



**RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**
235 Promenade Street, Providence, RI 02908-5767
Rhode Island Relay 711

Final Decision Memo

TO: Robert Ballou, Acting Chief, DFW

FROM: Janet Coit, Director DEM

DATE: May 11, 2011

SUBJECT: Final Decision Pertaining to April 18, 2011 Marine Fisheries Public Hearing Item:
Recreational Black Sea Bass Regulations

I have received and reviewed your May 8, 2011 briefing memo regarding the above-referenced item. I have also received and reviewed the supporting documentation submitted along with the memo, including: the minutes of the 4/12/11 RI Marine Fisheries Council's (RIMFC's) Scup/Black Sea Bass Advisory Panel meeting, the public hearing summary document, a summary of public hearing comments, the minutes from the May 2, 2011 RIMFC meeting, and the April 25, 2011 memo from Mark Gibson to the Council, setting forth the Division's recommendations on the item.

I note that the above-referenced item was subjected to a thorough public review process, in accordance with the RI Administrative Procedures Act and via consultation with the RIMFC. I find the public record, and the RIMFC's recommendations on the issues, offer a solid basis for my review and consideration. I also hold in high regard the Division's recommendations on the issues, and I particularly appreciate the Division's efforts to inform the public discussion and work toward consensus with the RIMFC and the fishing community wherever possible.

Having fully considered all of the recommendations and supporting documentation, I hereby set forth the following final regulatory decision pertaining to recreational black sea bass:

To be enacted: a 13" minimum size; 12-fish daily bag limit; and July 11 – December 31 season

Consistency with RIMFC: Two elements of the final decisions are consistent with the Council's recommendations; one element deviates, for the reason set forth below.

- (1) **13" minimum size and July 11 – December 31 season.** The Council recommended adoption of these two elements, consistent with the comments offered at the public hearing and with the recommendation of the Division.

- (2) **12-fish daily bag limit.** The Council, in keeping with comments offered at the public hearing, supported the highest bag limit possible, within the compliance parameters set forth by the ASMFC – namely, a 15 fish daily limit. The Division favored a more conservative 10 fish daily limit.

The Division maintained that a more conservative approach is warranted to help guard against anglers maxing out on large numbers of fish if they get on a good rock pile, where the fish are aggregated. Conceivably, a vessel with a large number of anglers positioned over a rock pile that is densely populated with black sea bass could depopulate that particular meso-scale habitat and, by removing all large fish, remove all the males, resulting in unknown but potentially adverse biological consequences. Thus, the higher the bag limits, the higher the potential for high harvest rates on aggregated populations. The Division maintained that a 10-fish limit addresses the vulnerability concern and unknown biological implications of group removal.

The Division also maintained that it behooves RI to adopt a conservative management program for 2011, given the uncertainties associated with black sea bass management in 2012. The pendulum could swing in favor of more liberalized regulations, based on an approved stock assessment methodology that yields favorable results and translates into higher quotas. However, the pendulum could also swing the other way. If the ASMFC adopts continuance of a state-specific approach to management, RI will be bound by MRFSS-generated data regarding recreational fishing catch and harvest, and the data could yield fishing catch and harvest estimates that exceed RI's 2011 target, thereby precluding any liberalization opportunities that might otherwise be available in 2012.

The Council, backed particularly by the RI party and charter boat industry, favored a higher (15 fish) bag limit primarily because it would attract and hold more customers, and because it constitutes a significant decrease from the 25-fish bag limit in effect in 2010 on a resource that is ostensibly healthy. RI, like other states, is victimized by a data-poor coastwide stock assessment and a data-poor fishery assessment. Both are slated to be improved in the near future, but until the improvements are formalized, RI, like other states, will continue moving forward on an uncertain basis, and will have to take the chance of being either too liberal or too conservative. The Council, backed by the RI charter and party boat industry, was willing to take the chance that a 15-fish limit will not adversely impact the resource, nor jeopardize the state with regard to its management program in 2012 and subsequent years.

Having carefully considered all perspectives on the issue, I find that a 12-fish bag limit is the soundest approach. It is officially (per ASMFC) "risk neutral," and it falls between the Council's 15-fish recommendation and the Division's 10-fish recommendation. It is also slightly higher than the 10-fish limits enacted in Massachusetts and proposed in New York. It adopts a precautionary approach, which is important from a resource-management perspective and with regard to

avoiding or minimizing impacts to RI anglers next year, as management uncertainties are addressed.