

## CONCISE EXPLANATORY STATEMENT

In accordance with the Administrative Procedures Act, Section §42-35-2.6 of the General Laws of Rhode Island, following is a concise explanatory statement:

**AGENCY:** Department of Environmental Management

**DIVISION:** Marine Fisheries

**RULE IDENTIFIER:** 250-RICR-90-00-12

**RULE TITLE:** PART 12 – Research Pilot Aggregate Program

**REASON FOR RULEMAKING:** Adoption of new regulation to assess the effectiveness and viability of an expanded aggregate landings approach as an alternative to traditional daily possession limit quota management in the commercial summer flounder and black sea bass fisheries.

**TESTIMONY AND COMMENTS (for not adopting a proposed rule):** Two comments were submitted in opposition of the proposed rule; with two comments also submitted in support. The proposed rule was recommended for adoption by the RI Marine Fisheries Council on a 4 – 1 vote. The DEM Director supports this proposal as it relates directly to a longstanding interest on the part of the Division, Council, and RI commercial fishing community to explore opportunities to better enable participants in these fisheries to fish in an efficient, cost-effective, economically viable, and ecologically sound manner, with particular emphasis on reducing discard mortality; and that the proposal stems directly from a recommendation, set forth in December 2016, to conduct a workshop in 2017 to evaluate alternative management measures, including expanded aggregate programs. Final regulations will include language that the program will be in place for one year only (2019), after which it will be subject to review and evaluation, with a view to developing recommendations for moving forward in 2020 and thereafter. Any proposal to renew/extend the program for an additional year would have to occur via public notice and hearing.

**CHANGES TO TEXT (between proposed and final rule):** Changes to the final rule were made as a direct result of public involvement as a logical outgrowth of the administrative process.

1. **Section 12.7.2(A):** Added “or” to section; now reads “Persons must hold a valid commercial fishing license in Rhode Island and be the owner and/or operator of a vessel that is licensed to harvest and land summer flounder and black sea bass in state waters, and must remain so licensed for the entirety of 2019”. This addition expands the eligibility criteria to vessel operators as well as owners. This is critical so as to get participation

2. Section 12.7.2(B): Deleted section; has no applicability to this regulation. Removal of this language has no effect on the applicability or effectiveness of the rule
3. Section 12.7.2(C): Added “Up to” to the section; now reads “Up to three participating vessels from each of the following gear types will be selected for participation: gill net, otter trawl, rod and reel, fish pot, lobster pot, multi-gear.” This provides for greater flexibility in the number of participating vessels, which is necessary due to not knowing the number of applicants.
4. Section 12.7.2(H) and (I): Applied date to application period. This date was unknown at the time of noticing. An application period is necessary so that permits may be issued in a timely manner. Split new section (I) off of (H) for clarity.
5. Section 12.7.4(C): Added section to clarify timeliness of review and timeframe for the issuance of permits.
6. Section 12.7.5(F): Changed year from 2018 to 2019. As a trial program, regulations will be in effect for 2019 only.
7. Section 12.7.6(A): Clarification only.
8. Section 12.7.7(B): Clarifications and year change from 2018 to 2019 consistent with #6 above.
9. Section 12.7.8(C): Addition of section to specify term of program, consistent with the recommendation of the RI Marine Fisheries Council and decision by the DEM Director.

**REGULATORY ANALYSIS:** N/A