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4.04: Use of Sink Gillnets

(3) Sink Gillnet Specifications.

(a) Maximum Length. Within the waters under the jurisdiction of the Commonwealth, the total continuous length of connected sink gillnets shall not exceed 2,400 feet from end to end of an entire net.

(b) Gear Marking and Configuration Requirements.

1. All buoys used to mark sink gillnets shall be permanently and visibly marked with the permit number of the lawfully permitted owner.

2. The east end of a sink gillnet shall be marked with a high flyer.

3. The west end of a sink gillnet shall be marked with a high flyer with a flag.

~~4. All buoy lines affixed to sink gillnet shall be marked with a 12-inch green mark at the top, bottom and midway on the buoy line. Except that if the color of the buoy line is green then it shall be marked with white marks.~~

(c) Mesh Size and Measurement.

1. Mesh Size. Sink gillnets shall have mesh openings not less than 6½ inches.

2. Measurement of Mesh. Mesh size is measured by a wedge-shaped gauge having a taper of two centimeters in eight centimeters and a thickness of 3.2 millimeters, inserted into the meshes under a pressure or pull of five kilograms. The mesh size will be the average of the measurements of any series of 20 consecutive meshes.

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4.06: Use of Mobile Gear

(2) Seasonal Mobile Gear Closures. The following closures shall apply to the use of mobile gear within the waters under the jurisdiction of the Commonwealth.

(a) Area 1 - North Shore Region - Year Round Closure. Except as provided at 322 CMR 4.06(2)(a)1. and 4.06(2)(k), it shall be unlawful to fish with mobile gear within the waters of the North Shore Region Year Round Closure. North Shore Region Year Round Closure consists of those waters under the jurisdiction of the Commonwealth encompassed by an imaginary line beginning where 41° 21.552' north latitude with the eastern shoreline of Deer Island in Winthrop; thence in a straight line in an east northeasterly direction to where it intersects with 42° 24.497' north latitude and 70° 49.232' west longitude; thence in a straight line in a northeasterly direction to where it intersects with 42° 27.018 north latitude and -70° 46.446' west longitude; thence continuing in a straight line in a northeasterly direction to where it intersects with 42° 29.664' north latitude and 70° 43.914' west longitude; thence in a straight line in a northeasterly direction to where it intersects with 42° 31.688' north latitude and 70° 40.164' west longitude; thence in a straight line in a easterly direction to where it intersects with 42° 31.836' north latitude and 70° 38.118' west longitude; thence in a straight line in an east northeasterly direction to 42° 32.502' north latitude and 70° 36.432 west longitude; thence in a straight line in a northeasterly direction to the nearest point where it intersects with the three nautical mile line, as described on NOAA Chart #13267, at the 70° 36.162' west longitude; thence following the three nautical mile line, as described on the NOAA Charts #13267 and 13278, to the seaward junction of the Massachusetts - New Hampshire marine boundary; thence shoreward along the Massachusetts - New Hampshire marine boundary to the shoreline; and thence in a southerly direction along the shoreline and concluding at the starting point.

1. North Shore Mobile Gear Seasonal Area Exemptions. Coastal Access Permit holders further endorsed for North Shore Mobile Gear may fish within the North Shore Region Year Round Closure Area in accordance with the following exemptions:

a. Area 1A Gloucester/Rockport Exemption. During the periods of February 1st through ~~May 15th~~ ~~March 31st~~ and June 15th through September 30th, mobile gear may be fished within those waters under the jurisdiction of the Commonwealth encompassed by an imaginary line beginning off the northernmost Gloucester-Rockport coastline where 70° 37.365' west longitude intersects with the three nautical mile line, as described on NOAA Chart #13278; thence following in a straight line in a south southwesterly direction to where it intersects 42° 42.848' north latitude and 70° 37.632' west longitude; thence in a straight line in a southeasterly direction to where it intersects with 42° 40.806' north latitude and 70° 33.468' west longitude; thence in a straight line in a south southeasterly direction to where it intersects with 42° 39.504' north latitude and 70° 32.776' west longitude; thence in a straight line due south to where it intersects with 42° 37.806' north latitude and 70° 32.776 west longitude; thence in a straight line in a south southwesterly direction to where it intersects with 42° 35.490' north latitude and 70° 34.578' west longitude; thence in a straight line in a south easterly direction to the nearest point where it intersects with 70° 33.770' west longitude at the three nautical mile line, as described on NOAA Chart #13278; thence following the three nautical mile line, as described on NOAA Chart #13278, in a northerly direction concluding at the starting point.

b. Area 1B Ipswich Bay Exemption. During the period December 15th through

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April 30th, mobile gear may be fished within those waters under the jurisdiction of the Commonwealth encompassed by an imaginary line beginning at the intersection of 70° 47.838' west longitude with the Massachusetts - New Hampshire marine boundary; thence following the Massachusetts - New Hampshire marine boundary seaward in an easterly direction to where it intersects with the three nautical mile line, as described on NOAA Chart #13278; thence following the three nautical mile line, as described on NOAA Chart #13278, in a southerly direction to the northern Gloucester-Rockport coastline to where it intersects with 70° 37.365' west longitude; thence in a straight line in a south southwesterly direction to where it intersects with 42° 42.222' north latitude and 70° 38.130' west longitude; and thence following one nautical mile seaward from shore in a northerly direction concluding at the starting point.

c. Restrictions on the Use of Trawl Gear during Area 1A and Area 1B Seasonal Exemptions. It shall be unlawful for any **fisher** ~~fishermen~~ fishing with mobile gear during the Area 1A and 1B seasonal exemptions:

- i. To fish trawl nets configured with a sweep or a foot rope greater than 80 feet.
- ii. To fish trawl nets, unless configured with a sweep or foot ropes composed of chain, wire or discs.
- iii. To fish with roller gear.
- iv. To possess or retain any lobsters. Any lobsters caught shall be immediately returned to the sea.

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4.13: Trap Gear Marking and Maximum Trawl Length

(1) Definitions.

Boston Harbor and Its Approaches means those waters under the jurisdiction of the Commonwealth circumscribed by an imaginary line beginning at Point Allerton in Hull; thence in an easterly direction to the #1 buoy at Thieves Ledge; thence in a northerly direction to the BG buoy; thence in a westerly direction to Grovers Cliff in Winthrop.

~~**Buoy Line means the line that extends through the water column from the buoy at the surface to a single trap on the ocean floor or to a groundline that connects multiple traps on a trap trawl and extends no more than 12' from the first trap on the trawl.**~~

Black Sea Bass Pot means any trap that has six sides and at least two unobstructed escape vents or openings in the parlor that are at least 2½ inch in diameter, two inches square or **1 3/8" by 5 ¾ inch** ~~one inch by five inches~~, and is set on the bottom of the ocean and designed to capture black sea bass.

Conch Pot means any trap without side heads or horizontal laths that is set on the bottom of the ocean and designed to capture whelks.

East End means that part of the trawl extending from 01° through 180° magnetic.

Fish Pot means inclusively any black sea bass pot or scup pot.

Groundline means lines connecting traps on a trap trawl.

~~**Homeport means the location assigned as vessel's home on its commercial American Lobster Permit issued by NOAA Fisheries, or if a federal commercial American Lobster Permit is not held, then the Homeport shall mean the location assigned as the vessel's home on its Coastal Lobster Permit issued by the Division of Marine Fisheries pursuant to 322 CMR 7.01(2): Commercial Fisherman Permits.**~~

Parlor means that compartment of a pot that does not contain bait.

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

~~**Registered under the Laws of the Commonwealth means any individual or vessel which is licensed by the Division of Marine Fisheries as evidenced by the issuance and possession of a valid commercial Offshore Lobster Permit or Coastal Lobster Permit, issued pursuant to 322 CMR 7.01(2): Commercial Fisherman Permits, which may be in addition to any federal registration of the vessel.**~~

Scup Pot means any trap that has six sides and at least two unobstructed escape vents or openings in the parlor that are at least 3¹/₁₀ inch in diameter or 2¼ inch square that is set on the bottom of the ocean and designed to catch scup.

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Single means individually set and buoyed traps.

Trap means any lobster trap, modified lobster trap, fish pot, conch pot or any other contrivance, other than nets, that is placed on the ocean bottom and designed to catch finfish, whelks lobsters or crabs.

Trawls means a series of single traps that are tied together and buoyed at one or both ends.

West End means that part of a trawl extending from 181° through 00° magnetic.

~~Vessel means any waterborn craft.~~

(2) Buoy and Trap Marking.

(a) All buoys set by commercial trap fishers permitted in accordance with M.G.L. c. 130, §§ 37, 38 or 80, and 322 CMR 7.01(2): Commercial Fishing Permits or 322 CMR 7.01(4): Special Permits, shall be marked with the permit number assigned by the Director. Buoy markings shall not be less than one inch in height nor less than ½ inch in thickness or width of the line.

(b) All traps or cars set by commercial fishers permitted in accordance with M.G.L. c. 130, §§ 37, 38 or 80, and 322 CMR 7.01(2): Commercial Fishing Permits or 322 CMR 7.04(4): Special Permits, shall be marked with trap tags in accordance with 322 CMR 6.31: Trap Tags.

(c) All buoys set by non-commercial lobster and crab trap fishers, permitted in accordance with M.G.L. c. 130, §§ 37 and 38, and 322 CMR 7.01(4): Special Permits, shall be marked with the letter "N" prior to the permit number assigned by the Director then a dash (-) with a single digit from 0 - 9 shall follow the permit number indicating the sequential trap number in the series up to ten traps. Said alpha numerical sequence shall be permanently secured to the inside of the trap through the use of a synthetic plate or by being burned or cut into a wooden lath. Buoy markings shall not be less than one inch in height nor less than ½ inch in thickness or width of the line.

(3) Surface Identification of Traps.

(a) Single Traps. Single traps shall each be marked with a single buoy measuring at least seven inches by seven inches or five inches by 11 inches. Sticks are optional, but if used, shall not have a flag attached.

(b) Trawls. The east end of a trawl shall be marked with a double buoy, consisting of any combination of two buoys measuring at least seven inches by seven inches or five inches by 11 inches and one or more three-foot sticks. The west end of a trawl shall be marked with a single buoy measuring at least seven inches by seven inches or five inches by 11 inches with a three-foot stick and a flag.

(c) Exemption for Boston Harbor and its Approaches. It shall be lawful to fish with trawls marked on one end with a plastic bottle attached by at least ten feet of ½ inch cotton line or similar light material, provided that said substitute buoy shall be painted with the buoy colors and permit number of the owner. A single buoy seven inches by seven inches or five inches by 11 inches shall mark the other end of the trawl. Sticks need not be used.

(4) Maximum Length for Trawls. The total length of trawls set in waters under the jurisdiction of the Commonwealth shall not exceed 2,500 feet from end to end.

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~~(2) Traps. The following requirements apply to marking of traps set within the waters under the jurisdiction of the Commonwealth.~~

~~(a) Buoy and Trap Marking.~~

~~1. All buoys set by commercial fishermen permitted in accordance with M.G.L. c. 130, §§ 37, 38 or 80, and 322 CMR 7.01(2): *Commercial Fisherman Permits* or 322 CMR 7.01(4): *Special Permits*, shall be marked with the permit number assigned by the Director.~~

~~2. All traps or cars set by commercial fishermen permitted in accordance with M.G.L. c. 130, §§ 37, 38 or 80, and 322 CMR 7.01(2): *Commercial Fisherman Permits* or 322 CMR 7.04(4): *Special Permits*, shall be marked with trap tags in accordance with 322 CMR 6.31: *Trap Tags*.~~

~~3. All buoys set by non-commercial lobster and crab trap fishermen, permitted in accordance with M.G.L. c. 130, §§ 37 and 38, and 322 CMR 7.01(4): *Special Permits*, shall be marked with the letter "N" prior to the permit number assigned by the Director then a dash (-) with a single digit from 0-9 shall follow the permit number indicating the sequential trap number in the series up to ten traps. Said alpha-numerical sequence shall be permanently secured to the inside of the trap through the use of a synthetic plate or by being burned or cut into a wooden lath.~~

~~4. The buoy markings required in 322 CMR 4.13(4) shall not be less than one inch in height nor less than ½ inch in thickness or width of line.~~

~~(b) Buoy Line Marking Requirements.~~

~~1. Single Traps in LCMA1. The buoy line on single traps fished or authorized to fish in LCMA 1, as defined at 322 CMR 6.33: *Lobster Management Areas*, shall be marked with three 12-inch marks located at the top, midway and bottom of the buoy line. Each mark shall be composed of at least six inches of red and at least six inches of white. Effective February 1, 2022, this requirement shall apply only to fish pots and conch pots.~~

~~2. Single Traps in LCMA2. The buoy line on single traps fished or authorized to fish in LCMA 2, as defined at 322 CMR 6.33: *Lobster Management Areas*, shall be marked with three 12-inch marks located at the top, midway and bottom of the buoy line. Each mark shall be composed of at least six inches of red and at least six inches of black. Effective February 1, 2022, this requirement shall apply only to fish pots and conch pots.~~

~~3. Single Traps in Outer Cape Cod LCMA. The buoy line on single traps fished or authorized to fish in Outer Cape Cod LCMA, as defined at 322 CMR 6.33: *Lobster Management Areas*, shall be marked with three 12-inch marks located at the top, midway and bottom of the buoy line. Each mark shall be composed of at least six inches of red and at least six inches of yellow. Effective February 1, 2022, this requirement shall apply only to fish pots and conch pots.~~

~~4. Trawls in LCMA1, LCMA2 and Outer Cape Cod LCMA. The buoy line on trawls fished or authorized to fish in LCMA 1, LCMA 2 or the Outer Cape Cod LCMA, as defined in 322 CMR 6.33: *Lobster Management Areas*, shall be marked with three red marks of at least 12 inches. A mark shall be located at the top, midway and bottom of the buoy line. Effective February 1, 2022, this requirement shall apply only to fish pots and conch pots.~~

~~5. Trawls in LCMA 3. The buoy line on trawls fished or authorized to fish in~~

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~~LCMA 3, as defined in 322 CMR 6.33: Lobster Management Areas, shall be marked with three black marks of at least 12 inches. A mark shall be located at the top, midway and bottom of the buoy line. Effective February 1, 2022, this requirement shall apply only to fish pots and conch pots.~~

~~6. Non-commercial Lobster and Crab Traps. The buoy line on traps fished or authorized to be fished by recreational lobster and crab fishermen, permitted in accordance with 322 CMR 7.01(4): Special Permits shall be marked with a red mark midway on the buoy line of at least four inches.~~

~~7. Exception to Buoy Line Marking Requirements. For the buoy line marking requirements at 322 CMR 4.13(2)(b)1. through 6., if the color of the buoy line is the same as or similar to the buoy line marking requirement color code, a similar sized white mark may be substituted for that color code at the appropriate location(s) on the buoy line.~~

~~8. New Buoy Line Marking Requirements for the Commercial Trap Fisheries in 2022. Effective February 1, 2022 the following buoy line marking requirements shall apply to commercial trap gear:~~

~~a. Commercial Lobster Trap Gear Seaward of the Waters under the Jurisdiction of the Commonwealth LCMA1, LCMA2, and Outer Cape Cod LCMA. Any vessel registered under the laws of the Commonwealth with a Homeport in Massachusetts fishing commercial lobster trap gear seaward of the waters under the jurisdiction of the Commonwealth, within LCMA1, LCMA2 and the Outer Cape Cod LCMA, as defined at 322 CMR 6.33: Lobster Conservation Management Areas, shall mark their buoy lines with at least five color-coded marks in the following configuration:~~

~~i. There shall be one solid red mark that is at least three feet in length within the first 12 feet of the buoy line extending through the water column from the buoy to the trap.~~

~~ii. No more than one foot below the three-foot solid red mark, which occurs in the first 12 feet of the buoy line extending through the water column from the buoy to the trap, there shall be one solid green mark that is at least one foot in length.~~

~~iii. After the first 12 feet of the buoy line, there shall be at least one mark in each third of the remaining buoy line extending down to the trap. Each mark shall be at least two feet long and comprised of a solid or non-solid red mark measuring at least one foot in length and a solid or non-solid green mark measuring at least one foot in length. The red and the green marks do not need to be adjacent, but shall not be more than six inches apart.~~

~~iv. If the color of the buoy line is red or red and white striped, then a solid white mark of the same size shall be substituted for the red mark.~~

~~v. All red marks in the buoy line shall bear a corresponding green mark within six inches of the red mark.~~

~~b. Commercial Trap Gear in the Waters under the Jurisdiction of the Commonwealth. Commercial fishermen fishing with trap gear in the waters under the jurisdiction of the Commonwealth shall mark their buoy lines with at least five color-coded marks in the following configuration:~~

~~i. There shall be one solid red mark that is at least three feet in length within the first 12 feet of the buoy line extending through the water column~~

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~~from the buoy to the trap.~~

~~ii. After the first 12 feet of the buoy line, there shall be at least four two-foot solid or non-solid red marks in the remaining buoy line extending down to the trap with two of the red marks occurring in the top 50% of the buoy line and the other two red marks occurring in the bottom 50% of the buoy line.~~

~~iii. There shall be no length of buoy line greater than 60 feet without a red mark.~~

~~iv. If the color of the buoy line is red or red and white striped, then a solid white mark of the same size shall be substituted for the red mark.~~

~~v. There shall be no marks in the buoy line that are green, black, silver, grey, purple, or yellow.~~

~~e. Commercial Lobster Trap Gear in within LCMA3. Any vessel registered under the laws of the state and with a Homeport in Massachusetts fishing lobster trap gear in in LCMA3, as defined at 322 CMR 6.33: *Lobster Conservation Management Areas*, shall mark their buoy lines with at least five color-coded marks in the following configuration:~~

~~i. There shall be one solid black mark that is at least three feet in length within the first 12 feet of the buoy line extending through the water column from the buoy to the trap.~~

~~ii. No more than one foot below the three-foot solid black mark, which occurs in the first 12 feet of the buoy line extending through the water column from the buoy to the trap, there shall be one solid green mark that is at least one foot in length.~~

~~iii. After the first 12 feet of the buoy line, there shall be at least one sold or non-solid black that is at least one foot long in each _ of the remaining buoy line extending down to the trap.~~

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6.02: Lobster Conservation and Management

(1) Definitions. For the purpose of 322 CMR 6.02, the following terms have the following meanings:

Commercial Fisher Fisherman means any person permitted in accordance with M.G.L. c. 130, §§ 37, 38 and 80 and 322 CMR 7.01(2)(a): *Coastal Lobster* and (b): *Offshore Lobster*, to catch, possess and land lobster for the purpose of sale, barter or exchange or ~~who that~~ keeps for personal or family use any lobster taken under the authority of said permit.

Escape Vent means one or more unobstructed rectangular vent or opening or two or more unobstructed round openings in the parlor of the pot.

Ghost Panel means a panel or other mechanism which is designed to create an opening in a pot to allow the escapement of lobsters within 12 months after a trap has been abandoned or lost.

Lobster means that species known as *Homarus americanus*.

Parlor means that section of the pot designed or intended to hold lobsters until they are removed by a fisher. ~~Fisherman.~~

Recreational Fisher Fisherman means any person permitted in accordance with M.G.L. c. 130, § 38 and 322 CMR 7.01(4)(b) to catch, possess and land lobster for family use, sport or pleasure, which are not to be sold, traded or bartered.

Trap means any lobster trap, modified lobster trap or any other contrivance, other than nets, that is placed on the ocean bottom and designed to catch lobsters or crabs.

(2) Maximum and Minimum Sizes.

(a) Method of Measurement.

1. All lobsters shall be measured immediately. Any person diving for lobster shall measure all lobsters in possession prior to surfacing.
2. Lobsters shall be measured from the rear of the eye socket along a line parallel to the center line of the body shell to the rear end of the body shell.

(b) Commercial Fishery.

1. Commercial ~~fishers Fishermen~~ fishing or authorized to fish in LCMA 1, as defined in 322 CMR 6.33, are prohibited from possessing a lobster with a carapace length smaller than 3¼ inches or larger than five inches.
2. Commercial ~~fishers Fishermen~~ fishing or authorized to fish in LCMA 2, 4 and 5, as defined in 322 CMR 6.33, are prohibited from possessing a lobster with a carapace length smaller than 3 3/8 – inches and larger than 5¼ inches.
3. Commercial ~~fishers Fishermen~~ fishing or authorized to fish in LCMA 3, as defined in 322 CMR 6.33, are prohibited from possessing a lobster with a carapace length smaller than 3 17/32 inches and larger than 6¾ inches.
4. Commercial ~~fishers Fishermen~~ fishing or authorized to fish in LCMA Outer Cape Cod, as defined in 322 CMR 6.33, are prohibited from possessing a lobster with a carapace length smaller than 3 3/8 – inches.
5. Commercial ~~fishers Fishermen~~ fishing or authorized to fish in LCMA Area 6, as defined in 322 CMR 6.33, are prohibited from possessing a lobster with a carapace

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length smaller than $3\frac{9}{32}$ inches and larger than $5\frac{1}{4}$ inches.

(c) Recreational Fishery.

1. Recreational **fishers** ~~fishermen~~ fishing in the Gulf of Maine Recreational Area, as defined in 322 CMR 6.33, are prohibited from possessing a lobster with a carapace length smaller than $3\frac{1}{4}$ inches or larger than five inches.
2. Recreational **fishers** ~~fishermen~~ fishing in the Outer Cape Cod Recreational Area, as defined in 322 CMR 6.33, are prohibited from possessing a lobster with a carapace length smaller than $3\frac{3}{8}$ inches.
3. Recreational **fishers** ~~Noncommercial fishermen~~ fishing in the Southern New England Recreational Area, as defined in 322 CMR 6.33, are prohibited from possessing a lobster with a carapace length smaller than $3\frac{3}{8}$ inches or larger than $5\frac{1}{4}$ inches.

(3) Gear Restrictions. It shall be unlawful for any person to take or attempt to take lobsters from the waters under the jurisdiction of the Commonwealth by the use of traps without said traps having the following features:

(a) Escape Vent. All lobster traps must have an escape vents that conform to the following specifications:

1. General Requirements. On each trap, separate parlors shall each have an escape vent, while only the outer of connected parlors must have an escape vent.
2. LCMA1. Commercial **fishers** ~~fishermen~~ fishing or authorized to fish in LCMA 1, as defined in 322 CMR 6.33, shall rig their traps with vents that measure at least $1\frac{15}{16}$ inches by $5\frac{3}{4}$ inches or two circular vents that measure at least $2\frac{7}{16}$ inches.
3. LCMA 2, 3, 4, 5 and 6 or Outer Cape Cod. Commercial **fishers** ~~fishermen~~ fishing or authorized to fish in LCMA 2, 3, 4, 5 and 6 or Outer Cape Cod, as defined in 322 CMR 6.33, shall rig their traps with vents that measure at least two inches by $5\frac{3}{4}$ inches or two circular vents that measure at least $2\frac{5}{8}$ inches.
4. Gulf of Maine Recreational Lobster Area. Recreational **fishers** ~~fishermen~~ fishing in or authorized to fish in the Gulf of Maine Recreational Lobster Area, as defined in 322 CMR 6.33, shall rig their traps with vents that measure at least $1\frac{15}{16}$ inches by $5\frac{3}{4}$ inches or two circular vents that measure at least $2\frac{7}{16}$ inches.
5. Outer Cape Cod or Southern New England Recreational Lobster Areas. **Fishers** ~~fishermen~~ fishing in or authorized to fish in the Outer Cape Cod or Southern New England Recreational Lobster Areas, as defined in 322 CMR 6.33, shall rig their traps with vents that measure at least two inches by $5\frac{3}{4}$ inches or two circular vents that measure at least $2\frac{5}{8}$ inches.

(b) Ghost Panel. All lobster traps must have an unobstructed ghost panel located in the parlor sections on the sides or at the end, or on the top if the escape panel is placed directly over the head and meets the following specifications:

1. The opening covered by the panel or created by other approved mechanism shall be rectangular and measure at least $3\frac{3}{4}$ by $3\frac{3}{4}$ inches, shall be located in the outer parlor section(s) of the trap, and in a position which allows an unobstructed exit of lobsters from the trap.
2. The panel shall be constructed of, or fastened to the trap with, one of the following materials: wood lath; cotton, hemp, sisal or jute twine not greater than $\frac{3}{16}$ inch in diameter; or non-stainless, uncoated ferrous metal not greater than $\frac{3}{32}$ inch in diameter.
3. The door of the trap may serve as the ghost panel if fastened to the trap with a material specified in 322 CMR 6.02(3)(b).
4. The escape vent specified in 322 CMR 6.02(3)(a) may serve as a ghost panel if incorporated into a panel constructed of, or attached to the trap with, a material

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- specified in 322 CMR 6.02(3)(b), and upon breakdown of the degradable materials, will create an opening for egress of lobsters at least $3\frac{3}{4}$ by $3\frac{3}{4}$ inches.
5. Traps constructed entirely or partially of wood shall be considered to be in compliance if constructed of wood lath to the extent that deterioration of wooden component(s) will result in an unobstructed opening as specified in 322 CMR 6.02(3)(b)1.
- (c) Maximum Trap Size. Volume of any trap must not exceed 22,950 cubic inches.
- (d) Open and Collapsible Traps. The taking of lobster by any collapsible device constructed of wire or other material(s) that is fished in an open configuration until retrieved is prohibited. This prohibition shall not apply to the taking of edible crabs.
- (e) Nonconforming Contrivances. It is unlawful for any person to set or attempt to set any contrivance, other than fishing gear regulated by the Division pursuant to M.G.L. c. 130 and 322 CMR, designed to or capable of attracting lobsters. For the purposes of 322 CMR 6.02(3)(e), contrivances shall include, but not be limited to, any toilet tanks, planters or cement structures. Possession of any contrivance that violates 322 CMR 6.02(3)(e) while on the waters under the jurisdiction of the Commonwealth is *prima facie* evidence of a violation of 322 CMR 6.02(3)(e).
- (f) All traps must be marked in accordance with the trap gear marking requirements at 322 CMR 4.13(2)
- (g) All traps must be configured to comply with the relevant fixed gear and trap gear restrictions at 322 CMR **12.06. 12.06(2) and (3).**
- (4) Egg-bearing Lobsters.
- (a) It is unlawful to remove eggs from any berried lobster.
- (b) It is unlawful to land or possess any lobster:
1. from which eggs have been removed.
 2. that has come in contact with any substance capable of removing lobster eggs.
- (5) V-notched Female Lobster Protection.
- (a) Purpose. The purpose of 322 CMR 6.02(5) is to protect certain female lobsters from harvest that bear a v-shaped notch or the remnant of a healed notch on a specific flipper, evidence that the lobster has been marked and released for conservation purposes. Area-specific v-notch standards regarding the possession of previously notched lobsters for commercial **fishers fishermen** are contained in 322 CMR 6.02(5)(e), consistent with the area-specific components of the interstate management plan, resulting in three different standards of measuring a "V" in the notched flipper, constituting varying degrees of protection from harvest. For noncommercial (recreational) **fishers fishermen** and seafood dealers, uniform statewide standards for possessing previously v-notched lobster are contained in 322 CMR 6.02(5)(e).
- (b) V-notching Methods. Any commercial **fishers fishermen** required by 322 CMR or authorized to mark lobsters with a v-shaped notch shall carve a v-shaped notch in the base of a specific flipper by means of a sharp bladed instrument, at least $\frac{1}{4}$ inch and not greater than a $\frac{1}{2}$ inch in depth and tapering to a sharp point. For purposes of 322 CMR 6.02(5), the specific flipper is to the right of the center flipper as viewed from the rear of the female lobster when the underside of the lobster is down.
- (c) Mutilated V-notch. For purposes of complying with 322 CMR 6.02(5), it is unlawful for any person to possess a female lobster that is mutilated in a manner that could hide, obscure or obliterate a v-shaped notch.
- (d) LCMA Specific Requirements for Commercial Lobstermen Fishers to V-notch.
1. LCMA 1. Commercial **fishers fishermen** authorized to fish in LCMA 1, as defined

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- at 322 CMR 6.33, must v-notch and then immediately release all egg bearing female lobsters.
2. LMCA 2. Commercial **fishers** ~~fishermen~~ authorized to fish in LCMA 2, as defined at 322 CMR 6.33, must v-notch and then immediately release all egg-bearing female lobsters of legal size as defined at 322 CMR 6.02(2)(b)2.
- (e) Restrictions on Possessing V-notched Female Lobsters.
1. LCMA 1. It is unlawful for any commercial **fishers** ~~fishermen~~ fishing or authorized to fish in LCMA 1, as defined at 322 CMR 6.33, to possess any female lobster bearing a v-shaped notch in the base of the flipper that is of any size with or without setal hairs.
2. LCMAs 2, 3, 4, 5 and 6. It is unlawful for any commercial **fishers** ~~fishermen~~ fishing or authorized to fish in LCMA 2, 3, 4, 5 and 6, as defined at 322 CMR 6.33(2), to possess any female lobster that bears a notch or indentation in the base of the flipper that is at least as deep as $\frac{1}{8}$ inch with or without setal hairs.
3. Outer Cape Cod LCMA. It is unlawful for any commercial **fishers** ~~fishermen~~ fishing or authorized to fish in the Outer Cape Cod LCMA, as defined at 322 CMR 6.33(2), to possess any female lobster that bears a notch or indentation in the base of the flipper that is at least as deep as $\frac{1}{4}$ inch and tapering to a sharp point without setal hairs.
4. Recreational Lobster Fishers ~~Fishermen~~. It is unlawful for any **recreational fishers** ~~noncommercial lobster fisherman~~ fishing or authorized to fish in the waters under the jurisdiction of the Commonwealth to possess any female lobster that bears a notch or indentation in the base of the flipper that is at least as deep as $\frac{1}{8}$ inch with or without setal hairs.
5. Seafood Dealers. It is unlawful for any seafood dealers, permitted in accordance with 322 CMR 7.01(3): *Dealer Permits* to possess any female lobster that bears a notch or indentation in the base of the flipper that is at least as deep as $\frac{1}{4}$ inch and tapering to a sharp point without setal hairs.
- (6) Noncommercial Lobster Daily Possession and Landing Limit. It shall be unlawful for any **recreational fisher** ~~person~~ to harvest more than 15 lobsters per calendar day for personal use, or possess more than 15 lobsters while lobster fishing in waters under the jurisdiction of the Commonwealth.
- (7) Seasonal Closures.
- (a) Outer Cape LCMA. Fishing for lobster with traps is prohibited within the Outer Cape LCMA, as defined at 322 CMR 6.33, from February 1st through April 30th. **Fishers** ~~Fishermen~~ are required to remove all lobster traps from the waters of the Outer Cape LCMA prior to this closed period. It shall be unlawful for any commercial **fisher** ~~fisherman~~ authorized to fish traps in the Outer Cape LCMA to fish, set or abandon any lobster traps in any LCMAs during this seasonal closure. Notwithstanding the above, the trap gear haul out period at 322 CMR 12.04: *Fixed Gear Seasonal Closures* may remain in effect for the Outer Cape LCMA through May 15th.
- ~~(b) Noncommercial Lobster and Crab Traps. Fishing for lobsters with traps by noncommercial lobster and crab trap permit holders is prohibited in all waters under the jurisdiction of the Commonwealth from November 1st through May 15th. It shall be unlawful for noncommercial lobster and crab trap permit holders to fish, set, store or abandon any lobster traps within the waters under the jurisdiction of the Commonwealth during this seasonal closure. This shall not apply to any buoyless lobster and crab trap gear fished from the shoreline.~~

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6.03: Regulated Multi-species Groundfish

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 G.L. c. 130, §80 and 322 CMR 7.01(2) to catch, possess, and land multi-species groundfish for purpose of sale, barter, or exchange or who keeps for personal or family use any lobster taken under the authority of said permit.

For-hire Vessel means a vessel 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. 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 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.

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.

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

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

Southern New England Groundfish Management Area means those waters under the jurisdiction of the Commonwealth south of 42°00' excluding waters of Cape Cod Bay, but including Pleasant Bay and Nauset Harbor and all connecting embayments in the County of Barnstable as well as all estuaries and salt ponds that drain to these waters.

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

Trip means the time period 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 with a return to a dock, berth, seawall, ramp or port.

Windowpane Flounder means that species of fish *Scophthalmus aquosus*.

Winter Flounder means that species of fish known commonly as blackback *Pseudopleuronectes americanus*.

Witch Flounder means gray sole or that species of fish known as *Glyptocephalus cynoglossus*.

Wolffish means that species of fish known as *Anarhichas* ~~*Anarchichas*~~ *lupus*.

Yellowtail Flounder means that species of fish known as *Limanda ferruginea*.

(2) Size Limits. **Except as authorized at 322 CMR 6.03(13)(a)**, it shall be unlawful to retain, possess or land multispecies groundfish of a total length **as set forth below:** ~~of:~~

(a) Commercial Fishing. **For commercial fishers and dealers:**

1. Cod: less than 19 inches;
2. Dabs: less than 12 inches;
3. Haddock: less than 16 inches;
4. Pollock: less than 19 inches;
5. Yellowtail flounder: less than 12 inches;
6. Halibut: less than 41 inches;
7. Monkfish: less than 17 inches in total length or monkfish tails less than 11 inches in total length;
8. Windowpane Flounder: less than 12 inches;
9. Winter Flounder: less than 12 inches;
10. Witch Flounder: less than 13 inches; and
11. Redfish: less than seven inches.

(b) Recreational Fishing. **For recreational fishers:**

1. Cod:
 - a. less than 22 inches or 28 inches or greater in the Southern New England

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b. less than 22 inches in the Gulf of Maine Groundfish Management Area.

2. Dabs: less than 14 inches;

3. Haddock:

a. less than 17 inches in the Gulf of Maine Groundfish Management Area;

b. less than 18 inches in the Southern New England Groundfish Management Area.

4. Yellowtail flounder: less than 13 inches;

5. Halibut: less than 41 inches;

6. Windowpane Flounder: less than 12 inches; and

7. Winter Flounder: less than 12 inches.

(3) Method of Measurement.

(a) Minimum Size. The minimum sizes established in 322 CMR 6.03(2) shall be determined by the greatest straight line length in inches as measured on a fish with its mouth closed from the anterior most tip of the jaw or snout to the farthest extremity of the tail. For fish with forked tails, the upper and lower fork may be squeezed together to measure the tail extremity.

(b) Exceptions for Possession of Cod Parts. For purposes of determining weights for trip limits as established by 322 CMR 6.03, the weight of fillets will be multiplied by three, and the weight of headless whole-gutted cod will be multiplied by 1.25. The weights of cheeks removed from cod heads and cod gonads consistent with 322 CMR 6.03(3)(b) shall be exempt from the possession limits.

(c) Prohibition. It shall be unlawful for a commercial **fisher fisherman** to mutilate any cod in such a way as to interfere with or affect a proper or adequate measurement of the fish.

(4) Recreational Fishery Cod Limit.

(a) Gulf of Maine Groundfish Management Area.

1. Open Season. During the period of April 1 through April 14 and September 1 through October 7, it shall be unlawful for any recreational **fisher fisherman** to retain, possess, or land more than one cod per day taken from the Gulf of Maine Groundfish Management Area.

2. Closed Season. During the period of April 15 through August 31 and October 8 through March 31, it shall be unlawful for a recreational **fisher fisherman** to retain, possess or land any cod taken from the Gulf of Maine Groundfish Management Area.

(b) Southern New England Groundfish Management Area.

1. Open Season. During the period of August 1 through April 30, it shall be unlawful for any recreational **fisher fisherman** to retain, possess, or land more than five cod per day taken from the Southern New England **Groundfish** Management Area.

2. Closed Season. During the period of May 1 – July 31, it shall be unlawful for any recreational **fisher fisherman** to retain, possess or land any cod taken from the Southern New England **Groundfish** Management Area.

(c) Exceptions. Customers aboard for-hire vessels fishing in federal waters may possess and land cod in compliance with federal regulations.

(5) Commercial Fishery Cod Trip Limits. The trip limits established in 322 CMR 6.03(5) shall be determined by the weight of whole, whole-gutted, or gilled fish and shall apply to any trip or 24-hour period, whichever period is longer. It is unlawful for a **commercial fisher or** vessel fishing in:

(a) Gulf of Maine Groundfish Management Area to possess onboard or land more than

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400 pounds of cod **per trip or per 24-hour day, whichever period is longer.**

(b) Southern New England Groundfish Management Area to possess onboard or land more than 1,000 pounds of cod **per trip or per 24-hour day, whichever period is longer.**

(6) Gonad Restrictions.

(a) Possession Limit. It is unlawful for a **fisher** ~~fishermen~~ to possess any quantity of gonads that in aggregate weighs in excess of 10% of the weight of Atlantic cod aboard the vessel.

(b) Prohibition. It is unlawful for **fisher** ~~fishermen~~ to remove gonads from any fish that measures below the minimum size or from any legal-sized fish released due to state or federal possession limits.

(7) Commercial Fishery Limits for Yellowtail Flounder. It is unlawful for any **commercial fisher or** vessel fishing within waters under the jurisdiction of the Commonwealth to possess onboard or land more than 350 pounds of yellowtail flounder during a trip or 24-hour period, whichever period is longer.

(8) Witch Flounder Commercial Possession Limit. It is unlawful for any **commercial fisher or** vessel fishing within waters under the jurisdiction of the Commonwealth to possess onboard or land more than 750 pounds of witch flounder during a trip or 24-hour period, whichever period is longer.

(9) Halibut Fishery Possession Limit. It is unlawful for a:

(a) Commercial fisher~~men~~ to possess onboard or land more than one halibut per vessel per trip or 24-hour period, whichever period is longer.

(b) Recreational fisher~~men~~ to possess on board or land more than one halibut per person per day.

(10) Commercial Fishery Monkfish Limit.

(a) It is unlawful for any **commercial fisher or** vessel fishing within waters under the jurisdiction of the Commonwealth to possess onboard or land more than 536 lbs. of monkfish tails or 1,560 lbs. whole weight, per trip or 24-hour period, whichever period is longer.

(b) Limitation on Possessing or Landing Monkfish Livers. During any trip it shall be unlawful for any vessel fishing in the waters of the Commonwealth to possess or land monkfish livers in excess of:

1. 25% the total weight of the monkfish tail; and
2. 10% the total weight of the whole monkfish.

(11) Winter Flounder Fishery Limits.

(a) Commercial Fishery.

1. Possession Limits. It is unlawful for a commercial fisher~~men~~ **or vessel** to possess onboard or land:

- a. more than 500 lbs. of winter flounder taken from the Gulf of Maine Groundfish Management Area per trip or 24-hour period, whichever period is longer; or
- b. more than 50 lbs. of winter flounder taken from Southern New England Groundfish Management Area per trip or 24-hour period, whichever period is longer.

(b) Recreational Fishery.

1. Gulf of Maine Groundfish Management Area. From January 1st through

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- December 31st it shall be unlawful for **any** recreational **fisher fishermen** fishing in the Gulf of Maine Groundfish Management Area to possess more than eight winter flounder per day;
2. Southern New England Groundfish Management Area.
- a. January 1st through the Last Day of February. It shall be unlawful for **any** recreational **fisher fishermen** fishing in the Southern New England Groundfish Management Area to possess any winter flounder; and
- b. March 1st through December 31st. It shall be unlawful for **any** recreational **fisher fishermen** fishing in the Southern New England Groundfish Management Area to possess more than two winter flounder per day.
- (12) Haddock Fishery Limits.
- (a) Recreational Fishery in Gulf of Maine Groundfish Management Area.
1. Open Season. During the period of April 1st through the last day of February, it shall be unlawful for any recreational **fisher fishermen** to retain, possess or land more than 20 haddock per day taken from the Gulf of Maine Groundfish Management Area.
2. Closed Season. During the period of March 1st through March 31st, it shall be unlawful for any recreational **fisher fishermen** to retain, possess or land any haddock taken from the Gulf of Maine Groundfish Management Area.
- (b) Exceptions. Customers aboard for-hire vessels fishing in federal waters may possess and land haddock in compliance with federal regulations.
- (13) Exception to Possession 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 the size and possession limits set forth at 322 CMR 6.03, ~~possess and land more than the state possession limits prescribed in 322 CMR 6.03(13),~~ 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 ~~vessel~~ with federal permits allowing the taking of regulated multispecies groundfish to retain or possess regulated multispecies groundfish species that do not comply with the size and 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) Dealers. Federally permitted dealers may purchase and possess regulated multispecies groundfish species in quantities and at sizes that do not comply with the size and possession limits set forth at 322 CMR 6.03, provided the fish were offloaded from vessels that lawfully retained and landed the catch pursuant to 322 CMR 6.03(13)(a).
- (c) ~~(b)~~ Open Access State-waters Regulated Groundfish. Those commercial **fishers fishermen**, permitted in accordance with 322 CMR 7.01(2): *Commercial 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.
- (14) Prohibitions.

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(a) Commercial. It shall be unlawful for any commercial **fisher** or vessel to retain or land:

1. Ocean pout;
2. Windowpane flounder; and
3. Wolffish.

(b) Recreational. It shall be unlawful for **any** recreational **fisher** ~~fishermen~~ to possess or land:

1. Wolffish;
2. Ocean pout; **or**
3. Windowpane flounder.

~~4. Cod caught in the Gulf of Maine Groundfish Management Area; and~~

~~5. Haddock caught aboard any for-hire vessel on a for-hire trip in the Gulf of Maine Groundfish Management Area March 1st through April 14th and September 17th through October 31st.~~

(c) It shall be unlawful for recreational **fishers** ~~fishermen~~ to land filets of groundfish species without two square inches or more of skin on each filet and in any quantity more than two times the possession limit per recreational **fishers** ~~fishermen~~ or vessel, whichever is less.

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6.04: Atlantic Bluefin Tuna

(1) Preamble. In 1974, the Massachusetts Division of Marine Fisheries promulgated regulations governing the taking, landing and sale of Atlantic bluefin tuna. 322 CMR 6.00 imposed reporting requirements on tuna **fishers fishermen**, limited the size of the total catch permitted in Massachusetts, and limited the number of vessels in the purse seine fishery for Atlantic bluefin tuna to those vessels which operated in that fishery prior to 1964.

In 1975, Congress enacted the Atlantic Tunas Convention Act, 16 U.S.C. 971, *et seq.*, (ATCA). Regulations promulgated pursuant to ATCA established federal reporting requirements, annual catch limits, and an inspection and certification scheme for tuna purse seine vessels (50 CFR Part 285).

Pursuant to 50 CFR 285.8, federal regulations were made applicable within Massachusetts territorial waters. In 1976 Massachusetts deleted all provisions of its 1974 regulations with the exception of the limit on the number of fishing vessels in the purse seine fishery for Atlantic bluefin tuna, and extended ~~the grandfather-a~~ provision to cover those purse seine vessels operating in the fishery prior to 1974.

On June 22, 1979, the United States Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, (NMFS) published an interpretation of its regulations *vis-a-vis* the Massachusetts regulations stating that the application of federal regulations in state waters is not intended to prevent the application of state regulations which when concurrently applied do not conflict with federal regulations, and are not inconsistent with conservation and management of Atlantic bluefin tuna under recommendations made by the International Commission for the Conservation of Atlantic Tunas (44 Fed. Reg. 122, 50 CFR 285). This interpretation concluded by stating "No effort has been made in our continuing review of laws and regulations to prevent the concurrent application of regulations such as the Massachusetts limited entry scheme for tuna purse seine vessels." (44 Fed. Reg. at 3639).

As of 2020, the Division of Marine Fisheries no longer issues any regulated fishery permit endorsements authorizing the use of purse seines for bluefin tuna. Accordingly, this activity is now prohibited within the waters under the jurisdiction of the Commonwealth.

(2) Definitions. For the purposes of 322 CMR ~~6.04-6.00~~, and unless the context requires otherwise, the following words shall have the following meanings:

Director means the Director of the Massachusetts Division of Marine Fisheries, or his or her agents or representatives.

Division means the Massachusetts Division of Marine Fisheries.

Fish For means to harvest, catch, take or encircle, or attempt to harvest, catch, take or encircle any tuna by means of a purse seine.

Tuna means that species of Atlantic bluefin tuna, *Thunnus thynnus thynnus*, irrespective of size, weight or classification.

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(3) Prohibition. It shall be unlawful to fish for tuna by means of any net, including purse seines, within the waters under the jurisdiction of the Commonwealth. Except tuna may be taken in fish traps authorized pursuant to M.G.L. c. 130, § 29 as an incidental catch only. The Director shall have the right to inspect any authorized fish trap if **it is determined** ~~he determines~~ that the fish trap has been set or is being specifically operated to take and trap tuna, and **the Director** ~~he~~ may modify the trap construction and its operations **if deemed appropriate.** ~~as he or she deems appropriate.~~

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6.21: Whelk Conservation and Management

(1) Definitions. For the purpose of 322 CMR 6.21, the following terms shall have the following meanings:

Channeled Whelk means that species known as *Busycotypus canaliculatus*.

Chute Gauge means an open top rectangular gauge made of rigid material.

Commercial Fisher~~man~~ 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): *Commercial Fishing ~~Fisherman~~ Permits* for the purpose of sale, barter or exchange, or to keep for personal or family use any fish or shellfish caught under the authority of the commercial **fishing ~~Fisherman~~** permit.

Knobbed Whelk means that species known as *Busycon carica*.

Operculum is the lid that closes the aperture of the shell when the animal is retracted.

Recreational Fishing means the noncommercial taking or attempted taking of knobbed or channeled whelks for personal or family use, **sport or pleasure, and** which are not ~~to be~~ sold, bartered or exchanged.

Shell Width means the diameter of the shell measured across its greatest width perpendicular to the long axis of the shell.

Standard Fish Tote means a container that does not exceed the volume of 6,525 cubic inches.

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 with a return to a dock, berth seawall, ramp or port.

(2) Commercial Possession of Legal Sized Knobbed and Channeled Whelks.

(a) Purpose. To increase spawning stock biomass of knobbed and channeled whelks, the legal harvest size limit for these species will be gradually increased to correspond to a size where 50% of female knobbed and channeled whelks are sexually mature. The asymmetry of these animals and the propensity for their siphonal canals to break during handling limits the effectiveness of managing harvest with a traditional shell width or shell length minimum size standards. Consequently, legal sized knobbed and channeled whelks shall be determined through the use of a chute gauge meeting the specifications and by applying the methodology in 322 CMR 6.21(2)(b) and (c).

(b) Minimum Chute Gauge Width and Chute Gauge Specifications. The chute gauge used to determine the legal size for knobbed and channeled whelks shall measure at least six inches length and by 1½" height. The internal width of the chute gauge shall be: **3 1/8 inch through December 31, 2023; 3 ¼ inch during the period of January 1, 2024 through December 31, 2026; 3 3/8 inch during the period of January 1, 2027 through December 31, 2029; 3 1/2 inch during the period of January 1, 2030 through December 31, 2032; and 3 5/8 inch effective on and after January 1, 2033.** ~~three inches for 2019 and 2020; 3 _" for 2021 and 2022; 3¼" for 2023 and 2024; 3 _" for 2025 and~~

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~~2026; 3½" for 2027 and 2028; and 3_" for 2029 and beyond. No person shall modify the specified chute gauge in any manner that may affect the gauging of knobbed or channeled whelks.~~ It shall be *prima facie* evidence of a violation of 322 CMR 6.21(2)(e)

if a commercial **fisher fisherman** is not in possession of a chute gauge meeting these minimum specifications when fishing for or in possession of knobbed or channeled whelks. (c) Methodology of Determining Legal Sized Whelk with the Chute Gauge. Knobbed and channeled whelks shall be oriented to the chute gauge with its operculum facing down and laying as flat on the chute gauge as possible. A knobbed or channeled whelk shall be unlawful to take or possess if it can pass through the chute gauge in this required orientation with its siphonal canal at any angle to the side walls of the gauge. The required orientation of the knobbed or channeled whelk to the chute gauge is depicted in the image below:



1. Exemptions for Dealers. Notwithstanding the requirements of 322 CMR 6.21(2)(c), a dealer permitted in accordance with 322 CMR 7.01(3): *Dealer Permits* may obtain, possess and process knobbed and channeled whelks that are not legal sized if such knobbed or channeled whelks were lawfully harvested in the jurisdiction of another state. All containers of such knobbed and channeled whelks shall bear a shellfish tag, as required by M.G.L. c. 130, §§ 81 and 82.
- (d) Tagging of Knobbed and Channeled Whelks by Commercial Fishers Fishermen. Because knobbed and channeled whelks are shellfish as defined in M.G.L. c. 130, § 2, commercial **fisher fisherman** who retain such whelks harvested in accordance with the requirements of 322 CMR 6.21(2)(c) shall place them in containers that bear a shellfish harvester tag as required by 322 CMR 16.00: *Shellfish Harvest and Handling*.
- (e) Prohibitions. Except as provided in 322 CMR 6.21(2)(c)1., it shall be unlawful for:
 1. any person to possess a knobbed or channeled whelk that is less than the legal size as determined in accordance with 322 CMR 6.21(2)(b) and (c) for longer than it is necessary for immediate measurement and return to the sea.
 2. any person to modify the chute gauge specified in 322 CMR 6.21(2)(b) in any manner that may affect the method of measurement of knobbed and channeled whelks.
 3. any person to manipulate the orientation of a knobbed or channeled whelk to the chute gauge so that it is measured in a manner other than the method of measurement prescribed at 322 CMR 6.21(2)(c).
 4. any commercial **fisher fisherman** to not possess on their vessel a chute gauge meeting the specifications in 322 CMR 6.21(2)(b) when fishing for or in possession of knobbed or channeled whelk.
 5. to possess any knobbed or channeled whelk in a condition other than whole in-shell, except by a dealer licensed in accordance with 322 CMR 7.01(3): *Dealer Permits*.
 6. to process whelks at any location other than at a facility of a dealer licensed in

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accordance with 322 CMR 7.01(3): *Dealer Permits* for that purpose.

(3) Possession Limit.

(a) Coastal Access Permit Holders. For commercial **fishers** ~~fishermen~~ fishing with mobile gear under the authority of a Coastal Access Permit regulated fishery permit endorsement, issued in accordance with 322 CMR 7.05: *Coastal Access Permit (CAP)*, it shall be unlawful to take, possess or land more than 1,000 pounds of channeled whelk and knobbed whelk combined during any single fishing trip or 24-hour day, whichever period of time is longer.

(b) Scuba or Hand Harvest. For commercial **fishers** ~~fishermen~~ fishing with Scuba or hand harvest gear, it shall be unlawful to take, possess or land a combination of channeled and knobbed whelk that exceeds one level filled standard fish tote.

(c) Recreational Fishing Limit. It shall be unlawful for any person engaged in recreational fishing to possess or land more than 15 channeled or knobbed whelk combined during any calendar day.

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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 322 CMR 6.37, the following terms shall have the following meanings:

Billfish. 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. 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.

Fork Length. 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. 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. 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. 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. That species of fish known as *Xiphias gladius*.

Tuna. The order of fish known as *Scombriformes* including 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) 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.

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

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*)
Shortfin mako (*Isurus oxyrinchus*)
Silky (*Carcharhinus falciformis*)
Smalltail (*Carcharhinus porosus*)
Whale (*Rhincodon typus*)
White (*Carcharodon carcharias*)

(4) Regulation of Catches.

(a) Permitted Species Size Limits.

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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~~
 - c. ~~d.~~ 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 **fishers 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 **fishing from shore** 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 **fishers fishermen** aboard, and one additional Bonnethead, one additional Atlantic sharpnose, and one additional smooth dogfish per person. Recreational **fishers 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 **fishers fishermen** if tunas, billfish or swordfish are to be retained, possessed or landed.
 2. Commercial Catch Limits. Commercial **fishers 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 **fishers fishermen** may take coastal sharks only by rod and reel or handline. Recreational **fishers 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 **fishers 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.

Exemption. Vessels permitted by NOAA Fisheries ~~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

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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 of Law Enforcement.

(d) Catch Disposition.

1. It shall be unlawful for:

- a. any **fisher fisherman** to fillet sharks at sea;
- b. any **fisher fisherman** to remove fins or tails from sharks;
- c. recreational **fishers fishermen** to possess on board or land sharks whose heads, tails, and fins are not attached naturally to the carcass;
- d. commercial **fishers fishermen** to possess on board or land sharks whose fins and tails are not attached naturally to the carcass.

Exception: Commercial **fishers 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 **fishers 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 **fishers fishermen** who possess authorization from NOAA Fisheries to harvest certain species from federal waters may 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 **fishers fishermen** must obtain a federal Commercial Shark Dealer Permit from NOAA Fisheries ~~the National Marine Fisheries Service~~.

(5) White Shark Conservation Measures.

(a) Definitions.

Attract. To conduct any activity that lures or may lure any white shark to a person or vessel by using food, bait, chum, dyes, decoys, acoustics or any other means, excluding the mere presence of persons on the water including those persons conducting commercial or recreational fishing activity.

Capture. To forcefully gain control of a white shark. Capture includes, without limitation, the restraint or detention of a white shark or any act of intrusive research performed on a white shark. Capture shall not include the incidental catch of white sharks during the course of lawfully permitted fishing activity.

Chum. Fish, chopped fish, fish fluids or other organic materials disposed of in the water for the purpose of attracting white sharks.

Director. The Director of the Division of Marine Fisheries.

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Intrusive Research. A procedure conducted for scientific research involving a break or a cut in the skin, the application or insertion of an instrument, the introduction of a foreign substance or object onto the animal's immediate environment, or a stimulus directed at animals that may affect white shark behavior.

(b) Restricted Activities Related to White Sharks. It shall be unlawful for any person to attract or capture a white shark, unless the person has been issued a special white shark project permit by the Director in accordance with 322 CMR 7.01(4): *Special Permits*

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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 **fishers fisherman** 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 commercial **fisher fisherman** tautog tagging program by 2020 in an effort to address illegal harvest and sale of tautog.

(2) Definitions.

Commercial Fisher~~man~~ 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 **fishing fisherman** permit and regulated tautog fishery permit endorsement issued in accordance with M.G.L. c. 130, § 80, and 322 CMR 7.01: *Form, Use and Contents of Permits*.

Dealer means any person permitted in accordance with M.G.L. c. 130, § 80, and 322 CMR 7.01(3): *Coastal Lobster Permit and Trap Allocation Transfer Programs* to process, distribute, sell or resell fish.

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

Director means the Director of the Division of Marine Fisheries.

Division means the Division of Marine Fisheries.

High Grade means the discarding of a legal-sized fish previously captured and retained in favor of larger legal-sized fish.

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.

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

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

Recreational Fisher~~man~~ means any person 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 nontransferable metal tags to be affixed to the operculum of tautog retained by commercial **fishers fisherman**. 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.

(3) Minimum Size. It shall be unlawful for any person to 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.

(4) Recreational Fishery Limits. The following seasons and following recreational fishing possession limits apply:

(a) January 1st through March 31st. It shall be unlawful for a recreational fisher~~man~~ to possess or land any tautog.

(b) April 1st through May 31st. It shall be unlawful for a recreational fisher~~man~~ to possess or land more than three tautog per calendar day.

(c) June 1st through July 31st. It shall be unlawful for a recreational fisher~~man~~ to possess or land more than one tautog per calendar day.

(d) August 1st through October 14th. It shall be unlawful for a recreational fisher~~man~~ to possess or land more than three tautog per calendar day.

(e) October 15th through December 31st. It shall be unlawful for a recreational fisher~~man~~ to possess or land more than five tautog per calendar day.

(f) Maximum Possession Limit for Anglers Onboard a Private Vessel. The possession limits set at 322 CMR 6.40(4)(a) through (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 **recreational fishers anglers** fishing onboard for-hire vessels permitted in accordance with 322 CMR 7.10(5): *Permit Requirements Applicable to For-hire Vessels*.

(g) Trophy Fish Limit. During the period of April 1- December 31, when recreational fishers may lawfully retain, possess, and land tautog, it shall be unlawful for a recreational fisher to retain, possess, or land more than one tautog with a total length measuring 21 inches or greater per calendar day. Upon retaining one fish with a total length measuring 21 inches or greater it shall be unlawful to retain any additional tautog measuring 21 inches or greater for a period of time longer than is necessary for immediate measurement and return to the sea. It shall be unlawful to high grade tautog.

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(5) Commercial Fishery Limits.

(a) Permit Requirements. A commercial **fishing fisherman** permit, issued by the Director pursuant to 322 CMR 7.01(2): *Commercial Fishing Fisherman Permits*, and a regulated fishery permit endorsement, issued by the Director pursuant to 322 CMR 7.01(4): *Special Permits*, 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).

(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.

(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 season.

(d) Quota Closure. The open commercial season shall close 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 **fishers 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 Fishing Fisherman Requirements.

1. Harvester Tagging. Commercial **fishers 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 on either side of the fish with the tag information visible on the outside of the fish. All Tautog ID Tags shall be affixed prior to the tautog being offloaded from the fishing vessel for purpose of carrying, transportation, sale, or exchange.

Exception. Commercial **fishers fisherman** 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: *Recreational Saltwater Fishing Permits*. It shall be unlawful for a commercial **fisher fisherman** to car, offer for sale, sell or exchange any tautog retained while recreationally fishing.

2. Primary Sale of Fish. Pursuant to M.G.L. c. 130, § 80 and 322 CMR 7.01(3) and 7.07: *Dealers Acting as Primary Buyers*, the primary purchase of tautog shall only occur between the commercial **fisher fisherman** and a permitted Massachusetts dealer authorized as a primary buyer. Only those tautog tagged in accordance with 322 CMR 6.40(6)(b)1. may be sold, offered for sale, or exchanged by a commercial **fisher fisherman**.

3. Possession of Tautog ID Tags At-sea. Only commercial **fishers fisherman** may possess Tautog ID Tags or affix Tautog ID Tags to tautog during the open commercial season.

4. Tautog ID Tag Accounting. Within 14 days of written request by the Director, commercial **fishers fisherman** shall return to the Division all

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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 and Seafood Purveyor Requirements for the Purchase, Processing, Possession and Sale of Tautog.

1. Primary Purchase by a Dealer.

- a. Only dealers authorized as primary buyers in accordance with 322 CMR 7.07: *Dealers Acting as Primary Buyers* shall make a primary purchase of tautog from a commercial **fisher 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, Possession and Resale by Dealers and Seafood Purveyors. 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.
- b. If a dealer or seafood purveyor 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 the **Tautog Tatuog** ID Tag may be disposed of.
- d. Exceptions.
 - i. Dealers and seafood purveyors shall liquidate all tautog bearing or accompanied by a Tautog ID Tag from the prior calendar year by last day of February of the current calendar year.
 - ii. Any tautog, or portion thereof, with a Tautog ID Tag from the prior calendar year shall be sold only to the end consumer.

3. Possession of Massachusetts Caught Fish During the Closed Season. Within 14-days following the quota closure, dealers shall sell off all tautog that bear a Massachusetts Tautog ID Tag or discard such fish and dispose of the Tautog ID Tag.

(d) Prohibitions. It shall be unlawful for:

1. any person to possess any unaffixed Tautog ID Tags except for commercial **fishers fisherman** in possession of those tags issued to them by the Division;
2. any person other than a commercial **fisher fisherman** to affix or attempt to affix a Tautog ID Tag to a tautog;
3. any commercial **fisher fisherman** to transfer, sell, share, attempt to

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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 **fisher 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 **fisher fisherman** to file a false claim of Tautog ID Tag loss for purposes of obtaining additional Tautog ID Tags;

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

7. any commercial **fisher 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 **fisher 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 **fisher 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 dealer to possess tautog bearing or accompanied by a Tautog ID Tag issued by the Division 14 days after Massachusetts' commercial tautog fishery is closed.

11. 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;

12. 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.

13. 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.

14. any dealer or seafood purveyor to possess, obtain, purchase, sell or offer for sale a tautog or portion thereof with a Tautog ID Tag from a prior calendar year after the last day of February of the current calendar year.

15. any commercial **fisher fisherman** to harvest tautog in the waters under the jurisdiction of the Commonwealth and sell that tautog to any entity other than a Massachusetts dealer authorized as a primary buyer.

16. any tautog caught or landed in the jurisdiction of another Atlantic coastal state to be sold into Massachusetts unless that fish was first lawfully sold to a seafood dealer authorized in that state, bears a Tautog ID tag from that state, and – if applicable - was accounted for against that state's commercial tautog quota.

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

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322 CMR 6.44 Atlantic Mackerel Management

- (1) Definitions. For the purposes of 322 CMR 6.44, the following terms shall have the following meanings:

Atlantic mackerel means that species known as *Scomber scombrus*.

Commercial fisher means any person who retains, possess, or lands Atlantic mackerel for the purpose of sale, barter, or exchange or keeps for personal or family use Atlantic mackerel taken under the authority of a commercial fishing permit and regulated fishery permit for Atlantic mackerel issued in accordance with G.L. c. 130, §80 and 322 CMR 7.01.

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 the non-commercial harvest or attempted harvest of fish for personal or family use, sport or pleasure, and which are not sold, traded, or bartered.

- (2) Recreational Fishing Limit. It shall be unlawful for any recreational fisher to harvest more than 20 Atlantic mackerel per calendar day or to possess more than 20 Atlantic mackerel while recreationally fishing.

- (3) Commercial Fishing.

- a. Permit Requirement. To retain, possess, or land Atlantic mackerel in excess of the recreational fishing limit set forth at 322 CMR 6.44(2), a person shall obtain a commercial fishing permit and regulated fishery permit endorsement for Atlantic mackerel.
- b. Commercial fishers may retain, possess, and land Atlantic mackerel for use as bait in other commercial fisheries in quantities that exceed the recreational fishing limit set forth at 322 CMR 6.44(2).
- c. If a commercial fisher is recreationally fishing from shore, a private vessel, or charter vessel, it shall be unlawful to retain, possess, or land Atlantic mackerel in quantities exceeding the recreational fishing limit set forth at 322 CMR 6.44(2).

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7.01: Form, Use and Contents of Permits

(1) Definitions. For purposes of 322 CMR 7.01, unless the context requires otherwise, the following words shall have the following meanings:

At-sea Processing means to receive or transfer fish, fillet fish or shuck shellfish and/or freeze fish or shellfish. At-sea processing does not include the filleting of finfish for personal use as authorized pursuant to 322 CMR 6.41(2)(a): *Possession of Fish Parts by Commercial Fishers* ~~Fishermen~~; the evisceration of finfish, including the removal of codfish gonads and monkfish livers; the separating of monkfish tails from whole monkfish; and the shucking of bay scallops and sea scallops under the authority of a regulated fishery permit endorsement.

Bait means marine organisms including, but not limited to, fish, shellfish and seaworms exclusively used to attract and harvest other fish and shellfish.

Commercial Fishing means to take or harvest any fish or shellfish for purposes of sale, barter or exchange, or to keep for personal or family use any fish or shellfish taken under the authority of a commercial permit issued by the Director.

Commercial Purposes means the possession or attempted possession of any fish or shellfish in connection with any person, business or other undertaking intended for sale, barter, exchange or other forms of profit, excluding for-hire recreational fishing businesses permitted in accordance with 322 CMR 7.10(5).

Director means the Director of the Division of Marine Fisheries.

Harvest means to catch, dig, take or attempt to catch, dig or take any fish, shellfish or bait.

Land or Landing as used in 322 CMR 7.00, and in M.G.L. c. 130, § 80, means to transfer or attempt to transfer the catch of fish or shellfish 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 onboard to tie-up to any dock, pier or other artificial structure.

Mobile Device means any electronic device that can be carried on one's person, such as a smartphone, which is capable of displaying a true, complete and legible image of a current and valid permit issued by the Division.

Mobile Gear means any movable fishing gear or nets which are set, towed, hauled, or dragged through the water for the harvest of fish, squid, and shellfish including, but not limited to, otter trawls, beam trawls, bottom and mid-water pair trawls, Scottish seines, Danish seines, pair seines, purse seines, and sea scallop dredges. For the purpose of this section, mobile gear does not include surf clam and ocean quahog dredges, bay quahog dredges or the use of moveable fishing gear by shellfish ~~fishers~~ ~~fishermen~~ authorized under a local permit to take shellfish and are fishing only within

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those city or town waters.

Non-commercial means the harvest of fish, shellfish or bait for purposes of personal **or family** use only and not for purposes of sale, barter or exchange.

Online System means the online recreational permitting system of the Department of Fish and Game and the Division of Marine Fisheries, accessible via the Department's and the Division's website, which allows for the automated issuance of recreational saltwater and non-commercial lobster fishing permits. The purchase online of a recreational saltwater or non-commercial lobster permit requires an electronic signature made after an online affirmation under the pains and penalties of perjury by the applicant that the information provided is true and accurate and that the applicant shall comply with all applicable marine fisheries regulations.

Possession or to Possess means to have custody or control of, or to handle or hold.

Recreational Fishing means the non-commercial taking or attempted taking of finfish for personal or family use, sport or pleasure which are not sold, **bartered, or exchanged** ~~traded or bartered~~.

Registered Length means that length set forth in either the U.S. Coast Guard or Massachusetts Boat and Recreational Vehicle Safety Bureau, whichever is applicable.

Shellfish means clams, conchs, limpets, mussels, oysters, periwinkles, quahogs, razor clams, bay scallops, sea scallops, surf clams, ocean quahogs and winkles.

Vessel means any commercial fishing vessel, boat, ship or other water craft registered under the laws of the Commonwealth (state) as defined in M.G.L. c. 130, § 1, and which is used exclusively to harvest fish or shellfish for purposes of sale, barter or exchange, and shall include any vessel documented under the laws of the United States to carry passengers for hire exclusively to harvest fish or shellfish.

(2) Commercial Fishing Fisherman ~~Permits~~. In order to harvest, possess or land fish, shellfish or bait for commercial purposes, the following permits are required for the following fishing activities:

- (a) Coastal Lobster. Issued to a named individual in accordance with 322 CMR 7.01 authorizing the possession and landing of lobster and fish for commercial purposes from waters within the jurisdiction and authority of the Commonwealth in accordance with M.G.L. c. 130, § 38B and 322 CMR 7.01. This permit may be endorsed for the harvest, possession and landing of shellfish and seaworms for commercial purposes. The permit shall include a restriction that memorializes the permit holders declaration of the ASMFC Lobster Management Areas the permit holder will fish during a calendar year. If the permit authorizes fishing in more than one area, the permit shall be subject to the most restrictive ASMFC lobster management regulations governing the permitted fishing area, as set forth in 322 CMR 6.02(2): *Maximum and Minimum Sizes* and (5): *V-notched Female Lobster Protection*.

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(b) Offshore Lobster. Authorizes the possession and landing of lobsters harvested from waters outside the jurisdiction of the Commonwealth using a vessel registered under the laws of the state and validly endorsed for FCZ fishing. This permit shall be further endorsed for gear type to enhance management, reporting, and enforcement of gear-specific trip limits by requiring a non-trap endorsement for those permit holders fishing with non-trap gear; permits fished with trap gear will be the default category and not require a distinct endorsement. Offshore lobster permit holders or users may not also hold, use or have on board an individual non-commercial or family non-commercial lobster permit. The permit shall include a restriction that memorializes the permit holders declaration of the ASMFC Lobster Management Areas the permit holder will fish during a calendar year. If the permit authorizes fishing in more than one area, the permit shall be subject to the most restrictive ASMFC lobster management regulations governing the permitted fishing area, as set forth in 322 CMR 6.02(2): *Maximum and Minimum Sizes* and (5): *V-notched Female Lobster Protection*.

(c) Boat 100 Feet or Greater. Authorizes the harvest, possession and landing of fish for commercial purposes using a vessel 100 feet registered length or greater. Said permits shall authorize the crew of said vessel to fish under its authority and may be endorsed upon request of the applicant for the harvest, possession and landing of shellfish and seaworms for commercial purposes.

(d) Boat 60 to 99 Feet. Authorizes the harvest, possession and landing of fish for commercial purposes using a vessel from 60 to 99 feet registered length. Said permit shall authorize the crew of the vessel to fish under its authority and may be endorsed upon request of the applicant for the harvest, possession and landing of shellfish and seaworms for commercial purposes.

(e) Boat 0 to 59 Feet. Authorizes the harvest, possession and landing of fish for commercial purposes using a vessel from 0 to 59 feet registered length. Said permit shall authorize the crew of said vessel to fish under its authority and may be endorsed upon request of the applicant for the harvest, possession and landing of shellfish and seaworms for commercial purposes.

(f) Seasonal Lobster. Authorizes only the named individual to harvest, possess and land lobsters for commercial purposes, to be issued only to full-time students 12 years of age or older and conditioned to authorize the harvest, possession and landing of lobsters for commercial purposes only from June 15th to September 15th of each year and further conditioned to the use of not more than 25 lobster traps. DMF may issue up to 150 seasonal lobster permits for use during any single calendar year.

(g) Shellfish and Seaworms. Authorizes only the named individual to harvest, possess and land shellfish and seaworms for commercial purposes, and may be endorsed for the shucking of bay scallops.

(h) Individual. Authorizes only the named individual to harvest, possess and land fish for commercial purposes. Said permit may be endorsed upon request of the applicant for the harvest, possession and landing of shellfish and seaworms for commercial purposes.

(i) Shellfish/Rod and Reel. Authorizes the harvest, possession and landing of shellfish for commercial purposes and/or the harvest, possession or landing of fish by means of a rod and reel for commercial purposes subject to 322 CMR 7.01(10).

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- (j) Rod and Reel. Authorizes only the named individual to harvest, possess and land for commercial purposes by means of a rod and reel.
 - (k) Shellfish Transaction Card. Authorizes only the named individual holding a commercial **fishers** ~~fishermen~~ permit endorsed for shellfish and seaworms to sell shellfish and seaworms, and shall be used in conjunction with either a Massachusetts driver's license or a Registry of Motor Vehicles identification card.
- (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 ~~man~~ 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.
- (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 **fishing** ~~fisherman~~ permits, issued pursuant to 322 CMR 7.01(2), to authorize the named individual and/or commercial fishing vessel to **retain, possess, or land**

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~~harvest, possess or land~~ fish or shellfish or use certain fishing gear in a commercial fishery regulated pursuant to M.G.L. c. 130, § 17A.

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

a. American Eel. For a named individual ~~and~~/or vessel to commercially fish for American eels within the waters under the jurisdiction of the Commonwealth, or to **retain harvest**, possess or land American eels for commercial purposes in the Commonwealth.

b. Bay Scallop Shucking. For a named individual to shuck bay scallops onshore for commercial or non-commercial purposes.

c. Coastal Access Permit - Purse Seine. **For a named individual or vessel to A Coastal Access — Purse Seine may be issued for the use of set, operate, or fish with** purse seines **within** the waters under the jurisdiction of the Commonwealth, excepting the waters within the Inshore Net Areas described at 322 CMR 4.02.

d. Contaminated Surf Clam. For a named individual ~~and~~/or vessel to operate a surf clam dredge in shellfish growing area designated by the Division as "PROHIBITED" and to harvest, possess or land surf clams taken from a shellfish growing area designated by the Division "PROHIBITED" for the purpose of being kept or sold as bait.

e. Fish Weir. **For a named individual to To** operate a fish weir in the waters under the jurisdiction of the Commonwealth or to harvest, possess or land fish or shellfish taken by a fish weir in the Commonwealth.

f. Inshore Net Permit. **For a named individual or vessel to To** operate net gear within the inshore net areas described at 322 CMR 4.02: *Use of Nets in Inshore Restricted Waters*. This regulated fishery permit endorsement is not required for the use of a bait net that measures less than 250 square feet.

g. Mackerel. **For a named individual or vessel to commercially fish for Atlantic mackerel within the waters under the jurisdiction of the Commonwealth, or to retain, possess, or land Atlantic mackerel for commercial purposes in the Commonwealth.**

h. ~~g.~~ Northern Shrimp. For a named individual ~~and~~/or vessel to commercially fish for Northern shrimp within the waters under the jurisdiction of the Commonwealth, or to **retain, harvest**, possess, or land northern shrimp for commercial purposes in the Commonwealth.

i. ~~h.~~ Sea Herring. For a named individual ~~and~~/or vessel to commercially fish for Atlantic sea herring within the waters under the jurisdiction of the Commonwealth, or **retain, harvest**, possess, or land Atlantic sea herring for commercial purposes in the Commonwealth.

j. ~~i.~~ Sea Scallop Diving. For a named individual to commercially fish for sea scallops by hand within the waters under the jurisdiction of the Commonwealth, or to **retain, harvest**, possess, or land sea scallops for commercial purposes that were taken by hand in the Commonwealth.

k. ~~j.~~ Sea Scallop Shucking. For a named individual ~~and~~/or vessel to

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shuck sea scallops at-sea for commercial or non-commercial purposes.

l. ~~k~~. Sea Urchin Diving. For a named individual to commercially fish for sea urchins by hand within the waters under the jurisdiction of the Commonwealth, or to **retain, harvest,** possess, or land sea urchins for commercial purposes that were taken by hand in the Commonwealth.

m. ~~l~~. Sea Urchin Dredge. For a named individual **or vessel** to operate a sea urchin dredge in the waters under the jurisdiction of the Commonwealth or to **retain, harvest,** possess, or land any sea urchins taken by a sea urchin dredge from the waters under the jurisdiction of the Commonwealth.

n. ~~m~~. Scup. For a named individual ~~and/or~~ vessel to commercially fish for scup within the waters under the jurisdiction of the Commonwealth or **retain, harvest,** possess, or land scup for commercial purposes in the Commonwealth.

o. ~~n~~. Spiny Dogfish. For a named individual **and/or** vessel to commercially fish for spiny dogfish within the waters under the jurisdiction of the Commonwealth, or to **retain, harvest,** possess, or land spiny dogfish for commercial purposes in the Commonwealth.

p. ~~o~~. Striped Bass. For a named individual **and/or** vessel to commercially fish for striped bass within the waters under the jurisdiction of the Commonwealth or to **retain, harvest,** possess, or land striped bass for commercial purposes in the Commonwealth.

q. ~~p~~. Surface Gillnet. For named individual **and/or** vessel to set or fish a gillnet - anchored, drifting or otherwise - that is designed to be, capable of being or is fished in the upper two-thirds of the water column. This regulated fishery permit endorsement is not required for the use of a surface gillnet that measures less than 250 square feet. A named individual **and/or** vessel that holds a sink gillnet regulated fishery permit endorsement shall not also hold a surface gillnet regulated fishery permit endorsement to fish surface gillnets that exceed 250 square feet.

2. Limited Entry Regulated Fishery Permit Endorsements. Commercial **fishing fisherman** permits, issued in accordance with 322 CMR 7.01(2), may be 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:

a. Black Sea Bass. For a named individual **and/or** vessel to commercially fish for black sea bass within the waters under the jurisdiction of the Commonwealth, or to **retain, harvest,** possess, or land any black sea bass for commercial purposes in the Commonwealth.

b. Bluefish Gillnet. For a named individual **and/or** vessel to set or fish for bluefish by means of a gillnet, in accordance with 322 CMR 6.18(3): *Use of Gillnets for Taking Bluefish for Commercial Purposes*, within the waters under the jurisdiction of the Commonwealth.

c. Coastal Access Permit. For a named individual **and/or** vessel to set,

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operate, or fish with ~~set or fish with~~ mobile gear within the waters of the jurisdiction of the Commonwealth. Coastal Access Permits may be further endorsed for participation in exempted fisheries authorized at 322 CMR 4.06: *Use of Mobile Gear*:

- i. Small Mesh Trawl Fishery for Whiting. A Coastal Access regulated fishery permit endorsement may be further endorsed for the use and possession of small mesh trawls to commercially fish for whiting within certain waters under the jurisdiction of the Commonwealth.
- ii. Small Mesh Trawl Fishery for Longfin Squid. A Coastal Access regulated fishery permit endorsement may be further endorsed for the use and possession of small mesh trawls to commercially fish for squid within certain waters under the jurisdiction of the Commonwealth.
- iii. North Shore Mobile Gear. A Coastal Access regulated fishery permit endorsement may be further endorsed to fish with mobile gear within the **Area 1A and 1B** ~~Area 5 and Area 6~~ exemptions to the North Shore Year Round Mobile Gear Closure.
- d. Fish Pots. For a named individual to set or fish species-specific fish pots for black sea bass, scup or whelks within the waters under the jurisdiction of the Commonwealth, or to **retain**, possess, ~~take~~ or land black sea bass, scup or whelks by fish pot for commercial purposes in the Commonwealth. A black sea bass or scup pot regulated fishery permit endorsement holder shall **not also** be required to ~~also~~ hold a black sea bass or scup regulated fishery permit endorsement to **retain, harvest,** possess, or land black sea bass and scup for commercial purposes in the Commonwealth.
- e. Fluke. For a named individual ~~and~~/or vessel to commercially fish for summer flounder (fluke) within the waters under the jurisdiction of the Commonwealth, or to **retain, harvest,** possess, or land any summer flounder for commercial purposes in the Commonwealth.
- f. Horseshoe Crab Harvest. For a named individual ~~and~~/or vessel to commercially fish for horseshoe crabs **within** the waters under the jurisdiction of the Commonwealth or **retain, possess, or** land horseshoe crabs for commercial purposes in the Commonwealth.
- g. Menhaden. For a named individual and vessel to commercially fish for menhaden within the waters under the jurisdiction of the Commonwealth, or to **retain, harvest,** possess, or land menhaden for commercial purposes in the Commonwealth in excess of 6,000 pounds of menhaden per trip or 24-hour period, whichever duration is longer.
- h. Ocean Quahog and Surf Clam Dredge. For a named individual ~~and~~/or ~~a~~ vessel to operate an ocean quahog and/or surf clam dredge **within the waters under the jurisdiction of the Commonwealth** or to commercially fish for, **retain, harvest,** possess or land ocean quahogs or surf clams taken by ocean quahog and/or surf clam dredge gear from the waters under the jurisdiction of the Commonwealth.
- i. Quahog Dredge. For a named individual ~~and~~/or vessel to operate a bay

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quahog dredge or to commercially fish for, **retain, harvest,** possess, or land bay quahogs taken by bay quahog dredge gear **within in from** the waters under the jurisdiction of the Commonwealth seaward of the outer jurisdiction of coastal cities and towns to regulate shellfish pursuant to M.G.L. c. 130, § 52, as appearing on official maps of the Commonwealth prepared pursuant to M.G.L. c. 1, § 3.

j. Sink Gillnet. For a named individual or vessel to set or fish a gillnet - anchored or otherwise - that is designed to be, capable of being or is fished in the lower third of the water column **within the** waters under the jurisdiction of the Commonwealth. Sink gillnet regulated fishery permit endorsements are not transferable. Holders of a sink gillnet regulated fishery permit may fish surface gillnets under the authority of this permit.

k. State-waters Groundfish. For a named individual or vessel to commercially fish for regulated groundfish **species within the waters under the jurisdiction of the Commonwealth**, as defined at 322 CMR 6.03(1): *Definitions*, or to **retain, harvest,** possess or land any regulated groundfish **species** for commercial purposes taken **within the from** waters under the jurisdiction of the Commonwealth. A state-waters groundfish regulated fishery permit endorsement is not required for vessels that hold a federal multi-species groundfish or monkfish permit or for a commercial **fisher fisherman** to harvest, possess and land up to 25 pounds of whole or eviscerated regulated groundfish for commercial purposes.

l. Tautog. For a named individual or vessel to commercially fish for tautog within the waters under the jurisdiction of the Commonwealth, or to **retain, 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 to a Massachusetts primary buyer, permitted in accordance with 322 CMR 7.01(3) and 7.07, during any calendar year from 2010 through 2016, occurring prior to the August 27, 2017 control date set forth at 322 CMR 7.04(2).~~**

(b) Noncommercial Fishing Permits.

1. Recreational Saltwater Fishing Permits. Pursuant to M.G.L. c. 130, § 17C and 322 CMR 7.10, the Director may issue a recreational saltwater fishing permit to authorize:

- a. recreational saltwater fishing; and
- b. for-hire vessels.

2. Noncommercial Lobster and Edible Crab. Pursuant to M.G.L. c. 130, § 38, the Director may issue a noncommercial lobster and edible crab permit to authorize:

- a. Trap Fishing. Issued to a named individual authorizing the harvest, possession and landing of lobsters and edible crabs by means of traps for noncommercial purposes by that individual or by members of that

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individual's immediate family residing in the same household.

b. Diver Fishing. Issued to a named individual authorizing the harvest, possession and landing of lobsters by diving for noncommercial purposes by that individual only. A noncommercial lobster permit may not be carried onboard any vessel fishing under authority of an offshore lobster permit.

(c) Special Project. Authorizes only the named individual to engage in a specified marine fishery project including, but not limited to, aquaculture or mariculture; scientific, environmental and biological collection and study, assessment or experimentation; collection and possession for education purposes; shellfish relay; and shellfish propagation.

(d) Anadromous Fish Passageway. Authorizes the named individual to carry out activities related to the construction, reconstruction, repair, or alteration of any anadromous fish passageway, as defined in M.G.L. c. 130, §§ 1 and 19.

(e) At-sea Processing. A special permit is required for the commercial at-sea processing of fish or shellfish **within** the waters under the jurisdiction of the Commonwealth. This permit is not required for the evisceration of finfish, including the removal of cod gonads and monkfish livers; the removal of monkfish tails from monkfish; the shucking of bay scallops and sea scallops under the authority of a bay scallop or sea scallop shucking regulated fishery permit endorsement; or to keep fish parts for personal use as authorized pursuant to 322 CMR 6.41(2)(a): *Possession of Fish Parts by Commercial **Fishermen***.

(f) Special Biomedical Horseshoe Crab Harvest Permit. For a named individual to harvest horseshoe crabs exclusively for use by the biomedical industry for the manufacturing of limulus lysate or for sale to a permitted scientific institution for the purpose of research. The holder of a biomedical harvest permit shall not also hold a horseshoe crab harvest regulated fishery permit endorsement.

7.11 Electronic Monitoring Requirements for Permit Holders

(1) Cellular Tracking Devices for Commercial Lobster Permit Holders.

a. **Purpose.** In 2022, the Atlantic States Marine Fisheries Commission approved and implemented Addendum XXIX to Amendment 3 to the Interstate Fishery Management Plan for American Lobster and Addendum IV to the Jonah Crab Fishery Management Plan pursuant to its authority at 16 USC 5100 et seq. These Addendums require the electronic tracking of all commercial lobster and Jonah crab permit holders who hold a federal trap allocation authorizing them to fish in waters under the jurisdiction of federal government. The impetus for the electronic tracking program was to improve spatial information available to fishery managers and scientists to support critical data needs, particularly as it relates to offshore wind energy development and other marine spatial planning initiatives, as well as right whale conservation and entanglement risk reduction.

b. **Definitions.** For the purpose of 322 CMR 7.11(1), the following terms shall have the following meanings:

Commercial fishers means those persons who hold a Coastal or Offshore Lobster Permit, issued in accordance with G.L. c. 130, §§37, 38, and 80 and 322 CMR 7.01(2), to fish with traps for American lobster and edible crabs and retain, possess or land American lobster and edible crabs for the purpose of sale, barter, or exchange or to keep for personal or family use.

Division means the Division of Marine Fisheries.

Edible crabs means blue crabs, *Cancer* crabs, and other native species of crabs that are suitable for human consumption. This shall not include species of non-native crabs including, but not limited to, the European green crab (*Carcinus maenas*) or Asian shore crab (*Hemigraspus sanguineus*).

Electronic tracking device means an electronic, cellular device approved by the Atlantic States Marine Fisheries Commission and used to collect and transmit spatial data in compliance with Addendum XXIX to the Interstate Fishery Management Plan for American Lobster and Addendum IV to the Interstate Fishery Management Plan for Jonah Crabs.

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

NOAA Fisheries means the federal National Marine Fisheries Service within the National Oceanic and Atmospheric Administration of the United States Department of Commerce.

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

- c. **Requirements for Installation and Activation of Electronic Tracking Devices.** Effective May 1, 2023, an electronic tracking device shall be installed and activated prior to beginning a lobster or edible crab fishing trip with trap gear onboard any vessel named on a Coastal Lobster Permit or Offshore Lobster Permit issued by the Division and that is also permitted by NOAA Fisheries, pursuant to 50 CFR § 697.4, to fish trap gear for lobsters and Jonah crabs in the Economic Exclusive Zone.
- d. **Operability of Electronic Tracking Devices.** Unless otherwise authorized by the Director, the electronic tracking device shall remain onboard the vessel and powered at all times when the vessel is in the water.
- e. **Prohibitions.** It shall be unlawful for commercial fishers to:
 - 1. fish, haul, or set trap gear or possess or land lobsters or edible crabs without an operable electronic tracking device, if an electronic tracking device is required pursuant to 322 CMR 7.11(1)(c).
 - 2. to tamper with any electronic tracking device or signal submitted by the electronic tracking device.
 - 3. to install any device other than an electronic tracking device approved by the Atlantic States Marine Fisheries Commission for the purposes of complying with 322 CMR 7.11.
- f. **Exemptions.** The Director may issue a Letter of Authorization and Statement of Permit Conditions, pursuant to G.L. c. 130, §80 and 322 CMR 7.01(7), allowing permit holders to power down their electronic tracking device or fish with an inactive electronic tracking device. This authorization may only be issued in response to a device failure, vessel haul-out, or other similar malfunction of the vessel or the electronic tracking device. The authorization will be issued for a discrete period of time that considers the nature of the anticipated repair.

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8.08: Reserved for Future Coastal Fisheries Management Prohibitions

It is Unlawful for:

- ~~(1) any vessel greater than 90 feet in registered length to conduct fishing activities in any waters under the jurisdiction of the Commonwealth;~~
- ~~(2) any person to conduct commercial fishing for any finfish except as otherwise provided for in 322 CMR 8.03(2) or (3) between February 1st to May 31st of any year within the areas set forth in 322 CMR 8.03(1)(a);~~
- ~~(3) any person to line trawl for cod between February 1st to May 31st of any year within the area set forth in 322 CMR 8.03 (1)(a) with hook sizes having a gape of less than 11/16 of an inch measured from the point of the hook to the inside of the shank or with circle hooks having a gape of less than 1/2 inch;~~

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322 CMR 12.00: PROTECTED SPECIES

12.01: Purpose

In 1972 the federal government passed the Marine Mammal Protection Act to protect marine mammal species that may be in danger of extinction or depletion due to anthropogenic activity and to keep populations levels at sustainable levels. In 1973 the federal government passed the Endangered Species Act to provide a program for the conservation of threatened and endangered plants and animals and the habitats in which they are found. As marine mammals and sea turtle species may interact with fishing gear and fishing activity, and are protected under the Marine Mammal Protection Act or the Endangered Species Act, fisheries are managed at the state and federal level to address the risk posed to these protected species.

For the waters under the jurisdiction of the Commonwealth, the management of fisheries for protected species is accomplished by the Division of Marine Fisheries pursuant to its authorities at M.G.L. c. 130. Management measures have evolved over time, but currently include certain restrictions on the use and configuration of fixed gear (*i.e.*, traps and gillnets) designed to reduce the risk of protected species becoming entangled in the gear and make any entanglements that may occur less injurious, as well as certain rules governing vessel conduct in areas where protected species may be present.

The regulations at 322 CMR 12.00 are particularly focused on minimizing the risk of interaction between fisheries, vessel activity, and North Atlantic right whales ("right whale"). The right whale is a critically endangered species. There are estimated to be approximately 400 known individuals in the population, as of 2019, and the population has been declining since 2010. Large numbers of these whales migrate into Commonwealth waters during the winter period and aggregate in Cape Cod Bay to feed on zooplankton before migrating out of the area during the early spring.

Commercial fishery interactions with large whales, including the right whale, are principally managed by the federal government under the Marine Mammal Protection Act through NOAA Fisheries and their Take Reduction Teams and Take Reduction Plans. Federal regulations adopted as part of Take Reduction Plans apply to affected commercial fisheries within both state and federal waters. It is at the discretion of the state to further regulate fishing activity to protect large whales, including managing recreational fisheries and adopting additional measures affecting commercial fisheries.

Massachusetts actively regulates its commercial fixed gear fisheries and recreational lobster and crab trap fishery to further protect right whales and has adopted a series of conservation regulations at 322 CMR 12.00. This includes: (1) seasonal fixed gear closures and speed limits, which may be extended based on the continued observed presence of right whales in waters under the jurisdiction of the Commonwealth; (2) fixed gear modifications designed to reduce the risk of entanglement and the risk of serious injury or mortality should an entanglement occur; (3) buoy line marking requirements specific to Commonwealth fisheries; (4) prohibitions on abandoning gear; and (5) guidelines related to vessel conduct if interacting with a right whale. This establishes a portfolio of measures designed to minimize the impact fishing and vessel activity may have on protected species when in the waters under the jurisdiction of the Commonwealth and improving management moving forward.

As a result of the state's extensive regulatory program affecting trap gear, NOAA Fisheries has listed the commercial trap fisheries operating in Massachusetts state waters

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as the “Massachusetts Mixed Species Trap/Pot Fishery” on its 2022 List of Fisheries. This distinguishes Massachusetts commercial lobster and crab trap fishery from the broader Northeast Lobster and Jonah Crab Trap/Pot Fishery and its commercial scup, black sea bass, and whelk pot fisheries from the broader Atlantic Mixed Species Trap/Pot Fishery. As a result, Massachusetts manages these commercial trap fisheries as a single unit and in a manner that is more restrictive than the regulations adopted to implement the Atlantic Large Whale Take Reduction Plan.

~~To address these risks, DMF has promulgated a series of regulations at 322 CMR 12.00 to protect right whales. This includes: a February 1st through April 30th seasonal closure of all waters under the jurisdiction of the Commonwealth to trap gear fishing; a January 1st through May 15th closure of Cape Cod Bay and certain adjacent waters to gillnet gear; and a March 1st through April 30th speed limit for small vessels operating in Cape Cod Bay and certain adjacent waters. Each of these seasonal restrictions may be extended beyond their end date in response to the continued presence of right whales in the waters under the jurisdiction of the Commonwealth.~~

~~The protected species regulations at 322 CMR 12.00 reflect only a part of Division's efforts to address protected species. DMF also regulates buoy line marking for gillnets and trap gear at 322 CMR 4.00: *Fishing and Shellfish Equipment*, establishes lobster and fish trap fishing seasons at 322 CMR 6.00: *Regulation of Catches*, and restricts the issuance of lobster and trap fishing permits at 322 CMR 7.00: *Permits*. In aggregate, these various regulations create a portfolio of measures designed with the goal of minimizing the impact fishing and vessel activity may have on protected species when in the waters under the jurisdiction of the Commonwealth and improving management moving forward.~~

12.02: Definitions

For the purposes of 322 CMR 12.00, the following terms shall have the following meanings:

~~**1,700 Pound Buoy Line** means any buoy line with a breaking strength of 1,700 pounds or less or any buoy line that is rigged with no less than one 1,700 contrivance per every 60 feet of buoy line in the top 75% of the buoy line. Only contrivances be approved by NOAA Fisheries pursuant to the Atlantic Large Whale Take Reduction Plan shall be lawful.~~

Abandon means to leave any fixed gear in the waters for a period of at least 30 days without hauling the gear or to leave any fixed gear in any fixed gear seasonal closure.

Bottom or Sink Gillnet means a gillnet, anchored or otherwise, that is designed to be, capable of being, or is fished on or near the bottom in the lower third of the water column.

Breaking strength means the highest tensile force which an object can withstand before breaking.

Buoy Line means the line that extends through the water column from the buoy at the surface to a single trap on the ocean floor; ~~or to~~ a groundline that connects multiple traps

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in a trawl and extends no more than 12' from the first trap in the trawl; **or a gillnet suspended in the water column.**

Buffer Zone means an area outward from a right whale a distance of 500 yards in all directions. Cape Cod Bay Vessel Speed Restriction Area.

~~The~~ Cape Cod Bay Vessel Speed Restriction Area shall consist of all waters of Cape Cod Bay south of 42° 08' north latitude and those waters north and east of Cape Cod west of 70° 10' west longitude.

Commercial Fisherman means any person who may set gear or catch, possess or land fish for the purpose of sale, barter, or exchange or keeps for personal use any fish taken under the authority of a commercial **fishing fisherman** permit issued in accordance with M.G.L. c. 130, §§ 2, 37, 38 or 80, and 322 CMR 7.01(2).

Double means two traps connected together by a groundline with a single vertical line buoy attached.

Fish means to use, set, maintain, leave in the water, or haul any traps or gillnets to harvest, catch, or take fish.

Fixed Fishing Gear means any bottom or sink gillnets or traps that are set on the ocean bottom or in the water column and are usually connected to lines that extend to the water's surface.

Gillnet means anchored, or surface or drifting vertical walls of webbing, buoyed on top and weighted at the bottom, designed to capture fish by entanglement, gilling, or wedging.

Groundlines means the lines connecting traps on a trap trawl and lines connecting gillnets to anchors. Harass means to approach, pursue, chase, follow, interfere with, observe, threaten, harm in any fashion, turn in any manner to intercept or attempt to engage in any such conduct.

Homeport means the location assigned as a vessel's home on its commercial American Lobster Permit issued by NOAA Fisheries, or if a federal commercial American Lobster Permit is not held, then the Homeport shall mean the location assigned as the vessel's home on its Coastal Lobster Permit issued by the Division of Marine Fisheries pursuant to 322 CMR 7.01(2): Commercial Fishing Permits.

Massachusetts Restricted Area means those waters described in the federal Atlantic Large Whale Take Reduction Plan and bounded by the following coordinates: beginning at the shoreline at 42° 12' N latitude; thence heading due east to where 42° 12' N latitude intersects with 70° 30' W longitude; thence due north to where 70° 30' W longitude intersects with 42° 30' N latitude; thence due east to where 42° 30' N latitude intersects with 69° 45' W longitude; thence due south to where 69° 45' W longitude intersects with

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41° 56.5' N latitude; thence in a straight line in a southeasterly direction to where it intersects with 41° 21.5' N latitude and 69° 16' W longitude; thence in a straight line in a west southwesterly direction to where it intersects with 41° 15.3' N latitude and 69° 57.9' W longitude at the shoreline of Nantucket; thence following the eastern shoreline of Nantucket to where it intersects with 70° 00' W longitude; thence due north to where 70° 00' W longitude intersects with the shoreline of Cape Cod at 41° 40.2' N latitude; thence following the shore line of Cape Cod back to the original point.

Massachusetts Mixed Species Pot/Trap Fishery means inclusively the commercial lobster and crab trap, black sea bass pot, scup pot, and whelk pot fisheries occurring within the waters under the jurisdiction of the Commonwealth.

Negatively Buoyant Line means line that has a specific gravity equal to or greater than that of seawater, 1.03, and does not float up in the water column.

Positively Buoyant Line means line that has a specific gravity less than that of seawater, 1.03, and floats up in the water column.

Recreational Fisherman means any person permitted in accordance with M.G.L. c. 130, § 38, and 322 CMR 7.01(4)(b) to catch, possess and land lobster or crabs for family use, sport, or pleasure, which are not to be sold, traded, or bartered.

Registered under the laws of the Commonwealth means any individual or vessel which is licensed by the Division of Marine Fisheries as evidenced by the issuance and possession of a valid commercial Offshore Lobster Permit or Coastal Lobster Permit, issued pursuant to 322 CMR 7.01(2): Commercial Fishing Permits, which may be in addition to any federal registration of the vessel.

Right Whale means that species of marine mammal known as *Eubalaena (Balaena) glacialis*.

Single Trap means individual set and buoyed traps.

~~**To Abandon or To Store means to leave fixed gear in the water without hauling it at least every 30 days or in prohibited areas during prohibited periods.**~~

~~**To Fish means to use, set, maintain, leave in the water or haul gillnets or traps to harvest, catch, or take any species of fish or lobster.**~~

Trap means any lobster trap, modified lobster trap, fish pot, fish trap, conch pot, or other contrivance, other than nets, that is placed on the ocean bottom and designed to catch finfish, whelks, lobsters or crabs.

Trawls means a series of single traps that are tied together and buoyed at one or both ends.

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Vessel means every description of watercraft or other artificial contrivance used , or capable of being used, as means of transportation on the water. ~~any waterborn craft.~~

Weak Buoy Line Contrivance means a device installed into the buoy line that is designed to part when exposed to 1,700 pounds of tension or less. Lawful contrivances are only these devices approved by NOAA Fisheries pursuant to the Atlantic Large Whale Take Reduction Plan.

Weak Link means a breakable section or device that will part when subjected to specified poundage of pull pressure and after parting, will result in a knot-less end, no thicker than the diameter of the line, the so-called "bitter end" to prevent lodging in whale baleen. Lawful weak links are those devices approved by NOAA Fisheries ~~the National Marine Fisheries Service~~ pursuant to the Atlantic Large Whale Take Reduction Plan and published in the Atlantic Large Whale Take Reduction Plan's Supplemental Gear Guide.

12.03: Prohibition on Abandoning Fixed Gear

It shall be unlawful for any **commercial or recreational** fisher~~man~~ to abandon any fixed gear in the waters under the jurisdiction of the Commonwealth.

322 CMR 12.04: Fixed Gear Seasonal Closures

(1) Gillnet Closure to Protect Right Whales. It shall be unlawful for any **commercial fisher** ~~Commercial Fisherman~~ to fish, set, **maintain, store,** or abandon any sink gillnets within the waters under the jurisdiction of the Commonwealth during the period of January 1 through May 15. This closure may be extended past May 15 or rescinded after April 30 based on the presence or absence of right whales, in accordance with the process set forth at 322 CMR 12.04(4). ~~(3).~~

(2) Commercial Trap Gear Closure to Protect Right Whales ~~Trap Gear Haul-out Period~~. It shall be unlawful for any **commercial fisher** ~~Commercial Fisherman~~ to fish, set, **maintain, store,** or abandon any trap gear in any waters under the jurisdiction of the Commonwealth from February 1 through May 15. This closure may be extended past May 15 or rescinded after April 30 based on the presence or absence of right whales, in accordance with the process set forth at 322 CMR 12.04(4). ~~(3).~~

Exception: This shall not apply to those waters under the jurisdiction of the Commonwealth within Lobster Management Area 2, as defined at 322 CMR 6.33(2)(e): LCMA 2.

(3) Recreational Lobster and Crab Trap Closure to Protect Right Whales. It shall be unlawful for any recreational fisher to fish, set, maintain, or abandon any buoyed lobster and crab trap gear in any waters under the jurisdiction of the Commonwealth during the period of November 1 – May 15. This closure may be extended past May 15 or rescinded after April 30 based on the presence or absence

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of right whales, in accordance with the process set forth at 322 CMR 12.04(4).

Exception: This shall not apply to any buoyless recreational lobster and crab trap gear fished from the shoreline.

(4) ~~(3)~~ Notice of Declaration to Amend Timing of Fixed Gear Seasonal Closures. The Director, through Notice of Declaration, may adjust the duration of the fixed gear seasonal closures at 322 CMR 12.04~~(1) and (2)~~, as reasonably necessary to prevent the entanglements of the North Atlantic right whale in fixed fishing gear based on the Director's assessment of the documented presence of the North Atlantic right whale in Massachusetts waters. The Director shall amend the timing of these fixed gear seasonal closures by filing the Notice of Declaration with the Secretary of State for publication in the Massachusetts Register, publishing the Notice on the Division's Legal Notice web page, and distributing it via the Division's e-mail list serve.

12.05: Speed Restrictions to Protect North Atlantic Right Whales

(1) Purpose and Scope. North Atlantic right whales are a critically endangered species. Annually they migrate through state waters and aggregate in Cape Cod Bay to feed during the late-winter and early-spring. In order to protect these whales from vessel strikes, the National Marine Fisheries Service promulgated regulations at 50 CFR 224.105 in 2008 that restrict the speed of vessels measuring at least 65 feet in overall length to ten knots while transiting certain waters around Cape Cod. In order to establish similar measures to prevent strikes of whales by vessels smaller than those regulated under the federal regulations, the Division of Marine Fisheries has established these seasonal vessel speed restrictions for Cape Cod Bay.

(2) Vessel Speed Restriction and Time Period. During the period of March 1st through April 30th, all vessels measuring less than 65' overall length and operating within the Cape Cod Bay the Restricted Speed Area, as defined at 322 CMR 12.02, shall travel at a speed of ten knots or less.

(3) Exemptions. 322 CMR 12.05(2) shall not apply:

(a) Inshore Areas. Within those waters within Plymouth, Kingston and Duxbury Harbors, Barnstable Harbor and Wellfleet Harbor, as defined at 322 CMR 4.02(2) and (3).

(b) Enforcement and Emergency Personnel. To law enforcement and emergency personnel in the course of their authorized duties including, but not limited to, authorized federal whale disentanglement personnel when responding to an entangled whale.

(4) Notice of Declaration to Amend the Vessel Speed Restriction Time Period. The Director may, through a Notice of Declaration, adjust the duration of the Cape Cod Bay Vessel Speed Restriction Time Period in 322 CMR 12.05(2), as reasonably necessary to prevent vessel strikes on right whales, based on the Director's assessment of the documented presence of North Atlantic right whales in Cape Cod Bay. The Director shall

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amend the timing of these fixed gear seasonal closures by filing the Notice of Declaration with the Secretary of State for publication in the Massachusetts Register, publishing the Notice on the Division's Legal Notice web page, and distributing it via the Division's e-mail list serve.

322 CMR 12.06: Buoy Line Modifications and Marking for Fixed Gear ~~Fixed Gear Year-Round Gear Restrictions~~

~~(1) Gillnets. It shall be unlawful to fish any gillnet in any waters under the jurisdiction of the Commonwealth, unless the net is rigged with the following breakaway features:~~

~~(a) Knot-less weak link at the buoy with a breaking strength of 600 pounds.~~

~~(b) Weak links with a breaking strength of up to 1,100 pounds are installed in the float rope between net panels.~~

~~(c) Anchoring system for the gillnets must anchor with the holding power of at least 22 pound Danforth anchor.~~

~~(2) Trap Gear.~~

~~(a) Weak Link Requirement. It shall be unlawful to fish any traps in any waters under the jurisdiction of the Commonwealth unless all buoy lines are equipped with a Weak Link that will part when subjected to 600 pounds or less of pull pressure along the buoy line.~~

~~(b) Buoy Line Breaking Contrivance. Effective May 1, 2021 it shall be unlawful for any commercial fisherman to fish any traps in the waters under the jurisdiction of the Commonwealth, unless all buoy lines are equipped with a 1,700 pound breaking strength contrivance.~~

~~(c) Maximum Buoy Line Restriction for Trawls. It shall be unlawful to fish two and three trap trawls with two buoy lines in the waters under the jurisdiction Commonwealth. Two buoy lines may be fished only on trawls of four or more traps.~~

~~(d) Prohibitions on Single Traps. It shall be unlawful for commercial fishermen to set, fish or abandon any single traps in the waters under the jurisdiction of the Commonwealth north of Cape Cod that are seaward of three miles from mean low tide water mark. This shall not apply to any eel traps fished lawfully under municipal regulations pursuant to M.G.L. c. 130, § 52.~~

~~Exception for Billingsgate Shoal. It shall be lawful for commercial fishermen to set and fish single traps within those waters under the jurisdiction of the Commonwealth within of southeast Cape Cod Bay that are shoreward of Loran C Line 9960-X-25360 as it runs north east from 41/47.2' north latitude and 70/19.5' west longitude (Barnstable) to 41/55.8' north latitude and 70/8.4' west longitude (Wellfleet).~~

~~(e) Restrictions on Buoy Line Diameters. Effective May 1, 2021 it shall be unlawful for:~~

~~1. any commercial fisherman to set or fish traps within the waters~~

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~~under the jurisdiction of the Commonwealth with buoy lines that are greater 3/8" diameter.~~

~~2. any recreational lobster or crab trap fishermen, permitted in accordance with M.G.L. c. 130, § 38, and 322 CMR 7.01(4)(b), to fish traps within the waters under the jurisdiction of the Commonwealth with buoy lines that are greater than 5/16" diameter.~~

~~(3) Fixed Gear. It shall be unlawful for any person to fish fixed fishing gear with:~~

~~(a) Lines floating at the water's surface;~~

~~(b) Positively buoyant groundline; and~~

~~(c) Buoy lines comprised of positively buoyant line, except the bottom portion of the line which may be a section of floating line, not to exceed a of overall length of the buoy line.~~

(1) Sink Gillnets. The following regulations apply to commercial fishers fishing sink gillnets within the waters under the jurisdiction of the Commonwealth :

(a) Weak Link at Buoy. Commercial fishers shall install a knot-less weak link in the buoy line at the buoy with a breaking strength of 600 pounds.

(b) Weak Links on Float Rope. Commercial fishers shall install weak links in the float rope between net panels with a breaking strength of up to 1,100 pounds.

(c) Anchoring System. Commercial fishers shall anchor the gillnet with an anchor with the holding power of at least 22-pound Danforth anchor.

(b) Buoy Line Marking. Commercial fishers shall mark their buoy lines with a 12-inch green mark at the top, bottom and midway on the buoy line. Except that if the color of the buoy line is green then it shall be marked with white marks.

(2) Massachusetts Mixed Species Pot/Trap Fishery. The following regulations shall apply to commercial fishers fishing in Massachusetts Mixed Species Pot/Trap Fishery:

(a) 1,700 Pound Buoy Line Breaking Strength. Commercial fishers are prohibited from fishing traps where any affixed buoy lines has a breaking strength of greater than 1,700 pounds. To comply with this requirement:

1. Fully Formed Weak Rope. Commercial fishers may fish traps affixed with buoy lines comprised of fully formed weak rope with a breaking strength of 1,700 pounds approved by NOAA Fisheries pursuant to the Atlantic Large Whale Take Reduction Plan.

2. Weak Buoy Line Contrivances. Commercial fishers may fish traps affixed with buoy lines that have a weak buoy line contrivance, approved by NOAA Fisheries pursuant to the Atlantic Large Whale Take Reduction Plan.

i. Frequency of Weak Buoy Line Contrivances. Weak buoy line contrivances shall be installed once every 60-feet of the buoy line as it extends from where the buoy line affixes to the buoy down through the water column to where it attaches to a single trap or groundline extending from the leading trap in a

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multiple trap trawl.

ii. Clean Break. Weak buoy line contrivances shall break cleanly away from the buoy line behind the bitter end of the line. The bitter end of the line shall be free of knots when the weak insert breaks.

(b) Maximum Buoy Line Diameter. Commercial fishers are prohibited from fishing traps where the affixed buoy line has a diameter of greater than 3/8-inches.

(c) Buoy Line Marking Requirements. Commercial fishers shall fish traps where the affixed buoy lines are marked with at least five color coded marks in the following configuration:

1. There shall be one solid red mark that is at least three feet in length within the first 12 feet of the buoy line extending through the water column from the buoy to the trap.

2. After the first 12 feet of the buoy line, there shall be at least four two foot solid or non-solid red marks in the remaining buoy line extending down to the trap with two of the red marks occurring in the top 50% of the buoy line and the other two red marks occurring in the bottom 50% of the buoy line.

3. There shall be no length of buoy line greater than 60 feet without a red mark.

4. If the color of the buoy line is red or red and white striped, then a solid white mark of the same size shall be substituted for the red mark.

5. There shall be no marks in the buoy line that are green, black, silver, grey, purple, or yellow.

(d) Prohibition on Fishing Single Traps. Commercial fishers are prohibited from setting or fishing single traps in the waters under the jurisdiction of the Commonwealth north of Cape Cod that are seaward of three miles from the mean low tide water mark.

1. Exception for Billingsgate Shoal. Commercial fishers may set and fish traps within those waters under the jurisdiction of the Commonwealth within southeast Cape Cod Bay that are shoreward of Loran C Line 9960-X-25360 as it runs northeast from 41°47.2' N latitude and 70° 19.5 W longitude in the Town of Barnstable to 41° 55.8' N latitude and 70° 8.4' W longitude in the Town of Wellfleet.

(e) Maximum Buoy Lines for Trawls. Commercial fishers are prohibited from fishing a buoy line on each end of a trawl unless the trawl consists of four or more traps. Trawls of two or three traps shall be rigged with a buoy line only on one end of the trawl.

3. Commercial Lobster and Crab Traps Seaward of the Waters Under the Jurisdiction of the Commonwealth.

(a) Buoy Line Marking Requirements for LCMA 1, LCMA 2, and Outer Cape Cod LCMA. Any vessel registered under the laws of the Commonwealth with a homeport in Massachusetts fishing commercial lobster and crab trap gear seaward of the waters under the jurisdiction of

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the Commonwealth, within LCMA1, LCMA2 and the Outer Cape Cod LCMA, as defined at 322 CMR 6.33, shall mark their buoy lines with at least five color coded marks in the following configuration:

1. There shall be one solid red mark that is at least three feet in length within the first 12 feet of the buoy line extending through the water column from the buoy to the trap.
2. No more than one foot below the three foot solid red mark, which occurs in the first 12 feet of the buoy line extending through the water column from the buoy to the trap, there shall be one solid green mark that is at least one foot in length.
3. After the first 12 feet of the buoy line, there shall be at least one mark in each third of the remaining buoy line extending down to the trap. Each mark shall be at least two feet long and comprised of a solid or non-solid red mark measuring at least one foot in length and a solid or non-solid green mark measuring at least one foot in length. The red and the green marks do not need to be adjacent but shall not be more than six inches apart.
4. If the color of the buoy line is red or red and white striped, then a solid white mark of the same size shall be substituted for the red mark.
5. All red marks in the buoy line shall bear a corresponding green mark within six inches of the red mark.

(b) Buoy Line Marking requirements for LCMA3. Any vessel registered under the laws of the Commonwealth and a homeport in Massachusetts fishing commercial lobster and crab trap gear in in LCMA3, as defined at 322 CMR 6.33: Lobster Conservation Management Areas, shall mark their buoy lines with at least five color-coded marks in the following configuration:

1. There shall be one solid black mark that is at least three feet in length within the first 12 feet of the buoy line extending through the water column from the buoy to the trap.
2. No more than one foot below the three-foot solid black mark, which occurs in the first 12 feet of the buoy line extending through the water column from the buoy to the trap, there shall be one solid green mark that is at least one foot in length.
3. After the first 12 feet of the buoy line, there shall be at least one solid or non-solid black that is at least one foot long in each third of the remaining buoy line extending down to the trap.

4. Recreational Lobster and Crab Traps. The following regulations shall apply to recreational fishers authorized to set and fish lobster and crab trap gear.

(a) Buoy Line Marking Requirements. Recreational fishers fishing buoyed lobster and crab trap gear shall mark their affixed buoy lines with a solid or non-solid red mark measuring at least 4" but less than 2' midway between the buoy and the trap. If the color of the buoy line is red or red and white striped, then a solid white mark of the same size shall be substituted for the red mark.

(b) Maximum Buoy Line Diameter. Recreational fishers fishing buoyed

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lobster and crab traps within waters under the jurisdiction of the Commonwealth shall deploy buoy lines with a diameter no greater than 5/16-inches.

(c) **Weak Link**. Recreational fishers fishing buoyed lobster and crab traps within waters under the jurisdiction of the Commonwealth shall deploy buoy lines with a weak link where the buoy connects to the buoy line that will part when subjected to 600 pounds or less of pull pressure along the buoy line.

5. Prohibitions Regarding Fixed Gear Configuration. The following prohibitions shall apply year-round to all fixed gear:

- (a) It shall be unlawful to fish fixed gear with lines floating at the water's surface.
- (b) It shall be unlawful to fish positively buoyant groundline.
- (c) It shall be unlawful to fish positively buoyant buoy lines, except in the bottom portion of the buoy line provided the section of positively buoyant buoy lines does not exceed 1/3 the overall length of the buoy line.