

Strikethrough Draft Regulations from Current

322 CMR 5.00 Northern Shrimp

5.04: Commercial Fishery Moratorium and Annual Specifications

(1) **Commercial Fishery Moratorium**. Unless otherwise authorized by the Director, pursuant to the Declaration process at 322 CMR 5.04(3), it shall be unlawful for any commercial fisherman to retain, possess or land any northern shrimp.

(2) ~~(1)~~ Declaration of Annual Specifications. The Director may, by declaration, establish and adjust the manner and times of taking northern shrimp, legal size limits, numbers or quantities of northern shrimp to be taken, and the opening and closing of areas to the taking of northern shrimp as prescribed by M.G.L. c. 130, § 17A and specified by the Atlantic States Marine Fisheries Commission (ASMFC) Northern Shrimp Section.

(3) ~~(2)~~ Declaration Process. Annual specifications shall not be effective until:

- (a) a notice has been filed with the *Massachusetts Register*;
- (b) a notice has been published by at least one local newspaper;
- (c) a copy of the notice has been e-mailed via the Marine Fisheries Listserv and posted on the Division's website at www.mass.gov/marinefisheries; and
- (d) a two-week comment period has been conducted by the Division; and
- (e) it has been approved by a majority of the members of the Massachusetts Marine Fisheries Advisory Commission.

(4) ~~(3)~~ Prohibitions. It shall be unlawful to cull, grade, separate, or shake shrimp aboard any vessel except by implements operated solely by hand. It is illegal to possess aboard any vessel any powered mechanical device used to cull, grade, separate, or shake shrimp.

322 CMR 6.08 Surf Clam and Ocean Quahog Fisheries

(4) Ocean Quahog Restrictions

(a) Ocean Quahog Trip Limits.

1. It **shall be is** unlawful for any vessel to catch, harvest, possess, ~~have onboard, or~~ land ~~or offload~~ greater than ~~26 cages (832 bushels)~~ **8 cages (256 bushels)** of ocean quahogs during any 24-hour period.
2. Vessels properly licensed to do so may **possess and** land ocean quahogs legally taken **from waters** outside the jurisdiction of the Commonwealth in excess of the trip limit established by 322 CMR 6.08(4)(a)(1), provided that no vessel engaged in fishing for ocean quahogs within the waters under the jurisdiction of the Commonwealth may possess ~~or have onboard~~ more than the prescribed limit.

6.22: Summer Flounder (Fluke) Restrictions

(2) Commercial Fishery.

(a) Minimum Size. It shall be unlawful for commercial fishermen to land or possess summer flounder less than 14 inches in total length.

(b) Seasonal Quota Allocations. The annual quota shall be split with a target allocation of 30% to the Period I fishery that occurs from January 1st through April 22nd, and 70% allocated to the Period II fishery that occurs from April 23rd through December 31st. 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 1st through April 22nd). ~~It is unlawful for any commercial fisherman during the period January 1st through April 22nd to land or possess during a 24-hour day:~~

1. From January 1 – January 31, it shall be unlawful for any commercial fisherman to retain, possess or land any summer flounder ~~during the period January 1st through January 31st:~~

2. From February 1st through April 22nd or until 25% of the annual quota has been reached, it shall be unlawful for any commercial fisherman to retain, possess or land any summer flounder using any gear other than nets. During this period fishermen using nets may retain, possess or land up to ~~more than 500~~ 1,000 pounds of summer flounder during any calendar day or trip, whichever period is longer. ~~caught with nets beginning February 1st;~~

3. Once 25% of the annual quota has been reached, it shall be unlawful for any commercial fisherman using nets to retain, possess or land more than 100 pounds of summer flounder during any calendar day or trip, whichever period is longer. ~~caught with nets when 25% or more of the annual quota has been reached.~~

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

1. April 23rd through June 9th. ~~During this period, it is shall be unlawful for any commercial fisherman to retain, possess or land during the period April 23rd through June 9th to land or possess:~~

a. more than 100 pounds of summer flounder caught with nets or longlines during a 24-hour day.

b. any summer flounder caught with handlines or rod-and-reel.

2. June 10th through December 31st. ~~During this period, it shall be unlawful for any commercial fisherman to retain, possess or land:~~

a. ~~It is unlawful for any commercial fisherman to possess or land~~ summer flounder on Fridays or Saturdays.

b. ~~It is unlawful for any commercial fishermen using nets to possess or land~~ more than 300 lbs. of summer flounder ~~when fishing with nets and for any commercial fishermen using hooks to possess or land more than 200 lbs. of summer flounder.~~

c. more than 200 lbs of summer flounder when fishing with hook and line gear.

(e) **Quota Closure.** It shall be unlawful for any commercial fisherman to retain, possess or land summer flounder once the Director has determined that 100% of the annual 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). ~~It is unlawful for commercial fishermen to land or possess summer flounder when the Director closes the fishery during any of the two periods in 322 CMR 6.22.~~

(f) **Vessel Limits.** The landing/possession limits described in 322 CMR 6.22(2) shall apply to any vessel involved in the commercial summer flounder fishery, regardless of the number of commercial fishermen with summer flounder special permits on board said vessel.

(g) **Landing Prohibition.** It is unlawful for commercial fishermen to land or possess summer flounder from 8:00 P.M. through 6:00 A.M.

(h) **Inspection.** Commercial fishermen shall keep all summer flounder separate from the rest of the vessel's catch and readily available for immediate inspection by the Division of Environmental Law Enforcement.

(i) **Requirements for Dealers.** All dealers authorized as primary buyers permitted in accordance with G.L. c. 130 and 322 CMR 7.01(3) and 7.07 shall obtain a federal dealer permit from the National Marine Fisheries Service to purchase fluke directly from commercial fishermen during the Period I commercial fluke fishery.

6.33: Lobster Conservation Management Areas

(1) Definition.

Lobster Conservation Management Area means one of three Recreational Lobster Areas or one of seven Lobster Conservation Management Areas (LCMA) as specified in the Atlantic States Marine Fisheries Commission American Lobster Fishery Management Plan (FMP) and endorsed on the Massachusetts Commercial Fisherman Permit pursuant to 322 CMR 7.01: *Form, Use and Contents of Permits.*

(2) Area Boundaries.

(a) LCMA 1. Beginning at the Massachusetts/New Hampshire border, following the outer boundary of the territorial waters of New Hampshire and Maine to the US/Canada border, thence to the intersection of LORAN C 9960-Y-44400 with the boundary of the US Exclusive Economic Zone, thence to the intersection of 9960-Y-44400 with 70° West Longitude, thence following the 70th meridian to its intersection with 9960-W-13700, thence following 9960-W-13700 to its intersection with 9960-Y-44120, thence following 9960-Y-44120 westerly to its intersection with 9960-W-13850, thence following 9960-W-13850 southeasterly to its intersection with 9960-Y-44110, thence following 9960-Y-44110 easterly to Race Point in Provincetown, thence following the MA shoreline back to the beginning.

(b) Outer Cape LCMA (OCCLCMA). Beginning at Race Point in Provincetown, following 9960-Y-44110 westerly to its intersection with 9960-W-13850, thence following 9960-W-13850 northwesterly to 9960-Y-44120, thence following 9960-W-44120 easterly to its intersection with 9960-W-13700, thence following 9960-W-13700 southerly to 9960-Y-43780, thence following 9960-Y-43780 westerly to its intersection with 70° five minutes West Longitude, thence following 70° five minutes West Longitude north through Nantucket Island to the shoreline of Harwich, thence following the shoreline of Cape Cod east and north back to the beginning.

(c) Overlap- Area 1/OCCLCMA. Beginning at Race Point in Provincetown, following 9960-Y-44110 westerly to its intersection with 9960-W-13850, thence following 9960-W-13850 southeasterly to its intersection with 9960-X-25330, thence following 9960-X-25330 northeasterly to the shoreline of Great Island in Wellfleet, thence following the shoreline northerly back to the beginning. Fishermen endorsed for either LCMA 1 or OCCLCMA may fish in the overlap zone under the rules of the area(s) endorsed on their permits. Fishermen with both areas endorsed must observe the most restrictive rules.

(d) Overlap- Area 1/Area 2. The Cape Cod Canal, from the Massachusetts Maritime Academy pier at the southern end to the end of the east breakwater on the northern end. Fishermen from either LCMA 1 or LCMA 2 may fish in the overlap zone under the rules of the area(s) endorsed on their permits. Fishermen with both areas endorsed must observe the most restrictive rules.

(e) LCMA 2. Beginning at the shoreline of Harwich, following the 70° five minutes West Longitude south through the Island of Nantucket to its intersection with 9960-Y-43780, thence following 9960-Y-43780 easterly to its intersection with 9960-W-13700, thence following 9960-W-13700 southerly to its intersection 9960-W-14610, thence following 9960-14610 northerly to the outer boundary of New York territorial waters, thence following the outer boundary of the territorial waters of New York and Rhode Island to the Massachusetts/Rhode Island boundary,

thence following the Massachusetts/Rhode Island boundary to the shoreline, thence following the shoreline of Massachusetts back to the beginning.

(f) LCMA 3. All waters of the Exclusive Economic Zone (EEZ) of the United States seaward of LCMA 1, OC, 2, 4, 5, and 6.

(g) Overlap- Area 2/Area 3. Fishermen from either Area 2 or Area 3 may fish in an area bounded as follows under their respective LCMA rules: Beginning at the intersection of 9960-W-13700 and 9960-Y-43700, thence westerly along the 43700 line to the intersection with 9960-W-14610, thence southwesterly along a line whose extension reaches the intersection of 9960-Y-43500 with 9960-X-26400 to 9960-Y-43600, thence easterly along the 43600 line to 9960-W-13700, thence northwesterly along the 13700 line to the beginning.

(h) LCMA 4. All waters including state and federal waters that are near-shore in the northern Mid-Atlantic area, as defined by the area bounded by straight lines connecting the following points:

Point	LATITUDE (°N)	LONGITUDE (°W)
M	40° 27.5'	72° 14'
N	40° 45.5'	71° 34'
O	41° 07'	71° 43'
P	41° 06.5'	71° 47'
S	40° 58'	72° 00'
T	41° 00.5'	72° 00'
From pt. "T", along the NY/NJ coast to pt. "W"		
W	39° 50'	74° 09'
V	39° 50'	73° 01'
U	40° 12.5'	72° 48.5'
From pt. "U" back to pt. "M".		

(i) LCMA 5. All waters including state and federal waters that are near-shore in the southern Mid-Atlantic area, as defined by the area bounded by straight lines connecting the following points, in the order stated:

Point	LATITUDE (°N)	LONGITUDE (°W)
W	39° 50'	74° 09'
V	39° 50'	73° 01'
X	38° 39.5'	73° 40'
Y	38° 12'	73° 55'
Z	37° 12'	74° 44'
ZA	35° 34'	74° 51'
ZB	35° 14.5'	75° 31'
From pt "ZB", along the coasts of NC/VA/MD/DE/NJ back to pt. "W".		

(j) LCMA 6. All state waters as defined by the area bounded by straight lines connecting the following points, in the order stated:

Point	LATITUDE (°N)	LONGITUDE (°W)
T	41° 00.5'	72° 00'
S	40° 58'	72° 00'
From pt. "S", boundary follows the three mile limit of NY state waters as it curves around Montauk Pt. To pt. "P"		
P	41° 06.5'	71° 47'
Q	41° 18' 30"	71° 54' 30"
R	41° 11' 30"	71° 47' 15"

From pt. "R", along the maritime boundary between CT & RI to the coast; then west along the coast of CT to the western entrance of Long Island Sound; then east along the NY coast of Long Island Sound and back to pt. "T".

(k) Gulf of Maine Recreational Lobster Area means those state waters north of Cape Cod Bay to the New Hampshire border including waters of the Cape Cod Canal.

(l) Outer Cape Cod Recreational Lobster Area means all state waters eastward of 70° longitude off Nantucket and eastward and northward of Outer Cape Cod from Chatham to Provincetown's Race Point, including a portion of upper Cape Cod Bay as defined by a line drawn from the three nautical mile line northwest of race Point at 42° 7 minutes latitude and 70° 16 minutes longitude south to the Race Point Buoy then southeast to the Wood End Buoy and east to the shoreline at 42° 01.32 minutes latitude and 70° 05.26 minutes longitude.

(m) Southern New England Recreational Lobster Area means those state waters west of 70° and south of Cape Cod.

322 CMR 6.34 Horseshoe Crab Management

~~(8) Closed Areas. The Director may close any area to the taking of horseshoe crabs provided:~~

~~(a) A majority of the members of the Massachusetts Marine Fisheries Commission approve, and;~~

~~(b) A notice of closure has been filed with the *Massachusetts Register* stating the rationale for the closure, the duration of the closure and a description of the area to be closed, and;~~

~~(c) All permit holders and dealers are notified.~~

(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.

322 CMR 6.35 Spiny Dogfish Management

~~(5) Possession Limit.~~

~~(a) Declaration of Annual Specifications. In accordance with the procedure set forth at 322 CMR 6.35(5)(b), the Director may, by declaration, establish and adjust the manner and times of taking spiny dogfish, and the legal size limits, numbers and/or quantities of spiny dogfish to be taken as prescribed by M.G.L. c. 130, § 17A and specified by the Atlantic States Marine Fisheries Commission (ASMFC).~~

~~(b) Declaration Process. Annual specifications shall not be effective until:~~

- ~~1. notice has been filed with the *Massachusetts Register*;~~
- ~~2. a notice has been published by at least one local newspaper;~~
- ~~3. a copy of the notice has been emailed via the Marine Fisheries Listserv and posted on the Division's website;~~
- ~~4. a two-week comment period has been conducted by the Division; and~~
- ~~5. it has been approved by a majority of the members of the Massachusetts Marine Fisheries Advisory Commission.~~

(5) Possession Limit. It shall be unlawful for commercial fishermen to possess or land more than 6,000 pounds of spiny dogfish during any trip or calendar day, whichever period of time is longer. To the extent that it is required by the Atlantic States Marine Fisheries Commission or the National Marine Fisheries Service, the Director may adjust the manner and times of taking spiny dogfish, the legal size of spiny dogfish to be taken, and the quantities of spiny dogfish to be taken in accordance with the authority and procedure set forth at 322 CMR 6.41(2) to make commercial fishery limit adjustments for quota managed species.

322 CMR 6.37 Coastal Shark Conservation and Management

(1) Purpose. 322 CMR 6.37 seeks to ensure coordinated state and federal management towards establishing healthy self-sustaining populations of Atlantic coastal sharks. Coastal shark conservation and management is interstate and state-federal in nature; effective assessment and management can be enhanced through cooperative efforts with all Atlantic state and federal scientists and fisheries managers. 322 CMR 6.37 creates two groups of sharks: Permitted Species that are allowed to be harvested, and Prohibited Species that are protected and may not be harvested unless specifically authorized by the Director or NOAA Fisheries.

For purposes of 322 CMR 6.37, coastal sharks do not include spiny dogfish, *Squalus acanthias*, which are managed separately under 322 CMR 6.35.

(2) Definitions. For the purpose of this section, the following terms shall have the following meanings:

Billfish means any Atlantic billfish, including blue marlin (*Makaira nigricans*), white marlin (*Kajikia albidus*), sailfish (*Istiophorus platypterus*), longbill spearfish (*Tetrapturus pfluegeri*) or roundscale spearfish (*Tetrapturus georgii*).

Circle Hook means a non-stainless steel fishing hook designed and manufactured so that the barb of the hook is not offset from the plane of the shank and bend, and is turned perpendicularly back towards the shank to form a circular or oval shape.

Director means the Director of the Division of Marine Fisheries

Division means the Division of Marine Fisheries

Fork length means the straight line measurement of a fish from the midpoint of the anterior edge of the fish to the fork of the caudal fin. The measurement is not made along the curve of the body.

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

Haul back means retrieving any dredge, trawl, gillnet or longline or other such mobile or fixed fishing gear and placing the contents of the catch on the deck or hold of the vessel.

Longline means fishing gear that is set horizontally, either anchored, floating, or attached to a vessel, that consists of a mainline or groundline with three or more leaders or gangions and hooks, whether retrieved by hand or mechanical means.

Swordfish means that species of fish known as *Xiphias gladius*.

Tuna means the order of fish known as *Scombriformes* exception the families *Trichiuridae* and *Gempylidae* and the genus *Scomber* and other such species of fishes that are regulated by the International Commission for the Conservation of Tunas in the Atlantic Ocean.

(3) ~~(2)~~ List of Species by Groups. The following sections contain the species categorized as prohibited or permitted. Each species is listed as its common name along with its associated taxonomic name.

(a) Permitted Shark Species. The following species are allowed to be harvested under the provisions of 322 CMR 6.37~~(4)~~ ~~(3)~~:

Atlantic sharpnose (*Rhizoprionodon terraenovae*)

Blacknose (*Carcharhinus acronotus*)
Blacktip (*Carcharhinus limbatus*)
Blue (*Prionace glauca*)
Bonnethead (*Sphyrna tiburo*)
Bull (*Carcharhinus leucas*)
Common thresher (*Alopias vulpinus*)
Finetooth (*Carcharhinus isodon*)
Great hammerhead (*Sphyrna mokarran*)
Lemon (*Negaprion brevirostris*)
Nurse (*Ginglymostoma cirratum*)
Oceanic whitetip (*Carcharhinus longimanus*)
Porbeagle (*Lamna nasus*)
Scalloped hammerhead (*Sphyrna lewini*)
Shortfin mako (*Isurus oxyrinchus*)
Smooth dogfish (*Mustelus canis*)
Smooth hammerhead (*Sphyrna zygaena*)
Spinner (*Carcharhinus brevipinna*)
Tiger (*Galeocerdo cuvier*)

(b) Prohibited Shark Species. The following species are prohibited from harvest under the provisions of 322CMR 6.37(3):

Atlantic angel (*Squatina dumeril*)
Basking (*Cetorhinus maximus*)
Bigeye sand tiger (*Odontaspis noronhai*)
Bigeye sixgill (*Hexanchus nakamurai*)
Bigeye thresher (*Alopias superciliosus*)
Bignose (*Carcharhinus altimus*)
Bluntnose sixgill (*Hexanchus griseus*)
Caribbean reef (*Carcharhinus perezii*)
Caribbean sharpnose (*Rhizoprionodon porosus*)
Dusky (*Carcharhinus obscurus*)
Galapagos (*Carcharhinus galapagensis*)
Longfin mako (*Isurus paucus*)
Narrowtooth (*Carcharhinus brachyurus*)
Night (*Carcharhinus signatus*)
Sandbar (*Carcharhinus plumbeus*)
Sand tiger (*Carcharias taurus*)
Sharpnose sevengill (*Heptranchias perlo*)
Silky (*Carcharhinus falciformis*)
Smalltail (*Carcharhinus porosus*)
Whale (*Rhincodon typus*)
White (*Carcharodon carcharias*)

(4) ~~(3)~~ Regulation of Catches.

(a) Permitted Species Size Limits. ~~All sharks shall be measured from the tip of the snout to the fork of the tail.~~

1. Recreational Fishing Size Limits.

- a. There shall be no recreational minimum size limit for smooth dogfish, Atlantic sharpnose, bonnethead, finetooth and blacknose sharks;
- b. For great hammerhead, scalloped hammerhead, and smooth hammerhead sharks, it shall be unlawful to possess or land a shark that is less than 78 inches in **fork** length; and
- c. For shortfin mako sharks, it shall be unlawful to possess or land a female shark that is less than 83 inches in fork length and a male shark that is less than 71 inches in fork length; and**
- d. e.** For all other Permitted Shark Species, it shall be unlawful to possess or land a shark that is less than 54 **fork** inches in length.

2. Commercial Size Limits. For commercial fishermen, there shall be no minimum size for any of the Permitted Species.

(b) Permitted Species Possession Limits.

1. Recreational Catch Limits. A recreational shore angler may harvest only one fish among all Permitted Species and one additional Bonnethead, one additional Atlantic sharpnose, and one additional smooth dogfish per trip. A recreational vessel may possess on board or land only one fish among all Permitted Species per trip regardless of the number of recreational fishermen aboard, and one additional Bonnethead, one additional Atlantic sharpnose, and one additional smooth dogfish per person. **Recreational fishermen shall not possess oceanic whitetip sharks, great hammerhead sharks, scalloped hammerhead sharks or smooth hammerhead sharks if in possession of tunas, billfish or swordfish. Porbeagle sharks caught alive shall be released by recreational fishermen if tunas, billfish or swordfish are to be retained, possessed or landed.**

2. Commercial Catch Limits. Commercial fishermen shall not retain:

- a. more than 100 pounds of smooth dogfish per trip or per day, whichever is the longer period of time; or
- b. any quantity of a Permitted Shark Species after the Director has announced a commercial fishery closure.
- c. any shortfin mako sharks that are caught in gillnet or longline gear and are alive at haulback. Shortfin mako sharks that are alive at haulback shall not be removed from the water and shall be promptly released in a manner that causes the least harm.**

(c) Gear Restrictions.

1. Recreational Gears. Recreational fishermen may take coastal sharks only by rod and reel or handline. **Recreational fishermen shall use circle hooks as the terminal tackle except when fishing with flies or artificial lures. Circle hooks are required for any line that is targeting sharks by the angler on a line-to-line basis. Unless caught using flies or artificial lures, any shark caught on any hook other than a circle hook shall be released.**

2. Commercial Gears. Commercial fishermen may take coastal sharks **in the waters under the jurisdiction of the Commonwealth** by rod and reel, handlines, gillnets, trawl nets, pound

nets, fish traps, and weirs. It shall be unlawful to fish for, possess on board, or land coastal sharks taken by a longline of any length.

a. Exemption. Vessels permitted by the National Marine Fisheries Service to retain, possess and land coastal sharks by longline gear may possess and land coastal sharks legally harvested by longlines in waters outside the jurisdiction of the Commonwealth, provided the gear is properly stowed onboard the vessel and the vessel transits directly through the waters under the jurisdiction of the Commonwealth for the purpose of landing the catch without stopping unless directed to do so by the Division or Law Enforcement.

(d) Catch Disposition.

1. It shall be unlawful for:

a. any fisherman to fillet sharks at sea;

b. any fisherman to remove fins or tails from sharks;

c. recreational fishermen to possess on board or land sharks whose heads, tails, and fins are not attached naturally to the carcass;

d. commercial fishermen to possess on board or land sharks whose fins and tails are not attached naturally to the carcass. Exception: Commercial fishermen may cut fins as long as the fins remain attached to the carcass with at least a small portion of uncut skin.

2. Commercial fishermen may eviscerate sharks and remove the heads.

3. All sharks caught incidental to fisheries directed toward other species must be released in such manner as to ensure maximum probability of survival.

(e) Authorization to Possess Prohibited Species. The Director may authorize persons to land and possess certain Prohibited Species for research or other scientific purposes. Commercial fishermen who possess authorization from NOAA Fisheries to harvest certain species from federal waters may ~~fish for,~~ possess on board, or land those species in Massachusetts provided said fish were taken lawfully from federal waters.

(f) Dealer Measures. All dealers purchasing Atlantic Coastal Shark species from commercial fishermen must obtain a federal Commercial Shark Dealer Permit from the National Marine Fisheries Service.

6.40 Tautog Fishery Limits.

(1) **Purpose and Scope.** Tautog may be found in the waters off of Nova Scotia to Georgia, with a majority of U.S. landings occurring in state-waters between Cape Cod and Chesapeake Bay. Tautog are targeted by both commercial and recreational fishermen along the coast. The tautog resource is managed under the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan (FMP) for Tautog. Amendment 1 to the FMP delineates the stock into four regional management units based on biology, fishery characteristics, and limited coast-wide movement. Massachusetts is in a regional management unit with the state of Rhode Island. States within a regional management unit work together to implement similar management measures across jurisdictions. Amendment 1 also mandates that all coastal states implement a point-of-harvest commercial tautog tagging program by 2020 in an effort to address illegal harvest and sale of tautog.

~~(1)~~ (2) Definitions

Commercial Fisherman means any person who catches, retains, possesses or lands tautog for the purpose of sale, barter or exchange or keeps for personal or family use any tautog taken under the authority of a commercial fisherman permit and regulated tautog fishery permit endorsement issued in accordance with G.L. c. 130 s. 80 and 322 CMR 7.01. ~~any person fishing under the authority of a permit issued in accordance 322 CMR 7.01(2) for the purposes of sale, barter, or exchange, or to keep for personal use or family use any fish or shellfish caught under the authority of the commercial fisherman permit.~~

Dealer means any person permitted in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(3): *Dealer Permits* to process, distribute, sell or re-sell fish.

Closed Commercial Season means that period when commercial fishing is prohibited, including that period between January 1 and August 31 and after the quota closure through December 31.

Director means the Director of the Division of Marine Fisheries.

Division means the Division of Marine Fisheries.

Open Commercial Season means that period when commercial fishing is allowed that begins on September 1st and ends **on December 31st or** when the Director projects 100% of the quota is taken and the fishery is closed through Declaration of Closure issued in accordance with 322 CMR 6.41(2), **whichever occurs first.**

Point of Harvest means that moment when the tautog is retained and in the possession of the commercial fisherman.

Primary Purchase means the first commercial transaction by sale, barter or exchange of any tautog after it is harvested.

Quota means the Commonwealth's annual total allowable commercial **landings catch** of tautog **allocated authorized** by the Atlantic States Marine Fisheries **Advisory** Commission.

Recreational Fisherman means **any person anglers that are** authorized pursuant to M.G.L. c. 130, § 17C and 322 CMR 7.10: *Recreational Saltwater Fishing Permits* to take or attempt to take finfish for personal or family use, sport or pleasure and which are not sold, traded or bartered.

Tautog means that species of fish known as *Tautoga onitis*.

Tautog ID Tags means the lockable, single-use, tamper evident, and non-transferable metal tags to be affixed to the operculum of commercially harvested tautog at point-of-harvest. Tautog ID tags are labeled with the year, state code, and a unique identification number traceable to the commercial tautog regulated fishery permit endorsement holder to whom they were issued.

~~(2)~~ **(3) Minimum Size. It shall be unlawful for any person to ~~retain or~~ possess a tautog that measures less than 16 inches in total length **for longer than is necessary for immediate measurement and return to the sea.****

~~(3)~~ **(4) Recreational Fishery Limits ~~Fisherman Possession Limits.~~ Except as provided at 322 CMR 6.40(4)(f), The following seasons and following recreational fishing possession limits apply:**

(a) January 1 – March 31. It shall be unlawful for recreational fishermen to possess or land any tautog.

(b) April 1 – May 31. It shall be unlawful for recreational fishermen to possess or land more than three tautog per calendar day.

(c) June 1 – July 31. It shall be unlawful for recreational fishermen to possess or land **more than** one tautog per calendar day.

(d) August 1 – October 14. It shall be unlawful for recreational fishermen to possess or land more than three tautog per calendar day.

(e) October 15 – December 31. It shall be unlawful for recreational fishermen to possess or land more than five tautog per calendar day.

(f) Maximum Possession Limit for Anglers on Board a Private Vessel. The possession limits set at 322 CMR 6.40(4 ~~3~~)(a)-(e) shall apply per person per calendar day with a maximum of ten fish per vessel per calendar day. This maximum possession limit shall not apply to anglers fishing onboard for-hire vessels permitted in accordance with 322 CMR 7.10(5).

~~(4)~~ **(5) Commercial Fishery Limits ~~Management.~~**

(a) Permit requirements. A commercial fisherman permit, issued by the Director pursuant to 322 CMR 7.01(2), **and a regulated fishery permit endorsement, issued by the Director pursuant to 322 CMR 7.01(4),** are required to sell tautog or to fish for, retain, possess or land tautog in accordance with the tautog commercial fishery regulations at 322 CMR 6.40(~~5~~4).

(b) Closed Season. It shall be unlawful for a commercial fisherman to **retain**, possess, land or sell or attempt to **retain**, possess, land or sell any tautog **during the closed commercial season ~~within any calendar year from January 1 through August 31 and after the commercial fishery quota closure through December 31.~~**

(c) Commercial Possession Limit It shall be unlawful for a commercial fisherman to **retain**, possess, **land or sell** more than 40 tautog within any calendar day during the open commercial **fishing** season.

(d) Quota Closure. **The open commercial season shall close once the Director has determined ~~It shall be unlawful for commercial fishermen to possess or land tautog once the Director has~~**

determined that 100% of the annual commercial tautog 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).

(6) Commercial Tautog Tagging Program

(a) Issuance of Tautog ID Tags. The Director shall annually issue Tautog ID Tags to commercial fishermen. The annual quantity of Tautog ID Tags to be issued shall be determined by the Director based on the available quota. Tautog ID tags are only valid during the calendar year inscribed thereon.

(b) Commercial Fisherman Requirements.

1. Point of Harvest Tagging. Commercial fisherman shall affix a Tautog ID Tag to any tautog retained during the open commercial season. The Tautog ID Tag shall be affixed through the fish's operculum with the tag information visible on the outside of the fish. All Tautog ID Tags shall be affixed at the point of harvest.

a. Exception. Commercial fishermen may fish recreationally for tautog during the open commercial season. Any tautog retained as recreational catch must comply with the recreational fishery limits at 322 CMR 6.40(4) and all recreational catch of other species shall comply with the applicable recreational fishing regulations at 322 CMR 6.00 and 7.10.

2. Sale of Fish. Only those tautog tagged in accordance with 322 CMR 6.40(6)(b)(1) may be sold or offered for sale by a commercial fisherman.

3. Possession of Tautog ID Tags At-Sea. Only commercial fishermen may possess Tautog ID Tags or affix Tautog ID Tags to tautog during the open commercial season.

4. Tautog ID Tag Accounting. Within 28 days of written request by the Director, commercial fishermen shall return to the Division all unused Tautog ID Tags issued to them for the calendar year by the Director, and submit a Tautog ID Tag Accounting Report on forms provided by the Director signed under the pains and penalties of perjury.

(c) Dealer Requirements for the Purchase, Processing and Sale of Tautog.

1. Primary Purchase by a Dealer.

a. Only dealers authorized as primary buyers in accordance with 322 CMR 7.07 shall make a primary purchase of tautog from a commercial fisherman.

b. At the primary purchase, dealers may only receive tautog that has been tagged in accordance with 322 CMR 6.40(6)(b).

c. The primary purchase of tautog may only occur during the open commercial season.

2. Processing and Resale. All tautog possessed shall have a Tautog ID Tag for the current calendar year from the Atlantic coastal state from which they were harvested. A dealer may receive, possess, purchase or otherwise acquire tautog from

other dealers and may sell, exchange and offer for sale tautog to other dealers or end consumers provided the dealer complies with the following requirements:

a. Tautog ID Tags shall remain affixed to the operculum of any whole tautog – alive or dead - or accompany any processed or filleted tautog while in possession of any person for the purpose of resale.

c. If a person intends on selling any portions of processed or filleted tautog, the Tautog ID Tag may be removed from the operculum, but shall remain on the premise of the seller until all portions are sold to the end consumer.

c. Once all portions of processed or filleted tautog are sold to the end consumer, a person shall break the Tautog ID Tag into two pieces and discard it.

d. Exception. Any tautog, or portion thereof, with a Tautog ID Tag from the prior calendar year shall be sold only to the end consumer.

4. Possession of Massachusetts Caught Fish During the Closed Season. Within two weeks following the quota closure, dealers shall sell off all tautog that bear a Massachusetts Tautog ID Tag or discard such fish and destroy the Tautog ID tag by breaking it into two pieces and discarding it.

(d) Prohibitions. It shall be unlawful for:

1. any person to possess any unaffixed Tautog ID Tags except for commercial fishermen in possession of those tags issued to them by the Division;

2. any person other than a commercial fisherman to affix or attempt to affix a Tautog ID Tag to a tautog;

3. any commercial fisherman to transfer, sell, share, attempt to transfer, sell or share any Tautog ID Tags, or obtain through transfer, sale or sharing any Tautog ID Tags not issued to them by the Division;

4. any commercial fisherman to car, store at sea, tag, sell, barter or exchange or attempt to sell barter or exchange any tautog taken while fishing recreationally;

5. any commercial fisherman to file a false claim of Tautog ID Tag loss for purposes of obtaining additional Tautog ID Tags;

6. any commercial fisherman to fail to return all unused tags to the Division in accordance with 322 CMR 6.40(6)(b)(4), or to surrender their Tautog ID Tags to the Division or Environmental Police upon request;

7. any commercial fisherman to fail to submit or to falsify their annual tautog tagging reporting, as required at 322 CMR 6.40(6)(b)(4);

8. any commercial fisherman to affix a Tautog ID Tag or possess a tautog with a Tautog ID that has been defaced in any manner that leaves the information on the Tautog ID Tag illegible.

9. any commercial fisherman to possess Tautog ID Tags at sea or affix a Tautog ID Tag to a tautog, except during the open commercial season.

10. any person to possess tautog for the purpose of sale or resale without a Tautog ID Tag properly affixed to the operculum of the tautog or accompanying any processed or filleted fish;

11. any person to possess tautog for the purpose of sale or resale when the Tautog ID Tag has been defaced in any manner that leaves the information on the Tautog ID Tag illegible.

12. any person to obtain, purchase, sell or offer for sale a tautog or portion thereof with a Tautog ID Tag from a prior calendar year, except for sale to an end consumer.

(e) Failure to Comply and Restrictions of Future Access. The Director may prohibit any commercial fisherman or dealer who violates 322 CMR 6.40(6) from future participation in the commercial tautog fishery.

322 CMR 7.01 Forms, 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 fisherman 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.**

(f) ~~(g)~~ Bait Dealer. Authorizes the possession and sale of bait.

322 CMR 7.01 Forms, Use and Contents of Permits

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

(a) Regulated Fishery Permit Endorsement. In accordance with M.G.L. c. 130 §§2 and 80, regulated fishery permit endorsements may be added to commercial fisherman permits, issued pursuant to 322 CMR 7.01(2), to authorize the named individual and/or commercial fishing vessel to harvest, possess or land fish or shellfish or use certain fishing gear in a fishery regulated pursuant to M.G.L. c. 130 s. 17A.

1. Open Access Regulated Fishery Permit Endorsements. The following regulated fishery permit endorsements may be added to commercial fisherman permits, issued in accordance with 322 CMR 7.01(2), and shall be required:

~~q. **Tautog For a named individual and/or vessel to commercially fish for tautog within the waters under the jurisdiction of the Commonwealth, or to harvest, possess or land any tautog for commercial purposes in the Commonwealth.**~~

2. Limited Entry Regulated Fishery Permit Endorsement. Commercial fisherman permits, issued in accordance with 322 CMR 7.01(2), may be further endorsed with the following regulated fishery permit endorsements. Pursuant to the authority at M.G.L. c. 130 §2, the following regulated fishery permit endorsements are limited entry and may only be renewed and transferred subject to the provisions set forth at 322 CMR 7.06. These regulated fishery permit endorsements are required for the following:

m. Tautog. For a named individual or vessel to commercially fish for tautog within the waters under the jurisdiction of the Commonwealth, or to harvest, possess or land any tautog for commercial purposes in the Commonwealth. Beginning in 2020, the issuance of these permits will be limited only to those commercial fisherman who held a regulated fishery permit endorsement for tautog in 2018 and 2019, and also sold at least 120 pounds of tautog in any calendar year from 2014 – 2016, occurring prior to the August 27, 2017 control date set forth at 322 CMR 7.04(2).

322 CMR 7.04 Commercial Fishery Control Date

(2) Control Dates.

(h) Commercial Coastal and Offshore Lobster Permit for Use of Traps in Lobster Conservation Management Area 1. After April 29, 2019, any person issued a commercial coastal or offshore lobster permit authorizing the use of traps in Lobster Conservation Management Area 1, as defined at 322 CMR 6.33, may be subject to eligibility criteria for determining future access to or participation in this regulated fishery. Such eligibility criteria may include reported number of traps or vertical lines fished, or other criteria to be established by the Director.