

322 CMR 14.00: REGULATION OF AQUACULTURE PRODUCTS

Section

14.01: Aquaculture Raised Hybrid Striped Bass

14.02: Other Aquaculture Raised Finfish

14.03: Sale of Aquaculture Reared Shellfish That Do Not Conform to Wild Caught Minimum Sizes

14.01: Aquaculture Raised Hybrid Striped Bass

(1) Purpose and Scope. Aquaculture raised hybrid striped bass (*Morone saxatilis* x *Morone chrysops*) produced for market create a potential outlet for undersized striped bass that could undermine management and enforcement goals. Since aquaculture raised hybrid striped bass are readily shipped and marketed in all parts of the country, regulations governing transport, handling, and sale are most effective if standardized among states. For this reason, 322 CMR 14.00 is drafted to be consistent with provisions of Resolution IV adopted by the Atlantic States Marine Fisheries Commission at their 48th annual meeting on October 25, 1989.

(2) Hybrids. Whole aquaculture raised striped bass shall have a tag or label affixed to each fish container holding fish in accordance with 322 CMR 14.01(2)

(3) Fillets. Fillets from aquaculture raised hybrid striped bass shall have the skin attached.

(4) Tags and Labels. All tags and labels affixed to containers of whole aquaculture raised hybrid striped bass and fillets from aquaculture raised hybrid striped bass shall be clearly marked *Hybrid Striped Bass* and provide the following information:

- (a) state of origin;
- (b) Name and address of shipping and receiving dealers;
- (c) permit number of shipping and receiving dealers;
- (d) date shipped;
- (e) net weight of container.

(5) Nomenclature. It is unlawful for any person to market, promote, advertise or sell whole hybrid striped bass or hybrid striped bass fillets as "striped bass". Only the term "hybrid striped bass" shall be used when marketing, promoting, advertising or selling at retail hybrid striped bass and hybrid striped fillets.

14.02: Other Aquaculture Raised Finfish

(1) Purpose and Scope. Since aquaculture raised finfish is readily shipped and marketed throughout the country, regulations governing their transport, handling, and sale are necessary to differentiate the aquaculture raised finfish product from wild caught finfish. To that end 322 CMR 14.02, shall apply to all aquaculture raised finfish species that are wild caught and landed in Massachusetts and regulated under 322 CMR.

(2) Tags and Labels. All whole aquaculture raised finfish and fillets from aquaculture raised finfish shall be placed in containers affixed with tags or labels that clearly display the following information:

- (a) A statement that the product is aquaculture raised;
- (b) The common name of the species;
- (c) The name, address and permit number of the shipping dealer;
- (d) The name, address and permit number of the receiving dealer;
- (e) The date the product was shipped; and
- (f) The net weight of the container.

(3) Live Product. All persons in possession of live aquaculture raised finfish shall maintain records containing the following information:

- (a) That the product is aquaculture raised;
- (b) The common name of the species;

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- (c) The name, address and permit number of the shipping dealer;
- (d) The name, address and permit number of the receiving dealer; and
- (e) The date the product was shipped.

(4) Non-conforming Product. A person may possess aquaculture raised finfish that do not conform to Massachusetts commercial fishing regulations at 322 CMR.

(5) Prohibitions. It shall be unlawful for any person to:

- (a) Market, promote, advertise or sell aquaculture raised finfish without identifying the products as being aquaculture raised; or
- (b) Transport, possess, sell or offer for sale any aquaculture raised finfish that is not tagged or labeled in accordance with 322 CMR 14.02.

14.03: Sale of Aquaculture Reared Shellfish That Do Not Conform to Wild Caught Minimum Sizes

(1) Definitions.

Aquaculture Reared Minimum Size. Those minimum sizes for aquaculture reared surf clams prescribed at 322 CMR 6.08(3)(c): *Surf Clam Minimum Size* and aquaculture reared quahogs and oysters and 322 CMR 6.20(2)(c): *Oysters*.

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

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

Dealer. Any person, business or entity that is permitted in accordance with 322 CMR 7.01(3): *Dealer Permits* to purchase and/or sell shellfish at a wholesale or retail level.

Oyster. That species of mollusk known as *Crassostrea virginica*.

Primary Buyer. Any wholesale dealer permitted, in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(3): *Dealer Permits*, and further authorized by the Director pursuant to 322 CMR 7.07: *Dealers Acting as Primary Buyers*, to engage in the primary purchase of shellfish from any aquaculturist or their licensed employee.

Primary Purchase. The first commercial transaction by sale, barter or exchange of any shellfish after its harvest.

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

Surf Clam. That species of mollusk known as *Arctica islandica*.

Wild Caught Minimum Size. Those minimum sizes for wild caught surf clams prescribed at 322 CMR 6.08(3)(c): *Surf Clam Minimum Size* and wild caught quahogs and oysters and 322 CMR 6.20(2)(a): *Quahogs* and (c): *Oysters*.

(2) Rules Affecting the Sale of Aquaculture Reared Oysters and Surf Clams That Do Not Conform to Wild Caught Minimum Sizes.

- (a) The primary purchase of aquaculture reared oysters and surf clams that do not conform to the wild caught minimum size for these species must be between the aquaculturist or their licensed employee and a primary buyer.
- (b) A primary buyer may only accept aquaculture reared oysters and surf clams from an aquaculturist that do not conform to the wild caught minimum sizes for these species if:

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1. The aquaculture reared oysters and surf clams conform to the aquaculture raised minimum size for these species; and
 2. Are held in containers with shellfish tags affixed, in accordance with 322 CMR 16.03: *Tagging of Shellfish*, that additionally include the statement "aquaculture reared" or "farm raised" on the shellfish tag, as required at 322 CMR 6.20(2)(d)3.
- (c) Dealers may receive, possess, offer for sale and sell lawfully harvested aquaculture reared oysters and surf clams that do not conform to Massachusetts' wild caught minimum size, provided:
1. The aquaculture reared oysters and surf clams conform to the aquaculture raised minimum size for these species.
 2. All containers with aquaculture raised oysters and surf clams that do not conform to the wild caught minimum size include the statement "aquaculture reared" or "farm raised" on the dealer shellfish tag, as required by 105 CMR 500.021: *Additional Requirements for Handlers of Shellfish*.
 3. All aquaculture reared oysters and surf clams from outside the Commonwealth that do not conform with Massachusetts' wild caught minimum sizes for these species that are being received by Massachusetts' dealers shall conform to the above provisions.
- (d) Consumers may purchase and possess aquaculture reared oysters and surf clams that do not conform to the wild caught minimum size, provided they were lawfully harvested and sold in accordance with 322 CMR 14.03.

(3) Rules Affecting the Sale of Aquaculture Reared Quahogs Do Not Conform to Wild Caught Minimum Sizes.

- (a) The primary purchase of aquaculture reared quahogs that do not conform to the wild caught minimum size for this species must be between the aquaculturist or their licensed employee and a primary buyer that is certified by the Department of Public Health for the transport and sale of shellfish outside of the Commonwealth.
- (b) A primary buyer may only accept aquaculture reared quahogs from an aquaculturist and/or their licensed employee that do not conform to the wild caught minimum size for this species if:
1. The aquaculture reared quahogs conform to the aquaculture raised minimum size for this species; and
 2. Are held in containers with shellfish tags affixed, in accordance with 322 CMR 16.03: *Tagging of Shellfish*, that additionally include the statement "aquaculture reared" or "farm raised" on the shellfish tag, as required at 322 CMR 6.20(2)(d)3.
- (c) A primary buyer that receives aquaculture reared quahogs from an aquaculturist or their licensed employee that do not conform to the wild caught minimum size may only offer for sale or sell these quahogs to entities or persons outside of Massachusetts.

REGULATORY AUTHORITY

322 CMR 14.00: M.G.L. c. 130.