RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
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Office of the Director

Memorandum

To: The Rhode Island Recreational Fishing Community

From: Janet Coit, Director

Date: March 17, 2015

Re: Final Decision Pertaining to the Recreational Striped Bass Fishery for 2015

This memo sets forth the final decision pertaining to recreational striped bass regulations for the 2015 fishing season. Given the importance of the issue, and the extent of public interest, I am taking the unusual step of addressing this memo to the Rhode Island recreational fishing community. I hope to communicate the basis for my decision, in a clear and direct way, with due regard to the many interests at stake and deep appreciation for the hundreds of comments I have received. In many ways, this has been the most challenging marine fisheries issue that I have faced as Director.

In reaching this final decision, I have reviewed all relevant supporting documentation, including the February 16, 2015 public hearing document and public hearing comments, and the minutes of the March 2, 2015 meeting of the Rhode Island Marine Fisheries Council. I have also reviewed all relevant materials from the Atlantic States Marine Fisheries Commission's (ASMFC's) Striped Bass Board, including but not limited to Addendum IV to Amendment 6 to the ASMFC's Interstate Fishery Management Plan for Striped Bass, adopted in October 2014.

For the reasons set forth below, I find that it is in the best interest of the resource and the Rhode Island fishing community as a whole to enact a single regulation, applicable to the entire Rhode Island recreational striped bass fishery, of one striped bass per person per day, at a 28-inch minimum size. The season will remain open year-round. The regulation applies to 2015y, and is subject to revision in future

While the record included compelling justifications both for and against the two options offered for consideration, I ultimately found that the arguments in favor of taking a more risk-averse approach applicable to all Rhode Island recreational fishermen outweighed the case for including the two-fish option applicable to Rhode Island's for-hire industry.

This decision, at its core, is based on my best judgment as to what makes sense to protect the health and future of the striped bass population. Faced with the stark reality of a population that is declining, Rhode Island needs to take strong measures now – consistent with our neighboring states – to reverse the decline and restore the fishery to a more robust and sustainable status. In acting to protect the health of the resource, I seek to support the long-term interests of all fishermen, including those in the for-hire industry, who rely upon striped bass for recreation, food, and employment.

I know that this decision will be viewed with extreme disappointment by many of Rhode Island's charter and party boat businesses, especially those who participated in the development and advancement of a solid two-fish option as part of the regulatory process. I am also aware that this sector represents approximately 15 percent of the total recreational harvest of striped bass in Rhode Island, and has offered to engage in mandatory reporting to improve the accuracy of their catch data and achieve a high standard of accountability. These factors lent considerable strength to their proposal.

In view of the importance of the for-hire sector, I remain focused on supporting their needs and interests. Comprised of smart businessmen, strong leaders, and committed resource stewards, the for-hire sector is a vital part of the Rhode Island economy. In this instance, they put forward a strong case for management programs that accommodate their interests and those of their customers. Their customers include seasoned anglers as well as newcomers who seek to enjoy a day on the water, but don't own boats of their own; they are Rhode Islanders as well as visitors to our State, and they rely upon the charter and party boat fleet to provide them with access to our marine resources, including striped bass. The for-hire industry has interests and roles that are separate and distinct from the general recreational fishery, including the ability to accurately record their catches and meet quotas. Looking ahead, I intend to work closely with the industry to pursue separate for-hire quotas for the various fisheries that are important to their operations, with a view to enabling them to remain a strong and viable part of the Rhode Island economy.

What follows is a summary of the background issues, followed by a brief discussion of the major factors that influenced my final decision. Those factors include resource conservation, risk, enforceability, compliance, and equity.

Background

<u>Population status – at or near overfished</u>

- The most recent benchmark stock assessment, conducted by the ASMFC, found that, since 2006, striped bass spawning stock biomass (SSB) has been steadily declining and, as of 2012, SSB had fallen below the target and was approaching the overfished threshold, thus compelling coastal states to take action to improve stock status.

<u>ASMFC's management response – reduce fishing mortality immediately</u>

- In response to the stock assessment, and in accordance with the management triggers established in Amendment 6 to the ASMFC's Striped Bass Interstate Management Plan, the

ASMFC adopted Addendum IV to the Plan in October 2014. The Addendum requires all coastal states from Maine to North Carolina to reduce fishing mortality to a level that is at or below the fishing mortality target within one year, and do so by implementing a coastwide 25 percent harvest reduction from 2013 levels.

- For the recreational fishery, the ASMFC adopted a new coastwide regulatory standard of one fish per person per day, and a 28-inch minimum size. This is a reduction from the previous coastwide regulatory standard of two fish per person per day, and a 28-inch minimum size.

- On a coastwide basis, the new standard is projected to achieve a 31 percent harvest reduction from 2013 levels.

- The ASMFC's management program allows for state-by-state conservation equivalency (C/E). As such, states may propose individual state programs that are conservationally equivalent to the coastwide regulatory standard.

<u>Rhode Island's position – support for ASMFC's actions; additional support for developing an option to address the interests of Rhode Island's for-hire industry</u>

- DEM and the other members of Rhode Island's ASMFC delegation strongly supported the Commission's action -- adoption of Addendum IV – based on the need to immediately reduce fishing mortality to enable spawning stock biomass to rebuild.

- DEM and the other members of Rhode Island's ASMFC delegation also strongly supported the development of a C/E proposal, as a management option, to address the interests of Rhode Island's for-hire industry. The delegation further encouraged and supported the efforts of neighboring states to pursue identical proposals with a view to regional consistency.

- Rhode Island's C/E proposal was advanced and approved by the ASMFC, as were identical proposals by neighboring states. The Rhode Island proposal provided a separate regulatory standard of two fish per person per day, with a 32-inch minimum size, applicable to all individuals fishing aboard RI-licensed charter and party boats. The proposal also included a mandatory reporting provision. The proposal, coupled with the one-fish-per-day-at-28-inch standard applied to all other recreational fishermen, was projected to achieve a 29 percent harvest reduction for Rhode Island.

<u>Formal review of Rhode Island's management options</u>

- On January 16, 2015, DEM issued a public notice, seeking comments on the two options for recreational striped bass management in Rhode Island for 2015:

    - The coastwide standard: one fish per person per day, 28-inch minimum size, applicable to everyone; or

- The C/E proposal: for persons fishing aboard RI-licensed charter and party boats: two fish per person per day, 32-inch minimum; and, for everyone else: one fish per person per day, 28-inch minimum size.

- On February 16, 2015, DEM held a workshop and conducted a public hearing. DEM kept the public comment period open until February 26. A large number of public comments were submitted, many in support of the first option, many others in support of the second option.

- On March 2, 2015, the RI Marine Fisheries Council met to formulate a recommendation to the DEM Director on the matter. On a 5-3 vote, the Council recommended adoption of the C/E proposal.

Analysis

Issue 1: Resource Conservation.

Striped bass are a vitally important natural resource. Previously depleted, the population rebuilt and remained strong and healthy from the 1990's through the early 2000's. In recent years, the population has experienced a steady decline, as evidenced by the most recent stock assessment. In view of projections indicating that the stock, as of 2012, was approaching overfished status, it is essential to respond with strong and effective management action. Doing what it takes to reverse the downward trend and restore the population is clearly the top priority – for Rhode Island and for other Atlantic Coast states.

Issue 2: Risk

The new coastwide regulatory standard adopted by the ASMFC – one fish per person per day, 28-inch minimum size – has a 50 percent probability of achieving the reduction in fishing mortality needed to meet the target. That uncertainty is due to a host of variables, including biological factors (e.g., recruitment, natural mortality), the accuracy of recreational catch and effort data, and angler behavior.

There is additional uncertainty associated with current stock status. The stock was approaching overfished status (i.e., the spawning stock biomass threshold) as of 2012. We don't know what has happened to the stock since 2012, and won't know with any degree of certainty until the next assessment update.

Risk is an inherent part of fisheries management, so minimizing risk is a key objective when assessing management options. In general, simple management measures, applied broadly and uniformly, both intrastate and interstate, offer more certainty, better compliance, and less risk, than more complex and/or disparate measures. Consistent measures also afford better opportunities to assess the efficacy of management, particularly with regard to a migratory coastal stock like striped bass.

Applying a risk analysis to the two options available to Rhode Island indicates that the level of risk associated with the C/E proposal is higher than the level of risk associated with the coastwide standard. While the C/E proposal is projected to achieve the reduction target, the projection relies upon data that is not only state-specific, but mode-specific as well, heightening its uncertainty. Moreover, while Rhode Island's neighboring states had the opportunity to adopt the exact same C/E program for their for-hire fisheries as Rhode Island, they chose not to. Some of the uncertainty associated with the mode-specific approach could have been mitigated via a regionally consistent approach, but that opportunity did not materialize. Also, the new coastwide management program adopted by the ASMFC will need to be rigorously monitored and assessed, and adjusted if necessary in response to changes in striped bass population status. Management measures applied consistently throughout the region will better support those critical scientific and technical analyses.

Issue 3: Enforceability

While both options are enforceable, the adoption of a separate regulatory program, applicable only to persons fishing aboard Rhode Island-licensed charter and party boats, would be more difficult to enforce than a consistent regulatory program applicable to all recreational fishermen. On-the-water enforcement of a separate for-hire regulation would pose some specific challenges, largely involving the need to differentiate for-hire vessels and for-hire trips versus all other vessels and trips. Shoreside enforcement of a separate for-hire regulation would be more difficult. The most cost-effective way to monitor compliance with regulatory programs based on possession limits is to conduct shoreside inspections; so this added challenge is a significant issue.

Issue 4: Compliance

The issue of compliance relates back to both risk and enforceability. The high value of striped bass, as a game fish and as a food fish, has unfortunately resulted in poaching problems over the years. Rhode Island has enacted tougher penalties for violators, and DEM has prioritized enforcement of regulations governing the striped bass fishery. While DEM has full confidence in Rhode Island's for-hire industry, and would anticipate no problems with compliance if the C/E proposal were adopted, DEM is concerned that others, including vessels from other states, might seek to exploit the program, thereby exacerbating the poaching problem. Reducing the illegal harvest of striped bass is an important priority for DEM's Law Enforcement Division and the Rhode Island fishing community.

Issue 5: Equity

The issue of equity is perhaps the most difficult issue to reconcile and address. Many recreational fishermen who commented on the record expressed opposition to the notion of disparate regulations applied to the for-hire industry. I do not share that view. The charter and party business sector is fundamentally different from the general recreational fishery and should be able to operate under regulations that align with their needs and interests. The complicating factor is that, under the current interstate and federal management regimes, the for-hire industry and the general recreational fishery are lumped together, without separate harvest limits or mode-

specific allocations/quotas. That common pool makes it difficult to develop and apply separate regulations, particularly when there is so much uncertainty associated with the effectiveness of the regulations. As previously noted, I look forward to working with the for-hire sector on developing new approaches that will allow greater flexibility for these businesses, balanced by increased accountability. While these businesses are a relatively small part of the overall "recreational" fishery, they are a vital component of Rhode Island's fleet.

Equity would loom larger as an issue if any neighboring state – or even any other coastal state – were to enact separate regulatory programs for their for-hire industries. But that is not the case at this time. No other state has enacted or is considering a separate for-hire program for striped bass this year. Thus, there will be no competitive disadvantage for Rhode Island's for-hire industry under a coastwide standard.

Response to recommendation of the Rhode Island Marine Fisheries Council

The vote of the Rhode Island Marine Fisheries Council on this matter was split 5 to 3, with the majority voting to approve the C/E option for the for-hire industry. Council members spent many hours considering testimony and deliberating over the management options for recreational striped bass, as they routinely do for all recreational and commercial fishing matters within Rhode Island waters. Their work, expertise, and judgments are valued and appreciated, and I fully considered the Council's advice. For the reasons outlined in this memo, I have made a final decision regarding recreational striped bass regulations for 2015 that is not consistent with the Council's advice.