



The Commonwealth of Massachusetts

Division of Marine Fisheries

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Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Acting Director 

DATE: June 2, 2020

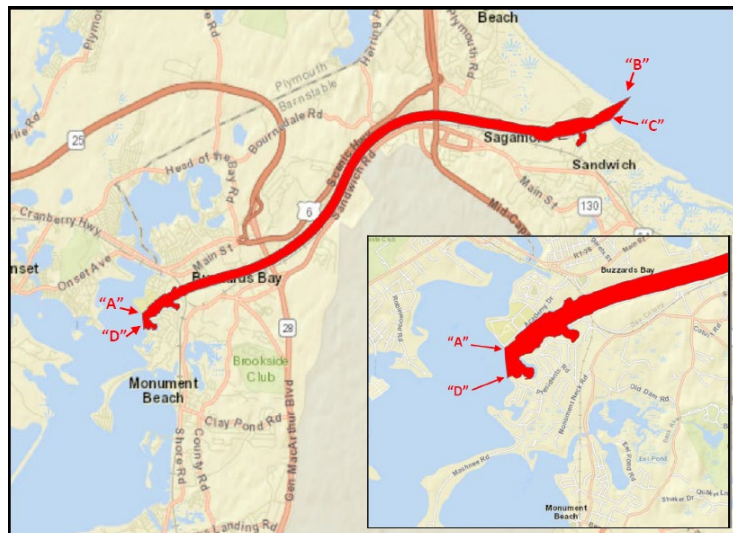
SUBJECT: **Emergency Action Closing the Cape Cod Canal to Commercial Striped Bass Fishing**

Emergency Action

DMF intends to file and announce emergency regulations aimed at prohibiting commercial striped bass fishing along the Cape Cod Canal (Fig. 1) on June 3, 2020. The Canal is defined as all waters and shoreline extending bounded by the seawardmost extent of the state pier at Taylor's Point to the seawardmost extent of the northern breakwater jetty at the east end to the seawardmost extent of the southern breakwater jetty at the east end to the northernmost tip of the peninsula at the end of President's Road in Bourne. The DMF advisory that will be sent out on this matter is attached.

Fig. 1

Map of Cape Cod Canal Commercial Striped Bass Closure



This action will effectively prohibit the retention of any striped bass that do not conform to the recreational fishing slot limit (28" to less than 35") and bag limit (1-fish per angler) while fishing along the Cape Cod Canal. Additionally, it will make it unlawful to possess any commercial sized striped bass (35" or greater) when fishing along the Canal or within 1,000 feet of the Canal, unless that fish was lawfully caught elsewhere and is being actively transported to a seafood dealer for sale. It should be noted that all fishing (commercial or recreational) from a vessel within the Canal project's boundaries is currently prohibited pursuant to the Army Corps of Engineers (ACOE) navigation regulations.

This action will go into effect immediately upon filing and will remain in place for a period of 90-days. The regulation may then be made permanent if a public hearing is held and the MFAC votes up a final regulatory recommendation. At this time, DMF seeks to make this action permanent. Accordingly, a

public hearing will be scheduled for this summer (late-July to early-August) and DMF intends to provide a final recommendation to the MFAC at their August 20th business meeting. Given the current public health circumstances, the public hearing will likely be held virtually. I look forward to discussing this action further at our scheduled June 18 MFAC business meeting.

Outreach

I recognize that this is an issue of public importance and notification and outreach is critical. I intend to take several measures to ensure that the public is properly notified of this rule change in advance of the 2020 commercial striped bass fishing season, which is scheduled to begin on June 24.

An e-mail advisory has been drafted and will be sent out via the agency's e-mail list serve program (Granicus). This notice will be sent to all current subscribers, which number over 100,000. Additionally, we will be posting the same notice on our website and social media accounts. We will also provide the notice, through DFG, to local media outlets including local Bourne newspapers, the Cape Cod Times, the Standard Times and On the Water.

DMF will also be notifying commercial striped bass permit holders directly through e-mail. This e-mail notification will serve two purposes. First, it will relay information regarding this emergency action to close the Canal to commercial striped bass permit holders. Second, it will remind them of the commercial fishing limits in place for the 2020 season. I recognize that this action may restrict or eliminate the commercial fishing activities of some individuals. Accordingly, I will be offering refunds to those commercial fishermen who hold commercial rod and reel or individual permit holders with a striped bass permit endorsement and have not sold any fish so far in 2020.

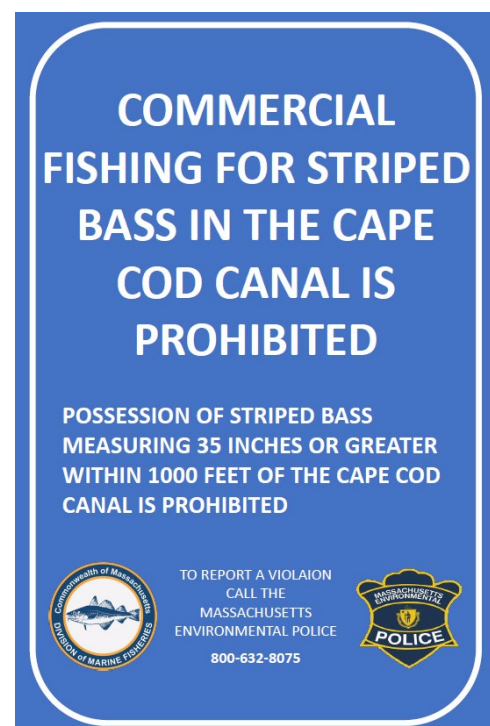
We will also be placing signage along the Canal. This past spring, we posted 49 signs along the Canal as part of our outreach regarding the new recreational striped bass slot limit. There will now be companion signage posted at the same locations as the current signage notifying the public that commercial striped bass fishing along the Canal is prohibited (Fig 2). This signage makes clear that this is a DMF regulation and how to contact MEP should a violation be observed.

I have also contacted local authorities directly to notify them of our intent to take this action. This includes ACOE, Bourne and Sandwich Police Departments, the Department of Conservation and Recreation (Scussett Beach), and the MA Maritime Academy.

Background

In late February 2020, DMF met with ACOE, MEP, Bourne PD, and select members of the MFAC to discuss how commercial striped bass fishing along the Canal was contributing to poaching and public nuisance activities. This meeting was described in a March 5, 2020 memo from me to the MFAC. The

Fig 2.
New Signage for Canal Closure



ACOE then followed up with a letter to DMF further documenting this and describing how commercial fishing activity was negatively impacting the ability for ACOE to meet its mission to provide recreational opportunities.

Based on this record, I determined it was appropriate to consider prohibiting commercial striped bass fishing along the Canal. This is documented in an April 14, 2020 memorandum from myself to Commissioner Amidon, which I have attached. After a review of this memorandum, the Commissioner and I agreed to move forward an emergency regulatory proposal, and this proposal was approved to be filed on May 29.

It is noteworthy that this is not the first restricted fishing area in the Commonwealth. DMF has historically prohibited fishing activity within and adjacent to fish weirs and commercial fishing is prohibited on the Harwich recreational fishing reef. Additionally, commercial fishing is also restricted on state-controlled fishing piers and access sites.

Attachments

Draft June 3, 2020 DMF Advisory on Cape Cod Canal Closure
Emergency Regulatory Language
April 14, 2020 Memorandum to Commissioner Amidon



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Director

June 3, 2020

Marine Fisheries Advisory

Cape Cod Canal Closed to Commercial Striped Bass Fishing

The Division of Marine Fisheries announces the closure of the Cape Cod Canal to commercial striped bass fishing. Effective immediately, all striped bass retained from the Cape Cod Canal or possessed within 1,000 feet of the Canal's shoreline must adhere to the recreational fishing limits of one fish of at least 28" total length but less than 35" total length. An exception is made for the possession of striped bass 35" or greater legally caught elsewhere for commercial purposes and being actively transported through the 1,000-foot buffer area to a primary dealer.

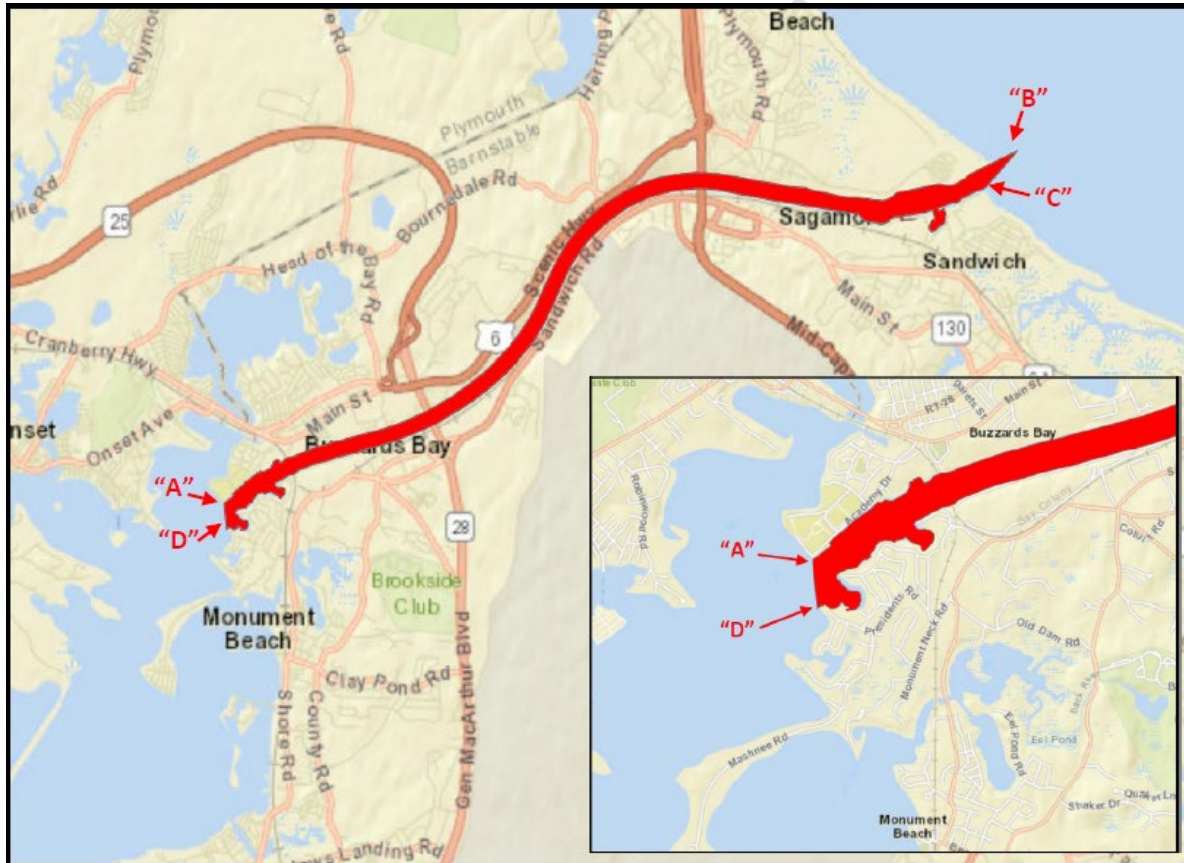
This action has been taken to address numerous and worsening public nuisance and safety problems arising from increased fishing activity along the Canal. These problems, including anglers conducting themselves in threatening and unruly manners, parking illegally on adjacent roads, trespassing over private property, and interfering with other recreational activities, have been especially acute on open commercial striped bass fishing days. Although the primary mission of the Canal is navigation, a secondary objective of the U.S. Army Corp of Engineer's management of the surrounding area is to provide recreational opportunities for the public. Accordingly, it is appropriate for the Division of Marine Fisheries to prohibit commercial striped bass fishing along the Canal in order to return the area to its recreational purposes.

This regulation is also expected to greatly enhance compliance and enforcement with this year's recreational striped bass conservation rules (i.e., the 28" to less than 35" slot limit, circle hook requirement when fishing with natural bait, and prohibition on gaffs and other injurious removal devices) at one of the most productive fishing locations for large bass. Given the Canal's great popularity as a shore fishing location for striped bass, the Massachusetts Environmental Police and local police departments rely heavily on public tips of illegal fishing activity; however, these tips have previously been hindered by the virtual indistinguishability of recreational and commercial striped bass fishermen. The closure of the Canal to commercial striped bass fishing (in combination with the new 35" commercial minimum size) will enhance the ability of anglers to see and accurately report illegal striped bass fishing activity. Such tips can be called into the Environmental Police at 800-632-8075.

For the purpose of this closure, the Cape Cod Canal is defined as all waters and shoreline bounded by (refer to map): the most seaward extent of the state pier at Taylor's Point ("A") to the most seaward extent of the northern breakwater jetty at the east end ("B") to the most seaward extent of the

southern breakwater jetty at the east end ("C") to the northernmost tip of the peninsula at the end of President's Road in Bourne ("D").

This closure of the Cape Cod Canal to commercial striped bass fishing has been adopted as an emergency regulation, pursuant to M.G.L. c. 30A, §2, for the preservation of public safety and the general welfare of the community. As such, it shall remain in effect for 90 days, unless adopted as a final regulation. It is anticipated that a public hearing will be scheduled for this summer and a final regulation could be voted on by the Marine Fisheries Advisory Commission at their August 20 business meeting.





Daniel J. McKiernan
Acting Director

Commonwealth of Massachusetts

Division of Marine Fisheries

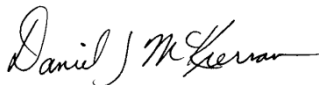
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Commissioner
Mary-Lee King
Deputy Commissioner

MEMORANDUM

TO: Ronald Amidon, Commissioner
FROM: Daniel J. McKiernan, Acting Director 
DATE: April 14, 2020
SUBJECT: Closure of Cape Cod Canal Area to Commercial Striped Bass Fishing Activity

Summary

The Cape Cod Canal ("Canal") is one of the most popular fishing locations in the Commonwealth. However, in recent years the convergence of fishermen on the Canal has contributed to public nuisance and illegal activity. In terms of fisheries management, the area has become the state's hotspot for poaching of striped bass. Additionally, there are reports of anglers conducting themselves in threatening and unruly manners, parking illegally on adjacent roads, trespassing over private property, and interfering with other recreational activities (biking, hiking, jogging, etc.). DMF has been informed by the Army Corps of Engineers (ACOE), the Massachusetts Environmental Police (MEP), and the Bourne Police Department that these problems are greatly exacerbated on open commercial striped bass fishing days. Although the primary mission of the Canal is navigation, a secondary objective of the ACOE's management of the surrounding area is to provide recreational opportunities for the public. Accordingly, it is appropriate to prohibit commercial striped bass fishing along the Canal in order to return the area to its recreational purposes.

Considering the above, this rule is warranted for the upcoming commercial season, which is scheduled to open on June 24. As there is insufficient time to conduct normal rulemaking, it is appropriate to use the regulatory authority at G.L. c. 30A, §2 to implement this closure on an emergency basis; such an emergency regulation will remain in effect for a period of 90 days and may be promulgated as a permanent rule following a public hearing. The emergency authority at G.L. c. 30A, §2 provides regulatory agencies with the ability to enact emergency regulations in those instances when the "immediate implementation are necessary for the preservation of the public health, safety or general welfare and the observance of notice and public comment requirements are contrary to public interest." Given the recent history of commercial fishing along the Canal contributing to poaching and other illegal and public nuisance activities, such a closure is justified for the preservation of public safety and the general welfare of the community.

Background

The Cape Cod Canal is operated and maintained by the ACOE. Their primary mission at the Canal is to provide safe navigation for commercial and recreational vessels transiting the waterway. However, the surrounding 1,100-acre area is designated as a public recreation facility and provides the opportunity to conduct a diversity of recreational activities, including fishing from

shore. Indeed, the Canal is likely the preeminent shore fishing location in Massachusetts. This is because the Canal provides anglers with unique shoreside access to productive deep-water fishing sites and the Canal itself functions as a “fish highway” for many migratory species (particularly striped bass). Additionally, there are numerous designated parking lots along the Canal and nearly seven miles of paved public access roads along each side making fishing spots easy to access by foot or by bike.

Striped bass is the most sought-after species by anglers fishing at the Canal. The striped bass resource and fishery is managed pursuant to G.L. c. 130 and 322 CMR 6.07. G.L. c. 130, §100B that mandates that striped bass only be taken by hook and line gear. As a result, recreational and commercial striped bass fishermen are virtually indistinguishable from one another when fishing from shore (or from a vessel).

The commercial striped bass fishery is an open-entry fishery. DMF issues 4,000 to 5,000 commercial striped bass permit endorsements annually and about 1,000 of these are actively fished in any given year. The fishery is subject to a quota allocated by the Atlantic States Marine Fisheries Commission (ASMFC). For 2020, the quota is expected to be about 735,000 pounds. DMF manages this quota through a commercial fishing season, open and closed fishing days, trip limits and a minimum size. In recent years, the commercial fishery opened on June 23, with open fishing days on Mondays and Thursdays, a 15-fish limit for commercial fishing activity onboard a vessel and a 2-fish limit for shore-based fishermen, and a 34” minimum size. In 2020, DMF amended these rules by making the open fishing days Mondays and Wednesdays and increasing the commercial minimum size to 35”. These tools are designed to control harvest so that fresh fish are available to the markets throughout the summertime. Because of the low investment (relative to other fisheries), many commercial striped bass fishermen are simply highly skilled anglers who capitalize on this open access fishing opportunity to supplement their income fishing for and selling striped bass when the regulations allow it.

We estimate the number of recreational anglers in Massachusetts is about 300,000 and striped bass is the most popular target species. Recreational striped bass fishing occurs throughout the state, but the Canal represents the most popular shoreside fishing location (note: fishing from a vessel within the Canal is prohibited by federal regulations). The recreational fishery is managed in accordance with the ASMFC’s Interstate Fishery Management Plan for Striped Bass, which establishes coastwide possession and size limits. In recent years, the minimum size was 28” and the per angler bag limit was 1 fish. However, in 2020 the 28” minimum size limit was eliminated in favor of a 28” to less than 35” slot limit in order to reduce fishing mortality; the 1-fish bag limit remains in place. The implementation of this slot limit encouraged DMF to increase the commercial minimum size to segregate the commercial and recreational fisheries based on the size of the fish they may retain; this should help improve enforcement and compliance and assist in differentiating between the two sectors.

Given its unique features and accessibility, the Canal has always been a popular shore fishing location for striped bass. However, the ACOE has reported a surge in angling activity over the past few years. It is thought that this surge in activity is driven both by increased social media and cell phone usage by anglers, as well as the commercial market for striped bass. It is important to point out that in 2018 and 2019 the ex-vessel value for striped bass was frequently in excess of \$5.00 per pound and DMF’s market sampling indicates that the average commercial sized fish is

over 20 pounds, resulting in each fish being worth more than \$100 in value. This elevated value per fish drives commercial fishing activity at the Canal and contributes to competition among anglers resulting in aggressive behaviors and illegal fishing activity.

The increase in Canal fishing activity, driven by the value of the commercial fishery, has resulted in numerous public nuisance and safety problems for anglers, adjacent property owners, and federal rangers managing the activity. These problems include overcrowding among anglers on the rip rap and on the service roads, littering and degradation of natural resources, poaching, noise complaints, aggressive and unruly behavior, and parking congestion at access points and local roads. (See letter dated 3/31/20 from Canal Manager John McPherson.) In an attempt to mitigate these problems, ACOE hired paid police details on open commercial fishing days (Monday and Thursdays in 2019) during the commercial season that began on June 23. The MEP have also invested heavily in patrolling the area to address illegal fishing. These violations are well documented in local press. (See articles attached, especially the Cape Cod Times 8/10/19 article, “Police struggle to reel in illegal fishing.”) Despite these efforts, the MEP have advised me that they are unable to dedicate sufficient man-hours to effectively deter poaching. Compliance and enforcement would be improved by getting accurate and more frequent tips from law-abiding recreational anglers who may observe and report illegal fishing. However, when commercial angling and recreational angling co-occur on the banks of the Canal, many of the “tips” called into the MEP represent activity that was actually lawful.

To address these various issues, DMF met with ACOE, MEP, Bourne Police, and certain members of the Marine Fisheries Advisory Commission on February 27, 2020. During the meeting, there was consensus that DMF was the appropriate authority to regulate the activity in this discrete location with Environmental Police enforcing the state regulations. Federal ACOE rangers are not authorized to enforce state fishing rules; cannot inspect catch; do not have the powers of arrest and detention; do not carry weapons; and do not patrol after midnight. A meeting summary dated March 5, 2020 is attached. A follow-up letter was sent by ACOE’s Canal Manager John MacPherson on March 31, 2020. This letter provides in some detail the challenges ACOE staff face due to the excessive fishing and associated behaviors. Mr. MacPherson concludes, “*we have concerns that our mission to provide various types of recreational opportunities and the overall satisfaction of our non-fishing visitor is being overshadowed by those who commercially fish the Canal.*”

Because the problems have been especially acute on open commercial fishing days, it is appropriate to close the area to the taking of striped bass for commercial purposes. To effectively enforce the regulation, not only does the harvest and possession of 35” and larger bass need to be prohibited, but possession of that sized fish needs to be prohibited within a certain distance of the canal shoreline (e.g., 1,000 feet). Past violations have shown that poachers routinely place the fish in their vehicles parked nearby and return to the shoreline to continue to fish and harvest.

This action would allow the recreational fishery to continue to have access to this popular shore fishing site, but without the added pressure brought on by anglers seeking to take striped bass for commercial purposes. In turn, this would reduce congestion and alleviate some of the documented illegal and nuisance activity. With the enactment of this year’s striped bass conservation rules, we have a unique opportunity to further enhance enforcement and compliance, because if the ban on commercial striped bass fishing were enacted, all anglers in the Canal would be abiding by

common rules: 1 fish per angler per day within the newly enacted slot limit of 28 inches to less than 35". No striped bass measuring 35" and larger could be lawfully removed from the area, nor would any angler be lawfully allowed to retain more than one fish. This scenario would enhance the ability of recreational anglers to see and report poachers taking commercial-sized fish (35" and greater) and more than 1 fish per day to the MEP.

It is difficult to project what type of impact this action would have on the commercial striped bass fishery. DMF trip level harvester reports (from 2018) indicate that only 5% of the annual commercial striped bass landings were attributable to shore-based commercial fishing, with about 60% likely coming from the Canal. That said, these data do not tell the whole story and likely reflects only the lawful shoreside harvest of striped bass. Those fishermen who are conducting illegal fishing activities are likely either misreporting their landings data (e.g., attributing it to vessel-based fishing to obscure trip limit violations) or not reporting it at all (e.g., direct sales to entities not authorized to purchase striped bass from fishermen). Therefore, with available data, it is difficult to describe the scope of illegal fishing activity along the Canal and how this rule may impact the commercial fishery.

Restricting fishing in a discrete area to a single user group has precedent in Massachusetts. First, in 1991, DMF enacted a fish weir buffer zone (322 CMR 4.03) preventing any fishermen other than the weir owner and crew from fishing within 150-200 feet of a fish weir. This was enacted after commercial fishermen who erected their weirs found anglers casting—and operating vessels—so close to the weir that it was disrupting fish from being captured. Second, in 2016, DMF enacted a ban on commercial fishing and the setting of any vertical lines from fish or lobster trap (including recreational trap fishing) within the zone of the Harwich artificial reef in Nantucket Sound (322 CMR 8.09). Because the reef was constructed with funds from the Sportfish Restoration program, this area was reserved exclusively for recreational hook and line fishing. The ban on deploying vertical lines was adopted because recreational fishing is best accomplished by drifting over the reef and vertical buoy lines would result in snarled lines. Finally, in 2018, as a result of harbor masters reporting that commercial striped bass fishery participants were displacing other recreational boating activity at boat ramps around summer holidays, DMF enacted a ban on commercial striped bass fishing on July 3, July 4, and Labor Day (322 CMR 6.07).

Proposed Draft Regulatory Language

I have provided draft emergency regulations below for your consideration:

6.07(2) Definitions

Cape Cod Canal shall be defined as 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 the Massachusetts Maritime Academy in Bourne; thence extending in an easterly direction to the end of the seaward end of the northern breakwater jetty at the eastern entrance to the waterway at Scusset Beach in Sandwich; thence 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 northern most tip of the peninsula at the end of President's Road in Bourne.

6.07(4)(m) Commercial fishermen are prohibited from harvesting striped bass from the Cape Cod Canal for commercial purposes or possessing any striped bass 35” 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 as defined in this section.

6.07(7) Prohibitions

(nn) Any person to retain or possess striped bass from the Cape Cod Canal that measure 35” total length or larger.

(oo) Any person to retain or possess more than one striped bass during any calendar day taken from the Cape Cod Canal.

(pp) Any person to possess any striped bass measuring 35” total length or larger 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.

(qq) 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.

(rr) Any commercial fisherman to retain or possess any striped bass for sale or attempted sale that was taken from the Cape Cod Canal.

Attachments

1. DMF meeting summary dated 3/5/20
2. ACOE letter to DMF dated 3/31/20
3. Local news coverage



Daniel J. McKiernan
Acting Director

Commonwealth of Massachusetts

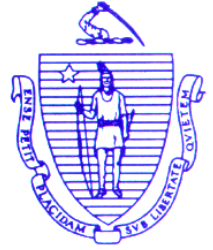
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MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)
THRU: Daniel J. McKiernan, Acting Director 
FROM: Jared Silva, Policy Analyst
DATE: March 5, 2020
SUBJECT: Summary of Interagency Meeting Regarding Fishing Related Issues on the Cape Cod Canal

On February 27, 2020, DMF and DFG staff met with members of the MFAC, the MA Environmental Police (MEP), Army Corps of Engineers (ACOE) and the Bourne Police Department. The purpose of the meeting was to discuss issues related to fishing along the Cape Cod Canal ("Canal"). In attendance were: DFG Commissioner Ron Amidon; DMF Acting Director Dan McKiernan, DMF Assistant Director Mike Armstrong, and DMF policy analysts Jared Silva and Nichola Meserve; MFAC members Mike Pierdinock, Bill Doyle, and Kalil Boghdan; MEP Major Pat Moran, Captain Kevin Clayton, Lt. Matt Bass, Lt. Pat Grady, and Ofc. Michael Cole; ACOE representatives Joe Mazzola, John MacPherson and Michele Breen, and Bourne Police Sgt John Stowe.

ACOE opened the meeting by discussing their regulatory authority. Park regulations are located at 36 CFR and rangers are allowed to enforce these park rules. However, they do not have the powers of arrest and detention; if an incident escalates they must involve law enforcement. Rangers are also not allowed to patrol after midnight for self-defense and safety purposes (they do not carry weapons). Rangers also do not have the authority to inspect for or enforce state and local laws or regulations, including fishing rules. Lastly, ACOE legal counsel indicated that the project's prohibition on unpermitted commercial activity does not extend to commercial fishing because there is no on-site commerce occurring.

ACOE went on to discuss their mission at the Canal. The Canal is primarily a shipping and transit corridor. However, the adjacent property is to be used to provide the public with access to a diversity of recreational opportunities. While fishing has always been a popular activity at the Canal, effort has increased in recent years. This was thought to be driven by social media, an abundance of large fish in the area, and the commercial value of striped bass. ACOE expressed strong concern regarding how fishing activity on commercial days and illegal commercial fishing activity on closed commercial fishing days was becoming incompatible with other recreational activities. Of particular concern, were user group conflicts, threats of violence, noise complaints, littering, public defecation, trespassing, parking shortages, and other nuisance activities. The

problems have become so acute that the ACOE has hired police details (Bourne Police Department and MEP) to patrol the area during times of peak activity.

DMF reviewed the management of striped bass in Massachusetts and the status of the resource. Mike Armstrong stated that striped bass tend to set up in certain areas within state waters in response to forage and water temperature. In recent years, striped bass did not aggregate in many of the usual areas, except for the Canal. This likely intensified fishing effort in the area. Dan McKiernan explained that the current ex-vessel value for striped bass is about \$5 per pound, making a commercial-sized fish worth about \$100. This has created a profit motive that may encourage some illegal fishing activity for striped bass. Dan then explained that DMF may manage the times, manner, and places where fishing may occur pursuant to the authority at G.L. c. 130 s. 17A. This authority is not limited to managing for conservation, but may also be used to manage user group conflicts. In fact, there was precedent for creating recreational only zones (e.g., Harwich reef) and managing the commercial striped bass fishery to minimize conflicts with other recreational activities (e.g., July 3rd and 4th closures).

The MEP then provided some insight into the various illegal fishing activities that they have encountered along the Canal. This includes the possession of undersized fish, possession of fish in excess of recreational and commercial limits, high-grading, sale of fish to entities that are not primary buyers, front loading before commercial days. MEP opined that the harvest of fish intended for sale was driving most of this illegal fishing activity. It was noted that the proposed recreational slot limit (28" to less than 35") provided a unique opportunity to address commercial fishing on the Canal. If this slot limit is adopted, and DMF increases the commercial minimum size to 35", then the recreational and commercial fisheries become segregated based on size. This will allow MEP to better differentiate between commercial and recreational fishing activity.

Given this, there was also support among attendees to consider making the Canal a "recreational only fishing area". If the Canal were to become such an area, then any angler retaining striped bass that measure 35" or larger or more than the one fish recreational bag limit would be in violation of the recreational only rule. This should improve enforcement and compliance and help validate enforcement tips from other anglers. Additionally, such an area would be compatible with the ACOE's mission at the Canal and would likely help to reduce some of the ongoing user group and public nuisance issues. Representatives from DMF, DFG, and the MFAC stated that strong documentation of these issues would be needed to justify any additional regulation.

ACOE indicated that they would internally discuss providing DMF and DFG with a letter providing incident documentation and the challenges fishing intensified. Both Bourne PD and MEP also stated they would review their records from prior years regarding Canal incidents and determine if there were trends that pointed to elevated activity on commercial fishing days. DMF asked that this documentation be provided to the agency by mid-March. This would allow for DMF to discuss this with the MFAC at their March meeting and weigh the appropriateness of taking any emergency action (if warranted) to address this issue in 2020.

Attachments

Meeting attendance roster

Meeting agenda

Meeting Agenda

Location: USACE Cape Cod Canal Project Office. 40 Academy Drive Buzzards Bay, MA 02532

Date: Thursday, February 27, 2020

Time: 10:30 am

Issues related to fishing at the Canal Project

- Overcrowding on the rip rap and on the service roads
- Littering and degradation of natural resources
- Noise complaints
- Parking congestion at access points and local roads

Fisheries Management Issues

- State recreation fishing and commercial fishing regulations
- Commercial fishing from shore
- Illegal fishing activity particularly on commercial days
- Challenge of enforcing state regulations

Jurisdiction and Authority

- USACE – Title 36 CFR
- MEP
- BPD
- DMF

Potential Solutions

Measuring Success

NAME / ORGANIZATION / Contact info

1	JOE MAZZOLA	USACE	978-318-8545
2	John MacPherson	USACE	978-318-8176
3	John Stowe	BOURNE PD	508-759-4420 X203
4	Mike Arns from	MA DMF	978-888-6525
5	Daniel McKiernan	MA DMF	617 413-2374
6	Jared Silva	MA DMF	508 617-626-1534
7	Nichola Meserve	MA DMF	617-626-1531
8	MICHAEL PIERDINOCH	MASS MFAC	617 291 8914
9	KALIL BOGH-DAN	MASS-DMF-MFAC	978-407-7901
10	Matt Bass	MEP	774-836-8081
11	Patrick Grady	MEP	774 487-0086
12	Michael Cole	MEP	617-416-9522
13	CAPT. KEVIN CLAYTON	OELE	617-626-1665 RANK Room
14	Bill Doyle	MFAC	508 244 7441
15	Patrick Moran	MEP	857-202-8391
16	Ronald Amidon	DF+G	857-286-5379
17	Michele Breen	USACE	978-318-8636

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DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
CAPE COD CANAL FIELD OFFICE
PO BOX 1555 BUZZARDS BAY, MA 02532

31 March 2020

Daniel J. McKiernan
Acting Director
MA Division of Marine Fisheries
251 Causeway St. Boston, MA 02114

Mr. McKiernan,

I'd like to thank you for your participation in our recent stakeholder coordination meeting at the Cape Cod Canal that focussed on exchanging information on fishing activity at the Canal. The presentation given by the Department of Marine Fisheries on Striped bass management authority and rules enhanced our understanding of both the conservation effort and state regulations. Overall, I think it was a productive meeting to exchange information and understand the capabilities and authorities of each stakeholder group.

As we discussed at the meeting, the Cape Cod Canal is a federal civil works navigation project which receives approximately 3 million visitors per year. The Canal is comprised of the navigational waterway and over 1,100 acres of land rich in valuable natural resources which provide recreational opportunities to the public. Although the primary mission of the Cape Cod Canal is navigation, the Corps also has a mission to provide safe, healthful recreation opportunities for the public. Recreational activities on Canal property include camping, sightseeing, swimming, picnicking, boating, fishing, biking, in-line skating and hiking. We have fourteen recreation areas situated along the Canal, nine operated by the U.S. Army Corps of Engineers and four operated under lease agreements. Two paved service roads run parallel to the waterway on both the north and south side. The primary purpose for the service roads is to support navigation and allow trucks and equipment access for maintenance purposes but the public is invited to also use the service roads for recreation. The service roads are extremely popular with the public year-round.

The Canal offers a unique experience for saltwater anglers. Easy access to deep water fishing without a boat attracts thousands of fishermen to the Canal each year. Within the past three years, we have noted a marked increase in fishing activity at the Canal. When the fishing is good it is not uncommon to see fishermen lined up along the rip-rap almost

shoulder-to-shoulder for long stretches. During such times the service roads become very crowded and user groups often compete for space. On commercial fishing days, Mondays and Thursdays, the population of fishermen increases and thus, competition for space along the service roads intensifies significantly. This surge in visitation brings with it specific issues the U.S. Army Corps of Engineer Rangers struggle to keep up with. An increase in overcrowded conditions, litter, erosion, complaints of fishermen making loud noises, public urination/defecation, illegal parking, reports of theft, fishermen casting at boats, verbal altercations between members of the public, in addition to aggressive behavior amongst fishermen are all problems that our Park Rangers contend with regularly during Striped bass season. Rangers have witnessed and received public complaints about violations of Striped bass regulations including; the taking of too many fish, size violations, high-grading, hiding fish in the bushes or in vehicles, fileting fish before transport, fishing without the proper license, and illegal sales. Rangers have found trash bags filled with whole Striped bass carcasses hidden in the woods and our trash cans regularly contain fileted carcasses disposed in them. Public complaints from abutters at Tidal Flats Recreation Area regarding noise levels at night have caused the Rangers to increase patrols and hire additional detail officers to concentrate specifically on that area. The overcrowding has also interfered with our ability to use official vehicles on the service roads and affects our ability to perform maintenance work during commercial fishing days.

As discussed at the meeting, Army Corps Park Rangers do not have the authority to enforce Massachusetts state laws or fish and game regulations, we rely on the Bourne Police Department and the Massachusetts Environmental Police to provide law enforcement services on Canal property. Each year we contract with both the Bourne Police and the Environmental Police to hire officers to patrol the Canal. For the past three years, the Army Corps has increased the number of contracted police officer details in an effort to mitigate the issues associated with fishing violations observed and reported. We schedule Mass Environmental Police details to cover striped bass commercial days and the days immediately prior due to the illegal practice of “stockpiling” or “ice-fishing”. In 2019, 23 out of 49 total details were dedicated to commercial days and 10 details were scheduled for the day before a commercial day. During the height of the fishing season, Environmental Police Officers reported they observed many potentially citable commercial fishing violations during details at the Canal.

During the 2019 summer season we also altered our patrol boat operations at the Canal to include more time during commercial fishing days. This additional patrol coverage was needed to keep boats from fishing within the navigation channel in an effort to avoid potential collisions with large commercial ships. Several Massachusetts Environmental Police boat details were also contracted to assist our patrol boats on commercial days.

The Cape Cod Canal is a popular destination spot for visitors who enjoy many types of recreational activities. We have concerns that our mission to provide various types of recreational opportunities and the overall satisfaction of our non-fishing visitor is being overshadowed by those who commercially fish the Canal. We understand that the State of Massachusetts is considering several changes to regulations for both recreational and commercial fishing. We understand and support that the proposed changes have the potential to help alleviate some significant ongoing enforcement and compliance issues, particularly in fishing hot spots like the Cape Cod Canal. We appreciate and support your efforts to manage the fishery and look forward to continued cooperation with our Federal, State and Local stakeholders.

Feel free to reach out to Michele Breen or I if any questions or followup discussions.

Sincerely,

A handwritten signature in black ink that reads "John C MacPherson". The signature is written in a cursive, flowing style.

John MacPherson
Canal Manager
Cape Cod Canal Project
U.S. Army Corps of Engineers

Copy Furnished to:

Massachusetts Department of Fish and Game
Mr. Ronald Amidon – Commissioner

Massachusetts Marine Fisheries Advisory Commission
Mr. Raymond Kane - Chairman
Mr. Michael Pierdinock - Vice Chairman



Police struggle to reel in illegal fishing

By Doug Fraser

Posted Aug 9, 2019 at 9:20 PM

Updated Aug 10, 2019 at 6:22 AM

Environmental officers outnumbered by complaints of poaching.

BOURNE — Matt Bass drove across the Cohasset Narrows bridge, swung hard left off Route 6 into a bait and tackle shop parking lot and doubled back toward the water. He picked his way past a ragtag assemblage of boats in a dirt parking lot, then stopped and shut off the truck's lights.

A half-moon drifted in and out of low scudding clouds, and the bridge over the narrows ran overhead like a ceiling. It was late on a summer night Wednesday, and people were still fishing off the bridge, but Bass, a lieutenant in the Massachusetts Environmental Police, was focused on the bridge abutment.

Bass, who has been with the environmental police since 2001, is fond of saying that fish, deer and ducks don't dial 911. He relies heavily on tips from fishermen to catch those fishing illegally for striped bass, the region's top recreational species, pursued by tens of thousands of fishermen from Maine to North Carolina.



From The Newsroom: Cape Cod Times

Weekly news roundup on Cape: Aug 2-A

00:00 / 20:48

But he also knows his territory, the dozens of paths, dirt roads, parking lots and pullovers that give fishermen access to the Cape Cod Canal and the opportunity to do something illegal — catch too many fish, keep undersized fish or catch bass on days prohibited for commercial fishing — away from prying eyes.

Normally, Bass works alone, and during striped bass season he can be anywhere on the Cape where he believes the fish are biting and illegal fishing may be occurring.

Anticipating that a blitz of fish and fishermen might happen last weekend, he put out the word for additional officers for Sunday and a few days following. There was a lot of baitfish in the canal and he hoped that by targeting Sunday, the day before one of the two days each week open to commercial fishing, the officers might nab any commercial fishermen trying to catch and hold fish overnight to sell on Monday, when it was legal to do so.

Using two undercover officers posing as fishermen, environmental police focused their efforts on the canal, and on Sunday they seized 50 illegally caught striped bass and issued \$8,000 in citations to 14 anglers.

“The violators are both recreational and commercial fishermen,” said Environmental Police Maj. Patrick Moran, who said the sheer numbers for a one-day action were incredible.

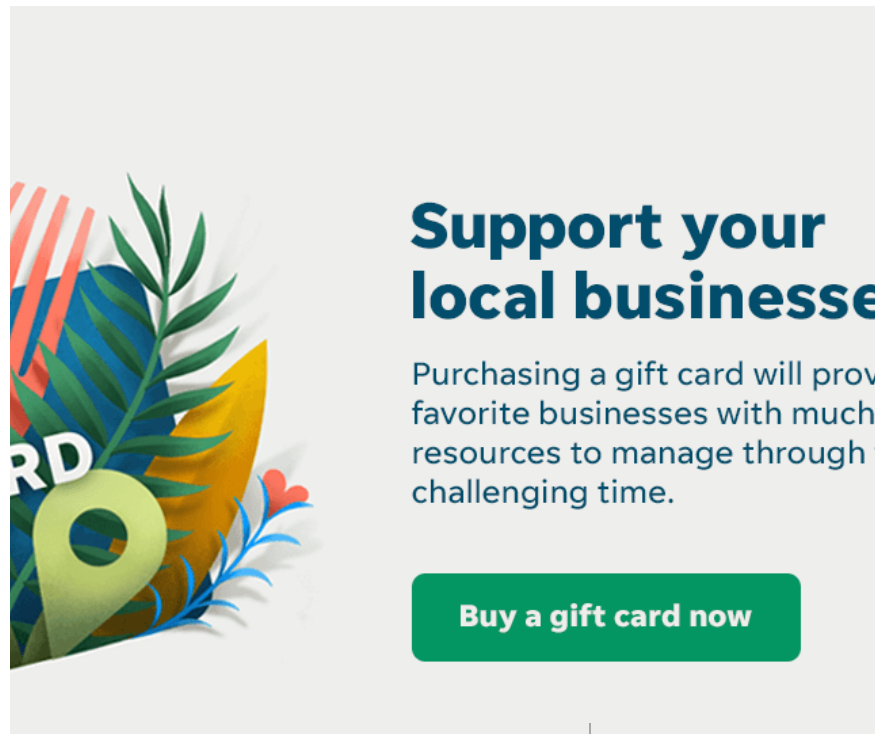
“Poachers are becoming more daring, devious and furtive, and it’s a daily struggle to figure out the newest scheme to skirt the fisheries laws,” Moran wrote in an email.

Fishing was slow Wednesday, and as Bass said, there’s no violation until a fish is landed. But later that night, at the Cohasset Narrows bridge abutment, acting on a tip from a plainclothes officer, Bass caught three men stashing undersized fish in the rocks, a favorite hiding place for poachers. The three men each received a \$600 fine, a lot to pay for a 2-foot-long fish and reflective of a doubling of fines last year that many had lobbied for for years. Violators also can face up to \$10,000 in fines and a 2½-year prison term for criminal violations.

But do police presence and higher fines actually work in deterring illegal fishing?

“We are few and far between,” said Bass, who is frustrated that staff limitations prevent them from getting to every call complaining of illegal activity. “I’d love to make more of an impact, but every complaint we get that goes unanswered is a sign we need more help and didn’t get the job done.”

Lou MacKeil, a longtime fisherman and vice president of the Cape Cod Salties, a recreational fishing organization, said he thought the number of fishermen targeting striped bass, particularly along the canal, was increasing, and they were not discouraged from cheating by heightened fines and sanctions.



“If they cared, or were afraid or cautious, I don’t think that (the busts Sunday) would have happened,” MacKeil said. “It’s pretty bad down there.”

It’s not just striped bass. Marcia Morse, who lives on the canal, said her family used to fish with lobster pots tied to rocks along the water, but they were broken into too many times.

“I see the disregard everywhere,” she said.

Part of the problem, said Philip Coates, former director of the Division of Marine Fisheries, is the internet. People post photos and locations of where they caught fish, and others flock to that spot. The attraction of the canal is the relatively rare opportunity to catch a large fish from the shore, Coates said. He worries that illegal fishing may undercut efforts to reverse a decline in striped bass populations that resulted in quota cuts this year and more reductions next year.

“This is a major problem, the lack of enforcement because of the overwhelming number of people fishing,” Coates said. He said there needed to be more education for fishermen, especially more signs at piers and other fishing spots advertising the regulations, including size and possession limits, in several languages.

Bass and Coates said the environmental police staffing levels were still below what was recommended in a 2004 report.

“To take action on the Cape Cod Canal that will make any dent, I have to pull bodies from other areas, sort of robbing from Peter to pay Paul,” Moran wrote in an email.

“I don’t know the answer, except to keep conducting these stings,” MacKeil said.

On Wednesday, while waiting for a tip to come in from one of the plainclothes officers, Bass did what he always does: pulled over in the big parking lots along the canal and walked. He checked out fishermen loading fish into vans, sedans or SUVs. He greeted those fishing off piers and riprap, inquired how the fishing was going, and then politely asked to look in coolers, bags or other places where fish might be stowed. In one case, he knocked on the door of a house and had the fisherman show him the bass he had caught that day.

“He did it right,” Bass said, returning to his truck, noting the man was a commercial fisherman who had followed regulations and removed a pectoral fin so the fish could not be sold.

Plugging a license plate into an onboard computer brings up the vehicle owner and any past interactions with the environmental police, positive or negative. Often Bass will give out a warning to first-time offenders, hoping education will prevent a second offense.

Environmental police officers have many other duties, even during the fishing season. They generally work independently and call for help as needed. They may be patrolling in a truck one day and conducting boardings at sea the next. On Thursday, Bass thought he was headed to Martha's Vineyard but was called to New Bedford to assist with the confiscation of sea clams that may have been harvested illegally.

"When the fishing gets really good, and a ton of complaints come in, and the pressure is on to enforce that, it's just a fraction of what we should be doing," he said. "We want to catch those people, but everyone gets frustrated when we don't have enough people."

— *Follow Doug Fraser on Twitter: [@dougfraserccct](https://twitter.com/dougfraserccct).*



Cape Cod Canal patrols cite fishing violations

By Doug Fraser

Posted Aug 5, 2019 at 12:49 PM

Updated Aug 5, 2019 at 12:49 PM

BOURNE — Massachusetts Environmental Police officers seized more than 50 striped bass, issued nearly \$8,000 in citations and made one arrest Sunday as uniformed and plainclothes patrols targeted the Cape Cod Canal throughout the day, looking for fishermen in violation of state fishing regulations, according to a statement from the agency.

Confiscated fish that could be salvaged were donated to the Plymouth Area Coalition for the Homeless, the statement says.

Police report blitz of fishing violations along Cape Cod Canal

By Ethan Genter / Cape Cod Times

Posted Aug 19, 2018 at 8:30 PM

Updated Aug 19, 2018 at 8:30 PM

BOURNE — A blitz of striped bass at the Cape Cod Canal has brought a swarm of fisherman looking to take home a “keepa.”

But with the crush of fishermen, there has been a surge in calls about fishing violations and a flurry of citations handed out by the state environmental police.

“We receive at least 10 calls a day and sometimes 10 calls an hour reporting violations at various locations along the canal,” Massachusetts Environmental Police Maj. Patrick Moran wrote in an email.

Over the past week, as giant schools of mackerel have packed the canal from the east end as far west as the Hog Island Channel, with stripers right behind them, police have seen an increase in fishermen and violations.

Hundreds of fisherman are following the stripers up and down the canal, and police have dolled out numerous court summons and more than 50 citations just last week. Environmental police have brought officers to the canal from other areas to help with the increased workload.

Most of the violations have been for catching over the legal limit of striped bass, according to Moran. Recreational fishermen are allowed to take one striped bass per day. Other citations have been for keeping undersized stripers —

fisherman can only take a striper if it's at least 28 inches long. Fishermen have also been cited for failing to display their catch.

"In those cases we find stripers hidden in the rocks, the woods and garbage bags hidden in discrete locations," Moran wrote.

Police also have found many stripers belly-up or barely alive floating in the canal.

"From what we have observed they appear to have hook marks, indicating this is poor catch-and-release practice or people are (high-grading), which is also prohibited in Massachusetts," according to Moran. "Either way it's a terrible waste of the resource."

High-grading is when a fisherman catches a fish and sets it aside until he or she catches a bigger fish. The fish caught earlier is then thrown back, even though it is unlikely to survive.

At least one case is expected to go before a judge soon. Police saw a person buying fish from recreational fishermen and then driving to a campground and selling the fish to campers at an inflated price, Moran wrote.

"So we are writing violations and seizing fish and gear," Moran said. "It just continues to go on and on with no end in sight."



Uniformed and Undercover Patrols of the Cape Cod Canal Land Big

BY MASSACHUSETTS ENVIRONMENTAL POLICE AUGUST 6, 2019



On Sunday, August 4, 2019, **Massachusetts Environmental Police** Officers conducted uniformed and plain-clothes patrols of the Cape Cod Canal area, targeting striped bass violations. Throughout the early morning and into Sunday night, Officers seized in excess of 50 striped



Homeless.



Massachusetts Environmental Police Dispatch can be reached 24 hours a day, 7 days a week at 1-800-632-8075.

Violations can also be reported online here:

www.mass.gov/forms/report-a-violation-online

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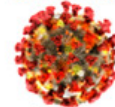
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Mass Environmental Police find bass fishing violations at Cape Cod Canal

August 24, 2017

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BOURNE – Earlier Thursday morning, Massachusetts Environmental Police Officers were patrolling the Cape Cod Canal in response to numerous complaints regarding striped bass violations. Officers encountered a high level of compliance; however, there were also numerous violations of individuals over the recreational limit. Officers observed violators loading their vehicles, hiding fish within the rocks and bushes, as well as filleting fish. Criminal summonses were issued to five individuals, several civil citations were issued as well.

A total of 332-pounds of striped bass were seized and subsequently donated to the New Bedford-area Salvation Army. A total of 16-pounds of fillets were seized, but due to their condition were found not suitable for human consumption and were ultimately destroyed. Fishing gear was seized as well.

Media release and photo furnished by Mass Environmental Police

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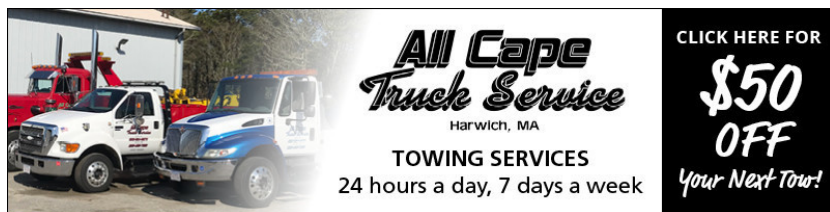
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Cape Wide News was created in 1998 by Provincetown native Tim Caldwell to provide public-safety, spot-news coverage on Cape Cod. This includes the negatives--crimes, crashes and fires--but also positive events such as department promotions and retirements, charity functions and any other activities involving police and fire departments and associated agencies.



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Fishing Violations Skyrocket Along Cape Cod Canal

FISHING VIOLATIONS SKYROCKET ALONG CAPE COD CANAL

AUGUST 21, 2018

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The *Cape Cod Times* reports that the fishing scofflaws are back in action along the Cape Cod Canal. Officers with the Massachusetts Environmental Police have been busy responding to calls about illegal harvesting of striped bass by shore fishermen and handing out dozens of citations for violations of fishery regulations.

"We receive at least 10 calls a day and sometimes 10 calls an hour reporting violations at various locations along the canal," Massachusetts Environmental Police Maj. Patrick Moran wrote in a recent email to the Times.

Moran reports that his officers are finding stripers hidden among the rocks or in the nearby woods. In one case, EPO arrested a person who was buying fish from recreational fishermen then driving to a campground and selling the fish to campers at an inflated price.

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BREAKING: WATCH LIVE: GOVERNOR
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CORONAVIRUS RESPONSE

332 lbs. of striped bass seized on Cape Cod Canal, donated to Salvation Army

By **Ben Thompson** Globe Correspondent, August 25, 2017, 10:48 a.m.



Massachusetts Environmental Police officers seized the striped bass seized Thursday. MASSACHUSETTS ENVIRONMENTAL POLICE

More than 300 pounds of striped bass were seized on the Cape Cod Canal Thursday because of recreational limit violations, according to the Massachusetts Environmental

Police. But rather than throwing the fish away, the fish was donated to the Salvation Army, which turned it into a meal for clients.

The bass were seized while environmental police officers were patrolling the waterway Thursday morning “in response to numerous complaints regarding striped bass violations,” the police said.

While there was a “high level of compliance” from most bass anglers, officers found “numerous violations” of individuals surpassing the state’s possession limit of one fish.

“Officers observed violators loading their vehicles, hiding fish within the rocks and bushes, as well as filleting fish,” police said.

A total of five criminal summonses and “several civil citations” were issued to violators.

Officers seized a total of 332 pounds of striped bass, which were donated to the New Bedford Salvation Army.

Sixteen pounds of striped bass fillets that were seized were not suitable for consumption and were destroyed. Fishing gear was also seized.

Police have been donating fish from seizures to the New Bedford nonprofit’s food pantry for around four years, Salvation Army Major Gilbert Parkhurst said, giving his clients a meal they might not usually be able to enjoy.

“It’s fantastic because otherwise it would’ve just been disposed of. It’s nice because now it’s getting put to use,” he said. “The price of fish has gone up, so most of our clients can’t go in the store and buy the fish.”

He said that the bass were larger than usual.

“Those things are huge,” he said. “I think one of them weighed 50 pounds.”

Ben Thompson can be reached at ben.thompson@globe.com. Follow him on Twitter

Falmouth District Court Fines Northfield Man \$600 for Poaching Stripers

Caught by Environmental Police back in August...

ARTICLE | [Court News](#) | December 15, 2018 05:12 PM | By [CapeCodToday Staff](#)



Striped bass seized from a Northfield man in August along the Cape Cod Canal. (MEP evidence photo)

From the Mass. Environmental Police:

On Friday, December 14, 2018, a Northfield man appeared in Falmouth District Court and was found responsible for various marine fisheries violations occurring on August 15, 2018 at the Cape Cod Canal; he was subsequently ordered to pay \$600 in fines.

On Wednesday, August 15, 2018, Environmental Police Officers responded to complaints of striped bass poaching along the Cape Cod Canal.

An Officer patrolling the Canal observed an individual, who was not carrying a fishing rod, rush to his vehicle and stow a striped bass. The Officer conducted a fisheries inspection and found that the individual was in possession of two striped bass, both with their right pectoral fin intact. The inspection further revealed that the individual was a permitted commercial angler with a striped bass endorsement; however, Wednesday is a closed fishing day for the striped bass commercial fishery. All commercial permit holders are required to immediately remove the entire right pectoral fin on a closed commercial day if the fish is 34 inches or greater. The removal of the pectoral fin marks the fish so that it cannot be sold or enter commerce.

The striped bass were seized and donated to the Plymouth Area Coalition; the individual was criminally summonsed for multiple marine fisheries violations.

6.07: Striped Bass Fishery (*Morone Saxatilis*)

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

The following regulations represent the Commonwealth's response to this cooperative and joint coastal state conservation management effort. The objective of 322 CMR 6.07 is to allow controlled sustained recreational and commercial fishing for striped bass pursuant to the provisions of the ASMFC striped bass 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 35 inches, but may not retain more than one striped bass within any 24-hour period.

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 minimum commercial size of 35 inches, and requires fish to be sold only to dealers licensed and authorized by the Commonwealth.

Finally, 322 CMR 6.07 allows wholesale and retail dealers to purchase and sell striped bass under certain conditions. To purchase striped bass directly from commercial fishermen, wholesale and retail dealers must be authorized as primary buyers of striped bass and must affix a Striped Bass ID Tag to all striped bass at the time of primary purchase from the commercial fisherman. Striped bass imported into the Commonwealth must be marked with a numbered tag that identifies the state of origin and must be accompanied by documents that verify state of origin. Nonconforming (undersized) striped bass that were caught in the wild may be imported into the Commonwealth 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:

Actively Transport means the movement of lawfully caught striped bass by a commercial fisherman permit holder in a motor vehicle or a vessel. For purposes of this regulation, 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.

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

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

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

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

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

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

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

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

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

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

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

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

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.

Open Commercial Fishing Days means Mondays and Wednesdays within the commercial season, excluding Labor Day, when commercial fishermen may harvest or attempt to harvest striped bass. Open fishing days shall not apply to any Monday or Wednesday that falls on July 3rd or July 4th.

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

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

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

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

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

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

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

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

(a) A commercial fisherman shall have issued to him or her by the Director a regulated fishery permit for striped bass, in addition to any other permits required by the Massachusetts General Laws, in the following categories:

1. resident; and
2. non-resident.

(b) A striped bass regulated fishery permit authorizes the named individual and/or a commercial fishing vessel to engage in the harvest, possession, and landing of striped bass for commercial purposes in compliance with 322 CMR 6.07, 7.01: *Form, Use and Contents of Permits* and 7.04: *Commercial Fisheries Control Date*.

(c) A striped bass regulated fishery permit shall be valid only during the striped bass commercial season as provided for in 322 CMR 6.07(4)(b).

(d) A striped bass regulated fishery permit shall be carried by the holder at all times when catching, taking, possessing or selling striped bass, and shall be displayed forthwith on demand of any Environmental Police officer or other official authorized to enforce 322 CMR 6.07.

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

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

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

(b) Commercial fishermen may fish for striped bass only during the commercial season and open fishing days within said season beginning on the first open fishing day on or after June 23rd and ending when the commercial quota is taken or on December 31st, whichever occurs first.

(c) Commercial fishermen engaged in commercial fishing for striped bass may not possess striped bass less than 35 inches in total length. If the number of striped bass aboard a vessel is greater than the number of fishermen, then all striped bass in possession must be greater than 35 inches in total length, and all fishermen must be commercially permitted as described in 322 CMR 6.07(3). Striped bass less than 35 inches in total length shall be returned immediately to the waters from which taken.

(d) Commercial fishermen engaged in striped bass fishing under the authority of a Commercial Fisherman Coastal Lobster, Offshore Lobster or Boat Permit, issued in accordance with 322 CMR 7.01(2) 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). This limit applies to the individual fisherman regardless of the number of commercial striped bass regulated fishery permit endorsements held by the individual or number of trips taken in a day and the vessel regardless of the number of individual commercial striped bass regulated fishery permit endorsement holders onboard or the number of trips taken in a day.

(e) Commercial fishermen engaged in striped bass fishing under the authority of a Commercial Fisherman Individual or Rod and Reel permit, issued in accordance with 322 CMR 7.01(2) or under the authority of a Commercial Fisherman 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). This limit applies to the individual fisherman whether fishing from shore or a vessel, regardless of the number of commercial striped bass regulated fishery permit endorsement assigned to the individual fisherman or the number of trips taken in a day.

(f) All striped bass which are the subject of a first sale shall be in the round, with the head, body and tail fully intact.

(g) Except as provided for in 322 CMR 6.07(5)(f), no striped bass may be filleted or processed in any manner except by evisceration. In all prosecutions or non-criminal citations issued, mutilation of a striped bass which interferes with or affects a proper or adequate measurement of the fish shall be *prima facie* evidence that the striped bass was or is less than 35 inches in total length.

(h) Commercial fishermen shall sell striped bass only to Primary Buyers.

(i) Commercial fishermen shall sell striped bass only during the commercial season and only during the open commercial fishing days within the commercial season.

(j) Commercial fishermen may harvest, catch, or take striped bass by rod-and-reel or handline only.

(k) Commercial fishermen engaged in commercial fishing for striped bass may not fish aboard the same vessel at the same time as recreational fishermen.

(l) 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), (4)(d) and (4)(e).

(m) Commercial fishermen are prohibited from harvesting striped bass from the Cape Cod Canal for commercial purposes or possessing any striped bass 35" 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.

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

(a) Only striped bass measuring at least 28 inches and less than 35 in total length may be retained. Striped bass measuring less than 28 inches or 35 inches or greater in total length shall be released immediately to the waters from which taken. Recreational fishermen shall not mutilate any striped bass in a manner that prevents the accurate measurement of the fish.

(b) Recreational fishermen may retain no more than:

1. one striped bass per day; and
2. may possess no more than one striped bass at any one time.

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

(d) Recreational fishermen may not discard dead striped bass that measure between at least 28 inches but less than 35 inches in total length.

(e) To prohibit the practice of high-grading as defined in 322 CMR 6.07(2), recreational fishermen may not retain legal-sized striped bass and release said fish in favor of another larger legal-sized striped bass captured subsequently. Any legal-sized fish not immediately released into the water and held by stringer, live-well or another means shall be considered intent to high-grade.

(f) Mandatory Use of Circle Hooks. Recreational fishermen fishing from shore or private vessels shall use circle hooks when fishing for striped bass with whole or cut natural baits. This shall not apply to any artificial lure designed to be trolled, cast and retrieved, or vertically jigged with natural bait attached.

(g) Rules Specific to For-hire Vessels.

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

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

2. Use of Circle Hooks. Recreational fishermen fishing onboard for-hire vessels permitted under the authority of 322 CMR 7.10(5): *Permit Requirements Applicable to For-hire Vessels* are not subject to the provisions set forth at 322 CMR 6.07(5)(f) and therefore are not required to use circle hooks during for-hire trips when fishing with whole or cut natural baits.

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

(a) Only Primary Buyers shall purchase striped bass directly from fishermen.

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

- (c) Primary Buyers may not purchase or receive from a commercial fisherman any striped bass which is less than 35 inches in total length.
- (d) Primary Buyers may not purchase, receive or possess from a commercial fisherman any striped bass which has been mutilated in such a way as to interfere with or affect a proper or adequate measurement of the fish.
- (e) Primary Buyers may not purchase or receive from a commercial fisherman any striped bass during the closed fishing days within the commercial fishing season.
- (f) Primary Buyers may not purchase more than a single commercial trip limit of striped bass from any commercial fisherman regardless of the number of commercial striped bass regulated fishery permit endorsements in the possession of the commercial fisherman.
- (g) 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. Prior to departing any ramp, pier, parking lot or other location of primary purchase, the Primary Buyer shall affix a Striped Bass ID Tag through the mouth and gills or through the lower jaw of each striped bass and lock the Striped Bass ID Tag into place.
- b. Striped Bass ID Tags shall remain affixed through the mouth and gills or lower jaw of any whole striped bass or accompany any processed or filleted striped bass while in the possession of any person for the purpose of re-sale.
- c. If a person intends on selling portions of processed or filleted striped bass to a consumer, the tags shall remain on the premise of the seller until all portions are sold to a consumer.
- d. Once all portions of a striped bass are sold, a person shall cut the Striped Bass ID Tag into two pieces and discard it.

- 3. Striped Bass ID Tag Accounting.

- 1. Within 30 days of a written request by the Director, following the close of the commercial season, the Primary Buyer shall:
 - a. return all unused Striped Bass ID Tags issued to the Primary Buyer by the Director for that year; and
 - b. submit a Striped Bass ID Tag Accounting Report, on forms provided by the Director, which documents the disposition of all Striped Bass ID Tags.
- 2. The Director may restrict a dealer from future participation as a Primary Buyer for failure to return all unused Striped Bass ID Tags or submit the Striped Bass ID Tag Accounting Report in accordance with 322 CMR 6.07(6)(g)3.i.

(7) Prohibitions. It shall be unlawful for:

- (a) a recreational fisherman to retain more than one striped bass per day;
- (b) a recreational fisherman to possess more than one striped bass at any one time;
- (c) a recreational fisherman to sell, barter or exchange or offer to sell, barter or exchange any striped bass;
- (d) a recreational fisherman to retain or possess any striped bass less than 28 inches or 35 inches or greater in total length;
- (e) a recreational fisherman to mutilate any striped bass in a manner that prevents the accurate measurement of the fish; such mutilation shall be *prima facie* evidence of a violation of 322 CMR 6.07(7);
- (f) a recreational fishermen to discard dead striped bass that measure between 28 inches but less than 35 inches or longer in total length;
- (g) a recreational fisherman to “high-grade” striped bass or to keep striped bass alive in the water by attaching a line or chain to the fish or placing the fish in a live-well or holding car;
- (h) any person(s), whether from shore or onboard a vessel, to possess striped bass in any quantity exceeding one striped bass per person without a commercial striped bass regulated fishery permit and for those striped bass to violate the commercial management regulations at 322 CMR 6.07(4);
- (i) a for-hire vessel, permitted in accordance with 322 CMR 7.10(5): *Permit Requirements Applicable to For-hire Vessels*, during a for-hire trip to retain more than one striped bass for each person onboard;
- (j) a commercial fisherman to sell striped bass to any person other than a Primary Buyer.
- (k) a non-resident commercial fisherman to possess more than one striped bass upon leaving Massachusetts;
- (l) a commercial fisherman to catch, take, possess, sell, barter, exchange or attempt to sell, barter or exchange any striped bass without having issued to him or her a valid permit to do so;
- (m) a commercial fisherman to catch, take, possess, sell, barter, exchange or attempt to catch, take, possess, sell, barter or exchange any striped bass for commercial purposes once the commercial quota is reached and the commercial fishery is closed, or to retain, possess or land more than one striped bass during the closed commercial fishing days;
- (n) a commercial fisherman to sell, barter, exchange or attempt to sell, barter, exchange any striped bass during the closed commercial fishing days within the commercial season;
- (o) a commercial fisherman 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 fisherman fishing under the authority of a Commercial Fisherman Coastal Lobster, Offshore Lobster or Boat Permit, issued in accordance with 322 CMR 7.01(2)(a), (c), (d) and (e) and onboard the registered vessel listed on the permit, to take, possess, land, offer for sale or sell more than 15 striped bass during a single open commercial fishing day. This shall apply to the individual fisherman regardless of the number of commercial striped bass regulated fishery permit endorsements held by the individual or number of trips taken in a day and the vessel regardless of the number of commercial striped bass regulated fishery permit endorsement holders aboard;
- (q) any commercial fisherman fishing under the authority of a Commercial Fisherman Individual or Rod and Reel Permit, issued in accordance with 322 CMR 7.01(2)(h): *Individual*, (i): *Shellfish/Rod and Reel* and (j): *Rod and Reel*, or under the authority of a Commercial Fisherman Coastal Lobster, Offshore Lobster or Boat Permit, issued in accordance with 322 CMR 7.01(2)(a), (c), (d) or (e), while fishing from shore or anywhere other than the registered vessel listed on the permit, to take, possess, land, offer for sale or sell more than two striped bass during a single open commercial fishing day. This shall apply to the individual commercial fisherman whether fishing from shore or from a vessel

regardless of the number of commercial striped bass regulated fishery permit endorsement holders aboard or trips taken in a day;

(r) a commercial fisherman to fillet or process any striped bass other than by evisceration;

(s) a commercial fisherman to mutilate any striped bass in such a way as to interfere with or affect a proper or adequate measurement of the fish;

(t) a commercial fisherman to participate in the primary purchase of any striped bass which is not in the round, or which has had the head or tail removed;

(u) a commercial fisherman 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 fisherman any striped bass which is less than 35 inches in total length;

(x) any Primary Buyer to purchase or receive from a commercial fisherman any striped bass after the open commercial season has closed or on any calendar day that is not an open commercial fishing day;

(y) any Primary Buyer to fail to report all striped bass purchases from commercial fishermen as prescribed by the Director;

(z) any commercial fishermen 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) commercial fishermen to discard dead striped bass that are 35 inches or greater in total length;

(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) a dealer to purchase a striped bass that has had its right pectoral fin entirely removed.

(mm) for any recreational angler to use any device other than a non-lethal device to remove a striped bass from the water or assist in the releasing of a striped bass.

(mm) for any commercial fisherman fishing on an open commercial fishing day to gaff a

striped bass or attempt to use a gaff to remove a striped bass from the water that is less than 35 inches total length.

(nn) for any recreational fishermen fishing from shore or a private vessel to use any type of hook other than a circle hook when fishing for striped bass with whole or cut natural baits. This prohibition shall not apply to any artificial lure designed to be trolled, cast and retrieved, or vertically jigged with a natural bait attached.

(oo) any person to retain or possess striped bass taken from the Cape Cod Canal that measure 35" total length or larger.

(pp) any person to retain or possess more than one striped bass taken from the Cape Cod Canal during any calendar day.

(qq) Any person to possess any striped bass measuring 35" 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.

(rr) 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.

(ss) Any commercial fisherman to retain or possess any striped bass taken from the Cape Cod Canal for sale or attempted sale that was.