vessel holds a commercial striped bass regulated fishery permit endorsement, in accordance with M.G.L. c. 130 § 80 and 322 CMR 6.07(3) and 7.01(4)(a)2: *Striped Bass*.
- b. All catch complies with the recreational fishing management measures at 322 CMR 6.07(5) and prohibitions at 322 CMR 6.07(7).
- c. The striped bass sold complies with the commercial fishing management measures at 322 CMR 6.07(4) and prohibitions at 322 CMR 6.07(7).

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

- (a) Only Primary Buyers shall purchase striped bass directly from fishermen.
- (b) Primary Buyers shall report all striped bass purchases from commercial fishermen based on schedules and on forms to be provided by the Division.
- (c) Primary Buyers may not purchase or receive from a commercial fisherman any striped bass which is less than 34 inches in total length.
- (d) Primary Buyers may not purchase, receive or possess from a commercial fisherman any striped bass which has been mutilated in such a way as to interfere with or affect a proper or adequate measurement of the fish.
- (e) Primary Buyers may not purchase or receive from a commercial fisherman any striped bass during the no-fishing days within the commercial fishing season.
- (f) Primary Buyers may not purchase more than a single commercial trip limit of striped bass from any commercial fisherman regardless of the number of commercial striped bass regulated fishery permit endorsements in the possession of the commercial fisherman.
- (g) **Primary Buyers Dealers** may purchase and offer for sale striped bass that were caught in the wild and imported into Massachusetts from states where they have been lawfully landed provided that:

**1.** all striped bass **caught in the wild and** imported into Massachusetts shall **meet or exceed the minimum size for the state of origin and** be whole and

individually tagged with state of origin listed. If fish are re-sold whole, tags shall remain attached to the fish. If fish are filleted after importation, all containers of fillets shall be documented describing fish origin, name of the Massachusetts dealer that processed the fish, quantity, and species. Original tags shall be maintained on the dealer's premises for 30 days after processing.

~~2. all striped bass caught in the wild and imported into Massachusetts shall meet or exceed the minimum size in place for the state of origin, except that during the period that the Massachusetts commercial fishery is open plus five consecutive days after the season is closed, all striped bass must meet or exceed the Massachusetts minimum size as set forth in 322 CMR 6.07(4).~~

(h) Primary Buyers shall tag each striped bass with a Striped Bass ID Tag in accordance with the following provisions:

1. Issuance of Striped Bass ID Tags.
  - a. The Director shall annually issue Striped Bass ID Tags only to Primary Buyers.
  - b. The annual quantity of tags issued shall be determined by the Director based on the commercial quota.
2. Use and Disposition of Striped Bass ID Tags.
  - a. Prior to departing any ramp, pier, parking lot or other location of primary purchase, the Primary Buyer shall affix a Striped Bass ID Tag through the mouth and gills or through the lower jaw of each striped bass and lock the Striped Bass ID Tag into place.
  - b. Striped Bass ID Tags shall remain affixed through the mouth and gills or lower jaw of any whole striped bass or accompany any processed or filleted striped bass while in the possession of any person for the purpose of re-sale.
  - c. If a person intends on selling portions of processed or filleted striped bass to a consumer, the tags shall remain on the premise of the seller until all portions are sold to a consumer.
  - d. Once all portions of a striped bass are sold, a person shall cut the Striped Bass ID Tag into two pieces and discard it.
3. Striped Bass ID Tag Accounting.
  - a. Within 30 days of a written request by the Director, following the close of the commercial season, the Primary Buyer shall:
    - i. return all unused Striped Bass ID Tags issued to the Primary Buyer by the Director for that year; and
    - ii. submit a Striped Bass ID Tag Accounting Report, on forms provided by the Director, which documents the disposition of all Striped Bass ID Tags.
  - b. The Director may restrict a dealer from future participation as a Primary Buyer for failure to return all unused Striped Bass ID Tags or submit the Striped Bass ID Tag Accounting Report in accordance with 322 CMR 6.07(6)(g)(3)(i).

(7) Prohibitions. It shall be unlawful for:

- (a) a recreational fisherman to retain more than one striped bass per day;
- (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 **commercial** 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 10<sup>th</sup> ~~June 20<sup>th</sup>~~** 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 **commercial** 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 **commercial** 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 **commercial** 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 **commercial** 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~~ a dealer to purchase a striped bass that has had its right pectoral fin entirely removed.
  - (oo) for any person to use a gaff or attempt to use a gaff to remove a striped bass from the water.
  - (pp) effective January 1, 2020 for any person fishing for striped bass or in possession of striped bass to fish with whole or cut natural bait unless the hook(s) used is a circle hook. This prohibition shall not apply to any artificial lure designed to be trolled, casted and retrieved, or vertically jigged with a natural bait attached.

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

6.22: Summer Flounder (Fluke) Restrictions

(2) Commercial Fishery.

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

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

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

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

(d) Period II.

1. April 23<sup>rd</sup> through June 9<sup>th</sup>. It is unlawful for any commercial fisherman during the period April 23<sup>rd</sup> through June 9<sup>th</sup> to land or possess:

- a. more than 100 pounds of summer flounder caught with nets or longlines during a 24-hour day.
- b. summer flounder caught with handlines or rod-and-reel.

2. June 10<sup>th</sup> through December 31<sup>st</sup>.

- a. It is unlawful for any commercial fisherman to possess or land summer flounder on Fridays or Saturdays.
- b. It is unlawful for any commercial fishermen using nets to possess or land more than 300 lbs. of summer flounder and for any commercial fishermen using hooks to possess or land more than 200 lbs. of summer flounder.

(e) Closure. It is unlawful for commercial fishermen to land or possess summer flounder when the Director closes the fishery during any of the two periods in 322 CMR 6.22.

(f) Vessel Limits. The landing/possession limits described in 322 CMR 6.22(2) shall apply to any vessel involved in the commercial summer flounder fishery, regardless of the number of commercial fishermen with summer flounder special permits on board said vessel.

~~(g) Exception for Transport Vessels.~~

~~1. The limits described in 322 CMR 6.22(2) do not apply to vessels which are transporting summer flounder for authorized summer flounder dealers.~~

~~2. A vessel transporting summer flounder for an authorized dealer:~~

~~a. shall have a letter of authorization from the Director on board said vessel when transporting summer flounder in excess of the limits as allowed by 322 CMR 6.22(2) and~~

~~b. shall not have fishing gear capable of catching fish on board while~~

**~~transporting summer flounder.~~**

**(g) ~~(h)~~** Landing Prohibition. It is unlawful for commercial fishermen to land or possess summer flounder from 8:00 P.M. through 6:00 A.M.

**(h) ~~(i)~~** Inspection. Commercial fishermen shall keep all summer flounder separate from the rest of the vessel's catch and readily available for immediate inspection by the Division of Environmental Law Enforcement.

## 6.27: Scup Fishery Management

### (3) 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 Permit Endorsement*, 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 nine inches in total length.

(c) Winter I Fishery. The Winter I fishery occurs during the period of January 1<sup>st</sup> through April 30<sup>th</sup>. This is a federal commercial scup management period. Federal limits are set pursuant to 50 CFR 648.122 and 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<sup>st</sup> through September 30<sup>th</sup> and is 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): *Regulated Fishery Permit Endorsement* 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 the aggregate landings among all permitted weir fishermen reach 300,000 pounds of scup.

2. Trawlers. During this period, commercial fishermen, permitted in accordance with 322 CMR 7.01(4)(a): *Regulated Fishery Permit Endorsement* 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 A.M. and end on the following Saturday at 11:59 P.M.

3. All Other Gear Types. Commercial fishermen, permitted in accordance with 322 CMR 7.01(4)(a): *Regulated Fishery Permit Endorsement* 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<sup>st</sup> through May 31<sup>st</sup>. During this period, these commercial fishermen may fish for, possess and land scup Sundays through 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<sup>st</sup> through June 30<sup>th</sup>. 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 per calendar day or per fishing trip. The possession and landing of scup is prohibited on Mondays, Thursdays, Fridays and Saturdays.

c. July 1<sup>st</sup> through September 30<sup>th</sup>. 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 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 II fishery occurs during the period of October 1<sup>st</sup> through December 31<sup>st</sup>. This is a federal commercial scup management period. Federal limits are set pursuant to 50 CFR 648.122 and 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).

(f) Trip Limit Restrictions on Trawl Vessels. Notwithstanding the state-waters trawl mesh minimum size restrictions at 322 CMR 4.06: *Use of Mobile Gear*, vessels using trawls shall not possess more than 1,000 pounds of scup from November 1<sup>st</sup> through April 14<sup>th</sup>, ~~April 30<sup>th</sup>~~, **more than 2,000 pounds of scup from April 15<sup>th</sup> through June 15<sup>th</sup>**, nor more than 200 pounds of scup from ~~May 1<sup>st</sup> through June 16<sup>th</sup>~~ through October 31<sup>st</sup>, unless fishing with nets that have a minimum mesh size of five inches diamond applied throughout the cod end of the net for at least 75 continuous meshes forward of the *terminus* of the net and all other nets are stowed and not available for immediate use.

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 finfish 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.

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

**Patron shall mean any person(s) who have paid a fare or brokered an agreement to conduct recreational angling onboard a vessel and is not a paid employee of the captain or vessel owner.**

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, 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): *Regulated Fishery Permit Endorsement*, 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 onboard the vessel.

**1. Exception for Transport Vessels. Possession limits for quota managed species do not apply to vessels which are transporting said species for authorized primary buyers under a letter of authorization issued by the Director.**

(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.

(e) Initial Sale of Fish by a Commercial Fisherman. Except as authorized by a retail boat permit or a bait dealer permit issued in accordance with G.L. c. 130 s.s. 2 and 80 and 322 CMR 7.01(3), the initial sale of fish by any commercial fisherman shall be to a seafood dealer, acting as the primary buyer, who is permitted and authorized in accordance with G.L. c. 130 s.s. 2 and 80 and 322 CMR 7.01(3) and 7.07.

(f) Prohibition on the At-Sea Transfer of Fish. It shall be unlawful for any commercial fisherman permitted in accordance with G.L. c. 130 s.s. 2 and 80 and 322 CMR 7.01(2), to transfer fish at-sea that are regulated by trip limits at 322 CMR 6.00 between vessels while at sea in the waters under the

**jurisdiction of the Commonwealth. This prohibition shall not apply to any lawfully conducted harvest of bait fish that is transferred at sea under the authority of a Bait Dealer Permit issued in accordance with G.L. c. 130 s.s. 2 and 80 322 CMR 7.01(3).**

(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 onboard 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.

**(d) Requirements Specific to Head Boats Participating in Recreational Fisheries for Scup or Black Sea Bass During May and June. During the period of May 1 – June 30, the following requirements apply to all head boats, permitted in accordance with M.G.L. c. 130, § 17C and 322 CMR 7.10(5), which are carrying patrons who are recreationally fishing for black sea bass or scup:**

1. All head boat operators shall generate and maintain a passenger list of the names of all persons onboard the vessel during any recreational fishing trip.
2. All head boat operators shall issue containers, such as bags or stringers, to each patron onboard the vessel who will be recreationally fishing during the trip.
3. All containers issued to anglers shall bear a tag or a label that identifies the named person on the passenger list.
4. Anglers onboard head boats shall retain their catch only in the containers provided by the head boat.
5. Anglers onboard head boats shall not comingle their catch with other anglers.
5. Anglers onboard head boats shall retain and segregate their recreational catch so that all scup are placed in a separate container from all other species.
6. Crew and captains working on behalf of the head boat shall not sell, barter or exchange any fish with patrons.

(4) **Prohibition on Rules Regarding the Combining of Commercial and Recreational Fishing Activity during the Same Trip.**

- (a) **It is** It shall be unlawful for any persons to engage in recreational fishing during the same trip when fishing is occurring under the authority of a commercial fishing permit, issued in accordance with 322 CMR 7.01(2): *Regulated Fishery Permit Endorsement*. If an individual is in possession of fish taken under the authority of a commercial fisherman permit, then all fish in their possession or onboard the vessel must conform with the species specific commercial fishing seasons, size limits and bag limits established at 322 CMR 6.00.
- (b) If a commercial fisherman permit is issued to a person, or a person onboard the vessel, or for use onboard the vessel and any such person possesses fish in a quantity that exceeds the recreational fishing limits set forth at 322 CMR 6.00, then it shall be *prima facie* evidence of a violation of 322 CMR 6.41(4)(a).
- (c) **All fishing conducted under a recreational for-hire fishing permit issued in accordance with 322 CMR 7.10 shall adhere to the recreational fishing limits set forth at 322 CMR 6.00. It shall be unlawful to fish under the authority of a commercial fisherman permit issued in accordance with 322 CMR 7.01(2) and the applicable regulated commercial fishery regulations at 322 CMR 6.00 while onboard a for-hire vessel taking patrons recreationally fishing.**
- (d) **(e) Exemption for Atlantic Bluefin Tuna and Swordfish Caught During Recreational Trip.** A person **or for-hire vessel** may retain, possess and sell Atlantic bluefin tuna **or swordfish** taken by rod and reel gear during the same trip when recreational fishing is occurring.