



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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

To: Jason McNamee
Chief, Marine Resource Management

From: Janet Coit
Director

Date: July 23, 2018

Re: Final Decisions Pertaining to June 4, 2018 Marine Fisheries Public Hearing Items

I have received and reviewed your memo to me, dated July 10, 2018 and attached herewith, regarding the public hearing items from the June 4, 2018 public hearing. I have also received and reviewed all relevant supporting documentation, including the June 4, 2018 public hearing documents and summary of public comments, as well as the summary report (draft meeting minutes) from the June 26, 2018 meeting of the RI Marine Fisheries Council (RIMFC).

I hereby approve all the recommendations, as set forth in your memo, which are fully consistent with those provided by the RIMFC at the Council's June 26, 2018 meeting. The specific regulatory items, and the final decisions for each, are as follows:

1. Definitions

- Decision: Adoption of the amended provisions, which delete 25 nonapplicable terms and acronyms, and make minor/nonsubstantive modifications/clarifications to 3 terms, in Part 1.

2. Language Pertaining to Jurisdiction Where Fish are Caught

- Decision: Adoption of the amended provisions, which delete the phrase "*whether caught within the jurisdiction of this State or otherwise*" in several instances throughout Part 3.

3. Transfer of Allocation Between Striped Bass Floating Fish Trap and General Category Sectors

- Decision: Adoption of the amended provisions, which: (1) remove the October 15 threshold date for when allocation transfers may be enacted annually; (2) clarify that all or a portion of any unused sector allocation may be transferred, (3) remove the requirement that a "letter on file" must serve as the form of written correspondence with the floating fish trap sector regarding any proposed transfer of allocation; and (4)

establish that any allocation, or portion thereof, transferred to the general category sector may be transferred back to the floating fish trap sector.

4. Recreational Shortfin Mako

- Decision: Adoption of the amended provision, which increases the minimum size for recreational shortfin mako from 54 inches to 83 inches.

5. Commercial Aggregated Large Coastal Shark and Hammerhead Shark Species Groups

- Decision: Adoption of the amended provision, which decreases the fishing-year starting possession limit for the Aggregated Large Coastal Shark and Hammerhead Shark species groups from 45 to 25 sharks per vessel per day.

6. Recreational and Commercial Coastal Sharks

- Decision: (1) Adoption of new provisions, which require all rod and reel anglers – recreational and commercial -- to use corrodible circle hooks, as defined, when fishing for coastal sharks, and to maximize gear removal when releasing coastal sharks; and (2) adoption of the amended provisions that consolidate and streamline the provisions set forth at 3.19.2 (I) and (J), pertaining to safe handling and bycatch reduction for commercial gillnet and shortline gears, including the deletion of subsection (J).

7. Commercial Cod; and Commercial/Recreational Haddock, Pollock, Yellowtail Flounder, and Witch Flounder

- Decision: (1) Adoption of the amended provisions, which 1) clarify that federally permitted vessels, authorized to commercially or recreationally harvest haddock, pollock, yellowtail flounder and/or witch flounder in federal waters, may harvest, *possess, or land* haddock, pollock, yellowtail flounder, and witch flounder in RI state waters at the same commercial/recreational possession limits allowed in federal waters; and 2) adoption of new provision which allows federally permitted vessels, authorized to commercially harvest cod in federal waters, to harvest, possess, or land cod in RI state waters at the same commercial possession limit allowed in federal waters.

8. Commercial Barndoor Skate

- Decision. Adoption of the new provisions, which 1) establish that barndoor skate wings may not comprise more than 25% of the total skate wings by weight per vessel per day, at time of landing; 2) require barndoor skates to be kept separate from other species harvested; and 3) prohibit vessels possessing barndoor skate from discarding any skate species that have been winged.

9. Research Pilot Aggregate Program for Commercial Black Sea Bass and Summer Flounder

- Decision: Adoption of the new provisions, which establish a pilot program to assess the effectiveness and viability of an expanded aggregate landings approach as an alternative to traditional daily possession limit quota management in the commercial summer flounder and black sea bass fisheries.
- Comments: First, I recognize and appreciate that this proposal relates directly to a longstanding interest on the part of the Division, Council, and RI commercial fishing community to explore opportunities to better enable participants in these fisheries to fish in an efficient, cost-effective, economically viable, and ecologically sound manner, with particular emphasis on reducing discard mortality; and that the proposal stems directly from a recommendation, set forth in December 2016, to conduct a workshop in 2017 to evaluate alternative management measures, including expanded aggregate programs.

Second, I commend the Council for their recommendations pertaining to the program, and concur with you that all the Council's recommendations should be incorporated into the final regulations for the program.

Third, please state expressly in the final regulations that the program will be in place for one year only (2019), after which it will be subject to review and evaluation, with a view to developing recommendations for moving forward in 2020 and thereafter. Any proposal to renew/extend the program for an additional year would have to occur via public notice and hearing.



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

INTER-OFFICE MEMO

TO: Janet Coit, Director

FROM: Jason McNamee, Chief

DATE: July 10, 2018

SUBJECT: Decisions regarding proposed amendments to the RI Marine Fisheries regulations that were the subject of a public hearing conducted on June 4th and RI Marine Fisheries Council (RIMFC) meeting on June 26th. Please note a summary of written and oral comments received has been provided as an addendum to this memo.

1. **Hearing item 1 - Proposed amendment to “Part 1 - Definitions and General Provisions”:**

- **Background:** Continued effort to reduce unnecessary language from the regulations.
- **Proposal:** Division proposal to delete 25 terms and 1 acronym not found in RIMFR; as well as minor/non-substantive modification/clarification to 3 terms.
- **RIMFC:** 6-0 in support as proposed.
- **Marine Fisheries:** Support as proposed.
- **Timing to file:** Not immediately time sensitive.

10. **Hearing Item #2a - Proposed amendment to “Part 3 – Finfish,” regarding the removal of language “whether caught within the jurisdiction of this State or otherwise,” in several locations throughout the regulation:**

- **Background:** This language was determined to be conflicting with rules regarding transiting.
- **Proposal:** Division proposal to remove language in several instances throughout regulation (Part 3).
- **RIMFC:** 6 – 0 in support as proposed.
- **Marine Fisheries:** Support as proposed.
- **Timing to file:** Not immediately time sensitive.

3. **Hearing Item #2b - Proposed amendment to “Part 3 – Finfish,” regarding the transfer of quota between the striped bass floating fish trap and general category fisheries:**

- **Background:** This matter was originally brought to hearing this past Spring, but was pulled due to possible confusion with the proposal as presented.

- Proposal: Division proposal to provide for the ability to transfer Striped bass quota from the floating fish trap sector to the general category sector prior to October 15; and to provide for the transfer of quota back to the floating fish trap sector. The October 15 date is problematic due to the need to transfer quota prior to this date and assure full utilization of the annual quota.
 - RIMFC: 5 – 0 in support as proposed.
 - Marine Fisheries: Support as proposed.
 - Timing to file: Not immediately time sensitive.
4. **Hearing Item #2c - Proposed amendment to “Part 3 – Finfish,” to increase the minimum size for recreational Shortfin Mako:**
- Background: Consistency with NOAA FMP.
 - Proposal: Division proposal to increase the minimum size for recreational Shortfin Mako from 54 to 83 inches consistent with the FMP.
 - RIMFC: 6 – 0 in support as proposed.
 - Marine Fisheries: Support as proposed.
 - Timing to file: Not immediately time sensitive.
5. **Hearing Item #2d - Proposed amendment to “Part 3 – Finfish,” to decrease the fishing year starting possession limit for Aggregated Large Coastal (LCS) & Hammerhead species groups:**
- Background: ASMFC/NOAA FMP compliance matter.
 - Proposal: Division proposal to decrease the fishing year starting possession limit for Aggregated Large Coastal (LCS) & Hammerhead species groups from 45 to 25 sharks per vessel per day consistent with the FMP.
 - RIMFC: 6 – 0 in support as proposed.
 - Marine Fisheries: Support as proposed.
 - Timing to file: Not immediately time sensitive.
6. **Hearing Item #2e - Proposed amendment to “Part 3 – Finfish,” regarding rod and reel gear and safe handling requirements for Coastal sharks:**
- Background: Consistency with NOAA FMP.
 - Proposal: Division proposal regarding rod and reel gear and safe handling requirements for Coastal sharks consistent with the FMP. Proposed revisions also consolidate and streamline provisions pertaining to safe handling and bycatch reduction for commercial shortline and gillnet gears.
 - RIMFC: 6 – 0 in support as proposed.
 - Marine Fisheries: Support as proposed.
 - Timing to file: Not immediately time sensitive.
7. **Hearing Item #2f - Proposed amendment to “Part 3 – Finfish,” regarding commercial Cod and commercial/recreational Haddock, Pollock, Yellowtail Flounder, and Witch Flounder management:**
- Background: Inaccuracy/omission discovered in the regulations.

- Proposal: Division proposal to add language regarding commercial Cod to provide for federally permitted vessels to harvest, possess, or land Cod in state waters in the amount equal to the federal regulations, consistent with other groundfish species (i.e., haddock, pollock, yellowtail flounder, and witch flounder). Also amends (clarifies) the existing, parallel provisions pertaining to the commercial and recreational harvest of haddock, pollock, yellowtail flounder, and witch flounder in state waters to include possession or landing.
- RIMFC: 6 – 0 in support as proposed.
- Marine Fisheries: Support as proposed.
- Timing to file: Not immediately time sensitive.

8. **Hearing Item #2g - Proposed amendment to “Part 3 – Finfish,” regarding commercial Skate management:**

- Background: NEFMC Skate FMP consistency matter.
- Proposal: Division proposal to provide for the harvest of Barndoor skate consistent with the FMP due to improved stock status.
- RIMFC: The Council expressed concern that the proposed possession-limit pertaining to the composition of Barndoor skate wings could be problematic if applied during daily harvest operations, versus at the time of landing. In response, the following modification to that provision was recommended: “*Barndoor skate shall not comprise more than 25% of total skate wing by weight per vessel per day at the time of landing.*” 6 - 0 in support, as modified.
- Marine Fisheries: Support for the Council recommendation.
- Timing to file: Not immediately time sensitive.

9. **Hearing Item #3 - Proposed adoption of new regulation “Part 12- Regulations for a Research Pilot Aggregate Program for Commercial Black Sea Bass and Summer Flounder”:**

- Background: This matter has been discussed for several years, and was brought to a public workshop this past Spring. The rationale for the proposal is as follows:
 - Expanded aggregate opportunities have been proposed for multiple years;
 - One criticism has been lack data to determine impacts of expanded aggregate possession limits on effort. A pilot program will provide the Division with data necessary to make informed decisions about the impact of such a program on harvest rates and quota management;
 - Propose setting up a pilot with multiple gear types to gather data on impacts;
 - Proposing to provide for a maximum of 15 participating vessels with a diversity of gear types;
 - Qualifying criteria to include fishing history.
- Proposal: Division proposal to adopt a new regulation.
- RIMFC: 4-1 in support of the proposal with the following caveats:
 - That the pilot program take effect January 1, 2019;
 - That the pilot program include a random selection of participants with a maximum participation of fifteen vessels, with qualifying criteria established for overall selection, and vessels selected at random for each gear type;

- That, if at any point during any sub-period for either species, there is a projected closure, caused by the pilot program, of five days or more, the program will be terminated for the remainder of the sub-period.
- Marine Fisheries: Support for the Council recommendation.
- Timing to file: Not immediately time sensitive.

Rayna and Director Coit, please see attached finalized Director Decision memo ready for signature. I will be up in the morning @ 9:30 to file regs with Sec. of State. A couple of points re: the regs to be filed tomorrow:

- Amendments to be filed for Part 3 Finfish does not include changes to commercial skate that were approved for adoption. We need to wait until the federal rule is changed. We will file a subsequent amendment for commercial skate as soon as the federal rule changes. If we need to tweak our rules in response to the final federal rule, we will prepare an addendum to the decision memo (though that is unlikely).
- We are not filing the new proposed Pilot Aggregate regs at this time, there are still a couple minor language bugs to work out. We have plenty of time before implementation, no need to file at this time, we can do next month