



RHODE ISLAND

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

To: Mark Gibson
Acting Chief, DFW

From: W. Michael Sullivan
Director

Date: December 12, 2008

Re: Decision on November 13, 2008 Marine
Fisheries Public Hearing Items

I am writing in response to your December 3, 2008 memorandum regarding the regulatory proposals presented at the November 13, 2008 public hearing.

I have reviewed all of the supporting documentation forwarded with your memo – the minutes of the advisory panel meetings (9/17/08 Summer Flounder, and 9/29/08 Scup/Black Sea Bass), the public hearing summary document, the summary of the (11/13/08) public hearing comments, and the minutes of the (12/1/08) Marine Fisheries Council meeting.

Pursuant to my review and consideration of all of the above-noted information, I have reached the following decisions on these matters.

Commercial Summer Flounder -- Quota Management Program

I concur with your recommendation, and that of the Council, to maintain status quo for 2009. I recognize that there were several suggestions made at hearing to keep the minimum daily catch limit from falling below either 100 or 75 pounds and to eliminate the Friday and Saturday closures during the summer sub-period. However, it's apparent that such changes would likely result in an earlier closure. The trade-off between higher trip limits/longer weeks and a longer season is a judgment call; until such time as the state's quota is significantly increased, and/or we embark on a new management program, I support our continuing approach aimed at keeping the fishery open as long as reasonably possible.

Commercial Summer Flounder – Sector Allocation Pilot Program

I will issue my final decision on this issue in a forthcoming memo.

Commercial Summer Flounder – Call-in Requirement

I concur with your recommendation, and that of the Council, to repeal the call-in requirement for all fishers harvesting and landing fluke in accordance with the quota management program. Given our enhanced ability to monitor and track landings, I agree that the mandatory call-in requirement is no longer necessary. I note that the proposal was well supported at hearing.

Commercial Summer Flounder – Transfers of Exemption Certificates

Conceptually, I understand that this proposed change is intended to render state regulatory provisions consistent with federal regulations regarding either the transfer of exemption certificates between vessels or the transfer of certificates to replacement vessels, or both. And conceptually, that makes sense. However, I find the proposed regulatory language addressing the issue confusing and of questionable effect. I am inclined to support a proposed regulatory change that addresses a problem or inconsistency regarding the transfer component of the exemption permit program, but I do not feel that we are there yet with the language that has been developed. I ask that this matter be put back before the Council for reconsideration and clarification as soon as possible; when that is done, please re-convey the comments that were offered at public hearing and include any other associated documentation from your files.

Commercial Scup – Quota Management Program

I concur with your recommendation, and that of the Council, to maintain status quo for 2009. I note that, at the hearing and Council meeting, there was no shortage of ideas and suggestions from fishermen for reconfiguring the program to meet their varying interests. But absent a consensus on any one proposed change, I find it difficult to support any alteration at this time. The low quota makes this a very difficult fishery to manage satisfactorily. Nevertheless I urge you and your staff, in coordination with the Council and industry, to continue to explore options for improving the scup quota management program, including but not limited to those set forth in your memo and those raised by fishermen at hearing and at the Council meeting, with a view to reaching consensus on one or more reform proposals for 2010.

Commercial Black Sea Bass – Quota Management Program

The situation with black sea bass is very similar to the situation with scup – the very low quota makes it difficult to develop a management program that accommodates the varying interests of all fishermen, and avoids very low possession limits and periodic closures. As with scup, I note that there was a mix of ideas offered at hearing and at the Council meeting for tweaking the program. I commend the Council for fashioning a recommendation that

addressed some of the key suggestions that were offered. I note your agreement with the Council's recommendation, and I concur as well. Accordingly, please enact the proposed change, i.e., a variation on status quo that includes the following starting possession limits – for the January-April sub-period: 750 pounds/day; and for the November-December sub-period: 250 pounds/day. Also, please enact a provision stating that when the fishery is open, the possession limits will not drop below 100 pounds/day in any of the sub-periods. As a follow-up, please undertake a review of a one-inch increase in the commercial (and recreational?) minimum size limit for black sea bass. That suggestion, offered at hearing and at the Council meeting, may help to increase the value of the catch for the average fishermen, while giving the resource more of an opportunity to repopulate. However, I need to know more about its effect – on the resource, on our management program, and on all participants in the fishery – before considering it for adoption. If, on the basis of your review, you feel that the proposal has merit, please prepare it for formal review through the Council and the APA.