



The Commonwealth of Massachusetts

Division of Marine Fisheries

(617) 626-1520 | www.mass.gov/marinefisheries



MAURA T. HEALEY
Governor

KIMBERLEY DRISCOLL
Lt. Governor

REBECCA L. TEPPER
Secretary

THOMAS K. O'SHEA
Commissioner

DANIEL J. MCKIERNAN
Director

February 2, 2024

Notice of Public Hearing and Comment Period:

Proposals to Adjust Commercial Striped Bass, Summer Flounder, Whelk, Horseshoe Crab, Smooth Dogfish, Menhaden, Mackerel, Groundfish, Permitting, and Shellfish Regulations

Under the provisions of G.L. c. 30A and pursuant to the authority found at G.L. c. 130 §§ 17A, 80 and 104, the Division of Marine Fisheries (DMF) is taking public comment on a series of proposed regulatory amendments to 322 CMR 6.00, 7.00, 8.00, and 16.00. The draft regulations outlined below affect commercial fisheries for striped bass, whelk, summer flounder, horseshoe crabs, smooth dogfish, menhaden, mackerel, and groundfish; the display and transferability of commercial fishing permits; and the sanitary harvest and handling of shellfish. Full text of the regulations may be found on [DMF's website](#) along with additional relevant background information.

Public Hearing and Comment Schedule

DMF will accept written public comment through 5PM on Friday, March 8, 2023. Please submit written comments to Director Daniel McKiernan by e-mail (marine.fish@mass.gov). Additionally, DMF will host two in-person public hearings.

Wednesday, February 28, 2024
5PM

Admiral's Hall at MA Maritime
1 Academy Drive
Buzzards Bay, MA

Thursday, February 29, 2024
5PM

DMF's Annisquam River Field Station
30 Emerson Avenue
Gloucester, MA

Proposed Regulatory Amendments

Commercial Striped Bass Management (322 CMR 6.07).

1. Adjust the number and sequence of commercial striped bass open fishing days in response to a recently approved 14% reduction in the commercial striped bass quota. The preferred option is to go from a Monday/Tuesday/Wednesday open fishing day schedule to a Tuesday/Wednesday schedule.
2. Improve enforcement and compliance with trip limits and open fishing days by requiring the commercial fisher and primary buyer be present at the primary sale; require fish be tagged by the primary buyer immediately upon purchase; and explicitly prohibit the possession and sale of fish unlawfully taken in an other jurisdiction.

Whelk Size at Harvest (322 CMR 6.21). Stay whelk gauge increases for a period of three years. This will delay the pending 2024 increase until 2027 and have all subsequently scheduled increases follow every three years thereafter.

Commercial Summer Flounder Trip Limits (322 CMR 6.22). In response to a 56% reduction in the annual commercial summer flounder quota:

1. Reduce the Period I (January 1 – April 22) trip limit from 10,000 pounds to 5,000 pounds.
2. Establish a trigger to automatically adjust the Period II (April 23 – December 31) trip limits based on quota use:
 - a. For net fishers, the trip limit would be reduced from 600 pounds to 400 pounds if 75% of the annual quota is caught before August 31 or increase the trip limit on September 1 to 800 pounds if more than 75% of the quota remains on August 31.
 - b. For hook fishers, the trip limit would be reduced from 400 pounds to 200 pounds if 75% of the annual quota is caught before August 31 or increase the trip limit on September 1 to 800 pounds if more than 75% of the quota remains after August 31.
 - c. Should more than 5% of the quota remain on September 1, the trip limit will be 5,000 pounds.

Horseshoe Crab Conservation and Management (322 CMR 6.34).

1. To enhance horseshoe crab conservation prohibit all harvest during the period of April 15 – June 7 to protect spawning crabs.
2. Complement existing federal harvest closures within the boundaries of the Monomoy National Wildlife Refuge and the Cape Cod National Seashore.
3. Establish a 300 horseshoe crab trip limit for all bait fishers. This trip limit may automatically increase to 400 horseshoe crabs on August 1 if more than 50% of the quota remains available after July 31 or be automatically reduced to 200 horseshoe crabs should more than 80% of the annual quota be taken before September 15.

Smooth Dogfish Trip Limit (322 CMR 6.37). To enhance quota utilization, increase the smooth dogfish trip limit from 100 pounds to 300 pounds.

Commercial Menhaden Season and Trip Limits (322 CMR 6.43). In response to recent quota utilization:

1. Open the directed commercial purse seine fishery on June 1, rather than June 15.
2. Amend triggers to automatically adjust trip limits based on quota use so that:
 - a. If 50% of the quota is taken before July 1, then the trip limit is reduced to 6,000 pounds through June 30 and then increases 25,000 pounds on July 1.
 - b. If less than 50% of the quota is harvested by September 1, then the trip limit remains at 120,000 pounds for the remainder of the year.
 - c. If more than 50% but less than 90% of the quota is harvested by September 1, then the trip limit remains at 25,000 pounds for the remainder of the year.
3. Maintain purse seining prohibitions on Fridays, Saturdays, and Sundays during any period when the trip limit is at 120,000 pounds.
4. Consider additional measures to better control user group conflicts in Boston Harbor.

State Waters Trip Limit for Atlantic Mackerel (322 CMR 6.44). To complement adjustments to federal trip limits, establish a state-waters trip limit of 5,000 pounds until 80% of the quota is taken and 2,500 pounds thereafter. Exempt from this trip limit are federally permitted vessels transiting through Massachusetts state waters for the purpose of landing fish.

Commercial Permit Display (322 CMR 7.01). Allow for the electronic display of commercial fishing permits, as these permits may now be issued and renewed through an online system.

Permit Transferability (322 CMR 7.01, 7.03, 7.06). To enhance the transferability of certain commercial fishing permits and clarify existing permit transfer standards:

1. Update the definition of the term “immediate family” to more clearly reflect modern family structures (e.g., step family, adoptive family).
2. Allow the transfer of latent Coastal Lobster Permits and regulated fishery permit endorsements to immediate family.
3. Eliminate outdated references to waiting lists for Coastal Lobster Permits.
4. Allow regulated fishery permit endorsements for black sea bass, tautog, and summer flounder to be transferred if actively fished for two out of the past five years, rather than four out of the past five years.

Commercial Groundfish (322 CMR 8.05). Reduce the spatial extent of the May commercial groundfish closure in Massachusetts Bay by moving its southern boundary from Boston (42°20’N) to Nahant (42°30’N).

Sanitary Harvest of Shellfish (322 CMR 16.00). Amend several regulations governing the sanitary harvest of shellfish in Massachusetts:

1. Clarify any icing of shellfish must use ice from a potable water source.
2. Allow the primary sale of shellfish to occur at the landing site, a wholesale dealer facility, or a municipally managed site approved by the DMF Director.
3. Adopt a state wide prohibition on the nighttime harvest of shellfish to backstop municipal rules.
4. Make clear that the most specific alpha-numeric sequence for the shellfish growing area where commercial product is harvested (including any decimals) must appear on the shellfish harvester tag.
5. Waive icing requirements for commercial oyster fishers during the *Vp* Season if icing is taken on by the wholesale dealer at the landing site provided primary purchase occurs within two hours of the time of harvest.
6. Adopt less prescriptive standards for harvester icing during the *Vp* Season requiring only that shellfish or bags of shellfish be continuously and completely covered with ice, consistent with the language in Massachusetts’ FDA-approved *Vp* Control Plan.

Initial Small Business Impact Statement

(As required by M.G.L. c. 30A §§ 2, 3 & 5)

CMR No: 322 CMR 6.00, 7.00, 8.00 & 16.00

Estimate of the Number of Small Businesses Impacted by the Regulation: In 2023, DMF issues 7,880 commercial fishing permits. Each of these permit holders may be impacted by these draft regulations. The extent of the impact is dependent on the fisheries they participate in. The most impact will be to hand harvesters of horseshoe crabs and data shows there are about 30 hand harvesters active in the horseshoe crab fishery in any given year.

Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? No. The proposed regulations will not result in additional reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? No. The proposed regulations will not result in additional record keeping procedures.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? No. The proposed regulations will not result in additional administrative oversight.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No. The proposed regulations will not result in having to hire additional employees for the purpose of compliance.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, No. The proposed regulations will not result in having to hire professional services for the purpose of compliance.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? No. The proposed regulations will not require capital investment.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) DMF regulations control the harvest of marine species to comply with federal law, manage state-quotas and protect the environment. Performance standards are not appropriate without individual transferable quotas allocated to individual fishermen. Managing state-waters fisheries with individual quotas would have negative economic impacts across the seafood industry.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No. There are no other duplicative or conflicting state regulations.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? All audits and inspections are done in accordance with M.G.L. c. 130. No additional inspections are required under this amendment.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? No. DMF does not anticipate the proposed regulations will require small businesses to provide educational services to keep up to date with regulatory requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? No. The proposed regulations are not likely to deter the formation of fishing businesses in Massachusetts. However, existing businesses who target horseshoe crabs or handle horseshoe crabs for bait purposes may be adversely affected by the proposed horseshoe crab spawning closure.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? Yes. DMF is liberalizing its permit transfer rules to encourage new entrants into the commercial fishing industry and to allow fishers to obtain more robust permit portfolios so that they are better diversified.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? No. This is not addressed by these draft regulations.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? No. This is not addressed by these draft regulations.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? No. This is not addressed by these draft regulations.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No. Operational standards are needed for consistent and clear notification, enforcement, and compliance.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No. Operational standards are needed for consistent and clear notification, enforcement, and compliance.