

Winter 2023 Commercial Omnibus Draft Rules Strikethrough Regulations

4.01: **Reserved** ~~Use of Purse Seines in Cape Cod Bay~~

~~(1) Rules and Regulations Governing the Use of Purse Seines in Cape Cod Bay, adopted under provisions of M.G.L. c. 30A and M.G.L. c. 130, §§ 2, 17A and 104.~~

~~(2) Restricted Area. No person shall fish with purse seines in Cape Cod Bay shoreward of an imaginary straight line drawn from Sesuit Harbor in Dennis, northerly to the #1 buoy on Billingsgate Shoal, thence northeasterly to Jeremy Point in Wellfleet, unless that person holds a Letter of Authorization that may be issued by the Director.~~

4.06: Use of Mobile Gear

(7) Use of Purse Seines.

(a) Permitting Requirements.

- 1. Use of Purse Seine Gear Within Inshore Restricted Waters.** Pursuant to 322 CMR 4.02 and 7.01(4), an Inshore Net Permit is required for any commercial fisher to set, fish, or haul a purse seine within inshore restricted waters defined at 322 CMR 4.02.
- 2. Use of Purse Seine Gear Seaward of Inshore Restricted Waters.** Pursuant to 322 CMR 7.01(4), a CAP-Purse Seine permit is required for any commercial fisher to set, fish, or haul a purse seine within waters under the jurisdiction of the Commonwealth seaward of inshore restricted waters defined at 322 CMR 4.02.

(b) Restrictions on Use of Purse Seine Gear.

- 1. Waters Under the Jurisdiction of the Commonwealth.** It shall be unlawful to set, fish, or haul a purse seine within waters under the jurisdiction of the Commonwealth:
 - a. On Saturdays, Sundays, Memorial Day, the 4th of July, and Labor Day.**
 - b. From ½ hour after sunset to ½ hour before sunrise during the period of March 1 – October 31 or from 6PM to 6AM during the period of November 1 through the last day of February.**
 - c. within the waters of Cape Cod Bay shoreward of an imaginary straight line drawn from western breakwater at Sesuit Harbor in Dennis, thence in a northerly direction to the #1 buoy on Billingsgate Shoal, thence in a northeasterly direction to the southernmost tip of Jeremy Point in Wellfleet.**
- 2. Within Inshore Restricted Waters.** Within the inshore restricted waters defined at 322 CMR 4.02, it shall be unlawful to set, fish, or haul a purse seine:
 - a. year-round within the waters of Buzzards Bay, as defined at 322 CMR 4.02.**
 - b. on Fridays within the waters of Beverly Harbor, as defined at 322 CMR 4.02.**
- 3. Within Boston Harbor.** Within the inshore restricted waters of Boston Harbor, as defined at 322 CMR 4.02, it shall be unlawful to set, fish, or haul a purse seine:
 - a. within the waters of the Charles River upstream of an imaginary straight line drawn from Pier 4 in Charlestown to the easternmost Coast Guard Pier in Boston.**
 - b. within the waters of the Mystic River upstream of an imaginary straight line drawn from the end of the Massport concrete pier to the white storage tanks at the Exxon Terminal.**
 - c. within the waters of the Chelsea River upstream of the Andrew McCordle Bridge.**

d. within the waters of Dorchester Bay shoreward of an imaginary straight line drawn from UMASS Boston to the Corita Gas Tank.

e. within the waters of the Neponset River upstream of the Southeast Expressway.

f. within the waters of Marina Bay in Quincy shoreward of the breakwater.

g. within the waters of the Weir River upstream of Red Nun "8".

h. within the waters of Winthrop Harbor shoreward of an imaginary straight line beginning at the southern end of Cottage Park Yacht Club in Winthrop south to the "1" day marker and then east to Coughlin Park, Winthrop.

i. within any area designated as an "A Anchorage Area" described on NOAA Chart #13270

i. Exception: A commercial fisher may fish with purse seines within the "Anchorage Area A" on NOAA Chart #13270 off Merrymount in Quincy.

4. Permit Conditions. Pursuant to the authority at G.L. c. 130, §80 and 322 CMR 7.01(7), the Director may establish permit conditions affecting the use of purse seines as necessary and appropriate for purposes of conservation and management or to protect the public health, welfare and safety.

(8) ~~(7)~~ Experimental Fisheries. The Director may, at his or her discretion, authorize the use of nonconforming trawls. This will be done to collect data to determine if certain gear modifications may be appropriate. Permit holders must request and obtain a Letter of Authorization to participate in any authorized experimental fishery.

(9) ~~(8)~~ Declaration of Temporary Mobile Gear Closures. The Director may declare temporary mobile gear closures within the waters under the jurisdiction of the Commonwealth, if the Director has determined that the closure is necessary to immediately resolve gear conflicts due to high densities of fixed fishing gear or to protect high densities of molted lobsters.

(a) Procedure for Declaring Temporary Mobile Gear Closures. The declaration of a temporary closure is not effective until:

1. It has been approved by a majority of the Marine Fisheries Advisory Commission.
2. A notice of closure has been filed with the Massachusetts Register and published or posted in conspicuous places accessible to fishermen. The notice of closure must state:
 - a. a determination of need or basis for the closure;
 - b. the exact area to be closed;
 - c. the duration during which the closure will be in effect.
3. During the temporary closure the Director shall consider comments on the closure by the public or a state or federal agency. Based on these written comments the Director may alter, amend or rescind the closure in accordance with this procedure.

(10) ~~(9)~~ Gear Retrieval. Any vessel using mobile gear whose gear becomes entangled with ghost gear may haul said ghost gear on board for the purpose of identification and shall return the ghost gear to the rightful owner, if authorized in writing by said owner of the ghost gear.

(11) ~~(10)~~ Prohibitions. It shall be unlawful:

- (a) to violate any provision of 322 CMR 4.06;
- (b) for any vessel or its occupants to molest, damage, destroy, cut or deface any fixed and stable fishing gear;
- (c) for any vessel or its occupants to possess any ghost gear without proper written authorization of the owner;
- (d) for any vessel to retain, possess or land any lobsters harvested by mobile gear within the waters under the jurisdiction of the Commonwealth.
- (e) to use in any manner any mobile fishing gear in or possess any fish, including finfish, shellfish or crustaceans, harvested from an area which has been closed pursuant to 322 CMR 4.06~~(9)~~~~(8)~~.

6.03: Regulated Multi-species Groundfish

(1) Definitions. For the purpose of 322 CMR **6.03** ~~6.00 only~~, the following words shall have the following meanings:

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

Cod means that species of fish known as Gadus morhua.

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

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

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

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

Haddock means that species of fish known as Melanogrammus aegleinus.

Halibut means that species of fish known as Hippoglossus hippoglossus.

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

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

Monkfish means the species of fish known as Lophius americanus.

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

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

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

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

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

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

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

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

(13) Exceptions to Possession and Size Limits.

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

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

(c) Federal Maximum Retention and Electronic Monitoring Program.

1. Commercial fishers lawfully participating in the maximum retention electronic monitoring program are hereby exempt from the commercial regulated multi-species groundfish minimum size standards set forth at 322 CMR 6.03(2)(a).

2. Dealers who hold a federal northeast multi-species groundfish dealer permit may purchase and possess regulated multi-species groundfish that do not meet the commercial multi-species groundfish minimum size standards set forth at 322 CMR 6.03(2)(a), provided:

a. The fish was landed by vessels lawfully participating in the maximum retention electronic mentioning program.

b. Containers of non-conforming sized fish are clearly marked, labeled, or otherwise identified as holding non-conforming sized fish taken as part of the maximum retention electronic monitoring program, the vessel from which they were offloaded, and the date of offloading.

3. Any person in possession of any non-conforming sized fish or racks of fish shall hold a receipt issued by the dealer. The receipt shall document the name of the dealer the non-conforming sized fish or racks of fish were purchased from and that the non-conforming sized fish or racks of fish were landed as part of the maximum retention electronic monitoring program. The receipt shall remain with the non-conforming sized fish or racks of fish until final point of sale or use.

4. Vessels and dealers participating in the maximum retention electronic monitoring program shall notify the Division if they enter or leave the program.

6.22: Summer Flounder (Fluke) Restrictions

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

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

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

Director means the Director of the Division of Marine Fisheries.

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

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

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

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

Recreational ~~Fishermen~~ Fisher means any person who harvests or attempts to harvest fish for personal or family use, sport or pleasure, which are not to be sold, bartered, or exchanged. ~~Fisherman means fishermen fishing for purposes of personal or family use by angling.~~

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

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

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

(2) Commercial Fishery.

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

(b) Seasonal Quota Allocations. Annually, the quota shall be split with a target allocation of 30% to the Period I fishery and 70% allocated to the Period II fishery. Any unused portion of the

quota from Period I may be re-allocated to Period II. Overharvest of either period allocation may be deducted from the corresponding period in the following year.

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

1. From January 1 through April 22, or until DMF projects 30% of the quota has been reached, whichever occurs sooner, it shall be unlawful for any commercial **fisher fisherman** to retain, possess, or land any summer flounder using any gear other than nets. During this period, **the trip limit for a commercial fisher fisherman using nets shall be 10,000 pounds.** ~~may land up to 3,000 pounds of summer flounder during any calendar day or trip, whichever period of time is longer.~~
2. Once DMF projects 30% of the quota has been reached, **the trip limit** ~~it shall be unlawful~~ for any commercial **fisher fisherman** using nets **shall be 100 pounds.** ~~to retain, possess or land more than 100 pounds of summer flounder during any calendar day or trip, whichever period of time is longer.~~
3. Subject to an annual authorization from the Director, vessels landing in Massachusetts may possess summer flounder in quantities exceeding the limits at 322 CMR 6.22(2)(c)1. and 2., provided the non-conforming fish is to be landed in another state, is clearly labeled identifying the state it is to be landed in, and it remains on the vessel while the Massachusetts limit is being landed.

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

1. **Commercial Fishing with Nets.** ~~Net Fishermen.~~ From April 23 through August 31, **the trip limit for a commercial fisher using nets shall be 800 pounds.** ~~it shall be unlawful for commercial fishermen fishing with net gear to retain, possess, or land more than 500 pounds of summer flounder caught during any trip or calendar day, whichever period of time is longer.~~
2. **Commercial Fishing with Hook and Line Gear.** From April 23 through August 31, **the trip limit for a commercial fisher using hook and line gear shall be 300 pounds.** ~~it shall be unlawful for a commercial fishermen fishing with hook and line gear to retain, possess, or land more than 300 pounds of summer flounder caught during any trip or calendar day, whichever period of time is longer.~~
3. All Gear from September 1 through September 30. Provided DMF projects more than 20% of the quota remains available on September 1, ~~during the period of~~ from September 1 through September 30, **the trip limit for any commercial fisher, regardless of gear type used, shall be 1,000 pounds.** ~~it shall be unlawful for a commercial fisher fisherman to retain, possess, or land more than 800 pounds of summer flounder caught during any trip or calendar day, whichever period of time is longer.~~ If DMF projects 20% of the quota or less remains on September 1, the **trip limit limits** provided at 322 CMR 6.22(2)(d)(1) and (2). shall apply.
4. All Gear from October 1 through December 31. Provided DMF projects more than 5% of the quota remains available on October 1, ~~from~~ **during the period of** October 1

through December 31, the trip limit for any commercial fisher, regardless of gear type used, shall be 10,000 pounds. ~~it shall be unlawful for a commercial fisher fisherman to retain, possess, or land more than 3,000 pounds of summer flounder caught during any trip or calendar day, whichever period of time is longer.~~ If DMF projects 5% of the quota or less remains on October 1, the trip limit for any commercial fisher, regardless of gear type used, shall be 1,000 pounds. ~~it shall be unlawful for a commercial fisher fisherman to retain, possess, or land more than 800 pounds of summer flounder caught during any trip or calendar day, whichever period of time is longer.~~

5. Summer Flounder Limits for Vessels Fishing with Small Mesh Trawls. The trip limit shall be 100 pounds for any commercial fisher ~~it shall be unlawful for a commercial fisher fisherman to retain, possess, or land more than 100 pounds of summer flounder caught during any trip or calendar day, whichever period of time is longer,~~ if fishing with trawl gear and using a net with net mesh less than 5.5" diamond or 6" square throughout the cod end of the net. ~~or if in possession of more than 250 pounds of longfin squid.~~

(e) Quota Closure. It shall be unlawful for any commercial fisher ~~fisherman~~ to retain, possess, land, sell, barter, or exchange or offer for sale, barter, or exchange any ~~or land~~ summer flounder once the Director has determined that 100% of the commercial summer flounder quota has been reached. The quota closure will be enacted and announced in accordance with the procedure set forth at 322 CMR 6.41(2)(c).

~~(f) Vessel Limits. All possession limits set forth at 322 CMR 6.22(2) shall be applied to the vessel per calendar day or per trip, whichever period of time is longer, and regardless of the number of commercial fishing permits or letters of authorization carried onboard the vessel.~~

(f) ~~(g)~~ Offloading Prohibition. ~~Landing Prohibition.~~ It is unlawful for commercial fisher ~~fisherman~~ to offload or attempt to offload land or possess summer flounder from 10:00 P.M. 8:00 P.M. through 6:00 A.M.

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

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

(3) Permitting Requirements. A regulated fishery permit endorsement, issued by the Director pursuant to 322 CMR 7.01(4)(a): Regulated Fishery Permit Endorsement, is required to retain, possess, land, sell, barter, or exchange or offer for sale, barter, or exchange any summer flounder, ~~or fish for, retain, possess or land summer flounder~~ in accordance with summer flounder commercial fishery regulations at 322 CMR 6.22(2).

(4) Recreational Fishery Season and Limits.

(a) Minimum Size. It shall be unlawful for any recreational **fisher fisherman** to retain, possess, or land a summer flounder with a total length of less than 16.5 inches.

(b) Open Season. During the period of May 21 through September 29, it shall be unlawful for any recreational **fisher fisherman** to retain, possess, or land more than five summer flounder per day.

(c) Closed Season. From September 30 through May 20, it shall be unlawful for any **fisher fisherman** to retain, possess, or land any summer flounder.

6.34: Horseshoe Crab Management

(1) Purpose. The Division of Marine Fisheries manages horseshoe crabs in compliance with the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Horseshoe Crabs. Additionally, DMF manages local horseshoe crab populations to ensure the resource is available for current and future generations for use as a commercial fishery resource, in biomedical applications, for education and scientific research, and to provide cultural and ecological services. This requires the Division of Marine Fisheries control harvest and mortality across all fisheries and provide for spawning opportunities. ~~The purpose of 322 CMR 6.34 is to comply with the Interstate Management Plan for horseshoe crabs to manage horseshoe crab population for continued use by current and future generations of the fishing and non-fishing public, including the biomedical industry, scientific and educational research, migratory shorebirds, and, other dependent fish and wildlife. The plan requires the Commonwealth to monitor and control harvest levels by all sectors and conserve crabs through a commercial quota for crabs harvested as bait.~~

(2) Definitions.

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

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

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

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

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

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

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

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

Division means the Massachusetts Division of Marine Fisheries.

~~Commercial Fisherman means any person fishing under the authority of a permit issued in accordance with M.G.L. c. 130, § 80, and 322 CMR 7.01(2) for the purpose of sale, barter or exchange, or to keep for personal use any fish caught under the authority of a commercial fisherman permit.~~

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

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

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

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

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

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

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

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

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

~~(3) Permit. Except as authorized at 322 CMR 6.34(5)(a), (b), and (c), it shall be unlawful for any person to harvest any horseshoe crabs without one of the following permits.~~

~~(a) Regulated Fishery Horseshoe Crab Harvest Permit Endorsement. A regulated fishery horseshoe crab harvest permit endorsement, issued by the Director pursuant to the authority at 322 CMR 7.01(4)(a): Regulated Fishery Permit Endorsement, is needed to retain, possess, land or sell horseshoe crabs in accordance with the limits set forth at 322 CMR 6.34(5)(c) and (d). The holder of regulated fishery horseshoe crab harvest permit endorsement shall not also hold a special biomedical horseshoe crab harvest permit, unless so authorized by the Director in writing to facilitate the harvest of horseshoe crabs for bio-medical purposes.~~

~~(b) Special Biomedical Horseshoe Crab Harvest Permit. Harvesters collecting horseshoe crabs exclusively for use by the biomedical industry for the manufacture of limulus lysate or sale to a permitted scientific institution for research purposes must obtain a special permit issued in~~

~~accordance with 322 CMR 7.01(4)(c): Special Project. The holder of the species biomedical horseshoe crab harvest permit shall not also hold a regulated fishery horseshoe crab harvest permit endorsement, unless so authorized by the Director in writing to facilitate the harvest of horseshoe crabs for bio-medical purposes.~~

(3) General Restrictions.

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

(b) Annual Spawning Closure. From January 1 – May 31, it shall be unlawful for any fisher to retain, possess, or land horseshoe crabs in the Commonwealth.

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

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

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

~~(4) Bait Harvest Quota. The annual quota for horseshoe crabs harvested for bait purposes shall be 165,000 crabs. Horseshoe crabs harvested solely for biomedical or research purposes by harvesters licensed under 322 CMR 6.34(3)(a) which are bled and released alive in the area of capture or used for display or research shall not be counted against the annual quota established by the Atlantic States Marine Fisheries Commission. When 100% of the annual quota is reached, the Division shall file a notice of the horseshoe crab bait fishery closure with the Massachusetts Register, email a notice via the Marine Fisheries Listserv and post a notice on the Division's website.~~

(4) Bait Fishery Management.

(a) Commercial Bait Fishery Quota. The annual bait fishery quota shall be 140,000 horseshoe crabs.

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

(c) Trip Limits for the Commercial Bait Fishery.

1. Limited Entry Bait Crab Trip Limit. Beginning on June 1, the trip limit for any commercial fisher with a regulated fishery permit endorsement for horseshoe crabs shall be 500 horseshoe crabs.

2. Open Entry Bait Crab Limit for Trawlers. Beginning on June 1, the trip limit for any commercial fisher without a regulated fishery permit endorsement for horseshoe crabs shall be 75 horseshoe crabs, provided said horseshoe crabs were taken by trawl gear while participating in the Period II net fishery for summer flounder, as regulated at 322 CMR 6.22(2)(d).

Commercial fishers are prohibited from fishing for, retaining, possessing, or landing horseshoe crabs when not participating in the Period II net fishery for summer flounder, as regulated at 322 CMR 6.22(2)(d), or during calendar days and seasons when the Period II summer flounder fishery is closed to the retention, possession, and landing of summer flounder.

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

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

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

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

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

(e) Closures.

1. Pleasant Bay Complex. It shall be unlawful for any commercial fisher participating in the commercial bait fishery to catch, retain, possess, or land horseshoe crabs taken from the waters within Pleasant Bay, as defined at 322 CMR 4.02.

(f) Primary Purchase of Horseshoe Crabs.

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

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

3. It shall be unlawful for a bait dealer to purchase horseshoe crabs from any commercial fisher from January 1 – May 31 or during the quota closure.

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

~~(5) Possession Limits. Possession limits shall be vessel limits and shall apply, regardless of the number of persons or permit holders aboard a vessel or working in conjunction with a vessel. It shall be unlawful for any person to harvest more than the possession limit in a day regardless of the number of permits held.~~

~~(a) Noncommercial Limit. Except as authorized by 322 CMR 6.34(5)(b) through (f), it shall be unlawful for any person to retain, possess or land more than six horseshoe crabs per day. Any crabs retained pursuant to this limit shall not be sold, bartered, exchanged or offered for sale.~~

~~(b) Open Access Mobile Gear Incidental Horseshoe Crab Limit. Commercial fishermen who hold a Coastal Access Permit for the use of mobile gear, issued in accordance with 322 CMR 7.01(4)(a); Regulated Fishery Permit Endorsement, who do not also hold a limited entry regulated fishery permit endorsement for horseshoe crabs, issued in accordance with 322 CMR 6.34(3)(a) and 7.01(4)(a), may retain, possess, land and sell up to 75 horseshoe crabs taken by mobile gear for bait purposes when participating in the Period II summer flounder fishery, regulated at 322 CMR 6.22(2)(d). This limit shall apply per calendar day or trip, whichever period is longer. Under this allowance, fishermen are prohibited from fishing for, retaining, possessing and landing horseshoe crabs on days and during seasons when the Period II summer fishery is closed to the retention, possession and landing of summer flounder.~~

~~(c) Regulated Bait Crab Harvest Using Mobile Gear. It shall be unlawful for commercial fishermen using mobile gear and permitted to harvest horseshoe crabs for bait purposes in accordance with 322 CMR 6.34(3)(a) and 7.01(4)(a); Regulated Fishery Permit Endorsement, to retain, possess or land more than 300 horseshoe crabs per calendar day or trip, whichever period is longer.~~

~~(d) Bait Crab Harvesters Using Gears Other than Mobile Gear. It shall be unlawful for any commercial fisherman using gears other than mobile gear and permitted to harvest horseshoe crabs for bait purposes, in accordance with 322 CMR 7.01(4)(a); Regulated Fishery Permit~~

~~Endorsement, to take, possess or land more than 400 horseshoe crabs during any 24-hour period beginning at 12:00 P.M.~~

~~(e) Biomedical Crab Harvester. It shall be unlawful for any fishermen permitted to harvest horseshoe crabs for biomedical purposes, in accordance with 322 CMR 7.01(4)(a): Regulated Fishery Permit Endorsement, to take, possess or land more than 1,000 horseshoe crabs during any 24-hour period beginning at 12:00 P.M.~~

~~(f) Exemption. The possession limits set forth at 322 CMR 6.34(5)(b) through (e) shall not apply to:~~

~~1. Pot fishermen, permitted in accordance with 322 CMR 6.12(2) and 322 CMR 7.01(4)(a): Regulated Fishery Permit Endorsement, who are using horseshoe crabs as bait, provided their documented source of bait is a permitted wholesale dealer or authorized dealer or they are held in storage by the fisherman.~~

~~2. Wholesale dealers and bait dealers permitted in accordance with 322 CMR 7.01(3): Dealer Permits.~~

(5) Biomedical and Research Fishery for Horseshoe Crabs.

(a) Biomedical Processor Quota. The biomedical processor quota shall be 200,000 crabs annually. This shall be divided equally between all entities permitted as biomedical processors, in accordance with 322 CMR 7.01(3). Only horseshoe crabs processed by biomedical processors and harvested from within the waters under the jurisdiction of the Commonwealth exclusively by biomedical harvesters for biomedical purposes shall be counted against the biomedical processor quota. The biomedical processor quota shall not include any horseshoe crabs borrowed from a bait dealer for processing or horseshoe crabs imported into the Commonwealth from another jurisdiction.

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

(c) Restrictions Affecting Biomedical Fishers

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

a. have an established relationship with a biomedical dealer or processor to sell horseshoe crabs for biomedical purposes; and

b. hold a commercial fishing permit with the Division, in accordance with G.L. c. 130, §80 and 322 CMR 7.01(2), but do not hold a regulated fishery permit endorsement for horseshoe crabs, issued pursuant to 322 CMR 7.01(4).

2. Permit Conditions. In accordance with G.L. c. 130, §80 and 322 CMR 7.01(7) the Director may further condition a special biomedical horseshoe crab harvest permit as necessary and appropriate for conservation and management, and to protect public health and welfare.

3. Use of Biomedical Horseshoe Crabs. Biomedical fishers shall retain, possess, and land horseshoe crabs only for biomedical purposes and direct sale only to a biomedical dealer or biomedical processor. It shall be unlawful for a biomedical fisher to retain, possess, or land crabs as part of the commercial bait fishery or for personal or family use.

4. Sale of Biomedical Horseshoe Crabs. Biomedical fishers shall sell their horseshoe crabs only to a biomedical dealer or a biomedical processor.

5. Biomedical Fishery Trip Limit. Beginning on June 1, the lawful trip limit for any biomedical fisher shall be 1,000 horseshoe crabs.

6. Prohibition on Retention of Marked Crabs. It shall be unlawful to retain any horseshoe crabs during harvest that have been marked in accordance with 322 CMR 6.34(5)(e)(5)(a). Any horseshoe crabs caught bearing such a mark shall be returned immediately to the sea.

7. Biomedical Processor Quota Closure. It shall be unlawful for any biomedical fisher to retain, possess, or land any horseshoe crabs or for a biomedical dealer or biomedical processor to obtain any horseshoe crabs from a biomedical fisher once the Director has determined that 100% of the annual biomedical processor quota has been reached. The quota closure will be enacted and announced in accordance with 322 CMR 6.41(2)(c).

8. Restrictions Specific to Trawl Gear. Biomedical fishers using trawl gear are subject to the following additional restrictions:

a. A biomedical fisher using trawl gear shall land horseshoe crabs only in a port approved by the Director and listed as a condition of the special biomedical horseshoe crab harvest permit.

b. Each individual tow shall not exceed 30 minutes in length and the winches for the net gear shall be locked.

c. Throughout harvest and until offloading at landing, all horseshoe crabs shall be held in containers that are actively fed by sea water. Containers used for holding horseshoe crabs shall be no more than two-thirds full of horseshoe crabs.

8. Biomedical Fishery Reporting. Beginning in 2024, biomedical fishers participating in the biomedical and research fishery for horseshoe crabs at 322 CMR 6.34(5) shall report their catch electronically daily prior to landing through an electronic reporting application approved by the Division.

(d) Limits on Biomedical Dealers and Biomedical Processors.

1. Biomedical Processor Permit Issuance. Any entity seeking to process horseshoe crabs for biomedical purposes, including but not limited to the bleeding of horseshoe crabs for the production of Limulus Amebocyte Lysate, shall hold a biomedical

processor permit issued by the Division in accordance with G.L. c. 130, § 80 and 322 CMR 7.01(3) and (4)(c). The biomedical processor permit may be authorized as a primary buyer, in accordance with 322 CMR 7.07, to allow for the primary purchase of horseshoe crabs directly from a biomedical fisher.

2. Biomedical Dealer Permit Issuance. Any biomedical processor may contract a biomedical dealer to conduct primary purchases of horseshoe crabs from biomedical fishers. These biomedical dealers shall have an established relationship with a biomedical processor and multiple biomedical processors. The biomedical dealer permit may be authorized as a primary buyer, in accordance with 322 CMR 7.07, to allow for the primary purchase of horseshoe crabs directly from a biomedical fisher.

3. Primary Purchase of Horseshoe Crabs.

- a. The primary purchase of horseshoe crabs may only be between a biomedical fisher and a biomedical processor or biomedical dealer.
- b. It shall be unlawful for a biomedical processor biomedical dealer or a biomedical processor to accept more than 1,000 horseshoe crabs from a biomedical fisher during any calendar day.
- c. It shall be unlawful for a biomedical dealer or biomedical processor to accept horseshoe crabs from a biomedical harvester during the period of January 1 – May 31.
- d. It shall be unlawful for a biomedical dealer or biomedical processor to accept horseshoe crabs from a biomedical harvester during a quota closure.

4. Handling of Horseshoe Crabs for Biomedical Processing. Biomedical dealers and processors are responsible for the proper handling, transport, and storage of horseshoe crabs in their possession.

- a. Horseshoe crabs harvested for the Massachusetts biomedical fishery may be placed in submerged pens or partially submerged pens by biomedical dealers or biomedical processors. All pens are subject to inspection by the Division. If penning activity occurs, it may be further regulated through conditions to the applicable biomedical dealer or biomedical harvester permit, issued pursuant to G.L. c. 130, §80 and 322 CMR 7.01(7).
- b. Containers used for onshore holding, storing, or transporting crabs shall be no more than 2/3 full.
- c. Horseshoe crabs held in containers during onshore holding, storing, and transport shall be kept moist.
- d. It shall be unlawful for a horseshoe crab to be held out of seawater for more than 36 hours.
- e. During onshore transport, horseshoe crabs shall be stored in a temperature-controlled truck or in a temperature-controlled unit onboard a truck. The

thermostat shall be set to between 50°F and 60°F. If the onshore transport of horseshoe crabs cannot be accomplished in a conforming manner, then the biomedical dealer or biomedical processor shall immediately contact the Massachusetts Environmental Police.

f. During onshore holding and storage, horseshoe crabs shall be placed in an indoor air-conditioned space not to exceed 70°F.

g. Horseshoe crabs supplied by biomedical fishers shall be kept separate and segregated from horseshoe crabs from other sources, as required at 322 CMR 6.34(5)(e)(6).

5. Post Processing Release of Horseshoe Crabs. After horseshoe crabs are processed by a biomedical processor, the horseshoe crabs shall be returned to the area of capture in the following manner:

a. The biomedical processor shall mark each processed crab with a distinct mark. The distinct shape and color of each mark shall be prescribed annually by the Division through permit conditions established pursuant to G.L. c. 130, §80 and 322 CMR 7.01(7).

b. It shall be unlawful for any biomedical dealer or biomedical processor to accept any horseshoe crab that bears a distinct mark for the current year or for a biomedical processor to process any horseshoe crab that bears a distinct mark for the current year.

b. If the horseshoe crabs were caught by hand harvesters, they shall be returned to the designated shellfish growing area where they were initially captured.

c. If the crabs were caught by trawlers, they shall be returned to the waters under the jurisdiction of the Commonwealth in or adjacent to the body of water where harvested.

d. The biomedical dealer or biomedical processor may employ a vessel to ensure horseshoe crabs harvested in the biomedical fishery are lawfully returned for live-release back to the sea.

e. The biomedical dealer or biomedical processor shall keep records of observed incidents of horseshoe crab mortality at all stages of processing, including during live-release.

6. Authorized Biomedical Use of Horseshoe Crabs from Sources Other than Massachusetts Biomedical Fishery. Biomedical processors may acquire horseshoe crabs for processing from:

a. **Bait Dealers.** A biomedical medical processor may acquire horseshoe crabs from a bait dealer for processing, provided said horseshoe crabs are returned to the bait dealer after processing for sale as bait.

b. Other States. A biomedical processor may acquire horseshoe crabs from another state, provided those horseshoe crabs are counted against the quota in the state of origin and are lawfully returned to the state of origin for release, if so required.

7. Reporting by Biomedical Dealers and Biomedical Processors.

a. Primary Purchases by a Biomedical Dealer. The biomedical dealer shall weekly report the total number of horseshoe crabs purchased from each biomedical fisher on a trip basis through forms provided by the Division.

b. Primary Purchases by a Biomedical Processor.

i. If the biomedical processor is conducting primary purchases with biomedical fishers, then the biomedical processor shall weekly report the total number of horseshoe crabs purchased from each biomedical fisher on a trip basis through forms provided by the Division.

ii. If the biomedical processor is temporarily using horseshoe crabs harvested for bait crabs, then the biomedical processor shall weekly report the total number of crabs used and source of crabs through forms provided by the Division.

c. Biomedical Processing Activity and Total Mortality. On forms provided by the Division, the biomedical processor shall monthly report the total number of horseshoe crabs processed, source of the horseshoe crabs processed, and total estimated mortality.

~~(6) Biomedical/Research Harvest~~

~~(a) Authorization~~ Biomedical harvest permit holders must sell horseshoe crabs only to a dealer authorized by the Director to receive crabs harvested exclusively for biomedical purposes.

~~(b) Live Release~~

~~1. Biomedical Permit Holders shall return all horseshoe crabs not used for display or research, other than bleeding, alive to the area of capture.~~

~~2. Dealers authorized by the Director to receive crabs harvested exclusively for biomedical purposes shall:~~

~~a. keep horseshoe crabs supplied by biomedical permit holders separate from horseshoe crabs supplied by bait permit holders; and~~

~~b. ensure horseshoe crabs supplied by biomedical permit holders are returned for live release back into the same area of capture.~~

~~(c) Temporary Use of Horseshoe Crabs Harvested for Bait Purposes~~. If a biomedical company or permitted scientific institution chooses to purchase horseshoe crabs from bait dealers:

~~1. the company or institution shall keep records sufficient to show the number and source(s) of said horseshoe crabs;~~

~~2. horseshoe crabs purchased by a biomedical company from bait dealers may be returned to bait dealers to be sold as bait.~~

~~(d) Horseshoe Crabs Imported from Other States for Biomedical Purposes shall be counted against the quota of the producing state or returned to the producing state for release, according to established rules and regulations of the state of origin.~~

~~(7) Closed Days: Lunar Closures. It shall be unlawful to harvest horseshoe crabs within a series of five day periods coinciding with each new and full moon during the period of April 16th through June 30, as published by the U.S. Naval Observatory and adjusted for Eastern Daylight Savings Time. Lunar closures shall commence at 12:00 A.M. two days prior to, and end at 11:59 P.M. two days after the date of the full or new moon.~~

~~(8) Closed Areas.~~

~~(a) Pleasant Bay Complex. All waters within Pleasant Bay, as defined at 322 CMR 4.02(2)(c)9, are closed to the harvest of horseshoe crabs, except as authorized at 322 CMR 6.34(6) for biomedical harvest and research.~~

~~(b) Declaration of Temporary Horseshoe Crab Harvest Closures. The Director may temporarily close any area to the taking of horseshoe crabs subject to the procedure below:~~

~~1. It has been approved by a majority of the members of the Marine Fisheries Advisory Commission;~~

~~2. A Declaration of Closure has been filed with the Massachusetts Secretary of State for publication in the Massachusetts Register;~~

~~3. A Declaration of Closure has been published in a local newspaper of record and posted on the Division of Marine Fisheries' Legal Notice website; and~~

~~4. A Declaration of Closure has been distributed via the Division's e-mail list serve and sent directly to affected permit holders.~~

~~(9) Minimum Size. It is unlawful to possess a horseshoe crab for commercial purposes with a prosomal width of less than seven inches.~~

~~(10) Asian Horseshoe Crab Prohibition. It shall be unlawful to import, transport, purchase, possess, offer for sale or release into state waters Asian horseshoe crab species.~~

6.43: Atlantic Menhaden Management

(1) Purpose. The purpose of 322 CMR 6.43 is to comply with the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Atlantic Menhaden to manage the Atlantic menhaden fishery in a manner that is biologically, economically, socially and ecologically sound, while protecting the resource and those who benefit from it.

(2) Definitions. For the purpose of 322 CMR 6.43, the following terms shall have the following meanings:

Atlantic Menhaden means that species known as *Brevoortia tyrannus* or commonly referred to as pogey or bunker.

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

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

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

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

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

Declare means to file an advisory notification with the *Massachusetts Register* and publish it via the Marine Fisheries electronic mailing list and website.

Director means the Director of the Division of Marine Fisheries.

Division means the Division of Marine Fisheries

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

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

Land means to transfer or attempt to transfer the catch of **Atlantic menhaden** ~~of fish 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 ~~fish~~ **Atlantic menhaden** onboard to tie up to any dock, pier or other artificial structure.

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

Quota means the Commonwealth of Massachusetts annual commercial Atlantic menhaden quota adopted by the Atlantic States Marine Fisheries Commission and amended by required paybacks and authorized quota transfers and rollovers.

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

Trip means the time period that begins when a vessel departs from any land, pier, wharf, dock or other artificial structure to carry out commercial fishing operations, including the at-sea transfer and transport of fish, and that ~~terminates ends~~ with a return to any land, pier, wharf, dock or other artificial structure.

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

(3) Regulated Fishery Permit Endorsement Requirement. It shall be unlawful for any commercial fisher or vessel to **retain, possess, or land** ~~take, land, or possess~~ Atlantic menhaden in excess of 6,000 pounds per trip or per calendar day, whichever **duration period** is longer, without a regulated commercial fishery permit endorsement for Atlantic menhaden issued by the Director, in accordance with 322 CMR 7.01(4)(a): Regulated Fishery Permit Endorsement and managed pursuant to 322 CMR 7.06: Limited Entry Permits.

(4) Commercial Fishing Limits.

(a) Quota Managed Period.

~~1. **Limited Entry Fishery.** Commercial fishermen who have been issued a regulated Atlantic menhaden fishery permit endorsement, in accordance with 322 CMR 6.43(3) and 322 CMR 7.01(4)(a): Regulated Fishery Permit Endorsement, shall adhere to the following trip limits: —~~

~~a. **Until the Director declares that 85% of the commercial menhaden quota has been landed, it shall be unlawful to possess, or land more than 125,000 pounds of menhaden in the coastal waters of the ommonwealth per trip or calendar day, whichever period of time is longer; and**~~

~~b. **Once the Director has declared that 85% of the commercial menhaden quota has been landed, it shall be unlawful to possess, or land more than 25,000 pounds of menhaden in the coastal waters of the Commonwealth per trip or calendar day, whichever period of time is longer.**~~

~~2. **Open Access Fishery.** Commercial fishermen who have not been issued a regulated Atlantic menhaden fishery permit endorsement in accordance with 322 CMR 6.43(3) and 322 CMR 7.01(4)(a): Regulated Fishery Permit Endorsement may participate in an open access fishery for menhaden. For commercial fishermen participating in this fishery, it shall be unlawful to retain, possess, land, sell, barter, or exchange or offer~~

~~for sale, barter, or exchange more than 6,000 pounds of Atlantic menhaden per trip or calendar day, whichever period of time is longer.~~

~~3. Season. Prior to June 1, the possession, retention, and landing of menhaden in excess of the open access fishery limit at 322 CMR 6.43(4)(a)2. is prohibited. This prohibition shall not apply to the possession, retention, or landing of menhaden caught in lawfully set fisher weirs by a commercial fisherman with a fish weir regulated fishery permit endorsement issued by the Director pursuant to 322 CMR 7.01(4)(a).~~

~~4. Quota Closure. Except as provided at 322 CMR 6.43(4)(b) and (c), it shall be unlawful to catch, retain, or land Atlantic menhaden once the Director has determined that 100% of the menhaden quota has been reached. The quota closure will be enacted and announced in accordance with the procedure set forth at 322 CMR 6.41(2)(c).~~

~~(b) Incidental Catch and Small scale Fishery. When the Quota Managed Fishery is closed, commercial fishermen may possess and land up to 6,000 pounds of Atlantic menhaden per trip or calendar day, whichever duration is longer.~~

~~(c) Episodic Event Set Aside Fishery.~~

~~1. Annual Process to Participate in the Episodic Event Set Aside Fishery. When the Quota Managed Fishery is closed, Massachusetts may apply to the Atlantic States Marine Fisheries Commission to participate in the Episodic Events Set Aside Program, as provided for in the Interstate Fishery Management Plan. If Massachusetts is approved by the Atlantic States Marine Fisheries Commission to participate in the Episodic Events Set Aside Program, the Director shall notify commercial fishermen and dealers via the Division's e-mail listserv, posting notice on the agency's website, and filing a legal notice with the Massachusetts Register. Once the Atlantic States Marine Fisheries Commission determines that the Episodic Event Set Aside is exhausted, the closure of the Episodic Event Set Aside Fishery will be enacted and announced in accordance with the process set forth at 322 CMR 6.41(2)(c).~~

~~2. Commercial Fishing Activity during the Episodic Event Set Aside Fishery. The following restrictions shall apply during the Episodic Event Set Aside Fishery:~~

- ~~a. Commercial fishermen who have been issued a regulated Atlantic menhaden fishery permit endorsement, in accordance with 322 CMR 6.43(3), and 322 CMR 7.01(4)(a): Regulated Fishery Permit Endorsement, may possess and land up to 120,000 pounds of Atlantic menhaden per trip or calendar day, whichever duration is longer.~~
- ~~b. All other commercial fishermen may possess and land up to 6,000 pounds of Atlantic menhaden per trip or calendar day, whichever duration is longer.~~
- ~~c. All commercial fishermen participating in the Episodic Event Set Aside Fishery shall only harvest menhaden from the waters under the jurisdiction of the Commonwealth and shall only land in Massachusetts ports.~~

~~d. All commercial fishermen participating in the Episodic Event Set Aside Fishery shall be subject to the daily catch reporting requirements set forth at 322 CMR 6.43(5). e. In accordance with M.G.L. c. 130, § 80, and 322 CMR 7.01(7), the Director may establish commercial fishing permit conditions as necessary to manage the Episodic Event Set Aside.~~

~~(d) Additional Requirements to Comply with 6,000-pound Possession Limits. The following requirements shall apply to any fishery for menhaden regulated at 322 CMR 6.43(4)(a) through (c) that is subject to a 6,000-pound possession and landing limit.~~

~~1. Storage. All menhaden shall be brought aboard the vessel, and upon retention, be immediately stored in level filled barrels or fish totes.~~

~~2. Volumetric Equivalency. A level filled fish tote shall be the equivalent of 117 pounds of menhaden and a level filled barrel shall be the equivalent of 350 pounds of menhaden. 51 level filled fish totes or 17 barrels of menhaden shall be equivalent to the 6,000-pound trip limit.~~

~~3. Maximum Purse Seine Dimensions. It shall be unlawful to use a purse seine to catch menhaden that exceeds 450 feet long by 48 feet deep. The depth of the net will be determined by taking the average size of 20 meshes and counting the total number of meshes by depth.~~

(4) Commercial Fishing During Quota Managed Period.

(a) January 1 – June 14.

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

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

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

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

fish totes or 17 barrels of menhaden shall be the equivalent of 6,000 pounds of Atlantic menhaden.

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

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

- a. Until the Director declares 50% of the annual commercial Atlantic menhaden quota is landed, the trip limit shall be 120,000 pounds.
- b. Once the Director declares 50% of the annual commercial Atlantic menhaden quota is landed, the trip limit shall be 25,000 pounds.
- c. Once the Director declares 85% of the annual commercial Atlantic menhaden quota is landed, the trip limit shall be 6,000 pounds.
- d. It shall be unlawful for any commercial fisher or vessel to land Atlantic menhaden more than once per calendar day.

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

- a. **Trip Limit.** The landing limit for the open access fishery shall be 6,000 pounds. It shall be unlawful for any commercial fisher or vessel to land more than once per calendar day.
- b. **Storage Requirement.** All Atlantic menhaden shall be brought onboard the vessel, and upon retention, be immediately stored in level filled barrels or fish totes. A level filled fish tote shall be the equivalent of 117 pounds of Atlantic menhaden; a level filled barrel shall be the equivalent of 350 pounds of Atlantic menhaden; and 51 level filled fish totes or 17 barrels of menhaden shall be the equivalent of 6,000 pounds of Atlantic menhaden.

3. Use of Carrier Vessels.

- a. The use of a carrier vessel is prohibited except with the prior authorization by the Division. Only those commercial fishers who have been issued a regulated Atlantic menhaden fishery permit endorsement may be authorized by the Division to use a carrier vessel. The Division may authorize the use of a named carrier vessel as a condition of the commercial fishing permit, pursuant to G.L. c. 130, §80 and 322 CMR 7.01(6).
- b. Authorized commercial fishers may use carrier vessels from June 15 until the Director declares that 85% of the annual commercial Atlantic menhaden quota is landed.

- c. Once the Director declares that 85% of the annual commercial Atlantic menhaden quota is landed, the use of carrier vessels is prohibited.
- d. The use of carrier vessels is prohibited year-round within the inshore restricted waters of Boston Harbor, as defined at 322 CMR 4.02.
- e. It shall be unlawful for any carrier vessel to receive, possess, transport, or land Atlantic menhaden during any day closed to purse seining for Atlantic menhaden.
- f. During any calendar day open to purse seining for Atlantic menhaden, it shall be unlawful for a carrier vessel to receive Atlantic menhaden from a commercial fisher in a quantity that exceeds the applicable trip limit at 322 CMR 6.43(4)(b)(1).
- g. It shall be unlawful for a carrier vessel to possess and transport Atlantic menhaden in a quantity that exceeds the applicable trip limit 322 CMR 6.43(4)(b)(1).
- h. It shall be unlawful for a carrier vessel to receive Atlantic menhaden from more than one commercial fisher during any calendar day.
- i. It shall be unlawful for a carrier vessel to land Atlantic menhaden during any calendar day if the commercial fishing vessel it is operating is also landing Atlantic menhaden during that calendar day.
- j. It shall be unlawful for a carrier vessel to land Atlantic menhaden more than once per day.

4. Vessel Capacity and Certification. Prior to the annual commencement of fishing activity any participating vessel named on a commercial fishing permit or authorized carrier vessel capable of holding more than 6,000 pounds must be inspected by a certified marine surveyor and assessed with regard to its fish storage. The surveyor shall mark the fish hold to demonstrate volumetric capacity at 120,000 pounds and 25,000 pounds. When engaged in the commercial menhaden fishery, the vessel holding and transporting Atlantic menhaden to port for landing shall not have a usable fish storage capacity greater than 120,000 pounds. Any vessel with a fish storage capacity greater than 120,000 pounds may only engage in the Atlantic menhaden commercial fishery if the excess capacity is rendered unusable in accordance with the survey and assessment.

5. Use of Purse Seines During Quota Managed Period. In addition to complying with all applicable purse seining regulations at 322 CMR 4.06, the following shall apply to commercial purse seining for Atlantic menhaden during the quota managed period.

- a. Commercial fishers shall be prohibited from using purse seines to fish for Atlantic menhaden on Fridays, Saturdays, and Sundays until the Director declares 50% of the annual commercial Atlantic menhaden quota is landed.

b. Once the Director declares 50% of the annual commercial Atlantic menhaden quota is landed, it shall be unlawful to use purse seines to fish for Atlantic menhaden on Saturdays and Sundays.

c. Commercial fishers shall not use purse seines that exceed 600 feet (100 fathom) length within the inshore restricted waters described at 322 CMR 4.02.

d. It shall be unlawful for a commercial fisher to use a purse seine that exceeds 450 feet long by 48 feet deep when fishing during a period when purse seines are authorized and the trip limit is at 6,000 pounds of Atlantic menhaden.

e. Prior to the annual commencement of commercial purse seining activity for Atlantic menhaden, each commercial fisher shall have all nets inspected and certified by the Division as being in conformance with the relevant maximum purse seine net size requirements. Once inspected, DMF will certify the net by affixing a DMF Issued Tag. A certified net may be used throughout the duration of the certified calendar year, provided it is not altered in any manner affecting its overall dimensions. If the net is altered with regards to its overall dimensions, it must be reinspected and recertified prior to use.

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

~~(5) Daily Catch Reporting. All regulated Atlantic menhaden fishery limited entry permit endorsement holders and all commercial fishermen participating in the Episodic Event Set Aside Fishery shall obtain a Bait Dealers permit, as defined at 322 CMR 7.01(3): Bait Dealer, and report to the Division of Marine Fisheries their commercial Atlantic menhaden landings in the Commonwealth on a daily basis on forms provided by the Director.~~

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

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

(b) Trip Limit. The trip limit for the post quota incidental catch and small-fishery shall be 6,000 pounds of Atlantic menhaden. It shall be unlawful for any commercial fisher or vessel to land more than once per calendar day.

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

(6) Episodic Event Set Aside Fishery.

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

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

1. For all commercial fishers, during the Episodic Event Set Aside Fishery, the trip limit shall be 6,000 pounds. It shall be unlawful for any commercial fisher or vessel to land more than once per calendar day.
2. Pursuant to the authority at G.L. c. 130, §80 and 322 CMR 7.01(7), the Director may establish permit conditions as necessary or appropriate for conservation and management. This may include adopting a trip limit in excess of 6,000 pounds of Atlantic menhaden for commercial fishers who have been issued a regulated Atlantic menhaden fishery permit endorsement, provided said trip limit does not exceed 120,000 pounds of Atlantic menhaden.
3. All commercial fishers participating in the Episodic Event Set Aside Fishery shall only harvest menhaden from the waters under the jurisdiction of the Commonwealth and shall only land in Massachusetts ports.
4. All commercial fishers participating in the Episodic Event Set Aside Fishery shall be subject to the daily catch reporting requirements set forth at 322 CMR 6.43(7).
5. It shall be unlawful for a commercial fisher to use a purse seine that exceeds 450 feet long by 48 feet deep.

(7) Catch Reporting.

(a) Electronic Catch Reporting. Beginning in 2024, all commercial fishers who have been issued a regulated Atlantic menhaden fishery permit endorsement shall report their catch electronically daily prior to landing through an electronic reporting application approved by the Division.

(b) Bait Dealer Reporting for Quota Monitoring. All commercial fishers who hold a regulated Atlantic menhaden fishery permit endorsement and all commercial fishers participating in the Episodic Event Set Aside Fishery shall obtain a Bait Dealer permit, as defined at 322 CMR 7.01(3): Bait Dealer, and report to the Division of Marine Fisheries their commercial Atlantic menhaden landings in the Commonwealth on a daily basis on forms provided by the Director.

7.01: Form, Use and Contents of Permits

(3) Dealer Permits. The following categories of permits may be issued by the Director and are required for the following activities:

(a) Wholesale Dealer. Authorizes the wholesale possession, distribution, processing, sale or resale of raw fish and shellfish. Said permit includes authorization for the retail sale and retail resale of fish and shellfish from a fixed location approved in writing by the Massachusetts Department of Public Health.

(b) Wholesale Broker. Authorizes the wholesale brokering, directing the transport of or any commercial transaction in the sale of raw or processed fish or shellfish.

(c) Wholesale Truck. Authorizes the wholesale possession or distribution of raw or processed fish and shellfish for commercial purposes from a vehicle approved in writing by the Massachusetts Department of Public Health. Exception: Commercial Lobster Permit holders, who also hold a Retail Boat Permit as defined in 322 CMR 7.01(3)(f), shall be exempt from the requirements to obtain this wholesale truck dealer's permit when transporting only live lobsters and live crabs for commercial sale.

(d) Retail Dealer. Authorizes the retail sale of raw fish and shellfish from a fixed location approved in writing by the Massachusetts Department of Public Health.

(e) Retail Truck. Authorizes the retail sale of raw fish from a vehicle approved in writing by a local or county Board of Health.

(f) Retail Boat. Authorizes a fisher with a Massachusetts commercial fishing permit to sell from a boat to the general public, product he lawfully harvested, including the sale of live lobsters and whole raw fish from a boat. For holders of any commercial lobster permit, the authorization granted under this retail boat dealer's permit shall also include the transport of live lobsters or live crabs, caught aboard the holder's permitted vessel, for sale to the public including to persons and businesses that are not retail or wholesale dealers of raw or processed fish or shellfish.

(g) Retail Farmer's Market. Authorizes the retail sale of certain raw fish and fish products at a farmer's market subject to written approval by the Department of Public Health, or the municipal or county board of health.

(h) Bait Dealer. Authorizes the possession and sale of bait.

(i) Biomedical Horseshoe Crab Dealer. Authorizes an entity affiliated with a biomedical processor to obtain and hold biomedical horseshoe crabs and sell biomedical horseshoe crabs to the affiliated biomedical processor. The biomedical dealer permit may be authorized as a primary buyer, in accordance with 322 CMR 7.07, to allow for the primary purchase of horseshoe crabs directly from a biomedical fisher.

(j) Biomedical Horseshoe Crab Processor. Authorizes an entity to process horseshoe crabs for biomedical purposes, including but not limited to the bleeding of horseshoe crabs for the production of Limulus Amebocyte Lysate. The biomedical processor permit may be authorized

as a primary buyer, in accordance with 322 CMR 7.07, to allow for the primary purchase of horseshoe crabs directly from a biomedical fisher. The Director may limit access to the Biomedical Horseshoe Crab Processor permit in accordance with 322 CMR 7.04.

7.04: Commercial Fisheries Control Date

(1) Purpose. The purpose of 322 CMR 7.04 is to provide the Director and Marine Fisheries Advisory Commission with time to develop further access controls in certain commercial fisheries, including moratoria and limited entry, without the Director and Commission having to deal with large numbers of applicants attempting to enter the fisheries before access is restricted or denied. The implementation of the control date on an emergency basis is necessary to prevent a surge of applicants for licenses into fisheries for which the Director and the Commission may decide to restrict access in the future.

(2) Control Dates.

(a) Mobile Gear. After April 2, 1992, any person issued a commercial **fishing fisherman's** permit to conduct any fishery using gillnets or trammel nets, or any mobile or encircling fishing gear or nets which are towed, hauled, or dragged through the water for the harvest of fish including, but not limited to, otter trawls, beam trawls, pair trawls, mid-water trawls, Scottish seines, Danish seines, pairseins, or sea scallop dredges, excluding purse seines and shellfish dredges, within waters under the jurisdiction of the Commonwealth, will not be assured of future access to or participation in these fisheries if a management regime is developed and implemented that limits the number of participants in these fisheries.

(b) Hook Gear. After March 6, 2008, any person issued a new commercial **fishing fisherman's** permit to conduct any fishery using hook-and-line, longline, or hand gear within waters under the jurisdiction of the Commonwealth, excluding the commercial striped bass fishery, may be subject to eligibility criteria for determining levels of future access to and allowable harvest of these fisheries. Future entry into such fisheries may be based on historic harvest levels of a vessel, person, or other criteria established by the Director.

(c) Spiny Dogfish. After November 6, 2008, any person issued a new regulated fishery endorsement for spiny dogfish may be subject to eligibility criteria for determining levels of future access to and allowable harvest of this fishery. Future entry into such fisheries may be based on historic harvest levels of the permit holder.

(d) Striped Bass. Access into the commercial striped bass fishery may be limited in the future. Decisions to limit access may be based on permitting history, landings, or other activity criteria established by the Director. Commercial **fishers fishermen** are hereby notified that any person obtaining a new regulated fishery permit endorsement for striped bass after June 14, 2022 or any person who did not have a certain level of landings prior to June 14, 2022 may not be provided future access to this fishery or may be subject to eligibility criteria for determining levels of future access and allowable harvest in this fishery.

(e) Tautog. Any person who did not report the lawful landing or selling of tautog under the authority of the commercial **fishing fisherman's** permit prior to August 28, 2017 may not be provided future access into this fishery and may be subject to eligibility criteria for determining levels of future access to and allowable harvest in this fishery. Future access may be based on historic landings of a vessel or by a person, or other criteria established by the Director.

(f) Groundfish Endorsement. After December 31, 2018, any person issued a state-waters groundfish endorsement may be subject to eligibility criteria for determining future access to or

participation in this regulated fishery. Such eligibility criteria may include historic landings of a vessel, a person or other criteria to be established by the Director.

(g) Menhaden. After June 14, 2023, any person issued a regulated fishery permit endorsement for a named individual and vessel to fish commercially for Atlantic menhaden may be subject to eligibility criteria for determining future access to or participation in this fishery. Future access may be limited based on historic landings by a permit holder or other criteria to be established by the Director.

(h) CAP Purse Seine. Access into the purse seine fishery may be limited in the future. Decisions to limit access may be based on permitting history, fishing activity with purse seine, landings attributable to purse seines, or other criteria to be established by the Director. Commercial fishers are hereby notified that any person obtaining a new CAP-Purse Seine regulated fishery permit endorsement after June 14, 2023 may not be provided future access to this fishery or may be subject to eligibility criteria for determining levels of future access based on this control date.

(i) Biomedical Horseshoe Crab Processor Permit. Access to the biomedical horseshoe crab processor permit may be limited in the future. Decisions to limit access may be based on prior permitting history, prior history of purchasing horseshoe crabs from biomedical harvesters or biomedical horseshoe crab dealers in Massachusetts, prior history of processing horseshoe crabs in Massachusetts, or other criteria established by the Director. Any person obtaining a new biomedical horseshoe crab processor after January 1, 2023 is hereby notified that they may not have access to this permit in the future or may be subject to eligibility criteria when determining future access.