

322 CMR: DIVISION OF MARINE FISHERIES

322 CMR 6.00: REGULATION OF CATCHES

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

6.02: Lobster Conservation and Management

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

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

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

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

Lobster means that species known as *Homarus americanus*.

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

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

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

(2) Maximum and Minimum Sizes.

(a) Method of Measurement.

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

(b) Commercial Fishery.

1. LCMA 1. It shall be unlawful for commercial fishers fishing in or authorized to fish in LCMA 1, as defined in 322 CMR 6.33, to retain, possess, land, sell, or offer for sale any lobster with a carapace length smaller than 3¼ inches or larger than five inches.
2. LCMAs 2, 4, and 5. It shall be unlawful for commercial fishers fishing or authorized to fish in LCMA 2, 4 and 5, as defined in 322 CMR 6.33, to retain, possess, land, sell, or offer for sale any lobster with a carapace length smaller than 3⅜ inches and larger than 5¼ inches.
3. LCMA 3. It shall be unlawful for commercial fishers fishing in or authorized to fish in LCMA 3, as defined in 322 CMR 6.33, to retain, possess, land, sell, or offer for sale any lobster with a carapace length smaller than 3¹⁷/₃₂ inches or larger than 6¾ inches.
4. LCMA Outer Cape Cod.
 - a. Minimum Carapace Size. It shall be unlawful for commercial fishers fishing in or authorized to fish in LCMA Outer Cape Cod, as defined in 322 CMR 6.33, to retain, possess, land, sell, or offer for sale any lobster with a carapace length smaller than 3⅜ inches.
 - b. Maximum Carapace Size. It shall be unlawful for commercial fishers fishing in or authorized to fish in LCMA Outer Cape Cod who hold a federal lobster permit to retain, possess, land, sell, or offer for sale any lobster with a carapace length larger than 6¾".
5. LCMA 6. It shall be unlawful for commercial fishers fishing or authorized to fish in LCMA Area 6, as defined in 322 CMR 6.33, to retain, possess, land, sell, or offer for sale any lobster with a carapace length smaller than 3⁹/₃₂ inches and larger than 5¼ inches.
6. Seafood Dealers. It shall be unlawful for a seafood dealer, permitted in accordance with 322 CMR 7.01(3), to obtain or attempt to obtain any lobster from any commercial fisher that does not conform to the minimum and maximum size standards set forth in this section or to possess, or sell or offer for sale any lobster with a carapace length smaller than 3¼ inches.

(c) Recreational Fishery.

1. Gulf of Maine Recreational Area. It shall be unlawful for recreational fishers fishing in the Gulf of Maine Recreational Area, as defined at 322 CMR 6.33, to retain, possess, or land any lobster with a carapace length smaller than 3¼ inches or larger than five inches.
2. Outer Cape Cod Recreational Area. It shall be unlawful for recreational fishers fishing in the Outer Cape Recreational Area, as defined at 322 CMR 6.33, to retain, possess, or land any lobster with a carapace length smaller than 3⅜ inches.

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3. Southern New England Recreational Area. It shall be unlawful for recreational fishers fishing in the Southern New England Recreational Area, as defined in 322 CMR 6.33, to retain, possess, or land any lobster with a carapace length smaller than $3 \frac{3}{8}$ inches or larger than $5 \frac{1}{4}$ inches.
- (3) Gear Restrictions. It shall be unlawful for any person to take or attempt to take lobsters from the waters under the jurisdiction of the Commonwealth by the use of traps without said traps having the following features:
- (a) Escape Vent. All lobster traps must have escape vents that conform to the following specifications:
1. General Requirements. On each trap, separate parlors shall each have an escape vent, while only the outer of connected parlors must have an escape vent.
 2. LCMA 1. Commercial fishers fishing in or authorized to fish in LCMA 1, as defined at 322 CMR 6.33, shall rig their traps with either a rectangular escape vent that measures at least $1 \frac{15}{16}$ inches by $5 \frac{3}{4}$ inches or two circular escape vents that measure at least $2 \frac{7}{16}$ inches in diameter.
 3. LCMA 2, 3, 4, 5 and 6 or Outer Cape Cod. Commercial fishers fishing or authorized to fish in LCMA 2, 3, 4, 5 and 6 or Outer Cape Cod, as defined in 322 CMR 6.33, shall rig their traps with either a rectangular escape vent that measures at least two inches by $5 \frac{3}{4}$ inches or two circular escape vents that measure at least $2 \frac{5}{8}$ inches in diameter.
 4. Gulf of Maine Recreational Lobster Area. Recreational fishers fishing in the Gulf of Maine Recreational Lobster Area, as defined at 322 CMR 6.33, shall rig their traps with either a rectangular escape vent that measures at least $1 \frac{15}{16}$ inches by $5 \frac{3}{4}$ inches or two circular escape vents that measure at least $2 \frac{7}{16}$ inches in diameter.
 5. Outer Cape Cod or Southern New England Recreational Lobster Areas. Recreational fishers fishing in the Outer Cape Cod or Southern New England Recreational Lobster Areas, as defined in 322 CMR 6.33, shall rig their traps with either a rectangular escape vent that measures at least two inches by $5 \frac{3}{4}$ inches or two circular escape vents that measure at least $2 \frac{5}{8}$ inches in diameter.
- (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 vent is placed directly over the head and meets the following specifications:
1. The opening covered by the ghost 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 ghost 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).

6.02: continued

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 ¾ by 3 ¾ 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 shall 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) Nonconforming Contrivances. It shall be unlawful for any person to set or attempt to set any contrivance, other than fishing gear regulated by the Division pursuant to M.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. Possession of any contrivance that violates 322 CMR 6.02(3)(e) while on the waters under the jurisdiction of the Commonwealth is *prima facie* evidence of a violation of 322 CMR 6.02(3)(e).
- (f) All traps must be marked in accordance with the trap gear marking requirements at 322 CMR 4.13(2) and 322 CMR 6.31.
- (g) All traps must be configured to comply with the relevant fixed gear and trap gear restrictions at 322 CMR 12.06: *Buoy Line Modifications and Marketing for Fixed Gear.*
- (4) Egg-bearing Lobsters.
- (a) It shall be unlawful to remove eggs from any berried lobster.
- (b) It shall be unlawful to land or possess any lobster:
1. from which eggs have been removed.
 2. that has come in contact with any substance capable of removing lobster eggs.
- (5) V-notched Female Lobster Protection.
- (a) Purpose. Consistent with M.G.L. c. 130, § 44A, the regulations at 322 CMR 6.02(5) protect sexually mature female lobsters that bear a new or remnant "v-notch". Consistent with the Atlantic States Marine Fishery Commission's Fishery Management Plan for American Lobster, the regulations establish area-specific standards for which commercial fishers are required to v-notch lobsters and for the possession of previously v-notched lobsters. Additionally, to enhance conservation and enforcement, the regulations adopt uniform v-notch standards for the recreational fishers and seafood dealers.
- (b) V-notching Methods. Commercial fishers, in accordance with 322 CMR 6.02(5)(c), and any other person so required by the Division to v-notch female lobsters, shall do so using a sharp bladed instrument to cut a v-shaped notch that is at least ¼ inch but not greater than ½ inch depth and tapering to a point into the tail flipper immediately to the right of the center tail flipper as viewed from the rear of the lobster when the underside of the lobster is facing down.
- (c) LCMA Specific Requirements for Commercial Lobster Fishers to V-notch.
1. LCMA 1. Commercial fishers authorized to fish in LCMA 1, as defined at 322 CMR 6.33, shall v-notch and then immediately release all egg bearing female lobsters.
 2. LMCA 2. Commercial fishers authorized to fish in LCMA 2, as defined at 322 CMR 6.33, shall v-notch and then immediately release all egg-bearing female lobsters of legal size as defined at 322 CMR 6.02(2)(b)2.
- (d) Restrictions on Possessing V-notched Female Lobsters.
1. LCMA 1. It shall be unlawful for any commercial fishers fishing or authorized to fish in LCMA 1, as defined at 322 CMR 6.33, to possess any female lobster bearing a v-shaped notch in the base of the tail flipper immediately to the right of the center tail flipper as viewed from the rear of the lobster when the underside of the lobster is facing down that is of any size with or without setal hairs.

6.02: continued

2. LCMAs 2, 3, 4, 5 and 6. It shall be unlawful for any commercial fishers fishing or authorized to fish in LCMA 2, 3, 4, 5 and 6, as defined at 322 CMR 6.33(2), to possess any female lobster that bears a v-shaped notch or other indentation in the base of the tail flipper immediately to the right of the center tail flipper as viewed from the rear of the lobster when the underside of the lobster is facing down that is at least as deep as $\frac{1}{8}$ inch with or without setal hairs.
3. Outer Cape Cod LCMA.
 - a. Effective through June 30, 2025. During this period, it shall be unlawful for any commercial fishers fishing or authorized to fish in the Outer Cape Cod LCMA, as defined at 322 CMR 6.33(2), to possess any female lobster that bears a v-notch or other indentation in the base of the tail flipper immediately to the right of the center tail flipper as viewed from the rear of the lobster when the underside of the lobster is facing down that is at least as deep as $\frac{1}{4}$ inch and tapering to a sharp point without setal hairs.
 - b. Effective from July 1, 2025 and Thereafter. During this period, it shall be unlawful for any commercial fishers fishing or authorized to fish in the Outer Cape Cod LCMA, as defined at 322 CMR 6.33(2), to possess any female lobster that bears a v-notch or other indentation in the base of the tail flipper immediately to the right of the center tail flipper as viewed from the rear of the lobster when the underside of the lobster is facing down that is at least as deep as $\frac{1}{8}$ inch with or without setal hairs.
4. Recreational Lobster fishers. It shall be unlawful for any recreational fishers fishing or authorized to fish in the waters under the jurisdiction of the Commonwealth to possess any female lobster that bears a v-notch or other indentation in the base of the tail flipper immediately to the right of the center tail flipper as viewed from the rear of the lobster when the underside of the lobster is facing down that is at least as deep as $\frac{1}{8}$ inch with or without setal hairs.
5. Seafood Dealers.
 - a. Effective through June 30, 2025. During this period, it shall be unlawful for any seafood dealer, permitted in accordance with 322 CMR 7.01(3), to possess any female lobster that bears a v-notch or other indentation in the base of the tail flipper immediately to the right of the center tail flipper as viewed from the rear of the lobster when the underside of the lobster is facing down that is at least as deep as $\frac{1}{4}$ inch and tapering to a sharp point without setal hairs.
 - b. Effective from July 1, 2025 and Thereafter. During this period, it shall be unlawful for any seafood dealer, permitted in accordance with 322 CMR 7.01(3), to possess any female lobster that bears a v-notch or other indentation in the base of the tail flipper immediately to the right of the center tail flipper as viewed from the rear of the lobster when the underside of the lobster is facing down that is at least as deep as $\frac{1}{8}$ inch with or without setal hairs.

Except that during the period of July 1, 2025 through September 30, 2025, a seafood dealer may possess an inventory of non-conforming v-notched lobsters that were lawfully purchased prior to June 30, 2025, provided that any notch or other indentation base of the tail flipper immediately to the right of the center tail flipper as viewed from the rear of the lobster when the underside of the lobster is facing down is not greater than $\frac{1}{4}$ inch deep.
6. Mutilated V-notch. It shall be unlawful for any person to possess a female lobster that is mutilated in any manner that could hide, obscure or obliterate a v-shaped notch in the base of the tail flipper immediately to the right of the center tail flipper as viewed from the rear of the lobster when the underside of the lobster is facing down.

(6) Recreational Lobster Daily Possession and Landing Limit. It shall be unlawful for any recreational fisher to harvest more than 15 lobsters per calendar day for personal use, or possess more than 15 lobsters while lobster fishing in waters under the jurisdiction of the Commonwealth.

6.02: continued

(7) Seasonal Closures: Outer Cape LCMA. Commercial fishing for lobster with traps is prohibited within the Outer Cape LCMA, as defined at 322 CMR 6.33, from February 1st through April 30th. Commercial fishers are required to remove all lobster traps from the waters of the Outer Cape LCMA prior to this closed period. It shall be unlawful for any commercial fisher authorized to fish traps in the Outer Cape LCMA to fish, set or abandon any lobster traps in any LCMA during this seasonal closure. Notwithstanding the above, the fixed gear seasonal closures at 322 CMR 12.04: *Fixed Gear Seasonal Closures* may remain in effect in Outer Cape LCMA through May 15th unless otherwise annually rescinded prior to or extended beyond May 15th by the Director.

6.03: Regulated Multi-species Groundfish

(1) Definitions. For the purpose of 322 CMR 6.03, the following words shall have the following meanings:

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

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

6.03: continued

Commercial Fisher means any person permitted in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(2) to retain, possess, or land multi-species groundfish for purpose of sale, barter, or exchange or who keeps for personal or family use any regulated multi-species groundfish taken under the authority of said permit.

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

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

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

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

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

Land means to transfer or offload any regulated multi-species groundfish onto any vessel, boat, watercraft, land, dock, pier, wharf or other artificial structure used for the purpose of receiving fish.

Maximum Retention Electronic Monitoring Program means the federal program established pursuant to Amendment 23 to the New England Fishery Management Council's Northeast Multi-Species Fishery Management Plan and authorized pursuant to 50 CFR Part 648, for vessels permitted by NOAA Fisheries to participate in the federal sector program for the regulated multi-species groundfish fishery and whereby all eligible trips are electronically monitored; fish must be handled in view of cameras; allowed discarding must occur at controlled points in view of cameras; all allocated regulated multi-species groundfish must be retained; electronic monitoring is used to verify compliance; and offloads are subject to observation by dockside monitors.

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

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

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

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

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

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

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

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

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

6.03: continued

Southern New England Cod Stock Area means those waters under the jurisdiction of the Commonwealth that are south and west of Cape Cod and west of the 70th meridian.

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

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

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

Western Gulf of Maine Cod Stock Area means those waters under the jurisdiction of the Commonwealth that are north and east Cape Cod, inclusive of the Cape Cod Canal bounded to the west by a line drawn from the Massachusetts Maritime Academy to the Bell's Neck Road Tidal Flats Recreation Area, east of Cape Cod, and south of Cape Cod east of the 70th meridian.

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

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

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

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

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

(2) Size Limits. Except as authorized at 322 CMR 6.03(13)(a), it shall be unlawful to retain, possess or land multispecies groundfish of a total length as set forth below::

(a) Commercial Fishing. For commercial fishers and dealers:

1. Cod: less than 19 inches;
2. Dabs: less than 12 inches;
3. Haddock: less than 16 inches;
4. Pollock: less than 19 inches;
5. Yellowtail Flounder: less than 12 inches;
6. Halibut: less than 41 inches;
7. Monkfish: less than 17 inches in total length or monkfish tails less than 11 inches in total length;
8. Windowpane Flounder: less than 12 inches;
9. Winter Flounder: less than 12 inches;
10. Witch Flounder: less than 13 inches; and
11. Redfish: less than seven inches.

(b) Recreational Fishing. For recreational fishers:

1. Cod: less than 23 inches in the Western Gulf of Maine Cod Stock Area
2. Dabs: less than 14 inches;
3. Haddock:
 - a. less than 18 inches in the Gulf of Maine Groundfish Management Area;
 - b. less than 18 inches in the Southern New England Groundfish Management Area.
4. Yellowtail Flounder: less than 13 inches;
5. Halibut: less than 41 inches;
6. Windowpane Flounder: less than 12 inches; and
7. Winter Flounder: less than 12 inches.

(3) Method of Measurement.

(a) Minimum Size. The minimum sizes established in 322 CMR 6.03(2) shall be determined by the greatest straight line length in inches as measured on a fish with its mouth closed from the anterior most tip of the jaw or snout to the farthest extremity of the tail. For fish with forked tails, the upper and lower fork may be squeezed together to measure the tail extremity.

6.03: continued

- (b) Exceptions for Possession of Cod Parts. For purposes of determining weights for trip limits as established by 322 CMR 6.03, the weight of fillets will be multiplied by three, and the weight of headless whole-gutted cod will be multiplied by 1.25. The weights of cheeks removed from cod heads and cod gonads consistent with 322 CMR 6.03(3)(b) shall be exempt from the possession limits.
- (c) Prohibition. It shall be unlawful for a commercial fisher to mutilate any cod in such a way as to interfere with or affect a proper or adequate measurement of the fish.
- (4) Recreational Fishery Cod Limit.
- (a) Western Gulf of Maine Cod Stock Area.
1. Open Season. During the period of September 1st through October 31st, it shall be unlawful for any recreational fisher to retain, possess or land more than one cod per day taken from the Western Gulf of Maine Cod Stock Area.
 2. Closed Season. During the period of November 1st through August 31st, it shall be unlawful for any recreational fisher to retain, possess or land any cod taken from the Western Gulf of Maine Cod Stock Area.
- (b) Southern New England Cod Stock Area. It shall be unlawful to retain, possess, or land any cod from the Southern New England Cod Stock Area.
- (5) Commercial Fishery Cod Trip Limits. The trip limits established in 322 CMR 6.03(5) shall be determined by the weight of whole, whole-gutted, or gilled fish and shall apply to any trip or 24-hour period, whichever period is longer. It shall be unlawful for a commercial fisher or vessel fishing in:
- (a) Western Gulf of Maine Cod Stock Area to retain, possess or land more than 400 pounds of cod per trip or per 24-hour day, whichever period is longer.
 - (b) Southern New England Cod Stock Area to retain, possess, or land any cod.
- (6) Gonad Restrictions.
- (a) Possession Limit. It shall be unlawful for fisher to retain, possess, or land any quantity of gonads that in aggregate weighs in excess of 10% of the weight of cod aboard the vessel.
 - (b) Prohibition. It shall be unlawful for fisher to remove gonads from any fish that measures below the minimum size or from any legal-sized fish released due to state or federal possession limits.
- (7) Commercial Fishery Limits for Yellowtail Flounder. It shall be unlawful for any commercial fisher or vessel fishing within waters under the jurisdiction of the Commonwealth to retain, possess, or land more than 500 pounds of yellowtail flounder during a trip or 24-hour period, whichever period is longer.
- (8) Witch Flounder Commercial Possession Limit. It shall be unlawful for any commercial fisher or vessel fishing within waters under the jurisdiction of the Commonwealth to retain, possess, or land more than 750 pounds of witch flounder during a trip or 24-hour period, whichever period is longer.
- (9) Halibut Fishery Possession Limit. It shall be unlawful for:
- (a) Commercial fisher to retain, possess, or land more than one halibut per vessel per trip or 24-hour period, whichever period is longer.
 - (b) Recreational fisher to retain, possess, or land more than one halibut per person per day.
- (10) Commercial Fishery Monkfish Limit.
- (a) It shall be unlawful for any commercial fisher or vessel fishing within waters under the jurisdiction of the Commonwealth to retain, possess, or land more than 1,000 pounds of monkfish tails or 2,910 pounds whole weight, per trip or 24-hour period, whichever period is longer.

6.03: continued

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

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

(11) Winter Flounder Fishery Limits.(a) Commercial Fishery.

1. Possession Limits. It shall be unlawful for a commercial fisher or vessel to retain, possess, or land:

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

(b) Recreational Fishery.

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

2. Southern New England Groundfish Management Area.

- a. January 1st through the Last Day of February. It shall be unlawful for recreational fisher fishing in the Southern New England Groundfish Management Area to retain, possess, or land any winter flounder; and
- b. March 1st through December 31st. It shall be unlawful for any recreational fisher fishing in the Southern New England Groundfish Management Area to retain, possess, or land more than two winter flounder per day.

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

1. Open Season. During the period of April 1st through the last day of February it shall be unlawful for any recreational fisher to retain, possess, or land more than 15 haddock per day taken from the Gulf of Maine Groundfish Management Area.

2. Closed Season. During the period of March 1st through March 31st, it shall be unlawful for any recreational fisher to retain, possess or land any haddock taken from the Gulf of Maine Groundfish Management Area.

(b) Exceptions. Customers aboard for-hire vessels fishing in federal waters may possess and land haddock in compliance with federal regulations.

(13) Exception to Possession and Size Limits.

(a) Federal Permit Holders. Commercial fishers who hold federal permits allowing the taking of regulated multispecies groundfish species from federal waters may retain, possess, and land regulated multispecies groundfish species that do not comply with possession limits set forth at 322 CMR 6.03 provided said fish were lawfully taken from federal waters pursuant to federal regulations at 50 CFR 6.48. It shall be unlawful for any commercial fisher with federal permits allowing the taking of regulated multispecies groundfish to retain or possess regulated multispecies groundfish species that do not comply with the possession limits set forth at 322 CMR 6.03 if actively fishing within the waters under the jurisdiction of the Commonwealth.

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

6.03: continued

(c) Federal Maximum Retention and Electronic Monitoring Program.

1. Commercial fishers who hold vessels with federal permits allowing the taking of regulated multispecies groundfish species from federal waters and are lawfully participating in the federal maximum retention electronic monitoring program may possess and land regulated multispecies groundfish species taken from federal waters that do not comply with the minimum size standards set forth at 322 CMR 6.03(2)(a).
2. Dealers who hold a federal northeast multi-species groundfish dealer permit may purchase and possess regulated multi-species groundfish that do not meet the commercial multi-species groundfish minimum size standards set forth at 322 CMR 6.03(2)(a), provided:
 - a. The fish was landed by vessels lawfully participating in the federal maximum retention electronic monitoring program.
 - b. Containers of non-conforming sized fish are clearly marked, labeled, or otherwise identified as holding non-conforming sized fish taken as part of the federal maximum retention electronic monitoring program, the vessel from which they were offloaded, and the date of offloading.
3. Any person in possession of any non-conforming sized fish or racks of fish shall hold a receipt issued by the dealer. The receipt shall document the name of the dealer the non-conforming sized fish or racks of fish were purchased from and that the non-conforming sized fish or racks of fish were landed as part of the maximum retention electronic monitoring program. The receipt shall remain with the non-conforming sized fish or racks of fish until final point of sale or use.
4. Vessels and dealers participating in the maximum retention electronic monitoring program shall notify the Division if they enter or leave the program.

(14) Prohibitions.

- (a) Commercial. It shall be unlawful for any commercial fisher or vessel to retain or land:
 1. Ocean pout;
 2. Windowpane flounder;
 3. Wolffish; or
 4. Cod from the Southern New England Cod Stock Area.
- (b) Recreational. It shall be unlawful for any recreational fisher to possess or land:
 1. Wolffish;
 2. Ocean pout;
 3. Windowpane flounder; or
 4. Cod from the Southern New England Cod Stock Area.
- (c) It shall be unlawful for recreational fishers to land filets of groundfish species without two square inches or more of skin on each filet and in any quantity more than two times the possession limit per recreational fishers or vessel, whichever is less.

6.04: Atlantic Bluefin Tuna

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

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

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

6.04: continued

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

As of 2020, the Division of Marine Fisheries no longer issues any regulated fishery permit endorsements authorizing the use of purse seines for bluefin tuna. Accordingly, this activity is now prohibited within the waters under the jurisdiction of the Commonwealth.

(2) Definitions. For the purposes of 322 CMR 6.04, and unless the context requires otherwise, the following words shall have the following meanings:

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

Division means the Massachusetts Division of Marine Fisheries.

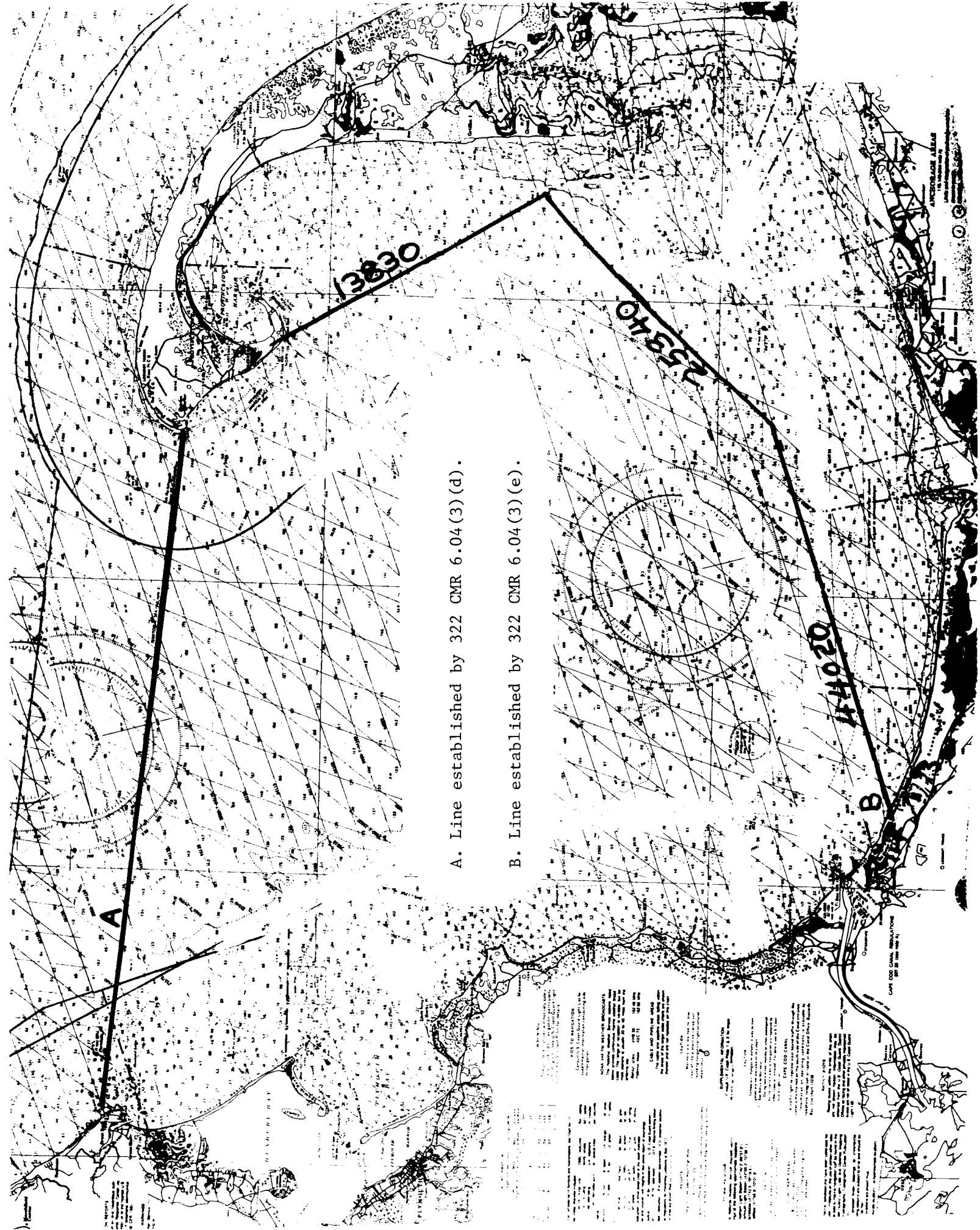
Fish For means to harvest, catch, take or encircle, or attempt to harvest, catch, take or encircle any tuna by means of a purse seine.

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

(3) Prohibition. It shall be unlawful to fish for tuna by means of any net, including purse seines, within the waters under the jurisdiction of the Commonwealth. Except tuna may be taken in fish traps authorized pursuant to M.G.L. c. 130, § 29 as an incidental catch only. The Director shall have the right to inspect any authorized fish trap if it is determined that the fish trap has been set or is being specifically operated to take and trap tuna, and the Director may modify the trap construction and its operations if deemed appropriate.

6.04: continued

CHART 6.04-1



A. Line established by 322 CMR 6.04(3)(d).

B. Line established by 322 CMR 6.04(3)(e).

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

(1) Definitions.

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

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

Exclusive Economic Zone means all waters extending from the seaward boundary of the waters under the jurisdiction of the Commonwealth to 200 nautical miles from the coast.

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

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

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

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

(2) Minimum Size.

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

6.05: continued

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

(3) Possession and Landing Limits.

(a) Possession and Landing Limits.

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

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

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

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

(6) Permits.

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

6.05: continued

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

6.06: Atlantic Salmon Restoration

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

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

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

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

6.07: Striped Bass Fishery (*Morone Saxatilis*)

(1) Purpose and Scope. Since approximately October 1981 the Atlantic coastal states, through the auspices of the Atlantic States Marine Fisheries Commission (ASMFC), have been developing conservation and management measures for Atlantic striped bass through an interstate fishery management plan.

322 CMR 6.07 represents 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 Fishery Management 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 between 28 inches and less than 31 inches, but may not retain more than one striped bass within any calendar day.

Any person intending to catch and possess striped bass for the purpose of sale, barter or exchange 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 commercial minimum size of 35 inches total length, 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 fishers, 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 fisher. 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 provided those fish 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:

6.07: continued

Actively Transport means the movement of lawfully caught striped bass by a commercial fishing permit holder in a motor vehicle or a vessel. For purposes of 322 CMR 6.00, this shall include the movement of lawfully caught striped bass by a motor vehicle along the roads adjacent to the Cape Cod Canal, and also the landing of striped bass lawfully caught aboard a vessel and brought ashore at Taylor Point Marina in the town of Bourne or in Sandwich Marina.

Bait means any marine or aquatic organism, live or dead, whole or parts thereof.

Cape Cod Canal means those waters and the shoreline, including all adjacent jetties, wharfs, docks, ripraps and beaches, extending from the most seaward extent of the state pier at Taylor's Point on the campus of Massachusetts Maritime Academy in Bourne; thence extending in an easterly direction to the seaward end of the northern breakwater jetty at the eastern entrance at Scusset Beach in Sandwich; thence in a straightline in a southerly direction across the eastern entrance of the waterway to the seaward end of the southern breakwater jetty in Sandwich; thence in a westerly direction to the northernmost tip of the peninsula at the end of President's Road in Bourne.

Circle Hook means 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 calendar day within the commercial season when the retention, possession, and landing of striped bass for commercial purposes is unlawful, as set forth at 322 CMR 6.07(4)(b).

Commercial Fisher 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 Purposes means the retention, possession, and transportation of striped bass for any fare, rate, fee, charge, sale, exchange, trade or other consideration that is directly or indirectly made in connection with any business or other undertaking intended for profit.

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 16th and ending when the quota is reached or on November 15th, 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.

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.

6.07: continued

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.

Non-lethal Device means any tool used in the removal of striped bass from the water or to assist in the releasing of striped bass that does not pierce, puncture, or otherwise cause invasive damage to the fish that may result in its mortality. A gaff of any type shall not be considered a non-lethal device.

Open Commercial Fishing Days means those calendar days within the commercial season when the retention, possession, and landing of striped bass for commercial purposes is lawfully allowed, as set forth at 322 CMR 6.07(4)(b).

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 fisher.

Primary Purchase means the first commercial transaction by sale, barter or exchange of any striped bass after its harvest between a commercial fisher and a dealer authorized as a primary buyer and where both parties to the transaction are present.

Recreational Fisher 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 noncommercial 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 nontransferable 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 with the upper and lower fork of the tail squeezed together.

(3) Regulated Fishery Permit. The following special permit shall be required:

(a) A commercial fisher 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. nonresident.

(b) A striped bass regulated fishery permit authorizes the named individual to engage in the harvest, possession, and landing of striped bass for commercial purposes in compliance with 322 CMR 6.07, 322 CMR 7.01: *Form, Use and Contents of Permits* and 322 CMR 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 fishers who harvest, catch or take, and/or sell, barter or exchange, or attempt to sell, barter or exchange any striped bass:

6.07: continued

- (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 fishers may fish for striped bass only during the commercial season and open commercial fishing days within said season beginning on the first open commercial fishing day on or after June 16th and ending when the commercial quota is taken or on November 15th, whichever occurs first.
1. During the period of June 16th through September 30th, open commercial fishing days shall be Tuesdays and Wednesdays and closed commercial fishing days shall be Mondays, Thursdays, Fridays, Saturdays, and Sundays. Thursdays shall be added as an open fishing day effective August 1st if DMF determined that 30% of the quota remains available after July 31st. The 3rd of July, 4th of July and Labor Day shall be considered closed commercial fishing days.
 2. During the period of October 1st through November 15th, open commercial fishing days shall be Mondays through Fridays and closed commercial fishing days shall be Saturdays and Sundays.
 3. During any closed commercial fishing day it shall be unlawful for any commercial fisher to retain, possess, or land striped bass in a manner that does not conform with the recreational striped bass regulations at 322 CMR 6.07(5).
- (c) Commercial fishers engaged in commercial fishing for striped bass shall not possess, retain, or land any striped bass that is less than 35 inches in total length. If the number of striped bass aboard a vessel is greater than the number of fishers, then all striped bass in possession must have a total length that measures at least 35 inches total length. Striped bass measuring less than 35 inches total length shall be returned immediately to the waters from which taken.
- (d) Commercial fishers engaged in striped bass fishing under the authority of a Commercial Fishing Coastal Lobster, Offshore Lobster or Boat Permit, issued in accordance with 322 CMR 7.01(2): *Commercial Fishing Permits* 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) and 6.07(4)(b). This limit applies to the individual fisher, 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 fishers engaged in striped bass fishing under the authority of a Commercial Fishing Individual or Rod and Reel permit, issued in accordance with 322 CMR 7.01(2): *Commercial Fishing Permits* or under the authority of a Commercial Fishing Coastal Lobster, Offshore Lobster or Boat Permit, issued in accordance with 322 CMR 7.01(2), 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) and 6.07(4)(b). This limit applies to the individual fisher whether fishing from shore or a vessel, regardless of the number of commercial striped bass regulated fishery permit endorsement assigned to the individual fisher 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) 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 had a non-conforming total length, in violation of 322 CMR 6.07(4)(c).
- (h) Commercial fishers shall sell striped bass only to Primary Buyers.
- (i) Commercial fishers shall sell striped bass only during the commercial season and only during the open commercial fishing days within the commercial season.
- (j) Commercial fishers may harvest, catch, or take striped bass by rod-and-reel or handline only.
- (k) Commercial fishers engaged in commercial fishing for striped bass may not fish aboard the same vessel at the same time as recreational fishers.

6.07: continued

(l) In accordance with the Declaration Procedure set forth at 322 CMR 6.41(2), the Director may make in-season adjustments to the commercial fishing limits as established in 322 CMR 6.07(4) including, but not limited to, the open commercial fishing days and the commercial fishing limits as set forth at 322 CMR 6.07(4)(b), (d) and (e).

(m) Commercial fishers are prohibited from harvesting striped bass from the Cape Cod Canal for commercial purposes or possessing any striped bass 31 inches in total length or larger in any container or vehicle within 1,000 feet of the shoreline of the Cape Cod Canal, unless the fish is being actively transported to a primary dealer and was lawfully taken in a location other than the Cape Cod Canal.

(n) Commercial fishers shall not retain, possess, land, sell, or offer for sale any striped bass unlawfully taken in another jurisdiction.

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

(a) Only striped bass measuring at least 28 inches and less than 31 inches in total length may be retained. Striped bass measuring less than 28 inches or 31 inches or greater in total length shall be released immediately to the waters from which taken.

(b) Recreational fishers may not:

1. retain more than one striped bass per day; or
2. possess more than one striped bass at any time.

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

(d) Recreational fishers may not discard dead striped bass that measure between at least 28 inches, but less than 31 inches in total length.

(e) To prohibit the practice of high-grading as defined in 322 CMR 6.07(2), recreational fishers 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) Mandatory Use of Circle Hooks. Recreational fishers shall use circle hooks when fishing for striped bass with whole or cut natural baits. This shall not apply to any artificial lure. Striped bass caught on any unapproved method of take must be returned to the water immediately without unnecessary injury.

(g) Processing of Striped Bass by Recreational Fishers. Recreational fishers who retain striped bass shall keep the head and tail intact and the fish whole until they reach their domicile or temporary residence, subject to the following exceptions:

1. Recreational fishers may eviscerate, bleed, or descale striped bass of a lawfully conforming size while on land or while on the waters under the jurisdiction of the Commonwealth.
2. Recreational fishers may fillet striped bass of a lawfully conforming size on land once recreational fishing has ceased and all fishing gear is stowed. Not more than two fillets, representing the equivalent of the one fish recreational retention and possession limit, shall be possessed by any recreational fisher at any one time. In instances when recreational fishers comingle their fillets, the total number of fillets will be divided by the total number of recreational fishers present to determine if no more than two fillets are possessed by any recreational fisher. Each fillet shall have two square inches of skin affixed to it and that skin shall remain affixed to the fillet until the recreational fisher reaches their domicile or temporary residence. Fillets of striped bass may not be possessed while fishing is occurring or while fishing gear is being stowed.
3. Recreational fishers may fillet striped bass of a lawfully conforming size while on the waters under the jurisdiction of the Commonwealth for immediate and complete consumption once recreational fishing has ceased and all fishing gear is stowed.
4. The captain or crew of a for-hire vessel may fillet striped bass of a lawfully conforming size for their patrons while on the waters under the jurisdiction of the Commonwealth. All filleting must occur prior to the customers departing the for-hire vessel. All striped bass carcasses from which fillets are removed during any for-hire trip are to be retained in a manner that does not interfere with species identification or total length measurement until such a time as the for-hire trip has ended, the vessel has

6.07: continued

docked, and all customers from that trip have departed the for-hire vessel. Not more than two fillets, representing the equivalent of the one striped bass recreational retention and possession limit, shall be possessed by any for-hire patron at any one time. In instances when for-hire patrons comingle their fillets, the total number of fillets will be divided by the total number of for-hire patrons present to determine if no more than two fillets are possessed by any for-hire patron. Each fillet shall have two square inches of skin affixed to it and that skin shall remain affixed to the fillet until the for-hire patron reaches their domicile or temporary residence.

(h) Removal and Release of Striped Bass. When removing striped bass from the water or releasing striped bass to the water, recreational fishers shall not use a gaff of any type or any tool that can pierce, puncture, or otherwise cause invasive damage to the fish.

(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 commercial fishers and both parties shall be present at the transaction.

(b) Primary Buyers shall report all striped bass purchases from commercial fishers based on schedules and on forms to be provided by the Division.

(c) Primary Buyers may not purchase or receive from a commercial fisher any striped bass that has a total length of less than 35 inches in total length.

(d) Primary Buyers may not purchase, receive or possess from a commercial fisher 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.

(f) Primary Buyers may not purchase more than a single commercial trip limit of striped bass from any commercial fisher, regardless of the number of commercial striped bass regulated fishery permit endorsements in the possession of the commercial fisher.

(g) Dealers may purchase and offer for sale whole striped bass that were caught in the wild and imported into Massachusetts from states where they have been lawfully landed provided that the fish comply with the size limit for the jurisdiction of origin and are individually tagged with the jurisdiction of origin. If fish are filleted after importation, all containers of fillets shall be accompanied by records describing the jurisdiction of origin, the name of the Massachusetts dealer that processed the fish, the quantity of fillets and the species. A copy of these records shall be kept on the dealers premises for 30 days after processing. Original tags shall remain with the fish or the fish fillets, as required at 322 CMR 6.07(6)(h)2.

(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. Immediately upon receipt of fish at the 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 resale.

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.

6.07: continued

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)(h)3.a.

(7) Prohibitions. It shall be unlawful for:

- (a) a recreational fisher to retain more than one striped bass per day;
- (b) a recreational fisher to possess more than one striped bass at any one time;
- (c) a recreational fisher to sell, barter or exchange or offer to sell, barter or exchange any striped bass;
- (d) a recreational fisher to retain or possess any striped bass less than 28 inches or 31 inches or greater in total length;
- (e) a recreational fisher 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 fisher to discard dead striped bass that measure between 28 inches, but less than 31 inches or greater in total length;
- (g) a recreational fisher 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) any person other than a commercial fisher to make a primary sale of striped bass to any person other than a Primary Buyer.
- (k) a nonresident commercial fisher to possess more than one striped bass upon entering or leaving Massachusetts;
- (l) a commercial fisher 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 fisher 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 any calendar day that is a closed commercial striped bass fishing day, as described at 322 CMR 6.07(4)(b);
- (n) a commercial fisher to sell, barter, exchange or attempt to sell, barter, exchange any striped bass during any calendar day that is a closed to commercial striped bass fishing day, as described at 322 CMR 6.07(4)(b);
- (o) a commercial fisher to catch, take, possess, sell, barter, exchange or attempt to sell, barter or exchange any striped bass less than 35 inches in total length.
- (p) any commercial fisher fishing under the authority of a Commercial Fishing 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, as set forth at 322 CMR 6.07(4)(b). 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;
- (q) any commercial fisher fishing under the authority of a Commercial Fishing Individual or Rod and Reel Permit, issued in accordance with 322 CMR 7.01(2)(h): *Individual*, 322 CMR 7.01(2)(i): *Shellfish/Rod and Reel* and 322 CMR 7.01(2)(j): *Rod and Reel*, or under the authority of a Commercial Fishing 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, as set forth at 322 CMR 6.07(4)(b). This shall apply to the individual commercial fisher 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;

6.07: continued

- (r) a commercial fisher to fillet or process any striped bass other than by evisceration;
- (s) a commercial fisher to mutilate any striped bass in such a way as to interfere with or affect a proper or adequate measurement of the fish;
- (t) a commercial fisher 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;
- (u) a commercial fisher to possess or land striped bass once the Director has determined that 100% of the commercial quota has been reached;
- (v) 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;
- (w) any Primary Buyer to purchase or receive from a commercial fisher any striped bass less than 35 inches in total length.
- (x) any Primary Buyer to purchase or receive from a commercial fisher any striped bass after the open commercial season has closed or on any calendar day that is not an open commercial fishing day;
- (y) any Primary Buyer to fail to report all striped bass purchases from commercial fishers as prescribed by the Director;
- (z) any commercial fisher to harvest, catch, or take striped bass by longlines or tub-trawls;
- (aa) 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;
- (bb) 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);
- (cc) any commercial fisher to discard dead striped bass that has a total length of 35 inches or greater;
- (dd) 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*;
- (ee) any person involved in the resale of striped bass to fail to furnish, upon request of the Director or the Environmental Police, receipts documenting the purchase of striped bass;
- (ff) any person to apply a Striped Bass ID Tag to a striped bass harvested for commercial purposes without being a Primary Buyer;
- (gg) 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;
- (hh) 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);
- (ii) any person to fail to surrender Striped Bass ID Tags to the Director or the Environmental Police upon request;
- (jj) any person to sell, trade, loan or gift or offer to sell, trade, loan or gift to another person any Striped Bass ID Tags;
- (kk) a Primary Buyer to file a false claim of Striped Bass ID Tag loss for purposes of obtaining additional Striped Bass ID Tags.
- (ll) any person to retain, possess, land, sell, or offer for sale any striped bass unlawfully taken in another jurisdiction.
- (mm) for any recreational fisher to use any device other than a nonlethal device to remove a striped bass from the water or assist in the releasing of a striped bass.
- (nn) for any commercial fisher fishing on an open commercial fishing day to gaff a striped bass that is less than 35 inches total length or to remove or attempt to remove a striped bass that is less than 35 inches total length from the water with a gaff of any type or any tool that can pierce, puncture, or otherwise cause invasive damage to the fish.
- (oo) for any recreational fisher to use any type of hook other than a circle hook when fishing for striped bass with whole or cut natural baits. This shall not apply to any artificial lure.
- (pp) for any recreational fisher to retain any striped bass incidentally caught by any unapproved method.
- (qq) any person to retain or possess more than one striped bass taken from the Cape Cod Canal during any calendar day.

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6.07: continued

(rr) Any person to possess any striped bass measuring 31 inches in total length or larger within 1,000 feet of the Cape Cod Canal unless that fish was lawfully harvested in a location other than the Cape Cod Canal and is being actively transported to a primary buyer.

(ss) Any person to possess more than one striped bass at any time within 1,000 feet of the Cape Cod Canal, unless the fish was lawfully harvested in a location other than the Cape Cod Canal and is being actively transported to a primary buyer.

(tt) Any commercial fisher to retain or possess any striped bass taken from the Cape Cod Canal for sale or attempted sale.

6.08: Surf Clam and Ocean Quahog Fisheries

(1) Definitions. For the purposes of 322 CMR 6.08, the following words shall have the following meanings:

Batch means all shellfish in each separate container.

6.08: continued

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

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

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

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

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

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

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

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

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

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

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

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

(a) Dredging for surf clams is prohibited from November 1st to April 30th, within an area shoreward of the 12 foot depth contour as measured at mean low water beginning at Point Allerton, Hull, and extending southerly to the Massachusetts - Rhode Island Boundary, including Cape Cod and the Islands.

(b) Dredging for surf clams is prohibited from May 1st to October 31st, within an area shoreward of the 20 foot depth contour as measured at mean low water beginning at Point Allerton, Hull and extending southerly to the Massachusetts - Rhode Island boundary, including Cape Cod and the Islands.

(c) Dredging for surf clams is prohibited shoreward of an imaginary line drawn from Long Point, Provincetown to the "Hopper" so called in North Truro, marked "D" on NOS chart 13246.

(d) Dredging for surf clams is prohibited shoreward of an imaginary line from Jeremy Point, Wellfleet, to the "Spire" in Brewster.

(e) Dredging for surf clams is prohibited inside an imaginary line from Seal Rocks off Scraggy Neck, Bourne, to the southernmost tip of Sandy Point Dike, Wareham.

(f) Dredging for surf clams is prohibited from May 1st to October 31st, within an area measured from an imaginary line one mile seaward from mean low water from Great Point Light to Sankaty Light, Nantucket.

(g) Commercial surf clam and ocean quahog management areas may be opened or closed for sanitary purposes by following established procedures for the sanitary control of shellfish growing areas. Fishermen holding special permits for the harvest of these species shall be notified in writing of changes in classification status.

(h) The provisions of 322 CMR 6.08(2)(a) and (b) shall not apply to the waters of the Town of Gay Head.

6.08: continued

(i) The provisions of 322 CMR 6.08(2)(a) and (b) shall not apply to the waters of the Town of Chatham bordering on Nantucket Sound which are found within an imaginary line drawn from a flag marker with radar reflector at Loran C 9960-W-13872.5, 9960-Y-43937.5 as shown NOS Chart 13237; thence proceeding easterly along the 43937.5 line to the western shore of Monomoy Island; thence proceeding in a southerly direction along the shoreline to the 43928 line; thence proceeding westerly along the 43928 line to a flag marker with radar reflector at 9960-W-13875, 9960-Y-43928; thence proceeding in a northerly direction to a pole at 9960-W-13874.2, 9960-Y-43930.4; thence proceeding to a pole at 9960-W-13873.2, 9960-Y-43934.0; thence proceeding to the starting point at 9960-W-13872.5, 9960-Y-43937.5.

(j) The provisions of 322 CMR 6.08(2)(a) and (b) shall not apply to the waters of the town of Nantucket bounded as follows: beginning at the intersection of the Loran C 9960-X-25130 line with the shoreline at Madaket Beach, as shown on NOS chart 13237; thence proceeding northwesterly to the end of Madaket Beach; thence following an imaginary straight line to the southwesternmost point of Esther Island; thence following an imaginary straight line to the southernmost tip of Tuckernuck Island; thence following the west shore of Tuckernuck Island to its northernmost point; thence following an imaginary straight line to the southernmost point of Muskegat Island; thence following the western shore of Muskegat Island to the intersection of the Loran C 9960-X-25190 line; thence following the 9960-X-25190 line in a southerly direction to the territorial waters line; thence following the territorial waters line in a southeasterly direction to its intersection with the Loran C 9960-X-25130 line; thence following the Loran C 9960-X-25130 line in a northerly direction to the point of beginning, all as appearing on the following chart.

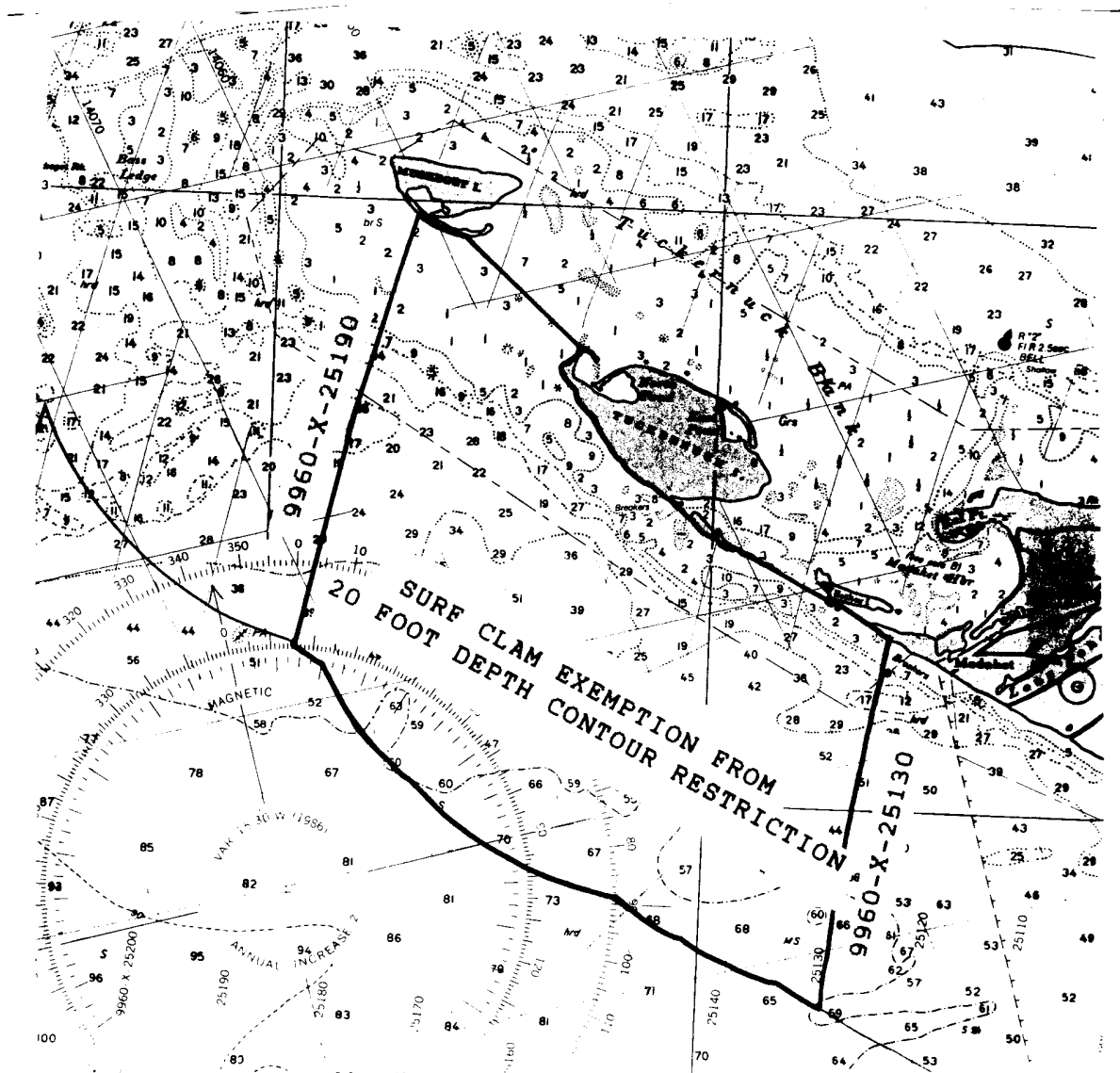
(k) Dredging for surf clams or ocean quahogs is prohibited from May 15th through October 15th within an area beginning at Manomet Point in Plymouth, at 41° 55' latitude and 70°32.2' longitude; thence heading due east for 2.5 miles along the 41°55' parallel to where it intersects with 70°29' longitude; thence due south along the 70°29' meridian to where it intersects with the shoreline in the town of Sandwich; thence following the shoreline back to the initial point.

(l) Commercial surf clam or ocean quahog fishing areas may be opened or closed for management purposes by the director provided that:

1. a majority of the Marine Fisheries Advisory Commission approves the action;
2. a notice of opening or closure is sent to the Secretary of State for publication in the *Massachusetts Register*;
3. surf clam regulated fishery permit holders are notified by mail;
4. the notice includes the rationale for the opening or closure; and
5. during the effective date of any closure, the Director shall consider any written comments on the closure which may be submitted to the Director by the public or a state or federal agency. Based upon these written comments, the Director may alter, amend or rescind the closure pursuant to the procedural requirements of 322 CMR 6.08(2)(l).

6.08: continued

CHART 322 CMR 6.08(2)



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

(a) Surf Clam Trip Limits.

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

6.08: continued

(b) Surf Clam Gear Restrictions.

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

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

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

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

1. It shall be unlawful for any vessel to catch, harvest, possess, or land greater than eight cages (256 bushels) of ocean quahogs during any 24-hour period.
2. Vessels properly licensed to do so may possess and land ocean quahogs legally taken from waters outside the jurisdiction of the Commonwealth in excess of the trip limit established by 322 CMR 6.08(4)(a)1., provided that no vessel engaged in fishing for ocean quahogs within the waters under the jurisdiction of the Commonwealth may possess more than the prescribed limit.

(b) Ocean Quahog Gear Restrictions.

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

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

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

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

6.08: continued

(6) Prohibitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

(6.09: Regulation of Catches: Reserved)6.10: Possession and Sale of Non-Endemic and Non-Native Species

(1) Purpose. Possession and sale of non-native and non-endemic species by fishers and dealers, particularly the use of such species as bait, poses various bio-security risks related to the introduction of invasive species and pathogens that may be harmful to the Commonwealth' natural environment. Accordingly, the Division of Marine Fisheries is taking action to prevent this introduction by preventing its permit holders from selling or possessing certain non-endemic or non-native species.

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

Asiatic Freshwater Clam means that species known as *Corbicula fluminea*

6.10: continued

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

Pacific Lugworm means that species known as *Perinereis aiubhitensis*.

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

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

6.10: continued

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

(3) General Restrictions. It shall be unlawful for any person, including any fisher, bait dealer, or seafood dealer, to possess, sell, or offer for sale any of the following species:

- (a) Asiatic freshwater clam; and
- (b) Pacific lugworm

6.11: Bay Scallops Harvest Criteria

(1) Definitions.

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

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

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

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

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

6.12: Fish Pot Fishery Restrictions

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

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

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 2½ inches in diameter, two inches square, or 1½ inch by 5½ inch, and is set on the bottom of the ocean and designed to capture black sea bass.

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): *Regulated Fishery* and 7.06: *Transfer of Limited Entry Permits*, 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): *Commercial Fisherman Permits* and 7.03: *Coastal Lobster Permit and Trap Allocation Transfer Programs*, 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 M.G.L. c. 130, § 38 or § 80 and 322 CMR 7.01(2): *Commercial Fisherman Permits* 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.

6.12: continued

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): *Regulated Fishery* and 322 CMR 7.06: *Transfer of Limited Entry Permits*, 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 322 CMR 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.

Massachusetts Mixed Species Pot/Trap Fishery means inclusively the commercial lobster and crab trap, black sea bass pot, scup pot, and whelk pot fisheries occurring within the waters under the jurisdiction of the Commonwealth.

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.

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 3¹/₁₀ inches in diameter or 2¼ 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 322 CMR 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.

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

(2) Closed Season.

(a) Conch Pots. From December 15th through April 14th it shall be unlawful for any commercial fisher who holds a regulated conch pot fishery permit endorsement to set, haul, tend, or abandon conch pots or to retain, possess, or land whelks taken by conch pot.

(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 two days prior to the first open fishing day of the commercial summertime black sea bass pot season as specified at 322 CMR 6.28(2).

(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:

6.12: continued

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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 hauled at night by the owner or by an agent approved by the owner and authorized by DMF when they are endangered by storm.
 - (d) All fish pots and conch pots set within the waters under the jurisdiction of the Commonwealth must be configured to comply with the relevant fixed gear and trap gear restrictions for the Massachusetts Mixed Species Pot/Trap Fishery at 322 CMR 12.06(2): *Massachusetts Mixed Species Pot/Trap Fishery.*
- (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 meeting the following specifications:
- (a) all hinges or fasteners made of untreated hemp, jute, or cotton string shall be $\frac{3}{16}$ " (4.8 mm) diameter or smaller;
 - (b) all hinges or fasteners made of magnesium alloy shall be timed float releases (pop-up devices) or similar magnesium alloy fasteners; or
 - (c) all hinges or fasteners made of ungalvanized or uncoated iron wire shall be 0.094" (2.4 mm) diameter or smaller.
 - (d) for black sea bass pots, the opening covered by this panel or door shall be rectangular and measure at least 3" by 6", shall be in the parlor section of the pot, and in a position to allow for the unobstructed exit of fish from the pot.
- (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 $3\frac{1}{10}$ inches in diameter or $2\frac{1}{4}$ 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 $2\frac{1}{2}$ inches in diameter, two inches square, or $1\frac{3}{8}$ inches by $5\frac{3}{4}$ inches.
- (7) Restrictions on the Use of Pots and Traps. It shall be unlawful for any person(s) fishing to fish with pots and traps, except when fishing for:
- (a) scup and black sea bass within the waters under the jurisdiction of the Commonwealth under the authority of a species specific fish pot regulated fishery permit endorsement;
 - (b) whelk under the authority of a conch pot regulated fishery permit endorsement.
 - (c) 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 322 CMR 7.03: *Coastal Lobster Permit and Trap Allocation Transfer Programs*;
 - (d) American eels subject to M.G.L. c. 130, §§ 52 and 100D;

6.12: continued

- (e) green crabs subject to M.G.L. c. 130 § 37A; and
- (f) 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 Pots and Traps. It shall be unlawful for any person(s), fishing with pots or traps, to possess and land:

- (a) any black sea bass taken by pots in the waters under the jurisdiction of the Commonwealth without a black sea bass pot regulated fishery permit endorsement;
- (b) any scup taken by pots in the waters under the jurisdiction of the Commonwealth 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 or offshore 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 and a permit is held to possess or land said finfish or whelk in the Commonwealth.

(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 excess of the following limits:

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

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

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

Effective Traps Fished means a value used in:

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

FIGURE 1.

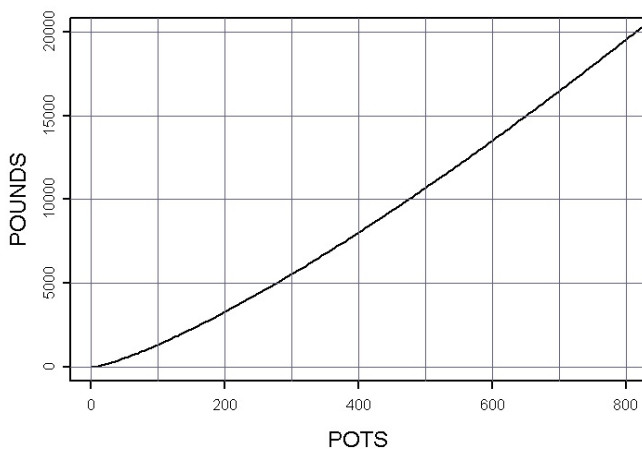


Figure 1. Relationship between pounds harvested and traps fished used to allocate Initial Trap Allocation. Data to calculate the relationship was obtained from catch reports from fishermen fishing primarily in Outer Cape Cod Lobster Conservation Management Area during years (1997-2001).

6.13: continued

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

FIGURE 2

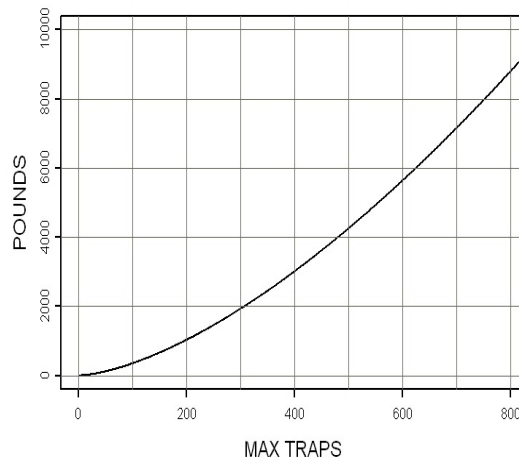


Figure 2. Relationship between pounds harvested and traps fished used to allocate Initial Trap Allocation. Data to calculate the relationship was obtained from catch reports from fishermen fishing primarily in LCMA 2 during years (2001-2003).

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

Fish means to set lobster traps on the ocean bottom.

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

Lobster means that species known as *Homarus americanus*.

(2) Eligibility for Trap Allocation.

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

6.13: continued

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

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

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

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

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

(b) LCMA 2.

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

2. Trap Allocation shall be adjusted:

a. based on any Trap Allocation transfers approved by the Director pursuant to 322 CMR 7.03: *Coastal Lobster Permit and Trap Allocation Transfer Programs*; or

b. Pursuant to any ASMFC approved trap allocation adjustment plan:

ASMFC Addendum XVIII. On January 1, 2016, trap allocations shall be reduced by 25%. Thereafter, on an annual basis beginning in 2017, trap allocations shall be reduced by 5% from the previous year's allocation for the following five years.

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

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

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

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

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

(5) Vessel Limitation.

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

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

6.14: Lobster Car Restrictions

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

6.15: Further Regulation of Catches (Reserved)

6.16: Atlantic Sturgeon Prohibition

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

6.17: Shad and River Herring

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

- (2) Definitions.

Batch means all fish in any separate container.

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

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

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

Managing Entity means the municipality or other entity with the authority under with M.G.L. c. 130, § 94 to control and regulate a river herring spawning run.

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.

6.17: continued

(b) Exception for Spawning Runs with Sustainable Harvest Plans. The Director may authorize the opening of particular spawning runs to the harvest of river herring, provided such spawning runs have a sustainable harvest plan approved by the Atlantic States Marine Fisheries Commission (ASMFC) pursuant to Amendment 2 to the Shad and River Herring Fishery Management Plan. The managing entity shall be responsible for the control and regulation of any spawning run authorized to be open by the Director.

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:

- a. a written notification is filed with the Secretary of the Commonwealth for publication in the *Massachusetts Register*;
- b. a written notification is distributed *via* the Division's e-mail list serve;
- c. a written notification is posted on the Division's Legal Notice webpage;
- d. a written notification is provided to the spawning run's managing entity; and
- e. a list of open runs is posted on DMF's website.

2. Annual Harvest Permit and Daily Harvest Receipt. The harvest and possession of river herring from an open spawning run shall be in accordance with the following annual harvest permit and daily harvest card requirements:

a. Issuance of Annual Harvest Permits. The managing entity shall issue an annual harvest permit to a named individual, which shall expire on December 31st following the date of issuance. On an annual basis, the managing entity shall provide the Division of Marine Fisheries with a list of individuals who have obtained annual harvest permits for the open spawning run.

b. Issuance of Daily Harvest Receipts. The managing entity shall issue a daily harvest receipt to the named permit holder upon completion of their harvesting of river herring from the open spawning run during any calendar day. Upon transfer of the receipt from the managing entity to the run to the permit holder, it shall bear an official stamp or mark of the managing entity. The daily receipt shall include the following minimum information: the date of harvest; the harvest limit for the open spawning run established in the ASMFC-approved Sustainable Harvest Plan, and the amount of river herring harvested by the permit holder; and the expiration date, which shall be three weeks after the date of harvest.

c. Possession of Annual Harvest Permits and Daily Harvest Cards. Except as provided in 322 CMR 6.17(3)(b)2.d., an individual in possession of river herring taken from an open spawning run must hold a valid annual harvest permit and a daily harvest receipt issued by the managing entity for the open spawning run. The daily harvest receipt must be intact and legible. Individuals in possession of river herring shall produce a valid annual harvest permit and daily harvest receipt upon demand of any officer authorized to enforce river herring laws and regulations of the Commonwealth.

d. Allowance for Possession of River Herring by Individuals Other than the Annual Harvest Permit Holder. An individual that does not hold a valid annual harvest permit and daily harvest receipt may lawfully possess river herring or use it as bait, provided they are in the physical presence of a valid annual harvester permit holder with a valid daily harvest receipt that accounts for the river herring and all persons are in compliance with all of the other requirements in 322 CMR 6.17(3)(b)2.

6.17: continued

e. Violations. Except as authorized by 322 CMR 6.17(3)(b)2.d., it shall be *prima facie* evidence of a violation of the river herring harvest moratorium at 322 CMR 6.17(3)(a) if:

- i. An individual is harvesting or attempting to harvest river herring from an open spawning run without a valid annual harvest permit issued to them by the managing entity for that spawning run.
- ii. An individual is in possession of river herring and fails to produce or does not hold a valid annual harvest permit.
- iii. An individual is in possession of river herring and fails to produce or does not hold a valid annual harvest permit and daily harvest receipt issued by the same managing entity for the same open spawning run.
- iv. The annual harvest permit holder is in possession of river herring after the three week expiration date contained in the daily harvest receipt.
- v. An individual is in possession of river herring in a quantity that exceeds the harvest limit for an open spawning run identified in the daily harvest receipt and established in accordance with the ASMFC-approved Sustainable Harvest Plan for the spawning run. Individuals may store or possess a quantity of river herring that exceeds the established harvest limit provided that the number of river herring stored or possessed does not exceed the aggregate harvest limit of river herring allowed by the valid daily harvest receipts.
- vi. The daily harvest receipt has been rendered illegible.

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

(4) Shad Possession Limits.

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

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

6.18: Bluefish Limits (*Pomatomus Salatrix*)

(1) Recreational Bag Limit. It shall be unlawful for any recreational fishermen:

- (a) fishing from shore or a private vessel to retain, land or possess more than five bluefish per calendar day, and
- (b) fishing from a for-hire vessel during a for-hire trip to retain, land or possess more than seven bluefish per calendar day.

(2) Commercial Bluefish Limits.

- a. Minimum Size. It shall be unlawful for a commercial fisherman to retain, possess, or land a bluefish less than 16 inches in total length.
- b. Trip Limit. It shall be unlawful for a commercial fisherman to retain, possess, or land more than 5,000 pounds of bluefish, per calendar day or per trip, whichever period of time is longer.
- c. Quota Closure. It shall be unlawful for a commercial fisherman to retain, possess, or land bluefish once the Director has determined 100% of the bluefish 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) Use of Gillnets for Taking Bluefish for Commercial Purposes.

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

1. Northern Area shall be those territorial waters of the Commonwealth north of a straight line extending from the east entrance of the Cape Cod Canal through Race Point Light, Provincetown to the marine boundary of the Commonwealth.

6.18: continued

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

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

6.19: Edible Crab Management

(1) Definitions. For the purpose of 322 CMR 6.19, the following words shall have the following meaning:

Asian Shore Crab means that species of crustacean known as *Hemigrapsus sanguineus*.

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

Cancer Crab means that genus of crustacean 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*, 322 CMR 7.03: *Coastal Lobster Permit and Trap Allocation Transfer Programs* and 322 CMR 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*.

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

Edible Crab means blue crabs, Cancer crabs, and other native species of crabs that are suitable for human consumption. This shall not include species of non-native crabs including, but not limited to, the European green crab or the Asian shore crab.

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.

Green Crab means that species of crustacean known as *Carcinus maenas*.

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 crustacean known as *Cancer borealis*.

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.

Open or Collapsible Trap means any collapsible device constructed of wire or other material that is fished in an open configuration until retrieved.

Recreational Fisherman means any person who takes, possesses or lands edible 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*.

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

(2) Permit Requirements.

(a) Commercial. A commercial coastal lobster permit, issued by the Director in accordance with M.G.L. c. 130 §§ 2, 37, 38 and 80, and 322 CMR 7.01(2): *Commercial Fisherman Permits* and 322 CMR 7.03: *Coastal Lobster Permit and Trap Allocation Transfer Programs*, is required to retain, possess, or land edible crabs by any method or gear in the Commonwealth of Massachusetts for the purpose of sale, barter, or exchange.

6.19: continued

- (b) Non-commercial. A non-commercial lobster and edible crab permit, issued by the Director in accordance with M.G.L. c. 130 § 38, and 322 CMR 7.01(4)(b)2., is required to fish for edible crabs with trap gear or retain, possess, or land edible crabs taken by trap gear in the waters under the jurisdiction of the Commonwealth of Massachusetts for personal or familial use and which are not to be sold, traded, or bartered. No permit is required to fish for, retain, or land edible crabs taken by hand, handline, dip net, or open and collapsible trap.
- (3) Size Limits.
- (a) Blue Crabs. No person shall take, offer for sale, or possess at any time any blue crab measuring less than five inches across the shell from tip to tip of the posterior-most, longest spines along the lateral margins of the carapace.
- (b) Jonah Crabs. Commercial fishermen and dealers shall not take, possess, or land Jonah crabs that have a carapace width less than 4¾ inches.
- (c) Mutilation. The mutilation of any edible crab regulated by a size limit which affects its measurement shall be *prima facie* evidence that the edible crab was or is less than the required length.
- (d) Disposition. Commercial and recreational fishermen shall not land any parts of a Cancer crab other than a whole Cancer crab.
- (4) Egg Bearing Crabs. It shall be unlawful for any person to take, possess, or land any Cancer crab or blue crab that is egg bearing, from which eggs have been removed, or has come in contact with any substance capable of removing eggs.
- (5) Cancer Crab Rules for Commercial Fishermen Using Lobster Trap Gear.
- (a) Commercial fishermen 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: *Trap Gear Marking and Maximum Trawl Length*;
 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 6.19(5)(a), there shall be no catch, possession or landing limit for Cancer crabs.
- (6) Cancer Crab Rules for Commercial Fishermen Using Gillnets or Mobile Gear.
- (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 50% the catch in weight of other species onboard.
- (b) Catch Limit Exemption. The incidental catch limit at 322 CMR 6.19(6)(a) shall not apply to any commercial fisherman who has obtained rock crabs from lawfully permitted dealers for the purpose of use as bait.
- (7) Management of Recreational Cancer Crab Fishery
- a. Possession 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 fisherman who has obtained rock crabs from lawfully permitted dealers for use as bait.
- b. Restrictions on the Use of Traps. A recreational fisherman may use traps to catch *Cancer* crabs provided the traps used to take or attempt to take *Cancer* crabs comply with the recreational lobster trap restrictions at 322 CMR 6.02(3).
- (8) Blue Crab Possession Limits. It shall be unlawful for any recreational fisherman or commercial fisherman to take, possess, or land more than 25 blue crabs within a 24-hour period.
- (9) Night Closure. It shall be unlawful for any person to tend, lift, raise, or draw any trap or to take edible crabs from a trap from one-half hour after sunset to ½ hour before sunrise. This shall not apply to the taking of edible crabs by hand, handline, dip net, or open and collapsible trap.
- (10) Prohibitions on the Taking of Blue Crabs. It shall be unlawful to:
- (a) Retain any blue crabs caught in trap gear.
 - (b) Set or haul traps for the purpose of catching blue crabs.
 - (c) This shall not apply to blue crabs caught while actively fishing with open or collapsible traps.

6.20: Quahogs, Soft Shelled Clams and Oysters

(1) Definitions.

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

Batch means all shellfish in each separate container.

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

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

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

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

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

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

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

Razor Clam means that species of mollusk known as *Ensis directus*.

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

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

(2) Minimum Sizes.

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

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

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

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

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

2. Oysters. No aquaculturist or his or her licensed employee thereof shall possess for commercial purposes or sell aquaculture reared oysters less than 2½ inches in longest diameter.

3. In addition to the shellfish tagging requirements at 322 CMR 16.03: *Tagging of Shellfish*, all aquaculturists or their licensed employees shall include the statement "Aquaculture Reared" or "Farm Raised" on all shellfish tags that are affixed to containers that hold either quahogs or oysters that are aquaculture reared and do not conform to the minimum sizes at 322 CMR 6.20(a) and (c).

(e) Tolerance. All minimum sizes at 322 CMR 6.20(2) shall be subjected to a tolerance where the possession of undersized quahogs, soft shelled clams and oysters shall not exceed 5% of the count of any batch.

6.20: continued

(3) Transplanting Seed or Adult Oysters.

(a) It shall be unlawful for a person to plant, transplant, or introduce for the purpose of transplanting seed or adult oysters into any waters or into any designated shellfish growing areas within the Commonwealth without first obtaining a special permit issued by the Director in accordance with 322 CMR 7.01(4)(c): *Special Project*.

(b) Any oysters planted, transplanted or introduced in violation of 322 CMR 6.20(3) shall be confiscated and destroyed.

(c) Any violation of the provisions of 322 CMR 6.20(3) is punishable by a fine of not less than \$10.00 and not more than \$1,000 or by imprisonment for a month.

(4) Use of Bleach or Bleach Solutions to Harvest Razor Clams or Soft Shelled Clams. It shall be unlawful for any recreational or commercial fisherman to possess or use bleach or bleach solutions while fishing for razor clams or soft shelled clams.

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 rigid material.

Commercial Fisher 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 Fishing* 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 fishing 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 noncommercial taking or attempted taking of knobbed or channeled whelks for personal or family use, sport or pleasure, which are not 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) Commercial Possession of Legal Sized Knobbed and Channeled Whelks.

(a) Purpose. To increase spawning stock biomass of knobbed and channeled whelks, the legal harvest size limit for these species will be gradually increased to correspond to a size where 50% of female knobbed and channeled whelks are sexually mature. The asymmetry of these animals and the propensity for their siphonal canals to break during handling limits the effectiveness of managing harvest with a traditional shell width or shell length minimum size standards. Consequently, legal sized knobbed and channeled whelks shall be determined through the use of a chute gauge meeting the specifications and by applying the methodology in 322 CMR 6.21(2)(b) and (c).

6.21: continued

(b) Minimum Chute Gauge Width and Chute Gauge Specifications. The chute gauge used to determine the legal size for knobbed and channeled whelks shall measure at least six inches length and by 1½" height. The internal width of the chute gauge shall be: 3⅛" through April 14, 2027; 3¼" during the period of April 15, 2027 through April 14, 2030; 3⅜" during the period of April 15, 2030 through April 14, 2033; 3½" during the period of April 15, 2033 through April 14, 2036, and 3⅝" on or after April 15, 2036. No person shall modify the chute gauge in any manner that may affect the gauging of knobbed or channeled whelks. It shall be *prima facie* evidence of a violation of 322 CMR 6.21(2)(c) if a commercial fisher is not in possession of a chute gauge meeting these minimum specifications when fishing for or in possession of knobbed or channeled whelk.

(c) Methodology of Determining Legal Sized Whelk with the Chute Gauge. Knobbed and channeled whelks shall be oriented to the chute gauge with its operculum facing down and laying as flat on the chute gauge as possible. It shall be unlawful to retain, possess, or land a knobbed or channeled whelk if it can pass through the chute gauge in this required orientation with its siphonal canal at any angle to the side walls of the gauge. The required orientation of the knobbed or channeled whelk to the chute gage is depicted in the image below:



1. Exemptions for Dealers. Notwithstanding the requirements of 322 CMR 6.21(2)(c), a dealer permitted in accordance with 322 CMR 7.01(3): *Dealer Permits* may obtain, possess and process knobbed and channeled whelks that are not legal sized if such knobbed or 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.

(d) Tagging of Knobbed and Channeled Whelks by Commercial Fishers. Because knobbed and channeled whelks are shellfish as defined in M.G.L. c. 130, § 2, commercial fishers who retain such whelks harvested in accordance with the requirements of 322 CMR 6.21(2)(c) shall place them in containers that bear a shellfish harvester tag as required by 322 CMR 16.00: *Shellfish Harvest and Handling*.

(e) Prohibitions. Except as provided in 322 CMR 6.21(2)(c)1., it shall be unlawful for:

1. any person to possess a knobbed or channeled whelk that is less than the legal size as determined in accordance with 322 CMR 6.21(2)(b) and (c) for longer than it is necessary for immediate measurement and return to the sea.
2. any person to modify the chute gauge specified in 322 CMR 6.21(2)(b) in any manner that may affect the method of measurement of knobbed and channeled whelks.
3. any person 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)(c).
4. any commercial fisher to not possess on their vessel a chute gauge meeting the specifications in 322 CMR 6.21(2)(b) when fishing for or in possession of knobbed or channeled whelk.
5. to possess any knobbed or channeled whelk in a condition other than whole in-shell, except by a dealer licensed in accordance with 322 CMR 7.01(3): *Dealer Permits*.
6. to process whelks at any location other than at a facility of a dealer licensed in accordance with 322 CMR 7.01(3): *Dealer Permits* for that purpose.

(3) Possession Limit.

(a) Coastal Access Permit Holders. For commercial fishers 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,

6.21: continued

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 fishers fishing with Scuba or hand harvest gear, it shall be unlawful to take, possess or land a combination of channeled and knobbed whelk that exceeds one level filled standard fish tote.

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

6.22: Summer Flounder (Fluke) Restrictions

(1) Definitions. For the purposes of 322 CMR 6.22, the following terms shall have the following meanings.

Commercial Fisher means any person permitted in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(2) to retain, possess, and land summer flounder for purpose of sale, barter, or exchange or who keeps for personal or family use any summer flounder taken under the authority of said permit.

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.

Land means to transfer or attempt to transfer the catch of summer flounder 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 summer flounder onboard to tie-up to any pier, wharf, dock, or artificial structure.

Period I means the commercial fishery for summer flounder occurring between January 1st and April 22nd.

Period II means the commercial fishery for summer flounder occurring between April 23rd and December 31st.

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

Recreational Fisher means any person who harvests or attempts to harvest fish for personal or family use, sport or pleasure, which are not to be sold, bartered, or exchanged.

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

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 ends with a return to a dock, berth seawall, ramp or port.

Trip Limit means the maximum lawful amount of summer flounder that a commercial fisher may retain, possess, or land within the waters under the jurisdiction of the Commonwealth or sell, barter or exchange or offer for sale, barter, or exchange. Trip limits apply per trip or per calendar day, whichever period of time is longer and are applied to the vessel named on the commercial fishing permit regardless of the number of commercial fishing permits or letters of authorization carried on board the vessel.

(2) Commercial Fishery.

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

6.22: continued

(b) Seasonal Quota Allocations. Annually, the quota shall be allocated between the Period I fishery and the Period II fishery. In accordance with 322 CMR 6.22(2)(b)(1) and (2), the allocation shall be set annually based on the magnitude of the quota. 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.

1. If the quota is 750,000 pounds or greater, the Period I fishery shall be allocated 30% of the quota and the Period II fishery shall be allocated 70% of the quota.
2. If the quota is less than 750,000 pounds, the Period I fishery shall be allocated 15% of the quota and the Period II fishery shall be allocated 85% of the quota.

(c) Period I (January 1st through April 22nd).

1. Beginning on January 1st the trip limit shall be 5,000 pounds. This trip limit shall remain in effect through April 22nd or until DMF determines that 100% of the Period I quota allocation, as established at 322 CMR 6.22(2)(b), has been reached, whichever occurs sooner.
2. Should DMF determine that the Period I quota allocation, as set forth at 322 CMR 6.22(2)(b) has been reached on or before April 22nd, the trip limit for all commercial fishers shall be 100 pounds. This trip limit shall become effective on the calendar day immediately following the determination.
3. Annual Authorization of Multi-State Program and Exception to Trip Limit. Subject to an annual authorization from the Director, vessels landing in Massachusetts may possess summer flounder in quantities exceeding the limits at 322 CMR 6.22(2)(c)(1) through (3), provided the non-conforming fish is to be landed in another state, is clearly labeled identifying the state it is to be landed in, and it remains on the vessel while the Massachusetts limit is being landed.

(d) Period II (April 23rd through December 31st).

1. Trip Limits for Commercial Fishers Using Nets from April 23rd through September 30th. During the period of April 23rd through September 30th, the initial trip limit for any commercial fisher using nets shall be 600 pounds. In accordance with 322 CMR 6.22(2)(d)(1)(a) through (c), this trip limit may be adjusted in season based on quota utilization:

- a. Should DMF determine that 75% of the quota is taken on or before August 15th, then the trip limit for any commercial fisher using nets shall be reduced to 400 pounds. This trip limit shall become effective on the calendar day immediately following the determination.
- b. Should DMF determine that 90% of the quota is taken on or before September 1st, then the trip limit for any commercial fisher using nets shall be reduced to 200 pounds. This trip limit shall become effective on the calendar day immediately following the determination.
- c. Should DMF determine that more than 20% of the quota will remain available after August 31st, then the trip limit for any commercial fisher using nets shall be increased to 1,000 pounds effective September 1st.

2. Trip Limits for Commercial Fishers Using Hook and Line Gear from April 23rd through September 30th. During the period of April 23rd through September 30th, the initial trip limit for a commercial fisher using hook and line gear shall be 600 pounds. In accordance with 322 CMR 6.22(2)(d)(2)(a) through (c), this trip limit may be adjusted in season based on quota utilization:

- a. Should DMF determine that 75% of the quota is taken on or before August 15th, then the trip limit for a commercial fisher using hook and line gear shall be reduced to 200 pounds. This trip limit shall become effective on the calendar day immediately following the determination.
- b. Should DMF determine that 90% of the quota is taken on or before September 1st, then the trip limit for commercial fishers using hook and line gear shall be reduced to 200 pounds. This trip limit shall become effective on the calendar day immediately following the determination.
- c. Should DMF determine that more than 20% of the quota remains on August 31st, then the trip limit for a commercial fisher using hook and line gear shall be increased to 1,000 pounds effective September 1st.

6.22: continued

3. Trip Limits for Commercial Fishers from October 1st through December 31st.

a. During the period of October 1st through October 31st, the summer flounder trip limit shall be set based on the utilization of the annual quota through September 30th. Should DMF determine that 10% or less of the quota remains on September 30th, then the trip limit for all commercial fishers shall be 1,000 pounds effective October 1st.

However, should DMF determine that more than 10% of the quota will remain available after September 30th, then the trip limit for all commercial fishers shall be 5,000 pounds.

b. During the period of November 1st through December 31st, the summer flounder trip limit shall be set based on the utilization of the annual quota through October 31st. Should DMF determine 20% or less of the quota remains on October 31st, then the trip limit for all commercial fishers shall be 5,000 pounds. However, should DMF determine that more than 20% the quota will remain available after October 31st, then the trip limit for all commercial fishers shall be 10,000 pounds.

c. Annual Authorization of Multi-State Program and Exception to Trip Limit. Subject to an annual authorization from the Director, vessels landing in Massachusetts may possess summer flounder in quantities exceeding the limits in 322 CMR 6.22(2)(d)(3), provided the non-conforming fish is to be landed in another state, is clearly labeled identifying the state it is to be landed in, and it remains on the vessel while the Massachusetts limit is being landed.

4. Summer Flounder Limits for Vessels Fishing with Small Mesh Trawls. The trip limit shall be 100 pounds for any commercial fisher fishing with trawl gear and using a net with net mesh less than 5.5" diamond or 6" square throughout the cod end of the net.

(e) Quota Closure. It shall be unlawful for any commercial fisher to retain, possess, land, sell, barter, or exchange or offer for sale, barter, or exchange any summer flounder once the Director has determined that 100% of the commercial summer flounder 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).

(f) Offloading Prohibition. It is unlawful for commercial fisher to offload or attempt to offload summer flounder from 10:00 P.M. through 6:00 A.M.

(g) Inspection. Commercial fishers shall keep all summer flounder separate from the rest of the vessel's catch and readily available for immediate inspection by the Office of Law Enforcement.

(h) Requirements for Dealers. All dealers authorized as primary buyers permitted in accordance with M.G.L. c. 130, 322 CMR 7.01(3): *Dealer Permits* and 322 CMR 7.07: *Dealers Acting as Primary Buyers* shall obtain a federal dealer permit from the National Marine Fisheries Service to purchase summer flounder directly from commercial fishers during the Period I commercial summer flounder fishery.

(3) Permitting 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 retain, possess, land, sell, barter, or exchange or offer for sale, barter, or exchange any summer flounder in accordance with summer flounder commercial fishery regulations at 322 CMR 6.22(2).

(4) Recreational Fishery Season and Limits.

(a) Minimum Size. It shall be unlawful for any recreational fisher to retain, possess, or land a summer flounder measuring less than:

1. 17.5 inches total length when fishing from a vessel.
2. 16.5 inches total length when fishing from shore.

(b) Open Season. During the period of May 24th through September 23rd, it shall be unlawful for any recreational fisher to retain, possess, or land more than five summer flounder per day.

(c) Closed Season. From September 24th through May 23rd, it shall be unlawful for any fisher to retain, possess, or land any summer flounder.

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

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

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

6.23: continued

- (2) Possession Limits. It is unlawful for any fisherman to fish for and retain more than 50 smelt taken from coastal waters of the Commonwealth per 24-hour day.
- (3) Prohibitions. It is unlawful for any person:
- (a) to fish for and retain smelt in any other manner than by hook-and-line as established by M.G.L. c. 130, § 35.
 - (b) to fish for and retain smelt between March 15th and June 15th as established by M.G.L. c. 130, § 34.
 - (c) to fail to release immediately any smelt unlawfully taken back into the waters from which they were taken.

6.24: Sea Urchin Management

(1) Definitions.

Batch means all sea urchins in each separate container.

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

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

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

(2) Minimum Size.

- (a) No person shall take or possess sea urchins measuring less than two inches in the longest diameter, exclusive of the spines, to the amount of more than 5% of any batch.
- (b) Sublegal sea urchins shall be culled immediately after capture, and returned immediately to the sea.

(3) Closed Season.

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

(4) Gear Restrictions.

- (a) No person shall dredge for sea urchins in any area(s) closed to mobile gear fishing unless a single dredge meeting the following specifications is used:
 1. The effective fishing width of the dredge is 48 inches or less.
 2. The frame or bale is constructed of $\frac{3}{4}$ inch or smaller stock (bar or rod) with skids no longer than three feet in length.
 3. The chain sweep section behind the bale shall be constructed of $\frac{1}{4}$ inch or smaller chain in a single layer square mesh pattern no longer than 4 $\frac{1}{2}$ feet.
 4. The twine codend, measured from where the chain section ends shall be no longer than five feet in length.
 5. Chafing gear to protect the codend shall be traditional twine chafing gear or a rubber mat five feet or less in length and four feet or less in width.
 6. The dredge specified for areas closed to mobile gear may only be towed with wire or cable of $\frac{3}{8}$ inch or smaller diameter or rope of $\frac{5}{8}$ inch or smaller diameter.

((5) Closed Areas. Reserved)

(6) Permits.

- (a) No person shall take or possess for commercial purposes sea urchins from waters under the jurisdiction of the Commonwealth unless he or she is in possession of a valid regulated fishery permit endorsed for sea urchins, issued by the Director pursuant to 322 CMR 7.01(4)(a): *Regulated Fishery Permit Endorsement*.
- (b) No person shall be issued a regulated fishery permit endorsed for the harvest of sea urchins unless he or she is a *bona fide* resident of Massachusetts or is a resident of a state which grants equal access to Massachusetts residents.

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

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

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

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

(7) Prohibitions.

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

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

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

6.25: Lobster Landing Window

(1) Definition.

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

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

6.26: Bycatch Lobster Landing/Possession Limits

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

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

Day means any 24-hour period.

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

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

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

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

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

6.26: continued

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

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

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

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

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

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

(2) Bycatch Limits in Commercial Fisheries.

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

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

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

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

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

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

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

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

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

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

6.26: continued

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

6.27: Scup Fishery Management

(1) Definitions.

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

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.

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.

Quota means the Commonwealth's share of the annual commercial scup quota adopted by the Atlantic States Marine Fisheries Commission.

Recreational Fisher means any person who harvesters or attempts to harvest fish for personal or family use, sport or pleasure, 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 $3\frac{1}{10}$ inches in diameter or $2\frac{1}{4}$ inches 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.

(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 fisher or dealer to possess scup less than nine inches in total length.

(c) Winter I and Winter II Fishery. During the Winter I period of January 1st through April 30th and the Winter II period of October 1st through December 31st, it shall be unlawful for any vessel fishing within the waters under the jurisdiction of the Commonwealth to possess, retain, or land more than 2,000 pounds of scup per trip, or per calendar day. Vessels with federal permits allowing the taking of scup from federal waters, may exceed this state limit, provided:

1. the scup were lawfully taken while fishing in federal waters;
2. the vessel is transiting through the waters under the jurisdiction of the Commonwealth and makes no stops, except to land fish in a Massachusetts port, unless otherwise directed to do so by authorized law enforcement personnel, without limitation the Office of Law Enforcement and the United States Coast Guard;

6.27: continued

3. all fishing gear is out of the water and properly stowed onboard the vessel; and
 4. the vessel, crew, gear, and catch are otherwise in compliance with all applicable federal regulations
- (d) Summertime Fishery. The summertime fishery occurs during the period of May 1st through September 30th and is subject to the Commonwealth's commercial scup quota. This quota is managed through gear type specific trip limits, seasons and fishing days.
1. Weirs. During this period commercial fishers, 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 fishers reach 300,000 pounds of scup.
 2. Trawlers. During this period, commercial fishers, permitted in accordance with 322 CMR 7.01(4)(a): *Regulated Fishery Permit Endorsement* to fish for scup with trawl gear may retain, 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 fishers, 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 1st through June 30th. During this period, these commercial fishers may retain, possess and land scup Sundays through Thursdays and shall not retain, possess or land more than 800 pounds of scup per calendar day or per fishing trip, whichever period is longer. The retention, possession and landing of scup is prohibited on Fridays and Saturdays.
 - c. July 1st through September 30th. During this period, these commercial fishers may retain, possess and land scup seven days per week and shall not retain, 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 fishers to retain, possess or land 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) 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 October 1st through April 14th, more than 2,000 pounds of scup from April 15th through June 15th, nor more than 200 pounds of scup from June 16th through September 30th, 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.
- (3) Recreational Fishery Regulations.
- (a) Minimum Size. It is unlawful for any recreational fisher to retain, possess, or land a scup measuring less than:
 1. 11 inches in total length when fishing from a vessel.
 2. Nine and one-half inches total length when fishing from shore.
 - (b) Possession and Landing Limits. From May 1st through December 31st, it shall be unlawful for any recreational fisher to retain, possess or land more than 30 scup per day. If there are six or more recreational fishers onboard any vessel, the aggregate number of scup possessed by all recreational fishers onboard the vessel shall not exceed 150 fish.
 - (c) Exemptions for For-hire Vessels. For-hire vessels carrying patrons are provided the following exemptions to the possession and landing limits set forth at 322 CMR 6.27(3)(b):
 1. Bonus Season. During the period of May 1st through June 30th, any recreational fishers fishing as a patron onboard a for-hire vessel may retain up to 40 scup per day.
 2. Vessel Limit. The vessel limit of 150 scup per day shall not apply.
 - (d) Closed Season. During the period of January 1st through April 30th, it shall be unlawful for any recreational fishers to retain, possess, or land any scup.

6.28: Black Sea Bass Fishery Management

(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 2½ inches diameter, two inches square or 1⅞ inches by 5¾ inches, 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): *Regulated Fishery Permit Endorsement* and 322 CMR 7.06: *Transfer of Limited Entry Permits*, 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): *Regulated Fishery Permit Endorsement* and 322 CMR 7.06: *Transfer of Limited Entry Permits*, that authorize a named individual to harvest, possess and land black sea bass for commercial purposes.

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

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.

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.

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

Quota means the Commonwealth's share of the annual commercial black sea bass quota adopted by the Atlantic States Marine Fisheries Commission.

Recreational Fisher means any person who harvests or attempts to harvest fish for personal or family use, sport or pleasure, 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.

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

6.28: continued

Trip Limit means the maximum lawful amount of black sea bass that a commercial fisher may retain, possess, or land within the waters under the jurisdiction of the Commonwealth or sell, barter or exchange or offer for sale, barter, or exchange. Trip limits apply by per trip or per calendar day, whichever period of time is longer and are applied to the vessel named on the commercial fishing permit regardless of the number of commercial fishing permits or letters of authorization carried on board the vessel.

(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 Permit Endorsement*, is required to sell, barter, or exchange 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 shall be unlawful for any commercial fisher or dealer to possess black sea bass less than 12 inches in total length, not including the tail tendril.

(c) Trip Limits and Open Fishing Days. It shall be unlawful for any commercial fisher to retain, possess, land or sell, barter, or exchange black sea bass within the waters under the jurisdiction of the Commonwealth, except as authorized at 322 CMR 6.28(2)(c)(1) through (4):

1. Fish Weir Set-Aside. From April 1st through December 31st, commercial fishers permitted in accordance with 322 CMR 7.01(4)(a): *Regulated Fishery Permit Endorsement* to operate a fish weir, shall not be subject to trip limits or closed commercial fishing days for black sea bass caught in fish weirs. The weir fishery shall close when all permitted weir fishers have combined to land 24,000 pounds of black sea bass.

2. Black Sea Bass Bycatch Allowance for Trawlers. The trip limit for commercial fishers using trawl gear shall be 100 pounds.

3. Summertime Black Sea Bass Pot Fishery.

a. Trip Limit. Except as authorized at 322 CMR 6.28(2)(c)(3)(b), beginning on July 1st, the trip limit for commercial fishers permitted to fish black sea bass pots shall be 500 pounds.

b. Quota Based In-Season Trip Limit Increase. Should DMF determine that more than 15% of the quota will remain available after August 31st, the trip limit for commercial fishers permitted to fish black sea bass pots shall be increased to 600 pounds effective September 1st.

c. Fishing Days (July 1st through August 31st). During the period of July 1st through August 31st, commercial fishers using black sea bass pots may retain, possess, land, and sell black sea bass on Sundays, Mondays, Tuesdays, Wednesdays, and Thursdays. It shall be unlawful to conduct such activities on Fridays and Saturdays.

d. Fishing Days (September 1st through December 31st). Beginning on September 1st, commercial fishers using black sea bass pots may retain, possess, and land black sea bass seven days per week.

4. Other Gear Types.

a. Trip Limit. Except as authorized at 322 CMR 6.28(2)(c)(4)(b), beginning on July 1st, the trip limit for commercial fishers using all other authorized gear types, including but not limited to hook and line, shall be 250 pounds.

b. Quota Based In-Season Trip Limit Increase. Should DMF determine that more than 15% of the quota will remain available after August 31st, the trip limit for commercial fishers using all other authorized gear types, including but not limited to hook and line, shall be 300 pounds effective September 1st.

c. Fishing Days (July 1st through August 31st). During the period of July 1st through August 31st, commercial fishers using all other authorized gear types, including but not limited to hook and line, may retain, possess, land, and sell black sea bass on Sundays, Mondays, Tuesdays, Wednesdays, and Thursdays. It shall be unlawful to conduct such activities on Fridays and Saturdays.

d. Fishing Days (September 1st through December 31st). Beginning September 1st, commercial fishers using all other authorized gear types, including but not limited to hook and line, may retain, possess, and land black sea bass seven days per week.

6.28: continued

e. The regulations set for that 322 CMR 6.28(2)(c)(4) shall not apply to lawfully permitted commercial fishers fishing with weirs, trawls, and black sea bass pots regulated pursuant to 322 CMR 6.28(2)(c)(1) through (3).

5. Quota Closure. It shall be unlawful for commercial fishers to possess or land black sea bass once the Director has determined that 100% of the 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 shall be unlawful for any recreational fisher to retain, possess, or land black sea bass measuring less than 16.5 inches in total length not including the tail tendril.

(b) Open Season. During the period of May 17th through September 1st, it shall be unlawful for any recreational fisher to retain, possess, or land more than four black sea bass per day.

(c) Closed Season. During the period of September 2nd through May 16th, it shall be unlawful for any recreational fisher to retain, possess, or land any black sea bass.

6.29: Acushnet River Estuary Fisheries Closures

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

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

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

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

6.30: American Eels

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

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

Commercial Fisher means any person fishing for American eels under the authority of a commercial fishing permit issued in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(2) and (4).

6.30: continued

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

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

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

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

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

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

(3) Commercial Fishery Management. It shall be unlawful for any commercial fisher to retain, possess, land, sell, or offer for sale any American eel when the Commonwealth's commercial quota has been reached and the fishery is closed through a Declaration of Closure issued in accordance with 322 CMR 6.41(2).

(4) Dealers. Pursuant to the authority at M.G.L. c. 130, § 21, dealers who purchase American eels from commercial fishers shall hold a primary buyer authorization from the Division, in accordance with 322 CMR 7.07: *Dealers Acting as Primary Buyers*, and report all purchases of American eels from commercial fishers to the Division. It shall be unlawful for any dealer authorized as a primary buyer of American eel, pursuant to M.G.L. c. 130, § 80 and 322 CMR 7.07, to purchase or attempt to purchase any American eels from any commercial fisher once the commercial quota has been reached and the commercial fishery is closed by a Declaration of Closure issued in accordance with 322 CMR 6.41(2). However, during the quota closure period, dealers may import into the Commonwealth, offer for sale, and sell American eels lawfully harvested in another jurisdiction provided said American eels are accompanied by a bill of lading or other documentation that verifies the lawful origin of the product.

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

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

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

(7) Restrictions of Fishing Gear.

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

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

6.30: continued

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

6.31: Trap Tags

(1) Lobster Traps.

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

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

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

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

(d) Official commercial lobster trap tags shall be purchased by named permit holders directly from a manufacturer selected by the Division according to established competitive bidding procedures. New tags for the following year will be available after December 1st. Any traps being fished on or after May 1st must have a current year trap tag installed in the trap.

(e) In any year, the maximum number of state lobster trap tags authorized for direct purchase by each permit holder shall be:

1. LMCA 1 and LCMA 3.
 - a. Effective through December 31, 2024. The trap limit set by 322 CMR 6.13 plus an additional 10% to cover trap loss.
 - b. Effective January 1, 2025 and Thereafter. The trap limit set by 322 CMR 6.13.
2. All Other LCMA. The trap limit set by 322 CMR 6.13 plus an additional 10% to cover trap loss for permit holders authorized to fish Lobster Conservation Management Areas Outer Cape Cod, 2, 4, 5, and 6.

(f) Permit holders may purchase as many tags as needed up to the maximum.

(g) Under no circumstance shall the number of traps fished at any time exceed the established trap limit.

(2) Fish and Conch Pots.

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

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

(c) It shall be unlawful for any commercial fisher licensed by the Division of Marine Fisheries to possess on the water, set, or fish any conch pot, as defined at 322 CMR 6.12(1), without an official state conch pot trap tag permanently attached to the bridge or central cross-member of the trap.

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

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

6.31: continued

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

(3) Replacement.

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

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

(4) Prohibitions.

(a) It shall be unlawful for any person to possess, set, or fish lobster trap, fish pot, or conch pot gear without a valid annual trap tag affixed to the gear as described at 322 CMR 6.31(1) and (2).

(b) It shall be a violation of 322 CMR 6.00 to file a false claim of trap or tag loss for purposes of obtaining additional tags.

(c) It shall be a violation of 322 CMR 6.00 to alter or deface a tag, or tamper with the tag(s) of another permit holder.

6.32: Shell-on Lobster Parts

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

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

Division means the Massachusetts Division of Marine Fisheries.

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

Processor means any wholesale dealer permitted by the Division, in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(3), and authorized in writing by DPH to process lobsters.

DPH means the Massachusetts Department of Public Health.

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

(a) Authorization to Process Lobster.

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

(b) Rules Specific to Whole Live Lobster Processing.

1. All whole lobsters at the approved lobster processing facility or at any location associated with the approved processor shall meet the minimum size requirement in M.G.L. c. 130, § 44;
2. All whole lobsters utilized in the processing of shell-on lobster tails shall be live and shall meet the minimum size requirement in M.G.L. c. 130, § 44;
3. All shell-on lobster tails shall weigh three ounces or more;

6.32: continued

4. All processing, freezing, packaging and labeling of shell-on lobster parts shall take place within the approved lobster processing facility at the address appearing on the wholesale dealer permit;
 5. All shell-on lobster parts or packages of shell-on lobster parts shall be labeled with a description of the product and the license number and address of the facility where they are processed and the date they are processed; and
 6. Packaged and labeled shell-on lobster parts may be stored on the premises or off-site at a facility approved by DPH, provided that accurate records of inventory and disposition are kept and made available for inspection by Environmental Police Officers and DPH.
- (c) Rules Specific to the Importation of Shell-on Lobster Parts for Processing. Processors may import shell-on lobster parts into the Commonwealth for processing, provided:
1. All shell-on lobster parts are accompanied by a bill of lading, or other similar documentation, describing the product; the identity and address of the original processor; the name of the receiving Massachusetts dealer; and the address of the wholesale dealer facility in Massachusetts where processing will occur.
 2. All processing, freezing, packaging and labeling of shell-on lobster parts in accordance with 322 CMR 6.32(2)(c), shall take place at an approved facility belonging to the receiving Massachusetts processor.
 3. Upon completion of all final processing activity, the receiving Massachusetts processor shall label all shell-on lobster parts or packages thereof, with labels that include the following information: a description of the processed product; the identity of the processor; the address of the approved facility where the final processing occurred; and the date when the final processing occurred.
 4. Once labeled in accordance with 322 CMR 6.32(2)(c)3., all shell-on lobster parts may be stored on the premises of the Massachusetts processor, or at an offsite facility approved by DPH. Accurate records of inventory and disposition of all processed shell on lobster parts must be kept and made available for inspection by Environmental Police Officers and DPH.
 5. All shell-on lobster tails shall weigh at least three ounces or more.
 6. The importation, transportation and processing of all lobster parts authorized pursuant to 322 CMR 6.32(2)(c) shall comply with all other applicable DPH laws and regulations.
- (3) Requirements for the Sale of Shell-on Lobster Parts. The sale of shell-on lobster parts is authorized pursuant to M.G.L. c. 130, § 44 and M.G.L. c. 94, § 77G subject to the following restrictions:
- (a) Only legal sized lobster carapaces and shell-on lobster parts may be possessed, offered for sale or sold;
 - (b) All shell-on lobster parts shall be accompanied by a bill of sale and a description of the product, the identity of the processor and the country of origin.

6.33: Lobster Conservation Management Areas(1) Definition.

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

(2) Area Boundaries.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

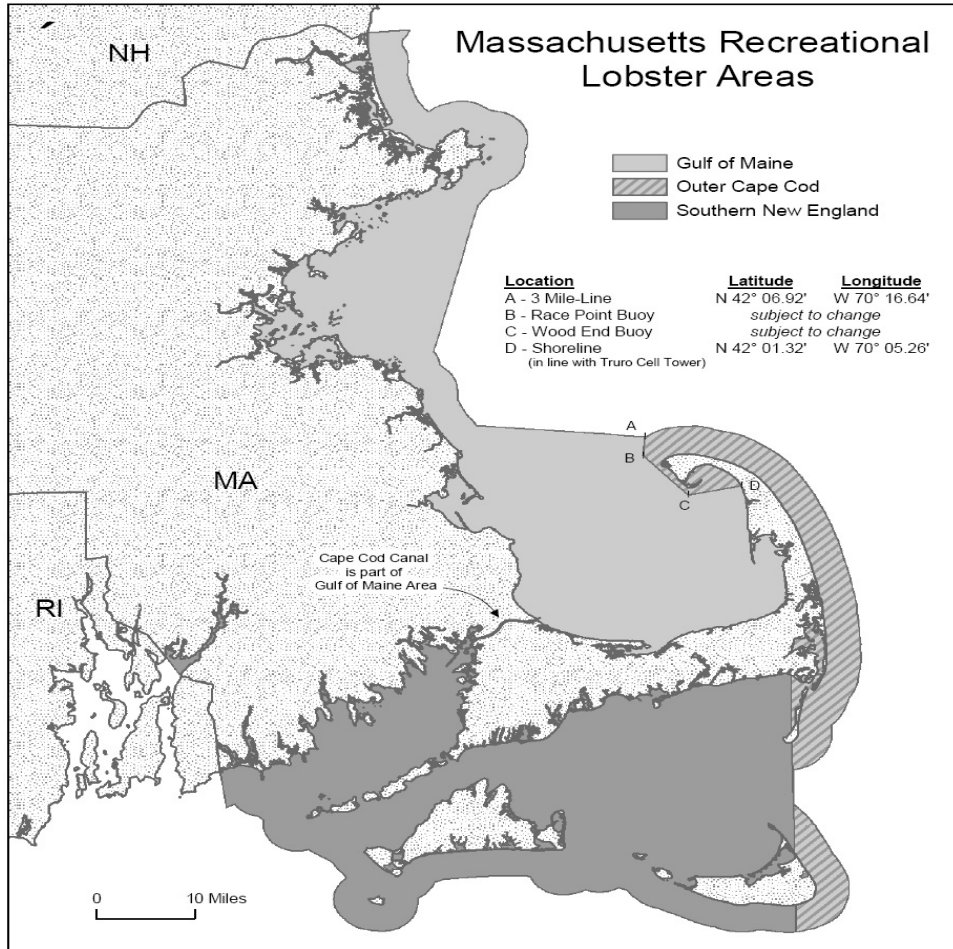
Point	LATITUDE (°N)	LONGITUDE (°W)
T	41° 00.5'	72° 00'
S	40° 58'	72° 00'
From pt. "S", boundary follows the three mile limit of NY state waters as it curves around Montauk Pt. To pt. "P"		
P	41° 06.5'	71° 47'
Q	41° 18' 30"	71° 54' 30"
R	41° 11' 30"	71° 47' 15"
From pt. "R", along the maritime boundary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

6.33: continued

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

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

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



6.34: Horseshoe Crab Management

(1) Purpose. The Division of Marine Fisheries manages horseshoe crabs in compliance with the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Horseshoe Crabs. Additionally, DMF manages local horseshoe crab populations to ensure the resource is available for current and future generations for use as a commercial fishery resource, in biomedical applications, for education and scientific research, and to provide cultural and ecological services. This requires the Division of Marine Fisheries control harvest and mortality across all fisheries and provide for spawning opportunities.

(2) Definitions.

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

Bait Fishery Quota means the total annual allowable harvest of horseshoe crabs for the bait fishery to be established by the Division of Marine Fisheries.

Biomedical Fisher means any person who has been issued a special biomedical horseshoe crab harvest permit by the Director in accordance with 322 CMR 7.01(4)(f) allowing the retention, possession, and landing of horseshoe crabs for biomedical or research purposes and direct sale to a biomedical dealer or biomedical processor or research institution authorized by the Director to conduct biomedical or research activities.

Biomedical Dealer means any person or entity, permitted in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(3), who has a contractual relationship with a biomedical processor and authorized at 322 CMR 7.07: *Dealers Acting as Primary Buyers* to conduct a primary purchase of horseshoe crabs from a biomedical fisher.

Biomedical Processor means any person or entity, permitted in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(3) and authorized by the Director to process horseshoe crabs for biomedical purposes.

Biomedical Processor Quota means the total annual allowable harvest of horseshoe crabs for biomedical processing in Massachusetts assigned by the Division in equal shares to each permitted biomedical processor.

Cape Cod National Seashore means that area of land and waters located in Provincetown, Truro, Wellfleet, Eastham, Orleans, and Chatham under the control of the United States Department of the Interior's National Park Service pursuant to 16 U.S.C. 459b.

Commercial Fisher means any person permitted in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(2) to participate in the commercial bait fishery for horseshoe crabs and retain, possess, and land horseshoe crabs for purpose of sale, barter, or exchange or any person who keeps for personal or family use any horseshoe crab taken under the authority of said permit.

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

Division means the Massachusetts Division of Marine Fisheries.

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

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

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.

6.34: continued

Monomoy National Wildlife Refuge means that area of lands and waters located in Chatham under the control of the United States Department of the Interior's Fish and Wildlife Service. The boundaries thereof are described in the October 30, 2015 Notice of Availability for the Monomoy National Wildlife Refuge Final Comprehensive Conservation Plan and Environmental Impact Statement at 80 F.R. 66928; published in the March 2016 *Monomoy National Wildlife Refuge Comprehensive Conservation Plan*; and first established in 1944 *via* the Declaration of the Taking filed by the Department of the Interior with the Federal District Court for the District of Massachusetts.

Primary Purchase means the first commercial transaction by sale, barter, or exchange of horseshoe crabs after its harvest.

Total Mortality means the number of horseshoe crabs harvested in the biomedical horseshoe crab fishery that died during harvest, handling, transportation, storage, penning, processing, and release.

Trawl means a fishing practice that herds or captures target species by towing a net through the ocean.

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 ends with a return to a dock, berth seawall, ramp or port.

Trip Limit means the maximum lawful amount of horseshoe crabs that a commercial fisher or biomedical fisher may retain, possess, or land within the Commonwealth or sell, barter or exchange or offer for sale barter or exchange. Trip limits apply per trip or per calendar day, whichever period of time is longer and are applied to the vessel named on the commercial fishing permit regardless of the number of commercial fishing permits or letters of authorization carried on board the vessel.

(3) General Restrictions.

(a) Non-commercial Possession Limit. It shall be unlawful for any person to retain, possess, or land more than six horseshoe crabs per day, unless authorized at 322 CMR 6.34(4) or 322 CMR 6.34(5). Any horseshoe crabs retained under this non-commercial possession limit shall be maintained only for personal or family use and shall not be sold, bartered, exchanged, or offered for sale, barter, or exchange.

(b) Spawning Closure. It shall be unlawful for any fisher to harvest, possess, or land horseshoe crabs from April 15th through June 7th.

(c) Asian Horseshoe Crab. It shall be unlawful to possess, purchase, import, transport, sell, barter, exchange, purchase, or offer for sale, barter or exchange Asian horseshoe crabs or to release into the waters under the jurisdiction of the Commonwealth any Asian horseshoe crabs.

(d) Cape Cod National Seashore. It shall be unlawful for any person to harvest horseshoe crabs within the boundaries of the Cape Cod National Seashore.

(e) Monomoy National Wildlife Refuge. It shall be unlawful for any person to harvest horseshoe crabs within the boundaries of the Monomoy National Wildlife Refuge.

(f) Authority to Temporarily Close Areas to Harvest of Horseshoe Crabs. The Director may temporarily close any area within the waters under the jurisdiction of the Commonwealth to harvest of horseshoe crabs, subject to the procedure below:

1. It has been approved by a majority of the members of the Marine Fisheries Advisory Commission;
2. A Declaration of Closure has been filed with the Massachusetts Secretary of State for publication in the Massachusetts Register;
3. A Declaration of Closure has been published in a local newspaper of record and posted on the Division's Legal Notice website; and
4. A Declaration of Closure has been distributed *via* the Division's e-mail list serve and directly to any and all affected permit holders.

(4) Bait Fishery Management.

(a) Commercial Bait Fishery Quota. The annual bait fishery quota shall be 100,000 horseshoe crabs.

6.34: continued

(b) Minimum Size. It shall be unlawful for any commercial fisher or dealer to retain, possess or land a horseshoe crab with a prosomal width of less than seven inches.

(c) Trip Limits for the Commercial Bait Fishery.

1. Limited Entry Bait Crab Trip Limit. The trip limit for any commercial fisher with a regulated fishery permit endorsement for horseshoe crabs shall be 300 horseshoe crabs. On August 1st, should DMF determine that more than 50% of the annual quota remain, the trip limit shall increase to 400 horseshoe crabs. Should DMF determine that 80% of the annual quota is taken on or before September 15th, then the trip limit shall be decreased to 200 horseshoe crabs.

2. Open Entry Bait Crab Limit for Mobile Gear. The trip limit for any commercial fisher without a regulated fishery permit endorsement for horseshoe crabs and using mobile gear shall be 75 horseshoe crabs.

3. Quota Closure. It shall be unlawful for any commercial fisher to retain, possess, or land any horseshoe crabs once the Director has determined that 100% of the annual bait fishery quota has been reached. The quota closure will be enacted and announced in accordance with 322 CMR 6.41(2)(c).

4. Exceptions. The commercial bait fishery trip limits described above shall not apply to:

a. Commercial pot fishers, permitted in accordance with M.G.L. c. 130, § 80 and 322 CMR 6.12 and 7.01(4) who are using horseshoe crabs as bait, provided their documented source of horseshoe crabs is a permitted bait dealer or the horseshoe crabs are held in storage by the commercial fisher named on the permit.

b. Dealers permitted in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(3).

(d) Bait Fishery Reporting. Beginning in 2024, all commercial fishers participating in the commercial bait fishery for horseshoe crabs at 322 CMR 6.34(5) shall report all their catch electronically daily prior to landing through an electronic reporting application approved by the Division.

(e) Closures to Bait Harvest.

Pleasant Bay Complex. It shall be unlawful to harvest horseshoe crabs from Pleasant Bay, as defined at 322 CMR 4.02: *Use of Nets in Inshore Restricted Waters*, except if lawfully participating in the biomedical horseshoe fishery under the authority of a special biomedical horseshoe crab harvest permit endorsement issued in accordance with 322 CMR 7.01(4).

(f) Primary Purchase of Horseshoe Crabs.

1. The primary purchase of horseshoe crabs taken in the commercial bait fishery shall be conducted between the commercial fisher and an entity that holds a bait dealer permit and primary buyer authorization, pursuant to M.G.L. c. 130, § 80 and 322 CMR 7.01(3) and 322 CMR 7.07: *Dealers Acting as Primary Buyers*.

2. It shall be unlawful for a bait dealer to purchase horseshoe crabs from a single commercial fisher in excess of the commercial bait fishery limits established at 322 CMR 6.34(4)(c)1. and 2.

3. It shall be unlawful for a bait dealer to purchase horseshoe crabs from any commercial fisher during the lunar spawning closures at 322 CMR 6.34(3).

4. For a commercial fisher to sell horseshoe crabs to an entity other than a bait dealer authorized as a primary buyer, that commercial fisher must hold a bait dealer permit and primary buyer authorization, pursuant to M.G.L. c. 130, § 80 and 322 CMR 7.01(3) and 322 CMR 7.07: *Dealers Acting as Primary Buyers*.

(5) Biomedical Fishery for Horseshoe Crabs.

(a) Biomedical Processor Quota. The biomedical processor quota shall be 280,000 crabs annually. This shall be divided equally between all entities permitted as biomedical processors, in accordance with 322 CMR 7.01(3). Only horseshoe crabs processed by biomedical processors and harvested from within the waters under the jurisdiction of the Commonwealth exclusively by biomedical harvesters for biomedical purposes shall be counted against the biomedical processor quota. The biomedical processor quota shall not include any horseshoe crabs borrowed from a bait dealer for processing or horseshoe crabs imported into the Commonwealth from another jurisdiction.

(b) Minimum Size. It shall be unlawful for any biomedical fisher, biomedical dealer, or biomedical processor to retain, possess, or land a horseshoe crab with a prosomal width of less than seven inches.

(c) Restrictions Affecting Biomedical Fishers

1. Permit Issuance. The Division shall issue a special biomedical horseshoe crab harvest permit endorsements only to persons who:

6.34: continued

- a. have been endorsed on their special biomedical horseshoe crab harvest permit endorsement application by a biomedical dealer or biomedical processor to harvest and sell horseshoe crabs for biomedical purposes; and
 - b. hold a commercial fishing permit with the Division, in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(2), but do not hold a regulated fishery permit endorsement for horseshoe crabs, issued pursuant to 322 CMR 7.01(4).
2. Permit Conditions. In accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(7) the Director may further condition a special biomedical horseshoe crab harvest permit endorsement as necessary and appropriate for conservation and management, and to protect public health and welfare.
 3. Use of Biomedical Horseshoe Crabs. Biomedical fishers shall retain, possess, and land horseshoe crabs only for biomedical purposes and direct sale only to a biomedical dealer or biomedical processor. It shall be unlawful for a biomedical fisher to retain, possess, or land crabs as part of the commercial bait fishery or for personal or family use.
 4. Sale of Biomedical Horseshoe Crabs. Biomedical fishers shall sell their horseshoe crabs only to a biomedical dealer or a biomedical processor.
 5. Biomedical Fishery Trip Limit. The trip limit for any biomedical fisher shall be 1,000 horseshoe crabs.
 6. Prohibition on Retention of Marked Crabs. It shall be unlawful to retain any horseshoe crabs during harvest that have been marked in accordance with 322 CMR 6.34(5)(e)(5)(a). Any horseshoe crabs caught bearing such a mark shall be returned immediately to the sea.
 7. Biomedical Processor Quota Closure. It shall be unlawful for any biomedical fisher to retain, possess, or land any horseshoe crabs or for a biomedical dealer or biomedical processor to obtain any horseshoe crabs from a biomedical fisher once the Director has determined that 100% of the annual biomedical processor quota has been reached. The quota closure will be enacted and announced in accordance with 322 CMR 6.41(2)(c).
 8. Restrictions on Biomedical Fishers. Biomedical fishers are subject to the following restrictions:
 - a. A biomedical fisher using trawl gear shall land horseshoe crabs only in a port approved by the Director and listed as a condition of the special biomedical horseshoe crab harvest permit.
 - b. Throughout harvest and until offloading at landing, all horseshoe crabs shall be held in containers that are no more than two-thirds full of horseshoe crabs. Exempt from this requirement are biomedical fishers using trawl gear who are required to hold horseshoe crabs in containers that are actively fed by sea water.
 9. Biomedical Fishery Reporting. Beginning in 2024, biomedical fishers participating in the biomedical fishery for horseshoe crabs at 322 CMR 6.34(5) shall report all their catch electronically daily prior to landing through an electronic reporting application approved by the Division.
- (d) Limits on Biomedical Dealers and Biomedical Processors.
1. Biomedical Processor Permit Issuance. Any entity seeking to process horseshoe crabs for biomedical purposes, including but not limited to the bleeding of horseshoe crabs for the production of *Limulus Amebocyte Lysate*, shall hold a biomedical processor permit issued by the Division in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(3) and (4)(c). The biomedical processor permit may be authorized as a primary buyer, in accordance with 322 CMR 7.07: *Dealers Acting as Primary Buyers*, to allow for the primary purchase of horseshoe crabs directly from a biomedical fisher.
 2. Biomedical Dealer Permit Issuance. Any biomedical processor may contract a biomedical dealer to conduct primary purchases of horseshoe crabs from biomedical fishers. These biomedical dealers shall have an established relationship with a biomedical processor or multiple biomedical processors. The biomedical dealer permit may be authorized as a primary buyer, in accordance with 322 CMR 7.07: *Dealers Acting as Primary Buyers*, to allow for the primary purchase of horseshoe crabs directly from a biomedical fisher.
 3. Primary Purchase of Horseshoe Crabs.
 - a. The primary purchase of horseshoe crabs may only be between a biomedical fisher and a biomedical processor or biomedical dealer.
 - b. It shall be unlawful for a biomedical dealer or a biomedical processor to accept more than 1,000 horseshoe crabs from a biomedical fisher during any calendar day.

6.34: continued

- c. It shall be unlawful for a biomedical dealer or biomedical processor to accept horseshoe crabs from a biomedical harvester during the lunar spawning closures at 322 CMR 6.34(3).
 - d. It shall be unlawful for a biomedical dealer or biomedical processor to accept horseshoe crabs from a biomedical harvester during a quota closure.
4. Handing of Horseshoe Crabs for Biomedical Processing. Biomedical dealers and processors are responsible for the proper handling, transport, and storage of horseshoe crabs in their possession.
- a. Horseshoe crabs harvested for the Massachusetts biomedical fishery may be placed in submerged pens or partially submerged pens by biomedical dealers or biomedical processors. All pens are subject to inspection by the Division. If penning activity occurs, it may be further regulated through conditions to the applicable biomedical dealer or biomedical harvester permit, issued pursuant to M.G.L. c. 130, § 80 and 322 CMR 7.01(7).
 - b. Containers used for onshore holding, storing, or transporting crabs shall be no more than two-thirds full.
 - c. Horseshoe crabs held in containers during onshore holding, storing, and transport shall be kept moist.
 - d. It shall be unlawful for a horseshoe crab to be held out of seawater for more than 36 hours.
 - e. During onshore transport, horseshoe crabs shall be stored in a temperature-controlled truck or in a temperature-controlled unit onboard a truck. The thermostat shall be set to between 50°F and 60°F. If the onshore transport of horseshoe crabs cannot be accomplished in a conforming manner, then the biomedical dealer or biomedical processor shall immediately contact the Massachusetts Environmental Police.
 - f. During onshore holding and storage, horseshoe crabs shall be placed in an indoor air-conditioned space not to exceed 70°F.
 - g. Horseshoe crabs supplied by biomedical fishers shall be kept separate and segregated by area of harvest and from horseshoe crabs obtained from other sources authorized at 322 CMR 6.34(5)(d)6.
5. Post Processing Release of Horseshoe Crabs. After horseshoe crabs are processed by a biomedical processor, the horseshoe crabs shall be returned to the area of capture in the following manner:
- a. The biomedical processor shall mark each processed crab with a distinct mark. The distinct shape and color of each mark shall be prescribed annually by the Division through permit conditions established pursuant to M.G.L. c. 130, § 80 and 322 CMR 7.01(7).
 - b. It shall be unlawful for any biomedical dealer or biomedical processor to accept any horseshoe crab that bears a distinct mark for the current year or for a biomedical processor to process any horseshoe crab that bears a distinct mark for the current year.
 - c. If the horseshoe crabs were caught by hand harvesters, they shall be returned to the designated shellfish growing area where they were initially captured.
 - d. If the crabs were caught by trawlers, they shall be returned to the waters under the jurisdiction of the Commonwealth in or adjacent to the body of water where harvested.
 - e. The biomedical dealer or biomedical processor may employ a vessel to ensure horseshoe crabs harvested in the biomedical fishery are lawfully returned for live-release back to the sea.
 - f. The biomedical dealer or biomedical processor shall keep records of observed incidents of horseshoe crab mortality at all stages of processing, including during live-release.
6. Authorized Biomedical Use of Horseshoe Crabs from Sources Other than Massachusetts Biomedical Fishery.
- a. Bait Dealers. A biomedical medical processor may acquire horseshoe crabs from a bait dealer for biomedical processing, provided said horseshoe crabs are returned to the bait dealer after processing for sale as bait.
 - b. Other States. A biomedical processor may acquire horseshoe crabs from another state, provided those horseshoe crabs are counted against the quota in the state of origin and are lawfully returned to the state of origin for release, if so required.

6.34: continued

7. Reporting by Biomedical Dealers and Biomedical Processors.
 - a. Primary Purchases by a Biomedical Dealer. The biomedical dealer shall weekly report the total number of horseshoe crabs purchased from each biomedical fisher on a trip basis through forms provided by the Division.
 - b. Primary Purchases by a Biomedical Processor.
 - i. If the biomedical processor is conducting primary purchases with biomedical fishers, then the biomedical processor shall weekly report the total number of horseshoe crabs purchased from each biomedical fisher on a trip basis through forms provided by the Division.
 - ii. If the biomedical processor is temporarily using horseshoe crabs harvested as bait crabs, then the biomedical processor shall weekly report the total number of crabs used and source of crabs through forms provided by the Division.
 - c. Biomedical Processing Activity and Total Mortality. On forms provided by the Division, the biomedical processor shall monthly report the total number of horseshoe crabs processed, source of the horseshoe crabs processed, and total estimated mortality.

6.35: Spiny Dogfish Management

(1) Definitions. For the purposes of 322 CMR 6.35, the following terms shall have the following meanings:

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

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

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

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

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

(3) Dealer Authorization. It is unlawful for dealers, without written authorization from the Director, to purchase spiny dogfish from commercial fishermen.

(4) Dealer Reporting. Dealers shall report all purchases of spiny dogfish by phone and in writing based on schedules established and on forms to be provided by the Division.

(5) Possession Limit. It shall be unlawful for commercial fishermen to possess or land more than 7,500 pounds of spiny dogfish during any trip or calendar day, whichever period of time is longer. To the extent that it is required by the Atlantic States Marine Fisheries Commission or the National Marine Fisheries Service, the Director may adjust the manner and times of taking spiny dogfish, the legal size of spiny dogfish to be taken, and the quantities of spiny dogfish to be taken in accordance with the authority and procedure set forth at 322 CMR 6.41(2) to make commercial fishery limit adjustments for quota managed species.

(6) Quota Closure. It shall be unlawful for a commercial fisherman to retain, possess, or land spiny dogfish once the Director has determined 100% of the spiny dogfish commercial 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).

(7) Prohibitions. It is unlawful for any person while at sea to fin a spiny dogfish or to possess spiny dogfish fins.

6.36: Quahog Dredge Management in State Waters

(1) Definitions.

Batch means all shellfish in each separate container.

Bushel means a standard 32-quart (volume) container.

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

6.36: continued

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

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

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

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

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

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

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

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

(6) Reporting Requirements.

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

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

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

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

6.37: Coastal Shark Conservation and Management

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

6.37: continued

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

(2) Definitions. For the purpose of 322 CMR 6.37, the following terms shall have the following meanings:

Billfish. Any Atlantic billfish, including blue marlin (*Makaira nigricans*), white marlin (*Kajikia albidus*), sailfish (*Istiophorus platypterus*), longbill spearfish (*Tetrapturus pfluegeri*) or roundscale spearfish (*Tetrapturus georgii*).

Chum means fish, chopped fish, fish fluids, or organic material disposed of in the waters to attract fish, including sharks.

Circle Hook. A non-stainless steel 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.

Director. The Director of the Division of Marine Fisheries.

Division. The Division of Marine Fisheries.

Fork Length. The straight line measurement of a fish from the midpoint of the anterior edge of the fish to the fork of the caudal fin. The measurement is not made along the curve of the body.

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

Haul Back. Retrieving any dredge, trawl, gillnet or longline or other such mobile or fixed fishing gear and placing the contents of the catch on the deck or hold of the vessel.

Longline. Fishing gear that is set horizontally, either anchored, floating, or attached to a vessel, that consists of a mainline or groundline with three or more leaders or gangions and hooks, whether retrieved by hand or mechanical means.

Shore-based Shark Fishing means any fishing from the shoreline, including wade fishing, or fishing from any structure attached to the shoreline, including but not limited to bridges, jetties, piers, and docks with rod and reel gear that uses a metal or wire leader that exceeds 18 inches in length and a hook where the maximum distance between the point of the hook and its shank, when measured in a straight line inside the curve created by the hook, exceeds 5/8 inch.

Swordfish. That species of fish known as *Xiphias gladius*.

Tuna. The order of fish known as *Scombriformes* including the families *Trichiuridae* and *Gempylidae* and the genus *Scomber* and other such species of fishes that are regulated by the International Commission for the Conservation of Tunas in the Atlantic Ocean.

Vessel means every description of watercraft or other artificial contrivance used, or capable of being used, as means of transportation on the water.

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

(a) Permitted Shark Species. The following species are allowed to be harvested under the provisions of 322 CMR 6.37(4):

Atlantic sharpnose (*Rhizoprionodon terraenovae*)

Blacknose (*Carcharhinus acronotus*)

Blacktip (*Carcharhinus limbatus*)

Blue (*Prionace glauca*)

Bonnethead (*Sphyrna tiburo*)

Bull (*Carcharhinus leucas*)

6.37: continued

Common thresher (*Alopias vulpinus*)
 Finetooth (*Carcharhinus isodon*)
 Great hammerhead (*Sphyrna mokarran*)
 Lemon (*Negaprion brevirostris*)
 Nurse (*Ginglymostoma cirratum*)
 Porbeagle (*Lamna nasus*)
 Scalloped hammerhead (*Sphyrna lewini*)
 Smooth dogfish (*Mustelus canis*)
 Smooth hammerhead (*Sphyrna zygaena*)
 Spinner (*Carcharhinus brevipinna*)
 Tiger (*Galeocerdo cuvier*)

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

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

(4) Regulation of Coastal Shark Catch, Disposition, and Processing.

(a) Permitted Species Size Limits.

1. Recreational Fishing Size Limits.

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

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

(b) Permitted Species Possession Limits.

1. Recreational Catch Limits. A recreational angler fishing from shore may harvest only one fish among all Permitted Species and one additional Bonnethead, one additional Atlantic sharpnose, and one additional smooth dogfish per trip. A recreational vessel may possess on board or land only one fish among all Permitted Species per trip regardless of the number of recreational fishers aboard, and one additional Bonnethead, one additional Atlantic sharpnose, and one additional smooth dogfish per person. Recreational fishers shall not possess oceanic whitetip sharks, great hammerhead sharks, scalloped hammerhead sharks or smooth hammerhead sharks if in possession of tunas, billfish or swordfish. Porbeagle sharks caught alive shall be released by recreational fishers if tunas, billfish or swordfish are to be retained, possessed or landed.

6.37: continued

2. Commercial Catch Limits. Commercial fishers shall not retain:
 - a. more than 300 pounds of smooth dogfish per trip or per day, whichever is the longer period of time; or
 - b. any quantity of a Permitted Shark Species after the Director has announced a commercial fishery closure.
- (c) Gear and Fishing Restrictions.
 1. Recreational Gears. Recreational fishers may take coastal sharks only by rod and reel or handline. Recreational fishers shall use circle hooks as the terminal tackle except when fishing with flies or artificial lures. Circle hooks are required for any line that is targeting sharks by the angler on a line-to-line basis. Unless caught using flies or artificial lures, any shark caught on any hook other than a circle hook shall be released.
 2. Commercial Gears. Commercial fishers may take coastal sharks in the waters under the jurisdiction of the Commonwealth by rod and reel, handlines, gillnets, trawl nets, pound nets, fish traps, and weirs. It shall be unlawful to fish for, possess on board, or land coastal sharks taken by a longline of any length.

Exemption. Vessels permitted by the NOAA Fisheries to retain, possess and land coastal sharks by longline gear may possess and land coastal sharks legally harvested by longlines in waters outside the jurisdiction of the Commonwealth, provided the gear is properly stowed onboard the vessel and the vessel transits directly through the waters under the jurisdiction of the Commonwealth for the purpose of landing the catch without stopping unless directed to do so by the Division of Law Enforcement.
 3. Shore-based Shark Fishing. It shall be unlawful to conduct any shore-based shark fishing following the coast beginning at the northeasternmost point of Plymouth Beach thence southward to the Cape Cod Canal, thence eastward to Rock Harbor, Orleans, thence northward to Race Point, Provincetown, thence southward to Stage Harbor, Chatham, and including all shores of Chatham Harbor Monomoy Island.
 4. Shore-based Chumming. From sunrise to sunset, it shall be unlawful to chum when shore-based shark fishing.
- (d) Catch Disposition.
 1. It shall be unlawful for:
 - a. any fisher to fillet sharks at sea;
 - b. any fisher to remove fins or tails from sharks;
 - c. recreational fishers to possess on board or land sharks whose heads, tails, and fins are not attached naturally to the carcass;
 - d. commercial fishers to possess on board or land sharks whose fins and tails are not attached naturally to the carcass.
 - e. In accordance with M.G.L. c. 130, § 106 it shall be unlawful for any person to possess, offer for sale, sell, trade, or otherwise distribute a shark fin, except fins that were lawfully processed by terrestrial-based seafood dealers from spiny dogfish and smooth dogfish. It shall be *prima facie* evidence of a violation should a person possess a shark fin without documentation demonstrating the lawful origin of this product from lawfully processed spiny dogfish or smooth dogfish.

Exception: Commercial fishers may cut fins as long as the fins remain attached to the carcass with at least a small portion of uncut skin.
 2. Commercial fishers may eviscerate sharks and remove the heads.
 3. All sharks caught incidental to fisheries directed toward other species must be released in such manner as to ensure maximum probability of survival.
- (e) Authorization to Possess Prohibited Species. The Director may authorize persons to land and possess certain Prohibited Species for research or other scientific purposes. Commercial fishers who possess authorization from NOAA Fisheries to harvest certain species from federal waters may possess on board, or land those species in Massachusetts provided said fish were taken lawfully from federal waters.
- (f) Dealer Measures. All dealers purchasing Atlantic Coastal Shark species from commercial fishers must obtain a federal Commercial Shark Dealer Permit from NOAA Fisheries.

6.37: continued

(5) White Shark Conservation Measures.

(a) Definitions.

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

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

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

Director. The Director of the Division of Marine Fisheries.

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

6.37: continued

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

6.38: Shellfish Landing Restrictions Necessitated by Marine Biotoxins

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

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

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

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

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

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

6.39: Longfin Squid (*Dorytheuthis pealeii*) Management

(1) Season. It is unlawful for any commercial fisherman to land or possess longfin squid using small-mesh otter trawls except as authorized at 322 CMR 4.06(4)(c)(1) during the April 23rd through June 9th seasonal small mesh trawl squid fishery within the small mesh squid exempted area, as defined at 322 CMR 4.06(1): *Definitions*, unless the small mesh trawl squid fishery season is extended by the Director by permit conditions in accordance with M.G.L. c. 130, § 80, and 322 CMR 7.01(7): *Conditions*.

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

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

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

6.40: Tautog Fishery Limits

(1) Purpose and Scope. Tautog may be found in the waters off of Nova Scotia to Georgia, with a majority of U.S. landings occurring in state-waters between Cape Cod and Chesapeake Bay. Tautog are targeted by both commercial and recreational fishers along the coast. The tautog resource is managed under the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan (FMP) for Tautog. Amendment 1 to the FMP delineates the stock into four regional management units based on biology, fishery characteristics, and limited coast-wide movement. Massachusetts is in a regional management unit with the state of Rhode Island. States within a regional management unit work together to implement similar management measures across jurisdictions. Amendment 1 also mandates that all coastal states implement a commercial fisher tautog tagging program in an effort to address illegal harvest and sale of tautog.

(2) Definitions.

Commercial Fisher means any person who catches, retains, possesses or lands tautog for the purpose of sale, barter or exchange or keeps for personal or family use any tautog taken under the authority of a commercial fishing permit and regulated tautog fishery permit endorsement issued in accordance with M.G.L. c. 130, § 80, and 322 CMR 7.01: *Form, Use and Contents of Permits*.

Dealer means any person permitted in accordance with M.G.L. c. 130, § 80, and 322 CMR 7.01(3): *Coastal Lobster Permit and Trap Allocation Transfer Programs* to process, distribute, sell or resell fish.

Closed Commercial Season means that period when commercial fishing is prohibited, including that period between January 1st and August 31st and after the quota closure through December 31st.

Director means the Director of the Division of Marine Fisheries.

Division means the Division of Marine Fisheries.

High Grade means the discarding of a legal-sized fish previously captured and retained in favor of larger legal-sized fish.

Open Commercial Season means that period when commercial fishing is allowed that begins on September 1st and ends on December 31st or 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), whichever occurs first.

Primary Purchase means the first commercial transaction by sale, barter or exchange of any tautog after it is harvested.

Quota means the Commonwealth's annual total allowable commercial landings of tautog authorized by the Atlantic States Marine Fisheries Commission.

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

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

Tautog ID Tags means the lockable, single-use, tamper evident, and nontransferable metal tags to be affixed to the operculum of tautog retained by commercial fishers. Tautog ID tags are labeled with the year, state code, and a unique identification number traceable to the commercial tautog regulated fishery permit endorsement holder to whom they were issued.

(3) Minimum Size. It shall be unlawful for any person to possess a tautog that measures less than 16 inches in total length for longer than is necessary for immediate measurement and return to the sea.

6.40: continued

(4) Recreational Fishery Limits. The following seasons and following recreational fishing possession limits apply:

- (a) January 1st through March 31st. It shall be unlawful for a recreational fisher to possess or land any tautog.
- (b) April 1st through May 31st. It shall be unlawful for a recreational fisher to possess or land more than three tautog per calendar day.
- (c) June 1st through July 31st. It shall be unlawful for a recreational fisher to possess or land more than one tautog per calendar day.
- (d) August 1st through October 14th. It shall be unlawful for a recreational fisher to possess or land more than three tautog per calendar day.
- (e) October 15th through December 31st. It shall be unlawful for a recreational fisher to possess or land more than five tautog per calendar day.
- (f) Maximum Possession Limit for Anglers Onboard a Private Vessel. The possession limits set at 322 CMR 6.40(4)(a) through (e) shall apply per person per calendar day with a maximum of ten fish per vessel per calendar day. This maximum possession limit shall not apply to anglers fishing onboard for-hire vessels permitted in accordance with 322 CMR 7.10(5): *Permit Requirements Applicable to For-hire Vessels*.
- (g) Trophy Fish Limit. During the period of April 1st through December 31st, when recreational fishers may lawfully retain, possess, and land tautog, it shall be unlawful for a recreational fisher to retain, possess, or land more than one tautog with a total length measuring 21 inches or greater per calendar day. Upon retaining one fish with a total length measuring 21 inches or greater it shall be unlawful to retain any additional tautog measuring 21 inches or greater for a period of time longer than is necessary for immediate measurement and return to the sea. It shall be unlawful to high grade tautog.

(5) Commercial Fishery Limits.

- (a) Permit Requirements. A commercial fishing permit, issued by the Director pursuant to 322 CMR 7.01(2): *Commercial Fishing Permits*, and a regulated fishery permit endorsement, issued by the Director pursuant to 322 CMR 7.01(4): *Special Permits*, are 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(5).
- (b) Closed Season. It shall be unlawful for a commercial fisher to retain, possess, land or sell or attempt to retain, possess, land or sell any tautog during the closed commercial season.
- (c) Commercial Possession Limit. It shall be unlawful for a commercial fisher to retain, possess, land or sell more than 40 tautog within any calendar day during the open commercial season.
- (d) Quota Closure. The open commercial season shall close 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).

(6) Commercial Tautog Tagging Program.

- (a) Issuance of Tautog ID Tags. The Director shall annually issue Tautog ID Tags to commercial fishers. The annual quantity of Tautog ID Tags to be issued shall be determined by the Director based on the available quota. Tautog ID tags are only valid during the calendar year inscribed thereon.
- (b) Commercial Fisherman Requirements.
 1. Harvester Tagging. Commercial fishers shall affix a Tautog ID Tag to any tautog retained during the open commercial season. The Tautog ID Tag shall be affixed through the fish's operculum on either side of the fish with the tag information visible on the outside of the fish. All Tautog ID Tags shall be affixed prior to the tautog being offloaded from the fishing vessel for purpose of carrying, transportation, sale, or exchange.

Exception. Commercial fishers may fish recreationally for tautog during the open commercial season. Any tautog retained as recreational catch must comply with the recreational fishery limits at 322 CMR 6.40(4) and all recreational catch of other species shall comply with the applicable recreational fishing regulations at 322 CMR 6.00 and 322 CMR 7.10: *Recreational Saltwater Fishing Permits*. It shall be unlawful for a commercial fisher to car, offer for sale, sell or exchange any tautog retained while recreationally fishing.

6.40: continued

2. Primary Sale of Fish. Pursuant to M.G.L. c. 130, § 80 and 322 CMR 7.01(3) and 7.07: *Dealers Acting as Primary Buyers*, the primary purchase of tautog shall only occur between the commercial fisher and a permitted Massachusetts dealer authorized as a primary buyer. Only those tautog tagged in accordance with 322 CMR 6.40(6)(b)1. may be sold, offered for sale, or exchanged by a commercial fisherman.
 3. Possession of Tautog ID Tags At-sea. Only commercial fishers may possess Tautog ID Tags or affix Tautog ID Tags to tautog during the open commercial season.
 4. Tautog ID Tag Accounting. Within 14 days of written request by the Director, commercial fishers shall return to the Division all unused Tautog ID Tags issued to them for the calendar year by the Director, and submit a Tautog ID Tag Accounting Report on forms provided by the Director signed under the pains and penalties of perjury.
- (c) Dealer and Seafood Purveyor Requirements for the Purchase, Processing, Possession and Sale of Tautog.
1. Primary Purchase by a Dealer.
 - a. Only dealers authorized as primary buyers in accordance with 322 CMR 7.07: *Dealers Acting as Primary Buyers* shall make a primary purchase of tautog from a commercial fisher.
 - b. At the primary purchase, dealers may only receive tautog that has been tagged in accordance with 322 CMR 6.40(6)(b).
 - c. The primary purchase of tautog may only occur during the open commercial season.
 2. Processing, Possession and Resale by Dealers and Seafood Purveyors. All tautog possessed shall have a Tautog ID Tag for the current calendar year from the Atlantic coastal state from which they were harvested. A dealer may receive, possess, purchase or otherwise acquire tautog from other dealers and may sell, exchange and offer for sale tautog to other dealers or end consumers provided the dealer complies with the following requirements:
 - a. Tautog ID Tags shall remain affixed to the operculum of any whole tautog – alive or dead - or accompany any processed or filleted tautog while in possession of any person for the purpose of resale.
 - b. If a dealer or seafood purveyor intends on selling any portions of processed or filleted tautog, the Tautog ID Tag may be removed from the operculum, but shall remain on the premise of the seller until all portions are sold to the end consumer.
 - c. Once all portions of processed or filleted tautog are sold to the end consumer the Tautog ID Tag may be disposed of.
 - d. Exceptions.
 - i. Dealers and seafood purveyors shall liquidate all tautog bearing or accompanied by a Tautog ID Tag from the prior calendar year by last day of February of the current calendar year.
 - ii. Any tautog, or portion thereof, with a Tautog ID Tag from the prior calendar year shall be sold only to the end consumer.
 3. Possession of Massachusetts Caught Fish during the Closed Season. Within 14 days following the quota closure, dealers shall sell off all tautog that bear a Massachusetts Tautog ID Tag or discard such fish and dispose of the Tautog ID Tag.
- (d) Prohibitions. It shall be unlawful for:
1. any person to possess any unaffixed Tautog ID Tags except for commercial fishers in possession of those tags issued to them by the Division;
 2. any person other than a commercial fishers to affix or attempt to affix a Tautog ID Tag to a tautog;
 3. any commercial fisher to transfer, sell, share, attempt to transfer, sell or share any Tautog ID Tags, or obtain through transfer, sale or sharing any Tautog ID Tags not issued to them by the Division;
 4. any commercial fisher to car, store at sea, tag, sell, barter or exchange or attempt to sell barter or exchange any tautog taken while fishing recreationally;
 5. any commercial fisher to file a false claim of Tautog ID Tag loss for purposes of obtaining additional Tautog ID Tags;
 6. any commercial fisher to fail to return all unused tags to the Division in accordance with 322 CMR 6.40(6)(b)4., or fail to surrender their Tautog ID Tags to the Division or Environmental Police upon request;
 7. any commercial fisher to fail to submit or to falsify their annual tautog tagging reporting, as required at 322 CMR 6.40(6)(b)4.;

6.40: continued

8. any commercial fisher to affix a Tautog ID Tag or possess a tautog with a Tautog ID that has been defaced in any manner that leaves the information on the Tautog ID Tag illegible.
 9. any commercial fisher to possess Tautog ID Tags at sea or affix a Tautog ID Tag to a tautog, except during the open commercial season.
 10. any dealer to possess tautog bearing or accompanied by a Tautog ID Tag issued by the Division 14 days after Massachusetts' commercial tautog fishery is closed.
 11. any person to possess tautog for the purpose of sale or resale without a Tautog ID Tag properly affixed to the operculum of the tautog or accompanying any processed or filleted fish;
 12. any person to possess tautog for the purpose of sale or resale when the Tautog ID Tag has been defaced in any manner that leaves the information on the Tautog ID Tag illegible.
 13. any person to obtain, purchase, sell or offer for sale a tautog or portion thereof with a Tautog ID Tag from a prior calendar year, except for sale to an end consumer.
 14. any dealer or seafood purveyor to possess, obtain, purchase, sell or offer for sale a tautog or portion thereof with a Tautog ID Tag from a prior calendar year after the last day of February of the current calendar year.
 15. any commercial fisher to harvest tautog in the waters under the jurisdiction of the Commonwealth and sell that tautog to any entity other than a Massachusetts dealer authorized as a primary buyer.
 16. any tautog caught or landed in the jurisdiction of another Atlantic coastal state to be sold into Massachusetts unless that fish was first lawfully sold to a seafood dealer authorized in that state, bears a Tautog ID tag from that state, and – if applicable - was accounted for against that state's commercial tautog quota.
- (e) Failure to Comply and Restrictions of Future Access. The Director may prohibit any commercial fisher or dealer who violates 322 CMR 6.40(6) from future participation in the commercial tautog fishery.

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.

6.41: continued

(2) Commercial Fishing.

(a) Possession of Fish Parts by Commercial Fishermen. When commercial fishermen, permitted pursuant to 322 CMR 7.01(2): *Commercial Fisherman Permits*, 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.

Exception: Possession limits for quota managed species do not apply to transport 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. a posted 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 322 CMR 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 M.G.L. c. 130, §§ 2 and 80, and 322 CMR 7.01(3): *Dealer Permits* 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 M.G.L. c. 130, §§ 2 and 80, and 322 CMR 7.01(3): *Dealer Permits* and 322 CMR 7.07: *Dealers Acting as Primary Buyers*.

(f) Prohibition on the At-sea Transfer of Fish. It shall be unlawful for any commercial fisherman permitted in accordance with M.G.L. c. 130, §§ 2 and 80, and 322 CMR 7.01(2): *Commercial Fisherman Permits*, 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. 322 CMR 6.41(2)(f) 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 M.G.L. c. 130, §§ 2 and 80, and 322 CMR 7.01(3): *Dealer Permits*.

6.41: continued

(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.

(4) Rules regarding the Combining of Commercial and Recreational Fishing Activity.

(a) 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): *Commercial Fisherman Permits*. 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: *Recreational Saltwater Fishing Permits*, 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) *Commercial Fisherman Permits* and the applicable regulated commercial fishery regulations at 322 CMR 6.00 while onboard a for-hire vessel taking patrons recreationally fishing.

(d) 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.

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

Atlantic Bonito means that species of fish known as *Sarda sarda*

Atlantic mackerel means that species known as *Scomber scombrus*.

6.42: continued

Commercial Fisher means any person fishing under the authority of a commercial fishing permit issued in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(2): *Commercial Fishing Permits* and (4): *Special Permits*.

False Albacore means that species known as *Euthynnus alletteratus*

Sand Lance means those species of fish known as American sand lance (*Ammodytes americanus*) and Northern sand lance (*Ammodytes dubius*).

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

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

(2) Sand Lance. It shall be unlawful for any person to retain, possess or land more than 200 pounds of sand lance per calendar day or trip, whichever period of time is longer.

(3) Weakfish. It shall be unlawful for:

- (a) any person to retain, possess or land weakfish less than 16 inches in total length.
- (b) recreational fishermen to retain, possess or land more than one weakfish per calendar day.
- (c) commercial fishermen to retain, possess or land more than 100 pounds of weakfish per calendar day or trip, whichever period is longer.

(4) White Perch.

- (a) It shall be unlawful for any person to retain, possess, or land white perch less than eight inches in total length.
- (b) It shall be unlawful for any person to retain, possess, or land more than 25 white perch at any time.
- (c) These limits apply only to white perch harvested in coastal waters as defined by M.G.L. c. 130, § 1.

(5) False Albacore and Atlantic Bonito. It shall be unlawful for any person to:

- (a) Retain, possess, or land a false albacore or Atlantic bonito less than 16 inches total length.
- (b) Retain, possess, or land more than five false albacore or Atlantic bonito in aggregate.
- (c) Exception. The size and possession limits at 322 CMR 6.42(5) shall not apply to commercial fishers who incidentally catch and retain false albacore and Atlantic bonito in fish weirs authorized pursuant to M.G.L. c. 130, § 29 and 322 CMR 4.03: *Fish Weir Buffer Zone* and 322 CMR 7.01(4): *Special Permits*, and when using mechanized jigs, including hand gurdy gear, to commercially fish for Atlantic mackerel.

6.43: Atlantic Menhaden Management

(1) Purpose. The purpose of 322 CMR 6.43 is to comply with the Atlantic States Marine Fisheries Commission's 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 poggy or bunker.

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

Barrel means a standard cylindrical container with a liquid capacity of 55 gallons or a volume of 7.35 cubic feet.

6.43: continued

Carrier Vessel means a support vessel that is not equipped to catch Atlantic menhaden and is used or intended to be used to receive Atlantic menhaden caught by another vessel and transports that Atlantic menhaden to port for landing.

Commercial Fisher means any person permitted in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(2) to retain, possess, and land Atlantic menhaden for purpose of sale, barter, or exchange or who keeps for personal or family use any Atlantic menhaden taken under the authority of said permit.

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.

Division means the Division of Marine Fisheries.

Episodic Events Set Aside means the 1% of the total allowable catch of Atlantic menhaden that is set aside for use by the states of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut and New York when certain conditions exist as established in the Interstate Fishery Management Plan.

Fish Tote means a standard rectangular container measuring 28 inches by 16 inches by 11 inches.

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

Non-Directed Gear means pound nets, anchored or stake gillnets, trammel nets, drift gillnets, trawls, fishing weirs, fyke nets, and floating fish traps.

Purse Seine means any vertical wall of netting with floats on the top and weights at the bottom that is deployed to surround a school of fish and encloses fish in the netting by drawing together and tightening the bottom of the net.

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.

Small-Scale Directed Gear means cast nets, traps (excluding floating fish traps), pots, haul seines, hook and line, bag nets, hoop nets, hand lines, and bait nets.

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 ends with a return to any land, pier, wharf, dock or other artificial structure.

Trip Limit means the maximum lawful amount of Atlantic menhaden that a commercial fisher may retain, possess, or land within the waters under the jurisdiction of the Commonwealth or sell, barter or exchange or offer for sale barter or exchange. Trip limits apply per trip or calendar day, whichever period of time is longer and are applied to the vessel named on the commercial fishing permit regardless of the number of commercial fishing permits or letters of authorization carried on board the vessel.

(3) Regulated Fishery Permit Endorsement Requirement. It shall be unlawful for any commercial fisher or vessel to retain, possess, or land Atlantic menhaden in excess of 6,000 pounds per trip or per calendar day, whichever period 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): *Regulated Fishery Permit Endorsement* and managed pursuant to 322 CMR 7.06: *Limited Entry Permits*.

6.43: continued

(4) Commercial Fishing during Quota Managed Period.(a) January 1st through May 14th.

1. Gear Restrictions. From January 1st through May 14th, commercial fishers may only retain, possess, and land Atlantic menhaden taken by Non-Directed Gear or Small Scale Directed Gear. During this period, it shall be unlawful to retain, possess, or land menhaden taken by purse seine. It shall be *prima facie* evidence that a commercial fisher is fishing with a purse seine, in violation of 322 CMR 6.43(4)(a)1., if the vessel is rigged for purse seining or a purse seine is onboard the vessel and there are Atlantic menhaden onboard the vessel.

2. Trip Limit. From January 1st through May 14th, the trip limit of Atlantic menhaden for all commercial fishers shall be 6,000 pounds. During this period, all Atlantic menhaden fishing shall occur within the waters under the jurisdiction of the Commonwealth. It shall be unlawful for any commercial fisher to land Atlantic menhaden more than once per calendar day.

Exception. For Atlantic menhaden caught in a permitted fish weir by commercial fishers who have been issued a regulated fishery permit endorsements for Atlantic menhaden, the trip limit shall be 120,000 pounds.

3. Storage Requirement. All Atlantic menhaden shall be brought onboard the vessel, and upon retention, be immediately stored in level filled barrels or fish totes. A level filled fish tote shall be the equivalent of 117 pounds of Atlantic menhaden; a level filled barrel shall be the equivalent of 350 pounds of Atlantic menhaden; and 51-level filled fish totes or 17-level filled barrels of Atlantic menhaden shall be the equivalent of 6,000 pounds of Atlantic menhaden.

(b) May 15th – Quota. From May 15th through December 31st, or until 100% of the annual Atlantic menhaden quota is landed and the fishery is closed, whichever occurs sooner:

1. Limited Entry Fishery. Commercial fishers who have been issued a regulated Atlantic menhaden fishery permit endorsement, in accordance with 322 CMR 6.43(3) and 322 CMR 7.01(4)(a), shall comply with the following:

a. Until DMF determines 50% of the annual commercial Atlantic menhaden quota is landed, the trip limit shall be 120,000 pounds.

b. Once DMF determines 50% of the annual commercial Atlantic menhaden quota is landed, provided this occurs prior to September 1st, the trip limit shall be 25,000 pounds. If DMF determines at least 50% of the annual commercial Atlantic menhaden quota will remain on September 1st, then the trip limit shall remain at 120,000 pounds.

c. Should DMF determine that 98% of the annual commercial menhaden quota is landed on or after September 1st, then the trip limit shall be reduced to 6,000 pounds.

d. If DMF determines that at least 10% of the annual commercial Atlantic menhaden quota remains available on October 14th, then effective October 15th the trip limit shall be 360,000 pounds. Commercial permit holders are to notify DMF at least 48 hours prior to landing fish in Massachusetts during this period.

e. It shall be unlawful for any commercial fisher or vessel to land Atlantic menhaden more than once per calendar day.

f. Storage Requirement. Should the 6,000 pound trip limit at 322 CMR 6.43(4)(b)1.c. be in effect, all Atlantic menhaden shall be brought onboard the vessel, and upon retention, be immediately stored in level filled barrels or fish totes. A level filled fish tote shall be the equivalent of 117 pounds of Atlantic menhaden; a level filled barrel shall be the equivalent of 350 pounds of Atlantic menhaden; and 51-level filled fish totes or 17-level filled barrels of Atlantic menhaden shall be the equivalent of 6,000 pounds of Atlantic menhaden.

2. Open Access Fishery Limits. Commercial fishers who have not been issued a regulated Atlantic menhaden fishery permit endorsement, in accordance with 322 CMR 6.43(3) and 322 CMR 7.01(4)(a), may participate in the open access fishery for Atlantic menhaden subject to the following restrictions:

a. Trip Limit. The trip limit for the open access fishery shall be 6,000 pounds. It shall be unlawful for any commercial fisher or vessel to land more than once per calendar day.

6.43: continued

- b. Storage Requirement. All Atlantic menhaden shall be brought onboard the vessel, and upon retention, be immediately stored in level filled barrels or fish totes. A level filled fish tote shall be the equivalent of 117 pounds of Atlantic menhaden; a level filled barrel shall be the equivalent of 350 pounds of Atlantic menhaden; and 51-level filled fish totes or 17-level filled barrels of Atlantic menhaden shall be the equivalent of 6,000 pounds of Atlantic menhaden.
3. Use of Carrier Vessels.
- a. The use of a carrier vessel is prohibited except with the prior authorization by the Director. Only those commercial fishers who have been issued a regulated Atlantic menhaden fishery permit endorsement may be authorized by the Director to use a carrier vessel. The Director may authorize the use of a named carrier vessel as a condition of the commercial fishing permit, pursuant to M.G.L. c. 130, § 80 and 322 CMR 7.01(6): *Issuance*.
- b. Beginning on May 15th, authorized commercial fishers may use carrier vessels. Should DMF determine that 98% of the annual commercial menhaden quota is landed on or after September 1st, then the use of carrier vessels shall be prohibited.
- c. The use of carrier vessels is prohibited year-round within the inshore restricted waters of Boston Harbor, as defined at 322 CMR 4.02: *Use of Nets in Inshore Restricted Waters*.
- d. It shall be unlawful for any carrier vessel to receive, possess, transport, or land Atlantic menhaden during any day closed to purse seining for Atlantic menhaden.
- e. During any calendar day open to purse seining for Atlantic menhaden, it shall be unlawful for a carrier vessel to receive Atlantic menhaden from a commercial fisher in a quantity that exceeds the applicable trip limit at 322 CMR 6.43(4)(b)1.
- f. It shall be unlawful for a carrier vessel to possess and transport Atlantic menhaden in a quantity that exceeds the applicable trip limit 322 CMR 6.43(4)(b)1.
- g. It shall be unlawful for a carrier vessel to receive Atlantic menhaden from more than one commercial fisher during any calendar day.
- h. It shall be unlawful for a carrier vessel to land Atlantic menhaden during any calendar day if the commercial fishing vessel it is operating with is also landing Atlantic menhaden during that calendar day.
- i. It shall be unlawful for a carrier vessel to land Atlantic menhaden more than once per day.
- j. A commercial fisher may offload to multiple carrier vessels during the same calendar day provided the applicable trip limit at 322 CMR 6.43(4)(b)1. is not exceeded in the aggregate.
4. Vessel Capacity and Certification. Effective in 2024, prior to the annual commencement of fishing activity any participating vessel named on a commercial fishing permit or authorized carrier vessel capable and authorized to hold more than 6,000 pounds must be inspected by a certified marine surveyor and assessed with regard to its fish storage. The surveyor shall mark the fish hold to demonstrate volumetric capacity at 120,000 pounds and 25,000 pounds of Atlantic menhaden. It shall be *prima facie* evidence of a violation of the limited entry fishery trip limits established at 322 CMR 6.43(4)(b)1.a. and b. if a vessel holding and transporting Atlantic menhaden is exceeding their marked volumetric capacity at the applicable trip limit.
5. Use of Purse Seines during Quota Managed Period. In addition to complying with all applicable purse seining regulations at 322 CMR 4.06: *Use of Mobile Gear*, the following shall apply to commercial purse seining for Atlantic menhaden during the quota managed period.
- a. Commercial fishers shall be prohibited from using purse seines to fish for Atlantic menhaden Saturdays and Sundays.
- b. Commercial fishers shall be prohibited from using purse seines to fish for Atlantic menhaden on Fridays, Saturdays and Sundays during any period of time when the limited entry trip limit is set at 120,000 pounds.
- c. Commercial fishers shall not use purse seines that exceed 600 feet (100 fathom) length within the inshore restricted waters described at 322 CMR 4.02.
- d. It shall be unlawful for a commercial fisher to use a purse seine that exceeds 450 feet long by 48 feet deep when fishing during a period when purse seines are authorized and the trip limit is at 6,000 pounds of Atlantic menhaden.

6.43: continued

e. Effective in 2024, prior to the annual commencement of commercial purse seining activity for Atlantic menhaden, each commercial fisher shall have all nets inspected and certified by the Division as being in conformance with the relevant maximum purse seine net size requirements. Once inspected, DMF will certify the net by affixing a DMF Issued Tag. A certified net may be used throughout the duration of the certified calendar year, provided it is not altered in any manner affecting its overall dimensions. If the net is altered with regards to its overall dimensions, it must be reinspected and recertified prior to use. For the purpose of complying with 322 CMR 6.43(4)(b)5., DMF will accept purse seine inspections and certifications from states with similar programs.

6. Quota Closure. Except as provided at 322 CMR 6.43(5) and (6), it shall be unlawful to catch, retain, possess, land, sell, barter, exchange, or offer for sale, barter, or exchange any Atlantic menhaden once the Director has determined 100% of the annual commercial Atlantic menhaden quota has been landed. The quota closure will be enacted and announced in accordance with the procedure set forth at 322 CMR 6.41(2)(c).

(5) Post Quota Incidental Catch and Small-scale Fishery. Once the Director determines 100% of the annual commercial Atlantic menhaden quota has been landed and the commercial quota managed fishery is closed, commercial fishing for Atlantic menhaden may continue to occur as part of the incidental catch and small-scale fishery. During the incidental catch and small-scale fishery the following apply:

(a) Gear Restrictions. Commercial fishers may only retain, possess, and land Atlantic menhaden using Non-Directed Gear or Small Scale Directed Gear. During this period, it shall be unlawful to retain, possess, or land Atlantic menhaden taken by purse seine. It shall be prima facie evidence that a commercial fisher is fishing with a purse seine in violation of this section if the vessel is rigged for purse seining or a purse seine is onboard the vessel and Atlantic menhaden are onboard the vessel.

(b) Trip Limit. The trip limit for the post quota incidental catch and small-fishery shall be shall be 6,000 pounds of Atlantic menhaden. During this period, all Atlantic menhaden fishing shall occur within the waters under the jurisdiction of the Commonwealth. It shall be unlawful for any commercial fisher or vessel to land more than once per calendar day.

(c) Storage Requirement. All Atlantic menhaden shall be brought onboard the vessel, and upon retention, be immediately stored in level filled barrels or fish totes. A level filled fish tote shall be the equivalent of 117 pounds of Atlantic menhaden; a level filled barrel shall be the equivalent of 350 pounds of Atlantic menhaden; and 51-level filled fish totes or 17-level filled barrels of menhaden shall be the equivalent of 6,000 pounds of Atlantic menhaden.

(6) Episodic Event Set Aside Fishery.

(a) Annual Process to Participate in the Episodic Event Set Aside Fishery. Once the Director determines 100% of the annual commercial Atlantic menhaden quota has been landed and the commercial quota managed fishery is closed, Massachusetts may apply to the Atlantic States Marine Fisheries Commission to participate in the Episodic Events Set Aside Program, as provided for in the Interstate Fishery Management Plan. If Massachusetts is approved by the Atlantic States Marine Fisheries Commission to participate in the Episodic Events Set Aside Program, the Director shall notify commercial fishers and dealers via the Division's e-mail listserv, posting notice on the agency's website, and filing a legal notice with the *Massachusetts Register*. Once the Atlantic States Marine Fisheries Commission determines that the Episodic Event Set Aside is exhausted, the closure of the Episodic Event Set Aside Fishery will be enacted and announced in accordance with the process set forth at 322 CMR 6.41(2)(c).

(b) Commercial Fishing Activity during the Episodic Event Set Aside Fishery. The following restrictions shall apply during the Episodic Event Set Aside Fishery:

1. For all commercial fishers, during the Episodic Event Set Aside Fishery, the trip limit shall be 6,000 pounds. It shall be unlawful for any commercial fisher or vessel to land more than once per calendar day.

6.43: continued

2. Pursuant to the authority at M.G.L. c. 130, § 80 and 322 CMR 7.01(7), the Director may establish permit conditions as necessary or appropriate for conservation and management. This may include adopting a trip limit in excess of 6,000 pounds of Atlantic menhaden for commercial fishers who have been issued a regulated Atlantic menhaden fishery permit endorsement, provided said trip limit does not exceed 120,000 pounds of Atlantic menhaden.
 3. All commercial fishers participating in the Episodic Event Set Aside Fishery shall only harvest menhaden from the waters under the jurisdiction of the Commonwealth and shall only land in Massachusetts ports.
 4. All commercial fishers participating in the Episodic Event Set Aside Fishery shall be subject to the daily catch reporting requirements set forth at 322 CMR 6.43(7).
 5. It shall be unlawful for a commercial fisher to use a purse seine that exceeds 450 feet long by 48 feet deep.
 6. **Storage Requirement.** All Atlantic menhaden shall be brought onboard the vessel, and upon retention, be immediately stored in level filled barrels or fish totes. A level filled fish tote shall be the equivalent of 117 pounds of Atlantic menhaden; a level filled barrel shall be the equivalent of 350 pounds of Atlantic menhaden; and 51-level filled fish totes or 17-level filled barrels of Atlantic menhaden shall be the equivalent of 6,000 pounds of Atlantic menhaden.
- (7) **Catch Reporting.**
- (a) **Electronic Catch Reporting.** Beginning in 2024, all commercial fishers who have been issued a regulated Atlantic menhaden fishery permit endorsement shall report their catch electronically daily prior to landing through an electronic reporting application approved by the Division.
 - (b) **Bait Dealer Reporting for Quota Monitoring.** All commercial fishers who hold a regulated Atlantic menhaden fishery permit endorsement and all commercial fishers participating in the Episodic Event Set Aside Fishery shall obtain a Bait Dealer permit, as defined at 322 CMR 7.01(3): *Bait Dealer*, and report to the Division of Marine Fisheries their commercial Atlantic menhaden landings in the Commonwealth on a daily basis on forms provided by the Director.

6.44: Atlantic Mackerel Management

- (1) **Definitions.** For the purposes of 322 CMR 6.44, the following terms shall have the following meanings:

Atlantic Mackerel means that species known as *Scomber scombrus*.

Commercial Fisher means any person who retains, possess, or lands Atlantic mackerel for the purpose of sale, barter, or exchange or keeps for personal or family use Atlantic mackerel taken under the authority of a commercial fishing permit and regulated fishery permit for Atlantic mackerel issued in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01: *Form, Use and Contents of Permits*.

Director means the Director of the Division of Marine Fisheries

Division means the Division of Marine Fisheries

Quota means the annual coastwide commercial quota for Atlantic mackerel set by the Mid-Atlantic Fishery Management Council and monitored by NOAA Fisheries.

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

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

6.44: continued

(2) Recreational Fishing Limit. It shall be unlawful for any recreational fisher to harvest more than 20 Atlantic mackerel per calendar day or to possess more than 20 Atlantic mackerel while recreationally fishing.

(3) Commercial Fishing.

(a) Permit Requirement. To retain, possess, or land Atlantic mackerel in excess of the recreational fishing limit set forth at 322 CMR 6.44(2), a person shall obtain a commercial fishing permit and regulated fishery permit endorsement for Atlantic mackerel.

(b) Commercial fishers may retain, possess, and land Atlantic mackerel for use as bait in other commercial fisheries in quantities that exceed the recreational fishing limit set forth at 322 CMR 6.44(2).

(c) If a commercial fisher is recreationally fishing from shore, a private vessel, or charter vessel, it shall be unlawful to retain, possess, or land Atlantic mackerel in quantities exceeding the recreational fishing limit set forth at 322 CMR 6.44(2).

(d) State Waters Trip Limit. Within the waters under the jurisdiction of the Commonwealth, it shall be unlawful for any commercial fisher to retain, possess, or land more than 5,000 pounds of Atlantic mackerel during any trip or calendar day, whichever period of time is longer. Once NOAA Fisheries determines 80% of the quota has been taken, it shall be unlawful for any commercial fisher fishing in the waters under the jurisdiction of the Commonwealth to retain, possess, or land more than 2,500 pounds of Atlantic mackerel.

1. Exemptions to State Waters Trip Limit.

a. Federal Permit Holders. Vessels permitted by NOAA Fisheries to commercially harvest and land Atlantic mackerel may possess and land more than the state waters trip limit in Massachusetts provided the fish was lawfully caught outside of the waters under the jurisdiction of the Commonwealth; the vessel transits directly through the waters under the jurisdiction of the Commonwealth for the purposes of landing Atlantic mackerel; the vessel's gear is out of the water and stowed properly onboard while within the waters under the jurisdiction of the Commonwealth; and the vessel makes no stops upon entering the waters under the jurisdiction of the Commonwealth prior to landing unless so directed by law enforcement or authorized in writing by the Division.

b. Fish Weirs. Commercial fishers permitted in accordance with 322 CMR 7.01: *Form, Use and Contents of Permit* and M.G.L. c. 130, § 29 to operate a fish weir are exempt from this trip limit when retaining, possessing, or landing Atlantic mackerel caught in their permitted fish weirs.

REGULATORY AUTHORITY

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