



Massachusetts Division of Marine Fisheries

Paul Diodati, Director

Policies, Procedures, and Guidelines

Issue: Policy clarifying regulations on Coastal Lobster Permit transfers between immediate family members where both hold an existing Coastal Lobster Permit.

No: PPG-03

Introduction and Purpose:

This licensing policy establishes guidelines for transfer of Coastal Lobster Permits to immediate family members who already hold (or who have recently held) a Coastal Lobster Permit. DMF amended the Commercial Lobster Fishery Permit transfer regulations (322 CMR 7.03) in 2004 to establish performance standards for determining whether a permit has been “actively fished” and thus may be transferred. An exemption to the “actively fished” standard was created for permit holders who may transfer the permit to an immediate family member without meeting the performance standards.

Background:

In 2003, the Director suspended Coastal Lobster Permit transfers to help control growth in fishing mortality and prevent movements of permits and fishing businesses between certain Lobster Management Areas. The following year, DMF amended transfer rules (322 CMR 7.03) to enact performance standards by defining “actively fished”: *“means landing and selling at least 1,000 lbs. of lobster or landing and selling lobster on at least 20 occasions, in a single year.”*

These rule changes were deemed necessary to further control fishing effort by preventing permits that were fished at minimal (or recreational) levels from being transferred to new holders who invariably fish the permits at higher levels of effort and associated fishing mortality. By preventing the transfer of permits that have been un-fished, or fished at recreational levels, DMF discouraged the escalation of traps attributable to fishermen seeking to recover the costs of the purchase of these businesses. Moreover, DMF thwarted any attempts at eventual speculation of permits that were never fished at commercial levels. This management goal of permit reduction is rooted in the problem of excessive latent effort in the Area 1 and Area 2 Lobster Management Areas, north and south of Cape Cod, respectively. Allowing effort increases would have a negative impact on lobster conservation goals.

DMF created an exemption for permit holders who did not meet the actively fished criteria by allowing transfers to an immediate family member¹ regardless of whether a permit has been actively fished or not. This exemption allowed permit holders to maintain the cultural, social, and family aspects of the fishery. The social benefits of this exemption was considered worthwhile, even if such transfers might contribute to some level of increased fishing.

The combination of these two rules: “raising the bar” on what’s considered “actively fished” before a transfer is allowed, with an exemption for family transfers was rational and the results have shown the desired effect: a 5% reduction (76) of Coastal Permits in the last three years 1,504 in 2003 to 1428 in 2005.

Date Issued: 04/06/06

¹ Immediate family member shall mean the legal father, mother, wife, husband, sister, brother, son, daughter, or grandchild of the permit holder in the direct line.

Recent Cases

Recent cases have come to the attention of DMF Permit Program staff where permit holders who have insufficient fishing history scheme to thwart performance standards by using the immediate family member transfer exemption in violation of the spirit of these lobster licensing restrictions. Coastal Lobster Permit holders are seeking to transfer the permit to an immediate family member who already holds his own coastal lobster permit. This is accomplished by executing two transfers: the first is to have the family member with the active permit who intends to continue fishing transfer (usually without any fishing assets) the “active” permit to a third party. The permit holder who gave up the permit then would receive the inactive permit from the family member.

In these cases, families with two or more permits (one active and another inactive) are capitalizing on the exemption resulting in the functional transfer of an inactive permit, while families with just a single permit, if inactive, remain constrained to transfers within immediate family. This outcome is unintended, inconsistent with the conservation goals of the transfer program, and not in the best interests of the Commonwealth.

Policy:

To rectify this, **DMF may deny the transfer of any Coastal Lobster Permit that does not meet the “actively fished” criteria if the intended recipient has held a permit in the past four years.** This policy is consistent with 322 CMR (6)(b) which states:

(6)(b) Permit and allocation transfers may be denied if any evidence of fraud is found, or the Director determines that the transfer is not in the best interests of the Commonwealth.