

Proposed amendments

Note: Proposed new language is identified as red underline; proposed language to be deleted is identified as ~~red-stricken~~.

250-RICR-90-00-12

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 12 – Research Pilot Aggregate Program

12.1 Purpose

The purpose of the program will be is to assess the effectiveness and viability of an aggregate landings approach as an alternative to traditional daily possession limit quota management in the commercial summer flounder and black sea bass fisheries establish a pilot program to authorize aggregate possession limits for commercial black sea bass and summer flounder as a means to gather data on the effect of aggregate limits in the commercial management of these species.

12.2 Authority

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws § 42-35-18(b)(5), Administrative Procedures Act, as amended.

12.3 Application

The terms and provisions of these Rules and Regulations shall be liberally construed to permit the Department to effectuate the purposes of Sstate law, goals, and policies.

12.4 Definitions

See Rhode Island Marine Fisheries Regulations, Part 1 of this Subchapter.

12.5 Severability

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

12.6 Superseded Rules and Regulations

On the effective date of these Rules and Regulations, all previous Rules and Regulations, and any policies regarding the administration and enforcement of these Regulations shall be superseded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken, or application filed.

~~12.7 Regulations~~

~~12.7.1 Applicability~~

~~A group of vessels will be selected through an application process established herein to implement a pilot program to gather data on aggregate limits and their effect on harvest rates and quotas for the commercial summer flounder and black sea bass fisheries.~~

12.7 Permit Required

A permit issued from the Director is required to participate in this program. Permit applications shall be completed on forms as prescribed by the Director. Applications not completed in their entirety shall not be considered.

~~12.7.2 Eligibility~~

12.8 Eligibility

- A. Persons~~Applicants~~ must hold a valid commercial fishing license in Rhode Island and be the owner and/or operator of a vessel that is licensed to harvest and land summer flounder and black sea bass in State waters and must remain so licensed through 2021.
- B. Applicant vessels must have a historical record of landing summer flounder and black sea bass as recorded in SAFIS for a minimum of one (1) year.
- C. Up to six (6) ~~participating~~ vessels from each of the following gear types will be selected for participation as follows: gill net, otter trawl, rod and reel, fish pot, lobster pot, and multi-gear fisher. If the number of eligible applicants by gear type category exceeds the number of permits available, applicants will be selected through a lottery process.
- D. Applicant vessels shall agree to install a Division approved vessel monitoring system (VMS) device on their vessel. The cost of such vessel monitoring device shall be the responsibility of the participant.

- E. Applicant vessels shall agree to submit catch and effort information through a Division approved electronic application. The cost of such application shall be the responsibility of the participant.
- F. Applicant vessels shall agree to allow the Department to publicly disclose all landings of summer flounder and black sea bass on a single-vessel resolution basis.
- G. Applicant vessels shall agree to take any State or Federally authorized observers at any time.

~~H. Application required. Eligible persons must apply on forms as prescribed by the Director.~~

~~H.~~ Application period: Applications must be received between January 1 and March 30 annually.

~~I. Applicants must be in compliance with commercial fishing data reporting requirements pursuant to Part 2 of this Subchapter.~~

12.7.3 Approval Process

~~A. Evaluation criteria: All permit applications submitted to the Division will be reviewed and assessed by the Director for completeness and accuracy.~~

~~B. If the number of eligible applicants by gear type category exceeds the number of permits available, the applicants will be selected for participation through a lottery process.~~

12.7.4 Permit Conditions

12.9 Permit Conditions

- A. Vessel monitoring system devices and reporting applications shall be maintained in operational order and be actively engaged at all times when fishing. Malfunctioning of any device will result in permit suspension until the device is returned to operational order.
- B. ~~Each p~~Participants shall submit catch and effort information through the Division approved electronic application with each landing event.
- C. ~~All p~~Participating vessels shall take any State or Federally authorized observers at any time.
- D. ~~All license/permit holders~~Participants and ~~participating~~ vessels ~~participating in the pilot program~~ must adhere to all applicable Rules and Regulations governing commercial fishing operations, including but not limited to mesh size restrictions,

offloading hours, at-sea transfers, and reporting and record-keeping requirements.

- E. ~~All license/permit holders~~ Participants and participating vessels will be subject to all State and Federal small mesh landing levels for summer flounder when fishing with small mesh.
- F. ~~All license/permit holders~~ Participants and participating vessels ~~will be allowed~~ are authorized to fish south of the Southern New England DDAS counting area for summer flounder when properly enrolled in the Small Mesh Exemption Program.
- EG. Permits are non-transferable. Only vessels authorized by the Director may participate in the pilot program.

~~12.7.5 Possession Limits~~

12.10 Possession Limits

- A. The weekly possession limit for summer flounder and black sea bass will be equal to the daily limit for each species multiplied by the number of open days as set forth in Part 3 of this Subchapter.
- B. The weekly periods for the duration of the program will be issued explicitly by the Division to each participant. Alternate weekly periods will not be authorized.
- C. ~~If a~~ At any point-time during any sub-period for either species, the Division may terminate the program to prevent an early closure.

~~12.7.6 Compliance and Enforcement~~

12.11 Penalties for Non-Compliance

- A. Failure to adhere to any of the terms and conditions will result in permit revocation for the remainder of the pilot program duration.
- B. Participating vessels which cease to participate, or are expelled from, the program will be prohibited from harvesting and landing summer flounder and black sea bass in an aggregate amount for the remainder of the pilot program duration.
- C. If a participant exceeds their weekly aggregate limit for either species, or if the participating vessel is found to be in violation of any of the terms and conditions set forth in these Regulations, the participant's permit will be revoked and will be subject to potential enforcement action, including but not limited to: confiscation of catch, prohibition on the harvest and landing of summer flounder and black sea bass for the remainder of the year, license and/or permit suspension or revocation, fines, and disqualification from participation in any future alternative management programs. All penalty provisions applicable to violations of marine

fisheries laws and Regulations will also be applicable to participants in the pilot program.

| **12.7.7 Term of program**

| **12.12 Term of Program**

| These Regulations will remain in effect through 2021 only, after which it will be subject to review and evaluation, with a view to developing recommendations for continuance of program beyond 2021.