September 30, 2022

Notice of Virtual Fall Omnibus Public Hearing:
Regulatory Amendments Affecting Commercial and Recreational Fisheries

Under the provisions of G.L. c. 30A and pursuant to the authority found at G.L. c. 130 §§ 17A, 21, 80 and 104, the Division of Marine Fisheries (DMF) is taking public comment and holding virtual public hearings on a series of proposed regulatory amendments to 322 CMR 4.00, 6.00, 7.00, 8.00, and 12.00 affecting commercial and recreational fisheries. Full text of the regulations may be found on DMF’s website along with additional relevant background information. The proposals are as follows:

1. **Atlantic Mackerel (322 CMR 6.44 and 322 CMR 7.01).**
   a. Adopt a 20-fish recreational limit for Atlantic mackerel. This limit will apply as a daily per angler harvest limit and a daily per angler possession limit while fishing. The limit will not apply to the aggregating and holding of mackerel in a freezer, fish car, or shore-based bait well. This proposal is consistent with the MAFMC’s current rebuilding plan for Atlantic mackerel and federal waters limits. It also ensures Massachusetts complies with overarching federal law.
   b. Establish a commercial regulated fishery permit endorsement for Atlantic mackerel. Permit endorsement holders will be authorized to retain, possess, and land mackerel for commercial purposes (including bait use in other commercial fisheries) in quantities that exceed the recreational limit. The endorsement will be open entry and the endorsement will be subject to an annual $30 fee for residents and $60 fee for non-residents on top of the cost of a commercial fishing permit.

2. **Recreational Tautog Slot Limit and Trophy Fish (322 CMR 6.40).** Adopt a 21” maximum size limit for the recreational tautog fishery—making a 16” to 21” slot limit—with an allowance for an angler to retain one trophy fish exceeding the 21” limit per calendar day. This proposal matches a rule enacted in Rhode Island for 2022 and would ensure Massachusetts and Rhode Island consistently manage their recreational fisheries across jurisdictions, as recommended in the interstate plan.

3. **Shortfin Mako Prohibition (322 CMR 6.37).** Prohibit the retention, possession, and landing of shortfin mako in the waters under the jurisdiction of the Commonwealth. An exemption would be granted for the possession and landing of shortfin mako caught legally in federal waters. This proposal is consistent with a recently approved adjustment to the federal fishing rules and ensures the state complies with the ASMFC’s latest requirement for a zero-retention limit in state waters.

4. **Groundfish Maximum Retention (322 CMR 4.06).** Adopt a regulatory framework to accommodate the possession and landing of non-conforming sized groundfish by federal permit holders participating in the maximum retention electronic monitoring program, as well as the possession and sale of such fish by seafood dealers. This proposal is consistent with Amendment 23 to the federal Multispecies Groundfish management plan.

5. **Electronic Tracking for Commercial Lobster and Jonah Crab Trap Fishery (322 CMR 7.11).** Require that by May 1, 2023 commercial lobster permit holders with a federal lobster permit to
fish traps install and have operational a cellular tracking device onboard the permitted fishing vessel. This proposed action is consistent with recently approved addenda to the Interstate Fishery Management Plans for American Lobster and Jonah Crab. Its purpose is to increase the resolution of spatial data collected and enhance the data available to address emerging marine spatial planning, protected species, and stock assessment challenges.

6. Protected Species Regulations for Commercial and Recreational Trap Fisheries (322 CMR 4.13, 6.02, and 12.00).
   a. Adopt a regulatory provision allowing the Director to temporarily amend the opening of the May 16–October 31 recreational trap fishery based on the presence or absence of right whales in state waters. This provision already exists for commercial fixed gear closures.
   b. Eliminate the requirement that commercial trap buoy lines be rigged with a weak link at the buoy. This follows a similar amendment to the federal Atlantic Large Whale Take Reduction Plan in 2022 and the 2021 state-wide implementation of weak rope and contrivance rules for commercial trap gear.
   c. Improve the regulatory definition of the term “buoy line” to better clarify how commercial trap fishers are to comply with existing weak contrivance, buoy line diameter, and line buoyancy rules when fishing multiple trap trawls.
   d. Enact housekeeping measures to update the purpose section of the protected species regulations and reformat the layout of these regulations in the CMR.

7. Area 1A Mobile Gear Open Fishing Season (322 CMR 4.06). Extend the season when mobile gear fishing is allowed off Rockport and Gloucester from February 1–March 31 to February 1–May 15. This will provide mobile gear fishers additional access to sea scallop fishing opportunities at times and in places where fixed gear closures are anticipated thereby reducing potential gear conflicts.

8. Whelk Minimum Gauge Size (322 CMR 6.21). Delay the gauge increase schedule for whelks by having the 1/8” gauge increases occur every third year rather than biennially until a terminal gauge size of 3 5/8” is reached. This proposal responds to a petition submitted by the Massachusetts Conch Association.

9. Housekeeping (322 CMR 4.00, 6.00, 7.00 and 8.00). Eliminate the term “grandfather”; replace the term “fisherman” with “fisher”; update or delete out-of-date or misprinted regulatory references and provisions; and reorganize regulatory sections.

**Public Hearing and Comment Schedule**

DMF will host two virtual public hearings:

1. On November 1, 2022 at 6PM, DMF will take public comment on proposals #1 through #4 and #9, as listed above. Please register for the hearing at: https://bit.ly/3SIdZJv.
2. On November 3, 2022 at 6PM, DMF will take public comment on proposals #5 through #9, as listed above. Please register for the hearing at: https://bit.ly/3fyAtI0Q.

DMF will also accept written public comment on all proposals listed above through 5PM on Friday, November 11, 2022. Submit written comments to Director Daniel McKiernan by e-mail (marine.fish@mass.gov) or post (251 Causeway Street, Suite 400, Boston, MA 02114). For more information visit DMF’s website at www.mass.gov/marinefisheries.