

Proposed Strikethrough Regulatory Language for Amendments to 322 CMR 7.00 and 8.00 Affecting State-Waters Multi Species Groundfish

7.04: Commercial Fisheries Control Date

(1) Purpose. The purpose of 322 CMR 7.04 is to provide the Director and Marine Fisheries Advisory Commission with time to develop further access controls in certain commercial fisheries, including moratoria and limited entry, without the Director and Commission having to deal with large numbers of applicants attempting to enter the fisheries before access is restricted or denied. The implementation of the control date on an emergency basis is necessary to prevent a surge of applicants for licenses into fisheries for which the Director and the Commission may decide to restrict access in the future.

(2) Control Dates.

(a) Mobile Gear. After April 2, 1992, any person issued a commercial fisherman's permit to conduct any fishery using gillnets or trammel nets, or any mobile or encircling fishing gear or nets which are towed, hauled, or dragged through the water for the harvest of fish including but not limited to otter trawls, beam trawls, pair trawls, mid-water trawls, Scottish seines, Danish seines, pair seines, or sea scallop dredges, excluding purse seines and shellfish dredges, within waters under the jurisdiction of the Commonwealth, will not be assured of future access to or participation in these fisheries if a management regime is developed and implemented that limits the number of participants in these fisheries.

(b) Hook Gear. After March 6, 2008, any person issued a new commercial fisherman's permit to conduct any fishery using hook-and-line, longline, or handgear within waters under the jurisdiction of the Commonwealth, excluding the commercial striped bass fishery, may be subject to eligibility criteria for determining levels of future access to and allowable harvest of these fisheries. Future entry into such fisheries may be based on historic harvest levels of a vessel, person, or other criteria established by the Director.

(c) Spiny Dogfish. After November 6, 2008, any person issued a new regulated fishery endorsement for spiny dogfish may be subject to eligibility criteria for determining levels of future access to and allowable harvest of this fishery. Future entry into such fisheries may be based on historic harvest levels of the permit holder.

(d) Striped Bass. Any person who did not hold a regulated fishery permit endorsement on September 8, 2013 may not be provided future access into this fishery and may be subject to eligibility criteria for determining levels of future access to and allowable harvest in this fishery. Future access may be based on historic landings of a vessel or person, or other criteria established by the Director.

(e) Tautog. Any person who did not report the lawful landing or selling of tautog prior to August 28, 2017 may not be provided future access into this fishery and may be subject to eligibility criteria for determining levels of future access to and allowable harvest in this fishery. Future access may be based on historic landings of a vessel or by a person, or other criteria established by the Director.

(f) Groundfish Endorsement. After December 31, 2018, any person issued a state-waters groundfish endorsement may be subject to eligibility criteria for determining future access to or participation in this regulated fishery. Such eligibility criteria may include historic landings of a vessel, a person or other criteria to be established by the Director.

7.06: **Transfer of Limited Entry Permits**

(5) Owner-operator Requirements.

(a) Fish Pot Regulated Fishery Permit Endorsements. All fish pot regulated fishery permit endorsements, are issued to a named individual who shall be the owner-operator of that commercial fishing business. This requirement may be waived by means of a letter of authorization from the Director for: (i) immediate family; **or** (ii) active military duty; or (iii) for up to two years for good cause, including death or disability to the permit holder, subject to annual renewal. In all instances, the performance criteria at 322 CMR 7.06(4)(a)(2) shall be met prior to the request for the a letter of authorization.

~~for up to two years subject to annual renewal in instances of a posthumous transfer or disability to the permit holder provided that performance criteria at 322 CMR 7.06(4)(a)(2) were met prior to the request for a letter of authorization.~~

(b) Groundfish Permit Endorsements. All regulated fishery permit endorsements for state-waters groundfish, issued in accordance with G.L. c. 130 s. 80 and 322 CMR 7.01(4)(a)(2), shall be issued to a named individual who shall be the owner-operator of that commercial fishing business when commercial fishing for groundfish is occurring. This requirement may be waived by means of a letter of authorization from the Director for: (i) immediate family; (ii) active military duty; or (iii) for up to two years for good cause, including death or disability to the permit holder, subject to annual renewal. In all instances, the performance criteria at 322 CMR 7.06(4)(a)(2) shall be met prior to the request for the a letter of authorization.

8.05: Groundfish Closures in the Gulf of Maine

(1) Definition.

Regulated Groundfish Species means those regulated groundfish species defined at 322 CMR 6.03(1), which include: American plaice, cod, haddock, halibut, monkfish, ocean pout, pollock, redfish, windowpane flounder, winter flounder, witch flounder, wolffish and yellowtail flounder.

(2) April in Massachusetts Bay from Plymouth to the New Hampshire Border. Except as provided at 322 CMR 8.05(9), from April 1st through April 30th, it is unlawful for commercial fishermen to fish for, possess or land regulated groundfish species taken within the waters under the jurisdiction of the Commonwealth from latitude 42°00' north to the Massachusetts/New Hampshire border.

The Director may rescind this April closure if data collected by the Division projects that the federally allocated state-waters sub-component for regulated groundfish species will not be landed during the federal fishing year of May 1 – April 30. Any action taken to rescind this April closure shall be done in accordance with the Declaration Process set forth at 322 CMR 6.41(2).

(2) (3) May in Massachusetts Bay from Boston to the New Hampshire Border. Except as provided at 322 CMR 8.05(9) ~~8.05(8)~~, from May 1st through May 31st, it is unlawful for commercial fishermen to fish for, possess or land regulated groundfish species taken within the waters under the jurisdiction of the Commonwealth from latitude 42°20' north to the Massachusetts/New Hampshire border.

(3) (4) June in Upper Massachusetts Bay and Ipswich Bay from Marblehead to the New Hampshire Border. Except as provided in 322 CMR 8.05(9) ~~8.05(8)~~, during June 1st through June 30th, it is unlawful for commercial fishermen to fish for, possess or land regulated groundfish species taken within the waters under the jurisdiction of the Commonwealth from latitude 42°30' north to the Massachusetts/New Hampshire border.

(4) (5) October through January Closure in Massachusetts Bay and Upper Cape Cod Bay. Except as provided at 322 CMR 8.05(9) ~~8.05(8)~~, from October 1st through January 31st, it is unlawful for commercial fishermen to fish for, possess or land regulated groundfish species within the waters under the jurisdiction of the Commonwealth from latitude 42°00' north, south of latitude 42°30' north and west of longitude 70°24' west.

(5) (6) May Closure East of Cape Cod. Except as provided at 322 CMR 8.05(9) ~~8.05(8)~~, during May 1st through May 31st, it is unlawful for commercial fishermen to retain, possess or fish for any regulated groundfish species within the waters under the jurisdiction of the Commonwealth east of Cape Cod south of latitude 42°00' north

and east of longitude 70°00' west.

~~(6)~~ (7) Gear Types. Except as provided at 322 CMR ~~8.05(9)~~ ~~8.05(8)~~, these closures apply to any gear capable of catching groundfish, including but not limited to, sink gillnets, otter trawls, line trawls, and hook and line.

~~(7)~~ (8) Experimental Fishery. The Director, under the authority at M.G.L. c. 130 § 80 and 322 CMR 7.01(7), may authorize experimental fishery activities for fishing for species with certain gear types in the aforementioned closed areas and times to investigate catch by-catch composition to ascertain the need for potential future exemptions.

~~(8)~~ (9) Exemptions.

(a) The closures at 322 CMR ~~8.05(2)-(6)~~ ~~8.05(2-5)~~ do not apply to the lawful use of hook and lines for the purpose of catching dogfish, bluefish, striped bass, Atlantic bluefin tuna and mackerel; mid-water trawls; pots and traps; sea scallop, ocean quahog and surf clam dredges; and cast nets, surface gillnets and purse seines.

(b) A vessel may fish with a small-mesh raised footrope trawl in a portion of upper Cape Cod Bay during October and November subject to the rules in 322 CMR 4.06(4)(c) and 8.06.

(c) A vessel in possession of groundfish may transit through the closures at 322 CMR ~~8.05(2)-(6)~~ ~~8.05(2-5)~~, provided that the groundfish was lawfully caught outside of the closure areas and the vessel is not engaged in any fishing activity while inside the groundfish closure areas.