



# The Commonwealth of Massachusetts

## Division of Marine Fisheries

(617) 626-1520 | [www.mass.gov/marinefisheries](http://www.mass.gov/marinefisheries)



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Director

February 21, 2024

### **Notice of Public Hearing and Comment Period: Proposals Affecting Recreational and Commercial Trap Fishing for 2024**

Under the provisions of G.L. c. 30A and pursuant to the authority found at G.L. c. 130 §§ 17A, 80 and 104, the Division of Marine Fisheries (DMF) is taking public comment on a series of proposed regulatory amendments to 322 CMR 6.00 and 12.00. The draft regulations outlined below affect commercial and recreational trap fishers. Full text of the regulations may be found on [DMF's website](#) along with additional relevant background information.

### **Public Hearing and Comment Schedule**

DMF will accept written public comment through 5PM on Friday, April 5, 2024. Please submit written comments to Director Daniel McKiernan by e-mail ([marine.fish@mass.gov](mailto:marine.fish@mass.gov)). Additionally, DMF will host an in-person public hearing.

Friday, March 22, 2024  
8:30AM

Massachusetts Lobstermen's Association Annual Weekend  
Emerald Resort and Conference Center  
35 Scudder Avenue  
Hyannis, MA 02601

### **Proposed Regulatory Amendments**

Lobster Carapace Sizes and V-Notch Rules (322 CMR 6.02 and 6.31). To have state regulations conform to Addendum XXVII to the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for American Lobster, DMF is proposing to adopt the following measures:

1. Effective January 1, 2025, increase the minimum carapace size for commercial fishers in Lobster Conservation Management Area 1 (LCMA 1), all seafood dealers in Massachusetts, and recreational fishers in the Gulf of Maine Recreational Area from 3 1/4" to 3 5/16".
2. Effective January 1, 2025, establish a maximum carapace size of 6 3/4" for commercial fishers in the Outer Cape Cod Lobster Conservation Management Area (OCCLCMA), all seafood dealers in Massachusetts, and recreational fishers in Cape Cod Recreational Area.
3. Effective January 1, 2025, reduce the v-notch standard for commercial fishers in the Outer Cape Cod Lobster Conservation Management Area (OCCLCMA) and all seafood dealers in Massachusetts from 1/4" to a sharp point with or without setal hairs to 1/8" with or without setal hairs.
4. Effective January 1, 2025, for commercial fishers authorized to fish trap sin LCMA1 and LMCA3, eliminate the allowance for lobster trap tag issuance to exceed trap limits by 10% annually.

5. Effective January 1, 2027, increase the minimum carapace size for commercial fishers in LCMA1, all seafood dealers in Massachusetts, and recreational fishers in the Gulf of Maine Recreational Area from 3 <sup>5</sup>/<sub>16</sub>" to 3 <sup>3</sup>/<sub>8</sub>".
6. Effective January 1, 2028, increase the escape vent minimum size on traps fished by commercial fishers in LCMA ) and recreational fishers in the Gulf of Maine Recreational Area from 1 <sup>15</sup>/<sub>16</sub>" by 5 <sup>3</sup>/<sub>4</sub>" rectangular or 2 <sup>7</sup>/<sub>16</sub>" diameter to 2" by 5 <sup>3</sup>/<sub>4</sub>" rectangular to 2 <sup>5</sup>/<sub>8</sub>" diameter.
7. Effective January 1, 2029, decrease the maximum carapace size for commercial fishers in OCCLMCA and LCMA3, all seafood dealers in Massachusetts, and recreational fishers in Cape Cod Recreational Area from 6 <sup>3</sup>/<sub>4</sub>" to 6 1/2".
8. During any year when a carapace size standard or v-notch standard for a seafood dealer is amended, there will be a grace period from January 1 – March 31 for that dealer to possess and sell off any non-conforming inventory that was purchased prior to December 31 of the year preceding.

Weak Rope with Tracer (322 CMR 12.06). DMF proposes to allow the use of full formed red weak rope with a visible "MASS LOBSTER" tracer throughout the buoy line in Massachusetts Mixed Species Pot/Trap Fisheries (i.e. state waters trap/pot fisheries for lobster, scup, black sea bass and whelk) as a means of complying with existing buoy line breaking strength and buoy line marking requirements.

Housekeeping (322 CMR 6.12 and 12.00). DMF proposes to:

1. To correct remnant black sea bass pot closed season regulations that have become out-of-phase with the black sea bass pot directed fishing season regulations.
2. Strike references to the federal "Massachusetts Restricted Area" in state regulations.

## Initial Small Business Impact Statement

*(As required by M.G.L. c. 30A §§ 2, 3 & 5)*

**CMR No: 322 CMR 6.00 and 12.00**

**Estimate of the Number of Small Businesses Impacted by the Regulation:** DMF estimates that approximately 1,100 small businesses may be impacted by this proposed regulation.

### Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? <b>This rule adjusts the state's lobster conservation regulations governing harvest and protected species rules requiring certain gear modifications. No additional reporting is required.</b>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? <b>This rule adjusts the state's lobster conservation regulations governing harvest and protected species rules requiring certain gear modifications. No additional record keeping is required.</b>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? <b>This rule adjusts the state's lobster conservation regulations governing harvest and protected species rules requiring certain gear modifications. No additional administrative oversight is required.</b>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? <b>This rule adjusts the state's lobster conservation regulations governing harvest and protected species rules requiring certain gear modifications. Affected businesses will not have to hire additional employees to comply with the proposed regulation.</b>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, etc.)? <b>This rule adjusts the state's lobster conservation regulations governing harvest and protected species rules requiring certain gear modifications. Affected businesses will not have to hire professional services to comply with the proposed regulation.</b>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? <b>Minimal capital investment will be required of commercial trap fisheries authorized to fish lobster traps in LCMA 1. These entities will be required to replace the escape vents in their traps for January 1, 2027. For all other aspects of this proposed regulation, capital investment is not required to comply.</b>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.)  <b>Not applicable. The prescribed regulations are required by and designed to comply with federal law at 16 U.S.C. 5100.</b>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? <b>No. There are no other duplicative or conflicting state regulations.</b>

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? <b>All audits and inspections are done in accordance with M.G.L. c. 130. No additional inspections are required under this amendment.</b>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? <b>This rule adjusts the state's lobster conservation regulations governing harvest and protected species rules requiring certain gear modifications. Affected businesses will not have to provide educational services to keep up to date with the requirements.</b>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? <b>Fishing limits and gear modifications are among a number of factors that may impact the formation of new fishing businesses in Massachusetts. As there are a limited number of permits to participate in the impacted fisheries, access to permits is the most substantial barrier to entry, and this regulation alone will not encourage or discourage the formation of new businesses.</b>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? <b>Fishing limits and gear modifications are among a number of factors that may impact the formation of new fishing businesses in Massachusetts. As there are a limited number of permits to participate in the impacted fisheries, access to permits is the most substantial barrier to entry, and this regulation alone will not encourage or discourage the formation of new businesses.</b>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? <b>In part, the prescribed regulations are required by and designed to comply with federal law at 16 U.S.C. 5100 and this is not applicable. However, the proposed exemption to the buoy line marking rule was developed to provide commercial trap fishers with a less stringent means of complying with existing DMF regulations.</b>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? <b>Not applicable. The prescribed regulations are required by and designed to comply with federal law at 16 U.S.C. 5100.</b>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? <b>In part, the prescribed regulations are required by and designed to comply with federal law at 16 U.S.C. 5100 and this is not applicable. However, the proposed exemption to the buoy line marking rule was developed to provide commercial trap fishers with a simpler means of complying with existing DMF regulations.</b>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? <b>Not applicable. The prescribed regulations are required by and designed to comply with federal law at 116 U.S.C. 5100.</b>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? <b>Not applicable. The prescribed regulations are required by and designed to comply with federal law at 16 U.S.C. 5100.</b>