



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

OFFICE OF THE DIRECTOR
235 Promenade Street, Room 425
Providence, Rhode Island 02908

To: Conor McManus, Ph.D.
Chief, Division of Marine Fisheries

From: Terrence Gray, P.E. **Terrence Gray** Digitally signed by Terrence Gray
Director Date: 2022.12.08 14:07:45 -05'00'

Date: December 8, 2022

Re: Final Decisions Pertaining to the November 1, 2022 Marine Fisheries Public Hearing Items and November 28, 2022 RI Marine Fisheries Council meeting.

I have received and reviewed your memo to me, dated December 1, 2022 (attached), regarding the regulatory matters that were subject to a public hearing on November 1, 2022 and the RI Marine Fisheries Council (Council) meeting on November 28, 2022. I have also received and reviewed all relevant supporting documentation, including the public comments received and the draft Council meeting minutes.

The specific regulatory items, and the final decisions for each, are as follows:

1. **2023 Commercial Black Sea Bass Management**

Decision: Amend the rule as recommended by the Council and supported by the Division, which modifies the starting possession limits for five of the six annual sub-periods as follows:

- 1/1 – 4/30: decrease from 750 to 500 pounds/vessel/week
- 5/1 – 6/30: decrease from 75 to 50 pounds/vessel/day
- 7/1 – 8/15: decrease from 75 to 50 pounds/vessel/day
- 8/16 – 9/15: 50 pounds/vessel/day (no change)
- 9/16 – 10/15: increase from 50 to 100 pounds/vessel/day
- 10/16 – 12/31: increase from 50 to 100 pounds/vessel/day

2. **2023 Commercial Scup Management**

Decision: Amend the rule as recommended by the Council and supported by the Division, which modifies the starting possession limit for the general category sector for the summer sub-period (5/1 - 9/30) from 10,000 pounds/vessel/week to unlimited.

3. **2023 Commercial Summer Flounder Management**

Decision: Amend the rule as recommended by the Council and supported by the Division, which modifies the starting possession limits for the three annual sub-periods as follows:

- 1/1 – 4/30: increase from 2,000 pounds/vessel/bi-week to 4,000 pounds/vessel/bi-week for the aggregate program
- 5/1 – 9/15: increase from 100 to 300 pounds/vessel/day for exemption certificate holders, and from 100 to 200 pounds/vessel/day for vessels not holding a certificate
- 9/16 – 12/31: increase from 100 to 500 pounds/vessel/day for exemption certificate holders, and from 100 to 200 pounds/vessel/day for vessels not holding a certificate

4. **Recreational Striped Bass Gaffing Prohibition**

Decision: Amend the rule as recommended by the Council and Division, which prohibits the gaffing of striped bass when fishing recreationally.

5. **Spanish Mackerel**

Decision: Amend the rule as recommended by the Council and Division, which establishes the following new recreational and commercial regulations:

- Recreational: 14" minimum size, with requirement that head and fins must be intact when landed; 15 fish/person/day possession limit; and 1/1 – 12/31 season.
- Commercial: 14" minimum size; 3,500 pounds/vessel/day possession limit; and season of 3/1 through last day of February

6. **Valid dates for Lobster Trap Tags**

Decision: Maintain status quo, as recommended by the Council and supported by the Division.

7. **Summer Flounder Exemption Certificate Program**

Decision: Amend the rule as recommended by the Council and Division, which establishes new provisions allowing for and governing the transfer of exemption certificates that are in Confirmation of Certificate Status (CCS).



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF MARINE FISHERIES
3 Fort Wetherill Road
Jamestown, Rhode Island
02835

INTER-OFFICE MEMO

TO: Terrence Gray, P.E.
Director

FROM: Conor McManus, Ph.D.
Chief

DATE: December 1, 2021

SUBJECT: Decisions regarding proposed regulation amendments that were subject of a public hearing held on November 1, 2022, and a RI Marine Fisheries Council meeting on November 28th. The public hearing folder contains all the necessary documentation related to this hearing, including the proposed rules that were publicly noticed and public comments received. Below is a summary of each of the proposed amendments:

1. **2023 Commercial Black Sea Bass Management:**

- Background: A workshop was held on October 3rd to provide stock status and fishery performance, and to solicit proposals for 2023 management. The 2023 RI commercial quota for black sea bass is expected to decrease by ~ 26% from 2022 (available 2023 quota ~ 626,880 lbs).
- Proposal: One industry proposal was submitted and noticed:

| Min. size | Season | Allocation | Starting Poss. limit (lbs) |
|-----------|---------------|------------|--------------------------------------|
| 11" | 1/1 – 4/30 | 20% | 750 <u>500</u> (vsl/week) |
| | 5/1 – 6/30 | 25% | 75 <u>50</u> (vsl/day) |
| | 7/1 – 8/15 | 25% | 75 <u>50</u> (vsl/day) |
| | 8/16 – 9/15 | 10% | 50 (vsl/day) |
| | 9/16 – 10/15 | 10% | 50 <u>100</u> (vsl/day) |
| | 10/16 – 12/31 | 10% | 50 <u>100</u> (vsl/day) |

- Public comment: Two comments provided in support of the proposal; one opposed.
- RIMFC: 4-0 in support of adopting the proposed rule as noticed.

- Marine Fisheries: The Division can effectively manage the fishery at status quo or as recommended by the Council.

2. **2023 Commercial Scup Management:**

- Background: A workshop was held on October 3rd to provide stock status and fishery performance, and to solicit proposals for 2023 management. The 2023 commercial quota expected to decrease by ~ 25% from 2022 (available 2023 quota ~ 3 m lbs); reduction accounts for the allocation change between recreational and commercial.
- Proposal: One industry proposal was submitted and noticed:

| Min. size | Season | Sub-periods | Allocation | Starting Poss. limit |
|-----------|-----------------------------|-------------|-------------------------|--|
| 9" | Winter I (1/1 – 4/30) | | Coastwide | 50,000 lbs/vsl/day |
| | Summer (5/1 – 9/30) | Gen. Cat. | 40% of sub-period quota | 10,000 lbs/vsl/wk <u>Unlimited</u> |
| | | FFT | 60% of sub-period quota | Unlimited |
| | Winter II (10/1 – 12/31) | | Coastwide | 2,000 lbs/vsl/day |

It should be noted that the proposed rule included a modification to the default floating fish trap non-compliance schedule possession limit from 25,000 lbs/licensee/day to unlimited. This was not part of the industry proposal submitted and was inadvertently added to the proposed rule.

- Public comment: One comment in support of the industry proposal.
- RIMFC: 4-0 in support of adopting the proposed rule as noticed, with modification to maintain the default floating fish trap non-compliance program possession limit of 25,000 pounds/licensee/day.
- Marine Fisheries: The Division can effectively manage the fishery at status quo or as recommended by the Council. Additionally, the Division presented perspectives on the quota utilization in the context of market demand, processing needs, and uncertainties in projecting possible harvest outcomes due to challenges modeling human behavior.

3. **2023 Commercial Summer Flounder Management:**

- Background: A workshop was held on October 3rd to provide stock status and fishery performance, and to solicit proposals for 2023 management. The 2023 RI commercial quota for summer flounder is expected to be equal to the 2022 quota (available 2023 quota ~ 2.21 m lbs).

- Proposals: Two industry proposals were submitted and noticed:

Proposal # 1:

| Min. size | Season | Allocation | Starting Poss. limit (lbs) |
|-----------|--------------|------------|-------------------------------------|
| 14" | 1/1 – 4/30 | 54% | 100 lbs/day (Agg: 2,000 lbs/bi-wk) |
| | 5/1 – 9/15 | 35% | 100 <u>150</u> (vsl/day) |
| | 9/16 – 12/31 | 11% | 100 (vsl/day) |

Proposal # 2:

| Min. size | Season | Allocation | Starting Poss. limit (lbs) |
|-----------|--------------|------------|--|
| 14" | 1/1 – 4/30 | 54% | 100 lbs/day (Agg: 2,000 <u>6,000</u> lbs/bi-wk) |
| | 5/1 – 9/15 | 35% | Exemption Cert holders: 100 <u>300</u> lbs/day Non-Exempt Cert. holders: 100 <u>200</u> lbs/day |
| | 9/16 – 12/31 | 11% | Exemption Cert holders: 100 <u>500</u> lbs/day Non-Exempt Cert. holders: 100 <u>200</u> lbs/day |

- Public comment: One comment each in support of industry proposal #1 and 2.
- RIMFC: 4-0 in support of adopting proposal # 2, with modification of the Winter I starting aggregate possession limit from 6,000 to 4,000 lbs/vessel/bi-week.
- Marine Fisheries: The Division can effectively manage the fishery at status quo, as noticed, or as recommended by the Council. The Division additionally discussed projected possession limits for the Winter I period that would allow for the sub-period quota utilized at a constant catch rate.

4. **Recreational Striped Bass Gaffing Prohibition:**

- Background: Proposed amendment for compliance with Amendment 7 to the Striped Bass FMP, adopted by the Board in May 2022.
- Proposal: Adopt a gaffing prohibition for the recreational striped bass fishery.
- Public comment: One comment in support of the proposed rule as noticed.
- RIMFC: 4 - 0 in support of adopting the rule as noticed.
- Marine Fisheries: Support as noticed. It should be noted that the proposed rule was reviewed and supported by the Division of Law Enforcement, and that the rule specifies that gaffing does not include spearfishing.

5. **Spanish Mackerel:**

- Background: RI joined the management unit in 2021 (Coastal Migratory Pelagics FMP, Northern Zone-Regulates Cobia and Spanish Mackerel). RI landings of

Spanish Mackerel are considered *de minimis* for both commercial and recreational fisheries.

- Proposal: Adopt *de minimis* rules for both commercial and recreational fisheries.
- Public comment: No comments were provided.
- RIMFC: 4 - 0 in support of adopting the rule as noticed.
- Marine Fisheries: Support as noticed.

6. **Valid dates for Lobster Trap Tags:**

- Background: A valid lobster trap tag is required on all lobster pots deployed in state or federal waters pursuant to Department regulations consistent with the FMP for American lobster. Trap tags must be replaced annually, with the valid dates of state tags from June 1 through May 31, and from May 1 through April 30 for federal tags.
- Proposal: Industry proposal to amend the valid dates of state tags to align with the federal period.
- Public comment: Two comments provided opposed to the proposed rule change.
- RIMFC: 4 - 0 opposed to the proposed rule change; in support of maintaining status quo.
- Marine Fisheries: While the Division supports the proposed rule change as a possible means to remove potential confusion regarding valid dates of trap tags, the Division acknowledges that the proposal is not currently supported at this time as reflected in the public record, and therefore supports the recommendation of the Council. The Division of Law Enforcement conveyed that either proposal is enforceable.

7. **Summer Flounder Exemption Certificate Program**

- Background: Current rules require that a Summer Flounder Exemption Certificate must be attached to a vessel to be transferred to another owner. Certificates in Confirmation of Certificate Status (i.e., when not attached to a vessel) cannot therefore not be transferred while in that status.
- Proposal: Division proposal to amend the rule to remove this requirement to improve flexibility for vessel owners.
- Public comment: No comments were provided.
- RIMFC: 4-0 in support of adopting the rule as noticed.
- Marine Fisheries: Support as noticed.