

Draft Strikethrough Surf Clam Regulations

322 CMR 4.06

(3) Night Closures. [deleted] ~~Within the waters under the jurisdiction of the Commonwealth, it shall be unlawful for any vessel using mobile gear to conduct any night fishing.~~ [inserted] **Except as provided at 322 CMR 6.08, it shall be unlawful for any vessel using mobile gear within the waters under the jurisdiction of the Commonwealth to conduct any night fishing.**

322 CMR 6.08 Surf Clam and Ocean Quahog Fisheries

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

[inserted] **Aquaculture means the planting and raising of shellfish at a specific location, licensed in accordance with G.L. c. 130, §57 which results in the commercial production of shellfish.**

[inserted] **Aquaculturist means any person permitted by the Division pursuant to G.L. c. 130, §§2, 17B, and 80 and 322 CMR 7.01(4)(c) and 15.04 to plant and raise shellfish at a specific location, licensed in accordance with G.L. c. 130, §57, which results in the commercial production of shellfish.**

Batch means all shellfish in each separate container.

[inserted] **Bay Scallop means that species of shellfish known as *Agropectin irradians*.and may be commonly referred to as a scallop.**

[inserted] **Bay Quahog means that species of shellfish known as *Mercenaria mercenaria*.and may be commonly referred to as quahog or hard clam.**

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

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

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

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

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

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

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

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

the swath or overall width of the path from which surf clams or ocean quahogs are taken.

[inserted] **Night Fishing** means fishing 1/2 hour after sunset to 1/2 hour before sunrise during the period of March 1st through October 31st, or from 6:00 P.M. to 6:00 A.M. during the period of November 1st through the last day of February.

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

Surf Clam means that species of shellfish known as *Spisula solidissima* [inserted] **and may be commonly referred to as a sea clam.**

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

[deleted] ~~**(2) Management Areas. The following prohibitions shall apply to the following areas:**~~

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

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

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

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

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

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

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

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

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

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

~~(k) Dredging for surf clams or ocean quahogs is prohibited from May 15th through October 15th within an area beginning at Manomet Point in Plymouth, at 41° 55' latitude and 70° 32.2' longitude; thence heading due east for 2.5 miles along the~~

~~41°55' parallel to where it intersects with 70°29' longitude; thence due south along the 70°29' meridian to where it intersects with the shoreline in the town of Sandwich; thence following the shoreline back to the initial point.~~

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

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

~~CHART 322 CMR 6.08(2)~~

~~[Click to view image](#)~~

[inserted] **(2) Management Areas Closures.**

(a) Public Health Closures. In accordance with G.L. c. 130, §74, 74A, and 75 and 322 CMR 16.03, it shall be unlawful to commercially fish for surf clams and ocean quahogs within any shellfish growing area not classified as Approved or Conditionally Approved and in the open status thereby accommodating the harvest of shellfish for direct human consumption.

- 1. Exception.** This shall not apply to any vessel lawfully participating in the contaminated bait fishery for surf clams, as set forth at 322 CMR 6.08(7).

(b) Year-Round North of Hull. It shall be unlawful to fish for surf clams or ocean quahogs with dredge gear within any waters under the jurisdiction of the Commonwealth north of an imaginary line drawn from Point Allerton, Hull and

thence seaward along an imaginary line due east to the territorial extent of the waters under the jurisdiction of the Commonwealth.

1. **Exceptions.** Notwithstanding the foregoing and pursuant to the authority at G.L. c. 130, §17(3) and (4), the Division may:

a. **Authorize Vessels to Investigate the Viability of Commercial Dredge Fishing.** Authorize a vessel or vessels to fish with dredge gear for surf clams and ocean quahogs in the waters within the year-round closure north of Hull to investigate the magnitude of surf clam and ocean quahog resources and determine if a commercial dredge fishery may be viable. In any such instance, the Division shall contact all affected municipalities to notify them of the investigation.

A. **Declare Temporary Openings for Commercial Dredge Fishing.** Through the declaration process described below, the Division may temporarily open certain waters within the year-round closure north of Hull to surf clam and ocean quahog dredge fishing, provided that:

i. The Division has advertised and conducted a two-week written public comment period, with notification published on the Division's website, via the Division's e-mail listserve, and sent directly to any affected municipality.

ii. A majority of the Marine Fisheries Advisory Commission has approved the adjustments.

iii. The Division has filed a Notice of Declaration with the Massachusetts Register, published it in at least one newspaper, emailed it via the Division's email listserve, and posted it on the Division's legal notice website.

iv. The Division has notified all commercial fishing permit holders who hold a regulated fishery permit endorsement for surf clam/ocean quahog dredge or contaminated surf clam issued pursuant to 322 CMR 7.01(2) and (4).

(c) **Year-Round Near-shore Habitat and Management Closures.** It shall be unlawful to fish for surf clams or ocean quahogs with dredge gear within any waters under the jurisdiction of the Commonwealth shoreward of those

boundaries delineated, mapped, and published by the Division at the website of record: www.mass.gov/marinefisheries.

1. Annual Notice of Boundary Lines to Permit Holders. The boundaries lines delineated, mapped, and published by DMF shall be provided annually to all commercial fishing permit holders who hold a regulated fishery permit endorsement for surf clam/ocean quahog dredge or contaminated surf clam issued pursuant to 322 CMR 7.01(2) and (4).

2. Declaration Process for Amending Coordinates. DMF may amend the delineated, mapped, and published boundary lines at the request of a municipality or the public; in response to emerging user group conflicts; to reflect updates to the eel grass maps published by the Department of Environmental Protection; or to protect, restore, and sustain benthic habitats of critical importance to the Commonwealth. This shall be done in accordance with the process below:

i. The Division has advertised and conducted a two-week written public comment period with notification published on the Division's website, via the Division's e-mail listserve, and sent directly to any affected municipality and all commercial fishing permit holders who hold a regulated fishery permit endorsement for surf clam/ocean quahog dredge or contaminated surf clam.

ii. A majority of the Marine Fisheries Advisory Commission has approved the adjustments.

iii. The Division has filed a Notice of Declaration with the Massachusetts Register, published it in at least one newspaper, emailed it via the Division's email listserve, and posted it on the Division's legal notice website.

iv. The Division has updated the website of record and notified all commercial fishing permit holders who hold a regulated fishery permit endorsement for surf clam/ocean quahog dredge or contaminated surf clam issued pursuant to 322 CMR 7.01(2) and (4).

(d) Seasonal User Group Conflict Closures. It shall be unlawful to fish for surf clams or ocean quahogs with dredge gear from May 15 through October 15:

1. Southwestern Cape Cod Bay. Within an area beginning at the shoreline at Manomet Point in Plymouth at 41° 55' latitude; thence heading due east for 2.5 miles along the 41°55' parallel to where it intersects with 70°29' longitude; thence due south along the 70°29' meridian to where it intersects 41°48' latitude; thence due east along the 41°48' parallel to where it intersects with the 70° 11' longitude; thence due south along the 70° 11' meridian to where it intersects with the shoreline in Dennis; thence following the shoreline back to Manomet Point in Plymouth.

2. Herring Cove. Within an area beginning at the shoreline at Race Point in Provincetown at 42° 3.778'N latitude; thence in a straight line in a southwesterly direction to where it intersects with 42° 316 N latitude and 70° 15.136' W longitude; thence in a straight line in a south southeasterly direction to where it intersects with 42° 0.748' N latitude and 70° 12.2' W longitude; thence in a straight line in a northeasterly direction to the shoreline at Wood End in Provincetown at 42°1.168' N latitude.

(e) Temporary Time-Area Closures. Through the declaration process described below, the Division may temporarily close areas to commercial fishing for surf clams or ocean quahogs with dredge gear, provided that :

1. The Division has advertised and conducted a two-week written public comment period with notification published on the Division's website, via the Division's e-mail listserve, and sent directly to any affected municipality and all commercial fishing permit holders who hold a regulated fishery permit endorsement for surf clam/ocean quahog dredge or contaminated surf clam.

2. A majority of the Marine Fisheries Advisory Commission has approved the adjustments.

3. The Division has filed a Notice of Declaration with the Massachusetts Register, published it in at least one newspaper, emailed it via the Division's email listserve, and posted it on the Division's legal notice website.

4. The Division has notified all commercial fishing permit holders who hold a regulated fishery permit endorsement for surf clam/ocean quahog dredge or contaminated surf clam issued pursuant to 322 CMR 7.01(2) and (4).

(f) The data provided from the electronic vessel trackers, required pursuant to G.L. c. 130, s. 21 and 322 CMR 7.11(2) shall be presumed to be valid for the purposes enforcing all management area closures set forth at 322 CMR 6.08(2).

[inserted] (3) Permit Requirements. Pursuant to G.L. c. 130, §§1A and 52, it shall be unlawful for any person or vessel to commercially fish for surf clams and ocean quahogs except as authorized by the permitting requirements herein:

(a) A commercial shellfish permit or regulated fishery permit endorsement for shellfish, issued in accordance with G.L. c. 130, §§ 2 and 80 and 322 CMR 7.01(2) and 7.01(4), is required to retain, possess, or land surf clams and ocean quahogs in the Commonwealth of Massachusetts for human consumption.

(b) A surf clam and ocean quahog dredge regulated fishery permit endorsement, issued in accordance with G.L. c. 130, §2 and 80 and 322 CMR 7.01(4), is required to fish for surf clams and ocean quahogs with dredge gear and retain, possess, or land surf clams and ocean quahogs caught with dredge gear within the waters under the jurisdiction of the Commonwealth, except as provided at 322 CMR 6.08(7).

(c) A contaminated surf clam regulated fishery permit endorsement, issued in accordance with G.L. c. 130, §§ 2 and 80 and 322 CMR 7.01(4), is required to fish for surf clams with dredge gear and retain, possess, or land surf clams and ocean quahogs with dredge gear within those waters under the jurisdiction of the Commonwealth classified by the Division as Prohibited under G.L. c. 130, § 74 and 74A and 322 CMR 16.03, for the exclusive purpose of sale as bait.

[deleted] ~~(3)~~ [inserted] (4) Surf clam restrictions. The following restrictions shall apply to vessels dredging for surf clams in waters under the jurisdiction of the Commonwealth pursuant to a surf clam and ocean quahog dredge regulated fishery permit endorsement.

(a) Surf Clam Trip Limits.

- 1. It [deleted] ~~is~~ [inserted] **shall be** unlawful for any vessel to catch or harvest greater than 200 bushels of surf clams per 24 hour day.**
- 2. It [deleted] ~~is~~ [inserted] **shall be** unlawful for any vessel to catch, harvest, possess, have on board, land or offload greater than 400 bushels of surf clams per 48 hour period, or at any time while fishing or having fished in waters under the jurisdiction of the Commonwealth during any trip.**

3. Vessels properly licensed to do so may land surf clams legally [deleted] ~~taken outside the territorial waters of the Commonwealth~~ [inserted] **caught and retained outside of the waters under the jurisdiction of the Commonwealth** in excess of the trip limit established by 322 CMR [deleted] ~~6.08(3)(a)~~ [inserted] **6.08(4)(a)** provided that no vessel engaged in fishing for surf clams within [deleted] ~~territorial waters~~ [inserted] **the waters under the jurisdiction of the Commonwealth** may [inserted] **retain or** possess [deleted] ~~or have on board~~ more than the prescribed limit.

(b) Surf Clam Gear Restrictions.

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

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

1. Exemption for Federal Permit Holders. [deleted] ~~Commercial fishermen~~ [inserted] **Vessels** in possession of a federal surf clam permit may possess and land surf clams that do not comply [deleted] ~~322 CMR 6.08(3)(c) with~~ [inserted] **this minimum size**, provided said surf clams [deleted] ~~are caught lawfully~~ [inserted] **were lawfully caught and retained** in federal waters [inserted], **the vessel does not engage in fishing for surf clams within the waters under the jurisdiction of the Commonwealth when in possession of non-conforming sized surf clams**, and the dredge gear is stowed when transiting [deleted] ~~state waters~~ [inserted] **the waters under the jurisdiction of the Commonwealth** in possession of nonconforming surf clams.

2. Exemption for Dealers. Dealers [inserted] **lawfully permitted in accordance with G.L. c. 130, §80 and 322 CMR 7.01(3)** may obtain,

possess, and process surf clams that do not comply with [deleted] ~~322 CMR 6.08(3)(c). However,~~ [inserted] **this minimum size provided that** all batches of [inserted] **non-conforming sized** surf clams must have been lawfully [deleted] ~~taken from~~ [inserted] **caught and retained in** federal waters or from the waters under the jurisdiction of another state. All containers of [inserted] **non-conforming sized** surf clams must retain their original shellfish harvest tags and the origin of all containers of surf clams must be determinable through a federal trip report or bill of lading.

3. Exemption for Aquaculture Reared Product. No aquaculturist or [deleted] ~~his or her~~ [inserted] **their** licensed employee shall possess for commercial purposes or sell aquaculture reared surf clams less than 1 1/2 inches in longest diameter. In addition to the shellfish tagging requirements at [deleted] ~~322 CMR 16.03: Tagging of Shellfish,~~ **322 CMR 16.05**, all aquaculturists or their licensed employees shall include the statement "Aquaculture Reared" or "Farm Raised" on all shellfish tags that are affixed to containers that hold aquaculture reared ~~quahogs or oysters~~ **surf clams** that do not conform [deleted] ~~to the minimum size at at 322 CMR 6.08(3)(c).~~ [inserted] **this minimum size.**

[inserted] **(d) Night Fishing Exception. It shall be unlawful for any permit holder with a surf clam and ocean quahog dredge regulated fishery permit endorsement to conduct night fishing with dredge gear for surf clams within the waters under the jurisdiction of the Commonwealth except during the period of February 1 – April 30.**

[deleted] ~~(4)~~ [inserted] **(5) Ocean Quahog Restrictions.** [inserted] **The following restrictions shall apply to vessels dredging for ocean quahogs in waters under the jurisdiction of the Commonwealth pursuant to a surf clam and ocean quahog dredge regulated fishery permit endorsement.**

(a) Ocean Quahog Trip Limits.

1. It shall be unlawful for any vessel to catch, harvest, possess, or land greater than eight cages (256 bushels) of ocean quahogs during any 24-hour period.
2. Vessels properly licensed to do so may possess and land ocean quahogs legally taken from waters outside the jurisdiction of the Commonwealth in excess of the trip limit established by 322 CMR [deleted] ~~6.08(4)(a)1-~~ [inserted] **6.08(5)(a)(1)**, provided that no vessel engaged in fishing for ocean

quahogs within the waters under the jurisdiction of the Commonwealth may [inserted] **retain or** possess more than the prescribed limit.

(b) Ocean Quahog Gear Restrictions.

1. It [deleted] **is** [inserted] **shall be** unlawful for any vessel to operate with any hydraulic dredge with an effective fishing width greater than 48 inches.

2. It [deleted] **is** [inserted] **shall be** for any vessel to operate more than one dredge while harvesting ocean quahogs.

[deleted] **3. It is unlawful for any vessel rigged for the harvest of ocean quahogs to possess or have onboard surf clams.**

[inserted] (c) Night Fishing Exception. It shall be unlawful for any permit holder with a surf clam and ocean quahog dredge regulated fishery permit endorsement to conduct night fishing with dredge gear for ocean quahogs within the waters under the jurisdiction of the Commonwealth except during the period of February 1 – April 30.

[inserted] (6) Restrictions on Incidental Catch of Municipally Managed Shellfish Species. It shall be unlawful for any vessel using dredge gear to fish for surf clams or ocean quahogs within the waters under the jurisdiction of the Commonwealth to retain, possess, or land any shellfish species managed by a municipality pursuant to G.L. c. 130, §52 unless said vessel is lawfully licensed by the municipality where fishing is being conducted and the shellfish are being possessed and landed. This includes, but is not limited to the retention, possession, and landing of bay scallops and bay quahogs. If such an incidental catch occurs the shellfish may not be possessed for any period longer than is necessary to return the animals to the water.

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

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

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

[deleted] **(6) Prohibitions:**

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

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

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

[deleted] ~~(7)~~ [inserted] **(6) Fishing in Contaminated Areas** [inserted] **for Bait**. The following conditions apply to the harvest of surf clams for bait purposes from contaminated areas classified as PROHIBITED by the Division pursuant to G.L. c. 130, §§74 and 74A and 322 CMR 16.03.

(a) Permits. [inserted] **The permitting requirement set forth at 322 CMR 6.08(3)(c) applies.** [deleted] ~~A regulated fishery permit endorsement issued by the Director pursuant to 322 CMR 7.01(4)(a): Regulated Fishery Permit. Endorsement is required to fish in contaminated areas for surf clams.~~

(b) Tagging and Labeling. All bags and containers used for contaminated surf clams shall be tagged or labeled on the vessel, before landing, with a waterproof red tag or label bearing the following information: CONTAMINATED SHELLFISH - FOR BAIT PURPOSES ONLY – [deleted] ~~Permit #- (area)~~ [inserted] **the commercial shellfish permit identification number assigned by the Division – the most specific alpha-numeric sequence, including any decimals, that describes the shellfish growing area name and number from where the shellfish was harvested.**

(c) Gear Restrictions. Dredges used for the harvest of contaminated surf clams shall conform to specifications established by 322 CMR [deleted] ~~6.08(3)(b)3~~ [inserted] **6.08(4)**. All pumps shall be equipped with mufflers adequate to prevent excessive noise. All other methods of harvest must be approved in writing by the Division.

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

(e) Landing Restrictions. All shellfish harvested from specified contaminated areas shall be landed at a location to be named on the permit, and distributed according

to conditions listed on the permit. Any transportation of contaminated surf clams shall be by a method and route approved by the Division in writing.

(f) Landing Limits. No [deleted] ~~person authorized under this 322 CMR 6.08(7) to~~ [inserted] **person or vessel lawfully permitted to** fish for contaminated surf clams may [deleted] ~~harvest, possess or offload~~ [inserted] **retain, possess, or land** more than 50 bushels of shellstock or 100 gallons of shucked clams during any 24-hour day.

(g) Reporting Requirements. [deleted] ~~All persons authorized under 322 CMR 6.08(7) shall follow the reporting requirements established by 322 CMR 6.08(5)(a), except that a daily record of sales shall be kept and produced upon demand for inspection by any person authorized to enforce 322 CMR 6.08-~~ [inserted] **In addition to the reporting requirements established by the Division pursuant to G.L. c. 130, §21, any person lawfully permitted to fish for contaminated surf clams shall keep a daily record of sales that shall be produced upon demand by inspection by any person so authorized by G.L. c. 130.**

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

[deleted] ~~(i)~~ [inserted] **(h) Permit Restrictions**. No person [inserted] **or vessel lawfully permitted to** [deleted] ~~authorized~~ to fish for contaminated surf clams [deleted] ~~under 322 CMR 6.08(7)~~ may hold a Shellfish Transaction Card issued pursuant to 322 CMR 7.01(2)(k): Shellfish.Transaction.Card.

[inserted] **(2) Electronic Tracking Devices for Surf Clam and Ocean Quahog Dredge Permit Holders.**

(a) **Purpose.** To ensure compliance with critical public health, habitat, and management area closures at 322 CMR 6.08, the Division is requiring commercial fishers who are fishing with dredge gear for surf clams and ocean quahogs to install and maintain an operable electronic tracking device onboard their vessel.

(b) **Definitions.** For the purposes of 322 CMR 7.11(2), the following terms shall have the following meanings:

Commercial Fisher means those persons who hold a commercial fishing permit and a regulated fishery permit endorsement for surf clam ocean quahog dredge or contaminated surf clam, issued in accordance with G.L. c. 130, §§2 and 80 and 322 CMR 7.01(2) and 7.01(4).

Division means the Division of Marine Fisheries.

Electronic Tracking Device means an electronic device approved by the Division and used to track vessel location and collect and transmit spatial data to the Division.

Install means to place and fix an electronic tracking device onboard a vessel so that it is operable and ready for use.

Tamper means any activity that may affect an electronic tracking device's ability to operate or signal properly, or to accurately compute or report the vessel's position.

(c) **Requirements for the Installation and Maintenance of an Operable Electronic Tracking Device.** Effective January 1, 2027, an electronic tracking device in good working order shall be installed, activated, and maintained onboard any vessel named on a commercial fishing permit with a regulated fishery permit endorsement for surf clam/ocean quahog dredge or contaminated surf clam.

(d) **Prohibitions.** It shall be unlawful to:

1. Fish for surf clams or ocean quahogs with dredge gear within the waters under the jurisdiction of the Commonwealth without an electronic tracking device required pursuant to 322 CMR 7.11(2)(c).

2. Remove the electronic tracking device from the vessel or to power down the electronic tracking device while the vessel is in the water, regardless of activity type, area fished, or target species.

2. Tamper with any electronic tracking device or signal submitted by an electronic tracking device.

3. Install any electronic tracking device not approved by the Division for the purposes of complying with 322 CMR 7.11(2)(c).

(f) Exceptions.

1. The Division may issue a Letter of Authorization and Statement of Permit Conditions, pursuant to M.G.L. c. 130, § 80 and 322 CMR 7.01(7), allowing commercial fishers to power down their electronic tracking device or fish with an inactive electronic tracking device. This authorization may only be issued in response to a device failure, vessel haul-out, or other similar malfunction of the vessel or the electronic tracking device. The authorization will be issued for a discrete period of time that considers the nature of the anticipated repair.