

## 322 CMR: DIVISION OF MARINE FISHERIES

### 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.

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
  4. issued only to commercial fishermen who possessed a fluke special permit issued pursuant to 322 CMR(2)(f) prior to July 23, 1998. Permits will be endorsed only for those gear types that the permit holder used to catch and sell fluke prior to July 23, 1998.
- (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 eight summer flounder.
- (b) Season. It is unlawful for recreational fishermen to possess summer flounder during the period September 12 through May 28.

processed in any manner except by evisceration. In all prosecutions or non-criminal citations issued, mutilation of a striped bass which interferes with or affects a proper or adequate measurement of the fish shall be *prima facie* evidence that the striped bass was or is less than 34" in total length.

(g) Charter boat operators actively engaged in charter boat fishing operations may fillet or process legal sized striped bass for their recreational charter customers at sea provided that:

1. charter boat operators have written authorization from the Director which shall be immediately produced upon demand of any officer authorized to enforce the marine fishery laws of the Commonwealth;
2. not more than two fillets taken from legal sized striped bass, 28" total length, are in possession for each customer of that charter boat trip for a total not to exceed 12 fillets representing the equivalent of one fish per customer; the skin must be left on the fillet;
3. the frames (or racks) from which the fillets were removed must be retained aboard the boat to check for minimum size, and the number of frames must not exceed the number of customers. Frames may be disposed of the following day, or just prior to subsequent trips that occur the same day; and
4. the total number of striped bass onboard the fishing vessel does not exceed the number of fishermen.

(h) Commercial fishermen shall accurately report to the Director on forms supplied by the Division the catch by month, location and size of all striped bass harvested during the open season. Said catch report shall be filed no later than November 30 of each year, shall be held 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 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 and 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 fish 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, take 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 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.

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. It is unlawful for vessels, without federal permits allowing the landing or possession of cod, to land or possess at any time more than 200 lbs. of cod caught in waters under the jurisdiction of the Commonwealth north of 42° 00'N. latitude including all waters of Cape Cod Bay.

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.

## 6.02: continued

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 3/16 inch in diameter; or non-stainless, uncoated ferrous metal not greater than 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(b).
4. The escape vent specified in 322 CMR 6.02(1) may serve as a ghost panel if incorporated into a panel constructed of, or attached to the trap with, a material specified in 322 CMR 6.02(b), and upon breakdown of the degradable materials, will create an opening for egress of lobsters at least 3 1/4 by 3 1/4 inches.
5. For purposes of 322 CMR 6.02(2) 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(2)(a).

(c) **Maximum Trap Size.** Volume of any trap must not exceed 22,950 cubic inches.

(2) **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.

(3) **V-notched Female Lobster Protection.**

(a) **Definitions.** For the purpose of 322 CMR 6.02, the following words shall have the following meanings:

**V-notched Female Lobster** means any female lobster bearing a v-shaped notch on the right flipper adjacent to the middle flipper or any female lobster which is mutilated in a manner which could hide, obscure, or obliterate such a mark. The right flipper will be examined when the underside of the lobster is down and its tail is toward the person making the determination.

**V-shaped Notch** means a straight-sided triangular cut without setal hairs at least 1/4 inch in depth and tapering to a sharp point.

(b) It is prohibited and unlawful for any person to possess any v-notched female lobsters.

(c) **Enforcement.** It shall not be a violation if v-notched female lobsters are immediately returned alive and undamaged to the sea or are relinquished alive and undamaged to an environmental police officer.

**6.03: Cod, Haddock, Pollock and Yellowtail Flounder**

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

- (a) **Cod** means that species of fish known as *Gadus morhua*.
- (b) **Fish for** means to harvest, catch, take, have on board, possess or land or attempt to harvest, catch, take, have on board, possess or land any cod, haddock, pollock or yellowtail flounder.
- (c) **Haddock** means that species of fish known as *Melanogrammus aeglefinus*.
- (d) **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.
- (e) **Recreational fishing** means fishing for cod, haddock, pollock or yellowtail flounder with hand-held gear other than nets for a purpose or use other than sale, exchange or barter.
- (f) **Pollock** means that species of fish known as *Pollachius virens*.
- (g) **Yellowtail flounder** means that species of fish known as *Limanda ferruginea*.
- (h) **Total length** means 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.

(2) **Minimum size.** It is unlawful to fish for cod, haddock, pollock or yellowtail flounder of a size less than the following: