

322 CMR: DIVISION OF MARINE FISHERIES

322 CMR 8.00: COASTAL FISHERIES CONSERVATION AND MANAGEMENT

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8.01: Purpose and Scope

The Massachusetts Marine Fisheries Advisory Commission, concerned about impacts from increased fishing effort on the Commonwealth's inshore fisheries resources, has adopted conservation and management strategies to cap fishing effort in state waters and has established timetables for further actions in the future. Regulations which implement these strategies are designed to address both the recent, sharp decline in abundance of many of the most important fisheries resources inhabiting state waters and the poor near-term prospects for inshore fisheries. Inshore fisheries resources are limited and stressed, and overall fishing pressure is increasing.

8.02: Definitions

For purposes of 322 CMR 8.00:

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

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

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

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

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

Division means the Massachusetts Division of Marine Fisheries.

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

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

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

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

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

Shoreline means the mean low water mark unless otherwise provided.

8.02: continued

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

8.03: Vessel Length Limits

Vessels greater than 72 feet registered length may not conduct fishing activities in any waters under the jurisdiction of the Commonwealth.

8.04: Winter Flounder Spawning Area Closures

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

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

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

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

8.05: Commercial Groundfish Closures

(1) Definition.

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

8.05: continued

(2) April 15th through April 30th from Plymouth to New Hampshire Border. Except as provided at 322 CMR 8.05(9), from April 15th through April 30th, it shall be unlawful for commercial fishermen to fish for, possess, or land regulated groundfish species taken within the waters under the jurisdiction of the Commonwealth between 42°00' north latitude north to the Massachusetts/New Hampshire border.

(3) May in Massachusetts Bay from Boston to the New Hampshire Border. Except as provided at 322 CMR 8.05(9), from May 1st through May 31st, it is unlawful for a commercial fisher to fish for, possess or land regulated groundfish species taken within the waters under the jurisdiction of the Commonwealth from latitude 42°25' north to the Massachusetts/New Hampshire border.

(4) June in Upper Massachusetts Bay and Ipswich Bay from Marblehead to the New Hampshire Border. Except as provided in 322 CMR 8.05(9), during June 1st through June 30th, it is unlawful for commercial fishermen to fish for, possess or land regulated groundfish species taken within the waters under the jurisdiction of the Commonwealth from latitude 42°30' north to the Massachusetts/New Hampshire border.

(5) October through January Closure in Massachusetts Bay and Upper Cape Cod Bay. Except as provided at 322 CMR 8.05(9), from October 1st through January 31st, it is unlawful for commercial fishermen to fish for, possess or land regulated groundfish species within the waters under the jurisdiction of the Commonwealth from latitude 42°00' north, south of latitude 42°30' north and west of longitude 70°24' west.

(6) May Closure East of Cape Cod. Except as provided at 322 CMR 8.05(9), during May 1st through May 31st, it is unlawful for commercial fishermen to retain, possess or fish for any regulated groundfish species within the waters under the jurisdiction of the Commonwealth east of Cape Cod south of latitude 42°00' north and east of longitude 70°00' west.

(7) Gear Types. Except as provided at 322 CMR 8.05(9), these closures apply to any gear capable of catching groundfish including, but not limited to, sink gillnets, otter trawls, line trawls, and hook and line.

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

(9) Exemptions.

(a) The closures at 322 CMR 8.05(2) through (6) do not apply to the lawful use of hook and lines for the purpose of catching dogfish, bluefish, striped bass, Atlantic bluefin tuna and mackerel; mid-water trawls; pots and traps; sea scallop, ocean quahog and surf clam dredges; and cast nets, surface gillnets and purse seines.

(b) A vessel may fish with a small-mesh raised footrope trawl in a portion of upper Cape Cod Bay during October and November subject to the rules in 322 CMR 4.06(4)(c): *Exempted Small Mesh Fisheries* and 322 CMR 8.06.

(c) A vessel in possession of groundfish may transit through the closures at 322 CMR 8.05(2) through (6), provided that the groundfish was lawfully caught outside of the closure areas and the vessel is not engaged in any fishing activity while inside the groundfish closure areas.

8.06: Upper Cape Cod Fixed Gear-free Zone

During the period September 1st through October 31st, it shall be unlawful to set, store, or abandon traps or gillnets within those waters under the jurisdiction of the Commonwealth bound by an imaginary straight line that begins where 70° 25' west longitude intersects with the three nautical mile line, as described on NOAA Chart #13246; thence in a south southeasterly direction to where it intersects with 42° 0.59' north latitude and 70° 19.54 west longitude; thence in an east northeasterly direction to where it intersects with 42° 189' north latitude and 70° 14.77' west longitude; thence in a north northwesterly direction to where it intersects with 42° 4.71' north latitude and 70° 16.9' west longitude; thence in a east northeasterly direction to where it intersects with 42° 5.26' north latitude and 70° 14.94' west longitude; thence in a north northwesterly direction to where it intersects 70° 16.33' west longitude and the three nautical mile line, as described on NOAA Chart #13246; thence following the three nautical mile line, as described on NOAA Chart #13246, westward until it intersects with the original coordinate.

8.07: Seasonal Cod Spawning Protections Mesh Size Restrictions

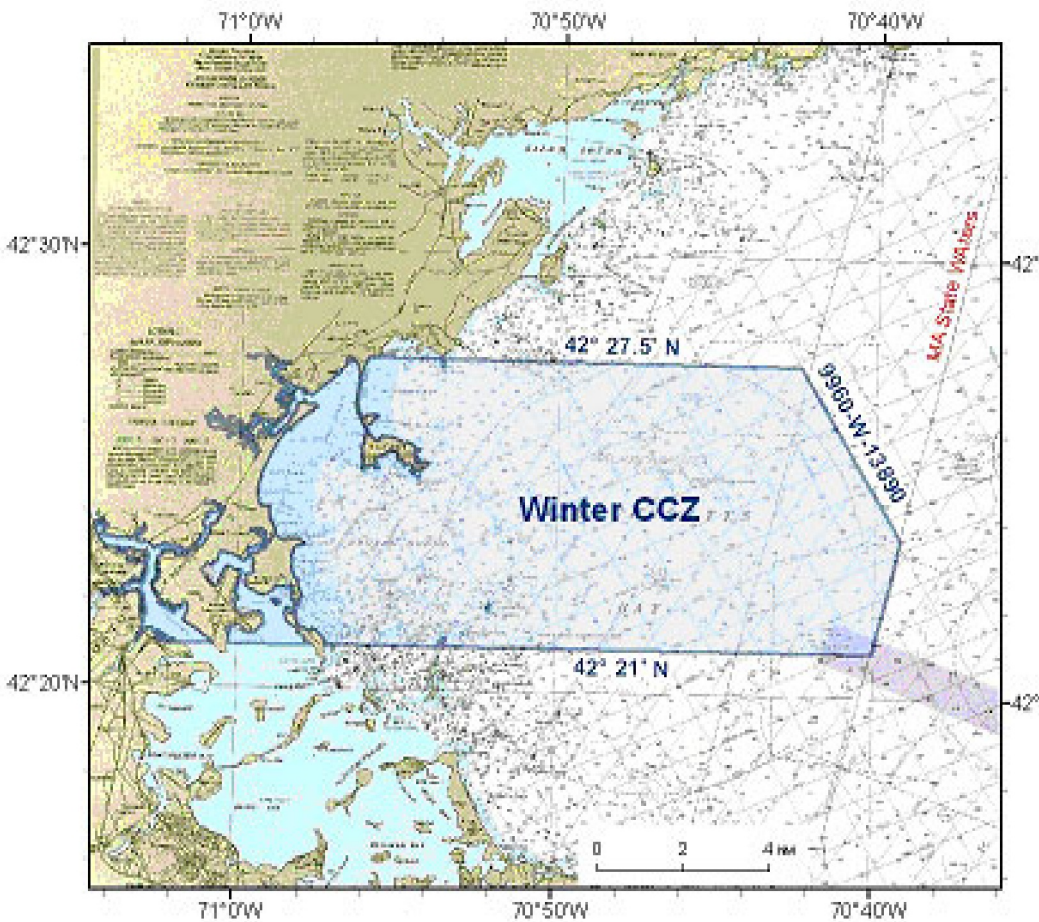
- (1) Winter Cod Conservation Zone.
- (a) Boundaries. For purposes of 322 CMR 8.07 the Winter Cod Conservation Zone shall apply to the area within the waters under the jurisdiction of the Commonwealth bounded by straight lines connecting the following points in the order stated starting from the point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

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

8.07: continued

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

Winter Cod Conservation Zone



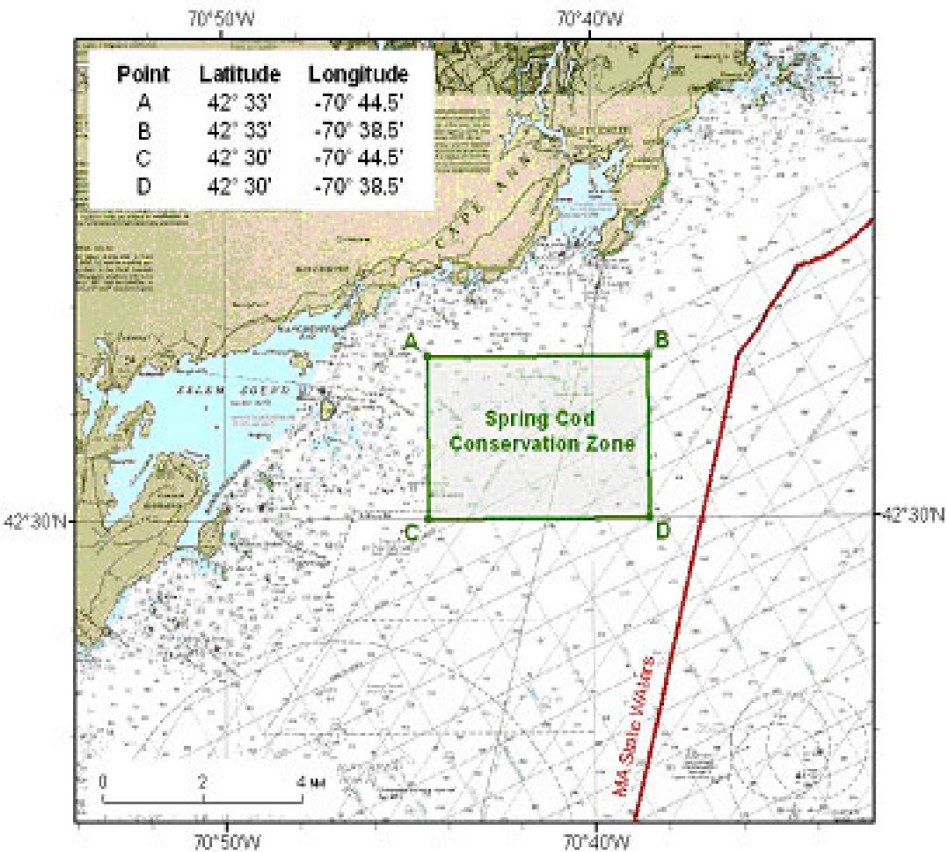
8.07: continued

- (b) Season. The restricted season shall be November 15th through January 31st.
- (c) Fishing Prohibitions.
 - 1. It is unlawful for any person to take, possess or land cod from the Winter Cod Conservation Zone during the restricted season.
 - 2. It is unlawful for any person to fish, set, or abandon any gear capable of harvesting cod in the Winter Cod Conservation Zone during the restricted season. 322 CMR 8.07(1) shall apply to all gillnets, otter trawls, mid-water trawls, seines, and all hook-and-line gears including longlines, rod-and-reel, and handlines.
- (d) Exemptions.
 - 1. It shall be lawful for persons to transit the Winter Cod Conservation Zone in the possession of cod, provided the cod was caught outside of the Winter Cod Conservation Zone and all fishing gear is stowed.
 - 2. Lawfully permitted persons may set and tend lobster traps and set and haul dredges for scallops and urchins in the Winter Cod Conservation Zone during the restricted season.

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

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

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



8.07: continued

- (b) The restricted season shall be April 16th through July 21st.
- (c) Fishing Prohibitions.
 - 1. It is unlawful for any person to possess on board or land cod in the Spring Cod Conservation Zone.
 - 2. It is unlawful for any person to fish, set, or abandon gillnets, beam trawls, otter trawls or longlines in the Spring Cod Conservation Zone during the restricted season.
- (d) Exemptions. It shall be lawful for persons to transit the Spring Cod Conservation Zone in the possession of cod, provided the cod was caught outside of the Spring Cod Conservation Zone and all fishing gear is stowed.

8.08: Future Coastal Fisheries Management (Reserved)

8.09: Restrictions on Fishing in Certain Artificial Reef Areas

(1) Purpose. 322 CMR 8.09 restricts commercial fishing activity and other deployment of buoyed vertical lines in designated recreational fishing reef areas. These restrictions are being implemented to prevent gear and user group conflicts that may result from commercial fishing or the presence of buoyed vertical lines occurring in areas designated for recreational fishing.

(2) Definitions. For the purpose of 322 CMR 8.09, the following words shall have the following meaning:

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

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

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

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

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

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

- (4) Restrictions. It shall be unlawful for any person within the Harwich Recreational Fishing Reef Boundaries:
- (a) to conduct commercial fishing activity;
 - (b) to set, fish or abandon any recreational lobster or crab traps; and
 - (c) to set or abandon any buoyed vertical line for any other purpose.

REGULATORY AUTHORITY

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