



# Massachusetts Division of Marine Fisheries

## Paul Diodati, Director

### Policies, Procedures, and Guidelines

<b>Issue: Fluke Endorsement Transfers between Immediate Family Members</b>
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#### **Introduction and Purpose:**

This licensing policy established guidelines for transfer of fluke endorsements to immediate family members. Until now, transfers have only been permitted in the trawl fishery when attached to the sale or transfer of a business. The new policy will provide current participants that are not endorsement holders a mechanism to remain in the fishery when the endorsement they fish under would otherwise be retired.

#### **Background:**

In 1993, synchronous with the implementation of state-by-state commercial quota management of fluke, *Marine Fisheries* began to require that commercial fishermen hold a fluke endorsement in addition to a commercial fishing permit to take fluke from state waters or land fluke in Massachusetts. *Marine Fisheries* enacted a moratorium on the issuance of new fluke endorsements in 1999 to address a substantial increase in participation and landings.

The Code of Massachusetts Regulations (CMR) allows for the transfer of limited entry permits/endorsements (CMR 7.06). With some exceptions, eligibility requirements include that the permits/endorsements have been actively fished four of the last five years, and that the recipient have at least one year of full time or equivalent part time experience in commercial fishing and be the owner/operator of the new permit. Final determination of “active fishing” is at the discretion of the Division. Transfers may be denied if the Director determines that the transfer is not in the best interests of the Commonwealth.

In the case of fluke endorsements, *Marine Fisheries*’ policy has thus far been largely against allowing transfers. The goal of making the fishery limited entry was to reduce the number of endorsements, and allowing transfers would have reduced the moratorium’s effectiveness towards this objective. However, inshore trawlers operating without a fluke transfer would likely result in excessive discards, thus those draggers who sell their businesses (vessels, permits, etc.) have been allowed to transfer their fluke endorsement if the other permits are active to keep the business whole. For the offshore fishery, when vessels and federal permits are sold, transfer of the fluke endorsement is allowed from the former vessel owner to the new holder. The transfers between draggers were made without *Marine Fisheries* establishing a policy defining “active

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fishing” for fluke, rather the activity attributed to the coastal access permit or the boat permit must show that it has been active.

In recent months, *Marine Fisheries* has received requests to allow fluke endorsement transfers between holders using a gear other than trawls. In these cases, the requests have been for transfers between immediate family members. The prospective recipients had their own commercial fishing permit but did not buy a fluke endorsement prior to the moratorium on issuing new endorsements. They have been active participants in the current endorsement holders’ fluke fishing activity.

*Marine Fisheries* has determined that it is in the best interest of the Commonwealth to allow fluke endorsement transfers between immediate family members with certain restrictions (see Policy below). Allowing transfers on this limited basis will provide current participants that are not endorsement holders a mechanism to remain in the fishery when the endorsement they fish under would otherwise be retired. This policy should not affect the rate of fluke harvest and risk earlier closure of the quota-managed fishery, thus minimizing impacts to other commercial fluke fishermen. With a quota on annual landings, the resource and recreational users also will not be adversely affected.

Allowing transfers under a more liberal policy would have a negative effect on current fishery participants due to latent effort. About two-thirds of the fluke endorsements issued annually in recent years have not been fished. Allowing their transfer would create a market value for fluke endorsements. Depending on the criteria established for active fishing, many inactive or marginally active endorsements would either be immediately transferred to fishermen that would fish them more, or the current endorsement holder would fish them in order to capitalize on a trade in the future. In either scenario, effort increases jeopardizing an earlier closure to the season.

**Policy:**

Until further notice, fluke endorsement transfers shall be allowed between immediate family members on a one-time basis; after the transfer the endorsement shall become non-transferable, unless this policy is amended by the Director by subsequent action. 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. Eligibility criteria in CMR 7.06(4) shall apply; the determination of active fishing shall be at the discretion of the Director as based on landing reports.