

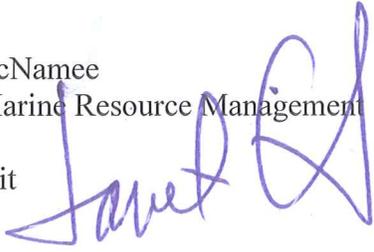


**RHODE ISLAND**  
**DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

**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:** January 23, 2018

**Re:** Final Decisions Pertaining to November 20, 2017 Marine Fisheries Public Hearing Items

I have received and reviewed your memo to me, dated December 28, 2017 and attached herewith, regarding the public hearing items from the November 20, 2017 public hearing. With that memo, I have also received and reviewed all relevant supporting documentation, including the November 20, 2017 public hearing documents, as well as the summary report (draft meeting minutes) from the December 4, 2017 meeting of the RI Marine Fisheries Council (RIMFC).

I hereby approve all the recommendations, as set forth in your memo, which, with one exception (pertaining to gill net tagging), are consistent with those provided by the RIMFC at the Council's December 4, 2017 meeting. The specific regulatory items, and the final decisions for each, are as follows:

**1. Definition of "resident"**

- Decision: Adoption of the amended provision, which strikes use of automobile registration as a means of proving status as a Rhode Island resident for all DEM marine fisheries regulations that pertain to residency.

**2. Commercial Black Sea Bass**

- Decision: Adoption of the amended provisions, which:
  - 1) Decrease the starting possession limit during the January-April sub-period from 750 pounds/vessel/week to 500 pounds/vessel/week;
  - 2) Eliminate the Friday closures for the May-June, July, and September 15 – October sub-periods (resulting in all three sub-periods being open seven days/week); and
  - 3) Decrease the starting possession limit during the November-December sub-period from 100 pounds/vessel/day to 50 pounds/vessel/day.
- Comment: I concur with your recommendation, backed by a number of constituents and Council members, to develop and implement a pilot aggregate

landing program for black sea bass this year. Please move forward with that initiative, with a view to informing the development of a fishery-wide proposal for consideration within the next year or two.

### **3. Commercial Scup**

- Decision: Status quo, with the understanding that proposed adjustments to the summer period dates will be re-noticed soon.

### **4. Commercial Summer Flounder**

- Decision: Adoption of the amended provisions (set forth as Option 4), as recommended by the Council, which:
  - 1) Decrease the starting possession limit during the January-April sub-period from 200 pounds/vessel/day to 100 pounds/vessel/day;
  - 2) Increase the aggregate possession limit during the January-April sub-period from 1,300 pounds/vessel/bi-week to 1,500 pounds/vessel/bi-week; and
  - 3) Eliminate the aggregate program during the May – September 15 period.
- Comment: As recommended by the Council, the final amended regulations do not alter the weekly Fri/Sat/Sun closure during the May – September 15 period.

### **5. Commercial Spiny Dogfish**

- Decision: Adoption of the amended provision, which increases the daily possession limit from 5,000 pounds/vessel/day to 6,000 pounds/vessel/day.

### **6. Gill Net Tagging**

- Decision: Adoption of the amended provisions, which:
  - 1) Streamline and clarify the eligibility standard and maximum tag allowance standard;
  - 2) Prohibit the transfer of tags between nets or between individuals or vessels;
  - 3) Prohibit the filing of a false claim of tag loss; and
  - 4) Modify the requirement for where tags must be placed on each string of nets.
- Comment: The Council recommended that tags be attached to nets in a manner consistent with federal regulations; however, those regulations require placement of tags on net panels only. To ease compliance inspections by DEM's Division of Law Enforcement, I concur with your recommendation to also require that tags be attached on each of the two terminal ends, at the bridle of each end net panel.

### **7. Shellfish Harvester Education and Training Program**

- Decision: Adoption of the new regulations, which implement the new program and thereby render Rhode Island compliant with federal requirements set forth under the National Shellfish Sanitation Program.



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

INTER-OFFICE MEMO

TO: Janet Coit, Director

FROM: Jason McNamee, Chief

DATE: December 28, 2017

SUBJECT: Decisions regarding proposed amendments to the RI Marine Fisheries regulations that were the subject of a public hearing conducted on November 20<sup>th</sup> and RI Marine Fisheries Council (RIMFC) meeting held on December 4<sup>th</sup>.

2. **Proposed amendment to definition of “resident” (Part 1 – Definitions):**

- Background: Division proposal to correct a perceived loophole.
- Public comments: No comments received.
- RIMFC: 8 – 0 in support of the proposal.
- Marine Fisheries: Support as proposed.
- Timing to file: Immediately.

2. **Commercial Black Sea Bass:**

- Background: Two options were noticed for consideration and comment. A small decrease in quota is expected for 2018.

**Option 1 – status quo:**

Season	Min. size	Allocation	Closed Days	Starting Poss. limit
Jan 1 – Apr 30	11”	25%	N/A	750 (vsl/week)
May 1 – June 30		25%	Closed Fridays	50 (vsl/day)
July 1 – July 31		19.5%	Closed Fridays	50 (vsl/day)
Sept 15 – Oct 31		19.5%	Closed Fridays	50 (vsl/day)
Nov 1 – Dec 31		11%	N/A	100 (vsl/day)

**Option 2:**

Season	Min. size	Allocation	Closed Days	Starting Poss. limit (vsl/day)
Jan 1 – Apr 30	11”	25%	N/A	<del>750</del> <u>500</u> (vsl/week)
May 1 – June 30		25%	<del>Closed Fridays</del> <u>Open 7 days</u>	50 (vsl/day)
July 1 – July 31		19.5%	<del>Closed Fridays</del> <u>Open 7 days</u>	50 (vsl/day)
Sept 15 – Oct 31		19.5%	<del>Closed Fridays</del> <u>Open 7 days</u>	50 (vsl/day)
Nov 1 – Dec 31		11%	N/A	<del>100</del> <u>50</u> (vsl/day)

- Public comments: Predominantly in support of option 2; with some support expressed for an expanded aggregate program.
- RIMFC: 8 – 0 in support of option 2 as proposed, coupled with recommendation that the Division not reduce the possession limit below 50 pounds/day.
- Marine Fisheries: Support as proposed. In accordance with comments offered by members of the public as well as members of the Council, the Division notes and supports the concept of managing black sea bass, and other species as well, through aggregate (i.e., weekly) possession limits throughout the year. Such management has been shown to provide for greater flexibility for fishermen and fishing practices, which is also believed to reduce discards. However, due to concerns expressed during the public comment period, including concerns expressed by the Division of Law Enforcement regarding reporting and compliance, the Division does not support such management at this time.

While the Division does not recommend adopting an expanded aggregate program immediately, we would like to develop and pilot a program in the near future. This pilot will serve two purposes: To address the enforceability aspects of the aggregate program, we will look to incorporate enhanced accountability measures by way of vessel monitoring and electronic reporting. The Division has been investigating various technologies and believes it has found a company that can provide a device that meets the needs of the program at a reasonable price. Additionally, there are some benefits to the fishermen from these devices such as high water and engine monitoring.

The second aspect of the pilot will be to generate data on an aggregate program’s effects on fishing behavior, landings, and discard rates. This data can then be used to supplement some of the simulation work done by the Division on aggregate programs, which will provide a better sense of how an expanded aggregate program will impact overall management in the state.

We recommend allowing the Division to pursue this pilot in 2018. Our goal would be to bring the concept to a workshop and hearing in late winter, with implementation in the spring of 2018.

- Timing to file: Immediately.

3. **Commercial Scup:**

- **Background:** Status quo was the only option noticed; an increase in quota is expected for 2018.
- **Public comments:** Some support expressed for an aggregate program.
- **RIMFC:** No recommendation provided.
- **Marine Fisheries:** The Division recommends that no action be taken at this time. The noticed proposal did not reflect recent changes to the ASMFC Fisheries Management Plan (FMP), and such changes must be implemented to maintain compliance with this plan. Under advisement from DEM's Legal office, the Division proposes to re-notice the proposal, reflecting changes to the FMP, for a hearing in February 2018, which will provide ample time to amend the regulations before changes are required in the fall of 2018.
- **Timing to file:** N/A.

4. **Commercial Summer flounder:**

- **Background:** Per the Director's final decision on regulatory changes implemented in 2016, the Division conducted a comprehensive review and analysis of potential management options available for summer flounder. This analysis resulted in four options for summer flounder management being offered for this hearing:

**Option 1 – status quo:**

<b>Min. size</b>	<b>Quota</b>	<b>Sub-period</b>	<b>Starting Poss. limit (vsl/day)</b>	<b>Days closed</b>	<b>Aggregate poss. limit (lbs/vsl)</b>
14"	54%	Winter (1/1 – 4/30)	200 lbs	Open 7 days	1,300/bi-week
	35%	Summer (5/1 – 9/15)	50 lbs	Fri/Sat/Sun	200/week
	11%	Fall (9/16 – 12/31)	100 lbs	Open 7 days	N/A

**Option 2 - Expansion of the Aggregate program:**

- **Main points:**
  - Maintain current management parameters (status quo).
  - Remove eligibility requirement of Exemption Certificate during summer sub-period.
  - Additional reporting requirements.

**Option 3 - Maintain single possession limit for entire year:**

Min. size	Quota	Sub-period	Starting Poss. limit (vsl/day)	Days closed	Starting Aggregate poss. limit (lbs/vsl)
14"	54%	Winter (1/1 – 4/30- 9/15)	200 <del>100</del> lbs	Open 7 days	<del>1,300/bi-week</del> 700/week
	35%	Summer (5/1 – 9/15)	50 lbs	Fri/Sat/Sun	200/week
	11%	Fall (9/16 – 12/31)	100 lbs	Open 7 days	N/A

**Option 4 - Standard Management Approach w/ 2018 Quota Adjustment:**

Min. size	Quota	Sub-period	Starting Poss. limit (vsl/day)	Days closed	Starting Aggregate poss. limit (lbs/vsl)
14"	54%	Winter (1/1 – 4/30)	<del>200</del> 100 lbs	Open 7 days	<del>1,300</del> 1,500 /bi-week
	35%	Summer (5/1 – 9/15)	50 lbs	Fri./Sat./Sun Thu/Fri/Sat	200/week No Agg. Program
	11%	Fall (9/16 – 12/31)	100 lbs	Open 7 days	N/A

- Public comments: Public hearing comments were predominantly in support of status quo. A petition circulated by Town Dock was signed by 61 persons in support of option 4, with a caveat of closed days remaining as Friday, Saturday, and Sunday.
- RIMFC: 8 – 0 in support of option 4, with caveat of closed days remaining as Friday, Saturday, and Sunday, coupled with recommendation that the Division not reduce the possession limit below 50 pounds/day.
- Marine Fisheries: The Division can support and manage any of the four options proposed. With regards to option 3, it should be noted that there is uncertainty regarding the winter sub-period (i.e., federal Winter I period 1/1 – 4/30), in that the model is predicting lower landings than those seen in the previous year, which may be related to differing aggregate possession limit time periods (i.e., in some years the aggregate period was 1 week; other years was bi-weekly). This uncertainty was expressed by several individuals at the workshop and hearing. That being said, the Division would retain the authority to modify possession limits if the quota is projected to be exhausted prematurely.
- Timing to file: Immediately.

**5. Commercial Spiny Dogfish:**

- Background: Proposal is an FMP compliance issue to increase the possession limit from 5,000 lbs/day to 6,000 lbs/day.

- Public comments: Some support expressed for an aggregate program.
- RIMFC: 8 – 0 in support as proposed.
- Marine Fisheries: Support as proposed.
- Timing to file: Immediately.

6. **Gill net tagging (Part 6 – General Equipment Provisions):**

- Background: Division proposal to amend the regulations regarding tag location in response to industry feedback. Main points as proposed:
  - Tags valid April 1 – March 31 to coincide with license renewals;
  - Tags valid for one season; new tags must be ordered annually;
  - Tags attached along float line of the string of nets, one tag attached to each panel;
  - Ordering form and instructions being developed; will detail \$ cost/tag and vendor info (~\$1.55 / tag)
- Public comments: Support for improved quality of tags, and varied comments regarding tag location; support for two-year tags.
- RIMFC: 8 – 0 in support of proposal with a caveat the program follow the federal regulations.

Marine Fisheries: The Division supports the Council recommendation to follow the federal program, which requires placement of tags on net panels only (i.e., not on the float lines as proposed). However, in response to concerns from the Division of Law Enforcement regarding compliance inspections, the Division also supports locating tags at each terminal end of the string of nets. While broader than the federal program, the Division feels that this additional tag requirement is minimally burdensome to the fishermen, and meets the concerns expressed by the Division of Law Enforcement. The Division also supports two-year tags. The final recommended language regarding tag location is as follows:

~~Section 6.8.3(I)(7): Tags shall be attached to both vertical lines of a string of gill nets at the point proximate to where the bridle is joined to the vertical line. Tags shall be equally distributed between vertical lines, the difference of the number of tags on each vertical line shall not exceed one tag. One tag must be attached for every 300 linear feet of net used in a string.~~ **Tags shall be attached to every string of gill nets as follows: one tag shall be attached on each of the two terminal ends, at the bridle of each end net panel; and one tag shall be attached on every other bridle of each net panel within the string.**

- Timing to file: Immediately.

7. **Proposed adoption of new regulations regarding Shellfish Harvester Education Program:**

- Background: Division proposal to implement new regulations for compliance with the National Shellfish Sanitation Program (NSSP) Model Ordinance (Section II - Chapter VIII, Control of Shellfish Harvesting). Main points:

- Persons who commercially harvests/lands shellfish must complete a training course, designed and implemented by the State, prior to obtaining their commercial license or landing permit.
- Applies to all license and landing permit renewals, as well as all new licenses and landing permits.
- Applies to all shellfish, harvested and landed in RI, except whelk, and except scallops (if shucked at sea, with only adductor mussels landed).
- Separate training requirement, administered by CRMC, applies to shellfish farmers who only harvest and land farmed stock.
- Certificate of completion valid for 5 years
- Public comments: No comments received.
- RIMFC: 8 – 0 in support of the proposal.
- Marine Fisheries: Support as proposed.
- Timing to file: Immediately.