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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 is to 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 State law, goals, and policies.

12.4 Definitions and General Provisions

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12.6 Superseded Rules and Regulations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Rules and Regulations, and any policies regarding the administration and enforcement of these Regulations shall be superseded.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 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.

12.8 Eligibility

- A. 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 ~~2022~~2023.
- 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. A maximum of fifty-nine (59) permits will be issued. If the number of eligible applicants 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 period: Applications must be received by April 1, ~~2022~~2023. In the event that less than fifty-nine (59) applications are received by April 1, ~~2022~~2023, the Division may opt to re-open a subsequent application period to consider additional applications.
- I. Applicants must be in compliance with commercial fishing data reporting requirements pursuant to Part 2 of this Subchapter.

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. Participants shall document catch and effort information in the Division approved electronic application prior to each landing event.
- C. Participating vessels shall take any State or Federally authorized observers at any time.
- D. Participants and participating vessels 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. 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. Participants and participating vessels 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.
- G. Permits are non-transferable. Only vessels authorized by the Director may participate in the pilot program.
- H. Permits will be valid from May 1, ~~2022~~2023, through December 31, ~~2022~~2023, unless otherwise terminated.
- I. This program is considered an exempted program pursuant to section 14.8 of this subchapter.

12.10 Possession Limits

- A. Summer flounder: The weekly aggregate possession limit will be equal to the daily limit multiplied times seven (7).
- B. Black sea bass: The weekly aggregate possession limit will be equal to the daily limit multiplied times five (5).
- C. Permit holders are obligated to abide by the aggregate possession limits until such a time the permit is terminated.
- D. Permit holders may forfeit their permit and terminate participation in the program at any time.

- E. 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.
- F. At any time during any sub-period for either species, the Division may terminate the program to prevent an early closure.
- G. Possession limits will revert back to a daily limit once 80% of the sub-period quota for each species is projected to have been reached.

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.

12.12 Term of Program

These Regulations will remain in effect through ~~2022~~2023 only, after which it will be subject to review and evaluation, with a view to developing recommendations for continuance of program beyond ~~2022~~2023.