



Rhode Island
Department of Environmental Management

DIVISION OF FISH AND WILDLIFE

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TO: Janet L. Coit, Director DEM
FROM: Mark Gibson, Deputy Chief for Marine Fisheries, DFW

DATE: April 5, 2013

SUBJECT: Request for Decisions on March 13, 2013 Marine Fisheries Public Hearing Items

Proposed regulatory changes pertaining to 2013 (1) recreational summer flounder (2) commercial and recreational tautog (3) recreational scup (4) recreational black sea bass (5) Narragansett Bay menhaden, and (6) proposed amendments to Part XIX – Fish/Shellfish Dealer Regulations, have moved through the regulatory process and are hereby presented for final decisions.

These matters were the subject of a public hearing held on March 13, 2013 and subsequent consideration by the RI Marine Fisheries Council (RIMFC) at their April 1, 2013 meeting. Supporting documentation submitted along with this memorandum include the summary of public hearing comments, and the minutes from the RIMFC April 1, 2013 meeting. The proposed changes are summarized below.

Having reviewed the entire record, and conferred with staff, I hereby urge adoption of the proposed changes as noted below. If you concur, please indicate by signing this memo at the end and returning it to me. Upon receipt of the signed memo, I will initiate the filing process. If you wish to make any changes that differ from those proposed, please delineate those changes via a separate memo.

Recreational Summer flounder management proposals for 2013: There were two options for the 2013 recreational summer flounder management plan that were brought forward for public comment. The first option was to remain at status quo (18.5 inch fish /8 fish bag limit / season of May 1–December 31); the second option, which was recommended by the Council’s Summer Flounder Advisory Panel, was to decrease the minimum size limit to 18 inches (from 18.5 inches) / 8 fish bag limit/May 1–December 31 (possession limit and season unchanged). Both options comply with ASMFC guidelines.

At the March 13, 2013 public hearing, the RI Saltwater Anglers’ Association (RISAA) and the people who spoke at the hearing were all in support of option 2 - to decrease the minimum size limit to 18 inches (from 18.5 inches). A written comment submitted during the public comment period by the RI Party and Charter Boat Association (RIPCBA) also supported decreasing the minimum size limit to 18 inches (option 2).

At the April 1, 2013 RIMFC meeting, the Division offered its support for option 2, dropping the minimum size, indicating this option does not liberalize to the full amount possible but offers anglers an increase in the proportion of legal fish encountered... The Council voted unanimously to recommend that the Director adopt the proposal to decrease the minimum size limit to 18 inches (from 18.5 inches), and retain the current possession limit and season (8 fish bag limit/May 1–December 31) for 2013.

As supported by the Council and the Division, I urge adoption of option 2: to decrease the recreational summer flounder minimum size limit to 18 inches (from 18.5 inches) and retain the current possession limit and season; 8 fish bag limit/May 1 through December 31, for the 2013 recreational summer flounder management plan.

Recreational and Commercial Tautog Proposals for 2013:

Proposal #1 – Recreational size, possession limit, and season: Two (2) options for 2013 recreational tautog management were brought forward for public comment. The first option was to remain with status quo in 2013: 16 inch fish/ 3 fish bag limit April 15 – May 31/ closed June 1 – July 31/ 3 fish bag limit for both general rec. and party & charter August 1- October 18/ 6 fish bag limit for both general rec. and party & charter October 19 – December 15/ includes the current 10 fish/vessel limit during all open general Rec. seasons – and does not apply to Party/Charter. Option 2, which was recommended by the Council’s Tautog Advisory Panel recommended moving the recreational season opening date to March 1st (from April 15th) and keeping all other provisions the same.

At the March 13 public hearing, RISAA members, a member of RIPCBA, and a few bait & tackle shops supported option 2, to move the recreational season opening date to March 1st (from April 15th) and keep all other provisions the same. There were two written comment submitted during the public comment period from the following bait & tackle shops that were in support of option 2 - changing the recreational season opening date to March 1st: Lucky Bait & Tackle and Quaker Lane Bait & Tackle. A written comment was also provided by R. Bellavance, President of the RIPCBA, expressing strong support for status quo, keeping the opening date as April 15th, stating that opening the season on March 1st would undermine any attempts to rebuild and maintain this important fishery.

Proposal #2 – Commercial size, possession limit, and season for Tautog: Only one (1) option for 2013 commercial tautog quota management was brought forward for public comment. The option was to remain with status quo in 2013: 16 inch fish/ 10 fish per vessel per day, April 15 – May 31/ closed June 1 – July 31/ 10 fish per vessel per day, August 1- Sept 15/closed Sept 16 - October 14/ 10 fish per vessel per day, October 15 – December 31. The Council’s Tautog Advisory Panel did not propose any changes for the commercial fishery. At the March 13 public hearing, no public comments were provided for the commercial tautog fishery.

At the April 1 RIMFC meeting, the Division recommended remaining at status quo since the proposed date has already passed making timely implementation impossible. Moreover, tautog is going to a benchmark stock assessment in 2013. This benchmark could result in a stock assessment model change, the results of which are unknown. The Division does not advise

changing management for this species during what could be a period of transition. The Council agreed with the Division recommendations and recommended to remain with status quo for both fisheries.

As supported by the Council and the Division, I urge maintenance of status quo for both the recreational and commercial tautog fisheries for 2013.

Recreational Scup management proposals for 2013: Four (4) options for 2013 recreational scup management were brought forward for public comment. The first option was to remain at status quo: General recreational fishery: 10.5 inch fish / 20 fish bag limit - May 1 through December 31; Party and Charter: 11 inch fish / 20 fish bag limit – May 1 through August 31; 40 fish bag limit - Sept 1 through October 31; 20 fish bag limit – Nov 1 through Dec 31, . Option 2 - General recreational fishery: decrease minimum size from 10.5 to 10 inch fish / increase possession limit from 20 to 30 fish bag limit - May 1 through December 31; Party and Charter: decrease minimum size from 11 to 10.5 inch fish / increase possession limit from 20 to 30 fish bag limit - May 1 through August 31, increase possession limit from 40 to 45 fish bag limit - Sept 1 through October 31/ and increase possession limit from 20 to 30 fish bag limit – Nov 1 through December 31. Option 3 - General recreational fishery: decrease minimum size from 10.5 to 10 inch fish / increase possession limit from 20 to 30 fish bag limit - May 1 through December 31; Party and Charter: decrease minimum size from 11 to 10 inches/ increase possession limit from 20 to 30 fish bag limit - May 1 through August 31/ increase possession limit from 40 to 45 fish bag limit - Sept 1 through October 31/ and increase possession limit from 20 to 30 fish bag limit Nov. 1 through December 31. Option 4 – Develop an experimental shore mode fishery in the upper bay consisting of a reduced minimum size of 9 inches in three (3) specific locations.

The consensus of the Scup/Black Sea Bass Advisory Panel was as follows: Party and charter should maintain all other elements the same as status quo, but increase the bonus season (September 1 through October 31) bag limit to 45 fish (from 40 fish). The general recreational category should maintain all other elements the same as status quo but decrease the minimum size to 10 inches (from 10.5 inches).

At the March 13 public hearing, a representative from the RISAA spoke in support of option 2 for the general recreation sector; 10 inch size scup and increase to 30 fish possession limit. A member of RIPCBA, and a bait & tackle shops owner also supported option 2. There was a written comment submitted during the public comment period from Representative Anastasia Williams, Chairwoman, RI Legislative Black and Latino Caucus, in support of option 2 for the general recreational category, to reduce the minimum size from 10.5 inches to 10 inches and increase the daily possession limit for each of the sub-periods. A written comment was also provided by RIPCBA in support of option 2. A third written comment was provided in support of exploring an increase in the bag limit for the bonus season from 45 to 50 fish, to serve as a more appropriate bag limit for marketing trips to Charter/Party clients.

With respect to option 4 – development of an experimental shore mode fishery; a written comment was provided from Representative Anastasia Williams, Chairwoman, RI Legislative Black and Latino Caucus, in support of this option. She favored investigating the following

locations: land adjacent to the Jamestown water treatment plant, Colt State Park, Wickford Junction, Point Judith on the rock wall, and Conimicut Point Park. Other site suggestions that were offered at the public hearing included Stone Bridge, and a 9 inch minimum size and 30 fish possession limit for all waters in the bay north of the Colreg lines. Hearing this proposal the audience seemed to favor the later suggestion.

At the April 1 RIMFC meeting, the Division recommended option 3 because it met the priorities of the advisory panel, and would meet ASMFC requirements. The Division also supported option 4, the experimental shore fishery. The Division will make an effort to monitor this fishery to try to understand the impacts that it has on scup harvest rates. The Division was also in support of the suggestion as Stone Bridge as a good third location.

The Council unanimously recommended adoption of option 3 for the 2013 recreational scup management plan so the minimum size limits would be the same for both fishing modes. The Council also supported option 4, an experimental shore mode fishery, and supported Stone Ridge as the third site.

As supported by the Council, and the Division, I urge adoption of option 3 and 4 for the 2012 recreational scup management plan:

General Rec. mode = May 1 – December 31; 10 inch fish; 30 fish bag limit

Party and Charter mode = May 1 – August 31; 10 inch fish; 30 fish bag limit

September 1 – October 31; 10 inch fish; 45 fish bag limit

November 1 – December 31; 10 inch fish; 30 fish bag limit

Development of an experimental shore mode fishery consisting of a reduced minimum size limit of 9 inches in the following three (3) locations; Indian Point Park, Conimicut Point Park, and Stone Bridge.

Recreational Black sea Bass Proposals for 2013:

Proposal #1 – Recreational size, possession limit, and season: Three (3) options for 2013 recreational black sea bass management were brought forward for public comment. The first option was to change the season closing date to September 4 (from December 31)/ 13 inch fish /15 fish bag limit/ June 15 through September 4 - minimum size and possession limit unchanged. Option 2 - was to change the season opening date to August 20 (from June 15) / 13 inch fish / 15 fish bag limit/ August 20 through December 31 - minimum size and possession limit unchanged. Option 3 - was to change the possession limit to 2 fish (from 15 fish) /13 inch fish/ June 15 through December 31 - minimum size and season unchanged.

Proposal #2 – Clarify the total length measurement: This proposal was brought forward by the DFW which was to add language to Section 7.14.2-1- Legal Minimum Size, in order to clarify that the total length measurement for black sea bass does not include the tendril located on the caudal (tail) fin.

The advisory panel discussed the recreational measures but as with scup, did not have the specific options. They did however express some preference for maintaining minimum size and seasonal access. The advisory panel did discuss the total length definition and did not raise any concerns with this proposal.

At the March 13 public hearing, there were varied comments however, some supported a recreational 5 fish bag limit with a longest season as possible without going past the 32% reduction in harvest set by ASMFC requirements. One person supported proposal 2, which was to clarify the total length measurement. A written comment submitted during the public comment period from the RIPCBA was in support of an increase in minimum size limit and combined with a reduction in bag limit as preferred control measures to meet the required ASMFC 32% reduction in harvest; and that reducing seasons should be considered last. This comment provided an example management measure of a 14 inch minimum size, combined with a 5 fish bag limit and season of July 1st – November 30th.

At the April 1 Council meeting, the Division explained they had developed the original set of proposals under an aggressive ASMFC reduction requirement, which was the understanding at the time of notice. The situation changed when the recreational harvest limit was raised by the MAFMC and NOAA Fisheries so the calculated reduction was less than the original projection. At the time of the RIMFC meeting, recreational measures were still being debated at the ASMFC level. The Division felt that a proposal of a split bag season (3 fish from June 15 to August 31; 8 fish from September 1 through October 29) while maintaining the current minimum size was an option that met the interest of the state while still being compliant with ASMFC requirements. The Council struggled to formulate a recommendation that would provide both an adequate bag limit and also extend the season to December 31. The Council gave guidance to the Division by recommending that the Division work up an option with the following parameters: a 13-inch fish/ 3 fish bag limit from June 15th to August 31st and an increase in the bag limit on September 1st to a level that would allow the season to run through December 31st. The Council also unanimously recommended adoption of the language to clarify the black sea bass total length definition.

Calculations under RIMFC guidance show that a refined option for the recreational black sea bass fishery with a 13 inch minimum size fish, a split bag season of (3 fish from June 15 to August 31; 4 fish from September 1 through December 31) for the 2013 management plan would comply with ASMFC standards. I point out however that the 1 fish gain is likely less than the Council envisioned. The limit could go to 5 fish if the second season were truncated to November 30th. The tradeoff is loss of late season P+C boat access for more fall fish. In the interest of expediency, I recommend the RIMFC guided option at this point. I also urge adoption of the proposal to clarifying the black sea bass total length definition.

Narragansett Bay Menhaden Proposals for 2013: Two (2) options were brought forward for public comment. The first option was to remain at status quo for 2013, which was the approved option by the Council's Menhaden advisory panel. Option 2 was to remove the harvest cap, by removing the language contained in Section 16.2.5(B) - Biomass "Ceiling". The Council's Menhaden AP voted to oppose option 2 at their meeting.

At the March 19, public hearing, RISAA supported status quo and opposed option 2, which would negatively impact the menhaden fishery as sustained forage for striped bass and bluefish,

and the ceiling language was necessary to support ecological factors such as the value of filter feeding. A few others supported status quo and also opposed option 2.

At the April 1 Council meeting, the Division indicated they were not proposing any changes to the Menhaden regulations and recommended status quo for 2013. The biomass floor and threshold meet one aspect of the management plan, but if the cap were to be removed, the additional elements such as leaving some biomass for recreational bait harvest would be lost. The Division is also developing measures to comply with Amendment 2 to the ASMFC plan and it would be premature to adjust our regulations at this time. The Council agreed with the Division's recommendations and unanimously recommended status quo for 2013.

As supported by the Council and the Division, I urge maintenance of status quo for the Narragansett Bay Menhaden fishery for 2013.

Proposed amendments to the RI Marine Fisheries Statutes and Regulations – Part XIX, Fish/Shellfish Dealer Regulations, regarding the reporting of research set aside (RSA), and to update regulatory citations for consistency with certain statutory citations:

The DFW brought forward two (2) proposals for public comment. The first proposal was to add a requirement to Section 19.14.3 to report RSA by using the field "Disposition" in the Standard Atlantic Fisheries Information System (SAFIS). Proposal 2 was to add a requirement to Section 19.14.3 to report RSA by using the field "Fishing Mode" in SAFIS.

At the March 19 public hearing, a comment was made for the Division to use their discretion to select whichever option would be more favorable.

At the April 1 Council meeting, the Division indicated it was unnecessary for the Council to support a particular option, an expression of general support to improve RSA accounting was sufficient. The Division was working closely with ACCSP and would recommend the data field that the ACCSP deemed most appropriate for use in designating RSA. The Council agreed to allow the Division to work with ACCSP to find the data field most appropriate for use in designating RSA.

As supported by the Council and the Division, I urge adoption of the data field that the ACCSP deems most appropriate for use in designating RSA. Recent consultations with ACCSP staff indicate that option 1, the "disposition field" is the most appropriate. I also recommend updating regulatory citations for consistency with certain statutory changes.

Time Sensitivity – Recreational management plans for summer flounder and scup require the season to start on May 1st, given the 20 days between filing with the secretary of state and effectiveness, the proposed regulatory changes need to be file **no later than April 10, 2013**.



Approved for filing as presented

Janet CA

Janet L. Coit, Director

4/8/13

Date