



**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:** December 22, 2015

**Re:** Final Decisions Pertaining to November 16, 2015 Marine Fisheries Public Hearing Items

I have received and reviewed your memo to me, dated December 10, 2015 and attached herewith, regarding the six public hearing items from the November 16, 2015 public hearing. With that memo, I have also received and reviewed all relevant supporting documentation, including the November 16, 2015 public hearing document and public hearing comments.

I hereby approve all of the recommendations set forth in your memo. With one exception, all of your recommendations are consistent with the recommendations of the RI Marine Fisheries Council, rendered at their December 7, 2015 meeting.

The one exception is item d under public hearing item #1: commercial management of black sea bass. As noted in your memo, the Council voted to recommend adoption of an aggregate landing limit for the January-April period (at 1,000 lbs/vessel/week) as well as the November-December period (at 250 lbs/vessel/week). As further noted in your memo, you support the establishment of an aggregate program for the January-April period, but not for the November-December period. Your reasoning is that an aggregate program during the November-December period would likely be difficult to manage, and potentially result in an overage, since only 11% of the annual commercial quota is allocated to that period; because of the small allocation and the performance of the fishery at that time, the period closed this year after just 8 days. While there will be approximately a 20 percent increase in the overall RI commercial quota in 2016, that translates into just an additional 6,525 pounds for the November-December period, insufficient to support a weekly aggregate program without risk of an overage. I concur with your reasoning, and hereby decide not to enact an aggregate program for the November-December period.

During the public process, there was a fair amount of debate on which, and how many, days to close during the summer fishery for summer flounder. To illuminate our reasoning, I weighed the options presented by both the public and the RIMFC, but did not see a compelling reason in the public record on which to base a change from the RIMFC recommended closure days of Friday and Saturday. Based on previous weekly closure implementations, this was the agreed to practice based on arguments of equity to fishers and as a mechanism to constrain catch rates, and because no counter arguments were apparent in the public record, I decided to accept the RIMFCs recommendation on this item.

Lastly, in concurrence with the Council's recommendation regarding commercial black sea bass and summer flounder, I understand that Marine Fisheries agrees to abide by the explicit advice given by the RIMFC to not drop below 50 lbs/day in our possession limit modification procedures, consistent with our status quo policy. I agree.

Thank you.



**RHODE ISLAND**  
**DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**  
**DIVISION OF FISH & WILDLIFE / MARINE FISHERIES**  
 Three Fort Wetherill Road  
 Jamestown, Rhode Island 02835

INTER-OFFICE MEMO

TO: Janet Coit, Director

FROM: Jason McNamee, Chief

DATE: December 10, 2015

SUBJECT: Request for decision regarding proposed amendments to the RI Marine Fisheries regulations that were the subject of a public hearing conducted on November 16<sup>th</sup>, and deliberated by the RI Marine Fisheries Council at their December 7<sup>th</sup> meeting.

1. **Hearing item #1a - Commercial Summer flounder:**

- Background: 2016 projected commercial quota = decrease of 445,538 lbs (~ 30%).
- Options presented at hearing:
  - Option 1: Status quo.
  - Option 2: Reductions in starting possession limits to avoid closures.

	Min. size	Quota	Sub-period	Poss. limit (lbs/vsl/day)	Aggregate poss. (lbs/vsl/wk)
<b>Option 1 - Status Quo</b>	14"	54%	Winter (1/1 – 4/30)	200 lbs	2,000
		35%	Summer (5/1 – 9/15)	100 lbs	700
		11%	Fall (9/16 – 12/31)	200 lbs	No aggregate
<b><u>Option 2</u></b>	14"	54%	Winter (1/1 – 4/30)	200 lbs	<b>1,400</b>
		35%	Summer (5/1 – 9/15)	<b>50 lbs</b>	<b>350</b>
		11%	Fall (9/16 – 12/31)	<b>100 lbs</b>	No aggregate

- Option 3: Additional industry considerations brought forward:
  - Keep fishery open year round with no closures.
    - Decrease starting possession limit;
    - Allow possession limits to drop below 50 lbs/vsl/day;
    - Close Friday's.
- Written comment: Bi-weekly aggregate during Winter sub-period @ 2,500 lbs/vsl/2 weeks.
  - **Council:** Motion passed unanimously:
    - 2,500 lb/vsl/2 weeks for Winter sub-period;
    - Friday and Saturday closure;
    - Noticed option 2 for Summer and Fall sub-periods;
    - Also possession limit no lower than 50 lbs/vsl/day;
    -

- **Marine Fisheries:**

- 2,500 lb/vsl/2 weeks for Winter sub-period;
- Starting possession limit of 50 lbs/vsl/day in Summer sub-period with Friday and Saturday closure;
- Starting possession limit of 100 lbs/vsl/day in the Winter 2 sub-period;
- Support Council recommendations as a viable solution to the decreased quota.
- The policy proposal of allowing possession limits to drop below 50 lbs/vsl/day (i.e., 25 lbs) was not supported by the Council, so Marine Fisheries will continue with its strategy of not dropping below 50 pounds in its possession limit modification procedures.
- Marine Fisheries notes that if needed, adjustments may be made within an aggregate period to protect against large overages
- Final proposed language as recommended by Council as follows:

*Proposed language*

7.7.2 Commercial:

(1) Winter sub-period: January 1 - April 30 annually:

(b) Possession limit between January 1 and the start of the Winter sub-period of the Aggregate Landing Program, annually:

(i) Vessels that possess a valid RI Summer Flounder Exemption Certificate (Exemption Certificate): Two hundred (200) pounds per vessel per calendar day.

(ii) Vessels that do not possess a valid Exemption Certificate: Two hundred (200) pounds per vessel per calendar day.

(c) Possession limit during the Winter sub-period of the Aggregate Landing Program, annually:

(i) Vessels not permitted in the Aggregate Landing Program but which possess a valid Exemption Certificate: Two hundred (200) pounds per vessel per calendar day. When 90% of the Winter sub-period quota has been harvested as determined by the DFW, the possession limit per vessel shall be one hundred (100) pounds per calendar day.

(ii) Vessels that do not possess a valid Exemption Certificate: Two hundred (200) pounds per vessel per calendar day. When 90% of the Winter sub-period quota has been harvested as determined by the DFW, the possession limit per vessel shall be one hundred (100) pounds per calendar day.

(iii) Aggregate Landing Program: ~~2,000~~ **2,500** pounds per vessel ~~per calendar week per each two week period as specified on the permit. The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM.~~ When 90% of the Winter sub-period quota has been harvested as determined by the DFW, the Aggregate Landing Program will terminate and the possession limit shall be one hundred (100) pounds per vessel per calendar day.

(2) Summer sub-period: May 1 - September 15 annually:

(b) Possession limit between May 1 and May 31, annually:

(i) Vessels that possess a valid Exemption Certificate: ~~One hundred (100)~~ **Fifty (50)** pounds per vessel per calendar day. The fishery is closed Friday and Saturday each week.

(ii) Vessels that do not possess a valid Exemption Certificate: ~~One hundred (100)~~ **Fifty (50)** pounds per vessel per calendar day. The fishery is closed Friday and Saturday each week.

(c) Possession limit during the Summer sub-period of the Aggregate Landing Program, annually:

(i) Vessels not permitted in the Aggregate Landing Program, but which possess a valid Exemption Certificate: ~~One hundred (100)~~ **Fifty (50)** pounds per vessel per calendar day. The fishery is closed Friday and Saturday each week.

(ii) Vessels that do not possess a valid Exemption Certificate: ~~One hundred (100)~~ **Fifty (50)** per vessel per calendar day. The fishery is closed Friday and Saturday each week.

(iii) Aggregate Landing Program: ~~Seven hundred (700)~~ **Three hundred fifty (350)** pounds per vessel per week. ~~The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM.~~ When 80% of the Summer sub-period quota has been harvested as determined by the DFW the program will terminate and the possession limit per vessel shall be ~~one hundred (100)~~ **Fifty (50)** pounds per calendar day. The fishery is closed Friday and Saturday each week.

(3) Fall Sub-Period: September 16 – December 31 annually:

(a) Target allocation: 11% of the annual quota.

(b) Possession limit:

(i) Vessels that possess a valid Exemption Certificate: ~~Two hundred (200)~~ **One hundred (100)** pounds per vessel per calendar day.

(ii) Vessels that do not possess a valid Exemption Certificate: ~~Two hundred (200)~~ **One hundred (100)** pounds per vessel per calendar day.

## 2. Hearing Item #1b - Commercial Bluefish:

- Background:
  - No closures in 2015 only due to quota transfers received from other states.
  - 2016 Projected Commercial Quota = decrease of 35,683 lbs (~ 10%).
    - 3 options presented at hearing:
  - Option 1: Status quo.
  - Option 2: Establish starting possession limit of 3,500 lbs/vsl/week to avoid closures

	<b>Sub-period</b>	<b>Allocation</b>	<b>Poss. Limit</b>
<b>Option 1 - Status Quo</b>	1/1 – 6/30	50% of the annual quota	Unlimited
	7/1 –12/31	50% of the annual quota	Unlimited
<b>Option 2</b>	<b>1/1 – 12/31</b>	<b>100% of the annual quota</b>	<b>3,500 lbs/vsl/week</b>

- Option 3: Industry Option - adopt a minimum size and three seasons with weekly possession limits as follows:

<i>Min. size</i>	<i>Sub-period</i>	<i>Poss. Limit</i>
<b>18"</b>	<b>1/1 – 4/30</b>	<b>500 lbs/vsl/week</b>
	<b>5/1 – 11/15</b>	<b>4,000 lbs/vsl/week</b>
	<b>11/16 – 12/31</b>	<b>500 lbs/vsl/week</b>

- Council: Unanimous vote in support of the industry option as proposed.
- Marine Fisheries:
  - Support industry option proposed.
  - Status quo would most likely result in closures towards end of year due to reduced quota.
  - Quota transfers from other states to avoid closures remains uncertain and is therefore unreliable as a management tool to provide for additional quota.
  - To provide for quota tracking guidance since there was no allocation program offered, Marine Fisheries will develop a catch trajectory for the year to guide our understanding of catch rates, which will guide us as to our performance and any need to make a possession limit adjustment.

### 3. Hearing item #1c – Commercial Scup:

- Background: 2016 Projected Commercial Quota = decrease of 167,909 lbs (~ 4%)
- Options presented at hearing: Option 1 - Status quo
- Industry considerations/proposals:
  - Support for status quo;
  - Change starting possession limit in Summer sub-period to 2,500 lbs/week;
  - Good deal of discussion at workshop but no other official proposals came forward
- Council: Unanimous vote in support of Status Quo.
- Marine Fisheries: Agree with remaining at status quo.
  - Important consideration, FFTs can still land a lot, but this adds variability in to the program

- There continues to be an imbalance between FFTs and Gen Cat, therefore even if we dropped the possession limit, market effect may not occur because FFTs could still land at high rates driving price down

4. **Hearing item #1d – Commercial Black sea bass:**

- Background: 2016 Projected Commercial Quota = increase of 59,317 lbs (~ 20%)
  - 2 options presented at hearing:
    - Option 1: Status quo.
    - Option 2: Establish aggregate program in order to provide for additional flexibility for commercial harvest
- Additional industry considerations:
  - Establish year-round Aggregate program
  - Establish Aggregate programs in winter sub-periods only (1/1 - 4/30; 11/1 – 12/31)
  - Close Fridays
  - Drop below 50 lbs/vsl/day to remain open
  - Both support and opposition for Aggregate
  - More quota in Summer sub-periods
  - Start Sept. sub-period later in month
  - Increase starting possession limit to 75 lbs/vsl/day

- Council: Motion passed 4 – 3 as follows:

Sub-period	Quota	Poss. limit
1/1 – 4/30	25%	<del>750 lbs/vsl/day</del> <b>1000 lbs/vsl/week</b>
5/1 – 6/30	25%	50 lbs/vsl/day <b>(closed on Friday's)</b>
7/1 – <del>7/31</del> <b>9/14</b>	19.5%	50 lbs/vsl/day <b>(closed on Friday's)</b>
<del>9/1</del> <b>9/15</b> – 10/31	19.5%	50 lbs/vsl/day <b>(closed on Friday's)</b>
11/1 – 12/31	11%	<del>100 lbs/vsl/day</del> <b>250 lbs/vsl/week</b>

Do not drop below 50 pounds per day

- Marine Fisheries:
  - supports the proposal offered by the RIMFC with one exception
  - While we would prefer to adopt the aggregate program during the Nov through Dec period as recommended by the Council, but given the performance of the fishery in 2015 and a short 8 day opening, Marine Fisheries is concerned that an aggregate during this period would lead to a large overage as we might not be able to adjust in time given the nature of how an aggregate program works. It is too risky a management program at this time and will be so until the quota increases beyond its current level.
  - RIMFC discussed possibility of reallocation, but did not act on the idea, therefore Marine Fisheries does not recommend reallocation in to the summer periods as we were not provided with any guidance on how to reallocate.
  - One other item of note is that the Council vote was split. The split was due to some Council members preferring to drop below 50 pounds possession limit if needed (recreational representatives) while the other half did not support this.

5. **Hearing items 1e. and 2 – general editing of Finfish regulations and Part 1 – Legislative Findings:**

- Background: Proposal offered from DLE; additional definitions and Finfish edits offered by DLE during comment period.
- Public comments: No other comments
- Council: Unanimous vote of support as proposed, including proposed modifications provided by DLE.
- Marine Fisheries: Support as proposed, including proposed modifications provided by DLE.