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TABLE 10 TO PART 680—LICENSE LIMITATION PROGRAM LICENSE NUMBERS THAT AUTHORIZE THE OWNERS AND OPERATORS OF CATCHER/PROCESSORS TO DIRECTED FISH FOR PACIFIC COD WITH HOOK-AND-LINE GEAR IN THE CENTRAL GULF OF ALASKA REGULATORY AREA (COLUMN A) AND IN THE WESTERN GULF OF ALASKA REGULATORY AREA (COLUMN B)

Column A:	Column B:
LLG1125	LLG1400.
LLG1128	LLG1401.
LLG1400	LLG1576.
LLG1576	LLG1578.
LLG1713	LLG1785.
LLG1785	LLG1916.
LLG1916	LLG1917.
LLG1917	LLG2026.
LLG1989	LLG2081.
LLG2081	LLG2112.
LLG2112	LLG2892.
LLG2238	LLG2935.
LLG2705	LLG3090.
LLG2783	LLG3602.
LLG2892	LLG3617.
LLG2958	LLG3676.
LLG3609	LLG4004.
LLG3616	LLG4823.
LLG3617.	
LLG3676.	
LLG3681.	
LLG3973.	
LLG4823.	

[80 FR 28545, May 19, 2015]

PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

Subpart A—General Provisions

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TABLE 1 TO PART 697—AREA 3 TRAP REDUCTION SCHEDULE

AUTHORITY: 16 U.S.C. 5101 *et seq.*

SOURCE: 64 FR 68248, Dec. 6, 1999, unless otherwise noted.

Subpart A—General Provisions

§ 697.1 Purpose and scope.

The regulations in this part are issued under the authority of section 804(b) of the Atlantic Coastal Fisheries Cooperative Management Act, 16 U.S.C. 5101 *et seq.*, and section 6 of the Atlantic Striped Bass Conservation Act Appropriations Authorization, 16 U.S.C. 1851 note, and govern fishing in the EEZ on the Atlantic Coast for species covered by those acts.

§ 697.2 Definitions.

(a) In addition to the definitions in the Magnuson-Stevens Act and in §§ 600.10 and 648.2 of this chapter, for the purposes of this part, the following terms have the following meanings:

American lobster or lobster means *Homarus americanus*.

Approved TED means any approved TED as defined at § 217.12 of this title.

Atlantic Coastal Act means the Atlantic Coastal Fisheries Cooperative Management Act, as amended (16 U.S.C. 5101 *et seq.*).

Atlantic migratory group cobia, means *Rachycentron canadum*, a whole fish or a part thereof, bounded by a line extending from the intersection point of New York, Connecticut, and Rhode Island (41°18′16.249″ N lat. and 71°54′28.477″ W long) southeast to 37°22′32.75″ N lat. and the intersection point with the outward boundary of the EEZ and south to a line extending due east of

the Florida/Georgia border (30°42′45.6″ N lat.).

Atlantic red drum, also called redfish, means *Sciaenops ocellatus*, or a part thereof, found in the waters of the Atlantic Ocean off the Atlantic coastal states, to the outer boundary of the EEZ, as specified in §600.10 of this chapter, from the boundary of the United States and Canada, to the boundary between the South Atlantic Fishery Management Council and the Gulf of Mexico Fishery Management Council, as specified in §600.105(c) of this chapter.

Atlantic striped bass means members of stocks or populations of the species *Morone saxatilis* found in the waters of the Atlantic Ocean north of Key West, FL.

Atlantic sturgeon means members of stocks or populations of the species *Acipenser oxyrhynchus*.

Berried female Jonah crab means a female Jonah crab bearing eggs attached to the abdomen.

Berried female lobster means a female American lobster bearing eggs attached to the abdominal appendages.

Block Island Southeast Light means the aid to navigation light located at Southeast Point, Block Island, RI, and defined as follows: Located at 40°09.2′ N. lat., 71°33.1′ W. long; is 201 ft (61.3 m) above the water; and is shown from a brick octagonal tower 67 ft (20.4 m) high attached to a dwelling on the southeast point of Block Island, RI.

BRD means bycatch reduction device.

Certified BRD means any BRD, as defined in part 622, Appendix D of this chapter: Specifications for Certified BRDs.

Charter or head boat means any vessel carrying fishing persons or parties for a per capita fee, for a charter fee, or any other type of fee.

Commercial dive vessel means any vessel carrying divers for a per capita fee, a charter fee, or any other type of fee.

Commercial purposes means for the purpose of selling, trading, transferring, or bartering all or part of the fish harvested.

Commission means the Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by Congress in Pub. L. 77–539 and Pub. L. 81–721.

Conservation equivalency means a measure adopted by a state that differs from the specific requirements of an interstate fishery management plan, but achieves the same level of conservation for the resource under management.

Continuous transit means that a vessel does not have fishing gear in the water and remains continuously underway.

CPH means Confirmation of Permit History.

Crab trawl means any trawl net that is rigged for fishing and has a mesh size of 3.0 inches (7.62 cm), as measured between the centers of opposite knots when pulled taut.

Cull American lobster means a whole American lobster that is missing one or both claws.

Dealer means any person who receives, for a commercial purpose (other than solely for transport on land), any species of fish, the harvest of which is managed by this part, from the owner or operator of a vessel issued a valid permit under this part, or any person who receives, for a commercial purpose (other than solely for transport on land), any species of fish managed under this part.

De minimis state means any state where the landings are so low that the Commission's Fisheries Management Board has exempted that state from some of its regulatory responsibilities under an Interstate Fishery Management Plan.

Director means the Director of the Office of Sustainable Fisheries, 1315 East-West Highway, Silver Spring, MD 20910.

Dredge means a gear consisting of a mouth frame attached to a holding bag constructed of metal rings or mesh.

Egg Production Rebuilding Schedule means the schedule identified in section 2.5 of Amendment 3 to the Commission's ISFMP.

Escape vent means an opening in a lobster trap designed to allow lobster smaller than the legal minimum size to escape from the trap.

Federal Area 1 Limited Access Program means the limited access program restricts trap fishing in Area 1 to those Federal lobster permits with qualified

and allocated Area 1 traps, as identified in these regulations at § 697.4(a)(7)(ii).

Federal Area 2 Limited Access Program means the limited access program restricts trap fishing in Area 2 to those Federal lobster permits with qualified and allocated Area 2 traps, as identified in these regulations at § 697.4(a)(7)(ii).

Federal Area 3 Limited Access Program means the limited access program restricts trap fishing in Area 3 to those Federal lobster permits with qualified and allocated Area 3 traps, as identified in these regulations at § 697.4(a)(7)(ii).

Federal Area 4 Limited Access Program means the limited access program restricts trap fishing in Area 4 to those Federal lobster permits with qualified and allocated Area 4 traps, as identified in these regulations at § 697.4(a)(7)(ii).

Federal Area 5 Limited Access Program means the limited access program restricts trap fishing in Area 5 to those Federal lobster permits with qualified and allocated Area 5 traps, as identified in these regulations at § 697.4(a)(7)(ii).

Federal Outer Cape Area Limited Access Program means the limited access program restricts trap fishing in the Outer Cape Area to those Federal lobster permits with qualified and allocated Outer Cape Area traps, as identified in these regulations at § 697.4(a)(7)(ii).

Fishing trip or trip means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel returns to port.

Fishing year means, for the American lobster fishery, from May 1 through April 30 of the following year.

Flynet means any trawl net, except shrimp trawl nets containing certified BRDs and approved TEDs, when required under § 227.72(e)(2) of this title, and except trawl nets that comply with the gear restrictions specified at § 648.104 of this chapter for the summer flounder fishery and contain an approved TED, when required under § 227.72 (e)(2) of this title.

Ghost panel means a panel, or other mechanism, designed to allow for the escapement of lobster after a period of time if the trap has been abandoned or lost.

Horseshoe crab means members of stocks or populations of the species *Limulus polyphemus*.

ISFMP means the Commission's Interstate Fishery Management Plan for American Lobster, as amended.

Jonah crab means *Cancer borealis*.

Jonah crab carapace width is the straight line measurement across the widest part of the shell including the tips of the posterior-most, longest spines along the lateral margins of the carapace.

Land means to begin offloading fish, to offload fish, or to enter port with fish.

Lobster carapace length is the straight line measurement from the rear of the eye socket parallel to the center line of the carapace to the posterior edge of the carapace. The carapace is the unsegmented body shell of the American lobster.

Lobster day-at-sea with respect to the American lobster fishery means each 24-hour period of time during which a fishing vessel is absent from port in which the vessel intends to fish for, possess, or land, or fishes for, possesses, or lands American lobster.

Lobster permit means a Federal limited access American lobster permit.

Lobster trap means any structure or other device, other than a net, that is placed, or designed to be placed, on the ocean bottom and is designed for or is capable of, catching lobsters. Red crab fishing gear, fished deeper than 200 fathoms (365.8 m), and fishing gear fished by a vessel not issued a limited access lobster permit under § 697.4(a), are gear deemed not to be lobster traps for the purpose of this part, and are not subject to the provisions of this part.

Lobster trap trawl means 2 or more lobster traps, all attached to a single ground line.

Management area means each of the geographical areas identified in this part for management purposes under the lobster ISFMP.

Montauk light means the aid to navigation light located at Montauk Point, NY, and defined as follows: Located at 41°04.3′ N. lat., 71°51.5′ W. long.; is shown from an octagonal, pyramidal

tower, 108 ft (32.9 m) high; and has a covered way to a dwelling.

Natural Atlantic sturgeon means any Atlantic sturgeon that is not the result of a commercial aquaculture operation, and includes any naturally occurring Atlantic sturgeon (those Atlantic sturgeon naturally spawned and grown in rivers and ocean waters of the Atlantic Coast).

One-quarter-inch (¼-inch) v-shaped notch means a straight-sided triangular cut, without setal hairs, at least ¼ inch (0.64 cm) in depth and tapering to a point.

Parts thereof means any part of an American lobster. A part of a lobster counts as one lobster.

Point Judith Light means the aid to navigation light located at Point Judith, RI, and defined as follows: Located at 41°21.7′ N. lat., 71°28.9′ W. long.; is 65 ft (19.8 m) above the water; and is shown from an octagonal tower 51 ft (15.5 m) high.

Qualifying year means any calendar year during the period from March 25, 1991, through September 1, 1999, excluding the time periods in calendar years 1991 and 1999 that are outside the qualification period (*i.e.*, January 1, 1991 through March 24, 1991, and September 2, 1999, through December 31, 1999), and refers to the specific year selected by the applicant for the purposes of qualifying for access to the lobster trap fishery in Areas 3, 4 and/or 5 under the requirements set forth in 697.4(a)(7)(vi-x).

Recreational fishing means fishing that is not intended to, nor results in the barter, trade, or sale of fish.

Recreational fishing vessel means any vessel from which no fishing other than recreational fishing is conducted. Charter and head boats and commercial dive vessels are not considered recreational fishing vessels.

Regional Administrator, means Regional Administrator, Northeast Region, NMFS, or Regional Administrator, Southeast Region, NMFS, whichever has the applicable jurisdiction, or a respective designee.

Retain means to fail to return any species specified under § 697.7 of this chapter to the sea immediately after the hook has been removed or after the species has otherwise been released from the capture gear.

Sea sampler/observer means any person required or authorized to be carried on a vessel for conservation and management purposes by regulations or permits.

Shrimp trawl net means any trawl net that is rigged for fishing and has a mesh size less than 2.50 inches (6.35 cm), as measured between the centers of opposite knots when pulled taut, and each try net, as defined in § 622.2 of this chapter, that is rigged for fishing and has a headrope length longer than 16 ft (4.9 m).

Standard V-shaped notch means a notch or indentation in the base of the flipper that is at least as deep as ⅛ inch (0.32 cm), with or without setal hairs.

Stocked Atlantic sturgeon means any Atlantic sturgeon cultured in a hatchery that is placed in rivers and ocean waters of the Atlantic Coast to enhance the Atlantic sturgeon spawning stocks.

TED means Turtle Excluder Device, which is a device designed to be installed in a trawl net forward of the codend for the purpose of excluding sea turtles from the net.

Trawl means a cone or funnel-shaped net that is towed through the water, and can include a pair trawl that is towed simultaneously by two boats.

V-notched American lobster means any female American lobster bearing a V-shaped notch in the flipper next to and to the right of the center flipper as viewed from the rear of the lobster (underside of the lobster down and tail toward the viewer), or any female American lobster that is mutilated in a manner that could hide or obliterate such a mark.

Weakfish means members of the stock or population of the species *Cynoscion regalis*, found along the Atlantic Coast from southern Florida to Massachusetts Bay.

Whole American lobster means a lobster with an intact and measurable body (tail and carapace). An American lobster with an intact and measurable body that is missing one or both claws, i.e., a cull lobster, is considered to be a whole American lobster.

Zero tolerance V-shaped notch means a v-shaped notch of any size, with or

without straight sides, with or without setal hairs.

(b) [Reserved]

[64 FR 68248, Dec. 6, 1999, as amended at 66 FR 8911, Feb. 5, 2001; 66 FR 14501, Mar. 13, 2001; 68 FR 14925, Mar. 27, 2003; 68 FR 56790, Oct. 2, 2003; 71 FR 13037, Mar. 14, 2006; 73 FR 58061, Oct. 6, 2008; 74 FR 37549, July 29, 2009; 80 FR 2033, Jan. 15, 2015; 84 FR 4737, Feb. 19, 2019; 84 FR 61579, Nov. 13, 2019]

§ 697.3 Relation to other Federal and state laws.

(a) The provisions of sections 307 through 311 of the Magnuson-Stevens Act, as amended, regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement apply with respect to the regulations in this part, as if the regulations in this part were issued under the Magnuson-Stevens Act.

(b) The relation of this part to other laws is further set forth in § 600.705 of this chapter and would include all regulations and statutes administered by the National Oceanic and Atmospheric Administration (NOAA), including, but not limited to the regulations in this part issued pursuant to the ACFCMA, the regulations at 50 CFR part 229 issued pursuant to the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA) , and the regulations at 50 CFR part 648 issued pursuant to the Magnuson-Stevens Act.

(c) The regulations in this part do not preempt more restrictive state laws, or state enforcement of more restrictive state laws, with respect to weakfish fishing and American lobster fishing. If a requirement of this part and a management measure required by state or local law differ, any vessel owner permitted to fish in the EEZ must comply with the more restrictive requirement or measure.

[64 FR 68248, Dec. 6, 1999, as amended at 71 FR 13037, Mar. 14, 2006]

§ 697.4 Vessel permits and trap tags.

(a) *Limited access American lobster permit.* Any vessel of the United States that fishes for, possesses, or lands American lobster or Jonah crab in or harvested from the EEZ must have been issued and carry on board a valid Federal limited access lobster permit. The requirement in this paragraph (a) does not apply to: Charter, head, and commercial dive vessels that possess 6 or fewer American lobsters per person or 50 Jonah crab per person aboard the vessel if such lobsters or crabs are not intended for, nor used, in trade, barter or sale; recreational fishing vessels; and vessels that fish exclusively in state waters for American lobster or Jonah crab.

(1) *Eligibility in 1999 and thereafter.* To be eligible for issuance or renewal of a Federal limited access lobster permit for fishing year 1999 and thereafter, a vessel must:

(i) Have been issued a Federal limited access lobster permit for the preceding fishing year by the last day of such fishing year unless a CPH has been issued as specified in paragraph (a)(5) of this section or unless otherwise authorized by the Regional Administrator;

(ii) Be replacing a vessel that was issued a Federal limited access lobster permit for the preceding year; or

(iii) Be replacing a vessel issued a CPH.

(2) *Qualification restriction.* Unless the Regional Administrator determines otherwise, no more than one vessel may qualify, at any one time, for a Federal limited access lobster permit based on that or another vessel's fishing and permit history. If more than one vessel owner claims eligibility for a limited access permit, based on one vessel's fishing and permit history, the Regional Administrator will determine who is eligible for the permit or a CPH under paragraph (a)(3) of this section.

(3) *Change in ownership.* The fishing and permit history, and management area designation, when required of a vessel, is presumed to transfer with the vessel whenever it is bought, sold or otherwise transferred, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel's fishing and permit history, and management area designation, for the purposes of replacing the vessel.

(4) *Consolidation restriction*. Federal limited access American lobster permits, and any rights or privileges associated thereto, may not be combined or consolidated.

(5) *Confirmation of permit history*. Notwithstanding any other provisions of this part, a person who does not currently own a fishing vessel, but who has owned a qualifying vessel that has sunk, been destroyed, or transferred to another person, must apply for and receive a CPH if the fishing and permit history of such vessel has been retained lawfully by the applicant. To be eligible to obtain a CPH, the applicant must show that the qualifying vessel meets the eligibility requirements, as applicable, in this part. Issuance of a valid CPH preserves the eligibility of the applicant to apply for a limited access permit for a replacement vessel based on the qualifying vessel's fishing and permit history at a subsequent time, subject to the replacement provisions specified in this section. If fishing privileges have been assigned or allocated previously under this part, based on the qualifying vessel's fishing and permit history, the CPH also preserves such fishing privileges. A CPH must be applied for in order for the applicant to preserve the fishing rights and limited access eligibility of the qualifying vessel. An application for a CPH must be received by the Regional Administrator no later than 30 days prior to the end of the first full fishing year in which a vessel permit cannot be issued. Failure to do so is considered abandonment of the permit as described in paragraph (o) of this section. A CPH issued under this part will remain valid until the fishing and permit history preserved by the CPH is used to qualify a replacement vessel for a limited access permit. Any decision regarding the issuance of a CPH for a qualifying vessel that has been applied for or been issued previously a limited access permit is a final agency action subject to judicial review under 5 U.S.C. 704. Information requirements for the CPH application are the same as those for a limited access permit. Any request for information about the vessel on the CPH application form means the qualifying vessel that has been sunk, destroyed, or transferred. Vessel permit applicants who have been issued a CPH and who wish to obtain a vessel permit for a replacement vessel based upon the previous vessel history may do so pursuant to paragraph (c) of this section.

(6) *Restriction on permit splitting*. A Federal limited access lobster permit will not be issued to a vessel or its replacement, or remain valid, if the vessels' permit or fishing history has been used to qualify another vessel for another Federal fishery.

(7) *Management area designations for vessels fishing with traps*. (i) For fishing year 2000 and beyond, it is unlawful for vessels issued a limited access American lobster permit fishing with traps, to retain on board, land, or possess American lobster in or from the management areas specified in § 697.18, unless such fishing vessel has been issued a valid management area designation certificate or valid limited access American lobster permit specifying such management area(s).

(ii) Each owner of a fishing vessel that fishes with traps capable of catching lobster must declare to NMFS in his/her annual application for permit renewal which management areas, as described in § 697.18, the vessel will fish in for lobster with trap gear during that fishing season. The ability to declare into Lobster Conservation Management Areas 1, 2, 3, 4, 5, and/or the Outer Cape Management Area, is first contingent upon a one-time initial qualification. The Area 3, 4, and 5 qualification programs are concluded and the Area 1, 2, and Outer Cape Area qualification programs are set forth in paragraphs (a)(7)(vi) through (a)(7)(viii) of this section.

(iii) A lobster management area designation certificate or limited access American lobster permit shall specify in which lobster management area or areas the vessel may fish.

(iv) Once a vessel has been issued a lobster management area designation certificate or limited access American lobster permit specifying the lobster EEZ management areas in which the vessel may fish, no changes to the EEZ management areas specified may be made for such vessel for the remainder of the fishing year. There are two exceptions to this re-designation restriction:

(A) Vessels that have been bought, transferred, or become a replacement vessel for another qualified vessel may request re-designation of the EEZ management areas within 45 days of the effective date of the vessel's permit; and

(B) All vessels will have one opportunity to request a correction in permit category, if such request is made in writing to the Regional Administrator within 45 days of the effective date of the vessel's permit.

(v) A vessel issued a lobster management area designation certificate or limited access American lobster permit specifying more than one EEZ management area must abide by the most restrictive management measures in effect for any one of the specified areas, regardless of the area being fished, for the entire fishing year.

(vi) *Participation requirements for EEZ Nearshore Management Area 1.* To fish for lobster with traps in the Federal waters of Area 1 after April 30, 2013, a Federal lobster permit holder must initially qualify into the area, or have an open pending application to fish in the area. To qualify, the permit holder seeking initial qualification must satisfy the following requirements in an application to the Regional Administrator:

(A) *Qualification criteria.* To initially qualify into Area 1, the applicant must establish with documenting proof the following:

(*1*) That the applicant has a valid and current Federal lobster permit as of the date of the application; and

(*2*) That the involved Federal lobster permit had an Area 1 trap designation at some time during the 2008 fishing year, which was May 1, 2008, through April 30, 2009; and

(*3*) That at least one Area 1 trap tag was purchased to fish with traps under the involved Federal lobster permit in any one fishing year from 2004 to 2008.

(B) *Documentary proof.* To satisfy the Area 1 Initial Qualification and Trap Allocation Criteria set forth in paragraph (a)(7)(vi)(A) of this section, the applicants will be limited to the following documentary proof:

(*1*) As proof of a valid Federal lobster permit, the applicant must provide a copy of the vessel's current Federal lobster permit. The potential qualifier may, in lieu of providing a copy, provide NMFS with such data that will allow NMFS to identify the Federal lobster permit in its database, which will at a minimum include: The applicant's name and address; vessel name; and permit number.

(*2*) As proof of the lobster permit's 2008 Area 1 trap designation, the applicant must provide a copy of the vessel's Federal lobster permit for the 2008 fishing year. The potential qualifier may, in lieu of providing a copy, provide NMFS with such data that will allow NMFS to identify the Federal lobster permit in its database, which will at a minimum include: The applicant's name and address; vessel name; and permit number.

(*3*) As proof of Area 1 trap tag purchases in any one fishing year from 2004 to 2008, the applicant must provide documentation from those years, either from the trap tag vendor supplying the tags or from the state or Federal government agency, affirming the purchase of the tags from the vendor.

(*4*) The Regional Administrator may, at his or her discretion, waive documentary obligations for certain elements of the qualification criteria for an applicant if NMFS itself has clear and credible evidence that will satisfy that qualification criteria for the applicant.

(C) *Application period.* Federal lobster permit holders seeking entry into the Area 1 trap fishery must apply for qualification by November 1, 2012. Failure to apply for Area 1 access by that date shall be considered a waiver of any future claim for trap fishery access into Area 1.

(D) *Appeal of denial of permit.* Any applicant having first applied for initial qualification into the Area 1 trap fishery pursuant to paragraph (a)(7)(vi) of this section, but having been denied access, may appeal to the Regional Administrator within 45 days of the date indicated on the notice of denial. Any such appeal must be in writing.

(*1*) *Grounds for appeal:* The sole grounds for administrative appeal shall be that NMFS erred clerically in concluding that the vessel did not meet the criteria in paragraph (a)(7)(vi) of

this section. Errors arising from oversight or omission such as ministerial, mathematical, or typographical mistakes will form the basis of such an appeal. Alleged errors in substance or judgment do not form a sufficient basis of appeal under this paragraph. The appeal must set forth the basis for the applicant's belief that the Regional Administrator's decision was made in error. If the appealing applicant does not clearly and convincingly prove that an error occurred, the appeal must be denied.

(*2*) *Appellate timing and review.* All appeals must be in writing and must be submitted to the Regional Administrator postmarked no later than 45 days after the date on NMFS's Notice of Denial of Initial Qualification application. Failure to register an appeal within 45 days of the date of the Notice of Denial will preclude any further appeal. The appellant may notify the Regional Administrator of his or her intent to appeal within the 45 days and request a time extension to procure the necessary documentation. Time extensions shall be limited to 30 days and shall be calculated as extending 30 days beyond the initial 45-day period that begins on the original date on the Notice of Denial. Appeals submitted beyond the deadlines stated herein will not be accepted. Upon receipt of a complete written appeal with supporting documentation in the time frame allowable, the Regional Administrator will then appoint an appeals officer who will review the appellate documentation. After completing a review of the appeal, the appeals officer will make findings and a recommendation, which shall be advisory only, to the Regional Administrator, who shall make the final agency decision whether to qualify the applicant.

(*3*) *Status of vessels pending appeal.* The Regional Administrator may authorize a vessel to fish with traps in Area 1 during an appeal. The Regional Administrator may do so by issuing a letter authorizing the appellant to fish up to 800 traps in Area 1 during the pendency of the appeal. The Regional Administrator's letter must be present onboard the vessel while it is engaged in such fishing in order for the vessel to be authorized to fish. If the appeal is ultimately denied, the Regional Administrator's letter authorizing fishing during the appeal will become invalid 5 days after receipt of the notice of appellate denial or 15 days after the date on the notice of appellate denial, whichever occurs first.

(vii) *Participation requirements for EEZ Nearshore Outer Cape Area (Outer Cape Area).* To fish for lobster with traps in the EEZ portion of the Outer Cape Area, a Federal lobster permit holder must apply for access in an application to the Regional Administrator. The application process is set forth as follows:

(A) *Qualification criteria.* To initially qualify into the EEZ portion of the Outer Cape Area, the applicant must establish with documentary proof the following:

(*1*) That the applicant possesses a current Federal lobster permit;

(*2*) That the applicant landed lobster caught in traps from the Outer Cape Area in either 1999, 2000, or 2001. Whichever year used shall be considered the qualifying year for the purposes of establishing the applicant's Outer Cape Area trap allocation;

(B) *Trap allocation criteria.* To receive a trap allocation for the EEZ portion of the Outer Cape Area, the qualified applicant must also establish with documentary proof the following:

(*1*) The number of lobster traps fished by the qualifying vessel in 2000, 2001, and 2002; and

(*2*) The total pounds of lobster landed in 2000, 2001, and 2002.

(C) *Trap allocation formula.* The Regional Administrator shall allocate traps for use in the Outer Cape Area based upon the applicant's highest level of Effective Traps Fished during the qualifying year. Effective Traps Fished shall be the lower value of the maximum number of traps reported fished for that qualifying year compared to the predicted number of traps that is required to catch the reported poundage of lobsters for that year as set forth in the Commission's allocation formula identified in Addendum XIII to Amendment 3 of the Commission's Interstate Fishery Management Plan for American Lobster.

(D) *Documentary proof.* To satisfy the Outer Cape Area Qualification and Trap Allocation Criteria set forth in

paragraphs (a)(7)(vii)(A) and (B) of this section, the applicants will be limited to the following documentary proof:

(*1*) As proof of a valid Federal lobster permit, the applicant must provide a copy of the vessel's current Federal lobster permit. The potential qualifier may, in lieu of providing a copy, provide NMFS with such data that will allow NMFS to identify the Federal lobster permit in its database, which will at a minimum include: The applicant's name and address; vessel name; and permit number.

(*2*) As proof of traps fished in the Outer Cape Area and lobsters landed from the Outer Cape Area in 2000, 2001, or 2002, the applicant must provide the documentation reported to the state of the traps fished and lobsters landed during any of those years, as follows:

(*i*) *State records*. An applicant must provide documentation of his or her state reported traps fished and lobster landings in 2000, 2001, or 2002. The Regional Administrator shall presume that the permit holder was truthful and accurate when reporting to his or her state the traps fished and lobster landed in 2000, 2001, and 2002, and that the state records of such are the best evidence of traps fished and lobster landed during those years.

(*ii*) *State decision*. An applicant may provide his or her state's qualification and allocation decision to satisfy the documentary requirements of this section. The Regional Administrator shall accept a state's qualification and allocation decision as prima facie evidence in support of the Federal qualification and allocation decision. The Regional Administrator shall presume that the state decision is appropriate, but that presumption is rebuttable and the Regional Administrator may choose to disallow the use of the state decision if the state decision was incorrect or based on factors other than those set forth in this section. This state decision may include not only the initial state qualification and allocation decision, but may also incorporate state trap transfer decisions that the state allowed since the time of the initial allocation decision.

(*iii*) *States lacking reporting*. An applicant may provide Federal vessel trip reports, dealer records, or captain's logbook as documentation in lieu of state records if the applicant can establish by clear and convincing evidence that the involved state did not require the permit holder to report traps or landings during 2000, 2001, or 2002.

(E) *Application period*. Applicants will have 180 days to submit an application. The time period for submitting an application for access to the EEZ portion of the Outer Cape Area begins on May 7, 2014 (application period start date) and ends November 3, 2014. Failure to apply for Outer Cape Management Area access by that date shall be considered a waiver of any future claim for trap fishery access into the Outer Cape Area.

(F) *Appeal of denial of permit*. Any applicant having first applied for initial qualification into the Outer Cape Area trap fishery pursuant to this section, but having been denied access or allocation, may appeal to the Regional Administrator within 45 days of the date indicated on the notice of denial. Any such appeal must be in writing. Appeals may be submitted in the following two situations:

(*1*) *Clerical Appeal*. The grounds for Clerical Appeal shall be that the Regional Administrator erred clerically in concluding that the vessel did not meet the criteria in paragraph (a)(7)(vii) of this section. Errors arising from oversight or omission such as ministerial, mathematical, or typographical mistakes would form the basis of such an appeal. Alleged errors in substance or judgment do not form a sufficient basis of appeal under this paragraph. The appeal must set forth the basis for the applicant's belief that the Regional Administrator's decision was made in error. If the appealing applicant does not clearly and convincingly prove that an error occurred, the appeal must be denied.

(*2*) *Director's Appeal*. A state's marine fisheries agency may appeal on behalf of one of its state permit holders. The only grounds for a Director's Appeal shall be that the Regional Administrator's decision on a dual permit holder's Federal permit has created a detrimental incongruence with the state's earlier decision on that permit holder's

state permit. In order to pursue a Director's Appeal, the state must establish the following by a preponderance of the evidence:

(*i*) *Proof of an incongruence*. The state must establish that the individual has a state lobster permit that the state has qualified for access with traps into the Outer Cape Area, as well as a Federal lobster permit that the Regional Administrator has denied access or restricted the permit's trap allocation into the Outer Cape Area. The state must establish that the incongruent permits were linked during the year or years used in the initial application such that the fishing history used in Federal and state permit decisions was the same.

(*ii*) *Proof of detriment*. The state must provide a letter supporting the granting of trap access for the Federal permit holder. In the support letter, the state must explain how the incongruence in this instance is detrimental to the Outer Cape Area lobster fishery and why granting the appeal is, on balance, in the best interests of the fishery overall. A showing of detriment to the individual permit holder is not grounds for this appeal and will not be considered relevant to the decision.

(G) *Appellate timing and review*. All appeals must be submitted to the Regional Administrator in writing and reviewed as follows:

(*1*) *Clerical Appeals timing*. Applicants must submit Clerical Appeals no later than 45 days after the date on the NMFS Notice of Denial of the Initial Qualification Application. NMFS shall consider the appeal's postmark date as constituting the submission date for the purposes of determining timing. Failure to register an appeal within 45 days of the date of the Notice of Denial will preclude any further appeal. The appellant may notify the Regional Administrator in writing of his or her intent to appeal within the 45 days and request a time extension to procure the necessary documentation. Time extensions shall be limited to 30 days and shall be calculated as extending 30 days beyond the initial 45-day period that begins on the original date on the Notice of Denial. Appeals submitted beyond the deadlines stated herein will not be accepted.

(*2*) *Director's Appeals timing*. State Directors must submit Director's Appeals on behalf of their constituents no later than 180 days after the date of the NMFS Notice of Denial of the Initial Qualification Application. NMFS shall consider the appeal's postmark date as constituting the submission date for the purposes of determining timing. Failure to register an appeal within 180 days of the date of the Notice of Denial will preclude any further appeal. The Director may notify the Regional Administrator in writing of his or her intent to appeal within the 180 days and request a time extension to procure the necessary documentation. Time extensions shall be limited to 30 days and shall be calculated as extending 30 days beyond the initial 180-day period that begins on the original date on the Notice of Denial. Appeals submitted beyond the deadline will not be accepted.

(*3*) *Agency response*. Upon receipt of a complete written appeal with supporting documentation in the time frame allowable, the Regional Administrator will then appoint an appeals officer who will review the appellate documentation. After completing a review of the appeal, the appeals officer will make findings and a recommendation, which shall be advisory only, to the Regional Administrator, who shall make the final agency decision whether to qualify the applicant.

(H) *Status of vessels pending appeal*. The Regional Administrator may authorize a vessel to fish with traps in the Outer Cape Area during an appeal. The Regional Administrator may do so by issuing a letter authorizing the appellant to fish up to 800 traps in the Outer Cape Area during the pendency of the appeal. The Regional Administrator's letter must be present onboard the vessel while it is engaged in such fishing in order for the vessel to be authorized. If the appeal is ultimately denied, the Regional Administrator's letter authorizing fishing during the appeal will become invalid 5 days after receipt of the notice of appellate denial, or 15 days after the date on the notice of appellate denial, whichever occurs first.

(viii) *Participation requirements for EEZ nearshore lobster management area 2 (Area 2)*. To fish for lobster with traps

in the EEZ portion of Area 2, a Federal lobster permit holder must apply for access in an application to the Regional Administrator. The application process is as follows:

(A) *Qualification criteria.* To initially qualify into the EEZ portion of Area 2, the applicant must establish with documentary proof the following:

(*1*) That the applicant possesses a current Federal lobster permit;

(*2*) That the applicant landed lobster caught in traps from Area 2 in 2001, 2002, or 2003. Whichever year used shall be considered the qualifying year for the purposes of establishing the applicant's Area 2 trap allocation;

(B) *Trap allocation criteria.* To receive a trap allocation for the EEZ portion of Area 2, the qualified applicant must also establish with documentary proof the following:

(*1*) The number of lobster traps fished by the qualifying vessel in the qualifying year; and

(*2*) The total pounds of lobster landed during that qualifying year.

(C) *Trap allocation formula.* The Regional Administrator shall allocate traps for use in Area 2 based upon the applicant's highest level of Effective Traps Fished during the qualifying year. Effective Traps Fished shall be the lower value of the maximum number of traps reported fished for that qualifying year compared to the predicted number of traps that is required to catch the reported poundage of lobsters for that year as set forth in the Commission's allocation formula identified in Addendum VII to Amendment 3 of the Commission's Interstate Fishery Management Plan for American Lobster.

(D) *Documentary proof.* To satisfy the Area 2 Qualification and Trap Allocation Criteria set forth in paragraphs (a)(7)(viii)(A) and (B) of this section, the applicants will be limited to the following documentary proof:

(*1*) As proof of a valid Federal lobster permit, the applicant must provide a copy of the vessel's current Federal lobster permit. The potential qualifier may, in lieu of providing a copy, provide NMFS with such data that will allow NMFS to identify the Federal lobster permit in its database, which will at a minimum include: The applicant's name and address; vessel name; and permit number.

(*2*) As proof of traps fished in Area 2 and lobsters landed from Area 2 in 2001, 2002, or 2003, the applicant must provide the documentation reported to the state of the traps fished and lobsters landed during any of those years as follows:

(*i*) *State records.* An applicant must provide documentation of his or her state reported traps fished and lobster landings in 2001, 2002, or 2003. The landings must have occurred in a state adjacent to Area 2, which the Regional Administrator shall presume to be limited to Massachusetts, Rhode Island, Connecticut, and/or New York. The Regional Administrator shall presume that the permit holder was truthful and accurate when reporting to his or her state the traps fished and lobster landed in 2001, 2002, and 2003 and that the state records of such are the best evidence of traps fished and lobster landed during those years.

(*ii*) *State decision.* An applicant may provide his or her state's qualification and allocation decision to satisfy the documentary requirements of this section. The Regional Administrator shall accept a state's qualification and allocation decision as prima facie evidence in support of the Federal qualification and allocation decision. The Regional Administrator shall presume that the state decision is appropriate, but that presumption is rebuttable and the Regional Administrator may choose to disallow the use of the state decision if the state decision was incorrect or based on factors other than those set forth in this section. This state decision may include not only the initial state qualification and allocation decision, but may also incorporate state trap transfer decisions that the state allowed since the time of the initial allocation decision.

(*iii*) *States lacking reporting.* An applicant may provide Federal vessel trip reports, dealer records, or captain's logbook as documentation in lieu of state records if the applicant can establish by clear and convincing evidence that the involved state did not require the permit holder to report traps or landings during 2001, 2002, or 2003.

(E) *Application period*. Applicants will have 180 days to submit an application. The time period for submitting an application for access to the EEZ portion of Area 2 begins on May 7, 2014 (application period start date) and ends November 3, 2014. Failure to apply for Area 2 access by that date shall be considered a waiver of any future claim for trap fishery access into Area 2.

(F) *Appeal of denial of permit*. Any applicant having first applied for initial qualification into the Area 2 trap fishery pursuant to this section, but having been denied access, may appeal to the Regional Administrator within 45 days of the date indicated on the notice of denial. Any such appeal must be in writing. Appeals may be submitted in the following three situations:

(*1*) *Clerical Appeal*. The grounds for Clerical Appeal shall be that the Regional Administrator clerically erred in concluding that the vessel did not meet the criteria in paragraph (a)(7)(viii) of this section. Errors arising from oversight or omission, such as ministerial, mathematical, or typographical mistakes, would form the basis of such an appeal. Alleged errors in substance or judgment do not form a sufficient basis of appeal under this paragraph. The appeal must set forth the basis for the applicant's belief that the Regional Administrator's decision was made in error. If the appealing applicant does not clearly and convincingly prove that an error occurred, the appeal must be denied.

(*2*) *Medical or Military Hardship Appeal*. The grounds for a Hardship Appeal shall be limited to those situations in which medical incapacity or military service prevented a Federal lobster permit holder from fishing for lobster in 2001, 2002, and 2003. If the Federal lobster permit holder is able to prove such a hardship, then the individual shall be granted the additional years of 1999 and 2000 from which to provide documentary proof in order to qualify for and fish traps in Area 2. In order to pursue a Hardship Appeal, the applicant must establish the following by a preponderance of the evidence:

(*i*) *Proof of medical incapacity or military service*. To prove incapacity, the applicant must provide medical documentation from a medical provider, or military service documentation from the military, that establishes that the applicant was incapable of lobster fishing in 2001, 2002, and 2003. An applicant may provide his/her state's qualification and allocation appeals decision to satisfy the documentary requirements of this section. The Regional Administrator shall accept a state's appeals decision as prima facie evidence in support of the Federal decision on the appeal. The Regional Administrator shall presume that the state decision is appropriate, but that presumption is rebuttable and the Regional Administrator may choose to disallow the use of the state decision if the state decision was incorrect or based on factors other than those set forth in this section.

(*ii*) *Proof of Area 2 trap fishing in 1999 and 2000*. To prove a history of Area 2 lobster trap fishing in 1999 and/or 2000, the applicant must provide documentary proof as outlined in paragraph (a)(7)(viii)(D) of this section.

(*3*) *Director's Appeal*. A state's marine fisheries agency may appeal on behalf of one of its state permit holders. The only grounds for a Director's Appeal shall be that the Regional Administrator's decision on a dual permit holder's Federal permit has created a detrimental incongruence with the state's earlier decision on that permit holder's state permit. In order to pursue a Director's Appeal, the state must establish the following by a preponderance of the evidence:

(*i*) *Proof of an incongruence*. The state must establish that the individual has a state lobster permit, which the state has qualified for access with traps into Area 2, as well as a Federal lobster permit, which the Regional Administrator has denied access or restricted the permit's trap allocation into Area 2. The state must establish that the incongruent permits were linked during the year or years used in the initial application such that the fishing history used in Federal and state permit decisions was the same.

(*ii*) *Proof of detriment*. The state must provide a letter supporting the granting of trap access for the Federal permit holder. In the support letter, the state must explain how the incongruence in this instance is detrimental to

the Area 2 lobster fishery and why granting the appeal is, on balance, in the best interests of the fishery overall. A showing of detriment to the individual permit holder is not grounds for this appeal and will not be considered relevant to the decision.

(G) *Appellate timing and review.* All appeals must be submitted to the Regional Administrator in writing and reviewed as follows:

(*1*) *Clerical Appeals timing.* Applicants must submit Clerical Appeals no later than 45 days after the date on the NMFS Notice of Denial of the Initial Qualification Application. NMFS shall consider the appeal's postmark date as constituting the submission date for the purposes of determining timing. Failure to register an appeal within 45 days of the date of the Notice of Denial will preclude any further appeal. The appellant may notify the Regional Administrator in writing of his or her intent to appeal within the 45 days and request a time extension to procure the necessary documentation. Time extensions shall be limited to 30 days and shall be calculated as extending 30 days beyond the initial 45-day period that begins on the original date on the Notice of Denial. Appeals submitted beyond the deadlines stated herein will not be accepted.

(*2*) *Medical or Military Hardship Appeals timing.* Applicants must submit Medical or Military Hardship Appeals no later than 45 days after the date on the NMFS Notice of Denial of the Initial Qualification Application. NMFS shall consider the appeal's postmark date as constituting the submission date for the purposes of determining timing. Failure to register an appeal within 45 days of the date of the Notice of Denial will preclude any further appeal. The appellant may notify the Regional Administrator in writing of his or her intent to appeal within the 45 days and request a time extension to procure the necessary documentation. Time extensions shall be limited to 30 days and shall be calculated as extending 30 days beyond the initial 45-day period that begins on the original date on the Notice of Denial. Appeals submitted beyond the deadlines stated herein will not be accepted.

(*3*) *Director's Appeals timing.* State Directors must submit Director's Appeals on behalf of their constituents no later than 180 days after the date of the NMFS Notice of Denial of the Initial Qualification Application. NMFS shall consider the appeal's postmark date as constituting the submission date for the purposes of determining timing. Failure to register an appeal within 180 days of the date of the Notice of Denial will preclude any further appeal. The Director may notify the Regional Administrator in writing of his or her intent to appeal within the 180 days and request a time extension to procure the necessary documentation. Time extensions shall be limited to 30 days and shall be calculated as extending 30 days beyond the initial 180-day period that begins on the original date on the Notice of Denial. Appeals submitted beyond the deadline will not be accepted.

(*4*) *Agency response.* Upon receipt of a complete written appeal with supporting documentation in the time frame allowable, the Regional Administrator will appoint an appeals officer who will review the appellate documentation. After completing a review of the appeal, the appeals officer will make findings and a recommendation, which shall be advisory only, to the Regional Administrator, who shall make the final agency decision whether to qualify the applicant.

(H) *Status of vessels pending appeal.* The Regional Administrator may authorize a vessel to fish with traps in Area 2 during an appeal. The Regional Administrator may do so by issuing a letter authorizing the appellant to fish up to 800 traps in Area 2 during the pendency of the appeal. The Regional Administrator's letter must be present onboard the vessel while it is engaged in such fishing in order for the vessel to be authorized. If the appeal is ultimately denied, the Regional Administrator's letter authorizing fishing during the appeal will become invalid 5 days after receipt of the notice of appellate denial or 15 days after the date on the notice of appellate denial, whichever occurs first.

(b) *Condition.* Vessel owners who apply for a Federal limited access American lobster permit under this section must agree, as a condition of

the permit, that the vessel and vessel's fishing, catch, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ, and without regard to where such fish or gear are possessed, taken, or landed), are subject to all requirements of this part, as well as gear, time, and area restrictions issued or set forth in other parts, including, but not limited to, 50 CFR parts 229 and 648. The vessel and all such fishing, catch, and gear shall remain subject to all applicable state or local requirements. If a requirement of this part and a management measure required by state or local law differ, any vessel owner permitted to fish in the EEZ must comply with the more restrictive requirement.

(c) *Vessel permit application*. Applicants for a Federal limited access American lobster permit under this section must submit a completed application on an appropriate form obtained from the Regional Administrator. To be complete, an application for a Federal limited access American lobster permit must contain at least the following information, and any other information specified on the application form or otherwise required by the Regional Administrator: Vessel name; owner name, mailing address, and telephone number; U.S. Coast Guard documentation number and a copy of the vessel's U.S. Coast Guard documentation or, if undocumented, state registration number and a copy of the state registration; lobster management area designation the vessel will fish in, as specified in § 697.18, if fishing with traps capable of catching American lobster; home port and principal port of landing; overall length; gross tonnage; net tonnage; engine horsepower; year the vessel was built; type of construction; type of propulsion; approximate fish-hold capacity; type of fishing gear used by the vessel; number of crew; permit category; if the owner is a corporation, a copy of the Certificate of Incorporation; and the names and addresses of all shareholders owning 25 percent or more of the corporation's shares; if the owner is a partnership, a copy of the Partnership Agreement and the names and addresses of all partners; if there is more than one owner, names of all owners having more than a 25 percent interest; and name and signature of the owner or the owner's authorized representative. The application must be signed by the owner of the vessel, or the owner's authorized representative, and be submitted to the Regional Administrator at least 30 days prior to the date on which the permit is needed by the applicant. The Regional Administrator shall notify the applicant of any deficiency in the application.

(d) *Trap tag application, lost and replacement tags*. (1) Beginning fishing year 2000, any lobster trap fished in Federal waters must have a valid Federal lobster trap tag permanently attached to the trap bridge or central cross-member, unless exempt under § 697.26.

(2) Trap tags shall be issued by the Regional Administrator, or, by state agencies, by agreement with the Regional Administrator, provided that such state tagging programs accurately identify the Federal limited access American lobster permit holder. NMFS will provide notice to American lobster permit holders as to the procedure for applying for trap tags and any required fees.

(3) Vessel owners or operators are required to report to the Regional Administrator lost, destroyed, and missing tags as soon as feasible within 7 days after the tags have been discovered lost, destroyed, or missing, by letter or fax to the Regional Administrator.

(4) Requests for replacement of lost tags in excess of the tag limit specified in § 697.19(c) must be submitted in writing to the Regional Administrator on an appropriate form obtained from the Regional Administrator and signed by the permit holder or authorized representative. The form and request for replacement tags will be reviewed by the Regional Administrator on a case-by-case basis and a decision will be reached on the number of replacement tags to be issued, if any. A check for the cost of the replacement tags must be received before tags will be reissued.

(e) *Fees*. The Regional Administrator may charge a fee to recover the administrative expenses of issuing a permit

or trap tags required under this section. Fee amounts shall be calculated in accordance with the procedures of the NOAA Finance Handbook, available from the Regional Administrator, for determining administrative costs of each special product or service. Fees may not exceed such costs and shall be specified with each application form. The applicable fee must accompany each application; if it does not, the application will be considered incomplete for purposes of paragraph (f) of this section. Any fee paid by an insufficiently funded commercial instrument shall render any permit issued on the basis thereof null and void.

(f) *Issuance.* (1) Except as provided in subpart D of 15 CFR part 904, the Regional Administrator shall issue a permit or tags, as applicable, within 30 days of receipt of the application unless:

(i) The applicant has failed to submit a completed application. An application is complete when all requested forms, information, documentation, and fees, if applicable, have been received;

(ii) The application was not received by the Regional Administrator by any applicable deadline set forth in this section;

(iii) The applicant and applicant's vessel failed to meet all applicable eligibility requirements set forth in this section or the number of tags requested exceeds the applicable tag limit specified in § 697.19(c);

(iv) The applicant has failed to meet any other application or tag requirements stated in this part.

(v) The application is for initial qualification for access to Area 3, 4 or 5 pursuant to the historical participation process in paragraphs (a)(7)(vi)(D), (a)(vii)(D), and (a)(viii)(D) of this section.

(2) *Incomplete applications.* Upon receipt of an incomplete or improperly executed application for any permit under this part, the Regional Administrator shall notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(g) *Expiration.* A permit expires annually upon the renewal date specified in the permit.

(h) *Duration.* A permit will continue in effect until the renewal date unless it is revoked, suspended, or modified under 15 CFR part 904, or otherwise expires, or ownership changes, or the applicant has failed to report any change in the information on the permit application to the Regional Administrator as specified in paragraph (k) of this section.

(i) *Reissuance.* A vessel permit may be reissued by the Regional Administrator when requested in writing by the owner or authorized representative, stating the need for reissuance, the name of the vessel, and the number of the permit requested to be reissued. An application for a reissued permit is not considered a new application. The fee for a reissued permit shall be the same as for an initial permit.

(j) *Transfer.* A permit issued under this part is not transferable or assignable. A permit will be valid only for the fishing vessel, owner and/or person for which it is issued.

(k) *Change in application information.* Within 15 days after a change in the information contained in an application submitted under this section, a written notice of the change must be submitted to the Regional Administrator. If the written notice of the change in information is not received by the Regional Administrator within 15 days, the permit is void.

(l) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(m) *Display.* A vessel permit must be carried, at all times, on board the vessel for which it is issued and shall be subject to inspection upon request by any authorized officer. Any permit issued under this part must be maintained in legible condition.

(n) *Sanctions.* Permits issued or sought under this section may be suspended, revoked, or modified, by procedures governing enforcement-related permit sanctions and denials, found at subpart D of 15 CFR part 904.

(o) *Abandonment or voluntary relinquishment of limited access American lobster permits.* Failure to renew a limited access permit in any fishing year bars

the renewal of the permit in subsequent years. If a vessel's Federal limited access American lobster permit or CPH is voluntarily relinquished to the Regional Administrator, or abandoned through failure to renew or otherwise, no Federal limited access American lobster permit or CPH may be reissued or renewed based on the qualifying vessel's history.

(p) *Permit category change.* A vessel permit category change (for individuals who possess a dual Federal limited access permit for American lobster and black sea bass and who restrict fishing operations to Area 5) may be issued by the Regional Administrator when requested in writing by the owner or by an authorized representative of a vessel meeting the eligibility requirements under § 697.26(a).

[64 FR 68248, Dec. 6, 1999, as amended at 66 FR 14501, Mar. 13, 2001; 68 FR 14925, Mar. 27, 2003; 71 FR 13037, Mar. 14, 2006; 77 FR 32431, June 1, 2012; 79 FR 19021, Apr. 7, 2014; 84 FR 61579, Nov. 13, 2019]

§ 697.5 Operator permits.

(a) *General.* Any operator of a vessel issued a Federal limited access American lobster permit under § 697.4(a), or any operator of a vessel of the United States that fishes for, possesses, or lands American lobsters or Jonah crabs, harvested in or from the EEZ must have been issued and carry on board a valid operator's permit issued under this section. The requirement in this paragraph (a) does not apply to: Charter, head, and commercial dive vessels that possess six or fewer American lobsters per person aboard the vessel if said lobsters are not intended for nor used in trade, barter or sale; recreational fishing vessels; and vessels that fish exclusively in state waters for American lobster.

(b) *Operator application.* Applicants for a permit under this section must submit a completed permit application on an appropriate form obtained from the Regional Administrator. To be complete, an application must contain at least the following information, and any other information specified on the application form or otherwise required by the Regional Administrator: Name, mailing address, and telephone number; date of birth; hair color; eye color; height; weight; social security number (optional) and signature of the applicant. The applicant must also provide two recent (no more than 1 year old) color passport-size photographs. The application must be signed by the applicant and submitted to the Regional Administrator at least 30 days prior to the date on which the applicant desires to have the permit made effective. The Regional Administrator will notify the applicant of any deficiency in the application.

(c) *Condition.* Vessel operators who apply for an operator's permit under this section must agree, as a condition of this permit, that the operator and vessels fishing, catch, crew size, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ, and without regard to where such fish or gear are possessed, taken, or landed), are subject to all requirements of this part while fishing in the EEZ or on board a vessel permitted under § 697.4. The vessel and all such fishing, catch, and gear will remain subject to all applicable state or local requirements. Further, such operators must agree, as a condition of this permit, that if the permit is suspended or revoked pursuant to 15 CFR part 904, the operator cannot be on board any fishing vessel issued a Federal fisheries permit or any vessel subject to Federal fishing regulations while the vessel is at sea or engaged in off loading. If a requirement of this part and a management measure required by state or local law differ, any operator issued a permit under this part must comply with the more restrictive requirement or measure.

(d) *Fees.* The Regional Administrator may charge a fee to recover the administrative expenses of issuing a permit required under this section. The amount of the fee shall be calculated in accordance with the procedures of the NOAA Finance Handbook, available from the Regional Administrator, for determining administrative costs of each special product or service. The fee may not exceed such costs and shall be specified with each application form. The applicable fee must accompany each application; if it does not, the application will be considered incomplete for purposes of paragraph (e) of this

section. Any fee paid by an insufficiently funded commercial instrument shall render any permit issued on the basis thereof null and void.

(e) *Issuance*. Except as provided in subpart D of 15 CFR part 904, the Regional Administrator shall issue an operator's permit within 30 days of receipt of the application if the criteria specified herein are met. Upon receipt of an incomplete or improperly executed application, the Regional Administrator will notify the applicant of the deficiency in the application. If the application fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(f) *Expiration*. A permit expires upon the renewal date specified in the permit.

(g) *Duration*. An operator permit is valid until it is revoked, suspended, or modified under subpart D of 15 CFR part 904, or otherwise expires, or the applicant has failed to report a change in the information on the permit application to the Regional Administrator as specified in paragraph (j) of this section.

(h) *Reissuance*. An operator permit may be reissued by the Regional Administrator when requested in writing by the applicant, stating the need for reissuance and the number of the permit requested to be reissued. An applicant for a reissued operator permit must also provide two recent (no more than 1 year old) color passport-size photos of the applicant. An application for a reissued permit is not considered a new application. An appropriate fee may be charged.

(i) *Transfer*. Permits issued under this section are not transferable or assignable. A permit is valid only for the person to whom it is issued.

(j) *Change in application information*. Notice of a change in the permit holder's name, address, or telephone number must be submitted in writing to, and received by, the Regional Administrator within 15 days of the change in information. If written notice of the change in information is not received by the Regional Administrator within 15 days, the permit is void.

(k) *Alteration*. Any permit that has been altered, erased, or mutilated is invalid.

(l) *Display*. Any permit issued under this part must be maintained in legible condition and displayed for inspection upon request by any authorized officer.

(m) *Sanctions*. Vessel operators with suspended or revoked permits may not be on board a federally permitted fishing vessel in any capacity while the vessel is at sea or engaged in offloading. Permits issued or sought under this section may be suspended, revoked, or modified, by procedures governing enforcement-related permit sanctions and denials, found at subpart D of 15 CFR part 904.

(n) *Vessel owner responsibility*. Vessel owners are responsible for ensuring that their vessels are operated by an individual with a valid operator's permit issued under this section.

[64 FR 68248, Dec. 6, 1999, as amended at 84 FR 61579, Nov. 13, 2019]

§ 697.6 Dealer permits.

(a) *General*. Any person who receives, for a commercial purpose (other than solely for transport on land), American lobster or Jonah crabs from the owner or operator of a vessel issued a valid permit under this part, or any person who receives, for a commercial purpose (other than solely for transport on land), American lobster or Jonah crabs, managed by this part, must have been issued, and have in his/her possession, a valid permit issued under this section.

(b) *Dealer application*. Applicants for a dealer permit under this section must submit a completed permit application on an appropriate form obtained from the Regional Administrator. To be complete, an application must contain at least the following information, and any other information specified on the application form or otherwise required by the Regional Administrator: Company name, place(s) of business, mailing address(es) and telephone number(s); owner's name; dealer permit number (if a renewal); and name and signature of the person responsible for the truth and accuracy of the report. If the dealer is a corporation, a copy of the Certificate of Incorporation; and the names and addresses of all shareholders owning 25 percent or more of

the corporation's shares, must be included with the application. If the dealer is a partnership, a copy of the Partnership Agreement and the names and addresses of all partners; if there is more than one partner, names of all partners having more than a 25 percent interest; and name and signature of all partner or partners authorized must be included with the application. The application must be signed by the applicant and submitted to the Regional Administrator at least 30 days prior to the date on which the applicant needs the permit. The Regional Administrator will notify the applicant of any deficiency in the application.

(c) *Fees*. The Regional Administrator may charge a fee to recover the administrative expenses of issuing a permit required under this section. The amount of the fee shall be calculated in accordance with the procedures of the NOAA Finance Handbook, available from the Regional Administrator, for determining administrative costs of each special product or service. The fee may not exceed such costs and shall be specified with each application form. The applicable fee must accompany each application; if it does not, the application will be considered incomplete for purposes of paragraph (e) of this section. Any fee paid by an insufficiently funded commercial instrument shall render any permit issued on the basis thereof null and void.

(d) *Issuance*. Except as provided in subpart D of 15 CFR part 904, the Regional Administrator will issue a permit at any time during the fishing year to an applicant, unless the applicant has failed to submit a completed application. An application is complete when all requested forms, information, and documentation have been received. Upon receipt of an incomplete or improperly executed application, the Regional Administrator will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(e) *Expiration*. A permit expires upon the renewal date specified in the permit.

(f) *Duration*. A permit is valid until it is revoked, suspended, or modified under 15 CFR part 904, or otherwise expires, or ownership changes, or the applicant has failed to report any change in the information on the permit application to the Regional Administrator as required by paragraph (i) of this section.

(g) *Reissuance*. A dealer permit may be reissued by the Regional Administrator when requested in writing by the applicant, stating the need for reissuance and the number of the permit requested to be reissued. An application for a reissued permit is not considered a new application. An appropriate fee may be charged.

(h) *Transfer*. Permits issued under this section are not transferable or assignable. A permit is valid only for the person, or other business entity, to which it is issued.

(i) *Change in application information*. Notice of a change in the dealers name, address, or telephone number must be submitted in writing to, and received by, the Regional Administrator within 15 days of the change in information. If written notice of the change in information is not received by the Regional Administrator within 15 days, the permit is void.

(j) *Alteration*. Any permit that has been altered, erased, or mutilated is invalid.

(k) *Display*. Any permit issued under this part must be maintained in legible condition and displayed for inspection upon request by any authorized officer.

(l) *Federal versus state requirements*. If a requirement of this part differs from a fisheries management measure required by state law, any dealer issued a Federal dealer permit under this part must comply with the more restrictive requirement.

(m) *Sanctions*. Permits issued or sought under this section may be suspended, revoked, or modified, by procedures governing enforcement-related permit sanctions and denials, found at subpart D of 15 CFR part 904.

(n) *Lobster and Jonah crab dealer recordkeeping and reporting requirements*—(1) *Detailed report*. All federally-permitted lobster dealers and Jonah crab dealers, and any person acting in the capacity of a dealer, must submit to the Regional Administrator or to the official designee a detailed report of all

fish purchased or received for a commercial purpose, other than solely for transport on land, within the time periods specified in paragraph (q) of this section, or as specified in § 648.7(a)(1)(f) of this chapter, whichever is most restrictive, by one of the available electronic reporting mechanisms approved by NMFS, unless otherwise directed by the Regional Administrator. The following information, and any other information required by the Regional Administrator, must be provided in each report:

(i) *Required information.* All dealers issued a Federal lobster or Jonah crab dealer permit under this part must provide the following information, as well as any additional information as applicable under § 648.7(a)(1)(i) of this chapter: Dealer name; dealer permit number; name and permit number or name and hull number (USCG documentation number or state registration number, whichever is applicable) of vessel(s) from which fish are transferred, purchased or received for a commercial purpose; trip identifier for each trip from which fish are purchased or received from a commercial fishing vessel permitted under part 648 of this chapter with a mandatory vessel trip reporting requirement; date(s) of purchases and receipts; units of measure and amount by species (by market category, if applicable); price per unit by species (by market category, if applicable) or total value by species (by market category, if applicable); port landed; cage tag numbers for surfclams and ocean quahogs, if applicable; disposition of the seafood product; and any other information deemed necessary by the Regional Administrator. If no fish are purchased or received during a reporting week, a report so stating must be submitted.

(ii) *Exceptions.* The following exceptions apply to reporting requirements for dealers permitted under this part:

(A) Inshore Exempted Species, as defined in § 648.2 of this chapter, are not required to be reported under this part;

(B) When purchasing or receiving fish from a vessel landing in a port located outside of the Northeast Region (Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, Virginia and North Carolina), only purchases or receipts of species managed by the Northeast Region under this part (American lobster or Jonah crab), and part 648 of this chapter, must be reported. Other reporting requirements may apply to those species not managed by the Greater Atlantic Region, which are not affected by this paragraph (n); and

(C) Dealers issued a permit for Atlantic bluefin tuna under part 635 of this chapter are not required to report their purchases or receipts of Atlantic bluefin tuna under this part. Other reporting requirements, as specified in § 635.5 of this chapter, apply to the receipt of Atlantic bluefin tuna.

(iii) *Dealer reporting requirements for skates.* In addition to the requirements under paragraph (n)(1)(i) of this section, dealers shall report the species of skates received. Species of skates shall be identified according to the following categories: winter skate, little skate, little/winter skate, barndoor skate, smooth skate, thorny skate, clearnose skate, rosette skate, and unclassified skate. NMFS will provide dealers with a skate species identification guide.

(2) *System requirements.* All persons required to submit reports under paragraph (n)(1) of this section are required to have the capability to transmit data via the internet. To ensure compatibility with the reporting system and database, dealers are required to utilize a personal computer, in working condition, that meets the minimum specifications identified by NMFS. New dealers will be notified of the minimum specifications via letter during the permitting process.

(3) *Annual report.* All persons issued a permit under this part are required to submit the following information on an annual basis, on forms supplied by the Regional Administrator:

(i) All dealers and processors issued a permit under this part must complete all sections of the Annual Processed Products Report for all species that were processed during the previous year. Reports must be submitted to the address supplied by the Regional Administrator.

(ii) Surfclam and ocean quahog processors and dealers whose plant processing capacities change more than 10 percent during any year shall notify the Regional Administrator in writing within 10 days after the change.

(iii) Atlantic herring processors, including processing vessels, must complete and submit all sections of the Annual Processed Products Report.

(iv) Atlantic hagfish processors must complete and submit all sections of the Annual Processed Products Report.

(o) *Inspection*. Upon the request of an authorized officer or an employee of NMFS designated by the Regional Administrator to make such inspections, all persons required to submit reports under this part must make immediately available for inspection copies of reports, and all records upon which those reports are or will be based, that are required to be submitted or kept under this part.

(p) *Record retention*. Any record as defined at § 648.2, related to fish possessed, received, or purchased by a dealer that is required to be reported, must be retained and be available for immediate review for a total of 3 years after the date the fish were first possessed, received, or purchased. Dealers must retain the required records and reports at their principal place of business.

(q) *Submitting dealer reports*. (1) Detailed dealer reports required by paragraph (n)(1)(i) of this section must be received by midnight of the first Tuesday following the end of the reporting week. If no fish are purchased or received during a reporting week, the report so stating required under paragraph (n)(1)(i) of this section must be received by midnight of the first Tuesday following the end of the reporting week.

(2) Dealers who want to make corrections to their trip-level reports via the electronic editing features may do so for up to 3 business days following submission of the initial report. If a correction is needed more than 3 business days following the submission of the initial trip-level report, the dealer must contact NMFS directly to request an extension of time to make the correction.

(3) The trip identifier required under paragraph (n)(1) of this section for each trip from which fish are purchased or received from a commercial fishing vessel permitted under part 648 of this chapter with a mandatory vessel trip reporting requirement must be submitted with the detailed report, as required under paragraph (q)(1) of this section. Price and disposition information may be submitted after the initial detailed report, but must be received within 16 days of the end of the reporting week.

(4) Annual reports for a calendar year must be postmarked or received by February 10 of the following year. Contact the Regional Administrator (see Table 1 to § 600.502) for the address of NMFS Statistics.

(5) *At-sea purchasers and processors*. With the exception of the owner or operator of an Atlantic herring carrier vessel, the owner or operator of an at-sea purchaser or processor that purchases or processes any Atlantic herring, Atlantic mackerel, squid, butterfish, scup, or black sea bass at sea must submit information identical to that required by paragraph (n)(1) of this section and provide those reports to the Regional Administrator or designee by the same mechanism and on the same frequency basis.

(r) *Additional data and sampling*. Federally permitted dealers must allow access to their premises and make available to an official designee of the Regional Administrator any fish purchased from vessels for the collection of biological data. Such data include, but are not limited to, length measurements of fish and the collection of age structures such as otoliths or scales.

(s) *Additional dealer reporting requirements*. All persons issued a lobster dealer permit or a Jonah crab dealer permit under this part are subject to the reporting requirements set forth in paragraph (n) of this section, as well as §§ 648.6 and 648.7 of this chapter, whichever is most restrictive.

[64 FR 68248, Dec. 6, 1999, as amended at 74 FR 37549, July 29, 2009; 84 FR 61579, Nov. 13, 2019]

§ 697.7 Prohibitions.

(a) *Atlantic Coast weakfish fishery*. In addition to the prohibitions set forth

in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

(1) Fish for, harvest, or possess any weakfish less than 12 inches (30.5 cm) in total length (measured as a straight line along the bottom of the fish from the tip of the lower jaw with the mouth closed to the end of the lower tip of the tail) from the EEZ.

(2) Retain any weakfish less than 12 inches (30.5 cm) in total length taken in or from the EEZ.

(3) Fish for weakfish in the EEZ with a minimum mesh size less than 3¼-inch (8.3 cm) square stretch mesh (as measured between the centers of opposite knots when stretched taut) or 3¾-inch (9.5 cm) diamond stretch mesh for trawls and 2⅞-inch (7.3 cm) stretch mesh for gillnets.

(4) Possess more than 150 lb (67 kg) of weakfish during any one day or trip, whichever is longer, in the EEZ when using a mesh size less than 3 1/4-inch (8.3 cm) square stretch mesh (as measured between the centers of opposite knots when stretched taut) or 3 3/4-inch (9.5cm) diamond stretch mesh for finfish trawls and 2 7/8-inch (7.3 cm) stretch mesh for gillnets.

(5) Fish using a flynet in the EEZ off North Carolina in the area bounded as follows:

(i) On the north by a straight line connecting points 35°10.8′ N. lat., 75°29.2′ W. long. (3 nm off Cape Hatteras) and 35°03.5′ N. lat., 75°11.8′ W. long. (20 nm off Cape Hatteras).

(ii) The east by a straight line connecting points 35°03.5′ N. lat., 75°11.8′ W. long. (20 nm off Cape Hatteras) and 33°21.1′ N. lat., 77°57.5′ W. long., (about 30 nm off Cape Fear on the extension of the North Carolina/South Carolina state line into the EEZ).

(iii) On the south by a straight line connecting points 33°21.1′ N. lat., 77°57.5′ W. long., and 33°48.8′ N. lat., 78°29.7′ W. long. (3 nm off Little River Inlet on the North Carolina/South Carolina state line).

(iv) On the west by state waters.

(6) Possess any weakfish in the closed area of the EEZ, as described in paragraph (a)(5) of this section, when fishing with shrimp trawls or crab trawls.

(7) Land weakfish for commercial purposes caught in the EEZ in any state other than Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, or North Carolina.

(b) *Atlantic striped bass fishery*. In addition to the prohibitions set forth in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

(1) Fish for Atlantic striped bass in the EEZ.

(2) Harvest any Atlantic striped bass from the EEZ.

(3) Possess any Atlantic striped bass in or from the EEZ, except in the following area: The EEZ within Block Island Sound, north of a line connecting Montauk Light, Montauk Point, NY, and Block Island Southeast Light, Block Island, RI; and west of a line connecting Point Judith Light, Point Judith, RI, and Block Island Southeast Light, Block Island, RI. Within this area, possession of Atlantic striped bass is permitted, provided no fishing takes place from the vessel while in the EEZ and the vessel is in continuous transit.

(4) Retain any Atlantic striped bass taken in or from the EEZ.

(c) *American lobster*. (1) In addition to the prohibitions specified in § 600.725 of this chapter, it is unlawful for any person owning or operating a vessel issued a Federal limited access American lobster permit under § 697.4 or a vessel or person holding a valid State of Maine American lobster permit or license and fishing under the provisions of and under the areas designated in § 697.24 to do any of the following:

(i) Retain on board, land, or possess at or after landing, whole American lobsters that fail to meet the minimum lobster carapace length standard specified in § 697.20(a). All American lobsters will be subject to inspection and enforcement action, up to and including the time when a dealer receives or possesses American lobsters for a commercial purpose.

(ii) Retain on board, land, or possess, up to the time when a dealer first receives or possesses American lobster for a commercial purpose, any American lobster or parts thereof in violation of the mutilation standards specified in § 697.20(c).

(iii) Retain on board, land, or possess any berried female lobster specified in § 697.20(d).

(iv) Remove eggs from any berried female lobster, land, or possess any such lobster from which eggs have been removed. No person owning or operating a vessel issued a Federal limited access American lobster permit under § 697.4 or a vessel or person holding a State of Maine American lobster permit or license and fishing under the provisions of and under the areas designated in § 697.24 may land or possess any lobster that has come in contact with any substance capable of removing lobster eggs.

(v) Retain on board, land, or possess any female lobster that do not meet the area-specific v-notch requirements set forth in § 697.20(g).

(vi) Spear any American lobster, or land or possess any American lobster which has been speared.

(vii) Possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel trap gear in excess of the trap limits specified in § 697.19 unless exempted pursuant to § 697.26

(viii) Possess, deploy, haul, harvest lobster from, or carry aboard a vessel any trap gear that does not satisfy the requirements on gear identification and marking, escape vents, ghost panel and maximum trap size specified in § 697.21, unless such gear has been rendered unfishable, or unless exempted pursuant to § 697.26.

(ix) Possess, deploy, haul, harvest lobster from, or carry aboard a vessel any trap gear not tagged in accordance with the requirements in § 697.19, unless such gear has been rendered unfishable, or unless exempted pursuant to § 697.26.

(x) Fail to produce, or cause to be produced, lobster trap tags when requested by an authorized officer, unless exempted pursuant to § 697.26.

(xi) Beginning May 1, 2000, reproduce, or cause to be reproduced, lobster trap tags without the written consent of the Regional Administrator.

(xii) Beginning May 1, 2000, possess a lobster trap tag, tag a lobster trap with, or use, a lobster trap tag that has been reported lost, missing, destroyed, or issued to another vessel.

(xiii) Beginning May 1, 2000, sell, transfer, or give away lobster trap tags that have been reported lost, missing, destroyed, or issued to another vessel.

(xiv) Fail to affix and maintain permanent markings, as required by § 697.8.

(xv) Fish for, retain on board, land, or possess American lobsters, unless the operator of the vessel has been issued an operator's permit under § 697.5, and the permit is on board the vessel and is valid.

(xvi) Fail to report to the Regional Administrator within 15 days any change in the information contained in the permit application as required under § 697.4(k) or § 697.5(j).

(xvii) Make any false statement in connection with an application under § 697.4, § 697.5, or § 697.6.

(xviii) Sell, transfer, or barter or attempt to sell, transfer, or barter to a dealer any American lobsters, unless the dealer has a valid Federal Dealer's Permit issued under § 697.6.

(xix) Refuse or fail to carry a sea sampler/observer if requested to do so by the Regional Administrator.

(xx) Fail to provide a sea sampler/observer with required food, accommodations, access, and assistance, as specified in § 697.12.

(xxi) Violate any terms of a letter authorizing exempted fishing pursuant to § 697.22 or to fail to keep such letter aboard the vessel during the time period of the exempted fishing.

(xxii) Possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel any lobster trap gear, on a fishing trip in the EEZ from a vessel that fishes for, takes, catches, or harvests lobster by a method other than lobster traps.

(xxiii) Fish for, take, catch, or harvest lobster on a fishing trip in or from the EEZ by a method other than traps, in excess of 100 lobsters (or parts thereof), for each lobster day-at-sea or part of a lobster day-at-sea, up to a maximum of 500 lobsters (or parts thereof) for any one trip unless otherwise restricted by § 648.80(a)(3)(i), (a)(4)(i)(A), (a)(8)(i), (a)(9)(i)(D), (a)(12)(i)(A), (a)(13)(i)(A), (b)(3)(ii) or § 697.7(c)(2)(i)(C) of this chapter.

(xxiv) Possess, retain on board, or land lobster by a vessel with any non-trap gear on board capable of catching lobsters, in excess of 100 lobsters (or

parts thereof), for each lobster day-at-sea or part of a lobster day-at-sea, up to a maximum of 500 lobsters (or parts thereof) for any one trip unless otherwise restricted by § 648.80(a)(3)(i), (a)(4)(i)(A), (a)(8)(i), (a)(9)(i)(D), (a)(12)(i)(A), (a)(13)(i)(A), (b)(3)(ii) or § 697.7(c)(2)(i)(C) of this chapter.

(xxv) Transfer or attempt to transfer American lobster from one vessel to another vessel.

(xxvi) Beginning May 1, 2000, possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel any trap gear in or from the management areas specified in § 697.18, unless such fishing vessel has been issued a valid management area designation certificate or valid limited access American lobster permit specifying such management area(s) as required under § 697.4(a)(7).

(xxvii) Possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel trap gear issued to another vessel.

(xxviii) Fail to comply with any gear, time, or area restriction in this part or, as is explained in § 697.3 and § 697.4(b), fail to comply with any gear, time, or area regulation set forth in any other regulatory part, including part 229 and part 648.

(xxix) Retain on board, land, or possess at or after landing, whole American lobsters that exceed the maximum lobster carapace length standard specified in § 697.20(b). All American lobsters will be subject to inspection and enforcement action, up to and including the time when a dealer receives or possesses American lobsters for a commercial purpose.

(xxx) *Seasonal closures*. The following areas are closed seasonally to lobster fishing.

(A) *Outer Cape Area seasonal closure*. The Federal waters of the Outer Cape Area shall be closed to lobster fishing with traps by Federal lobster permit holders from February 1 through March 31.

(*1*) Lobster fishing with traps is prohibited in the Outer Cape Area during this seasonal closure. Federal trap fishers are prohibited from possessing or landing lobster taken from the Outer Cape Area during the seasonal closure.

(*2*) All lobster traps must be removed from Outer Cape Area waters before the start of the seasonal closure and may not be re-deployed into Outer Cape Area waters until after the seasonal closure ends. Federal trap fishers are prohibited from setting, hauling, storing, abandoning, or in any way leaving their traps in Outer Cape Area waters during this seasonal closure. Federal lobster permit holders are prohibited from possessing or carrying lobster traps aboard a vessel in Outer Cape Area waters during this seasonal closure unless the vessel is transiting through the Outer Cape Area pursuant to paragraph (c)(1)(xxx)(A)(*4*) of this section.

(*3*) The Outer Cape Area seasonal closure relates only to the Outer Cape Area. The restrictive provisions of §§ 697.3 and 697.4(a)(7)(v) do not apply to this closure. Federal lobster permit holders with an Outer Cape Area designation and another Lobster Management Area designation on their Federal lobster permits would not have to similarly remove their lobster gear from the other designated management areas.

(*4*) *Transiting Outer Cape Area*. Federal lobster permit holders may possess lobster traps on their vessels in the Outer Cape Area during the seasonal closure only if:

(*i*) The trap gear is stowed; and

(*ii*) The vessel is transiting the Outer Cape Area. For the purposes of this section, transiting shall mean passing through the Outer Cape Area without stopping to reach a destination outside the Outer Cape Area.

(*5*) The Regional Administrator may authorize a permit holder or vessel owner to haul ashore lobster traps from the Outer Cape Area during the seasonal closure without having to engage in the exempted fishing process in § 697.22, if the permit holder or vessel owner can establish the following:

(*i*) That the lobster traps were not able to be hauled ashore before the seasonal closure due to incapacity, vessel/mechanical inoperability, and/or poor weather; and

(*ii*) That all lobsters caught in the subject traps will be immediately returned to the sea.

(*iii*) The Regional Administrator may condition this authorization as appropriate in order to maintain the overall integrity of the closure.

(B) *Area 4 seasonal closure*. The Federal waters of Area 4 shall be closed to lobster fishing from April 30 through May 31.

(*1*) Lobster fishing is prohibited in Area 4 during this seasonal closure. Federal lobster permit holders are prohibited from possessing or landing lobster taken from Area 4 during the seasonal closure.

(*2*) All lobster traps must be removed from Area 4 waters before the start of the seasonal closure and may not be redeployed into Area 4 waters until after the seasonal closure ends. Federal trap fishers are prohibited from setting, hauling, storing, abandoning, or in any way leaving their traps in Area 4 waters during this seasonal closure.

(*i*) Lobster fishers have a 1-week grace period from May 24 to May 31 to re-set gear in the closed area. During this grace period, re-set traps may not be re-hauled and any Federal lobster permit holder re-setting Area 4 traps during this grace period is prohibited from possessing on board any lobster regardless of the area from which the lobster may have been harvested.

(*ii*) [Reserved]

(*3*) Federal lobster permit holders are prohibited from possessing or carrying lobster traps aboard a vessel in Area 4 waters during this seasonal closure unless the vessel is operating subject to the grace period identified in paragraph (c)(1)(xxx)(B)(*2*)(*i*) of this section or is transiting through Area 4 pursuant to paragraph (c)(1)(xxx)(B)(*5*) of this section.

(*4*) The Area 4 seasonal closure relates only to Area 4. The restrictive provisions of §§ 697.3 and 697.4(a)(7)(v) do not apply to this closure. Federal lobster permit holders with an Area 4 designation and another Lobster Management Area designation on their Federal lobster permits would not have to similarly remove their lobster gear from the other designated management areas.

(*5*) Transiting Area 4. Federal lobster permit holders may possess lobster traps on their vessels in Area 4 during the seasonal closure only if:

(*i*) The trap gear is stowed; and

(*ii*) The vessel is transiting the Area 4. For the purposes of this section, transiting shall mean passing through Area 4 without stopping, to reach a destination outside Area 4.

(*6*) The Regional Administrator may authorize a permit holder or vessel owner to haul ashore lobster traps from Area 4 during the seasonal closure without having to engage in the exempted fishing process in § 697.22, if the permit holder or vessel owner can establish the following:

(i) That the lobster traps were not able to be hauled ashore before the seasonal closure due to incapacity, vessel/mechanical inoperability, and/or poor weather; and

(*ii*) That all lobsters caught in the subject traps will be immediately returned to the sea.

(iii) The Regional Administrator may condition this authorization as appropriate in order to maintain the overall integrity of the closure.

(C) *Area 5 seasonal closure*. The Federal waters of Area 5 shall be closed to lobster fishing from February 1 through March 31.

(*1*) Lobster fishing is prohibited in Area 5 during this seasonal closure. Federal lobster permit holders are prohibited from possessing or landing lobster taken from Area 5 during the seasonal closure.

(*2*) All lobster traps must be removed from Area 5 waters before the start of the seasonal closure and may not be redeployed into Area 5 waters until after the seasonal closure ends. Federal trap fishers are prohibited from setting, hauling, storing, abandoning, or in any way leaving their traps in Area 5 waters during this seasonal closure. The following exceptions apply to the Area 5 seasonal closure:

(*i*) Lobster fishers will have a 2-week grace period from February 1 to February 14 to remove all lobster gear from the closed area. During this grace period, any hauled trap must not be reset and must be removed from the area. Any lobsters taken from traps during this grace period must be returned to the sea immediately and any Federal lobster permit holder retrieving Area 5 traps during this grace period is prohibited from possessing on board any

lobster regardless of the area from which the lobster may have been harvested.

(*ii*) Lobster fishers have a 1-week grace period from March 24 to March 31 to re-set gear in the closed area. During this grace period, re-set traps may not be re-hauled and any Federal lobster permit holder re-setting Area 5 traps during this grace period is prohibited from possessing on board any lobster regardless of the area from which the lobster may have been harvested.

(*3*) Federal lobster permit holders are prohibited from possessing or carrying lobster traps aboard a vessel in Area 5 waters during this seasonal closure unless the vessel operating subject to the grace period identified in paragraph (c)(1)(xxx)(C)(*2*)(*ii*) of this section (*ii*) or is transiting through Area 5 pursuant to paragraph (c)(1)(xxx)(C)(*5*) of this section.

(*4*) The Area 5 seasonal closure relates only to Area 5. The restrictive provisions of §§ 697.3 and 697.4(a)(7)(v) do not apply to this closure. Federal lobster permit holders with an Area 5 designation and another Lobster Management Area designation on their Federal lobster permits would not have to similarly remove their lobster gear from the other designated management areas.

(*5*) *Transiting Area 5.* Federal lobster permit holders may possess lobster traps on their vessels in Area 5 during the seasonal closure only if:

(*i*) The trap gear is stowed; and

(*ii*) The vessel is transiting the Area 5. For the purposes of this section, transiting shall mean passing through Area 5 without stopping, to reach a destination outside Area 5.

(*6*) The Regional Administrator may authorize a permit holder or vessel owner to haul ashore lobster traps from Area 5 during the seasonal closure without having to engage in the exempted fishing process in § 697.22, if the permit holder or vessel owner can establish the following:

(*i*) That the lobster traps were not able to be hauled ashore before the seasonal closure due to incapacity, vessel/mechanical inoperability, and/or poor weather; and

(*ii*) That all lobsters caught in the subject traps will be immediately returned to the sea.

(*iii*) The Regional Administrator may condition this authorization as appropriate in order to maintain the overall integrity of the closure.

(2) In addition to the prohibitions specified in § 600.725 of this chapter and the prohibitions specified in paragraph (c)(1) of this section, it is unlawful for any person to do any of the following:

(i) Retain on board, land, or possess American lobsters unless:

(A) The American lobsters were harvested by a vessel that has been issued and carries on board a valid Federal limited access American lobster permit under § 697.4; or

(B) The American lobsters were harvested by a vessel without a valid Federal limited access American lobster permit and that fishes for American lobsters exclusively in state waters; or

(C) The American lobsters were harvested by a charter boat, head boat, or commercial dive vessel that possesses six or fewer American lobsters per person on board the vessel and the lobsters are not intended to be, or are not, traded, bartered, or sold; or

(D) The American lobsters were harvested by a recreational fishing vessel; or

(E) The American lobsters were harvested by a vessel or person holding a valid State of Maine American lobster permit or license and is fishing under the provisions of and in the areas designated in § 697.24.

(ii) Sell, barter, or trade, or otherwise transfer, or attempt to sell, barter, or trade, or otherwise transfer, for a commercial purpose, any American lobsters from a vessel, unless the vessel has been issued a valid Federal limited access American lobster permit under § 697.4, or the American lobsters were harvested by a vessel without a valid Federal limited access American lobster permit that fishes for American lobsters exclusively in state waters or unless the vessel or person holds a valid State of Maine American lobster permit or license and that is fishing under the provisions of and in the areas designated in § 697.24.

(iii) To be, or act as, an operator of a vessel fishing for or possessing American lobsters in or from the EEZ, or issued a Federal limited access American lobster permit under § 697.4, without having been issued and possessing a valid operator's permit under § 697.5.

(iv) Purchase, possess, or receive for a commercial purpose, or attempt to purchase, possess, or receive for a commercial purpose, as, or in the capacity of, a dealer, American lobsters taken from or harvested by a fishing vessel issued a Federal limited access American lobster permit, unless in possession of a valid dealer's permit issued under § 697.6.

(v) Purchase, possess, or receive for commercial purposes, or attempt to purchase or receive for commercial purposes, as, or in the capacity of, a dealer, American lobsters caught by a vessel other than one issued a valid Federal limited access American lobster permit under § 697.4, or one holding or owned or operated by one holding a valid State of Maine American lobster permit or license and fishing under the provisions of and in the areas designated in § 697.24, unless the American lobsters were harvested by a vessel without a Federal limited access American lobster permit and that fishes for American lobsters exclusively in state waters.

(vi) Assault, resist, oppose, impede, harass, intimidate, or interfere with or bar by command, impediment, threat, or coercion any NMFS-approved sea sampler/observer aboard a vessel conducting his or her duties aboard a vessel, or any authorized officer conducting any search, inspection, investigation, or seizure in connection with enforcement of this part, or any official designee of the Regional Administrator conducting his or her duties.

(vii) Refuse to carry a sea sampler/observer if requested to do so by the Regional Administrator.

(viii) Refuse reasonable assistance to either a NMFS-approved sea sampler/observer conducting his or her duties aboard a vessel.

(ix) Make any false statement, oral or written, to an authorized officer, concerning the taking, catching, harvesting, landing, purchase, sale, or transfer of any American lobster.

(x) Violate any provision of this part, the ACFCMA, the Magnuson-Stevens Act, or any regulation, permit, or notification issued under the ACFCMA, the Magnuson-Stevens Act, or these regulations.

(xi) Retain on board, land, or possess any American lobsters harvested in or from the EEZ in violation of § 697.20.

(xii) Ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster in violation of § 697.20.

(xiii) Fish, or be in the areas described in § 697.23(b)(2), (c)(2), (d)(2), and (e)(2) on a fishing vessel with mobile gear during the time periods specified in § 697.23(b)(1), (c)(1), (d)(1), and (e)(1), except as provided in § 697.23(b)(1), (c)(1), (d)(1), and (e)(1).

(xiv) Fish, or be in the areas described in § 697.23(b)(2), (c)(2), and (d)(2) on a fishing vessel with lobster trap gear on board during the time periods specified in § 697.23(b)(1), (c)(1), and (d)(1).

(xv) Deploy or fail to remove lobster trap gear in the areas described in § 697.23(b)(2), (c)(2), and (d)(2) during the time periods specified in § 697.23(b)(1), (c)(1), and (d)(1).

(xvi) Violate any terms of a letter authorizing exempted fishing pursuant to § 697.22 or to fail to keep such letter aboard the vessel during the time period of the exempted fishing.

(xvii) Possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel any lobster trap gear on a fishing trip in the EEZ on a vessel that fishes for, takes, catches, or harvests lobster by a method other than lobster traps.

(xviii) Fish for, take, catch, or harvest lobster on a fishing trip in the EEZ by a method other than traps, in excess of 100 lobsters (or parts thereof), for each lobster day-at-sea or part of a lobster day-at-sea, up to a maximum of 500 lobsters (or parts thereof) for any one trip unless otherwise restricted by § 648.80(a)(3)(i), (a)(4)(i)(A), (a)(8)(i), (a)(9)(i)(D), (a)(12)(i)(A), (a)(13)(i)(A), (b)(3)(ii) or § 697.7(c)(2)(i)(C) of this chapter.

(xix) Possess, retain on board, or land lobster by a vessel with any non-trap gear on board capable of catching lobsters, in excess of 100 lobsters (or parts

thereof), for each lobster day-at-sea or part of a lobster day-at-sea, up to a maximum of 500 lobsters (or parts thereof) for any one trip unless otherwise restricted by § 648.80(a)(3)(i), (a)(4)(i)(A), (a)(8)(i), (a)(9)(i)(D), (a)(12)(i)(A), (a)(13)(i)(A), (b)(3)(ii) or § 697.7(c)(2)(i)(C) of this chapter.

(xx) Transfer or attempt to transfer American lobster from one vessel to another vessel.

(xxi) Fail to comply with dealer record keeping and reporting requirements as specified in § 697.6.

(3) *Presumptions.* (i) Any person possessing, or landing American lobsters or parts thereof at or prior to the time when those American lobsters are landed, or are received or possessed by a dealer for the first time, is subject to all of the prohibitions specified in paragraph (c) of this section, unless the American lobsters were harvested by a vessel without a Federal limited access American lobster permit and that fishes for American lobsters exclusively in state waters; or are from a charter, head, or commercial dive vessel that possesses or possessed six or fewer American lobsters per person aboard the vessel and the lobsters are not intended for sale, trade, or barter; or are from a recreational fishing vessel.

(ii) American lobsters or parts thereof that are possessed, or landed at or prior to the time when the American lobsters are received by a dealer, or whole American lobsters that are possessed by a dealer, are presumed to have been harvested from the EEZ or by a vessel with a Federal limited access American lobster permit. A preponderance of all submitted evidence that such American lobsters were harvested by a vessel without a Federal limited access American lobster permit and fishing exclusively for American lobsters in state or foreign waters will be sufficient to rebut this presumption.

(iii) The possession of egg-bearing female lobsters in violation of the requirements set forth in § 697.20(d), v-notched female American lobsters in violation of the v-notch requirements set forth in § 697.20(g), American lobsters that are smaller than the minimum sizes set forth in § 697.20(a), American lobsters that are larger than the maximum carapace sizes set forth in § 697.20(b), or lobster parts, possessed at or prior to the time when the aforementioned lobsters or parts are received by a dealer, will be prima facie evidence that such American lobsters or parts were taken or imported in violation of these regulations. A preponderance of all submitted evidence that such American lobsters were harvested by a vessel not holding a permit under this part and fishing exclusively within state or foreign waters will be sufficient to rebut the presumption.

(d) *Atlantic sturgeon fishery.* In addition to the prohibitions set forth in § 600.725, it is unlawful for any person to do any of the following:

(1) Fish for Atlantic sturgeon in the EEZ.

(2) Harvest any Atlantic sturgeon from the EEZ.

(3) Possess any natural or stocked Atlantic sturgeon in or from the EEZ.

(4) Retain any Atlantic sturgeon taken in or from the EEZ.

(5) Possess any natural Atlantic sturgeon parts, including Atlantic sturgeon eggs, in the EEZ.

(e) *Atlantic Coast Horseshoe Crab fishery.* In addition to the prohibitions set forth in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

(1) Fish for horseshoe crabs in the Carl N. Shuster Jr. Horseshoe Crab Reserve described in § 697.23(f)(1).

(2) Possess horseshoe crabs on a vessel with a trawl or dredge in the closed area described in § 697.23(f)(1).

(3) Fail to return to the water immediately without further harm, all horseshoe crabs caught in the closed area described in § 697.23(f)(1).

(f) *Atlantic red drum fishery.* In addition to the prohibitions set forth in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

(1) Harvest or possess Atlantic red drum in the EEZ south of a line extending in a direction of 115° from true north commencing at a point at 40°29.6′ N. lat., 73°54.1′ W. long., such point being the intersection of the New Jersey/New York boundary with the 3-nm line denoting the seaward limit of state waters, and north of the demarcation

line between the South Atlantic Fishery Management Council and the Gulf of Mexico Fishery Management Council described in § 600.105(c) of this chapter.

(2) Fail to release immediately without further harm, all Atlantic red drum caught in the EEZ area described in paragraph (f)(1) of this section.

(g) *Atlantic migratory group cobia.* In addition to the prohibitions set forth in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

(1) Use or possess prohibited gear or methods or possess fish in association with possession or use of prohibited gear, as specified in this part.

(2) Fish in violation of the prohibitions, restrictions, and requirements applicable to seasonal and/or area closures, including but not limited to: Prohibition of all fishing, gear restrictions, restrictions on take or retention of fish, fish release requirements, and restrictions on use of an anchor or grapple, as specified in this part or as may be specified under this part.

(3) Possess undersized fish, fail to release undersized fish, or sell or purchase undersized fish, as specified in this part.

(4) Fail to maintain a fish intact through offloading ashore, as specified in this part.

(5) Exceed a bag or possession limit, as specified in this part.

(6) Fail to comply with the species-specific limitations, as specified in this part.

(7) Fail to comply with the restrictions that apply after closure of a fishery, sector, or component of a fishery, as specified in this part.

(8) Possess on board a vessel or land, purchase, or sell fish in excess of the commercial trip limits, as specified in this part.

(9) Fail to comply with the restrictions on sale/purchase, as specified in this part.

(10) Interfere with fishing or obstruct or damage fishing gear or the fishing vessel of another, as specified in this part.

(11) Fail to comply with any other requirement or restriction specified in this part or violate any provision(s) in this part.

(h) *Jonah crab.* (1) In addition to the prohibitions specified in § 600.725 of this chapter, it is unlawful for any person owning or operating a vessel issued a Federal limited access American lobster permit under § 697.4 or a vessel or person holding a valid State of Maine American lobster permit or license and fishing under the provisions of and under the areas designated in § 697.24 to do any of the following:

(i) Retain on board, land, or possess at or after landing, Jonah crabs that fail to meet the minimum Jonah crab carapace width standard specified in § 697.20(h)(1). All Jonah crabs will be subject to inspection and enforcement action, up to and including the time when a dealer receives or possesses Jonah crabs for a commercial purpose.

(ii) Retain on board, land, or possess any berried female Jonah crabs specified in § 697.20(h)(2).

(iii) Remove eggs from any berried female Jonah crab, land, or possess any such Jonah crab from which eggs have been removed. No person owning or operating a vessel issued a Federal limited access American lobster permit under § 697.4 or a vessel or person holding a State of Maine American lobster permit or license and fishing under the provisions of and under the areas designated in § 697.24 may land or possess any Jonah crab that has come in contact with any substance capable of removing crab eggs.

(iv) Sell, transfer, or barter or attempt to sell, transfer, or barter to a dealer any Jonah crabs, unless the dealer has a valid Federal Dealer's Permit issued under § 697.6.

(v) Fish for, take, catch, or harvest Jonah crabs on a fishing trip in or from the EEZ by a method other than traps, in excess of up to 1,000 crabs per trip, unless otherwise restricted by paragraph (h)(2)(i)(C) of this section.

(vi) Possess, retain on board, or land Jonah crabs by a vessel with any non-trap gear on board capable of catching Jonah crabs, in excess of up to 1,000 crabs per trip, unless otherwise restricted by paragraph (h)(2)(i)(C) of this section.

(vii) Transfer or attempt to transfer Jonah crabs from one vessel to another vessel.

(2) In addition to the prohibitions specified in § 600.725 of this chapter and the prohibitions specified in paragraph (h)(1) of this section, it is unlawful for any person to do any of the following:

(i) Retain on board, land, or possess Jonah crabs unless:

(A) The Jonah crabs were harvested by a vessel that has been issued and carries on board a valid Federal limited access American lobster permit under § 697.4; or

(B) The Jonah crabs were harvested in state waters by a vessel without a valid Federal limited access American lobster permit; or

(C) The Jonah crabs were harvested by a charter boat, head boat, or commercial dive vessel that possesses 50 or fewer Jonah crabs per person on board the vessel (including captain and crew) and the Jonah crabs are not intended to be, or are not, traded, bartered, or sold; or

(D) The Jonah crabs were harvested for recreational purposes by a recreational fishing vessel; or

(E) The Jonah crabs were harvested by a vessel or person holding a valid State of Maine American lobster permit or license and is fishing under the provisions of and in the areas designated in § 697.24.

(ii) Sell, barter, or trade, or otherwise transfer, or attempt to sell, barter, or trade, or otherwise transfer, for a commercial purpose, any Jonah crabs from a vessel, unless the vessel has been issued a valid Federal limited access American lobster permit under § 697.4, or the Jonah crabs were harvested by a vessel without a valid Federal limited access American lobster permit that fishes for Jonah crabs exclusively in state waters or unless the vessel or person holds a valid State of Maine American lobster permit or license and that is fishing under the provisions of and in the areas designated in § 697.24.

(iii) To be, or act as, an operator of a vessel fishing for or possessing Jonah crabs in or from the EEZ, or issued a Federal limited access American lobster permit under § 697.4, without having been issued and possessing a valid operator's permit under § 697.5.

(iv) Purchase, possess, or receive for a commercial purpose, or attempt to purchase, possess, or receive for a commercial purpose, as, or in the capacity of, a dealer, Jonah crabs taken from or harvested by a fishing vessel issued a Federal limited access American lobster permit, unless in possession of a valid dealer's permit issued under § 697.6.

(v) Purchase, possess, or receive for commercial purposes, or attempt to purchase or receive for commercial purposes, as, or in the capacity of, a dealer, Jonah crabs caught by a vessel other than one issued a valid Federal limited access American lobster permit under § 697.4, or one holding or owned or operated by one holding a valid State of Maine American lobster permit or license and fishing under the provisions of and in the areas designated in § 697.24, unless the Jonah crabs were harvested by a vessel without a Federal limited access American lobster permit and that fishes for Jonah crabs exclusively in state waters.

(vi) Make any false statement, oral or written, to an authorized officer, concerning the taking, catching, harvesting, landing, purchase, sale, or transfer of any Jonah crabs.

(vii) Violate any provision of this part, the ACFCMA, the Magnuson-Stevens Act, or any regulation, permit, or notification issued under this part, the ACFCMA, or the Magnuson-Stevens Act.

(viii) Retain on board, land, or possess any Jonah crabs harvested in or from the EEZ in violation of § 697.20.

(ix) Ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live Jonah crabs in violation of § 697.20.

(x) Violate any terms of a letter authorizing exempted fishing pursuant to § 697.22 or to fail to keep such letter aboard the vessel during the time period of the exempted fishing.

(xi) Possess, deploy, fish with, haul, harvest Jonah crabs from, or carry aboard a vessel any lobster trap gear on a fishing trip in the EEZ on a vessel that fishes for, takes, catches, or harvests Jonah crabs by a method other than lobster traps.

(xii) Fish for, take, catch, or harvest Jonah crabs on a fishing trip in the EEZ by a method other than traps, in

excess of up to 1,000 crabs per trip, unless otherwise restricted by paragraph (h)(2)(i)(C) of this section.

(xiii) Possess, retain on board, or land Jonah crabs by a vessel with any non-trap gear on board capable of catching lobsters, in excess of up to 1,000 crabs per trip, unless otherwise restricted by paragraph (h)(2)(i)(C) of this section.

(xiv) Transfer or attempt to transfer Jonah crabs from one vessel to another vessel.

(xv) Fail to comply with dealer record keeping and reporting requirements as specified in § 697.6.

(3) Any person possessing, or landing Jonah crabs at or prior to the time when those Jonah crabs are landed, or are received or possessed by a dealer for the first time, is subject to all of the prohibitions specified in paragraph (g) of this section, unless the Jonah crabs were harvested by a vessel without a Federal limited access American lobster permit and that fishes for Jonah crabs exclusively in state waters; or are from a charter, head, or commercial dive vessel that possesses or possessed 50 or fewer Jonah crabs per person aboard the vessel and the Jonah crabs are not intended for sale, trade, or barter; or are from a recreational fishing vessel.

(i) Jonah crabs that are possessed, or landed at or prior to the time when the Jonah crabs are received by a dealer, or Jonah crabs that are possessed by a dealer, are presumed to have been harvested from the EEZ or by a vessel with a Federal limited access American lobster permit. A preponderance of all submitted evidence that such Jonah crabs were harvested by a vessel without a Federal limited access American lobster permit and fishing exclusively for Jonah crabs in state or foreign waters will be sufficient to rebut this presumption.

(ii) The possession of egg-bearing female Jonah crabs in violation of the requirements set forth in § 697.20(h)(1) or Jonah crabs that are smaller than the minimum sizes set forth in § 697.20(h)(2), will be prima facie evidence that such Jonah crabs were taken or imported in violation of these regulations. A preponderance of all submitted evidence that such Jonah crabs were harvested by a vessel not holding a permit under this part and fishing exclusively within state or foreign waters will be sufficient to rebut the presumption.

[64 FR 68248, Dec. 6, 1999, as amended at 66 FR 8911, Feb. 5, 2001; 66 FR 14502, Mar. 13, 2001; 68 FR 56790, Oct. 2, 2003; 71 FR 13037, Mar. 14, 2006; 73 FR 11563, Mar. 4, 2008; 73 FR 58061, Oct. 6, 2008; 74 FR 37551, July 29, 2009; 79 FR 22449, Apr. 22, 2014; 79 FR 19025, Apr. 7, 2014; 79 FR 73852, Dec. 12, 2014; 80 FR 2033, Jan. 15, 2015; 80 FR 69622, Nov. 10, 2015; 84 FR 4737, Feb. 19, 2019; 84 FR 61580, Nov. 13, 2019]

§ 697.8 Vessel identification.

(a) *Vessel name and official number*. Each fishing vessel issued a limited access American lobster permit and over 25 ft (7.6 m) in registered length must:

(1) Have affixed permanently its name on the port and starboard sides of the bow and, if possible, on its stern.

(2) Have its official number displayed on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be clearly visible from enforcement vessels and aircraft. The official number is the USCG documentation number or the vessel's state registration number for vessels not required to be documented under title 46 U.S.C.

(b) *Numerals*. Except as provided in paragraph (d) of this section, each fishing vessel issued a limited access American lobster permit must display its official number in block arabic numerals in contrasting color at least 18 inches (45.7 cm) in height for fishing vessels over 65 ft (19.8 m) in registered length, and at least 10 inches (25.4 cm) in height for all other vessels over 25 ft (7.6 m) in registered length. The registered length of a vessel, for purposes of this section, is that registered length set forth in USCG or state records.

(c) *Duties of owner*. The owner of each vessel issued a limited access American lobster permit shall ensure that—

(1) The vessel's name and official number are kept clearly legible and in good repair.

(2) No part of the vessel, its rigging, its fishing gear, or any other object obstructs the view of the official number from any enforcement vessel or aircraft.

(d) *Non-permanent marking.* Vessels over 25 ft (7.6 m) in registered length, fishing in the EEZ and carrying recreational fishing parties on a per capita basis or by charter must use markings that meet the above requirements, except for the requirement that they be affixed permanently to the vessel. The non-permanent markings must be displayed in conformity with the aforementioned requirements.

§ 697.9 Facilitation of enforcement.

(a) *General.* See § 600.730 of this chapter.

(b) *Radio hails.* Permit holders, while underway, must be alert for communication conveying enforcement instructions and immediately answer via VHF-FM radio, channel 16, when hailed by an enforcement officer. Vessels not required to have VHF-FM radios by the Coast Guard are exempt from this requirement.

[64 FR 68248, Dec. 6, 1999, as amended at 73 FR 67809, Nov. 17, 2008]

§ 697.10 Penalties.

See § 600.735 of this chapter.

§ 697.11 Civil procedures.

The civil procedure regulations at 15 CFR part 904 apply to civil penalties, permit sanctions, seizures, and forfeitures under the Atlantic Striped Bass Conservation Act and the ACFCMA, and to the regulations of this part.

§ 697.12 At-sea sea sampler/observer coverage.

(a) The Regional Administrator may request any vessel issued a Federal limited access American lobster permit to carry a NMFS-approved sea sampler/observer. If requested by the Regional Administrator to carry a sea sampler/observer, a vessel may not engage in any fishing operations in the respective fishery unless a sea sampler/observer is on board, or unless the requirement is waived, as specified in paragraph (c) of this section.

(b) If requested in writing by the Regional Administrator to carry a sea sampler/observer, it is the responsibility of the vessel owner to arrange for and facilitate sea sampler/observer placement. Owners of vessels selected for sea sampler/observer coverage must notify the appropriate Regional or Science and Research Administrator, as specified by the Regional Administrator, before commencing any fishing trip that may result in the harvest of resources of the respective fishery. Notification procedures will be specified in election letters to vessel owners.

(c) The Regional Administrator may waive in writing the requirement to carry a sea sampler/observer if the facilities on a vessel for housing the sea sampler/observer, or for carrying out sea sampler/observer functions, are so inadequate or unsafe that the health or safety of the sea sampler/observer, or the safe operation of the vessel, would be jeopardized.

(d) An owner or operator of a vessel on which a NMFS-approved sea sampler/observer is embarked must:

(1) Provide accommodations and food that are equivalent to those provided to the crew.

(2) Allow the sea sampler/observer access to and use of the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the sea sampler's/observer's duties.

(3) Provide true vessel locations, by latitude and longitude or loran coordinates, as requested by the sea sampler/observer, and allow the sea sampler/observer access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position.

(4) Notify the sea sampler/observer in a timely fashion of when fishing operations are to begin and end.

(5) Allow for the embarking and debarking of the sea sampler/observer, as specified by the Regional Administrator, ensuring that transfers of sea samplers/observers at sea are accomplished in a safe manner, via small boat or raft, during daylight hours as weather and sea conditions allow, and with the agreement of the sea samplers/observers involved.

(6) Allow the sea sampler/observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store fish.

(7) Allow the sea sampler/observer to inspect and copy the vessel's log, communications log, and records associated with the catch and distribution of fish for that trip.

(e) The owner or operator of a vessel issued a Federal limited access American lobster permit, if requested by the sea sampler/observer also must:

(1) Notify the sea sampler/observer of any sea turtles, marine mammals, or other specimens taken by the vessel.

(2) Provide the sea sampler/observer with sea turtles, marine mammals, or other specimens taken by the vessel.

(f) NMFS may accept sea sampler/observer coverage funded by outside sources if:

(1) All coverage conducted by such sea samplers/observers is determined by NMFS to be in compliance with NMFS' sea sampler/observer guidelines and procedures.

(2) The owner or operator of the vessel complies with all other provisions of this part.

(3) The sea sampler/observer is approved by the Regional Administrator.

Subpart B—Management Measures

§ 697.17 Non-trap harvest restrictions.

(a) *Non-trap lobster landing limits.* In addition to the prohibitions set forth in § 600.725 of this chapter, it is unlawful for a vessel with any non-trap gear on board capable of catching lobsters, or, that fishes for, takes, catches, or harvests lobster on a fishing trip in or from the EEZ by a method other than traps, to possess, retain on board, or land, in excess of 100 lobsters (or parts thereof), for each lobster day-at-sea or part of a lobster day-at-sea, up to a maximum of 500 lobsters (or parts thereof) for any one trip, unless otherwise restricted by § 648.80(a)(3)(i), (a)(4)(i)(A), (a)(8)(i), (a)(9)(i)(D), (a)(12)(i)(A), (a)(13)(i)(A), or (b)(3)(ii) of this chapter or § 697.7(c)(2)(i)(C).

(b) *Trap prohibition for non-trap lobster harvesters.* All persons that fish for, take, catch, or harvest lobsters on a fishing trip in or from the EEZ are prohibited from transferring or attempting to transfer American lobster from one vessel to another vessel.

(c) *Trap prohibition for non-trap lobster vessels.* Any vessel on a fishing trip in the EEZ that fishes for, takes, catches, or harvests lobster by a method other than traps may not possess on board, deploy, fish with, or haul back traps.

(d) *Non-trap Jonah crab landing limits.* In addition to the prohibitions set forth in § 600.725 of this chapter, it is unlawful for a vessel with any non-trap gear on board that fishes for, takes, catches, or harvests Jonah crabs on a fishing trip in or from the EEZ by a method other than traps, to possess, retain on board, or land, in excess of up to 1,000 Jonah crabs (or parts thereof), for each trip, unless otherwise restricted by § 697.7.

(e) *Restrictions on fishing for, possessing, or landing fish other than Jonah crabs.* Vessels are prohibited from possessing or landing Jonah crabs in excess of 50 percent, by weight, of all other species on board.

(f) *Trap prohibition for non-trap Jonah crab harvesters.* All persons that fish for, take, catch, or harvest Jonah crabs on a fishing trip in or from the EEZ are prohibited from transferring or attempting to transfer Jonah crabs from one vessel to another vessel.

[84 FR 61581, Nov. 13, 2019]

§ 697.18 Lobster management areas.

The following lobster management areas are established for purposes of implementing the management measures specified in this part. (A copy of a chart showing the American lobster EEZ management areas is available upon request to the Office of the Regional Administrator, NMFS, 1 Blackburn Drive, Gloucester, MA 01930.)

(a) *EEZ Nearshore Management Area 1.* EEZ Nearshore Management Area 1 is defined by the area, including state and Federal waters that are nearshore in the Gulf of Maine, bounded by straight lines connecting the following points, in the order stated, and the coastline of Maine, New Hampshire, and Massachusetts to the northernmost point of Cape Cod:

Point	Latitude	Longitude
A	43°58′ N.	67°22′ W.
B	43°41′ N.	68°00′ N.
C	43°12′ N.	69°00′ W.
D	42°49′ N.	69°40′ W.
E	42°15.5′ N.	70°40′ W.

Point	Latitude	Longitude
F	42°10′ N.	69°56′ W.
G	42°05.5′ N.	70°14′ W.
G1	42°04.25′ N.	70°17.22′ W.
G2	42°02.84′ N.	70°16.1′ W.
G3	42°03.35′ N.	70°14.2′ W.

(1) From point ''G3'' along the coastline of Massachusetts, including the southwestern end of the Cape Cod Canal, continuing along the coastlines of Massachusetts, New Hampshire, Maine, and the seaward EEZ boundary back to Point A.

(2) [Reserved]

(b) *EEZ Nearshore Management Area 2.* EEZ Nearshore Management Area 2 is defined by the area, including state and Federal waters that are nearshore in Southern New England, bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude
H	41°40′ N.	70°05′ W.
I	41°15′ N.	70°05′ N.
J	41°21.5′ N.	69°16.5′ W.
K	41°10′ N.	69°06.5′ W.
L	40°55′ N.	68°54′ W.
M	40°27.5′ N.	71°14′ W.
N	40°45.5′ N.	71°34′ W.
O	41°07′ N.	71°43′ W.
P	41°06.5′ N.	71°47′ W.
Q	41°11.5′ N.	71°47.25′ W.
R	41°18.5′ N.	71°54.5′ W

(1) From point ''R'' along the maritime boundary between Connecticut and Rhode Island to the coastal Connecticut/Rhode Island boundary and then back to point ''H'' along the Rhode Island and Massachusetts coast, including the northeastern end of the Cape Cod Canal.

(2) [Reserved]

(c) *Area 2/3 Overlap.* The Area 2/3 Overlap is defined by the area, comprised entirely of Federal waters, bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude
K	41°10′ N.	69°06.5′ W.
L	40°55′ N.	68°54′ W.
M	40°27.5′ N.	72°14′ W.
N	40°45.5′ N.	71°34′ W.

(d) *EEZ Offshore Management Area 3.* EEZ Offshore Management Area 3 is defined by the area, comprised entirely of Federal waters, bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude
A	43°58′ N.	67°22′ W.
B	43°41′ N.	68°00′ W.
C	43°12′ N.	69°00′ W.
D	42°49′ N.	69°40′ W.
E	42°15.5′ N.	69°40′ W.
F	42°10′ N.	69°56′ W.
K	41°10′ N.	69°06.5′ W.
N	40°45.5′ N.	71°34′ W.
M	40°27.5′ N.	72°14′ W.
U	40°12.5′ N.	72°48.5′ W.
V	39°50′ N.	73°01′ W.
X	38°39.5′ N.	73°40′ W.
Y	38°12′ N.	73°55′ W.
Z	37°12′ N.	74°44′ W.
ZA	35°34′ N.	74°51′ W.
ZB	35°14.5′ N.	75°31′ W.
ZC	35°14.5′ N.	71°24′ W.
From point "ZC" along the seaward EEZ boundary to point "A".		

(e) *EEZ Nearshore Management Area 4.* EEZ Nearshore Management Area 4 is defined by the area, including state and Federal waters that are near-shore in the northern Mid-Atlantic, bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude
M	40°27.5′ N.	72°14′ W.
N	40°45.5′ N.	71°34′ W.
O	41°07′ N.	71°43′ W.
P	41°06.5′ N.	71°47′ W.
S	40°58′ N.	72°00′ W.
T	41°00.5′ N.	72°00′ W.
From Point "T", along the New York/New Jersey coast to Point "W"		
W	39°50′ N.	74°09′ W.
V	39°50′ N.	73°01′ W.
U	40°12.5′ N.	72°48.5′ W.
From Point "U" back to Point "M".		

(f) EEZ Nearshore Management Area 5. EEZ Nearshore Management Area 5 is defined by the area, including state and Federal waters that are near-shore in the southern Mid-Atlantic, bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude
W	39°50′ N.	74°09′ W.
V1	39°50′ N.	72°55′ W.
X1	38°38.2′ N.	73°33.8′ W.
Y1	38°10.4′ N.	73°49′ W.
Z1	37°10.6′ N.	74°38′ W.
ZA1	35°31.9′ N.	74°45.5′ W.
ZB1	35°14.5′ N.	75°19.3′ W.
ZB	35°14.5′ N.	75°31′ W.

From Point "ZB", along the coasts of North Carolina, Virginia, Maryland, Delaware, New Jersey back to Point "W".

(g) *Nearshore Management Area 6*. The Nearshore Management Area 6 is defined by the area, including New York and Connecticut state waters, bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude
T	41°00.5′ N.	72°00′ W.
S	40°58′ N.	72°00′ W.
From Point "S", boundary follows the 3 mile limit of New York as it curves around Montauk Point to Point "P"		
P	41°06.5′ N.	71°47′ W.
Q	41°11′30″ N.	71°47′15″ W.
R	41°18′30″ N.	71°5′30″ W.
From point "R", along the maritime boundary between Connecticut and Rhode Island to the coast; then west along the coast of Connecticut to the western entrance of Long Island Sound; then east along the New York coast of Long Island Sound and back to Point "T".		

(h) *EEZ Nearshore Outer Cape Lobster Management Area*. EEZ Nearshore Outer Cape Lobster Management Area is defined by the area, including state and Federal waters off Cape Cod, bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude
F	42°10′ N.	69°56′ W.
G	42°05.5′ N.	70°14′ W.
G1	42°04.25′ N.	70°17.22′ W.
G2	42°02.84′ N.	70°16.1′ W.
G4	41°52.′ N.	70°07.49′ W.
G5	41°54.46′ N.	70°03.99′ W.

(1) From Point ''G5'' along the outer Cape Cod coast to Point ''H'':

Point	Latitude	Longitude
H	41°40′ N.	70°05′ W.
H1	41°18′ N.	70°05′ W.

(2) From Point ''H1'' along the eastern coast of Nantucket Island to Point ''I'':

Point	Latitude	Longitude
I	41°15′ N.	70°00′ W.
J	41°21.5′ N.	69°16′ W.

(3) From Point ''J'' back to Point ''F''.

(i) NMFS may, consistent with § 697.25, implement management measures necessary for each management area, in order to end overfishing and rebuild stocks of American lobster.

[64 FR 68248, Dec. 6, 1999, as amended at 68 FR 14930, Mar. 27, 2003; 71 FR 13037, Mar. 14, 2006]

§ 697.19 Trap limits and trap tag requirements for vessels fishing with lobster traps.

(a) *Area 1 trap limits*. The Area 1 trap limit is 800 traps. Federally permitted lobster fishing vessels shall not fish with, deploy in, possess in, or haul back more than 800 lobster traps in Area 1.

(b) *Area 2 trap limits*. The Area 2 trap limit is 800 traps. Federally permitted lobster fishing vessels may only fish with traps that have been previously qualified and allocated into Area 2 by the Regional Administrator, as part of the Federal Area 2 Limited Access Program. This allocation may be modified by trap cuts and/or trap transfers, but in no case shall the allocation exceed the trap limit.

(c) *Area 3 trap limits*. The Area 3 trap limit is 1,945 traps. Federally permitted lobster fishing vessels may only fish with traps that have been previously qualified and allocated into Area 3 by the Regional Administrator, as part of the Federal Area 3 Limited Access Program. This allocation may be modified by trap cuts and/or trap transfers, but in no case shall the allocation exceed the trap limit.

(d) *Area 4 trap limits*. The Area 4 trap limit is 1,440 traps. Federally permitted lobster fishing vessels may only fish with traps that have been previously qualified and allocated into Area 4 by the Regional Administrator, as part of the Federal Area 4 Limited Access Program. This allocation may be modified by trap cuts and/or trap transfers, but in no case shall the allocation exceed the trap limit.

(e) *Area 5 trap limits*. The Area 5 trap limit is 1,440 traps, unless the vessel is operating under an Area 5 Trap Waiver permit issued under § 697.26. Federally permitted lobster fishing vessels may only fish with traps that have been previously qualified and allocated into Area 5 by the Regional Administrator, as part of the Federal Area 5 Limited Access Program. This allocation may be modified by trap cuts and/or trap transfers, but in no case shall the allocation exceed the trap limit.

(f) *Outer Cape Area*. The Outer Cape Area trap limit is 800 traps. Federally permitted lobster fishing vessels may

only fish with traps that have been previously qualified and allocated into the Outer Cape Area by the Regional Administrator, as part of the Federal Outer Cape Cod Area Limited Access Program. This allocation may be modified by trap cuts and/or trap transfers, but in no case shall the allocation exceed the trap limit.

(g) *Trap cuts.* Trap allocations shall be reduced in the following Areas as set forth below:

(1) Area 2 allocations shall be reduced according to the following schedule:

Effective year of trap reduction	Area 2 reductions (percent)
April 30, 2016, 11:59 p.m.	25
April 30, 2017, 11:59 p.m.	5
April 30, 2018, 11:59 p.m.	5
April 30, 2019, 11:59 p.m.	5
April 30, 2020, 11:59 p.m.	5
April 30, 2021, 11:59 p.m.	5

(2) Area 3 allocations shall be reduced according to the following schedule:

Effective year of trap reduction	Area 3 reductions (percent)
April 30, 2016, 11:59 p.m.	5
April 30, 2017, 11:59 p.m.	5
April 30, 2018, 11:59 p.m.	5
April 30, 2019, 11:59 p.m.	5
April 30, 2020, 11:59 p.m.	5

(h) *Lobster trap limits for vessels fishing or authorized to fish in more than one EEZ management area.* A vessel owner who elects to fish in more than one EEZ Management Area is restricted to the lowest trap cap and/or trap allocation of all the areas designated on the permit and may not fish with, deploy in, possess in, or haul back from any of those elected management areas more lobster traps than the lowest number of lobster traps allocated to that vessel for any one elected management area.

(i) *Conservation equivalent trap limits in New Hampshire state waters.* Notwithstanding any other provision, any vessel with a Federal lobster permit and a New Hampshire Full Commercial Lobster license may fish up to a maximum of 1,200 lobster traps in New Hampshire state waters, to the extent authorized by New Hampshire lobster fishery regulations. However, such vessel may not fish, possess, deploy, or haul back more than 800 lobster traps in the Federal waters of EEZ Nearshore Management Area 1, and may not fish more than a combined total of 1,200 lobster traps in the Federal and New Hampshire state waters portions of EEZ Nearshore Management Area 1.

(j) *Trap Tag Requirements for vessels fishing with lobster traps.* All lobster traps in Federal waters must have a valid Federal lobster trap tag permanently attached to the trap bridge or central cross-member. Federal lobster permit holders are eligible to receive Area 1 trap tags only if the Regional Administrator has qualified the permit to fish in Area 1 as part of the Federal Area 1 Limited Entry Program. Federal lobster permit holders are eligible to receive Area 2, 3, 4, 5, and/or Outer Cape Area trap tags only if the Regional Administrator has allocated those traps as part of the Federal Area 2, 3, 4, 5, and/or Outer Cape Area Limited Access Program. Any vessel with a Federal lobster permit may not possess, deploy, or haul back lobster traps in any portion of any lobster management area that do not have a valid, federally recognized trap tag permanently attached to the trap bridge or central cross-member.

(k) *Maximum lobster trap tags authorized for direct purchase.* In any fishing year, the maximum number of tags authorized for direct purchase by each permit holder is the applicable trap limit specified in paragraphs (a) through (f) of this section plus an additional 10 percent to cover trap loss.

(l) *EEZ Management Area 5 trap waiver exemption.* Any vessel issued an Area 5 Trap Waiver permit under § 697.4(p) is exempt from the provisions of this section.

[79 FR 19025, Apr. 7, 2014, as amended at 80 FR 2035, Jan. 15, 2015]

§ 697.20 Size, harvesting and landing requirements.

(a) *Minimum lobster carapace length.* (1) The minimum lobster carapace length for all American lobsters harvested in or from the EEZ Nearshore Management Area 1 or the EEZ Nearshore Management Area 6 is 3¼ inches (8.26 cm).

(2) The minimum lobster carapace length for all American lobsters landed, harvested, or possessed by vessels

issued a Federal limited access American lobster permit fishing in or electing to fish in the Nearshore Management Area 1 or the EEZ Nearshore Management Area 6 is 3 3¼ inches (8.26 cm).

(3) The minimum lobster carapace length for all American lobsters harvested in or from the EEZ Nearshore Management Area 2, 4, 5 and the Outer Cape Lobster Management Area is 3⅜ inches (8.57 cm).

(4) The minimum lobster carapace length for all American lobsters landed, harvested or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in EEZ Nearshore Management Area 2, 4, 5 and the Outer Cape Lobster Management Area is 3⅜ inches (8.57 cm).

(5) Through April 30, 2015, the minimum lobster carapace length for all American lobsters harvested in or from the Offshore Management Area 3 is 3½ inches (8.89 cm).

(6) Through April 30, 2015, the minimum lobster carapace length for all American lobsters landed, harvested or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in EEZ Offshore Management Area 3 is 3½ inches (8.89 cm).

(7) Effective May 1, 2015, the minimum lobster carapace length for all American lobsters harvested in or from the Offshore Management Area 3 is 3 17/32 inches (8.97 cm).

(8) Effective May 1, 2015, the minimum lobster carapace length for all American lobsters landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in EEZ Offshore Management Area 3 is 3 17/32 inches (8.97 cm).

(9) No person may ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster that is smaller than the minimum size specified in paragraph (a) of this section.

(b) *Maximum lobster carapace length.* (1) The maximum lobster carapace length for all American lobster harvested in or from the EEZ Nearshore Management Area 1 is 5 inches (12.7 cm).

(2) The maximum lobster carapace length for all American lobster landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 1 is 5 inches (12.7 cm).

(3) The maximum lobster carapace length for all American lobster harvested in or from the EEZ Nearshore Management Areas 2, 4, 5, and 6 is 5¼ inches (13.34 cm).

(4) The maximum lobster carapace length for all American lobster landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in one or more of EEZ Nearshore Management Areas 2, 4, 5, and 6 is 5¼ inches (13.34 cm).

(5) The maximum lobster carapace length for all American lobster harvested in or from EEZ Offshore Management Area 3 or the Outer Cape Lobster Management Area is 6¾ inches (17.15 cm).

(6) The maximum lobster carapace length for all American lobster landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in EEZ Offshore Management Area 3 or the Outer Cape Lobster Management Area is 6¾ inches (17.15 cm).

(c) *Mutilation.* (1) Subject to the rebuttable presumption in § 697.7(c)(3), no person may remove meat or any body appendage from any American lobster harvested in or from the EEZ before, or at the time of landing, or have in possession any American lobster part other than whole lobsters, up to the time when a dealer first receives or possesses American lobster.

(2) Subject to the rebuttable presumption in § 697.7(c)(3), no owner, operator or person aboard a vessel issued a Federal American lobster permit may remove meat or any body appendage from any American lobster before or at the time of landing, or have in possession any American lobster part other than whole lobsters, up to the time when a dealer first receives or possesses American lobster.

(d) *Berried female lobsters.* (1) Any berried female lobster harvested in or from the EEZ must be returned to the

sea immediately. If any berried female lobster is harvested in or from the EEZ Nearshore Management Areas 1, 2, 4, or 5, or in or from the EEZ Offshore Management Area 3, north of42° 30′ North latitude, it must be v-notched before being returned to sea immediately.

(2) Any berried female lobster harvested or possessed by a vessel issued a Federal limited access lobster permit must be returned to the sea immediately. If any berried female lobster is harvested in or from the EEZ Nearshore Management Areas 1, 2, 4, or 5, or in or from the EEZ Offshore Management Area 3, north of 42° 30′ North latitude, it must be v-notched before being returned to sea immediately.

(3) No vessel, or owner, operator or person aboard a vessel issued a Federal limited access American lobster permit may possess any berried female lobster.

(4) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any berried female lobster as specified in paragraph (d) of this section.

(e) *Removal of eggs*. (1) No person may remove, including, but not limited to, the forcible removal and removal by chemicals or other substances or liquids, extruded eggs attached to the abdominal appendages from any female American lobster.

(2) No owner, operator or person aboard a vessel issued a Federal limited access American lobster permit may remove, including but not limited to, the forcible removal, and removal by chemicals or other substances or liquids, extruded eggs attached to the abdominal appendages from any female American lobster.

(3) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster that bears evidence of the removal of extruded eggs from its abdominal appendages as specified in paragraph (e) of this section.

(f) *Spearing*. (1) No person may spear any American lobster in the EEZ.

(2) No person on a vessel issued a Federal lobster license may spear a lobster.

(3) No person may harvest or possess any American lobster which has been speared in the EEZ.

(4) No person on a vessel issued a Federal lobster license may harvest or possess any American lobster which has been speared.

(5) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any American lobster which has been speared.

(g) *V-notched females*. (1) No person may possess any female lobster possessing a zero tolerance v-shaped notch harvested in or from the EEZ Nearshore Management Area 1.

(2) No vessel, owner, or operator issued a Federal limited access American lobster permit fishing in or electing to fish in EEZ Nearshore Management Area 1 may land, harvest, or possess any female lobster possessing a zero tolerance v-shaped notch.

(3) No person may possess any female lobster possessing a standard v-shaped notch harvested in or from the EEZ Nearshore Management Area 2, 4, 5, 6, Outer Cape Area, or the EEZ Offshore Management Area 3.

(4) No vessel, owner, or operator issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 2, 4, 5, 6, Outer Cape Area, or the EEZ Offshore Management Area 3 may land, harvest or possess any female lobster possessing a standard v-shaped notch.

(h) *Jonah crabs*—(1) *Minimum Jonah crab carapace width*. The minimum Jonah crab carapace width for all Jonah crabs harvested in or from the EEZ 4¾ inches (12.065 inches).

(2) *Berried female Jonah crabs*. (i) Any berried female Jonah crab harvested in or from the EEZ must be returned to the sea immediately.

(ii) No vessel, or owner, operator or person aboard a vessel issued a Federal limited access American lobster permit may possess any berried female Jonah crab.

(iii) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any berried female Jonah crab as specified in paragraph (d) of this section.

(3) *Removal of eggs.* (i) No person may remove, including, but not limited to, the forcible removal and removal by chemicals or other substances or liquids, extruded eggs attached to the abdominal appendages from any female Jonah crab.

(ii) No owner, operator or person aboard a vessel issued a Federal limited access American lobster permit may remove, including but not limited to, the forcible removal, and removal by chemicals or other substances or liquids, extruded eggs attached to the abdominal appendages from any female Jonah crab.

(iii) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live Jonah crab that bears evidence of the removal of extruded eggs from its abdominal appendages as specified in paragraph (e) of this section.

[71 FR 13038, Mar. 14, 2006, as amended at 72 FR 56942, Oct. 5, 2007; 74 FR 37551, July 29, 2009; 80 FR 2036, Jan. 15, 2015; 84 FR 61581, Nov. 13, 2019]

§ 697.21 Gear identification and marking, escape vent, maximum trap size, and ghost panel requirements.

(a) *Gear identification and marking.* All lobster gear deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit, and not permanently attached to the vessel must be legibly and indelibly marked with the following:

(1) *Identification.* Effective through April 30, 2000, all lobster gear must be marked with the following code of identification:

(i) A number assigned by the Regional Administrator; or

(ii) Whatever positive identification marking is required by the vessel's home-port state.

(2) *Identification and trap tagging.* Beginning May 1, 2000, lobster gear must be marked with a trap tag (as specified in § 697.19) with the following code of identification:

(i) A number assigned by the Regional Administrator; or

(ii) Whatever positive identification marking is required by the vessel's home-port state.

(b) *Deployment and gear configuration.* In the areas of the EEZ described in paragraph (b)(4) of this section, lobster trap trawls are to be displayed and configured as follows:

(1) Lobster trap trawls of three or fewer traps deployed in the EEZ must be attached to and marked with a single buoy.

(2) With the exception of Maine permitted vessels fishing in Maine Lobster Management Zones that can fish up to ten lobster traps on a trawl with one buoy line, lobster trap trawls consisting of more than three traps must have a radar reflector and a single flag or pennant on the westernmost end (marking the half compass circle from magnetic south through west, to and including north), while the easternmost end (meaning the half compass circle from magnetic north through east, to and including south) of an American lobster trap trawl must be configured with a radar reflector only. Standard tetrahedral corner radar reflectors of at least 8 inches (20.32 cm) (both in height and width, and made from metal) must be employed. (A copy of a diagram showing a standard tetrahedral corner radar reflector is available upon request to the Office of the Greater Atlantic Regional Administrator.)

(3) No American lobster trap trawl shall exceed 1.5 nautical miles (2.78 km) in length, as measured from radar reflector to radar reflector, except in the EEZ Offshore Management Area 3 where the maximum length of a lobster trap trawl shall not exceed 1.75 nautical miles (3.24 km).

(4) Gear deployment and configuration requirements specified in paragraphs (b)(1) through (b)(3) of this section apply in the following areas:

(i) *Gulf of Maine gear area.* Gulf of Maine gear area is defined as all waters of the EEZ north of 42°20′ N. lat. seaward of a line drawn 12 nautical miles (22.2 km) from the baseline of the territorial sea;

(ii) *Georges Bank gear area.* Georges Bank gear area is defined as all waters of the EEZ south of 42°20′ N. lat. and east of 70°00′ W. long. or the outer boundary of the territorial sea, whichever lies farther east;

(iii) *Southern New England gear area.* Southern New England gear area is defined as all waters of the EEZ west of 70°00′ W. long., east of 71°30′ W. long. at a depth greater than 25 fathoms (45.72 m); and

(iv) *Mid-Atlantic gear area.* Mid-Atlantic gear area is defined as all waters of the EEZ, west of 71°30′ W. long. and north of 36°33′ N. lat. at a depth greater than 40 fathoms (73.15 m).

(c) *Escape vents.* (1) All American lobster traps deployed or possessed in the EEZ Nearshore Management Area 1 or the EEZ Nearshore Management Area 6 or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 1 or the EEZ Nearshore Management Area 6, must include either of the following escape vents in the parlor section of the trap, located in such a manner that it will not be blocked or obstructed by any portion of the trap, associated gear, or the sea floor in normal use:

(i) A rectangular portal with an unobstructed opening not less than 1 15/16 inches (4.92 cm) by 5¾ inches (14.61 cm);

(ii) Two circular portals with unobstructed openings not less than 2 7/16 inches (6.19 cm) in diameter.

(2) All American lobster traps deployed or possessed in the EEZ Nearshore Management Area 2, 4, 5, and the Outer Cape Lobster Management Area, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 2, 4, 5, and the Outer Cape Lobster Management Area, must include either of the following escape vents in the parlor section of the trap, located in such a manner that it will not be blocked or obstructed by any portion of the trap, associated gear, or the sea floor in normal use:

(i) A rectangular portal with an unobstructed opening not less than 2 inches (5.08 cm) 5¾ inches (14.61 cm);

(ii) Two circular portals with unobstructed openings not less than 2⅝ inches (6.67 cm) in diameter.

(3) Effective through June 30, 2010, all American lobster traps deployed or possessed in the EEZ Offshore Management Area 3, or deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit fishing in or electing to fish the EEZ Offshore Management Area 3, must include either of the following escape vents in the parlor section of the trap, located in such a manner that it will not be blocked or obstructed by any portion of the trap, associated gear, or the sea floor in normal use:

(i) A rectangular portal with an unobstructed opening not less than 2 inches (5.08 cm) 5¾ inches (14.61 cm);

(ii) Two circular portals with unobstructed openings not less than 2⅝ inches (6.67 cm) in diameter.

(4) Effective July 1, 2010, all American lobster traps deployed or possessed in the EEZ Offshore Management Area 3, or deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Offshore Management Area 3, must include either of the following escape vents in the parlor section of the trap, located in such a manner that it will not be blocked or obstructed by any portion of the trap, associated gear, or the sea floor in normal use:

(i) A rectangular portal with an unobstructed opening not less than 2 1/16 inches (5.24 cm) × 5¾ inches (14.61 cm);

(ii) Two circular portals with unobstructed openings not less than 2 11/16 inches (6.82 cm) in diameter.

(5) The Regional Administrator may, at the request of, or after consultation with, the Commission, approve and specify, through a technical amendment of this final rule, any other type of acceptable escape vent that the Regional Administrator finds to be consistent with paragraph (c) of this section.

(d) *Ghost panel.* (1) Lobster traps not constructed entirely of wood (excluding heading or parlor twine and the escape vent) must contain a ghost panel located in the outer parlor(s) of the trap and not in the bottom of the trap constructed of, or fastened to the trap with, one of the following untreated materials: Wood lath, cotton, hemp, sisal or jute twine not greater than 3/16 inch (0.48 cm) in diameter, or non-

stainless, uncoated ferrous metal not greater than 3/32 inch (0.24 cm) in diameter and covering a rectangular opening not less than 3¾ inches (9.53 cm) by 3¾ inches (9.53 cm). The door of the trap may serve as the ghost panel, if fastened with one of these materials.

(2) The Regional Administrator may, at the request of, or after consultation with, the Commission, approve and specify, through a technical amendment of this rule, any other design, mechanism, material, or other parameter that serves to create an escape portal not less than 3¾ inches (9.53 cm) by 3¾ inches (9.53 cm).

(e) *Maximum trap size*—(1) *EEZ Nearshore Management Area maximum trap size*. (i) Beginning January 5, 2000, American lobster traps deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit as specified under § 697.4, if deployed or possessed by a person or vessel permitted to fish in any EEZ Nearshore Management Area (Area 1, Outer Cape, Area 2, Area 4, Area 5, or Area 6) and the Area 2/3 Overlap, or only in the Area 2/3 Overlap shall not exceed 25,245 cubic inches (413,690 cubic centimeters) in volume, as measured on the outside portion of the trap, exclusive of the runners;

(ii) Beginning May 1, 2003, American lobster traps deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit as specified under § 697.4, if deployed or possessed by a person or vessel permitted to fish in any EEZ Nearshore Management Area (Area 1, Outer Cape, Area 2, Area 4, Area 5, or Area 6) and the Area 2/3 Overlap, or only in the Area 2/3 Overlap, shall not exceed 22,950 cubic inches (376,081 cubic centimeters) in volume as measured on the outside portion of the trap, exclusive of the runners.

(2) *EEZ Offshore Management Area maximum trap size*. (i) Beginning January 5, 2000, American lobster traps deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit as specified under § 697.4, if deployed or possessed by a person or vessel permitted to fish only in EEZ Offshore Management Area 3 or only in EEZ Offshore Management Area 3 and the Area 2/3 Overlap, shall not exceed 33,110 cubic inches (542,573 cubic centimeters) in volume as measured on the outside portion of the trap, exclusive of the runners;

(ii) Beginning May 1, 2003, American lobster traps deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit as specified under § 697.4, if deployed or possessed by a person or vessel permitted to fish only in EEZ Offshore Management Area 3 or only in EEZ Offshore Management Area 3 and the Area 2/3 Overlap, shall not exceed 30,100 cubic inches (493,249 cubic centimeters) in volume as measured on the outside portion of the trap, exclusive of the runners.

(f) *Enforcement action*. Unidentified, unmarked, unvented, improperly vented American lobster traps, or, beginning May 1, 2000, any untagged American lobster traps, or any lobster traps subject to the requirements and specifications of § 697.21, which fail to meet such requirements and specifications may be seized and disposed of in accordance with the provisions of 15 CFR part 904.

(g) *Exemption*. Any vessel issued an Area 5 Trap Waiver permit under § 697.4(p) is exempt from the provisions of this section.

[64 FR 68248, Dec. 6, 1999, as amended at 66 FR 14502, Mar. 13, 2001; 71 FR 13039, Mar. 14, 2006; 72 FR 56942, Oct. 5, 2007; 86 FR 52023, Sept. 17, 2021]

§ 697.22 Exempted fishing.

The Regional Administrator or Director may exempt any person or vessel from the requirements of this part for the conduct of exempted fishing beneficial to the management of the American lobster, weakfish, Atlantic red drum, Atlantic striped bass, Atlantic sturgeon, or horseshoe crab resource or fishery, pursuant to the provisions of § 600.745 of this chapter.

(a) The Regional Administrator or Director may not grant such exemption unless it is determined that the purpose, design, and administration of the exemption is consistent with the

objectives of any applicable stock rebuilding program, the provisions of the Atlantic Coastal Act, the Magnuson-Stevens Act, and other applicable law, and that granting the exemption will not:

(1) Have a detrimental effect on the American lobster, weakfish, Atlantic red drum, Atlantic striped bass, Atlantic sturgeon, or horseshoe crab resource or fishery; or

(2) Create significant enforcement problems.

(b) Each vessel participating in any exempted fishing activity is subject to all provisions of this part, except those explicitly relating to the purpose and nature of the exemption. The exemption will be specified in a letter issued by the Regional Administrator or Director to each vessel participating in the exempted activity. This letter must be carried aboard the vessel seeking the benefit of such exemption. Exempted fishing activity shall be authorized pursuant to and consistent with § 600.745 of this chapter.

(c) The Regional Administrator, or the Director, as appropriate, may authorize a substitute vessel to haul ashore the lobster trap gear of an inoperable or mechanically-impaired federally permitted lobster vessel without having to engage in the exempted fishing process as specified in this section.

[68 FR 56791, Oct. 2, 2003, as amended at 71 FR 13039, Mar. 14, 2006; 73 FR 58061, Oct. 6, 2008]

§ 697.23 Restricted gear areas.

(a) Resolution of lobster gear conflicts with fisheries managed under the Magnuson-Stevens Act shall be done under provisions of § 648.55 of this chapter.

(b) *Restricted Gear Area I*—(1) *Duration*—(i) *Mobile Gear*. From October 1 through June 15 of each fishing year, no fishing vessel with mobile gear or person on a fishing vessel with mobile gear may fish, or be, in Restricted Gear Area I, as defined in paragraph (b)(2) of this section, unless transiting only, provided that all mobile gear is on board the vessel while inside the area.

(ii) *Lobster trap gear*. From June 16 through September 30 of each fishing year, no fishing vessel with lobster trap gear or person on a fishing vessel with lobster trap gear may fish, and no lobster trap gear may be deployed or remain, in Restricted Gear Area I as defined in paragraph (b)(2) of this section.

(2) *Definition of Restricted Gear Area I*. Restricted Gear Area I is defined by straight lines connecting the following points in the order stated:

INSHORE BOUNDARY

Point to	Latitude	Longitude
120	40°06.4′ N.	68°35.8′ W.
69	40°07.9′ N.	68°36.0′ W.
70	40°07.2′ N.	68°38.4′ W.
71	40°06.9′ N.	68°46.5′ W.
72	40°08.7′ N.	68°49.6′ W.
73	40°08.1′ N.	68°51.0′ W.
74	40°05.7′ N.	68°52.4′ W.
75	40°03.6′ N.	68°57.2′ W.
76	40°03.65′ N.	69°00.0′ W.
77	40°04.35′ N.	69°00.5′ W.
78	40°05.2′ N.	69°00.5′ W.
79	40°05.3′ N.	69°01.1′ W.
80	40°08.9′ N.	69°01.75′ W.
81	40°11.0′ N.	69°03.8′ W.
82	40°11.6′ N.	69°05.4′ W.
83	40°10.25′ N.	69°04.4′ W.
84	40°09.75′ N.	69°04.15′ W.
85	40°08.45′ N.	69°03.6′ W.
86	40°05.65′ N.	69°03.55′ W.
87	40°04.1′ N.	69°03.9′ W.
88	40°02.65′ N.	69°05.6′ W.
89	40°02.00′ N.	69°08.35′ W.
90	40°02.65′ N.	69°11.15′ W.
91	40°00.05′ N.	69°14.6′ W.
92	39°57.8′ N.	69°20.35′ W.
93	39°56.65′ N.	69°24.4′ W.
94	39°56.1′ N.	69°26.35′ W.
95	39°56.55′ N.	69°34.1′ W.
96	39°57.85′ N.	69°35.5′ W.
97	40°00.65′ N.	69°36.5′ W.
98	40°00.9′ N.	69°37.3′ W.
99	39°59.15′ N.	69°37.3′ W.
100	39°58.8′ N.	69°38.45′ W.
102	39°56.2′ N.	69°40.2′ W.
103	39°55.75′ N.	69°41.4′ W.
104	39°56.7′ N.	69°53.6′ W.
105	39°57.55′ N.	69°54.05′ W.
106	39°57.4′ N.	69°55.9′ W.
107	39°56.9′ N.	69°57.45′ W.
108	39°58.25′ N.	70°03.0′ W.
110	39°59.2′ N.	70°04.9′ W.
111	40°00.7′ N.	70°08.7′ W.
112	40°03.75′ N.	70°10.15′ W.
115	40°05.2′ N.	70°10.9′ W.
116	40°02.45′ N.	70°14.1′ W.
119	40°02.75′ N.	70°16.1′ W.
to 181	39°59.3′ N.	70°14.0′ W.

OFFSHORE BOUNDARY

Point to	Latitude	Longitude
69	40°07.9′ N.	68°36.0′ W.
120	40°06.4′ N.	68°35.8′ W.
121	40°05.25′ N.	68°39.3′ W.
122	40°05.4′ N.	68°44.5′ W.
123	40°06.0′ N.	68°46.5′ W.
124	40°07.4′ N.	68°49.6′ W.
125	40°05.55′ N.	68°49.8′ W.
126	40°03.9′ N.	68°51.7′ W.

OFFSHORE BOUNDARY—Continued

Point to	Latitude	Longitude
127	40°02.25′ N.	68°55.4′ W.
128	40°02.6′ N.	69°00.0′ W.
129	40°02.75′ N.	69°00.75′ W.
130	40°04.2′ N.	69°01.75′ W.
131	40°06.15′ N.	69°01.95′ W.
132	40°07.25′ N.	69°02.0′ W.
133	40°08.5′ N.	69°02.25′ W.
134	40°09.2′ N.	69°02.95′ W.
135	40°09.75′ N.	69°03.3′ W.
136	40°09.55′ N.	69°03.85′ W.
137	40°08.4′ N.	69°03.4′ W.
138	40°07.2′ N.	69°03.3′ W.
139	40°06.0′ N.	69°03.1′ W.
140	40°05.4′ N.	69°03.05′ W.
141	40°04.8′ N.	69°03.05′ W.
142	40°03.55′ N.	69°03.55′ W.
143	40°01.9′ N.	69°03.95′ W.
144	40°01.0′ N.	69°04.4′ W.
146	39°59.9′ N.	69°06.25′ W.
147	40°00.6′ N.	69°10.05′ W.
148	39°59.25′ N.	69°11.15′ W.
149	39°57.45′ N.	69°16.05′ W.
150	39°56.1′ N.	69°20.1′ W.
151	39°54.6′ N.	69°25.65′ W.
152	39°54.65′ N.	69°26.9′ W.
153	39°54.8′ N.	69°30.95′ W.
154	39°54.35′ N.	69°33.4′ W.
155	39°55.0′ N.	69°34.9′ W.
156	39°56.55′ N.	69°36.0′ W.
157	39°57.95′ N.	69°36.45′ W.
158	39°58.75′ N.	69°36.3′ W.
159	39°58.8′ N.	69°36.95′ W.
160	39°57.95′ N.	69°38.1′ W.
161	39°54.5′ N.	69°38.25′ W.
162	39°53.6′ N.	69°46.5′ W.
163	39°54.7′ N.	69°50.0′ W.
164	39°55.25′ N.	69°51.4′ W.
165	39°55.2′ N.	69°53.1′ W.
166	39°54.85′ N.	69°53.9′ W.
167	39°55.7′ N.	69°54.9′ W.
168	39°56.15′ N.	69°55.35′ W.
169	39°56.05′ N.	69°56.25′ W.
170	39°55.3′ N.	69°57.1′ W.
171	39°54.8′ N.	69°58.6′ W.
172	39°56.05′ N.	70°00.65′ W.
173	39°55.3′ N.	70°02.95′ W.
174	39°56.9′ N.	70°11.3′ W.
175	39°58.9′ N.	70°11.5′ W.
176	39°59.6′ N.	70°11.1′ W.
177	40°01.35′ N.	70°11.2′ W.
178	40°02.6′ N.	70°12.0′ W.
179	40°00.4′ N.	70°12.3′ W.
180	39°59.7′ N.	70°13.05′ W.
181	39°59.3′ N.	70°14.0′ W.
		to
119	40°02.75′ N.	70°16.1′ W.

(c) *Restricted Gear Area II*—(1) *Duration*—(i) *Mobile Gear*. From November 27 through June 15 of each fishing year, no fishing vessel with mobile gear or person on a fishing vessel with mobile gear may fish, or be, in Restricted Gear Area II (as defined in paragraph (c)(2) of this section) unless transiting only, provided that all mobile gear is on board the vessel while inside the area.

(ii) *Lobster trap gear*. From June 16 through November 26 of each fishing year, no fishing vessel with lobster trap gear or person on a fishing vessel with lobster trap gear may fish, and no lobster trap gear may be deployed or remain, in Restricted Gear Area II as defined in paragraph (c)(2) of this section.

(2) *Definition of Restricted Gear Area II*. Restricted Gear Area II is defined by straight lines connecting the following points in the order stated:

INSHORE BOUNDARY

Point to	Latitude	Longitude
1	39°59.3′ N.	70°14.0′ W.
49	40°02.75′ N.	70°16.1′ W.
50	40°00.7′ N.	70°18.6′ W.
51	39°59.8′ N.	70°21.75′ W.
52	39°59.75′ N.	70°25.5′ W.
53	40°03.85′ N.	70°28.75′ W.
54	40°00.55′ N.	70°32.1′ W.
55	39°59.15′ N.	70°34.45′ W.
56	39°58.9′ N.	70°38.65′ W.
57	40°00.1′ N.	70°45.1′ W.
58	40°00.5′ N.	70°57.6′ W.
59	40°02.0′ N.	71°01.3′ W.
60	39°59.3′ N.	71°18.4′ W.
61	40°00.7′ N.	71°19.8′ W.
62	39°57.5′ N.	71°20.6′ W.
63	39°53.1′ N.	71°36.1′ W.
64	39°52.6′ N.	71°40.35′ W.
65	39°53.1′ N.	71°42.7 W.
66	39°46.95′ N.	71°49.0′ W.
67	39°41.15′ N.	71°57.1′ W.
68	39°35.45′ N.	72°02.0′ W.
69	39°32.65′ N.	72°06.1′ W.
70	39°29.75′ N.	72°09.8′ W.
to 48	39°29.0′ N.	72°09.25′ W.

OFFSHORE BOUNDARY

Point to	Latitude	Longitude
49	40°02.75′ N.	70°16.1′ W.
1	39°59.3′ N.	70°14.0′ W.
2	39°58.85′ N.	70°15.2′ W.
3	39°59.3′ N.	70°18.4′ W.
4	39°58.1′ N.	70°19.4′ W.
5	39°57.0′ N.	70°19.85′ W.
6	39°57.55′ N.	70°21.25′ W.
7	39°57.5′ N.	70°22.8′ W.
8	39°57.1′ N.	70°25.4′ W.
9	39°57.65′ N.	70°27.05′ W.
10	39°58.58′ N.	70°27.7′ W.
11	40°00.65′ N.	70°28.8′ W.
12	40°02.2′ N.	70°29.15′ W.
13	40°01.0′ N.	70°30.2′ W.
14	39°58.58′ N.	70°31.85′ W.
15	39°57.05′ N.	70°34.35′ W.
16	39°56.42′ N.	70°36.8′ W.
21	39°58.15′ N.	70°48.0′ W.
24	39°58.3′ N.	70°51.1′ W.
25	39°58.1′ N.	70°52.25′ W.
26	39°58.05′ N.	70°53.55′ W.
27	39°58.4′ N.	70°59.6′ W.
28	39°59.8′ N.	71°01.05′ W.
29	39°58.2′ N.	71°05.85′ W.
30	39°57.45′ N.	71°12.15′ W.
31	39°57.2′ N.	71°15.0′ W.
32	39°56.3′ N.	71°18.95′ W.

OFFSHORE BOUNDARY—Continued

Point to	Latitude	Longitude
33	39°51.4′ N.	71°36.1′ W.
34	39°51.75′ N.	71°41.5′ W.
35	39°50.05′ N.	71°42.5′ W.
36	39°50.0′ N.	71°45.0′ W.
37	39°48.95′ N.	71°46.05′ W.
38	39°46.6′ N.	71°46.1′ W.
39	39°43.5′ N.	71°49.4′ W.
40	39°41.3′ N.	71°55.0′ W.
41	39°39.0′ N.	71°55.6′ W.
42	39°36.72′ N.	71°58.25′ W.
43	39°35.15′ N.	71°58.55′ W.
44	39°34.5′ N.	72°00.75′ W.
45	39°32.2′ N.	72°02.25′ W.
46	39°32.15′ N.	72°04.1′ W.
47	39°28.5′ N.	72°06.5′ W.
48	39°29.0′ N.	72°09.25′ W.
to 70	39°29.75′ N.	72°09.8′ W.

(d) *Restricted Gear Area III*—(1) *Duration*—(i) *Mobile Gear*. From June 16 through November 26 of each fishing year, no fishing vessel with mobile gear or person on a fishing vessel with mobile gear may fish, or be, in Restricted Gear Area III (as defined in paragraph (d)(2) of this section) unless transiting only, provided that all mobile gear is on board the vessel while inside the area.

(ii) *Lobster trap gear*. From January 1 through April 30 of each fishing year, no fishing vessel with lobster trap gear or person on a fishing vessel with lobster trap gear may fish, and no lobster trap gear may be deployed or remain, in Restricted Gear Area III as defined in paragraph (d)(2) of this section.

(2) *Definition of Restricted Gear Area III*. Restricted Gear Area III is defined by straight lines connecting the following points in the order stated:

INSHORE BOUNDARY

Point to	Latitude	Longitude
49	40°02.75′ N.	70°16.1′ W.
182	40°05.6′ N.	70°17.7′ W.
183	40°06.5′ N.	70°40.05′ W.
184	40°11.05′ N.	70°45.8′ W.
185	40°12.75′ N.	70°55.05′ W.
186	40°10.7′ N.	71°10.25′ W.
187	39°57.9′ N.	71°28.7′ W.
188	39°55.6′ N.	71°41.2′ W.
189	39°55.85′ N.	71°45.0′ W.
190	39°53.75′ N.	71°52.25′ W.
191	39°47.2′ N.	72°01.6′ W.
192	39°33.65′ N.	72°15.0′ W.
to 70	39°29.75′ N.	72°09.8′ W.

OFFSHORE BOUNDARY

Point to	Latitude	Longitude
182	40°05.6′ N.	70°17.7′ W.

OFFSHORE BOUNDARY—Continued

Point to	Latitude	Longitude
49	40°02.75′ N.	70°16.1′ W.
50	40°00.7′ N.	70°18.6′ W.
51	39°59.8′ N.	70°21.75′ W.
52	39°59.75′ N.	70°25.5′ W.
53	40°03.85′ N.	70°28.75′ W.
54	40°00.55′ N.	70°32.1′ W.
55	39°59.15′ N.	70°34.45′ W.
56	39°58.9′ N.	70°38.6′ W.
57	40°00.1′ N.	70°45.1′ W.
58	40°00.5′ N.	70°57.6′ W.
59	40°02.0′ N.	71°01.3′ W.
60	39°59.3′ N.	71°18.4′ W.
61	40°00.7′ N.	71°19.8′ W.
62	39°57.5′ N.	71°20.6′ W.
63	39°53.1′ N.	71°36.1′ W.
64	39°52.6′ N.	71°40.35′ W.
65	39°53.1′ N.	71°42.7′ W.
66	39°46.95′ N.	71°49.0′ W.
67	39°41.15′ N.	71°57.1′ W.
68	39°35.45′ N.	72°02.0 W.
69	39°32.65′ N.	72°06.1′ W.
70	39°29.75′ N.	72°09.8′ W.
to 192	39°33.65′ N.	72°15.0′ W.

(e) *Restricted Gear Area IV*—(1) *Duration for Mobile Gear*. From June 16 through September 30 of each fishing year, no fishing vessel with mobile gear or person on a fishing vessel with mobile gear may fish, or be, in Restricted Gear Area IV (as defined in paragraph (e)(2) of this section) unless transiting only, provided that all mobile gear is on board the vessel while inside the area.

(2) *Definition of Restricted Gear Area IV*. Restricted Gear Area IV is defined by straight lines connecting the following points in the order stated:

INSHORE BOUNDARY

Point	Latitude	Longitude
193	40°13.60′ N.	68°40.60′ W.
194	40°11.60′ N.	68°53.00′ W.
195	40°14.00′ N.	69°04.70′ W.
196	40°14.30′ N.	69°05.80′ W.
197	40°05.50′ N.	69°09.00′ W.
198	39°57.30′ N.	69°25.10′ W.
199	40°00.40′ N.	69°35.20′ W.
200	40°01.70′ N.	69°35.40′ W.
201	40°01.70′ N.	69°37.40′ W.
202	40°00.50′ N.	69°38.80′ W.
203	40°01.30′ N.	69°45.00′ W.
204	40°02.10′ N.	70°45.00′ W.
205	40°07.60′ N.	70°04.50′ W.
206	40°07.80′ N.	70°09.20′ W.
to 119	40°02.75′ N.	70°16.1′ W.

OFFSHORE BOUNDARY

Point to	Latitude	Longitude
193	40°13.60′ N.	68°40.60′ W.
69	40°07.90′ N.	68°36.00′ W.
70	40°07.20′ N.	68°38.40′ W.

OFFSHORE BOUNDARY—Continued

Point to	Latitude	Longitude
71	40°06.90′ N.	68°46.50′ W.
72	40°08.70′ N.	68°49.60′ W.
73	40°08.10′ N.	68°51.00′ W.
74	40°05.70′ N.	68°52.40′ W.
75	40°03.60′ N.	68°57.20′ W.
76	40°03.65′ N.	69°00.00′ W.
77	40°04.35′ N.	69°00.50′ W.
78	40°05.20′ N.	69°00.50′ W.
79	40°05.30′ N.	69°01.10′ W.
80	40°08.90′ N.	69°01.75′ W.
81	40°11.00′ N.	69°03.80′ W.
82	40°11.60′ N.	69°05.40′ W.
83	40°10.25′ N.	69°04.40′ W.
84	40°09.75′ N.	69°04.15′ W.
85	40°08.45′ N.	69°03.60′ W.
86	40°05.65′ N.	69°03.55′ W.
87	40°04.10′ N.	69°03.90′ W.
88	40°02.65′ N.	69°05.60′ W.
89	40°02.00′ N.	69°08.35′ W.
90	40°02.65′ N.	69°11.15′ W.
91	40°00.05′ N.	69°14.60′ W.
92	39°57.80′ N.	69°20.35′ W.
93	39°56.75′ N.	69°24.40′ W.
94	39°56.50′ N.	69°26.35′ W.
95	39°56.80′ N.	69°34.10′ W.
96	39°57.85′ N.	69°35.05′ W.
97	40°00.65′ N.	69°36.50′ W.
98	40°00.90′ N.	69°37.30′ W.
99	39°59.15 N.	69°37.30′ W.
100	39°58.80′ N.	69°38.45′ W.
102	39°56.20′ N.	69°40.20′ W.
103	39°55.75′ N.	69°41.40′ W.
104	39°56.70′ N.	69°53.60′ W.
105	39°57.55′ N.	69°54.05′ W.
106	39°57.40′ N.	69°55.90′ W.
107	39°56.90′ N.	69°57.45′ W.
108	39°58.25′ N.	70°03.00′ W.
110	39°59.20′ N.	70°04.90′ W.
111	40°00.70′ N.	70°08.70′ W.
112	40°03.75′ N.	70°10.15′ W.
115	40°05.20′ N.	70°10.90′ W.
116	40°02.45′ N.	70°14.1′ W.
119	40°02.75′ N.	70°16.1′ W.
to 206	40°07.80′ N.	70°09.20′ W.

(f) *Carl N. Shuster Jr. Horseshoe Crab Reserve.* (1) No vessel or person may fish for horseshoe crabs in the area known as the Carl N. Shuster Jr. Horseshoe Crab Reserve bounded as follows:

(i) On the north by a straight line connecting points 39°14.6′ N. lat., 74°30.9′ W. long. (3 nm off of Peck Beach, NJ) and 39°14.6′ N lat., 74°22.5′ W. long.

(ii) On the east by a straight line connecting points 39°14.6′ N. lat., 74°22.5′ W. long. and 38°22.0′ N. lat., 74°22.5′ W. long.

(iii) On the south by a straight line connecting points 38°22.0′ N. lat., 74°22.5′ W. long. and 38°22.0′ N. lat., 75°00.4′ W. long. (3 nm off of Ocean City, MD).

(iv) On the west by the outermost boundary of state waters.

(2) No vessel or person on a vessel with a trawl or dredge may possess horseshoe crabs in the area described in paragraph (f)(1) of this section.

(3) Horseshoe crabs caught in the area described in paragraph (f)(1) of this section must be returned immediately to the water without further harm.

[64 FR 68248, Dec. 6, 1999, as amended at 66 FR 8911, Feb. 5, 2001]

§ 697.24 Exempted waters for Maine State American lobster permits.

A person or vessel holding a valid permit or license issued by the State of Maine that lawfully permits that person to engage in commercial fishing for American lobster may, with the approval of the State of Maine, engage in commercial fishing for American lobsters in the following areas designated as EEZ, if such fishing is conducted in such waters in accordance with all other applicable Federal and State regulations:

(a) West of Monhegan Island in the area located north of the line 43.5 deg.42′08″ N. lat., 69.5 deg.34′18″ W. long., and 43.5 deg.42′15″ N. lat., 69.5 deg.19′18″ W. long.

(b) East of Monhegan Island in the area located west of the line 43.5 deg.44′00″ N. lat., 69.5 deg.15′05″ W. long., and 43.5 deg.48′10″ N. lat., 69.5 deg.08′01″ W. long.

(c) South of Vinalhaven in the area located west of the line 43.5 deg.521″ N. lat., 68.5 deg.39′54″ W. long., and 43.5 deg.48′10″ N. lat., 67.5 deg.40′33″ W. long.

(d) South of Boris Bubert Island in the area located north of the line 44.5 deg.19′15″ N. lat, 67.5 deg.49′30″ W. long. and 44.5 deg.23′45″ N. lat., 67.5 deg.40′33″ W. long.

§ 697.25 Adjustment to management measures.

(a) On or before February 15, 2001, and annually on or before February 15, thereafter, NMFS may, after consultation with the Commission, publish a proposed rule to implement additional or different management measures for Federal waters in any of the management areas specified in § 697.18 if it is

determined such measures are necessary to achieve or be compatible with ISFMP objectives, or the ISFMP, to be consistent with the national standards of the Magnuson-Stevens Act, or to meet overfishing and rebuilding requirements of the Magnuson-Stevens Act. These management measures may include, but are not limited to, continued reductions of fishing effort or numbers of traps, increases in minimum or decreases in maximum size, increases in the escape vent size, decreases in the lobster trap size, closed areas, closed seasons, landing limits, trip limits and other management area-specific measures as may be identified and recommended by the Commission prior to December 1 of the previous year. After considering public comment, NMFS may publish a final rule to implement any such measures.

(b) *Conservation equivalency measures.* The Regional Administrator may consider future recommendations for modifications to Federal regulations based on conservation equivalency for American lobster that are formally submitted to him/her in writing by the ASMFC. These recommendations must, for consideration by the Regional Administrator, contain the following supporting information:

(1) A description of how Federal regulations should be modified;

(2) An explanation of how the recommended measure(s) would achieve a level of conservation benefits for the resource equivalent to the applicable Federal regulations;

(3) An explanation of how Federal implementation of the conservation equivalent measure(s) would achieve ISFMP objectives, be consistent with the Magnuson-Stevens Act national standards, and be compatible with the effective implementation of the ISFMP; and

(4) A detailed analysis of the biological, economic, and social impacts of the recommended conservation equivalent measure(s). After considering the recommendation and the necessary supporting information, NMFS may issue a proposed rule to implement the conservation equivalent measures. After considering public comment, NMFS may issue a final rule to implement such measures.

(c) At any other time, NMFS may publish a proposed rule, after consultation with the Commission, to implement any additional or different management measures in order to achieve ISFMP objectives or be compatible with Commission measures or recommendations or to be consistent with the national standards of the Magnuson-Stevens Act, or to meet overfishing and rebuilding requirements of the Magnuson-Stevens Act. After considering public comments, NMFS may publish a final rule to implement any such measures.

(d) Notwithstanding other provisions of this part, NMFS may publish any additional or different management measures as described herein without prior public comment, pursuant to and consistent with 5 U.S.C. 553.

[64 FR 68248, Dec. 6, 1999, as amended at 68 FR 14931, Mar. 27, 2003]

§ 697.26 EEZ Nearshore Management Area 5 Trap Waiver.

(a) *Eligibility.* Vessels eligible for limited access lobster permits under § 697.4(a)(1) and limited access black sea bass permits under § 648.4(a)(7)(i) of this chapter may request an Area 5 Trap Waiver Permit, under the procedures described in § 697.4.

(b) *Restrictions.* A vessel issued an Area 5 Trap Waiver permit under this section may engage in trap fishing for black sea bass in EEZ Nearshore Management Area 5 and is exempt from the provisions of § 697.19 and § 697.21 if such fishing is conducted in accordance with all other provisions of this section and all other Federal and state laws and regulations applicable to lobster and black sea bass fishing.

(1) A vessel issued a permit under this section may retain, land and sell an incidental allowance of lobster equal to the non-trap harvest restrictions specified in § 697.17(a).

(2) A vessel issued a permit under this section may not possess on board or deploy bait or baited traps.

[66 FR 14502, Mar. 13, 2001]

§ 697.27 Trap transferability.

(a) Federal lobster permit holders may elect to participate in a program

that allows them to transfer trap allocation to other participating Federal lobster permit holders, subject to the following conditions:

(1) *Participation requirements.* To be eligible to participate in the Federal Trap Transfer Program:

(i) An individual must possess a valid Federal lobster permit; and

(ii) If the individual is dually permitted with both Federal and state lobster licenses, the individual must agree to synchronize his or her state and Federal allocations in each area for which there is an allocation. This synchronization shall be set at the lower of the state or Federal allocation in each area. This provision does not apply to Areas 1 and 6 as neither area have a Federal trap allocation.

(iii) Individuals participating in the Lobster Management Area 1 trap fishery may participate in the Trap Transfer Program, but doing so may result in forfeiture of future participation in the Area 1 trap fishery as follows:

(A) Area 1 fishers may accept, receive, or purchase trap allocations up to their Area 1 trap limit identified in § 697.19 and fish with that allocation both in Area 1 and the other area or areas subject to the restrictive provisions of § 697.3 and § 697.4(a)(7)(v).

(B) Area 1 fishers with trap allocations in Areas 2, 3, and/or the Outer Cape Area may transfer away or sell any portion of that allocation, but, in so doing, the Area 1 fisher shall forfeit any right to fish in Area 1 with traps in the future.

(2) *Trap allocation transfers.* Trap allocation transfers will be allowed subject to the following conditions:

(i) *State/Federal alignment.* Participants with dual state and Federal permits may participate in the Trap Transfer Program each year, but their state and Federal trap allocations must be aligned as required in paragraph (a)(1)(ii) of this section at the start and close of each trap transfer period.

(ii) *Eligible traps.* Buyers and sellers may only transfer trap allocations from Lobster Management Areas 2, 3, and the Outer Cape Area.

(iii) *Debiting remaining allocation.* The permit holder transferring trap allocations shall have his or her remaining Federal trap allocation in all Lobster Conservation Management Areas debited by the total amount of allocation transferred. This provision does not apply to Areas 1 and 6, as neither area have a Federal trap allocation. A seller may not transfer a trap allocation if, after the transfer is debited, the allocation in any remaining Lobster Conservation Management Area would be below zero.

(iv) *Crediting allocations for partial trap transfers.* In a partial trap transfer, where the transfer is occurring independent of a Federal lobster permit transfer, the permit holder receiving the transferred allocation shall have his or her allocation credited as follows:

(A) *Trap retirement.* All permit holders receiving trap allocation transfers shall retire 10 percent of that transferred allocation from the fishery for conservation. This provision does not pertain to full business transfers where the transfer includes the transfer of a Federal lobster permit and all traps associated with that permit.

(B) *Multi-area trap allocation history.* To the extent that transferred trap allocations have been granted access into multiple management areas, the recipient may elect any and all management areas for which the traps have demonstrated history.

(C) All trap allocation transfers are subject to whatever trap allocation cap exists in the involved lobster management area. No participant may receive a transfer that, when combined with existing allocation, would put that permit holder's trap allocation above the involved trap caps in § 697.19.

(v) In all allocation transfers, the buyer's and seller's initial allocations shall be calculated as being the allocation that the buyer and seller would otherwise have on the last day of the fishing year.

(vi) Trap allocations may only be transferred in 10-trap increments.

(vii) Trap allocation transfers must be approved by the Regional Administrator before becoming effective. The Regional Administrator shall approve a transfer upon a showing by the involved permit holders of the following:

(A) The proposed transfer is documented in a legible written agreement

signed and dated by the involved permit holders. The agreement must identify the amount of allocation being transferred as well as the Federal lobster permit number from which the allocation is being taken and the Federal lobster permit number that is receiving the allocation. If the transfer involves parties who also possess a state lobster license, the parties must identify the state lobster license number and state of issuance.

(B) That the transferring permit holder has sufficient allocation to transfer and that the permit holder's post-transfer allocation is clear and agreed to. In determining whether seller has sufficient allocation to transfer, the Regional Administrator will calculate the seller's pre-transfer and post-transfer allocations. The pre-transfer allocation shall be the amount of the seller's allocation as it would exist on the last day of the fishing year. The post-transfer allocation shall be the pre-transfer allocation minus the total amount of traps being transferred prior to application of the 10-percent trap retirement set forth in paragraph (a)(2)(iv)(A) of this section.

(C) That the permit holder receiving the transfer has sufficient room under any applicable trap cap identified in § 697.19 to receive the transferred allocation and that the recipient's post-transfer allocation is clear and agreed to. In determining whether the buyer has sufficient room to receive allocation, the Regional Administrator will calculate the buyer's pre-transfer and post-transfer allocations. The pre-transfer allocation shall be the amount of the buyer's allocation as it would exist on the last day of the fishing year. The post-transfer allocation shall be the pre-transfer allocation plus the total amount of traps being transferred minus 10 percent of the transferred allocation that shall be retired pursuant to the provisions of (a)(2)(iv)(A) of this section.

(3) *Trap transfer period*. The timing of the Trap Transfer Program is as follows:

(i) Federal lobster permit holders must declare their election into the program in writing to the NMFS Permit Office. Electing into the Trap Transfer Program is a one-time declaration, and the permit holder may participate in the program in later years without needing to re-elect into the program year after year. Federal permit holders may elect into the program at any time in any year, but their ability to actively transfer traps will be limited by the timing restrictions identified in paragraphs (a)(3)(ii) and (iii) of this section.

(ii) All trap transfer requests must be made in writing before September 30 each year, and if approved, will become effective at the start of the next fishing year. The Regional Administrator shall attempt to review, reconcile and notify the transferring parties of the disposition of the requested transfer before December 31 each year. Transfers are not valid until approved by the Regional Administrator.

(iii) *Year 1*. Notwithstanding paragraph (a)(3)(ii) of this section, the timing of the first year of the Trap Transfer Program is linked to the completion of the Commission's Trap Tag Database. NMFS will analyze the Trap Tag Database and when NMFS finds that the database is capable of tracking transfers for multiple jurisdictions, then NMFS will file a notice alerting the public of the date of when the Trap Transfer Program will begin.

(b) [Reserved]

[79 FR 19026, Apr. 7, 2014]

§ 697.28 Atlantic migratory group cobia.

(a) *Fishing year*. The fishing year for Atlantic migratory cobia is January 1 through December 31.

(b) *Authorized gear*. Subject to the prohibitions on gear/methods in § 697.7, the following are the only fishing gears that may be used for cobia in the EEZ of the Atlantic migratory group—automatic reel, bandit gear, handline, rod and reel, pelagic longline, and spear (including powerheads).

(c) *Size limits*. All size limits in this section are minimum size limits. Atlantic migratory group cobia not in compliance with its size limit, as specified in this section, in or from the EEZ, may not be possessed, sold, or purchased. A fish not in compliance with its size limit must be released immediately with a minimum of harm. The operator of a vessel that fishes in the

EEZ is responsible for ensuring that fish on board are in compliance with the size limits specified in this section. If a size limit in paragraph (c)(1) or (2) of this section differs from a size limit from an Atlantic state(s), then any vessel operator in the EEZ must comply with the more restrictive requirement or measure when in the waters off that state.

(1) 33 inches (83.8), fork length, for cobia that are sold (commercial sector).

(2) 36 inches (91.4 cm), fork length, for cobia that are not sold (recreational sector).

(d) *Landing fish intact*. Atlantic migratory group cobia in the EEZ, must be maintained with head and fins intact. Such fish may be eviscerated, gilled, and scaled, but must otherwise be maintained in a whole condition. The operator of a vessel that fishes in the EEZ is responsible for ensuring that fish on that vessel in the EEZ are maintained intact and, if taken from the EEZ, are maintained intact through offloading ashore, as specified in this section.

(e) *Bag and possession limits*. If a bag and/or possession limit in paragraph (e)(1) or (2) of this section differs from a bag and/or possession limit from an Atlantic state(s), then any vessel operator in the EEZ must comply with the more restrictive requirement or measure when in the waters off that state.

(1) *Recreational bag and possession limits*. Atlantic migratory group cobia that are not sold (recreational sector)—1, not to exceed 6 fish per vessel per day.

(2) *Possession limits*. A person who is on a trip that spans more than 24 hours may possess no more than two daily bag limits, provided such trip is on a vessel that is operating as a charter vessel or headboat, the vessel has two licensed operators aboard, and each passenger is issued and has in possession a receipt issued on behalf of the vessel that verifies the length of the trip.

(f) *Quotas*. All weights are in round and eviscerated weight combined.

(1) *Commercial quota*. The following quota applies to persons who fish for cobia for commercial purposes—73,116 lb (33,165 kg). If the sum of the cobia landings that are sold, as estimated by the ASMFC, reach or are projected to reach the quota specified in this paragraph (f)(1), then the ASMFC will notify NMFS of the need for a commercial closure of the EEZ. NMFS will then subsequently file a notification with the Office of the Federal Register to prohibit (for commercial purposes) the harvest, sale, trade, barter, or purchase of cobia for the remainder of the fishing year.

(2) *Restrictions applicable after a quota closure*. (i) If the recreational sector for Atlantic migratory group cobia is open, the bag and possession specified in paragraph (e) of this section apply to all harvest or possession in or from the EEZ. If the recreational sector is closed, all applicable harvest or possession in or from the EEZ is prohibited.

(ii) The sale or purchase of Atlantic migratory group cobia in or from the EEZ during a closure is prohibited. The prohibition on the sale or purchase during a closure does not apply to Atlantic migratory group cobia that were harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor.

(g) *Commercial trip limits*. Commercial trip limits are limits on the amount of Atlantic migratory group cobia that may be possessed on board or landed, purchased, or sold from a vessel per day. A person who fishes in the EEZ may not combine a trip limit specified in this section with any trip or possession limit applicable to state waters. Atlantic migratory group cobia specified in this section taken in the EEZ may not be transferred at sea, regardless of where such transfer takes place, and such species may not be transferred in the EEZ. Commercial trip limits apply as follows—Until the commercial quota specified in paragraph (f)(1) of this section is reached, 2 fish per person, not to exceed 6 fish per vessel.

[84 FR 4738, Feb. 19, 2019, as amended at 86 FR 61717, Nov. 8, 2021]

TABLE 1 TO PART 697—AREA 3 TRAP REDUCTION SCHEDULE

HISTORIC Trap Allocation	Year 2006 Trap Allocation	Year 1 - 5% Trap Reduction Effective November 2007	Year 2 - 5% Trap Reduction Effective July 1, 2008	Year 3- 2.5% Trap Reduction Effective July 1, 2009	Year 4 - 2.5% Trap Reduction Effective July 1, 2010
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
200	200	190	181	176	172
240	240	228	217	211	206
250	250	238	226	220	214
264	264	251	238	232	226
300	300	285	271	264	257
320	320	304	289	282	275
325	325	309	293	286	279
360	360	342	325	317	309
370	370	352	334	326	317
400	400	380	361	352	343
450	450	428	406	396	386
480	480	456	433	422	412
500	500	475	451	440	429
590	590	561	532	519	506
600	600	570	542	528	515
700	700	665	632	616	601
720	720	684	650	634	618
768	768	730	693	676	659
800	800	760	722	704	686
883	883	839	797	777	758
900	900	855	812	792	772
930	930	884	839	818	798
1000	1000	950	903	880	858
1004	1004	954	906	883	861
1020	1020	969	921	898	875
1100	1100	1045	993	968	944
1150	1150	1093	1038	1012	987
1170	1170	1112	1056	1030	1004
1200-1299	1200	1140	1083	1056	1030
1300-1399	1200	1140	1083	1056	1030
1400-1499	1200	1140	1083	1056	1030
1500-1599	1276	1212	1152	1123	1095
1600-1699	1352	1284	1220	1190	1160
1700-1799	1417	1346	1279	1247	1216
1800-1899	1482	1408	1338	1304	1271

HISTORIC Trap Allocation	Year 2006 Trap Allocation	Year 1 - 5% Trap Reduction Effective November 2007	Year 2 - 5% Trap Reduction Effective July 1, 2008	Year 3- 2.5% Trap Reduction Effective July 1, 2009	Year 4 - 2.5% Trap Reduction Effective July 1, 2010
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
1900-1999	1549	1472	1398	1363	1329
2000-2099	1616	1535	1458	1422	1386
2100-2199	1674	1590	1511	1473	1436
2200-2299	1732	1645	1563	1524	1486
2300-2399	1789	1700	1615	1574	1535
2400-2499	1845	1845	1753	1623	1583
2500-2599	1897	1802	1712	1669	1628
2600-2699	1949	1852	1759	1715	1672
2700-2799	2000	1900	1805	1760	1716
2800-2899	2050	1948	1850	1804	1759
2900-2999	2100	1995	1895	1848	1802
3000-3099	2150	2043	1940	1892	1845
3100-3199	2209	2099	1994	1944	1895
>3199	2267	2154	2046	1995	1945

[72 FR 56943, Oct. 5, 2007]

PARTS 698–699 [RESERVED]