



Atlantic States Marine Fisheries Commission

1050 N. Highland Street • Suite 200A-N • Arlington, VA 22201
703.842.0740 • 703.842.0741 (fax) • www.asmf.org

MEMORANDUM

December 19, 2012

To: American Lobster Management Board
From: ASMFC Law Enforcement Committee
Subject: V-notch regulations

In response to discussions during the American Lobster Management Board (Board) meeting of October 22, 2012 the Law Enforcement Committee (LEC) of the Atlantic States Marine Fisheries Commission (ASMFC) reviewed its position regarding v-notch regulations for American lobster. The LEC commented previously on this issue in October 2004, and again in August 2006. Copies of these memoranda are appended to this document. The LEC discussed the issue at length during its meeting in Philadelphia on October 22, 2012 and during a phone conference on December 17, 2012. Following is updated guidance concerning v-notch regulations for American lobster.

The LEC believes that a zero tolerance v-notch standard is enforceable and in fact that any measurement standard, whether zero, one eighth inch or one quarter inch, is equally enforceable provided that adequate guidance is given to officers in the field to minimize subjective application of measurement criteria in determining a violation. States have mechanisms to provide such guidance and training to officers in the field.

The LEC has stated previously, and continues to strongly assert, that the lack of consistency in v-notch sizes within and among lobster conservation management areas is the greatest impediment to successful enforcement and compliance of v-notch regulations.

The multiple standards for waters off of Massachusetts exemplify the problem. There currently are 3 different notch-marking requirements, including two different sizes for notches within the Outer Cape management area. The lack of a consistent v-notch requirement in waters off of that state hinders the successful prosecution of violations.

The LEC reiterates the following statement from its August 2006 memorandum:

The LEC again requests that where possible, efforts should be made to have consistent definitions, sizes and regulations regarding the taking and possessing of American lobster. This will allow for a higher degree of enforceability at sea, dockside, and in wholesale and retail markets.

STATE AND FEDERAL REGULATIONS APPLICABLE TO V-NOTCHING AMERICAN LOBSTER
Compiled December, 2012

MAINE

25.15 V-notching Lobsters

1. Mandatory V-notching Requirement

All lobster fishers are required to v-notch all egg bearing female lobsters caught in the process of lobstering.

2. Zero Tolerance of V-notching

V-notched female lobster means any female lobster bearing a v-shaped notch of any size in the flipper next to and to the right of the center flipper as viewed from the rear of the female lobster. V-notched female lobster also means any female, which is mutilated in a manner, which could hide, obscure or obliterate such a mark. The flipper right of the center flipper will be examined when the underside of the lobster is down and its tail is toward the person making the determination.

NEW HAMPSHIRE

Fis 602.11 Lobsters.

(a) No person shall possess any V-notched female American lobster. For the purposes of this paragraph, V-notched lobster means any female lobster marked with a V-notch in the right flipper next to the middle flipper or any female lobster which is mutilated in a manner which could hide or obliterate the mark. The right flipper shall be determined when the underside of the lobster is down and its tail toward the person making the determination.

(b) No person shall be considered in violation of paragraph (a) if any such lobster is immediately returned to the natural habitat.

(c) All commercial and limited commercial lobster licensees shall immediately V-notch and return to the water, all egg-bearing female lobster captured in the process of taking lobster. For the purpose of this paragraph, a V-notch is a "V" shaped notch, cut by means of a sharp bladed instrument, of at least 1/4 inch and not greater than 1/2 inch in depth and tapering to a sharp point in the flipper next to and to the right of the center flipper as viewed from the rear of the female lobster when the underside of the lobster is down.

(d) Any person who has more than one area designated on their federal lobster permit shall comply with the most restrictive measures regardless of where the lobsters were taken.

MASSACHUSETTS

3) V-notched Female Lobster Protection

(a) Purpose: The purpose of 322 CMR 6.02 (3) is to protect certain female lobsters from harvest that bear a v-shaped notch or the remnant of a healed notch on a specific flipper, evidence that the lobster has been marked and released for conservation purposes. Area-specific v-notch standards regarding the possession of previously notched lobsters are created by this regulation consistent with the area-specific components of the interstate management plan. For purposes of complying with 322 CMR 6.02(3) commercial fishing areas and non-commercial fishing areas are those referenced in 322 CMR 6.33 and 322 CMR 6.01, respectively.

(b) V-notching Methods. Any commercial fishermen required by 322 CMR or authorized to mark lobsters with a v-shaped notch shall carve a v-shaped notch in the base of a specific flipper by means of a sharp bladed instrument, at least ¼ inch and not greater than a ½ inch in depth and tapering to a sharp point. For purposes of 322 CMR 6.02 (3) the specific flipper is to the right of the center flipper as viewed from the rear of the female lobster when the underside of the lobster is down.

(c) Mutilated V-notch. For purposes of complying with 322 CMR 6.02(3), it is unlawful for any person to possess a female lobster that is mutilated in a manner that could hide, obscure or obliterate a v-shaped notch.

(d) LCMA Specific Requirements for Commercial Lobstermen to V-notch.

1. LCMA 1. Commercial lobster permit holders, as defined in 322 CMR 7.01(2)(a)&(b), authorized to fish in LCMA 1, as defined in 322 CMR 6.33(2)(a), must v-notch and then immediately release all egg bearing female lobsters.

2. LMCA 2. Commercial lobster permit holders, as defined in 322 CMR 7.01(2)(a)&(b), authorized to fish in LCMA 2, as defined in 322 CMR 6.33(2)(e), must v-notch and then immediately release all egg bearing female lobster of legal size as defined in 322 CMR 6.01(1)(a)(2).

(e) Area-specific Restrictions on Possessing V-notched Female Lobsters

1. Commercial Fishermen in LCMA 1 and Non-commercial fishermen in the Gulf of Maine Recreational Lobster Area It is unlawful for any commercial fisherman fishing or authorized to fish in LCMA 1 and non-commercial

fishermen fishing in the Gulf of Maine Recreational Lobster Area as defined in 322 CMR 6.33 to possess any female lobster bearing a v-shaped notch of any size with or without setal hairs.

2. Commercial Fishermen in LCMA 2. It is unlawful for any commercial fisherman fishing or authorized to fish in LCMA 2 as defined in 322 CMR 6.33 to possess any female lobster that bears a notch or indentation in the base of the flipper that is at least as deep as 1/8 inch, with or without setal hairs.

3. Commercial Fishermen in LCMA 3, 4, 5, and 6. It is unlawful for any commercial fisherman fishing or authorized to fish in LCMAs 3, 4, 5, and 6 to possess any female lobster bearing:

(i) a v-shaped notch that is at least ¼ inch in depth and tapering to a sharp point without setal hairs, through June 30, 2008;

(ii) a notch or indentation in the base of the flipper that is at least as deep as 1/8 inch, with or without setal hairs, from July 1, 2008 and beyond.

4. Commercial Fishermen in the Outer Cape Cod LCMA, Non-commercial Fishermen in the Outer Cape Cod Recreational Lobster Area and Dealers. It is unlawful for any commercial fisherman fishing or authorized to fish in the Outer Cape Cod LCMA or any non-commercial fisherman fishing in the Outer Cape Cod Recreational Lobster Area as defined in 322 CMR 6.33 or any dealer to possess any female lobster that bears a notch or indentation in the base of the flipper that is at least as deep as 1/4 inch and tapering to a sharp point without setal hairs.

5. Non-commercial fishermen fishing in the Southern New England Recreational Lobster Area. It is unlawful for any non-commercial fisherman fishing in the Southern New England Recreational Lobster Area as defined in 322 CMR 6.33 to possess any female lobster bearing a notch or indentation in the base of the flipper that is at least as deep as 1/8 inch, with or without setal hairs.

RHODE ISLAND

15.20.2 V-Notched Lobsters -- No person shall retain on board, land, or possess any V-Notched female American lobster. The prohibition on possession of V-notched female lobster applies to all persons, including, but not limited to fishermen, dealers, shippers, and restaurants.

V-notched female lobster means any female American lobster with a V-notch mark, or the remnant of a healed V-notch mark in the end part of the right tail flipper adjacent to the middle tail flipper, or any lobster which is mutilated in such a manner which could hide, obscure, or obliterate such a mark, including a missing right tail flipper. A V-notch shall be a notch or the remnant of a healed notch, with or without setal hairs, at least 1/8 inch (1/8") in depth. Any licensed/permitted commercial fisherman required or authorized to mark lobsters with a v-notch mark in LCMA 2 shall make a v-notch mark by means of a sharp-blade instrument, at least 1/4 inch (1/4") and not greater than 1/2 inch (1/2") in depth and tapering to a sharp point. The flipper to the right of the center flipper will be examined when the underside of the lobster is down and its tail is toward the person making the determination.

CONNECTICUT

26-157c-1. Taking lobsters – general

(a) Definitions

(7) "LMA 6 v-notch" means a v-notch, with or without setal hairs, at least one-eighth inch in depth.

(9) "V-Notch" means a notch or indentation in the flipper next to and to the right of the center flipper as viewed from the dorsal surface with the tail oriented toward the observer. Such a mark is applied to protect certain lobsters from harvest for conservation purposes.

(c) No person shall buy, sell, give away, offer for sale or possess, regardless where taken:

(2) any female lobster bearing a LMA 6 v-notch or any female lobster which is mutilated in a manner which could hide, obscure or obliterate such a mark;

(d) When caught, any lobster specified in subdivisions (1) to (4), inclusive, of subsection (c) of this section or subdivisions (1) or (3) of subsection (e) of this section shall, without avoidable injury, be immediately returned to the waters from which taken.

(e) No person authorized to take lobsters from any LMA in other than or in addition to LMA 6, as defined in the current FMP, shall possess on the waters or shores of this state:

(3) any female lobster that does not meet the most restrictive LMA-specific v-notch definition specified in the FMP for any LMA for which the licensee has elected to engage in lobster fishing activity, or any female lobster which is mutilated in a manner which could hide, obscure or obliterate such a mark.

(f) Any licensee authorized to take lobsters from an LMA in which the FMP requires a v-notch to be applied to all egg-bearing female lobsters shall, as specified in the FMP, apply such v-notch to all such lobsters taken when fishing in that LMA.

Effective January 1, 1992. Amended October 30, 1998. Amended January 28, 2002 to prohibit possession of male as well as female v-notched lobsters. Amended March 31, 2003 prohibit the possession of lobsters not in compliance with any length limits in effect in any LMA they elect to fish. Amended 2/27/2004 changed v-notching for females only. Amended 3/1/2007 defined LMA 6 v-notch (1/8"), minimum length increased to 3-5/16". Amended 12/22/2008 technical corrections, established LMA 6 maximum length (5-1/4"), and revised v-notch definition.

NEW YORK

New subdivision 44.1(r) of 6 NYCRR is adopted to read as follows:

(r) "V-notched lobster" is defined as any female lobster that bears a notch or indentation in the base of the flipper that is at least as deep as 1/8 inch, with or without setal hairs. V-notched lobster also means any female lobster which is mutilated in a manner which could hide, obscure, or obliterate such a mark.

Existing sections 44.2 through 44.6 remain unchanged.

Existing section 44.7 of 6 NYCRR is repealed.

New section 44.7 is adopted to read as follows:

44.7 Mandatory V-Notching

(a) All legal size egg-bearing female lobsters captured in LMA 4 must be V-notched and immediately released back in the water. V-notches must be to the right of the center flipper as viewed from the rear of the female lobster when the underside of the lobster is down. The V-notch should be made by means of a sharp bladed instrument, at least one quarter inch in depth and not greater than one half inch in depth and tapering to a sharp point.

(b) Permittees who designate more than one LMA in their lobster permit application shall abide by the V-notching rules of the most restrictive of the designated LMAs, regardless of where they are fishing. Any person who possesses more than one commercial lobster permit shall abide by the V-notching rules of the most restrictive of the LMAs designated on all of their permits, regardless of where they are fishing. Any permittee who fails to designate an LMA on their application shall abide by the most restrictive of the LMAs 1, 2, 3, 4, 5, 6, and Outer Cape Cod (OCC) V-notching rules. The department shall provide license holders written notice of the current V-notching rules of LMAs 1, 2, 3, 4, 5, 6 and OCC annually.

(c) The landing or possession of any V-notched female lobster is prohibited. This prohibition applies to all persons other than a final purchaser or consumer.

NEW JERSEY

NJ Administrative Code 7:25-14.15

Prohibitions

(b) Effective July 1, 2012, all commercial lobster permit holders authorized to fish in LMA 4 and/or 5 must, prior to discarding, apply a v-shaped notch in the base of the tail flipper of each egg-bearing female American lobster. The v-shaped notch must be at least 1/4 inch deep and placed in the base of the pelvic flipper immediately to the right of the center flipper as viewed from the back of the lobster.

(d) A person shall not possess a female lobster bearing a v-shaped notch (that is, a straight-sided triangular cut with or without setal hairs, at least one-eighth inch in depth and tapering to a sharp point) as viewed from the rear of the female lobster. V-notched female lobster also means any female which is mutilated in a manner which could hide, obscure or obliterate such a mark. The right flipper will be examined when the underside of the lobster is down and its tail is toward the person making the determination.

DELAWARE

3758 Possession Of V-notched Lobsters Prohibited

(Penalty Section 7 Del.C. §1912)

1.0 It shall be unlawful for any person to possess a V-notched female lobster. V-notched female lobster means any female lobster bearing a V-notch, a straight-sided triangular cut with or without setal hairs at least 1/8 inch in depth and tapering to a sharp point, in the flipper next to the right of center flipper as viewed from the rear of the female lobster. V-notched female lobster also means any female lobster which is mutilated in a manner which could hide, obscure or obliterate such a mark. The right flipper will be examined when the underside of the lobster is down and its tail is toward the person making the determination.

MARYLAND

10 American Lobsters.

A. A person may not catch, land, possess, sell, offer to sell, or transport any:

(5) Female lobster bearing a V-shaped notch which is:

- (a) A straight-sided triangular cut with or without setal hairs, at least 1/8 inch in depth and tapering to a sharp point in the flipper next to the right of the center flipper as viewed from the rear of the female lobster; or
- (b) Mutilated in a manner which could hide, obscure, or obliterate such a mark.

VIRGINIA

4 VAC 20-110-15. DEFINITIONS.

“V-notched female lobster” means any female lobster bearing a V-shaped notch (i.e., a straight-sided triangular cut without setal hairs, at least 1/4 inch in depth and not greater than 1/2 inch in depth and tapering to a sharp point) in the flipper next to the right of the center flipper as viewed from the rear of the female lobster. V-notched female lobster also means any female that is mutilated in a manner which could hide, obscure or obliterate such a mark.

4 VAC 20-110-30. POSSESSION PROHIBITIONS.

C. It shall be unlawful to possess a V-notched female lobster. The prohibition on possession of a V-notched female lobster applies to all persons, including but not limited to fishermen, dealers, shippers, and restaurants.

4 VAC 20-110-40. MARKING OF LOBSTERS.

Any berried female harvested in or from Virginia waters shall be V-notched before being returned to the sea immediately.

NORTH CAROLINA

SECTION .0300 - LOBSTER

15A NCAC 03L .0301 AMERICAN LOBSTER (NORTHERN LOBSTER)

(a) It is unlawful to possess American lobster:

(5) that is a V-notched female lobster. A V-notched female lobster is any female lobster that bears a notch or indentation in the base of the flipper that is at least as deep as 1/8 inch, with or without setal hairs. A V-notched female lobster is also any female lobster which is mutilated in a manner which would hide, obscure or obliterate such a mark;

NOAA FISHERIES SERVICE (CFR)

§ 697.20

Size, harvesting and landing requirements.

(d) Berried females. (1) Any berried female harvested in or from the EEZ must be returned to the sea immediately. If any berried female is harvested in or from the EEZ Nearshore Management Area 1, or in or from the EEZ Offshore Management Area 3 above 42°30', it must be v-notched before being 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. If any berried female is harvested in or from the EEZ Nearshore

Management Area 1, or in or from the EEZ Offshore Management Area 3 above 42°30', it must be v-notched before being 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.

(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, 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 or the EEZ Offshore Management Area 3 may land, harvest or possess any female lobster possessing a standard v-shaped notch.

(5) Through June 30, 2010, no person may possess any female lobster possessing a 1/4-inch (0.64-cm) v-shaped notch harvested in or from the EEZ Outer Cape Lobster Management Area.

(6) Through June 30, 2010, no vessel, owner or operator issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Outer Cape Lobster Management Area may land, harvest or possess any female lobster possessing a 1/4-inch (0.64-cm) v-shaped notch.

(7) Effective July 1, 2010, no person may possess any female lobster possessing a standard v-shaped notch harvested in or from the EEZ Outer Cape Lobster Management Area.

(8) Effective July 1, 2010, no vessel, owner or operator issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Outer Cape Lobster Management Area may land, harvest or possess any female lobster possessing a standard v-shaped notch.

[71 FR 13038, Mar. 14, 2006, as amended at 72 FR 56942, Oct. 5, 2007; 74 FR 37551, July 29, 2009]

UNITED STATES COAST GUARD

This is the standard v-notch definition the CG uses from the attached pdf:

"A Female American lobster bearing "any notch or indentation at least as deep as 1/8-inch, with or without setal hairs", 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."

Our management measures from 50CFR697 are a zero tolerance in Area 1 and a 1/8" notch for area 2-6.