

Legislative Regulation Review Committee

2008-060

Department of Environmental Protection

**COMMERCIAL FISHING IN THE INLAND
AND MARINE DISTRICTS; TAKING OF
LOBSTERS; COMMERCIAL AND SPORT
FISHING IN THE MARINE DISTRICT**

REGULATION OF

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concerning

COMMERCIAL FISHING IN THE INLAND AND MARINE DISTRICTS TAKING OF LOBSTERS COMMERCIAL AND SPORT FISHING IN THE MARINE DISTRICT

Sections 26-142a-6, 26-157c-1, 26-157c-4, 26-159a-1, 26-159a-4, 26-159a-7, 26-159a-13, 26-159a-16, 26-159a-20 and 26-159a-28.

Section 1. Subsections (g) to (h), inclusive, of section 26-142a-6 of the Regulations of Connecticut State Agencies is amended to read as follows:

(g) **Trawl nets in Connecticut Waters**

- (1) No person shall use any trawl net codend with a mesh size less than 5½ inches (diamond mesh) or six inches (square mesh) on any vessel fishing in Connecticut waters except as provided in subdivisions (3), (4), (6) and (7) of this subsection.
- (2) From May 1 [through] to October 31, inclusive, when in possession of more than 100 pounds of summer flounder or from November 1 [through] to April 30, inclusive, when in possession of more than 200 pounds of summer flounder, no person shall use any trawl net with a mesh size in the body, extension or codend less than 5½ inches (diamond mesh) or six inches (square mesh).
- (3) From November 1 [through] to April 30 inclusive, if a person on a vessel is in possession of 100 pounds or less of winter flounder or 200 pounds or less of summer flounder, he may use a fly net with a codend mesh of any size to take Atlantic herring.
- (4) From May 1 [through] to October 31 inclusive, no person shall use any trawl net with a mesh size less than 4½ inches (diamond mesh) or five inches (square mesh), except that:
 - (A) A person may use a trawl net with mesh of any size in the body and wings of the net provided the codend is at least 75 meshes in length and the terminal 75 meshes of the codend have a mesh size of no less than five inches (diamond mesh) or 5½ inches (square mesh).
 - (B) For the taking of squid from May 15 [through] to July 31 inclusive, a person may use a trawl net with a mesh of any size provided the codend mesh size is no less than 1-7/8 inches (diamond mesh) and no more than 100 pounds of scup or 100 pounds of black sea bass are in his possession.
 - (C) For the taking of butterfish and squid from October 1 to October 31, inclusive, a person may use a trawl net with a mesh of any size provided the codend mesh size is no less than 3 inches (diamond mesh) and no more than 200 pounds of scup or 100 pounds of black sea bass are in said person's possession.
- (5) No person shall possess more than 100 pounds of winter flounder while fishing with a trawl net with a codend mesh less than 6½ inches (diamond mesh) or 6½ inches (square mesh).
- (6) From May 1 to October 31, inclusive, no person shall possess more than 200 pounds of scup while fishing with a trawl net that does not:
 - (A) have a mesh size of at least 5 inches (diamond mesh) or 5½ inches (square mesh) throughout the entire net; or
 - (B) meet the specifications of subdivision (4)(A) of this subsection.

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- (7) From May 1 to October 31, inclusive, no person shall possess more than 100 pounds of black sea bass while fishing with a trawl net that does not meet the specifications of subdivision (4)(A) of this subsection.
 - (8) In Connecticut waters, no person shall possess any codend or trawl net with mesh sizes less than specified in subdivisions (2) [through] to (7), inclusive, of this subsection on any vessel having winter flounder, summer flounder, black sea bass or scup on board in excess of the limits specified in subdivisions (2) [through] to (7), inclusive, of this subsection unless the codend is detached from the main body of the net or the entire trawl net is removed and detached from the net reel or is covered on a net reel and is bound securely and unavailable for immediate use.
 - (9) For the purposes of this subsection, codend is the retaining bag of the net. The minimum mesh size is the maximum opening of any single mesh, measured when wet after use, by the median of eleven consecutive measurements taken at least five meshes from the lacings parallel to the longitudinal axis of the net. The "body of the net" is the main part of the net immediately behind (posterior to) the footrope, excluding the wings. The "extension of the net" is that part of the net between the body and the codend. A "fly net" is an otter trawl constructed of a minimum of [eight] 5½-inch stretch mesh webbing in the wings and forward body (belly) section extending at least [thirty-five] twelve meshes or [twenty-three] 5½ feet along the longitudinal axis of the net.
 - (10) The use of any means, device or material including but not limited to ropes, lines, liners, net strengtheners, or double nets which obstructs or diminishes the size of the meshes in the top of the codend or of that part of the net which does not contact the seabed during normal fishing activity, is prohibited. All netting in trawl nets not made on a braiding machine, whether of braided or twisted twine, whether machine or hand made, shall have only one knot, which shall be the weavers knot or sheet bend. The ends of the twine, called bars, that exit the knot shall be constructed so that their lay does not cross or twist.
 - (11) Any person who takes winter flounder or summer flounder while fishing pursuant to the provisions of subdivisions (2), (3) or (5) of this subsection, and any person who takes scup or black sea bass while fishing pursuant to the provisions of subdivisions (4), (6) or (7) of this subsection shall separate these fish by species and keep these fish apart from the main catch. All possession limits specified in subdivisions (2) [through] to (7), inclusive, of this subsection shall apply to the aggregate of all persons onboard the vessel.
 - (12) No bottom trawl net shall be equipped with rollers or cookies (hard rubber disks on the sweep of the net) in excess of six inches in diameter.
- (h) **Fish pots and fish traps**
- (1) No person shall use fish pots or fish traps except for the taking of finfish. This subsection shall not apply to pound nets, trap nets, or lobster pots. Subdivision (3) of this subsection shall not apply to pots or traps used to take American eel and minnow traps used to take the bait species listed in section 26-142a-12(b) of the Regulations of Connecticut State Agencies.
 - (2) Fish pots or fish traps shall be not more than 72 inches in length, width, or height.
 - (3) No person shall use any fish pots or fish traps unless such pot or trap has on any side of the catch chamber but not the bottom, a circular escape vent with an unobstructed opening not less than 3.1 inches (78.7 millimeters) in diameter or a square escape vent with an unobstructed opening not less than 2.25 inches (57.2 millimeters) on each side. Each fish pot or fish trap shall also have an escapement panel on any side of the catch chamber but not the

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bottom which, when open, will provide an unobstructed opening not less than seven and three quarters inches by seven and three quarters inches (197 millimeters by 197 millimeters) or which shall be comprised of the entire side, or end, of a square or rectangular pot or trap. Such escapement panels shall be held in the closed position with ungalvanized, uncoated iron wire, the stock of which shall not be more than 0.094 inch (2.39 millimeters) diameter, or magnesium alloy, timed float releases (pop up devices) or similar magnesium alloy fasteners, or with untreated natural fiber such as cotton, hemp, or jute string of 3/16 inch (0.188 inch, or 4.8 millimeters) diameter or smaller.

- (4) No person shall use any fish pots or fish traps and the buoys thereof unless such pot, trap, and buoy is affixed with the commercial fishing license plate number of the owner in numbers not less than three-quarters of an inch in height.

Section 2. Section 26-157c-1 of the Regulations of Connecticut State Agencies is amended to read as follows:

26-157c-1. Taking lobsters – general

(a) Definitions

- (1) “ASMFC” means the Atlantic States Marine Fisheries Commission, created under the terms of an interstate compact ratified by the State of Connecticut (section 26-295 of the Connecticut General Statutes) and approved by the U. S. Congress (Public Law 539, Chapter 283, Second Session, 77th Congress; 56 Stat. 267, approved May 4, 1942, as amended by Public Law 721, 81st Congress, approved August 19, 1950).
- (2) “American Lobster Fishery Management Plan” or “FMP” means the plan and its amendments and addendums approved and published by the ASMFC to manage the interstate lobster fishery.
- (3) “Carapace length” means the length of a lobster as measured along the length of the carapace (body shell) parallel to the centerline from the rear end of the eye socket to the rear end of the carapace.
- (4) “LMA” means any lobster management area as defined in the FMP.
- (5) “LMA 6 maximum length” means a carapace length of 5-1/4 inches.
- (6) “LMA 6 minimum length” means a carapace length of 3-5/16 inches.
- ~~[(6)]~~~~(7)~~ “LMA 6 v-notch” means a v-notch, with or without setal hairs, at least one-eighth inch in depth.
- ~~[(7)]~~~~(8)~~ “Lobster” means American lobster (*Homarus americanus*).
- ~~[(8)]~~~~(9)~~ “V-Notch” means a [v-shaped cut or remnants of a healed v-shaped cut] notch or indentation in the flipper next to and to the right of the center flipper as viewed from the dorsal surface with the tail oriented toward the observer. Such a mark is applied to protect certain lobsters from harvest for conservation purposes.

- (b) Lobsters may be taken only by lobster pots, traps, trawls or similar devices or by skin diving, including the use of self-contained underwater breathing apparatus, or by hand. The use of spears or hooks of any kind to take lobsters and the possession of lobsters taken by any method that pierces the shell is prohibited.

- (c) No person shall buy, sell, give away, offer for sale or possess, regardless where taken:
 - (1) any female lobster with ova or spawn attached or from which the ova or spawn has been removed; or
 - (2) any female lobster bearing a LMA 6 v-notch or any female lobster which is mutilated in a manner which could hide, obscure or obliterate such a mark; or
 - (3) any lobster with a carapace length less than the LMA 6 minimum length[.], except as provided in section 26-157j of the Connecticut General Statutes; or

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- (4) any lobster with a carapace length greater than the LMA 6 maximum length, except that a person may buy, sell, give away, offer for sale or possess a lobster with a carapace length greater than the LMA 6 maximum length provided:
- (A) such lobsters are not taken from LMA 6 waters; and
 - (B) such lobsters are not greater than the maximum legal length in effect for the waters of the LMA or nation of origin; and
 - (C) any seafood dealer, wholesaler or shipper in possession of such lobsters possesses a manifest, bill of lading, invoice, purchase order, seafood dealer report or other written documentation identifying the vessel, state, lobster management area or nation of origin, as applicable, where such lobsters were received, the number of such lobsters received that are greater than said LMA 6 maximum legal length and the date such lobsters were received. Such documentation shall be retained by the seafood dealer, wholesaler or shipper for a period of six months from the date such lobsters were received and shall be made available to law enforcement officers upon request; and
 - (D) any vessel possessing or landing lobster greater than the LMA 6 maximum length shall have a valid federal limited access American lobster permit issued pursuant to 50 CFR 697.4.
- (d) When caught, any lobster specified in subdivisions (1) to [(3)] (4), inclusive, of subsection (c) of this section or subdivisions (1) or (3) of subsection (e) of this section shall, without avoidable injury, be immediately returned to the waters from which taken.
- (e) No person authorized to take lobsters from any LMA other than or in addition to LMA 6, as defined in the current FMP, shall possess on the waters or shores of this state:
- (1) any lobster with a carapace length that is less than the largest minimum length or greater than the smallest maximum length specified in the FMP for any LMA for which the licensee has elected to engage in lobster fishing activity;
 - (2) any lobster pot with an escape vent as defined in subsection (a) of section 26-157c-2 of the Regulations of Connecticut State Agencies with an unobstructed opening less than the largest dimension specified in the FMP for any LMA for which the licensee has elected to engage in lobster fishing activity; or
 - (3) any female lobster that does not meet the most restrictive LMA-specific v-notch definition specified in the FMP for any LMA for which the licensee has elected to engage in lobster fishing activity, or any female lobster which is mutilated in a manner which could hide, obscure or obliterate such a mark.
- (f) Any licensee authorized to take lobsters from an LMA in which the FMP requires a v-notch to be applied to all egg-bearing female lobsters shall, as specified in the FMP, apply such v-notch to all such lobsters taken when fishing in that LMA.

Section 3. Subsection (f) of section 26-157c-4 of the Regulations of Connecticut State Agencies is amended to read as follows:

- (f) **Transferability.**
- (1) If pursuant to section 26-142b of the Connecticut General Statutes, the Commissioner authorizes the transfer of a license from a commercial licensee to another person, such other person shall be authorized to fish only the number of pots authorized by section 26-142b of the Connecticut General Statutes.
 - (2) The Commissioner [shall] may authorize the permanent transfer of [LMA 2] LMA-specific lobster pot allocations, in part or in whole, from one fisherman

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to another pursuant to [the] provisions of the FMP adopted by the ASMFC that define the specific terms and conditions of such transfers.

Section 4. Section 26-159a-1 of the Regulations of Connecticut State Agencies is amended to read as follows:

26-159a-1. Sport and commercial restrictions for marine and anadromous species

- (a) The minimum legal length for trout and charr taken by angling in the marine district shall be fifteen inches. The daily creel limit for trout or charr, or both, shall be two fish in the aggregate. The taking of trout and charr in the marine district by commercial fishing methods or by sport fishing methods other than angling is prohibited.
- (b) The taking of Atlantic salmon in the marine district is prohibited and all Atlantic salmon caught must be immediately returned without avoidable injury to the waters from which taken.
- (c) No person shall take, possess, sell, exchange or offer for sale or exchange in Connecticut any Atlantic sturgeon (*Acipenser oxyrinchus*) or shortnose sturgeon (*Acipenser brevirostrum*). Any such sturgeon caught must be immediately returned, without avoidable injury, to the waters from which it was taken.
- (d) No person shall take from or possess any rainbow smelt (*Osmerus mordax*) taken from, the marine district or those areas of the inland district specified in section 26-142a-2 of the Regulations of Connecticut State Agencies. Any such rainbow smelt caught shall be immediately returned, without avoidable injury, to the waters from which it was taken.
- (e) No person shall take from Connecticut waters, and no person shall possess, sell, exchange, or offer for sale or exchange in Connecticut regardless of where it was taken, any species of shark listed in this subsection or listed in 50 CFR 635, Subpart F Appendix A, Table 1 D – Prohibited Sharks. Any shark identified in this subsection that is caught must be immediately returned, without avoidable injury, to the waters from which it was taken.
 - (1) Atlantic angel (*Squatina dumerili*);
 - (2) Basking (*Cetorhinus maximus*);
 - (3) Bigeye sand tiger (*Odontaspis noronhai*);
 - (4) Bigeye sixgill (*Hexanchus vitulus*);
 - (5) Bigeye thresher (*Alopias superciliosus*);
 - (6) Bignose (*Carcharhinus altimus*);
 - (7) Caribbean reef (*Carcharhinus perezi*);
 - (8) Caribbean sharpnose (*Rhizoprionodon porosus*);
 - (9) Dusky (*Carcharhinus obscurus*);
 - (10) Galapagos (*Carcharhinus galapagensis*);
 - (11) Longfin mako (*Isurus paucus*);
 - (12) Narrowtooth (*Carcharhinus brachyurus*);
 - (13) Night (*Carcharhinus signatus*);
 - (14) Sand tiger (*Odontaspis taurus*);
 - (15) Sevengill (*Heptranchias perlo*);
 - (16) Sixgill (*Hexanchus griseus*);
 - (17) Smalltail (*Carcharhinus porosus*);
 - (18) Whale (*Rhincodon typus*); and
 - (19) White (*Carcharodon carcharias*).

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Section 5. Section 26-159a-4 of the Regulations of Connecticut State Agencies is amended to read as follows:

26-159a-4. Minimum lengths

- (a) No person, while on the waters of this state or on any parcel of land, structure, or portion of a roadway abutting tidal waters of this state shall possess or land any fish of the following species taken by sport fishing methods, regardless of where taken, if it is less than the identified length as measured from the tip of the snout to the end of the tail:
- (1) Scup (porgy) (*Stenotomus chrysops*): 10.5 inches, except that no person on a vessel operating under the authority of a party/charter vessel registration issued under section 26-142a of the Connecticut General Statutes shall possess or land fish less than 11 inches;
 - (2) Winter flounder (*Pseudopleuronectes americanus*): 12 inches;
 - (3) Summer flounder (fluke) (*Paralichthys dentatus*): [18] 19.5 inches;
 - (4) Atlantic cod (*Gadus morhua*): the length specified in 50 CFR 648.89;
 - (5) Haddock (*Melanogrammus aeglefinus*): the length specified in 50 CFR 648.89;
 - (6) Yellowtail flounder (*Limanda ferruginea*): 13 inches;
 - (7) Tautog (blackfish) (*Tautoga onitis*): 14 inches;
 - (8) Pollock (*Pollachius virens*): the length specified in 50 CFR 648.89;
 - (9) Weakfish (*Cynoscion regalis*): 16 inches;
 - (10) Black sea bass (*Centropristis striata*): 12 inches;
 - (11) American eel (*Anguilla rostrata*): 6 inches;
 - (12) White perch (*Morone Americana*): 7 inches; and
 - (13) Striped bass (*Morone saxatilis*): 28 inches.
- (b) Any of said species taken contrary to subsection (a) of this section shall, without avoidable injury, be returned immediately to the water from which taken. Culling or high-grading, as defined in section 26-142a-16 of the Regulations of Connecticut State Agencies, is prohibited, except in fishing tournaments granted an exemption by the Commissioner of Environmental Protection pursuant to section 26-159a-26 of the Regulations of Connecticut State Agencies. This subsection shall not be construed to prevent tagging and release of fish, other than striped bass, under a tagging program consistent with the Atlantic [states] States Marine Fisheries Commission's standards for scientific tagging programs.
- (c) No person engaged in sport fishing shall possess any summer flounder fillet less than the minimum total length for the species unless the carcass of the fish from which the fillet was removed has been retained and meets the minimum length. This subsection shall not be construed to prevent filleting of fish on shore or at the dockside.

Section 6. Section 26-159a-7 of the Regulations of Connecticut State Agencies is amended to read as follows:

26-159a-7. Creel limits

- (a) Unless otherwise specified in section 26-112-45 of the Regulations of Connecticut State Agencies, the daily creel limit for species taken by sport fishing methods, including spears of any kind, shall be as set forth in this subsection. No person, other than a person authorized to take finfish under a license or registration issued pursuant to section 26-142a of the Connecticut General Statutes, while on the waters of this state or on any parcel of land, structure, or portion of a roadway abutting tidal waters of this state shall possess or land any of the following species, regardless of where taken, in excess of the identified number.

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- (1) Atlantic cod (*Gadus morhua*): [The] the creel limit shall be the number specified in 50 CFR 648.89;
 - (2) Black sea bass (*Centropristis striata*): 25 fish;
 - (3) Summer flounder (fluke) (*Paralichthys dentatus*): 5 fish;
 - (4) American shad (*Alosa sapidissima*) and hickory shad (*Alosa mediocris*): 6 fish of both species in the aggregate;
 - (5) Scup (porgy) (*Stenotomus chrysops*): [25] 10 fish, except that paying passengers on a vessel operating under the authority of a party/charter vessel registration issued under section 26-142a of the Connecticut General Statutes may possess [60] 45 fish per angler from September 1 [through] to October [31] 15, inclusive;
 - (6) American eel (*Anguilla rostrata*): 50 fish;
 - (7) Winter flounder (*Pseudopleuronectes americanus*): 10 fish;
 - (8) Bluefish (*Pomatomus saltatrix*): 10 fish;
 - (9) Alewives and river herring (*Alosa pseudoharengus* and *Alosa aestivalis*): 25 fish of both species in the aggregate;
 - (10) Tautog (blackfish) (*Tautoga onitis*): 4 fish from January 1 to April 30, 2 fish from July 1 to August 31, and 4 fish from October 1 to December 6, all dates inclusive;
 - (11) White perch (*Morone americana*): 30 fish;
 - (12) Weakfish (*Cynoscion regalis*): [10 fish, and effective October 29, 2007,] 6 fish; and
 - (13) Striped bass (*Morone saxatilis*): 2 fish.
- (b) This section shall not be construed to restrict the number of legally acquired fish that may be kept in storage in the home or other storage facilities, or in a commercial storage facility where seafood is handled, stored, processed or marketed.
- (c) Any of said species taken contrary to subsection (a) of this section shall, without avoidable injury, be returned immediately to the water from which taken. Culling or high-grading, as defined in section 26-142a-16 of the Regulations of Connecticut State Agencies, is prohibited, except in fishing tournaments granted an exemption by the Commissioner of Environmental Protection pursuant to section 26-159a-26 of the Regulations of Connecticut State Agencies. This subsection shall not be construed to prevent tagging and release of fish, other than striped bass, under a tagging program consistent with the Atlantic [states] States Marine Fisheries Commission's standards for scientific tagging programs.
- (d) No person fishing under the provisions of this section or section 26-159a-2 of the Regulations of Connecticut State Agencies shall also, during the same trip for which the creel limit applies, possess any fish taken under commercial fishery trip limits specified in the Regulations of Connecticut State Agencies.

Section 7. Section 26-159a-13 of the Regulations of Connecticut State Agencies is amended to read as follows:

26-159a-13. Tautog (Blackfish) (*Tautoga onitis*)

- (a) **Closed Season.** No person engaged in commercial fishing[, with the exception of holders of a commercial pound net registration,] shall take, bring ashore, or possess any tautog, wherever taken, from May 1 [through] to June 14, September 1 to October 14 and December 7 to December 31, [both] all dates inclusive.
- (b) **Commercial Fishery Possession Limit.** No holder of any commercial fishing or landing license or registration permitted to take tautog from the waters of this state or to land tautog in Connecticut, regardless of where such fish are taken, shall possess tautog in excess of the limits specified as follows:

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- (1) In the commercial trawl fishery, [seventy-five (75)] fifty (50) fish;
- (2) In the commercial hook, fish pot, trap net, fyke net, or gill net fisheries, twenty-five (25) fish;
- (3) In the pound net fishery, twelve (12) fish for each holder of a Connecticut Marine Pound net registration[, except that all female tautog shall be released without avoidable injury between May first and June fourteenth].
- (4) In the lobster pot or lobster trap fishery, when in possession of lobsters, ten (10) fish[(10)].
- (5) The possession limits specified in this subsection shall apply to the aggregate of all persons on board the vessel per trip or per day whichever is the longer period of time. Transfer of tautog between vessels at sea is prohibited.
- (6) No person fishing under the provisions of subdivisions (1) [through] to (3), inclusive, of this subsection shall, during a fishing trip when using more than one gear type, possess any tautog in excess of the largest of the gear-specific limits they are authorized to possess and no such gear-specific trip limits shall be additive.
- (7) Any tautog taken contrary to this section shall, without avoidable injury, be returned immediately to the water from which taken and no person fishing under the provisions of this section shall also, during the same trip, possess any tautog taken under section 26-159a-7 of the Regulations of Connecticut State Agencies.

Section 8. Subsection (c) of section 26-159a-16 of the Regulations of Connecticut State Agencies is amended to read as follows:

(c) Commercial Fishery Possession Limits.

- (1) No holder of a commercial fishing, finfish or landing license or registration permitted to take black sea bass from the waters of this state or to land black sea bass in Connecticut, regardless of where such fish are taken, shall possess black sea bass in excess of the following possession limits that are based on Connecticut's black sea bass quota as specified in the Black Sea Bass Fishery Management Plan of the Atlantic States Marine Fisheries Commission, herein referred to as "the plan":
 - (A) From January 1 to May 31, inclusive:
 - (i) in the commercial trawl fishery, 1,000 pounds until 45% of the Connecticut quota specified in the plan has been landed, at which time the limit shall be zero pounds;
 - (ii) in the fish pot fishery, 200 pounds until 45% of the Connecticut quota specified in the plan has been landed, at which time the limit shall be zero pounds;
 - (iii) in the commercial hook, pound net, scallop dredge and gill net fisheries, 50 pounds until 45% of the Connecticut quota specified in the plan has been landed, at which time the limit shall be zero pounds;
 - (iv) in the lobster pot fishery when in possession of lobsters, 10 fish.
 - (B) From June 1 to October 31, inclusive:
 - (i) in the bottom trawl and fish pot fisheries, 200 pounds until 90% of the Connecticut quota specified in the plan has been landed, at which time the limit shall be zero pounds;
 - (ii) in the commercial hook, pound net, scallop dredge and gill net fisheries, 50 pounds until 90% of the Connecticut quota

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- specified in the plan has been landed, at which time the limit shall be zero pounds;
- (iii) in the lobster pot fishery when in possession of lobsters, 10 fish.
- (C) From November 1 to December 31, inclusive:
- (i) in the bottom trawl and fish pot fisheries, 200 pounds until 100% of the Connecticut quota specified in the plan has been landed in Connecticut, at which time the limit shall be zero pounds;
 - (ii) in the commercial hook, pound net, scallop dredge and gill net fisheries, 50 pounds until 100% of the Connecticut quota specified in the plan has been landed in Connecticut, at which time the limit shall be zero pounds;
 - (iii) in the lobster pot fishery when in possession of lobsters, 10 fish.
- (D) Notwithstanding the provisions of subparagraphs (B) or (C) of this subdivision, if on or after October 1, the Connecticut quota specified in the plan is projected not to be landed in Connecticut by the end of the quota period, the commercial fishery possession limit shall, for all gear types with the exception of lobster pots, be calculated as $[(0.38 / W) * Q] \text{ or } \lfloor Q(0.38 / W) \rfloor$, rounded up to the nearest 100 pounds, where W is the number of weeks remaining in the quota period and Q is the amount of Connecticut quota remaining, provided that when 98% of said Connecticut quota has been landed in Connecticut the possession limit shall be 50 pounds for all gear types with the exception of lobster pots.
- (E) When 100% of the Connecticut quota is landed the possession limit shall be zero pounds for all gear types.
- (2) When the black sea bass possession limit will change based on the status of landings relative to the quota threshold percentages specified in subparagraphs (A) to (E), inclusive, of subdivision (1) of this subsection, the Department shall mail a notice of such change to all persons who possess a 2003 Black Sea Bass Endorsement Letter as defined in subsection (b)(1)(A) of this section and to all seafood dealers licensed under section 26-142a of the Connecticut General Statutes.
- (3) No person fishing under the provisions of subparagraphs (A)(i) to (iv), (B)(i) to (iii) and (C)(i) to (iii), inclusive of subdivision (1) of this subsection shall, during a fishing trip when using more than one gear type, possess any black sea bass in excess of the lesser of the gear specific limits they are authorized to possess.
- (4) Any black sea bass taken contrary to this section shall, without avoidable injury, be returned immediately to the water from which taken and no person fishing under the provisions of this section shall also, during the same trip, possess any black sea bass taken under section 26-159a-7 of the Regulations of Connecticut State Agencies.
- (5) The possession limits specified in subdivision (1) of this subsection shall apply to the vessel, regardless of how many persons are on board. Said possession limits shall apply per trip or per day, whichever is the longer period of time, unless otherwise specified as a weekly limit in subdivision (1). No person shall transfer black sea bass between vessels at sea.

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Section 9. Section 26-159a-20 of the Regulations of Connecticut State Agencies is amended to read as follows:

26-159a-20. Closed recreational fishing seasons

- (a) No person, while on the waters of this state or on any parcel of land, structure, or portion of a roadway abutting tidal waters of this state shall take, possess or land any of the following species taken by sport fishing methods, regardless of where taken, during the following periods[, all dates inclusive].
- (1) Scup (porgy) (*Stenotomus chrysops*): [November 1 through May 31] For persons on a vessel operating under the authority of a party/charter vessel registration issued under section 26-142a of the Connecticut General Statutes, October 16 to June 11, inclusive; for all other persons, September 27 to May 23, inclusive;
 - (2) Tautog (*Tautoga onitis*): May 1 [through] to June [14] 30, [and] September [8 through] 1 to September [21] 30, and December [14 through] 7 to December 31, all dates inclusive;
 - (3) Summer flounder (fluke) (*Paralichthys dentatus*): September [6 through] 2 to [April 29] May 23, inclusive; and;
 - (4) Winter flounder (*Pseudopleuronectes americanus*): May 31 [through] to March 31, inclusive.
- (b) Any of said species taken contrary to subsection (a) of this section shall, without avoidable injury, be returned immediately to the waters from which it was taken. This subsection shall not be construed to prevent tagging and release of fish under a tagging program consistent with the Atlantic States Marine Fisheries Commission's standards for scientific tagging programs.
- (c) This section shall not be construed to restrict the possession of legally acquired fish in storage in the home or other storage facilities, or in a commercial storage facility where seafood is handled, stored, processed or marketed.

Section 10. Section 26-159a-28 of the Regulations of Connecticut State Agencies is amended to read as follows:

26-159a-28. Federal research set-asides for quota managed species

- (a) **Definitions.** Federal Research Set-Aside, or [RSA] "RSA", means that portion of the total allowable landings for certain fisheries that is designated as a research quota and that may be harvested and sold to fund research and compensate vessels under the Research Set-Aside Program administered by the National Marine Fisheries Service.
- (b) No person fishing in federal waters under [a] an RSA shall be required to hold the applicable Connecticut quota-managed species license endorsement letter issued under sections 26-159a-10, 26-159a-15 or 26-159a-16 of the Regulations of Connecticut State Agencies to possess or land said species or be prohibited from possessing or landing said species during a closed season or be constrained by a trip limit for said species other than that established by National Marine Fisheries Service for the RSA Program.
- (c) No person shall take any species from Connecticut waters under an RSA during a closed season for such species or in excess of the possession limits for such species as specified in the Regulations of Connecticut State Agencies.
- (d) No vessel shall possess in Connecticut waters a quota-managed species taken under an RSA or land in Connecticut a quota-managed species taken under an RSA unless:
- (1) the operator of said vessel notifies the Department of Environmental Protection Environmental Conservation Police at 860-424-3503 prior to the vessel's departure and provides information that shall include, but not be limited to: the vessel's name; the vessel's federal permit number; the captain's

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- name; the departure date and time; the estimated return date and time; the intended port of landing and the RSA species; and
- (2) the operator of said vessel notifies the Department of Environmental Protection Environmental Conservation Police at 860-424-3503 not more than 24 hours after the completion of the trip and provides information that shall include, but not be limited to: the vessel's name; the vessel's federal permit number; the captain's name; the return date and time; the port of landing; the RSA species and the federal fishing vessel trip report serial number.

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Acronyms

ASMFC – Atlantic States Marine Fisheries Commission
DEP – Connecticut Department of Environmental Protection
FMP – Fisheries management plan
LCO – Legislative Commissioners' Office
LIS – Long Island Sound
LMA – Lobster management area
MAFMC – Mid-Atlantic Fishery Management Council
NMFS – National Marine Fisheries Service

Statement of Purpose (numbered by section):

1. **26-142a-6(g)**. Amendments to this subsection modify the fly net definition and provide relief to small-vessel trawl fishermen in the form of a small mesh fishery for butterfish and squid during the fall. LIS trawl fishermen voiced their concern that they are losing an opportunity to fish for butterfish and squid in the fall due to current mesh restrictions that are not mandated by ASMFC. The proposed measures provide an opportunity for smaller trawl vessels to retain valuable squid and butterfish in October using 3-inch mesh. Current larger mesh requirements encourage fishermen to target quota-limited species such as fluke and scup. In October, those species often have uneconomically low trip limits, or as in the case of fluke, may be closed altogether. Mesh selectivity studies conducted by the department in the 1980's indicated that 3-inch mesh is effective at releasing approximately 80% of young of year weakfish, bluefish and scup. In addition, the current definition of a fly net (for squid) makes such a net too large to be used by smaller trawl vessels. As a result, the existing definition of a fly net is being modified to accommodate small vessels. The amendments also include several wording changes to conform to LCO wording conventions. The proposed amendments have no impact on other regulations and are consistent with ASMFC interstate FMPs.
26-142a-6(h). Amendments to this subsection clarify that certain fish pot restrictions in this subsection do not apply to eel pots and minnow traps. Those restrictions are not compatible with eel pots and minnow traps. The proposed amendments have no impact on other regulations.
2. **26-157c-1**. Amendments to this section establish a 5-¼ inch maximum size for lobster taken from LMA 6 (waters of LIS) that fishermen and dealers may have in their possession and modify the definition of a v-notch. Addendum XI to Amendment 3 of the American Lobster FMP requires that states implement by July 1, 2008 a 5-¼ inch maximum size for most LMAs, including the waters of LIS. The proposed definition of a v-notch is consistent with that in the same addendum. The proposed prohibition on the possession of lobsters greater than the proposed maximum size proposes certain record-keeping requirements for seafood dealers that are in possession of legally landed lobsters that are greater than the LMA 6 maximum size. These requirements are similar to those specified in section 26-157j of the CGS which allows dealers to possess lobsters imported from Maine and Canada that are between ¾ inches and the current Connecticut minimum length (3-5/16 inches). Several wording clarifications are also proposed. The proposed amendments have no impact on other regulations and are consistent with ASMFC lobster FMP.
3. **26-157c-4(f)**. Amendments to this section generalize the language regarding the transfer of lobster trap allocations to include all LMAs, not just LMA 2 (waters of Rhode Island and southern Massachusetts.) Currently, LMA 2 is the only LMA in which both a trap allocation transfer program is being established in the FMP and in which Connecticut fishermen have a business interest. However, transferability programs for other LMAs of possible interest to Connecticut fisherman are likely to occur and a forthcoming

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addendum to the FMP will establish guidelines to govern the interstate transfer of trap allocations across all LMAs. This language change provides flexibility for the department to exercise transfers in compliance with these programs. The department could authorize trap allocation transfers (for transfers outside of full license transfers) for LMA 6 (waters of LIS) once a plan addendum specific to LMA 6 has been adopted by the ASMFC. The proposed amendments have no impact on other regulations and are consistent with ASMFC lobster FMP.

4. **26-159a-1.** The amendment to this section adds a prohibition on the take of certain shark species. Federal regulations established in conformance with the Consolidated Highly Migratory Species FMP prohibited the take of 19 shark species. Some of these species, which have been caught in LIS, are also listed as Species of Concern under the Endangered Species Act. The proposed amendments have no impact on other regulations and are consistent with the federal FMP.
5. **26-159a-4.** Amendments to this section establish for the scup recreational fishery a minimum length of 10.5 inches for the shore and private/rental boat fisheries and a minimum length of 11 inches for the party/charter boat fishery. The ASMFC FMP for scup requires a 53.3% reduction in the recreational harvest. As has been done in recent years, the states of Massachusetts, Rhode Island, Connecticut and New York have collaborated on regional measures that provide uniformity to minimum length, possession limit and season length. Party/charter boat interests opted for a higher minimum length in order to preserve a customer-attracting higher possession limit during the period September 1 through October 15. For the other modes, a smaller minimum length is more important, especially because larger fish are not as available to shore-based fishermen. The new minimum lengths in this section are proposed in concert with the proposed possession limits in section 6 and the proposed seasons in section 9.

Amendments to this section also establish for the summer flounder (fluke) recreational fishery a minimum length of 19.5 inches. The ASMFC and MAFMC FMP for summer flounder requires that Connecticut achieve a 30.1% reduction in the recreational harvest. The new minimum length proposed in this section, together with the proposed lengthening of the closed season in section 9, is intended to accomplish this reduction.

Amendments to this section also include a letter case correction.

6. **26-159a-7.** Amendments to this section also establish for the scup recreational fishery a possession limit of 10 fish with an exception for a 45 fish possession limit for paying passengers on a party/charter boat during the September 1 through October 15 "bonus" season. The ASMFC FMP for scup requires a 53.3% reduction in the recreational harvest. As has been done in recent years, the states of Massachusetts, Rhode Island, Connecticut and New York have collaborated on regional measures that provide uniformity to minimum length, possession limit and season length. Party/charter boat interests opted for a shorter "bonus" season and larger minimum length in order to preserve as much as possible a customer-attracting higher possession limit during the period September 1 through October 15. For the other modes, a reduction to 10 fish was necessary in order to retain a smaller minimum length, which is especially important because larger fish are not as available to shore-based fishermen. The possession limits in this section are proposed in concert with the proposed minimum lengths in section 5 and the proposed seasons in section 9.

Amendments to this section establish for the tautog recreational fishery a 4 fish per angler possession limit during the periods January 1 through April 30 and October 1 through December 6, and a 2 fish possession limit during the period July 1 through August 31. Addendum V to the ASMFC Tautog FMP requires that states reduce their Tautog harvest by 25.6%. As allowed by the addendum, the department is proposing to apply that percentage reduction equally to both the recreational and commercial fisheries. For the recreational fishery, party/charter boat interests favor retaining the fall fishery at the expense of the summer fishery, maintaining that a lower possession limit would

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detrimentally affect their ability to attract customers. However, the summer tautog fishery is important among shore-based anglers that in many cases don't have the means to engage in boat-based fishing. Bait and tackle shops also depend on the summer business generated by those anglers. As a compromise, the Department is proposing to reduce the length of both the summer and fall seasons. Retaining a 62-day long summer fishery required reducing the possession limit in the summer season from 4 to 2 fish. Eliminating the 62-day summer season entirely would have only gained 8 days in December, realistically benefiting only party/charter vessels since most private boats have been hauled for the winter by that time. The amendments also include minor wording changes for clarity, to remove obsolete language and to conform to LCO wording conventions. The proposed measures meet the ASFMC FMP requirements and the amendments in this section are proposed in concert with those for section 22-159a-20.

The amendments also include a letter case corrections and removal of obsolete language and minor wording changes for clarity and to conform to LCO wording conventions.

7. **26-159a-13.** Amendments to this section establish for the tautog commercial fishery closed seasons of May 1 through June 14, September 1 through September 30 and December 7 through December 31. The commercial trawl possession limit is also reduced to 50 fish and pound net operators now have to adhere to the closed season. Addendum V to the ASMFC Tautog FMP requires that states reduce their Tautog harvest by 25.6%. As allowed by the addendum, the department is proposing to apply that percentage reduction equally to both the recreational and commercial fisheries. In the commercial fishery, the trawl fishery is a predominately summer fishery, while the gear group comprised of the hook, fish pot and gill net gears is predominately a fall fishery. The harvest in the lobster pot fishery is a bycatch fishery that is both a summer and fall fishery. There are no active pound nets in the state at this time. To achieve an equivalent reduction for all gear types, the Department adopted the strategy of reducing the harvest in the trawl fishery by reducing the possession limit, while constraining the hook, fish pot, gill net and pound net fisheries by reducing the fall season. The lobster pot bycatch fishery is likewise reduced by the shortening of the fall season. Contrary to existing regulations, the pound net fishery is proposed to be closed during the commercial closed season. The amendments also include minor wording changes for clarity and to conform to LCO wording conventions. The proposed measures meet the ASFMC FMP requirements and have no impact on other regulations.
8. **26-159a-16.** Amendments to this section rewrite a formula for clarity; there has been confusion over the imbedded asterisk. The revised expression is mathematically the same. The proposed amendment has no impact on other regulations.
9. **26-159a-20.** Amendments to this section also establish for the scup recreational fishery a closed season from September 27 through May 23 for the shore and private/rental boat fisheries and a closed season from October 16 through June 11 for the party/charter boat fishery. The ASMFC FMP for scup requires a 53.3% reduction in the recreational harvest. As has been done in recent years, the states of Massachusetts, Rhode Island, Connecticut and New York have collaborated on regional measures that provide uniformity to minimum length, possession limit and season length. The season for party/charter boats is offset from that of the other modes in order to preserve fishing opportunity and success for each mode as much as possible. The new seasons in this section are proposed in concert with the proposed minimum lengths in section 5 and the proposed possession limits in section 6.

Amendments to this section establish for the tautog recreational fishery new closed seasons of May 1 through June 30, September 1 through September 30 and December 7 through December 31. Addendum V to the ASMFC Tautog FMP requires that states reduce their tautog harvest by 25.6%. As allowed by the addendum, the department is proposing to apply that percentage reduction equally to both the recreational and commercial fisheries. For the recreational fishery, party/charter boat operators favor

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retaining the fall fishery at the expense of the summer fishery, maintaining that a lower possession limit would detrimentally affect their ability to attract customers. However, the summer tautog fishery is important among shore-based anglers that in many cases don't have the means to engage in boat-based fishing. Bait and tackle shops also depend on the summer business generated by those anglers. As a compromise, the Department is proposing to reduce the length of both the summer and fall seasons. Retaining a 62-day long summer fishery required reducing the possession limit in the summer season from 4 to 2 fish. Eliminating the 62-day summer season entirely would have only gained 8 days in December, realistically benefiting only party/charter vessels since most private boats have been hauled for the winter by that time. These measures meet the ASFMC FMP requirements and the amendments in this section are proposed in concert with those in section 6.

Amendments to this section also establish for the summer flounder (fluke) recreational fishery a new closed season from August 3 through April 29. The ASMFC and MAFMC FMP for summer flounder requires that Connecticut achieve a 30.1% reduction in the recreational harvest. This new closed season proposed in this section, together with the reduction in minimum length proposed in section 5, is intended to accomplish this reduction.

The amendments also include technical changes and minor wording changes for to conform to LCO wording conventions.

10. **26-159a-28.** Amendments to this section establish rules for notifying the department of fishing trips and landings conducted under the NMFS Research Set-Aside (RSA) Program and clarifies that the RSA program is a federal-waters program and that no RSA-authorized fishing may take place in Connecticut waters during Connecticut closed seasons or in excess of Connecticut possession limits. The RSA Program provides a mechanism to fund cooperative research and compensate participating vessels through the sale of fish harvested under a research quota. Under current regulations, fishermen fishing under a RSA may possess or land quota-managed species without the otherwise required license endorsement letter, outside closed seasons and in excess of current possession limits. To facilitate law enforcement, avoid the potential for false arrest and to insure that RSA landings are not counted against any state commercial landings quotas, the proposed measures require the vessel operator to notify the department upon the vessel's departure and upon the conclusion of the trip. Several technical changes are also proposed. The proposed amendments have no impact on other regulations.

CERTIFICATION

Be it known that the foregoing:

Regulations Emergency Regulations

Are:

Adopted Amended as hereinabove stated Repealed

By the aforesaid agency pursuant to:

Section(s) 26-142a, 26-157c and 26-159a of the General Statutes.

Section(s) _____ of the General Statutes, as amended by Public Act No. _____ of the Public Acts.

Public Act No. _____ of the Public Acts.

After publication in the Connecticut Law Journal on April 15, 2008 of the notice of the proposal to:

Adopt Amend Repeal such regulations

(If applicable): And the holding of an advertised public hearing on the 19th day(s) of May, 2008.

WHEREFORE, the foregoing regulations are hereby:

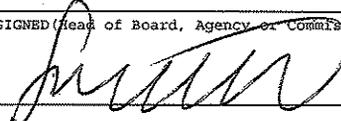
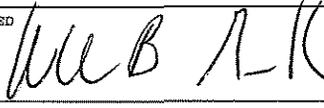
Adopted Amended as hereinabove stated Repealed

Effective:

When filed with the Secretary of the State.

(OR)

The _____ day of _____.

In Witness Whereof:	DATE <u>9/22/08</u>	SIGNED (Head of Board, Agency or Commission) 	OFFICIAL TITLE, DULY AUTHORIZED Commissioner/DEP
Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, C.G.S.:	DATE <u>9/26/08</u>	SIGNED 	OFFICIAL TITLE, DULY AUTHORIZED ASSOC. ATTY. GENERAL

- Approved
- Disapproved
- Disapproved in part, (Indicate Section Numbers disapproved only)
- Rejected without prejudice

By the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the Connecticut General Statutes	DATE	SIGNED (Clerk of the Legislative Regulation Review Committee)
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Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172. as amended, of the General Statutes.

DATE	SIGNED (Secretary of the State)	BY
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INSTRUCTIONS

1. One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes.
2. Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes.
3. Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.
4. Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capital letters and deleted language in brackets. Section 4-170 of the General Statutes.