



Paul J. Diodati  
Director

Commonwealth of Massachusetts  
Division of Marine Fisheries  
251 Causeway Street, Suite 400  
Boston, MA 02114  
(617) 626.1520  
Fax (617) 626.1509



Deval Patrick  
Governor  
Ian Bowles  
Secretary  
Mary B.  
Griffin  
Commissioner

April 7, 2009

Marine Fisheries Advisory

**MFC APPROVES NEW COMMERCIAL AND RECREATIONAL MEASURES &  
FINALIZES BAY SCALLOP MEASURES –  
Protected species, pelagic species net fisheries, striped bass, spiny dogfish, lobster trap  
tag deadline, black sea bass, scup and summer flounder (fluke)**

---

At March 12 & April 2, 2009 business meetings the Massachusetts Marine Fisheries Advisory Commission (MFC) approved management measures for several commercial and recreational fisheries. In March, the MFC approved Division of Marine Fisheries (*Marine Fisheries*) recommendations governing 1) use of nets to fish for pelagic fisheries in inshore areas, 2) use of fixed gear as mandated by federal updates to the Atlantic Large Whale Take Reduction Plan and Harbor Porpoise Take Reduction Plan, 3) disposal of striped bass racks at-sea by for-hire vessels, 4) control date for spiny dogfish fishery, and 5) deadline for affixing annual trap tags to pots for use in Outer Cape Cod Lobster Conservation Management Area (Outer Cape LCMA).

In April, the MFC finalized *Marine Fisheries* recommendations to 6) increase recreational minimum size for black sea bass, 7) amend season, possession limit and minimum size for recreational fluke fishery, 8) amend season, possession limit and no-fishing days for commercial black sea bass fishery, and 9) amend season, no-fishing days and weir quota set-aside for commercial scup fishery.

Also, this notice announces final action previously taken on bay scallop harvest rules pertaining to the definition of “seed scallops” that replace an earlier emergency action.

1. Inshore Net Regulations for Pelagic Fisheries

The MFAC approved *Marine Fisheries* recommendations, which implement net specifications and performance standards in the Commonwealth's nearshore pelagic fisheries (322 CMR 4.02, 4.14, 4.15, 6.07, 7.00 & 12.00). Approved measures:

- a. specify that a Coastal Access Permit (CAP) for mobile gear is required to use purse seines, but that moratorium on new CAPs does not apply to those being issued specifically for the use of purse seines;
- b. specify that the 72-foot maximum vessel length limit for CAP holders does apply to purse seine vessels but certain permit holders who have fished purse seines with vessels longer than 72-feet in waters under the jurisdiction of the Commonwealth since 1995 may be exempt from the vessel size limit;
- c. establish a distinct commercial surface gillnet endorsement, separate from a sink gillnet endorsement;
- d. increase the maximum gillnet size from 200 to 250 square feet that could be used and still be exempt from surface gillnet permit requirement;
- e. clarify requirement that any person using a surface gillnet for purposes of obtaining and selling bait to a person who is not a licensed dealer must obtain both a commercial fishermen's permit and a bait dealer's permit;
- f. clarify that vessels using or possessing surface gillnets shall not be precluded from possessing striped bass under a longstanding regulation that prohibits striped bass possession for vessels "rigged for netting;"
- g. require all fishermen fishing surface gillnets to remain within 200 feet of the net at all times. This recommendation increases the maximum distance from 100 feet proposed at public hearing;
- h. approve a maximum net length of 300 linear feet fishing at any one time. Permit holders seeking to fish longer nets or setting overnight without tending may be permitted through experimental fishery permits;
- i. require that for each 50 linear feet of gillnet, at least one headrope float must be marked with the letters "SGN" as well as the DMF 6-digit permit number, and a buoy marking scheme that includes reflective tape and the 6-digit number;
- j. prohibit use of more than one net in the water at a time; additional nets must be stowed aboard the vessel;
- k. approve maximum mesh opening of 3 <sup>3</sup>/<sub>4</sub>" and a minimum mesh opening of 1 <sup>7</sup>/<sub>8</sub>." This recommendation liberalizes the minimum mesh size from 2 <sup>1</sup>/<sub>2</sub>" down to 1 <sup>7</sup>/<sub>8</sub>";

- l. enact a seasonal river herring protection closure that prohibits the use of surface gillnets in south coastal waters prior to May 16 and in waters east and north of Cape Cod prior to June 1;
- m. prohibit year-round use of surface gillnets in excess of 250 square feet in Buzzards Bay;
- n. allow any person to use a cast net for purposes of catching bait species for personal use without a permit;
- o. require any person using a cast net for purposes of obtaining bait for sale to a bait dealer to obtain a commercial fishing permit; and
- p. require any person using a cast net for purposes of obtaining bait for sale to someone who is not a dealer to obtain both a commercial fishermen’s permit and a bait dealer’s permit.

2. Fixed Gear Requirements regarding Protected Species

MFC approved regulatory amendments to remain current with changes to the federal Atlantic Large Whale and Harbor Porpoise Take reduction Plans (322 CMR 4.13 & 12.00).

Specifically revised regulations:

- require marking of fixed gear (gillnet and traps/pots) buoy lines with gear-specific 4-inch colored mark midway on the buoy line (see Table 1 for gear-specific colors). Note, recreational fishermen will not be required to mark their buoy lines until January 1, 2010;

**Table 1.** Gear-specific colors for marking buoy lines on fixed gear.

Gear	Color
<b>Gillnets</b>	Green
<b>Traps/Pots</b>	Red for all inshore lobster fishing (LCMA 1, 2 and Outer Cape) Black for offshore fishery (LCMA 3 only)
<b>Exception</b> , if color of rope is same as color code, a white mark may be substituted for the mandated color.	

- allow bottom gillnetters to re-gain access to a portion of waters in the northern Gulf of Maine that is no longer closed under the Harbor Porpoise Take Reduction Plan;
- prohibit use of bottom gillnets during March South of Cape Cod in waters under the jurisdiction of the Commonwealth west of the 70° 30’ W longitude line and south of a line drawn westerly from the intersection of the 70° 30’ W longitude line with the Mashpee shoreline;
- mandate use of pingers on bottom gillnets fished in Upper Massachusetts Bay and Ipswich Bay during specific times (see Table 2);

**Table 2.** Times and places when/where gillnetters must use pingers.

Area	Period during which bottom gillnets must have pingers
Upper Massachusetts Bay/Ipswich Bay from Marblehead to the New Hampshire Border	September 15 – May 31
Massachusetts Bay Area	December – February and April – May

For further details on area boundaries see 322 CMR 12.04(3).

- require gillnets be rigged with anchoring system with the holding power of at least 22-pound Danforth anchor (eliminates previous anchoring system options);
- require 600-lb weak link for trap/pot gear year-round, except during January 1 – May 15 in the Right Whale Critical Habitat when a 500-lb. weak link is required

3. Disposal of Striped Bass Racks At-sea by For-hire Vessels

MFC approved *Marine Fisheries*' recommendation to allowing for-hire captains conducting charters to dispose of striped bass racks at-sea (322 CMR 6.07). *Marine Fisheries* modified striped bass fillet rules in the 1990s to allow for-hire operations to fillet striped bass while still at-sea. The modified regulation allowed charter boat operators to provide clients a service that is generally expected (for other species) throughout the industry but is prohibited by longstanding rules that prohibit "*a recreational fishermen to mutilate any striped bass in such a way as to interfere with or affect adequate measurement of the fish;*

*Marine Fisheries* tested the practicality of removing "retention of racks" language from the rule, in 2008 under Letters of Authorization to for-hire permit holders allowing them not to retain racks. This modification was widely endorsed by the industry.

For-hire operators are reminded that fillets may not exceed more than four fillets per customer and the skin must be left on the fillet.

4. Spiny Dogfish Control Date

MFC approved a November 6, 2008 control date for the spiny dogfish fishery (322 CMR 7.04). No management measures have been proposed at this time in association with this date.

5. Trap Tag Deadline

The MFC approved *Marine Fisheries*' recommendation to require commercial lobstermen authorized to fish traps in the Outer Cape Cod (OCC) Lobster Conservation Management Area to affix current trap tags by March 16<sup>th</sup> (322 CMR 6.31). This action will ensure all traps are tagged with current tags before they are returned to the OCC waters when the

January 15 – March 15<sup>th</sup> trap haul-out period lifts on March 16<sup>th</sup>. *Marine Fisheries* also has amended the trap tag program policies to allow lobstermen to order trap tags as early as mid-November for the following year. This change in the policy allows OCC lobstermen, as well as all others across the state, to order trap tags well in advance of the deadlines.

6. Recreational Black Sea Bass

The MFC approved *Marine Fisheries* recommendation to increase the recreational black sea bass from 12” to 12.5” (322 CMR 8.06). The fishery remains open year-round with a 20-fish per day possession limit. This action was taken to comply with the Atlantic States Marine Fisheries Commission (ASMFC) mandated reduction (10%) in harvest.

7. Recreational Summer Flounder (Fluke)

In 2009, recreational fishermen will be able to harvest up to 5-fluke at an 18.5” minimum size during July 1 – August 13 (322 CMR 8.06). This action increased the minimum size by ½” and shortened the season by 23 days. Based on disparate public hearing comments between private anglers and for-hire vessel operators, DMF intends to seek different rules in 2010 for the two sectors.

8. Commercial Black Sea Bass

The MFC approved a 2009 spring black sea bass fishery during May 1 – 24 on open fishing days Sunday, Tuesday and Thursday with a 500-lb trip limit for pots and weirs and 100-lb trip limit for all other gear types (Table 3). Pending available quota, the fishery would reopen on August 1.

**Table 3.** 2009 Commercial black sea bass limits (322 CMR 6.28)

Season	Gear Type	Open Fishing Days	Possession limit
Jan – April	All authorized gear types	All	100 lb
May 1 – May 24	Fish pot & weir	Sun, Tue, & Thurs.	500
	Lobster traps		100
	All other authorized gear types		100
August 1 – December (quota dependent)	Fish pot & weir	TBD*	TBD
	Lobster traps		TBD
	All other authorized gear types		TBD

\* The Director may adjust the trip limits based on availability of quota.

9. Commercial Scup

The 2009 directed commercial scup fishery will be open on Sundays, Tuesdays, and Thursdays during the period May 1 – 31 and beginning August 1 until the quota is exhausted. The weir quota set-aside was increased to 177,000-lbs. Table 4 provides further details on trip limits and open fishing days.

**Table 4.** 2009 Commercial Summer/Fall Scup limits (322 CMR 6.28)

Season (quota dependent)	Gear Type	Open Fishing Days	Possession limit
May - October	Fish Weir	All	Weirs' landings shall be limited to 177,000 in aggregate
April 23 – June 9	Trawlers during squid & fluke seasons	All	400 lb
June 10 – Oct 31		Sun through Thurs.	400 lb
May 1 – 31	Fish pot & hook-and-line	Sun, Tue & Thu	200 lb
Aug 1 - Oct 31		Mon. through Thursday	400 lb

#### 10. Bay Scallop

Earlier in 2009 the Commission took action to finalize an emergency bay scallop rule that clarified the definition of seed scallops (322 CMR 6.11). The final rule establishes a regulatory prohibition on harvest and possession of seed scallops, defined as sexually immature scallops that do not bear a well-defined annual growth line. The growth line is expected to be at least 10 mm. from the hinge of the shell, but for those scallops that bear the well defined annual growth line less than 10 mm. from the hinge of the scallop, a minimum size of 2 ½” shall apply. This rule was enacted in response to a petition from the town of Nantucket.

For further information please visit our webpage at: [www.mass.gov/marinefisheries](http://www.mass.gov/marinefisheries).