

322 CMR: DIVISION OF MARINE FISHERIES

6.03: continued

(a) Commercial fishing.

1. Cod and haddock and Pollock: 19 inches.
2. Yellowtail flounder: 13 inches.

(b) Recreational fishing.

1. Cod and haddock: 20 inches during the period July 26, 1996 through December 31, 1996 and 21 inches effective January 1, 1997.
2. Yellowtail flounder: 13 inches.

(3) Method of measurement. 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.

(4) Recreational Fishery Limit. It is unlawful for recreational fishermen fishing from shore or on private vessels to possess more than ten cod and haddock in any combination.

(5) Commercial Fishery Cod Limit.

(a) North of Cape Cod. It is unlawful for any vessel fishing within waters under the jurisdiction of the Commonwealth north of 42° 00' and in all waters of Cape Cod Bay to land or possess more than 400 lbs. of cod during a 24-hour day, except that vessels with federal permits allowing the taking of cod from federal waters may possess and land more than 400 lbs. provided said cod were lawfully taken from federal waters.

(b) East and south of Cape Cod. It is unlawful for any vessel fishing within waters under the jurisdiction of the Commonwealth south of 42° 00' excluding waters of Cape Cod Bay to land or possess more than 2,000 lbs. of cod during a 24-hour day except that vessels with federal permits allowing the taking of cod from federal waters may possess and land more than 2,000 lbs. provided said cod were lawfully taken from federal waters.

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 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 provision to cover those purse seine vessels operating in the fishery prior to 1974.

possession for each customer of that charter boat trip for a total not to exceed 12 representing the equivalent of one fish per customer; the skin must be left on the 3. the frames (or racks) from which the fillets were removed must be retained the boat to check for minimum size, and the number of frames must not exceed number of customers. Frames may be disposed of the following day, or just p subsequent trips that occur the same day.

4. the total number of striped bass onboard the fishing vessel does not exceed number of fishermen.

(h) Commercial fishermen shall accurately report to the Director on forms supplied Division the catch by month, location and size of all striped bass harvested during the season. Said catch report shall be filed no later than November 30 of each year, shall be strictly confidential by the Director and shall be signed under the pains and penalties of perjury. Failure to complete and submit an accurate form prior to November 30, or the falsification of any such form may result in a non-renewal of the striped bass special permit.

(i) Commercial fishermen shall sell striped bass only to dealers duly authorized by the Director to purchase striped bass.

(j) Non-resident commercial fishermen shall sell striped bass only to duly authorized dealers.

(k) Commercial fishermen shall sell striped bass only during the commercial season, only during the open fishing days within the commercial season.

(l) Commercial fishermen may harvest, catch, or take striped bass by rod-and-reel or handline only.

(m) Commercial fishermen engaged in commercial fishing for striped bass may not be aboard the same vessel at the same time as recreational fishermen.

(5) Recreational Management Measures. For purposes of conservation and management of the resource the following measures shall apply to recreational fishermen who harvest, catch, or possess or attempt to harvest, catch, take or possess any striped bass:

(a) All striped bass shall be no less than 28 inches in total length. Striped bass less than 28 inches in total length shall be released immediately to the waters from which taken.

(b) Recreational fishermen may retain no more than:

1. one striped bass per day; and
2. may possess no more than one striped bass at any one time.

(c) Recreational fishermen may not sell, barter or exchange any striped bass.

(d) Recreational fishermen may not discard dead striped bass that are 28 inches or greater in total length.

(e) To prohibit the practice of high-grading as defined in 322 CMR 6.07(2) recreational fishermen may not retain legal-sized striped bass and release said fish in favor of another larger legal-sized striped bass captured subsequently. Any legal-sized fish not immediately released into the water and held by stringer, live-well or another means shall be considered intent to high-grade.

for other states' transfers of portions of their shares of the annual commercial quota to Massachusetts;

2. seasonal allocations downwards to account for quota overages of the previous year or upwards to account for state quota transfers to Massachusetts; and
3. commercial fishery limits to prevent overages of seasonal allocations, to prevent limits from exceeding limits implemented by other states at any time during the year, and to allow increased landings in response to state quota transfers and/or to ensure that the annual quota is reached before December 31.

(3) Permits and Reporting Requirements.

- (a) Dealers shall not purchase summer flounder from commercial fishermen without written authorization from the Director.
- (b) Dealers shall report all purchases of summer flounder by phone and in writing based on schedules established and on forms to be provided by the Division.
- (c) Commercial fishermen selling on consignment shall be considered dealers subject to the permit and reporting requirements of 322 CMR 6.22(3).
- (d) Dealers accepting summer flounder shall weigh and record all summer flounder purchases at the time of landing with pounds landed, date, time, and fishermen's name and permit number for inspection by the Division of Environmental Law Enforcement.
- (e) It is unlawful for dealers to purchase summer flounder in excess of possession limits defined in 322 CMR 6.22(2)(b) and (c).
- (f) A Special Permit shall be:
 1. required of all commercial fishermen taking or landing summer flounder in the Commonwealth;
 2. carried by the holder at all times when catching, taking, possessing, or selling summer flounder;
 3. displayed forthwith on demand by any Environmental Police officer or other official authorized to enforce 322 CMR 6.22; and
- (g) Commercial fishermen shall accurately report their catch of summer flounder to the Director on forms supplied by the Division. Failure to complete and submit an accurate reporting form prior to January 31 or falsification of any such reporting form shall result in suspension, revocation, or a non-renewal of the summer flounder special permit. Said catch reports shall be:
 1. filed no later than January 31 of each year;
 2. held strictly confidential by the Director; and
 3. signed under the pains and penalties of perjury.

(4) Recreational Fishery

- (a) Limit. It is unlawful for recreational fishermen to possess at any one time more than seven summer flounder.
- (b) Closed Season. It is unlawful for recreational fishermen to possess summer flounder during the periods January 1 through May 24 and September 6 through December 31.

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6.23: Winter Flounder Restrictions

(1) Definitions.

Commercial fisherman means fishermen fishing for purposes of sale, barter or exchange.

Recreational fisherman means fishermen fishing for purposes of personal or family use by angling.

Winter flounder means that species of flounder known as *Pleuronectes americanus*.

(2) Recreational Fishery Limits.

- (a) It is unlawful for recreational fishermen to possess more than ten winter flounder at any one time.
- (b) It is unlawful for recreational fishermen to possess winter flounder during the period March 1 through April 30.

(3) Commercial Fishing Prohibition. No commercial fisherman shall take or possess winter flounder from waters described in 322 CMR 4.02(2)(c)8. through 13., (d), (e) and (f) from February 1 to May 31.

(4) Restrictions Specific to Mount Hope Bay and its Tributaries.

- (a) It is unlawful for any person to fish for or possess winter flounder in Mount Hope Bay and its tributaries, as defined in 322 CMR 4.02(2)(e)4., during the periods May 20 through September 27, and October 29 through April 12.
- (b) It is unlawful for recreational fishermen to possess, during a 24 hour day, more than four winter flounder during the periods April 13 through May 19, and September 28 through October 28.
- (c) It is unlawful for commercial fishermen to take winter flounder from Mount Hope Bay and its tributaries.

6.24: Sea Urchin Management

(1) Definitions.

- (a) Batch means all sea urchins in each separate container.
- (b) Container means any bag, box, cage or other receptacle containing loose urchins which may be separated from the entire load or shipment.
- (c) Effective fishing width means the width of the sea bottom from which a dredge collects sea urchins including the inside width of the opening or frame or other structures which affect the overall width of the path from which sea urchins are taken.
- (d) Sea urchin means that species of echinoderm known as *Strongylocentrotus droebachiensis*.

(2) Minimum size.

- (a) No person shall take or possess sea urchins measuring less than two inches in the longest diameter, exclusive of the spines, to the amount of more than 5% of any batch.
- (b) Sublegal sea urchins shall be culled immediately after capture, and returned immediately to the sea.

(3) Closed season.

- (a) It is unlawful for any person using mobile gear including urchin dredges to take or possess for commercial purposes sea urchins from waters under the jurisdiction of the Commonwealth during the period March 1 - October 31.
- (b) It is unlawful for any person using SCUBA or any method other than mobile gear including urchin dredges to take or possess for commercial purposes sea urchins from waters under the jurisdiction of the Commonwealth during the period May 1 - August 31.

(4) Gear Restrictions.

- (a) No person shall dredge for sea urchins in any area(s) closed to mobile gear fishing unless a single dredge meeting the following specifications is used:

scup landings from weirs will reach 75,000 lbs., the Director will notify in writing all licensed weir operators that possession of scup caught by weirs will be prohibited.

(c) All Other Gear Types.

1. From May 1 through July 16 possession of scup shall be prohibited.
2. From July 17 until the annual quota is reached it is unlawful to possess more than 200 lbs. of scup except on any Saturday and Sunday during this period when possession of scup is prohibited.

(3) Black Sea Bass Quarterly Periods and Possession Limits. To comply with limits established by the Atlantic States Marine Fisheries Commission, black sea bass seasons and commercial possession limits are established. During January 1 through March 31, the possession limit shall be 9,000 lbs; during April 1 through June 30, the possession limit shall be 1,500 lbs; during July 1 through September 30 the possession limit shall be 1,000 lbs; and during October 1 through December 31 the possession limit shall be 2,000 lbs;

(4) The possession limits described in 322 CMR 6.28 shall be based on a 24-hour day, shall be vessel limits, and shall apply regardless of the number of commercial fishermen with scup or black sea bass special permits on board said vessel.

(5) Commercial Fishery Limit Adjustments.

- (a) The director may adjust scup and black sea bass commercial fishery landing/possession limits to correspond to limits established by the Atlantic States Marine Fisheries Commission.
- (b) For 2001, when 40% of the interstate quarterly quota is projected to be taken, the black sea bass possession limit shall be dropped to 250 lbs. per day. Commercial fishermen are prohibited from catching, possessing or landing sea bass on Thursdays, Fridays or Saturdays.
- (c) An adjustment has been filed with the Massachusetts Register and has been mailed to all commercial scup or black sea bass permit holders authorized to purchase scup or black sea bass.
- (d) The director shall consider any written comments submitted by the public or a state or federal agency, and based on these comments, the Director may alter, amend, or rescind the adjustments pursuant to the procedural requirements of 322 CMR 6.28(5)(b).

(6) Black Sea Bass and Scup Recreational Fishery Seasons.

- (a) It is unlawful for recreational fishermen to possess black sea bass during the period January 1 through May 9.
- (b) It is unlawful for recreational fishermen to possess scup during the period October 7 through December 31.

6.29: Acushnet River Estuary Fisheries Closures

(1) Definitions. For purposes of 322 CMR 6.30 the following words shall have the following meanings: