

§ 697.8

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.

(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 American lobsters, V-notched female American lobsters, American lobsters that are smaller than the minimum size 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 ex-

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clusively 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).

[64 FR 68248, Dec. 6, 1999, as amended at 66 FR 8911, Feb. 5, 2001; 66 FR 14502, Mar. 13, 2001]

§ 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 § 600.504 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.

§ 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 an 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.