

Fishery Conservation and Management

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whole live American lobster that is smaller than the minimum size specified in paragraph (b) in this section.

(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 females.* (1) Any berried female harvested in or from the EEZ must be returned to the sea immediately.

(2) Any berried female harvested or possessed by a vessel issued a Federal limited access American lobster permit must be returned to the 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.

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

§ 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) 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 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.

(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, 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, 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 $1\frac{5}{16}$ inches (4.92 cm) by $5\frac{3}{4}$ inches (14.61 cm);

(ii) Two circular portals with unobstructed openings not less than $2\frac{7}{16}$ inches (6.19 cm) in diameter.

(2) 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 paragraphs (c)(1)(i) and (ii) 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 $\frac{3}{16}$ inch (0.48 cm) in diameter, or non-stainless, uncoated ferrous metal not greater than $\frac{3}{32}$ inch (0.24 cm) in diameter and covering a rectangular opening not less than $3\frac{3}{4}$ inches (9.53 cm) by $3\frac{3}{4}$ 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 $3\frac{3}{4}$ inches (9.53 cm) by $3\frac{3}{4}$ inches (9.53 cm).

(e) *Maximum trap size.* (1) *EEZ Near-shore 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

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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, begin-

ning 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 part 219 of this title.

(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]

§ 697.22 Exempted fishing.

The Regional Administrator 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 striped bass, Atlantic sturgeon, or horseshoe crab resource or fishery, pursuant to the provisions of § 600.745 of this chapter.

(a) The Regional Administrator 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 ACFCMA, the Magnuson-Stevens Act, and other applicable law, and that granting the exemption will not:

(1) Have a detrimental effect on the American lobster, Atlantic striped bass, weakfish, 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 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.

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