



# Massachusetts Division of Marine Fisheries

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## Policies, Procedures, and Guidelines

### Transfers of “Bundled” Limited Entry Permits/Endorsements and Waiving of Criteria to Determine “Actively Fished”

**Introduction and Purpose:** This policy clarifies: (1) performance criteria required for the agency to approve transfers of certain limited-entry fishery permits and endorsements, and (2) which groups of permits and endorsements may be transferred as a bundle without the requirement that each and every endorsement be assessed for “activity level.”

Seventeen different permits and endorsements are managed by the Division as limited entry, and many of those permits and endorsements are inextricably linked. For example, certain gear endorsements (e.g. mobile gear: otter trawls) and the species that the gear targets (e.g. multispecies groundfish, summer flounder) are both regulated through limited entry permit endorsements. Because these limited entry permit endorsements—if held in combination—allow for the use of the gear and the retention of species caught by the gear, they should in certain instances be transferred as a bundle. In other cases, there are limited entry permit endorsements for comparable gear types (e.g. mobile gear includes otter trawl, surf clam and ocean quahog dredge, and bay quahog dredge) that the permit holder may possess and actively fish using some, but not all, of the gears and should similarly be considered for bundling in a transfer. Bundling limited entry permit endorsements in these types of transfer scenarios will prevent permit splitting, allow diverse permit portfolios to remain intact, enhance fishing opportunities for permit transfer recipients, and subsequently reduce the regulatory discarding of species that may be incidentally caught in certain gears but for which the fisher is not permitted to retain.

**Background:** Pursuant to the authority at M.G.L. c. 130, §§ 2, 17, 17A, and 80 and 322 CMR 7.01 and 7.06, the Director of the Division of Marine Fisheries (DMF) may control the issuance, renewal, and transfer of commercial fishing permits and permit endorsements. This authority includes, but is not limited to, enacting permit issuance moratoriums to limit entry into a fishery and prescribing the means and manners by which limited entry permits and permit endorsements can be transferred.

Most commercially important fisheries at the federal and state level have adopted limited entry rules where future permit issuance is limited to a select group of existing permit holders, generally based on

past participation. This is known as an “input control” where the number of participants or vessels is controlled in an attempt to limit harvest or fishing mortality. In contrast, “output control” measures are direct controls on total harvest, known as hard quotas.

Since the 1970’s, input controls have been a key component of DMF’s inshore fisheries management strategy. In the Commonwealth, limiting entry into fisheries began in the 1970s with limits on Coastal Lobster permits and Tuna Purse Seine permit endorsements. In the past three decades, permits and endorsements authorizing the use of certain gears or the harvest of certain species have become limited entry (see table 1).

Once entry into a fishery is limited, new participants may only gain access through a transfer (or another similar authorized means), otherwise attrition would eventually result in the extinguishing of a fishery with the retirement of the last permit holder. Consequently, permit and endorsement transfers are usually considered essential to allow ingress and egress into and out of the industry.

Transfers of limited entry permits or endorsements are conducted under regulations and policies established by DMF. Permit holders seeking to transfer permits and endorsements must work through DMF because state law and regulations prohibit the transfer, loan, lease, exchange, barter or sale of any permit without permission of the Director. G.L. c. 130, §2 and 322 CMR 7.01(14)(e).

**Table 1. List of limited-entry permits/endorsements and the date limited-entry was established for that gear or species.**

Gear Endorsements		Species Endorsements	
Limited-entry Fishery	Limited-entry Date	Limited-entry Fishery	Limited-entry Date
Bluefin Tuna Purse Seine	1974	Coastal Lobster Permit	1975
Bluefish Gillnet	1983	Fluke	1999
Sink Gillnet	1992	State Waters Groundfish	2006
Fish Pot – Scup	1990	Horseshoe Crab	2008
Fish Pot – Sea Bass	1987	Black Sea Bass	2012
Fish Pot – Conch	1990	Menhaden	2013
Surf Clam and Ocean Quahog Dredge	1993	Tautog	2020
Bay Quahog Dredge	2001		
Coastal Access Permit	1992		

In the current permit structure most commercial fishers hold either a lobster permit (coastal or offshore) or a boat permit as a “base permit”. Each of these base permits may then be further endorsed for one or more regulated fishery types through permit “endorsements.” These endorsements essentially are permits to participate in a variety of regulated fisheries and delineate use of certain gears (e.g. gillnets, mobile gear, fish pots) or harvest of quota managed species (e.g. fluke, scup, black sea bass, menhaden, state waters multispecies groundfish).

There are currently six species-specific permit endorsements under limited entry; Fluke (Summer Flounder), Black Sea Bass, Horseshoe Crab, Multispecies Groundfish, Menhaden, and Tautog) and six gear-specific permit endorsements under limited entry (Coastal Access Permit, Gillnet, Surf Clam/Ocean

Quahog Dredge, Scup-Pot, Conch-Pot, and Sea Bass-Pot). There is also one limited-entry species-specific permit: Lobster.

Transferring limited entry permits or endorsements requires the holder to contact the agency in writing, have the agency determine if the permit or endorsements are eligible for transfer, and then complete a form with notarized signatures between the holder and the intended recipient. The criteria for the transferring of limited entry permits and endorsements are set forth at 322 CMR 7.03, 7.06, and 7.08. In the case of the Coastal Lobster permit and the Coastal Access Permit (CAP) endorsement for mobile gear, current regulations at 322 CMR 7.06(4)(a)(3) allow for the transfer of other limited-entry permit endorsements which are held in conjunction with a Coastal Lobster permit or CAP endorsement as part of a transfer at the request of the permit holder. This accommodates the permit holder and the intended recipient's desires to maintain the fishing business and its permit portfolio intact upon transfer, and moreover to prevent regulatory discards (caused by the recipient being denied the transfer of one or more species-specific endorsements for lack of "activity level").

In the case of Fluke endorsements, DMF's policy has been to restrict the transfers of Fluke endorsements, especially among rod and reel fishers due to the proliferation of the endorsements issued to this sector prior to the limited entry program being established in 1999. This is consistent with the goal of making the fishery limited entry, which was to reduce the overall number of endorsements issued. Allowing liberal transfers of this endorsement would reduce the moratorium's effectiveness towards this objective. However, inshore trawlers with CAPs for operating without a Fluke endorsement transfer would likely result in excessive summer flounder (fluke) discards, thus those CAP endorsement holders who transfer their CAP and sell their businesses (vessels, permits, etc.) have been allowed to transfer their Fluke endorsement if the other measure(s) of activity were met to keep the business whole. For the offshore trawl fishery, especially vessels too large to fish in state waters, when vessels and federal permits are sold, DMF allows the transfer of the corresponding Fluke endorsement to prevent regulatory discards in the offshore fishery.

In response to declining fishing effort and the gradually increasing median age of existing permit holders, DMF has received requests to liberalize transfers of endorsements/permits for like gears to encourage new entrants. In some of these cases one or more of the endorsements may not have been actively fished but would be paired in the transfer with an endorsement that was actively fished and employed a similar gear type. Specifically, the agency has received requests to transfer both a Scup-Pot endorsement and a Sea Bass-Pot endorsement when only one of the endorsements was actively fished. Similarly, some vessels hold two or three limited-entry mobile gear endorsements that could be used on a single vessel. The CAP endorsement, as well as shellfish dredge endorsements for surf clams, ocean quahogs, and bay quahogs are all capable of being fished on a common vessel, but for reasons of personal choice or local abundances the permit holder may have actively fished the vessel and gears in some but not all the fisheries leading up to a transfer. Given the similarity of gears and scale of fisheries, it is reasonable to accommodate these kinds of requests.

Although the State-Waters Groundfish and Menhaden endorsements are often used in conjunction with a CAP, they are both distinct fisheries under quota management. New entrants into either fishery can dramatically increase quota utilization, having adverse effects on fisheries management objectives. For this reason, all CAP transfers involving a State Waters Groundfish or Menhaden endorsement will be evaluated for the actively fished criteria in the given fishery.

DMF has determined that it is in the best interest of the Commonwealth *to allow permit holders to “bundle” certain permits/endorsements that utilize the same gear-type (mobile gear or pot gear) in transfers, provided that established standards of “actively fished” are met (see Policy below)*. Allowing these types of bundled permit/endorsement transfers would serve three main purposes: (1) it allows fishing businesses to remain “whole” and gives the transferee the potential for more diverse commercial fishing opportunities in a given gear-type; (2) the amount of discards is cut down by allowing a transferee to receive the full suite of endorsements that may be necessary to retain certain species with the given gear-type; and (3) by encouraging permit holders to transfer their permits/endorsements in bundles, DMF is discouraging the splitting of one fishing operation into two, thus reducing proliferation of permits and effort.

**Policy:** Until further notice, DMF will allow the following groups of permits and endorsements to be bundled together in transfers, provided that one of the associated gear-types (mobile gear, shellfish dredge, fish pot, rod & reel) has been determined to be actively fished (consistent with 322 CMR 7.06).

**Approved Bundles:**

***Fisheries Involving Pot and Traps\*:***

- Permit holders who hold an actively fished coastal lobster permit with an inactive fish pot endorsement (for scup and/or black sea bass) may transfer those fish pot endorsements with the coastal lobster permit.
- Permit holders who hold a Boat or Coastal Lobster permit with an actively fished Conch-Pot endorsement that also has an inactive fish pot endorsement (for scup and/or black sea bass) may transfer those other fish pot endorsements with the Conch-Pot endorsement.
- Permit holders who hold a Boat permit with fish pot endorsements for scup and black sea bass may transfer both fish pot endorsements provided one of the fish pot endorsements (Sea Bass-Pot or Scup-Pot) has been actively fished.

***Fisheries Involving Mobile Gear:***

- Permit holders who hold multiple endorsements for using mobile gear, including a CAP endorsement, Surf Clam & Ocean Quahog Dredge endorsement, and Bay Quahog Dredge endorsement, may transfer any and all mobile gear endorsements provided at least one of the mobile gear endorsements has been actively fished.
- Permit holders who hold an active CAP endorsement may transfer certain species-specific endorsements with the CAP, regardless of individual activity levels. These species-specific endorsements include Fluke, Sea Bass, and Horseshoe Crab. State Waters Groundfish and Menhaden endorsements may be transferred in a CAP transfer only if they individually meet the actively fished criteria.

***Fisheries Involving Rod & Reel:***

- Permit holders who hold multiple endorsements for limited-entry rod & reel fisheries, including Fluke, Sea Bass, and Tautog endorsements, may transfer any and all of these endorsements provided at least one of the rod & reel endorsements has been actively fished. See the actively fished criteria in the *Transfer of Rod & Reel Limited-Entry Black Sea Bass, Fluke, and Tautog Endorsements* policy.

***Coastal Lobster Permit Bundle:***

- Permit holders who hold an actively fished Coastal Lobster permit may transfer certain endorsements with the permit, regardless of individual activity levels. These endorsements include Fluke, Sea Bass, Tautog, Horseshoe Crab, and Coastal Access Permit (CAP).

*\*Note: Conch pot endorsements are not included in these transfer bundles because transfers of conch pot endorsements are governed by a separate policy, "Performance Criteria for Conch Pot Endorsement Transfers."*