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

Summary of Public Hearing Comments

Agency: Department of Environmental Management

Division: Marine Fisheries

Regulations:

- Part 1 – Definitions and General Provisions (250-RICR-90-00-1)
- Part 3 – Finfish (250-RICR-90-00-3)
- Part 14 – Summer Flounder Exemption Certificate Program (250-RICR-90-00-14)
- Part 23 - Aggregate Program for Summer Flounder and Black Sea Bass (250-RICR-90-00-23)

Type of Filing: Proposed Amendments

Timetable for action on the proposed rule:

- Date of public notice: October 23, 2023
- Date of hearing: November 6, 2023
- End of comment period: November 22, 2023

Testimony and Comments:

The public hearing was recorded and is publicly available on the Division of Marine Fisheries YouTube channel here. ***This document represents a synopsis of the comments provided specific to the proposed rules; it does not include supporting details, rationale, or discussion of matters not specific to the proposed rules.***

1. Commercial Black sea bass:
    - Five (5) comments in support of proposal # 5 as noticed (Part 3 – Finfish), in conjunction with a closure trigger of seventy percent (70%) for the Aggregate program and maintaining a weekly limit for the Aggregate program of 5X the daily limit (Part 23 – Aggregate Program).
    - Three (3) comments in support of proposal # 5 as noticed.
    - One (1) comment in support of proposal # 1 as noticed.
    - Leave % of state allocation for Winter I program

- Reduce allocation % in 5/1 - 6/30 subperiod by 10%
- Increase allocation % in 10/16 - 12/31 subperiod by 10%
- One (1) comment in support of proposal # 4 as noticed (Part 3 – Finfish)

2. Commercial Summer Flounder:
    - One (1) comment in support of opening @ 50 or 100 lbs/vsl/day for the 5/1 – 9/15 subperiod (Part 3 – Finfish), particularly if an Aggregate program is initiated (*Part 23 – Aggregate program*).
    - Five (5) comments in support of opening @ 50 lbs/vsl/day for the 5/1 – 9/15 subperiod.
    - Two (2) comments in support of the rule as noticed (open @ 200 lbs/vsl/day) and in support of including summer flounder in the Aggregate Program.
    - One (1) comment that the Aggregate program results in reduced prices
    - One (1) comment that reduced prices are a result of poor distribution of catch throughout the year
    - One (1) comment in support of the Aggregate Program; results in reduced discards
    - One (1) comment to open the Winter 1 Aggregate program @ 3,000 lbs/vsl/bi-week (from current 4,000 lbs/vsl/bi-week)
    - Part 14 – Summer Flounder Exemption Certificate Program:
        - Five (5) comments opposed as noticed.
        - Four (4) comments in support as noticed.
        - Two (2) comment opposed if summer flounder is included in the summer sub-period for the Aggregate program.
        - One (1) comment that the proposed increased will have a negligible impact as summer flounder limited to 100 lbs/day when fishing for squid.
        - One (1) comment that extra poundage proposed may result in reduced prices.
        - One (1) comment that extra poundage proposed would probably not result in reduced prices.

3. Summer/Fall Aggregate Program:
    - Two (12 comments opposed to including summer flounder in the Aggregate program.
    - Two (2) comments in support of proposal #3 as noticed.
    - Two (2) comments that an Exemption Certificate should not be required for the summer sub-period Aggregate program participation and should not be bound by the Exemption Certification daily possession limit.
    - One (1) comment to modify the Aggregate program closure trigger to 85%.
    - Aggregate program results in fewer discards and improved carbon footprint
    - One (1) comment that the Aggregate program should start after August 15.
    - One (1) comment that the Aggregate program should not negatively impact those not in the program.
    - One (1) comment in support of an Aggregate program, with the need to establish specific allocation for November-December.

- One (1) comment in support of proposal #1 as noticed as it pertains to black sea bass

4. Part 1 – Definitions and General Provisions:

    - One comment opposed to the proposed language regarding possession limit compliance due to potential impacts to commercial shellfish and menhaden fisheries.

5. No comments were made regarding proposed amendments to commercial scup rules.

6. One (1) written comment provided in support opening menhaden @ 25,000 lbs weekly limit for the Narragansett Bay Management Area, Monday thru Thursday, from April 1st to May 31st, and from September 1st until the quota is filled.

IMPORTANT! Please see the hearing video recording and written comments submitted for a full detail of the comments provided on these hearing matters.

November 19, 2023

RI Marine Fisheries:

My name is Bill McCaffrey, I own the F/V Wendy Lee, a 40" dragger out of Point Judith. I am writing to you with my concern over the fluke allocation between the boats with a fluke exemption and the boats without a fluke exemption. I do not have a fluke exemption.

It would greatly benefit my business if was able to keep more fluke than the present limit of 200 per day. I work alone, and at the rate of 200 per day, I am unable to generate enough income to employ a deckhand. I am 65 years old and for many reasons, most importantly the safety factor, would appreciate the opportunity to increase my income and hire someone to work with me.

The two types of fish that I target are fluke and skates. It is also becoming harder to keep up with expenses, in particular the high price of fuel, and to maintain the boat at the present limits.

It is my hope that the 2024 season will offer an increase in the allocation and raise the limits for the boats fishing in state waters and who do not possess a fluke exemption.

I thank you for your time and would greatly appreciate your consideration in this matter.

Bill McCaffrey

Bill McCaffrey
F/V Wendy Lee

From: Brian Thibeault <kwe5tbos90@yahoo.com>
Sent: Wednesday, November 22, 2023 3:19 PM
To: McManus, Conor (DEM) <Conor.McManus@dem.ri.gov>
Subject: Option 5

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Good afternoon Conor, quick check in regarding the c-bass options for 2024. I believe that Dave Borden had brought forward a modified #5 option. As a fisher that relies on c-bass for income during this fall sub period I would like to express going forward that option #5 would be with a extra % for that period will help the mid shelve fishers greatly.
TY Brian Thibeault

Sent from my iPhone

From: David Borden
To: Lake, John (DEM); McManus, Conor (DEM)
Cc: Duhamel, Peter (DEM)
Subject: Comments on BSB regulations for 2024.
Date: Monday, November 13, 2023 11:54:56 AM

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As a follow-up to my testimony at the public hearing, I would like to share some additional feedback and reasoning on the proposed regulations for 2024, especially BSB option 5. I have also attached a modification that I hope the Division and Council will consider.

Overall, I commend the Division for its effective management of the BSB fishery this year. Option 5 is a straightforward version of the current policy, which reflects the positive outcomes of the 2023 regulation. Only two closures occurred, and one of them could have been prevented. As I stated during the hearing, closures result in discards, which lower the coastwide commercial quotas for the next year, so it is in everyone's interest to avoid closures. RI will face a prolonged closure from November to December in 2023, which needs to be addressed in the 2024 regulation.

Option 5 maintains the basic approach and allocations, since they worked well this year, and ensures access throughout most of the year. However, Option 5 adds proportional amounts (10%) to most periods, except for May 1-June 30, which receives a 50% increase. The reason for the latter increase is that RI has almost exclusive access to BSB from May to June, and can benefit from high prices and low competition in the market. Therefore, option 5 also increases the trip limit to 100 lbs. day, which should optimize economic benefits. This change was also requested at the workshop, and by the public hearing participants.

To address the closure, a possible modification to option 5 is to allocate 20% to the period Oct 16-Dec 31, and not allocate the additional 10% to the period Jan-April 30 as proposed in the original option 5. This change could avoid or minimize a closure in the Oct-Dec period, as happened in 2023. The RI fishery from Jan to April generally involves a by-catch fishery by large trawlers, offshore lobster vessels, larger gill netters and Area 2 lobster vessels. These same vessels also participate in the Oct-Dec period, so this modification would benefit the same segment of fleet, just at a different time of year, and help keep the fishery open. . Also , catches in RI are generally high in October but fall off to approximately 1200 lbs. /day in November and December, therefore

this proposed change should extend the open season for a considerable period of time . I also note , the Division has the right to raise or lower the trip limit, and should consider doing so at say 50 % in this period (if needed) , in order to keep the fishery open.

I request that Division prepare a table that reflects this modification, and the poundage in each period, for the Council meeting. Thanks for the opportunity to comment.

Virus-free.www.avg.com [avg.com]
[avg.com]

From: Jeff Grant
To: Duhamel, Peter (DEM); Lake, John (DEM); McManus, Conor (DEM)
Subject: Public hearing comments
Date: Tuesday, November 7, 2023 7:01:34 PM

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All,
I am writing to make comments on the proposed regulatory changes as follows:

Section 1.8
1.8 “Possession Limit and Vessel Operating Compliance”

I am not in support of the proposed amendment, and recommend keeping the current language over the proposed language. The change would allow only 1 possession limit per license OR VESSEL. While this works with finfish and crustaceans, the shellfish sector does not operate under a vessel limit, only a per license limit. (The exception is management areas where only 2 licenses per vessel are allowed.) The menhaden limit for fixed gear also allows for more than 1 license per vessel. the proposed language would create a large substantive change in the shellfish and menhaden industry that I do not believe was the intention of the language.

Summer flounder possession limit in summer: I would like to see the possession limit for sub period beginning May1 the be 200lbs. The catch rates from last year at this limit would result in landings close to the sub quota for 2024.

Aggregate program:
I would like to see the aggregate program for summer/fall fluke and sea bass to be reinstated in 2024. It is a good program that allows people who depend upon fishing for their livelihood to operate in the most efficient manner. It’s good for the fish and the fishermen.

Thank you, Jeff Grant

From: Katie Almeida <kalmeida@towndock.com>
Sent: Tuesday, November 21, 2023 3:09 PM
To: McManus, Conor (DEM) <Conor.McManus@dem.ri.gov>; Lake, John (DEM) <john.lake@dem.ri.gov>
Subject: 2024 fluke recommendation

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Hi Conor and John,

Thanks for taking time to talk with me and Mike regarding fluke and the MPVL.
I spoke with Mike about the Jan-April fluke trip limit, and he'd like to recommend a 3k/bi-weekly trip limit.

Thank you and have a wonderful Thanksgiving!

Katie

Katie Almeida
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From: Kenneth Booth
To: McManus, Conor (DEM)
Cc: Duhamel, Peter (DEM)
Subject: Public Comment- November 6, 2023, Public Hearing
Date: Wednesday, November 22, 2023 11:44:32 PM

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The Rhode Island Commercial Rod and Reel Association (RICRRA) has serious concerns regarding the proposed Aggregate Program for Summer Flounder. We can understand why some fishing sectors would be in favor of the benefits offered by the program, but we believe that the program as proposed will result in economic hardship for many other fishermen. There are some gear types which can efficiently take advantage of an aggregate program while others, particularly small boat State Water licensed fishermen, cannot. Due to the limited quota for this species, that increased efficiency will result in a reallocation of harvest among gear types, severely reducing harvest capability and creating economic hardship to the non-participants.

It is our understanding that the State's commercial fishery will see a reduction of approximately 38% in the coming years quota allocation. That reduction, combined with an aggregate program as proposed, would lead to early closures in some sub-periods.
While there are understandable benefits for some fishers to participate in the program, there has to be protections for the non-participants. Traditional harvest levels by fishermen and gear type are available, and we request the trigger for program shutdown during a sub-period be based on the historic harvest ratios among gear and license types so that non-participants will have an equitable opportunity to harvest as they have in past years.

The Department and State have an obligation to manage our fisheries in a manner that is fair and equitable, and without built in protections for non-participants many fishermen, particularly State licensed, will experience significant economic hardship. Without protections, the bass sea bass and this summer flounder aggregate programs will quickly redefine Rhode Island's traditional commercial fishing industry, negatively impacting hundreds of small businesses.

Kenneth Booth, President
RICRRA

Kenneth Murgo
F/V Johnny B
Trident Fisheries
RIMPURP001365

Dear RI Marine Fisheries Council:

I am an active participant in the Black Sea Bass pot and trap fishery and the BSB aggregate program. As fixed gear fisherman, we have had to diversify our fishing businesses in order to survive; BSB has become an extremely important part of mine and many other inshore fixed gear fisherman's businesses. I directly target BSB with fish pots in addition to catching significant quantities of BSB as bycatch in lobster/crab traps.

I am the industry member who made proposal 1. **I support proposal 1 for commercial BSB** because it is designed to maximize the value of our BSB quota. The May and June sub period has become far and away the most profitable time of the year to fish for BSB for inshore state waters fisherman, which is the majority of the fleet. For many years in row now, BSB market prices have been very strong in May into June, and then sharply declining in July into August. Also the May and June time period is when the fish are the most widespread and accessible to the most RI fisherman from the upper bay to the South Coast and Block Island. I support proposal 1 because it shifts some quota from the lower market value sub periods into the sub period with the highest market values. I was conservative when I designed this proposal in order to not take too much quota away from any one sub period which could cause closures. With the 25% increase in the states quota this year we should have no trouble with closures in any sub period. I am also ok with proposal 2 which is a modified version of my proposal with higher daily limits that were suggested by other fishermen at the public hearing.

As an active member of the Aggregate Program **I strongly support The Divisions Proposal 1 for BSB Aggregate Program**. I strongly believe that the BSB aggregate weekly limit should be 7x the daily limit. With the states increased BSB quota this year there will be plenty of quota to support this. Portions of the Aggregate Pilot program ran with 7x the daily limit as the aggregate limit for BSB and no evidence was seen that this would lead to early closures. I believe that a 5x weekly limit disproportionally benefits part time fisherman who fish a couple days a week versus full time fisherman who work 5 to 7 days a week. As a full time commercial fisherman I must sometimes work 7 days a week to support my family. I should not be punished by losing days of BSB limit because I want to participate in the aggregate program. This program is designed to increase the efficiency of our fishing operations, I should not have to take a 2 day penalty in order to do so. There are 7 days in a week, so if we are doing a weekly aggregate program it should be 7x the daily limit. If the quota is not sufficient to cover a 7x weekly limit then there is a trigger in place to suspend the aggregate program if a sub period is running low on quota.

Thanks,
Kenneth Murgo
F/V Johnny B

From: Patrick Duckworth
To: McManus, Conor (DEM); Lake, John (DEM); Duhamel, Peter (DEM); Olszewski, Scott (DEM)
Subject: Cbass and agg commits
Date: Monday, November 20, 2023 6:59:39 AM

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Black seabass
I support make opinions 5 b that David Borden has sent to you guys I believe that we really need to have some fish in this sub period because this is a period that really need some fish seeing that most of us aren't even setting traps for they it a bycatch. So every fish we catch in this period is considered a discard. And the price of the fish are good and it's finally a time in the season that the fish are available to most of us that fish 20plus miles from home. Even though it a bycatch it a pretty good part of the Stock for the trip.

Aggregate program
I support this program for black seabass and fluke

Black seabass
 7 day a week for the black seabass instead of the 5 that it was last year.

Fluke
5 day a week with out a need of fluke exemption
7 day a week with a exemption

This is a need seeing most of the people that that a bigger vessel I say 35ft plus
That may employ 1 or 2 or maybe 3 crew
These aggregate really help and make it possible for us to be more business friendly and have a low carbon foot print and really help on turning discards into landings. Because this only 1 day that ur worried about a limit is the last day for the week not every day making sure you got your limit witch might mean setting another string of gillnets to make sure you got your limit or make a extra tow to make sure you got your limit. So with out the aggregate we are doing this 7 days a week witch can add quick time and chances to create a lot of discards.

Thank you,
Patrick Duckworth