RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF THE DIRECTOR
235 Promenade Street, Room 425
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To: Conor McManus, Ph.D.
Chief, Division of Marine Fisheries

From: Terrence Gray, P.E.
Director

Terrence Gray Digitally signed by Terrence Gray
Date: 2024.04.08 12:42:44 -04'00'

Date: April 5, 2024

Re: Final decisions regarding proposed regulation amendments

I have received and reviewed your memo to me, dated April 3, 2024 (attached), regarding the regulatory matters that were subject to a public hearing held on February 28, 2024 and RI Marine Fisheries Council meeting held on April 1, 2024. The specific regulatory items, and the final decisions for each, are as follows:

1. **Recreational striped bass filleting requirements**

   Decision: Adopt the rule as recommended by the Council and Division, which establishes recreational striped bass filleting requirements pursuant to Addendum II to Amendment 7 of the ASMFC Fisheries Management Plan (FMP) for Atlantic Striped Bass. It should be noted that RIDEM is evaluating sustainable solutions for rack disposal methods at the state managed ports that will prevent nuisance smells, pests, and other waste problems.

2. **2024 commercial general category striped bass management**

   Decision: Adopt proposal #3 as recommended by the Council and supported by the Division, which amends the season for commercial general category striped bass management:

Min. size	Season	Allocation	Poss. limit
34”	~~May 29 – July 5~~ June 11 – June 20	50%	5 fish/person/day
	~~July 6~~ July 9 – 12/31	50%	5 fish/person/day

3. **Commercial striped bass floating fish trap reporting**

   Decision: Adopt the rule as noticed and recommended by the Council and Division, which modifies the frequency of reporting requirements for striped bass floating fish trap operators consistent with previous amendments made to dealer reporting requirements.

4. **2024 commercial striped bass floating fish trap management**

   Decision: Adopt a possession limit reduction trigger of 80 percent as recommended by the Council and supported by the Division.

5. **Commercial striped bass dealer tagging**

   Decision: Adopt the rule as noticed and recommended by the Council and Division, which clarifies the timing when tagging of striped bass must occur.

6. **2024 commercial menhaden management**

   Decision: Adopt the Division proposal as noticed and recommended by the Council and Division, which serves to clarify the rule language in several sections, however the current regulatory framework of the Menhaden Management Area remains unchanged.

7. **2024 commercial bluefish management**

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

8. **2024 recreational scup management**

   Decision: Adopt Northern Region Proposal #1 as noticed and recommended by the Council and supported by the Division, which will achieve a 4.7 percent reduction for Rhode Island and a 10 percent reduction for the region.

Sector	Min. size	Season	Poss. limit
Gen. Rec.	~~10.5”~~ 11”	May 1 – Dec. 31	30 fish/day
Party/Charter	~~10.5”~~ 11”	May 1 – Aug. 31	30 fish/day
		Sept. 1 – Oct. 31	40 fish/day
		Nov. 1 – Dec. 31	30 fish/day
Shore	9.5”	May 1 – Dec. 31	30 fish/day

9. **2024 recreational summer flounder management**

Decision: Adopt Proposal #3 as noticed, as recommended by the Council and supported by the Division, which achieves a 34.4 percent reduction for Rhode Island.

Sector	Min. size	Season	Poss. limit
Gen. Rec.	~~18"~~ 19"	~~May 3 – Dec. 31~~ April 1 – Sept. 15	~~4~~ 6 fish/day
Special Shore	~~18"~~ 19" (2 fish min. size = 17")	~~May 3 – Dec. 31~~ April 1 – Sept. 15	~~4~~ 6 fish/day

10. **Commercial possession limit clarification**

Decision: Adopt the rule as recommended by the Council and Division, which modifies the language to clarify that commercial possession limits are both per vessel and per person.

11. **Jonah crab dealer requirements**

Decision: Maintain status quo and current management until such time that additional public input can be obtained.

12. **Electronic tracking requirements for federal lobster permit holders**

Decision: Adopt the rule as noticed and recommended by the Council and Division, which establishes electronic tracking requirements for federally permitted lobster and Jonah crab vessels consistent with Addendum XXIX to Amendment 3 of the Fisheries Management Plan (FMP) for lobster. This is a matter of complying with Addendum XXIX to Amendment 3, pursuant to the Atlantic States Marine Fisheries Compact. I have been advised that compliance is in the best interest of the state and the industry as the result of a non-compliance finding could be the closure of this critical industry in our state, which would have significant economic impacts. However, based on the Council's recommendation, I have advised the administrative commissioner of the Rhode Island delegation of the ASMFC Lobster Board to further advocate for the protection of data privacy, and to work towards technological solutions for the requirement that devices remain powered on, without jeopardizing a loss of the critical fishing data that is needed.

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INTER-OFFICE MEMO

To: Terrence Gray, P.E., Director

From: Conor McManus, Chief

Date: April 3, 2024

Subject: Decisions regarding proposed and prospective regulation amendments that were subject of a public hearing held on February 28, 2024 and a RI Marine Fisheries Council (RIMFC) meeting on April 1, 2024. The Division held a public workshop on February 5th to provide stock status, fishing performance, to discuss proposals being considered, and to provide opportunity for additional proposals and public input. Below is a summary of the proposed amendments, including a summary of comments received and recommendations of the RI Marine Fisheries Council.

1. **Recreational striped bass filleting requirements:**

   - Background: Addendum II to Amendment 7 of the ASMFC Fisheries Management Plan (FMP) for striped bass adopted in January 2024 requires at sea and shore filleting requirements.
   - Proposal: Division proposal to adopt recreational filleting requirements consistent with the FMP.
   - Public comment: RISAA in support of coastwide ASMFC requirements; RIPCBA concerned with negative impacts on day to day operations of charter businesses regarding rack disposal.
   - RIMFC: 4-1 (one Council member had not yet arrived for this matter) in support of adopting the rule as noticed, with one change as recommended by the Division of Law Enforcement regarding the timing of possession and disposal of racks:

     ~~Racks must be disposed of before the commencement of fishing activity on the next fishing trip~~ No possession of racks or fillets while actively fishing with lines in the water

   - Marine Fisheries: Support for the Council recommendation. The Division appreciates the input from the Division of Law Enforcement which sought to address a concern expressed in public comment. Moving forward, the Division

will work with the recreational community where possible to resolve problems that may arise with rack disposal.

2. **2024 commercial general category striped bass management:**

- Background: Annual review of management.
- Proposal: Three (3) industry proposals were noticed:

Proposal 1 (Industry)

Min. size	Season	Allocation	Poss. limit
34"	~~5/29 – 7/5~~ 6/11 – 12/31	~~50%~~ 100%	5 fish/person/day
	~~7/6 – 12/31~~	~~50%~~	~~5 fish/person/day~~

Proposal 2 (Industry)

Min. size	Season	Allocation	Poss. limit
34"	~~5/29 – 7/5~~ 7/9 – 12/31	~~50%~~ 100%	5 fish/person/day
	~~7/6 – 12/31~~	~~50%~~	~~5 fish/person/day~~

Proposal 3 (Industry)

Min. size	Season	Allocation	Poss. limit
34"	~~5/29 – 7/5~~ 6/11 – 6/20	50%	5 fish/person/day
	~~7/6~~ 7/9 – 12/31	50%	5 fish/person/day

Each of the three proposals above include the following additional provisions as part of the proposal:

  - Possession Permitted: Possession of commercial striped bass will be permitted from 8:00 pm Monday through 8:00 pm Thursday of each week when the fishery is open. Possession is prohibited at all other times.

  - Sale Permitted: Sale of commercial striped bass will be permitted from 12:00 am Tuesday through 8:00 pm Thursday of each week when the fishery is open. Sale is prohibited at all other times.

- Public comment: Support for all three proposals provided.
- RIMFC: 6 - 0 in support of proposal # 3, without the inclusion of the additional language regarding the alternate time of possession and sale.
- Marine Fisheries: The Division can manage any of the proposals effectively, and supports the recommendation of the Council regarding possession and sale language. The Division appreciates the input from the Division of Law Enforcement which helped to inform the discussion.

3. **Commercial striped bass floating fish trap reporting:**

- Background: Dealer rules (Part 7) were amended in early 2023 regarding the frequency of dealer reporting requirements for striped bass. Such reporting rules

are also contained in the harvester rules (Part 3) for floating fish trap operators, which provides for dealer tagging of striped bass by harvesters, but these rules were not updated when Part 7 was amended.

- Proposal: Division proposal to modify striped bass floating fish trap operator reporting requirements in Part 3 consistent with Part 7.
- Public comment: None provided.
- RIMFC: 6 - 0 in support of adopting the rule as noticed.
- Marine Fisheries: Support as noticed and recommended by the Council.

4. **2024 commercial striped bass floating fish trap management:**

- Background: Annual review of management.
- Proposal: Industry proposal to modify the possession limit reduction trigger from 70% to 90% of the seasonal allocation harvested which reduces the possession limit from unlimited to 500 lbs/licensee/day.
- Public comment: Two comments provided by licensed floating fish trap operators opposed to the proposed 90% trigger.
- RIMFC: 6 - 0 in support to adopt an 80% trigger as a compromise to the opposition expressed in public comment to the proposed 90% trigger.
- Marine Fisheries: The Division can manage this possession limit reduction trigger in the range of 70-90% effectively.

5. **Commercial striped bass dealer tagging:**

- Background: Commercial striped bass tagging rules, which require dealer tagging of all commercial striped bass harvested, are not clear when tagging must occur.
- Proposal: Division proposal to clarify language in Parts 3 (for harvesters) and Part 7 (for dealers) that striped bass must be tagged *"at the point of sale"*.
- Public comment: None provided.
- RIMFC: 6 - 0 in support of adopting the rule as noticed.
- Marine Fisheries: Support as noticed and recommended by the Council.

6. **2024 commercial menhaden management:**

- Background: Annual review of management.
- Proposal: Three proposals were noticed:

    - Proposal 1 (Division): Clarify language in several sections (clarifications only, no regulatory changes proposed, see proposed rule for details)
    - Proposal 2 (Industry):
        - Move the Sakonnet River boundary for the fall opening on September 1 from "*south of ~~a line extending from Fogland Point to Sandy Point~~*" to "*south of the Sakonnet Bridge*"
        - Increase the possession limit for the September 1 Fall opening from 25,000 lbs/vessel/day to 120,000 lbs/vessel/day.
    - Proposal 3 (Industry):

- Establish a weekly possession limit in the MMA, regardless of MMA status.
- Seasons:
  - April 1 – May 31
  - September 1 – December 31 (or until quota exhausted)
- Possession Limit:
  - 25,000 lbs/vsl/week
  - Closed Days: Friday, Saturday, Sunday

- Public comment: Several comments provided opposed to proposals #2 and # 3; several comments in support of proposal # 1; four comments in support of proposal #3.
- RIMFC: 6 - 0 in support of adopting proposal # 1.
- Marine Fisheries: Support for proposal # 1 as recommended by the Council. As warranted, the Division will continue to seek public input and explore opportunities for the harvest of menhaden in the Menhaden Management Area for local bait supply that consistent with the goals of the Menhaden Management Area.

7. **2024 commercial bluefish management:**

- Background: Annual review of management.
- Proposal: Two industry proposals were provided and noticed:

Proposal 1:

Subperiod	Possession limit
Jan. 1 – April 30	1,000 lbs/bi-week
May 1 – ~~Nov. 15~~ Oct. 15	6,000 lbs/week
~~Nov. 16~~ Oct. 16 – Dec. 31	~~500~~ 10,000 lbs/week

Proposal 2:

Subperiod	Possession limit
Jan. 1 – April 30	1,000 lbs/bi-week
May 1 – ~~Nov. 15~~ Oct. 15	6,000 lbs/week
~~Nov. 16~~ Oct. 16 – Dec. 31	~~500~~ 20,000 lbs/bi-week

- Public comment: One (1) comment provided opposed to increases in starting possession limits in October or November; RIPCBA in support of status quo or retaining the Nov 16 start date for the increased trip limits.
- RIMFC: 6 - 0 in support of maintaining status quo.
- Marine Fisheries: The Division can manage either proposal or status quo effectively, however there is additional risk to manage effectively with a bi-weekly bag limit.

8. **2024 recreational scup management:**

- Background: Annual review of management. Federal agency requires a 10% coast-wide reduction in 2024 recreational harvest. RI is part of the Northern Region (MA, RI, CT, NY) for scup management.
- Proposal: Three proposals were submitted by the Northern Region for review and approval by the Technical Committee (TC) and Board and were noticed:

Northern Region Proposal 1*

Sector	Min. size	Season	Poss. limit
Gen. Rec.	~~10.5"~~ 11"	May 1 – Dec. 31	30 fish/day
Party/Charter	~~10.5"~~ 11"	May 1 – Aug. 31	30 fish/day
		Sept. 1 – Oct. 31	40 fish/day
		Nov. 1 – Dec. 31	30 fish/day
Shore	9.5"	May 1 – Dec. 31	30 fish/day

* Proposal achieves 4.7% reduction for RI; 10% for the region

Northern Region Proposal 2*

Sector	Min. size	Season	Poss. limit
Gen. Rec.	10.5"	May 1 – Dec. 31	~~30~~ 9 fish/day
Party/Charter	10.5"	May 1 – Aug. 31	~~30~~ 9 fish/day
		Sept. 1 – Oct. 31	~~40~~ 20 fish/day
		Nov. 1 – Dec. 31	~~30~~ 9 fish/day
Shore	9.5"	May 1 – Dec. 31	~~30~~ 9 fish/day

* Proposal achieves 15.7% reduction for RI; 11.7% for the region

Northern Region Proposal 3*

Sector	Min. size	Season	Poss. limit
Gen. Rec.	~~10.5"~~ 11"	~~May 1~~ April 1 – Dec. 31	~~30~~ 20 fish/day
Party/Charter	~~10.5"~~ 11"	~~May 1~~ April 1 – Aug. 31	~~30~~ 20 fish/day
		Sept. 1 – Oct. 31	40 fish/day
		Nov. 1 – Dec. 31	~~30~~ 20 fish/day
Shore	~~9.5"~~ 10"	~~May 1~~ April 1 – Dec. 31	~~30~~ 20 fish/day

* Proposal achieves 9.2% reduction for RI; 11.5% for the region

- Public comment: RIPCBA and RISAA in support of proposal #1.
- RIMFC: 6 - 0 in support of adopting proposal #1.
- Marine Fisheries: The Division supports adoption of proposal # 1.

9. **2024 recreational summer flounder management:**

- Background: Annual review of management. Federal agency requires a 28% coast-wide reduction in 2024 recreational harvest.
- Proposal: Three proposals designed to achieve the required reduction were developed and noticed:

Proposal 1*

Sector	Min. size	Season	Poss. limit
Gen. Rec.	~~18"~~ 18.5"	~~May 3 – Dec. 31~~ June 4 – Sept. 15	~~4~~ 3 fish/day
Special Shore	~~18"~~ 18" (2 fish min. size = 17")	~~May 3 – Dec. 31~~ June 4 – Sept. 15	~~4~~ 3 fish/day

* Proposal achieves 28.6% reduction for RI

Proposal 2*

Sector	Min. size	Season	Poss. limit
Gen. Rec.	~~18"~~ 18.5"	~~May 3 – Dec. 31~~ May 24 – Aug. 26	~~4~~ 3 fish/day
Special Shore	~~18"~~ 18" (2 fish min. size = 17")	~~May 3 – Dec. 31~~ May 24 – Aug. 26	~~4~~ 3 fish/day

* Proposal achieves 28.5% reduction for RI

Proposal 3*

Sector	Min. size	Season	Poss. limit
Gen. Rec.	~~18"~~ 19"	~~May 3 – Dec. 31~~ April 1 – Sept. 15	~~4~~ 6 fish/day
Special Shore	~~18"~~ 19" (2 fish min. size = 17")	~~May 3 – Dec. 31~~ April 1 – Sept. 15	~~4~~ 6 fish/day

* Proposal achieves 34.4% reduction for RI

- Public comment: RIPCBA in support of proposal #3; RISAA in support of proposal #3 without the increase in bag limit.
- RIMFC: 6 - 0 in support of adopting proposal # 3.
- Marine Fisheries: The Division supports adoption of proposal # 3. The Division understand the sentiments of trying to improve conservation and messaging and appreciates the concerns, but ultimately believes given the little or no difference in 4 vs. 6 fish, it is in the best interest of RI harvesters to maintain the bag limit at 6 fish.

10. **Possession limit clarification:**

- Background: Rule (Part 3 – Finfish) currently only provides for "per vessel" possession limits; possession limits are also "per person".
- Proposal: Division proposal to modify possession limit language for all species throughout the rule to include "per person" as well as "per vessel".
- Public comment: None provided.
- RIMFC: 6 - 0 in support of adopting the rule as noticed, with the modification that "or" as used should be "and" so as to be clear that both per person and per vessel applies.
- Marine Fisheries: Support as recommended by the Council.

11. **Jonah crab dealer requirements:**

- Background: Part 3 (for harvesters) require only whole Jonah crabs to be landed. Complementary rule does not currently exist for dealers (Part 7).
- Proposal: Division proposal to require that dealers purchase only whole Jonah Crab.
- Public comment: Several comments were provided opposed to the proposed rule due to the breaking of claws during normal operations.
- RIMFC: 6 - 0 in support to table this matter (i.e., do not adopt at this time).
- Marine Fisheries: Support for the Council recommendation until additional public input from dealers and harvesters can take place; with the goal of such input to take place later this year.

12. **Electronic tracking requirements for federal lobster permit holders:**

- Background: Electronic tracking of federally-permitted lobster and Jonah crab vessels is required per Addendum XXIX to Amendment 3 of the Fisheries Management Plan (FMP) for lobster.
- Proposal: Division proposal to adopt new rules for electronic tracking of federally-permitted lobster and Jonah crab vessels consistent with the FMP.
- Public comment: Several comments were provided from affected persons; all opposed to the proposed rule.
- RIMFC: Two motions were made:

  Motion #1: Recommend to not adopt the proposed rule. This motion failed by a vote of 4-2.
  Motion #2: Recommend adoption of the rule as noticed with the condition that the Division work with the ASMFC Lobster Board members to engage ASMFC to 1) ensure the privacy of lobster data, and 2) that devices are only required to be powered on while actively fishing. This motion passed by a vote of 3-2-1.
- Marine Fisheries: Support to adopt the rule as noticed in order to maintain compliance with the ASMFC Lobster FMP.