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Marine Fisheries Advisory

Clarification on Rules Concerning the Mixing of Commercial and Recreational Fishing During the Same Trip

With the closure of the black sea bass commercial fishery, Division of Marine Fisheries (*Marine Fisheries*) and Office of Environmental Law Enforcement have received many inquiries seeking clarification about the opportunity for commercial fishermen to retain some quantity of black sea bass for recreational or personal use.

Many fishermen hold both commercial and recreational permits; however it is not lawful to conduct both activities on the same trip. Be advised that to ensure the Commonwealth complies with interstate plan mandates and that data collection methods are not compromised, it is not lawful for any person or vessel engaged in commercial fishing to retain any species that are prohibited for commercial fishermen during the same trip.

There are numerous scenarios where this might occur. Specific to black sea bass, questions have been posed to *Marine Fisheries* from commercial permit holders who fish commercially on a vessel for scup about whether they are allowed to retain black sea bass consistent with the recreational rules. There is no provision in the regulations to allow vessels or persons to simultaneously participate in both recreational and commercial fishing.

Consequently, Law Enforcement Officers have been instructed to consider all trips that are conducted by commercial permit holders who are in possession of quantities and/or sizes of fish that can only be authorized by a commercial permit - as commercial trips and therefore that trip and those persons aboard shall be bound by the commercial rules.

Frequently asked questions:

- 1) *I have a boat permit with a scup endorsement, am fishing with hook and line on an open scup commercial fishing day, and am taking scup with the intent to sell them. Can I keep a recreational limit of sea bass for my personal use?* Answer: NO.
- 2) *I also hold a recreational permit, so how will the officer determine if I am supposed to comply with the commercial vs. recreational rules?* Answer: If it is an open commercial fishing day and you hold a commercial permit and you have scup in quantities in excess of the recreational bag limit or fish smaller than the 10.5" recreational minimum size limit, then the officer will consider you commercially fishing. If you are deemed to be commercially fishing and have sea bass in possession, you will be cited for possessing sea bass after the closure of the commercial season.

- 3) *What about other species? When the striped bass commercial fishery opens on July 12, can I retain black sea bass for personal use while I'm commercially fishing for striped bass? Or can I retain a recreational limit of black sea bass caught in my commercial lobster pots?* Answer: No.