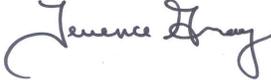




**RHODE ISLAND**  
**DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

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

**To:** Conor McManus  
 Chief, Division of Marine Fisheries

**From:** Terrence Gray, P.E.  
 Acting Director 

**Date:** December 6, 2021

**Re:** Final Decisions Pertaining to the November 9, 2021 Marine Fisheries Public Hearing Items and November 30, 2021 Marine Fisheries Council meeting.

I have received and reviewed your memo to me, dated December 2, 2021 (attached), regarding the regulatory matters that were subject to a public hearing on November 9, 2021 and the RI Marine Fisheries Council (Council) meeting on November 30, 2021. I have also received and reviewed all relevant supporting documentation, including the public comments received and the draft Council meeting minutes.

I hereby approve all the recommendations, as set forth in your memo, which are consistent with those provided by the Council. The specific regulatory items, and the final decisions for each, are as follows:

1. **2022 Commercial Black Sea Bass Management**

Decision: Amend the rule to adopt proposal # 2, as recommended by the Council and supported by the Division, which amends commercial black sea bass management as follows:

Season	Allocation	Starting Poss. limit (lbs)
1/1 – 4/30	<del>25</del> 20%	750 (vsl/week)
5/1 – 6/30	25%	<del>100</del> 75 (vsl/day)
7/1 – 8/15	<del>20</del> 25%	<del>100</del> 75 (vsl/day)
8/16 – 9/ <del>14</del> 15	10%	50 (vsl/day)
9/ <del>15</del> 16 – 10/ <del>31</del> 15	10%	50 (vsl/day)
<del>11/1</del> 10/16 – 12/31	10%	50 (vsl/day)

2. **Commercial Menhaden Management**

Decision: Maintain status quo; do not adopt the proposed vessel size restriction, consistent with the recommendation of the Division and Council.

I am in agreement with the Council, Division, and majority of public comment that menhaden management in Rhode Island, particularly in the Menhaden Management Area within Narragansett Bay, is comprehensive and effective; and with the resource not overfished and overfishing not occurring, there is no need for additional management measures at this time. I note that all commercial vessels operating in the Menhaden Management Area are subject to a 120,000 pounds/day possession limit backed by a certified 120,000 pound fish storage capacity. Moreover, all such vessels using purse seines are subject to the same net restrictions. Accordingly, there is no clear rationale, from a fisheries management perspective, for adding a vessel size restriction.

I recognize that when large commercial vessels are observed fishing in Narragansett Bay, it can create a public perception of inadequate management. Thus, I support the Division’s commitment to work with my office to enhance public outreach regarding the nature and effectiveness of our menhaden management program, particularly when the fishery is subject to activity by large vessels.

3. **Cobia Management**

Decision: Adopt the new rule, as recommended by the Council and supported by the Division, which is necessary to maintain compliance with the ASMFC and enable RI to participate in any subsequent efforts by the ASMFC to further develop the interstate fishery management plan for cobia. The measures included in the new rule are as follows:

Minimum Size	Season	Poss. Limit (rec.)	Poss. Limit (comm.)
37” total length	1/1 - 12/31	1 fish/vsl/day	2 fish/vsl/day

4. **Summer Flounder Exemption Certificate Program**

Decision: Amend the rule as recommended by the Council and supported by the Division, which enacts the following programmatic updates:

- Extend the validity of current summer flounder exemption certificates to December 31, 2025;
- Add “Hailing Port” to information required in renewal applications;
- Require renewal applications to be postmarked by December 31, 2025, with stipulation that renewal applications shall be mailed to all certificate holders no later than October 1, 2025;
- Require an application to be submitted to the Department for a vessel replacement or change in vessel ownership;

- Remove vessel replacement baseline requirements;
- Require that an Exemption Certificate must be applied to a replacement vessel owned by the seller/transferee within five (5) years of approval of the transfer application;
- Adopt a “Confirmation of Certificate Status” (CCS) process to allow for an Exemption Certificate history to be maintained without the Certificate attached to a vessel. This new CCS process includes the following provisions:
  - If a vessel owner severs the Exemption Certificate from a vessel, the vessel owner may elect to apply to the Department for a CCS;
  - An application to the Department must be submitted and approved in order to take an Exemption Certificate out of CCS;
  - The Exemption Certificate must be applied to a vessel within five (5) years of approval of application for CCS; after five (5) years of approval of application for CCS, the Exemption Certificate becomes invalid.
  - Exemption Certificates in CCS are subject to the renewal requirements.

Regarding the additional proposed provision that the transfer of an Exemption Certificate to another vessel or replacement vessel may only be to a RI resident, I concur with the recommendations of the Council and Division that this provision is to be tabled, i.e., not adopted at this time, and revisited during the next phase of proposed programmatic amendments slated for the latter part of 2022.



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

INTER-OFFICE MEMO

TO: Terrence Gray, P.E.  
Acting Director

FROM: Conor McManus  
Chief

DATE: December 2, 2021

SUBJECT: Decisions regarding proposed regulation amendments that were subject of a public hearing held on November 9, 2021, and a RI Marine Fisheries Council (RIMFC) meeting on November 30<sup>th</sup>. The public hearing folder contains all the necessary documentation related to this hearing, including the proposed rules that were publicly noticed and the comments received. Below is a summary of each of the proposed amendments:

**1. 2022 Commercial Black Sea Bass Management**

- **Background:** Amendments to management were noticed due to proposals received at the workshop held October 5<sup>th</sup>, where the Division presented stock status and the past year's fishery performance for black sea bass, scup, summer flounder, and menhaden. The 2022 RI commercial quota for black sea bass is expected to increase to ~ 845,220 lbs from the 2021 quota of 669,813 lbs.
- **Proposal:** Four different proposals representing industry and Division management scenarios were noticed for consideration, as follows:

**Proposal 1 - Status quo**

Season	Allocation	Starting Poss. limit (lbs)	Estimated Days Closed	Quota Remaining (equivalent days/wks in season)
1/1 – 4/30	25%	750 (vsl/week)	N/A	92,799 (13 weeks)

5/1 – 6/30	25%	100 (vsl/day)	24	N/A
7/1 – 8/15	20%	100 (vsl/day)	30	N/A
8/16 – 9/14	10%	50 (vsl/day)	2	N/A
9/15 – 10/31	10%	50 (vsl/day)	29	N/A
11/1 – 12/31	10%	50 (vsl/day)	N/A	52,497 (100 days)

### Proposal 2 - Industry Proposal

Season	Allocation	Starting Poss. limit (lbs)	Estimated Days Closed	Quota Remaining (equivalent days/wks in season)
1/1 – 4/30	<del>25</del> 20%	750 (vsl/week)	N/A	50,538 (7 weeks)
5/1 – 6/30	25%	<del>100</del> 75 (vsl/day)	10	N/A
7/1 – 8/15	<del>20</del> 25%	<del>100</del> 75 (vsl/day)	19	N/A
8/16 – 9/ <del>14</del> 15	10%	50 (vsl/day)	2	N/A
9/ <del>15</del> 16 – 10/ <del>31</del> 15	10%	50 (vsl/day)	12	N/A
<del>11/1</del> 10/16 – 12/31	10%	50 (vsl/day)	N/A	52,497 (100 days)

### Proposal 3 – Division analysis in response to minimize number of closed days

Season	Allocation	Starting Poss. limit (lbs)	Estimated Days Closed	Quota Remaining (equivalent days/wks in season)
1/1 – 4/30	<del>25</del> 15%	750 (vsl/week)	N/A	8,276 (1 week)
5/1 – 6/30	<del>25</del> 20%	<del>100</del> 50 (vsl/day)	0	12,579 (5 days)
7/1 – 8/15	<del>20</del> 30%	<del>100</del> 50 (vsl/day)	1	0
8/16 – 9/ <del>14</del> 15	10%	50 (vsl/day)	2	0
9/ <del>15</del> 16 – 10/ <del>31</del> 15	<del>10</del> 20%	50 (vsl/day)	0	22,383 (5 days)
<del>11/1</del> 10/16 – 12/31	<del>10</del> 5%	50 (vsl/day)	0	1,836 (3 days)

### Proposal 4 - Industry Proposal

Season	Allocation	Starting Poss. limit (lbs)	Estimated Days Closed	Quota Remaining (equivalent days/wks in season)
1/1 – 4/30	25%	750 (vsl/week)	N/A	92,799 (13 weeks)

<del>5/1—6/30</del>	<del>25%</del>	<del>100 (vsl/day)</del>	<del>N/A</del>	<del>N/A</del>
<del>7/1—8/15</del>	<del>20%</del>	<del>100 (vsl/day)</del>	<del>N/A</del>	<del>N/A</del>
<del>8/16—9/14</del>	<del>10%</del>	<del>50 (vsl/day)</del>	<del>N/A</del>	<del>N/A</del>
<del>9/15—10/31</del>	<del>10%</del>	<del>50 (vsl/day)</del>	<del>N/A</del>	<del>N/A</del>
<del>11/1—12/31</del>	<del>10%</del>	<del>50 (vsl/day)</del>	<del>N/A</del>	<del>N/A</del>
<u>5/1—12/31</u>	<u>75%</u>	<u>50 (vsl/day)</u>	<u>48</u>	<u>N/A</u>

- **Public comment:** Four comments in support of option 1 (status quo); five in support of option 2; no support for option 3; one in support of option 4; and one in support to reduce the starting possession limits from 100 to 50 lbs/vessel/day for the 2<sup>nd</sup> and 3<sup>rd</sup> sub-periods.
- **RIMFC:** 5-1 in support of recommending adoption of proposal # 2 as noticed.
- **Marine Fisheries:** The Division can manage any of the options noticed and supports the recommendation of the Council.

## 2. **Commercial Menhaden Management**

- **Background:** The Division has received numerous complaints in 2021 regarding large vessels (of which were out of state) operating in Narragansett Bay (Menhaden Management Area) targeting menhaden, requesting that the Division take action to prohibit this activity in the future. The Division investigated multiple methods for restricting large vessels from targeting menhaden in the MMA and determined that adding a vessel length restriction would best address the concerns raised by the public. Vessels sizes participating in the menhaden fishery prior to 2021 were used to determine a maximum vessel length proposal of 90 feet.
- **Proposal:** To adopt a menhaden vessel length restriction of ninety (90) feet for harvesting menhaden in the Menhaden Management Area.
- **Public comment:** One comment in support as proposed; three opposed; one in support of amending the vessel length to 75 feet.
- **RIMFC:** 1 – 5 failed motion to recommend adoption as proposed. No other motions were made; therefore, no recommendation was provided.
- **Marine Fisheries:** In support of the Council recommendation. The vessel length restriction was proposed in response to public concern raised in 2021. The Division notes that there is no biological rationale to support the proposal and the menhaden fishery is well managed by several other parameters as specified in rule that limit the harvest of menhaden in the MMA by all vessels. Additionally, the stock is not overfished and overfishing is not presently occurring. The Division will continue to educate citizens on the menhaden fishery on the robust menhaden management program in Rhode Island.

## 3. **Cobia Management**

- **Background:** In 2019, cobia management shifted from complementary management from the Council's to the Commission via Amendment 1 to the

FMP. RI joined the Cobia management unit in 2021. RI landings are considered de minimis for both commercial and recreational fisheries. A benchmark assessment was completed in 2020: the stock is not overfished; overfishing is not occurring.

- Proposal:

Minimum Size	Season	Poss. Limit (rec.)	Poss. Limit (comm.)
37" total length	1/1 - 12/31	1 fish/vsl/day	2 fish/vsl/day

- Public comment: One comment opposed to the proposed possession limit.
- RIMFC: 6 - 0 in support of adopting as noticed.
- Marine Fisheries: Support to adopt as noticed for ASMFC compliance with the FMP.

#### 4. Summer Flounder Exemption Certificate Program

- Background:

- 1996: Program created to safeguard the RI Summer Flounder quota for RI residents. The program is currently closed to new entrants, which does not consider changes to the fishery that have evolved since the program's inception.
- July 2020: Rule amended to establish a renewal process to validate active certificates and invalidate inactive certificates
- Jan. 2021: Rule amended for additional administrative updates

- Proposal: Proposed additional administrative updates as follows:

- Extend the validity of current Exemption Certificates to Dec. 31, 2025;
- Add "Hailing Port" to information required in renewal application;
- Require that renewal applications must be postmarked by Dec. 31, 2025 to be considered for renewal; and that renewal application will be mailed to certificate holders by Oct. 1, 2025;
- Require application for a vessel replacement or change in vessel ownership;
- Remove vessel replacement baseline requirements;
- Require that transfer of Exemption Certificates to another vessel or replacement vessel may only be to a RI resident;
- Require that Exemption Certificates must be applied to a replacement vessel owned by the seller/transferee within five (5) years of approval of the transfer application;
- Adopt a Confirmation of Certificate Status (CCS) to provide for maintaining the Exemption Certificate history without it being attached to a vessel, as follows:
  - Require that if a vessel owner severs the Exemption Certificate from a vessel, the vessel owner may elect to apply to the Department CCS;
  - Require that application for CCS must be made on forms provided by the Director;
  - Require application to take a certificate out of CCS;
  - Require that the Exemption Certificate must be applied to a vessel within five (5) years of approval of application for CCS; and that if

after five (5) years of approval of application for CCS, the Exemption Certificate becomes invalid.

- Require that Exemption Certificates in CCS are subject to the renewal requirements.
- Public comment: One comment in support as proposed.
- RIMFC: 5 – 1 in support of recommending to the Director adoption of the Summer Flounder Exemption Certificate Program as noticed, with the exception of the provision that certificate transfers only apply to a RI resident (section 14.11.2(D)), which is to be tabled and reconsidered in the next regulatory phase for the program in 2022.
- Marine Fisheries: In support of the Council recommendation. The Division plans to initiate additional regulatory amendments in the latter half of 2022.