



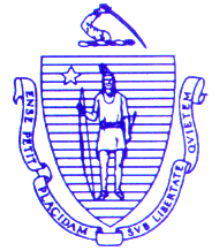
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MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)
FROM: Daniel J. McKiernan, Acting Director
DATE: March 27, 2020
SUBJECT: **Final Recommendation on Edible Crab Regulations**

This memo includes final recommendations to adopt revised regulations pertaining to edible crabs. To provide context to these decisions, I have also included a review of the public hearing proposal, a summary of public comment, some discussion about my decision making, and final strikethrough regulations.

Final Recommendation

I recommend the following changes to the state's regulations pertaining to edible crabs:

1. Consolidate existing cancer crab and blue crab regulations in a single regulatory section under the header of Management of Edible Crabs;
2. Define the term "edible crab" to exclude invasive species (e.g., green crabs).
3. Clarify that a non-commercial lobster and edible crab permit is needed only to take lobsters and edible crabs by five or six sided traps and is not needed to harvest edible crabs by other means (e.g., dip net).

Difference from Public Hearing Proposal

This final regulatory recommendation is consistent with the public hearing proposal. Background on the public hearing proposal is described in my December 19 memo to the MFAC, "[Regulatory Housekeeping Proposal](#)."

Public Comment

The [public hearing notice](#) was issued of February 7, with all written comments due by March 16. Hearings in Reading and Vineyard Haven, on March 10 and 12, occurred as scheduled. The hearing scheduled for March 12 in Buzzards Bay was cancelled due to the developing coronavirus situation. In response, the written comment period was extended two-days until March 18, which was as long as possible while still leaving time for final recommendations to be developed for the then-scheduled March 25 MFAC business meeting. The business meeting was later postponed until April 1 to account for the disruption to normal operating procedures caused by the developing coronavirus situation. DMF received no public comment in opposition to this proposal and that comment received supported the recommendation.

Discussion

This is principally a housekeeping measure to consolidate and clarify existing regulations. However, by virtue of defining edible crabs to not include invasive species, DMF will be able to clarify that under state law a commercial lobster permit is not needed to harvest and sell invasive crab species to consumer markets. This may help accommodate the eradication of these species, particularly if they become marketable.

Final Proposed Regulatory Language

6.19: Blue Crab Restrictions

~~(1) Definition.~~

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

~~(2) Minimum Size. 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.~~

~~(3) Possession Limits. It shall be unlawful for any recreational fisherman or commercial fisherman to take or possess:~~

~~(a) more than 25 blue crabs per 24-hour day; or~~

~~(b) any egg-bearing blue crab or female crabs with the egg mass (sponge), egg pouch or bunion removed at any time.~~

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*, 7.03: *Coastal Lobster Permit and Trap Allocation Transfer Programs*, and 7.08: *Offshore Lobster Fishery Control Date and Moratorium*, to take, possess and land lobsters and edible crabs in the Commonwealth of Massachusetts for the purpose of sale, barter, or exchange or keep for personal or family use any edible crabs, including Cancer crabs, taken under the authority of the commercial coastal or offshore lobster permit.

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

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 G.L. c. 130 §§ 2, 37, 38, and 80 and 322 CMR 7.01(2) and 7.03, 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.

(2) Non-Commercial. A non-commercial lobster and edible crab permit, issued by the Director in accordance with 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 4 3/4" inch.

(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 fisherman are prohibited from setting any lobster trap gear to take or attempt to take Cancer crabs, unless the lobster trap gear complies with the applicable:

1. trap gear marking regulations at 322 CMR 4.13: *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 6.44(4), 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 6.44(5)(a) shall not apply to any commercial fisherman who has obtained rock crabs from lawfully permitted dealers for the purpose of use as bait.

(7) Cancer Crab Possession Limits for Recreational Fishermen. 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 how has obtained rock crabs from lawfully permitted dealers for the purpose of use as bait.

(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 one-half hour before sunrise. This shall not apply to the taking of edible crabs by hand, handline, dip net, or open and collapsible trap.

6.44: ~~Cancer Crab Management~~

~~(1) Definitions:~~

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

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

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

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

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

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

~~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.~~

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

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

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

~~(2) Permit Requirements. A commercial coastal or offshore lobster permit, issued by the Director in accordance with M.G.L. c. 130, §§ 37, 38 and 80, and 322 CMR 7.01(2): *Commercial Fisherman Permits*, 7.03: *Coastal Lobster Permit and Trap Allocation Transfer Programs*, and 7.08: *Offshore Lobster Permit Control Date, Moratorium, and Transfers* is required to take, possess or land cancer crabs by any method or gear in the Commonwealth of Massachusetts for the purpose of sale, barter or exchange.~~

~~(3) General Requirements:~~

~~(a) Size Limit. Commercial fishermen and dealers are prohibited from taking, possessing or landing jonah crabs that have a carapace width less than 4¾ inch. The mutilation of any Jonah~~

~~crab which affects its measurement shall be *prima facie* evidence that the Jonah crab was or is less than the required length.~~

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

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

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

~~(4) 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 6.44(4), there shall be no catch, possession or landing limit for cancer crabs.~~

~~(5) 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.~~

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

~~(6) Recreational Fishing Limits: Catch Limits. It shall be unlawful for a recreational fisherman to take, possess or land more than 50 cancer crabs per calendar day or possess more than 50 cancer crabs while fishing. This limit shall not apply to any fishermen who have obtained rock crabs from lawfully permitted dealers for the purpose of use as bait.~~

6.44 Reserved for Future Regulation

7.01: Form, Use and Contents of Permits

(4) Special Permits. The following special permits may be issued by the Director for the following activities:

(b) Non-commercial Fishing Permits.

1. Recreational Saltwater Fishing Permits. Pursuant to M.G.L. c. 130, § 17C and 322 CMR 7.10, the Director may issue a recreational saltwater fishing permit to authorize:

- a. recreational saltwater fishing; and
- b. for-hire vessels.

2. Non-commercial Lobster and Edible Crab. Pursuant to M.G.L. c. 130, § 38, the Director may issue a non-commercial lobster **and edible crab** permit to authorize:

a. Pot-Trap Fishing. Issued to a named individual authorizing the harvest, possession and landing of lobsters **and edible crabs** by means of **traps pots** for non-commercial purposes by that individual or by members of that individual's immediate family residing in the same household.

b. Diver Fishing. Issued to a named individual authorizing the harvest, possession and landing of lobsters by diving for non-commercial purposes by that individual only. A

noncommercial lobster permit may not be carried on board any vessel fishing under authority of an offshore lobster permit.