



Rhode Island
Department of Environmental Management

DIVISION OF FISH AND WILDLIFE

4808 Tower Hill Road
Wakefield, RI 02879

401 789-3094
401 277-3075
FAX 401 783-4460
TDD 401 831-5508

TO: Jan H. Reitsma, Director

FROM: Mark Gibson, Deputy Chief Marine Fisheries

DATE: March 24, 2003

SUBJECT: Request for decision on March 4, 2003 public hearing

DEM proposals to amend commercial lobster regulations to comply with Amendment 3 of the Atlantic States Marine Fisheries Commission (ASMFC) Lobster Management Plan

Increase minimum gauge size by 1/32" or 1/16" effective July 1, 2003 (section 15.11.1; page 2):

The increase in the minimum gauge size was filed on Friday, March 14th, as approved. The first increase of 1/32" occurred on March 15 and the second increase of 1/32" is scheduled for July 1, 2003. This is a compliance measure with the ASMFC and the Division supported implementation.

Lobster pot vent size is proposed to increase to 2 x 5 3/4 inches for rectangular vents and a diameter of 2 1/2 inches for circular vents (section 15.13; page 2)

Implementation of the vent size increase by July 1, 2003 is necessary for compliance with Addendum 2 to Amendment 3 of ASMFC's FMP for lobster. This adjustment complements the gauge size increase, which is part of ASMFC's plan to meet egg production targets. The Lobster Advisory Panel has discussed the proposed adjustments and did not offer any objections. There were no comments given at the public hearing regarding this proposal. The Council voted to recommend approval of increasing the vent sizes as proposed. The Division also recommends adoption of this proposal.

DEM proposal to specify a time period during which recreational lobster trap tags are valid (section 15.14.1-7; page 2): The rationale behind this proposal is to allow non-commercial license holders to purchase trap tags at the same time licenses are renewed by matching the period that trap tags are valid with the new licensing year. The Lobster Advisory Panel did not discuss this issue. There were no public comments regarding the proposal. The Council recommends adoption of the proposal as presented. The Division also recommends adopting the proposal as presented.

DEM proposal to implement a mandatory V-notching program for lobster (section 15.20.2; page 3) and adopt a zero tolerance definition for v-notching (section 1.3; page 3) as measures to offset the availability of 50 new lobster licenses. Other offset measures may include: prohibition on culls, season closures, area closures, possession limits, quotas, gear reductions, or vent size increases: This proposal was developed as a measure to offset the issuance of 50 new lobster licenses this year. The Lobster Advisory Panel discussed the issue at several meetings and voted to forward a statement to the Director with a recommendation not to issue any new lobster licenses and not to implement a zero tolerance v-notching program. Four people provided comments at the public hearing; three did not support the proposal, claiming that attrition would suffice as an offset. One individual was in support of a v-notching program. The Council does not recommend adopting the v-notching program. The Division does not recommend adopting any license offset measures at this time. Industry has demonstrated sufficient evidence of attrition and the ASMFC has begun focused efforts to rebuild the area 2 lobster resource.

DEM proposal to adopt ASMFC Lobster Management Area specific regulations as required by the ASMFC ISFMP for American lobster for all areas outside of Rhode Island jurisdiction. These regulations duplicate existing language in the ISFMP (section 15.20.3; pages 3-13): All states were asked by ASMFC to incorporate the elements of all the area management plans into their lobster regulations which are expected to provide mutual support by each state for the area lobster management plans. The Lobster Advisory Panel reviewed the regulations during several meetings. There were no objections to the proposal submitted to public hearing. Two comments were given at the public hearing. One individual indicated that the RI Lobstermen's Association was in support of following ASMFC's original schedule for implementing the area specific regulations. The second comment was given by Tom Angell, who stated that the Division of Enforcement had some concerns about the proposal. The Council voted to recommend that the proposal be adopted as submitted. The Division also recommends that the proposal be adopted as it is a compliance measure. The Enforcement Division has questioned the usefulness of these regulations and has been told that it is to support interpretation of the most restrictive rule for those fishers having multiple area declarations.

Emergency regulations adopted December 19, 2002 based on advice from shellfish advisory panel to change management area schedules for holidays (sections 4.10, 4.22, 4.24, 4.27, 4.28; page 13-14): Last November, the Shellfish Advisory Panel

recommended closing shellfish management areas (those that are open on Monday, Wednesday, and Friday) on Christmas day, which fell on a Wednesday last year. There was concern over the possibility of poor handling and contamination because dealers would not open on Christmas to buy product from harvesters. The panel recommended closing Christmas and opening the next day, Thursday, December 26. The Council agreed with the panel and voted to recommend to the Director that the schedule be changed as recommended by the advisory panel. The modification was filed through emergency and is due to expire on April 28, 2003. The proposal was made available for public comment as required by the APA to be filed as a permanent regulation. There were no comments on the proposal at the public hearing and the Council voted to recommend that the proposal be adopted permanently. The Division also recommends adopting the proposal.

DEM proposal to adopt possession limits, seasons, and a prohibition on finning for the commercial spiny dogfish fishery to comply with the ASMFC Management Plan for spiny dogfish (section 7.15; page 14): In November of 2002, ASMFC approved the Spiny Dogfish FMP, which requires states to implement regulations that complement existing federal regulations. The plan developed by the Division has been approved by ASMFC; however, at the Commission meeting week held in February, the Spiny Dogfish Management Board adopted a larger quota and trip limits than those specified in the Commission and federal plans. Continued meetings and negotiations are ongoing amongst the states. There was one comment provided at the public hearing in favor of postponing any Council recommendation until ASMFC resolves issues concerning state requirements. The Council voted to table the issue until the next Council meeting. The Division will recommend to the Council at the next meeting that they endorse the federal specifications for now and respond to ASMFC adjustments if and when they occur. No action is required by Director at this time. [SEE Memo Below Dated April 2, 2003]

DEM proposal to adopt a commercial season with possession limits for weakfish to comply with Amendment 4 to the Weakfish Fishery Management Plan (section 7.18; page 15): As required by ASMFC, the Division submitted a plan to reduce commercial landings of weakfish in 2003 by 28% from previous year's landings. The plan proposes a closed season with a by catch limit of 300 pounds during the closed period and an unlimited possession limit during the open season. Three options for open season were presented at public hearing. One person was in favor of option #2, June 1 – October 23. A second individual commented that all three options were suitable. At the hearing, it was announced that the open period dates might change because of ongoing developments with ASMFC. We later received notice from ASMFC that the proposed options were not acceptable and would need to develop new options. Several options, meeting their requirements, were presented at the March 11 Council meeting. The individual who supported the original options at the public hearing also attended the Council meeting. He indicated that the revised options are not acceptable because the open period does not include the fall months when a 300 pound possession limit would impact draggers that typically haul in catches of weakfish greater than 300 pounds during the fall months. There was also concern for adopting an option that was not presented at

the public hearing, even though the revised options fall within the scope of the public notice, according to legal counsel. The Council voted to table the issue and also to forward the revised options to the Bluefish/Weakfish Advisory Panel for discussion. The Division will convene the AP, solicit their opinion, and report to the Council at the next meeting. The deadline for implementation is July 1, 2003. No action by the Director is required at this time. [SEE Memo Below Dated April 2, 2003]

Emergency regulations adopted February 6, 2003 to implement a commercial weekly trip limit of scup for compliance with ASMFC (section 7.11.2-1; page 15): The regulation was adopted through emergency action on February 6, 2003 and is due to expire June 6, 2003. The proposal was made available for public comment as required by the APA to be filed as a permanent regulation. At the public hearing, there was one person in favor of implementing a weekly trip limit for other fisheries and seasons.

The Council voted to recommend adoption of the regulations. The Division also recommends adopting the regulation.

Industry proposal to modify possession limits, triggers, and quota allocations for the commercial floating fish trap fishery for scup and alternatives are sought to the starting possession limits for the commercial scup fishery, all gear types except floating fish traps, as currently set out in regulation (section 7.11.2-2; page 17-18): The Scup/Black Sea Bass Advisory Panel recommended status quo for the commercial scup fishery in gear types other than floating traps. The RI Inshore Fishermen's Association submitted a proposal, which was reviewed at the public hearing. The plan proposes remaining with the same plan currently outlined in regulation except for sub-period hard caps. The plan recommends soft targets and no closed periods. No other comments were given at the public hearing.

The Council recommended status quo and the Division also recommends status quo.

For the floating trap quota, the advisory panel suggested holding a meeting with representatives of floating trap companies. This meeting was held on January 24 and was attended by four out of six individuals invited. The plan agreed to at the meeting was forwarded to those who did not attend and was considered acceptable with the exception of the elimination of a 50,000-pound set aside. One individual was in favor of keeping the set aside. A poll of the issue resulted in two in favor of eliminating the set aside, two in favor of keeping the set aside, and two that would support either option.

There were no comments offered by the public at the hearing. At the Council meeting, there was discussion on the difference in opinion between trap companies over the set aside. The Council was hesitant to select one opinion over the other. Tom Hoxie, one of the undecided trap representatives, voiced support for eliminating the set aside. The Council then voted to recommend adoption of the proposal including the elimination of the 50,000 pound set-aside.

The Division endorses the Council recommendation with the exception of the rollover date when unused trap quota is made available to the general fishery. The Division recommends that the rollover date be advanced from September 1 to August 1 so that we have more flexibility in managing the other gear category fishery.

Proposals to modify possession limits, seasons, and quota allocations for the commercial tautog fishery (section 7.9.2; page 18): The Tauter Advisory Panel reviewed the commercial landings data for 2002 and the 2003 quota allocations at a meeting on January 13th. Based on the current regulations, the overage sustained during the April 15-May 31 sub-period in 2002 would be removed from the same sub-period in 2003 if no changes are made to the regulations. This would provide an allocation of 5,263 pounds for the April 15-May 31 sub-period, a reduction of 11,853 pounds. The advisory panel recommended this status quo scenario. A suggestion was also made at the meeting to establish a one week season for the first sub-period as a conservative measure for the small allocation. This suggestion was presented at public hearing. Two people offered comments on the proposals at the public hearing. One individual was in favor of status quo, the other person reviewed a proposal submitted by the RI Inshore Fishermen's Association. This proposal recommends a reduction in the commercial possession limit to 10 fish per day until the annual quota is harvested, an equal allocation between commercial and recreational landings, and a spawning closure in all areas of Upper Narragansett and Mount Hope Bays between April 1 and June 30 for all harvesters. The plan also suggests consideration of a slot size limit for the commercial fishery of twelve to sixteen inches.

The Council voted to table the issue until the next Council meeting, scheduled for April 1, to see if additional industry advice on options was forthcoming. The Division has never supported the AP plan as it attempts to divide a small quota amongst too many periods and user groups. We also object to the early start period for both commercial and recreational fisheries which are not protective over tauter spawning in the upper Bay. Since the May 1 start date of recreational fishing is beyond the scope of the public notice and the default commercial season is at hand, the Division will recommend that status quo remain in effect for now. We will come forward in the next specification cycle with a plan that addresses our concerns. [SEE Memo Below Dated April 2, 2003]

DEM proposal to adopt regulations to administer a commercial quota for black sea bass allocated to the State consistent with the ASMFC Fishery Management Plan for black sea bass. Specifications in the plan include seasons, quota allocations, and possession limits (section 7.14; page 19): Two advisory panel meetings were held to develop regulations to administer a state quota for black sea bass. A state quota system was recently adopted by ASMFC and NMFS, requiring all Commission states with commercial black sea bass fisheries to develop state specific plans. The plan developed by the advisory panel establishes four seasons: January – April, May – July, August – October, and November – December. Three scenarios for allocating the quota into these seasons were reviewed. The option preferred by the advisory panel allocates 25% of the quota into each period. The two other scenarios were based on historical landings. The recommended starting possession limits are 1,000 pounds for the first sub-period and 500

pounds for the other sub-periods. The panel also approved of a system to manage overages and under harvests of the quota, which is identical to the method used for summer flounder.

Two industry proposals were submitted to the Department and reviewed at the public hearing, RI Inshore Fishermen's Association (RIIFA) and the offshore dragging fleet. The proposal submitted by RIIFA recommends raising the minimum size to 12", establishing four quarterly periods with an equal (25%) allocation of the quota, and implementing a minimum possession limit of 100 pounds. This proposal is based on the concept of soft caps and no closed season. The proposal submitted by the offshore dragging fleet recommends establishing the four seasons recommended by the advisory panel with an allocation of the quota based on landings from the years 1980-1998. The proposal also recommends that the Division set the largest possession limits possible that would allow the fishery to remain open. No other comments were given at the public hearing regarding the black sea bass proposals.

The Council recommends adopting the advisory panel recommendation (option #1), which allocates the quota evenly into four sub-periods. The recommended possession limits are 1,000 pounds for sub-period 1 and 500 pounds for the remaining sub-periods. The Division recommends adopting the option #1 sub-period allocation but reducing the 2nd and 3rd sub-period starting limits to 100 pounds. Because of indications from industry that large effort shifts from lobster to fish potting are likely in 2003, we no longer believe that 500 pound limits can be sustained.

Advisory panel proposal to adjust seasons, quota allocations, and possession limits for the commercial striped bass fishery for floating fish traps (section 12.5; page 21-22) and all other gear types (section 12.3; page 21): The Striped Bass Advisory Panel met on January 21 to develop recommendations on floating fish trap regulations for 2003. The proposed plan, which changes sub-period dates and quota allocations, was submitted to the public hearing where no comments were given. The Council voted to recommend adoption of the advisory panel proposal. The Division also recommends adoption of the advisory panel proposal.

The panel also developed recommendations for the "other gear types" sector, which include changes to sub-period dates and quota allocations. The RI Inshore Fishermen's Association submitted a written proposal. This plan recommends a commercial possession limit of two fish per day from January 1 through December 31 until the entire quota is harvested. No other comments were provided at the public hearing and the Council voted to recommend adoption of the advisory panel proposal. The Division also recommends adoption of the advisory panel proposal.

Proposals to amend summer flounder commercial possession limits and seasons (section 7.7.1; page 22-23): The Summer Flounder Advisory Panel convened on December 30 to develop recommendations on regulations for 2003. The main topic of discussion was premature closure of the fishery during the summer. To avoid these closures the advisory panel recommended combining the 2nd and 3rd sub-period

allocations and implement a 100 pound possession limit during this period, although Ralph Boragine has indicated that the recommendation was contingent upon the implementation of a weekly possession limit. The recommended plan would distribute the quota evenly throughout the May through October period, while under the existing regulations the August through October allocation is twice the size of the May through July allocation.

Three individuals commented on the proposal at the public hearing. There was one person in support of status quo, another opposed combining the sub-periods, and the third individual reviewed a proposal submitted by the Rhode Island Inshore Fishermen's Association. This plan would combine the second and third sub-periods and establish a minimum possession limit of 100 pounds from May 4 through October 31, with no closures (soft cap quotas). The plan also proposes a 300-pound possession limit from April 13 – May 3. The second plan proposes three sub-periods: January 1 – April 30; May 1 – September 30; October 31 – December 31; with a maximum possession limit during the May-September period of 100 pounds. The plan does not provide any suggestions on quota allocations. The Council recommends adopting option #2, which combines the 2nd and 3rd sub-periods. The Division recommends status quo regulations at this time which will mean a reduction in the January to April allocation to payoff overage from last year. While we initially agreed with the summer period combination, we now recognize it as a defacto reallocation from summer I to summer II. We believe it better to be more transparent with reallocation schemes that are highly controversial. We will be proactively reducing the winter possession limit effective March 30 to avoid the overage problem of the past few years. A Division proposal for adjustment to the summer flounder program will be forthcoming at the 2004 specification meeting and will take account of the other quota species in a multispecies format.

DEM proposal to modify the closed season, bag limit, and minimum size for the recreational summer flounder fishery (section 7.7.4; page 23): Recreational summer flounder landings in RI for 2002 were about 20% below the harvest limit thereby allowing the State to liberalize regulations for 2003. Of the several options presented, the Summer Flounder Advisory Panel selected as their preferred option, 17.5" minimum size, 5 fish bag limit, May 1 – September 20 open season (option #4 in the summary document). No comments were given at the public hearing and the Council recommended approval of the advisory panels preferred option. The Division supports the advisory panel recommendation.

DEM proposal to modify the bag limit and closed season for the recreational scup fishery (section 7.11.4; page 23): Recreational scup landings in RI for 2002 were about 53% below the harvest limit thereby allowing the State to liberalize regulations for 2003. One option that achieves the target harvest was presented to the Scup/Black Sea Bass Advisory Panel, 10" minimum size, 50 fish bag limit, no closed season. The panel recommended adoption of these specifications. No comments were given at the public hearing and the Council recommended approval of option #1 in the summary document (10" minimum size, 50 fish bag limit, no closed season). The Division supports the advisory panel recommendation.

DEM proposal to adopt a recreational bag limit for weakfish to comply with Amendment 4 to the Weakfish FMP (section 7.18.2; page 24): Amendment 4 to the Weakfish FMP requires Rhode Island to adopt a ten fish bag limit for the recreational weakfish fishery. An advisory panel meeting was not held to discuss this compliance issue. No comments were given at the public hearing and the Council recommended approval of the proposal as presented at the public hearing. The Division also recommends adoption of the proposal as presented.

DEM proposal to change the season and increase the minimum legal size for the recreational black sea bass fishery to comply with the ASMFC FMP for black sea bass (section 7.14.2; page 24): This proposal is necessary for compliance with the FMP for black sea bass. All Commission states with a recreational black sea fishery are required to implement these measures; there are no state specific measures. The Scup/Black Sea Bass Advisory Panel did not offer any objections to the proposal. No comments were given at the public hearing and the Council recommended approval of the proposal as presented at the public hearing. The Division also recommends adoption of the proposal as presented.



Rhode Island
Department of Environmental Management

DIVISION OF FISH AND WILDLIFE

4808 Tower Hill Road
Wakefield, RI 02879

401 789-3094
401 277-3075
FAX 401 783-4460
TDD 401 831-5508

TO: Jan H. Reitsma, Director

FROM: Mark Gibson, Deputy Chief Marine Fisheries

DATE: April 2, 2003

SUBJECT: Request for decision on March 4, 2003 public hearing

CC: Mal Grant
David Borden
Management

This memorandum is a supplement to the memorandum forwarded to your office dated March 25, 2003 and summarizes Council action on three public hearing issues tabled at the March 11th Council meeting: spiny dogfish, weakfish, and tautog.

DEM proposal to adopt possession limits, seasons, and a prohibition on finning for the commercial spiny dogfish fishery to comply with the ASMFC Management Plan for spiny dogfish (section 7.15; page 14): This issue was tabled at the March 11th Council meeting pending a decision by ASMFC. The proposal presented at the March 4th public hearing complements federal specifications as required by ASMFC. Since then, ASMFC has debated and continues to debate on adopting higher possession limits than the federal limits. At the April 1st Council meeting, the Division recommended endorsing the federal specifications as presented in the public hearing summary document and then respond to ASMFC adjustments if and when they occur. The Council unanimously agreed with the Division's recommendation.

DEM proposal to adopt a commercial season with possession limits for weakfish to comply with Amendment 4 to the Weakfish Fishery Management Plan (section 7.18; page 15): The Council tabled action on the weakfish proposal at the March 11th meeting and requested a Weakfish Advisory Panel meeting to address industry concerns. The proposed plan presented to the Council on March 11th included seasons with unlimited possession and at all other times a 300-pound bycatch limit. The various seasons that were presented did not include fall months, which was not acceptable to commercial

representatives in attendance. The Weakfish Advisory Panel convened on March 31st, and their recommendation was to increase the minimum size up to 20 inches instead of implementing a possession limit. Raising the minimum size is not offered as an option in the Weakfish FMP so the request was forwarded to ASMFC. As an alternative measure, if increasing the minimum size is not accepted, the panel recommended the following dates during which the possession limit would be unlimited: June 1 – 30 and Aug 7 – Nov 8. The possession limit at all other times will be 300 pounds. Language reflecting this alternative measure is included with this memo. Adjusting the minimum size would simply require an amended change to the current minimum size of 16 inches. At the April 1st meeting, the Council recommended following the course of action proposed by the advisory panel. The Division also endorses the advisory panel recommendation, however, adjusting the minimum size would require another public hearing since it was not included with the notice for the March 4th hearing. The deadline for implementing commercial measures is July 1st, which provides enough time to hold another public hearing if desired. No immediate action is required at this time.

Proposals to modify possession limits, seasons, and quota allocations for the commercial tautog fishery (section 7.9.2; page 18): The Council voted to table the issue until the April 1 Council meeting, to see if additional industry advice on options was forthcoming. No advice was received by the April 1 Council meeting. At the Council meeting there was discussion on the Rhode Island Inshore Fishermen's Association's proposal to institute a spawning closure in the Bay, but was determined that such a measure was beyond the scope of the public hearing notice. The Division recommended dividing the quota equally between the three existing sub-periods and lowering the possession limit for all sub-periods from 20 fish/day to 10 fish/day. This proposal differs from the advisory panel and the Division's former recommendation of status quo. The Council voted unanimously to recommend adoption of the Division's proposal as presented at the April 1st Council meeting. The proposal is included with this memorandum.

Weakfish Advisory Panel's alternative recommendation

7.18 Weakfish

7.18.1 Commercial

7.18.1-1 Minimum size – No person shall take, possess, sell, possess for sale, or offer for sale any weakfish measuring less than sixteen (16) inches total length whether caught within the jurisdiction of this State or otherwise.

7.18.1-2 Season and possession limits – It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 300 pounds of weakfish, provided that there is at least an equal poundage of other species as weakfish on board the vessel, except during the period June 1 through June 30 and August 7 through November 8, when the commercial possession limit shall be unlimited.

Tautog - Division's recommendation presented at the April 1st Council meeting

7.9.2 Commercial --The total allowable harvest of tautog will be established annually, and will be that amount allocated to the State of Rhode Island by the Regional Fishery Management Council and/or the Atlantic States Marine Fisheries Commission. The quota may be harvested only by permitted gear types and licensed fishermen in accordance with all rules and regulations promulgated by the RIMFC DEM and the RIGL Title 20. ~~In order to provide for the orderly harvest of the quota the RIMFC has established the following three sub-period allocations, unless modified pursuant to this part:~~ The quota shall only be available during the following seasons:

- (a) April 15 – May 31: 1/3 of the annual quota established in this part shall be available from April 15 through May 31, unless modified pursuant to this part. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than ten (10) ~~twenty (20)~~ tautog during this period. The aggregate number of tautog on any vessel, regardless of how many licensed fishermen are onboard, may not exceed the ten (10) ~~twenty (20)~~ fish limit per day.
- (b) August 1 – September 15: 1/3 of the annual quota established in this part shall be available from August 1 – September 15, unless modified pursuant to this part. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than ten (10) ~~twenty (20)~~ tautog during this period. The aggregate number of tautog on any vessel, regardless of how many licensed fishermen are onboard, may not exceed the ten (10) ~~twenty (20)~~ fish limit per day.
- (c) October 15 – December 15: 1/3 of the annual quota established in this part shall be available from October 15 through December 15, unless modified pursuant to this part. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than ten (10) ~~twenty (20)~~ tautog during this period. The aggregate number of tautog on any vessel, regardless of how many licensed fishermen are onboard, may not exceed the ~~twenty (20)~~ ten (10) fish limit per day.

(d) Within each period the allocation may be harvested until it is exhausted. Any unused quota not harvested during a sub-period will be carried forward into the next period and any over-harvest will be deducted equally from ~~that all~~ periods ~~allocated~~ in the next calendar year. No licensed commercial fisherman may possess more than ~~twenty (20)~~ ten (10) tautog in any calendar day. During a closure of the R.I. tautog fishery a federally permitted vessel fishing in the Exclusive Economic Zone (EEZ), may traverse Rhode Island waters for the purpose of landing tautog in another state, provided their nets are stowed in accordance with Section 10.10 of these regulations.

Memorandum

To: Mark Gibson
CC: Malcolm Grant; David Borden
From: Jan H. Reitsma, Director
Date: 04/16/03
Re: Regulations Regarding Lobster, Shellfish, and Finfish Management Measures

I have reviewed your memoranda dated March 24 and April 2, 2003 which recommend regulatory actions relating to:

Lobster – increase in gauge and vent size, change in recreational trap tag, adoption of ASMFC FMP provisions; [GAUGE INCREASE FILED MARCH 14, 2003; REMAINING REGULATIONS ARE SCHEDULED TO BE FILED IN APRIL]

Shellfish – change in management area schedules for holidays; [FILED APRIL 11, 2003]
Commercial spiny dogfish – seasons and possession limits (5/1-10/31 600 lbs; 11/1-4-30 300 lbs); prohibition on finning; [FILED APRIL 11, 2003]

Commercial scup – weekly trip limit, elimination of 50,000 lbs floating trap set-aside, and roll-over date of August 1; [FILED APRIL 11, 2003]

Recreational scup – minimum size (10”), bag limit (50), no closed season; [FILED APRIL 11, 2003]

Commercial tautog – lower possession limit (10) and even quota allocation among sub-periods; [FILED APRIL 11, 2003]

Commercial black sea bass – seasons (1/1-4/30, 5/1-7/31, 8/1-10/31, 11/1-12/31), 25% of quota allocated to each season and possession limits (1,000, 100, 100 and 500 lbs); [FILED APRIL 11, 2003]

Recreational black sea bass – minimum size (12”), and closed seasons (9/2-9/15 and 12/1-12/31) per ASMFC FMP provisions; [FILED APRIL 11, 2003]

Commercial striped bass – seasons (6/1-8/31 and 9/1-12/31) quota allocations (75% and 25%) and possession limits (4 and 3); [FILED APRIL 11, 2003]

Recreational summer flounder – minimum size (17.5”), bag limit (5) and open season (5/1-9/20); [FILED APRIL 11, 2003]

Recreational weakfish – minimum size (16”) and bag limit (10). [FILED APRIL 11, 2003]

I have also reviewed the record of the public hearing and comments that have been received, and attended the meetings of the Marine Fisheries Council on these proposals. I hereby adopt the recommendations of the Division, noting they are in almost all respects in agreement with those made by the Council. The exceptions are a different roll-over date for commercial scup so as to give the Division the management flexibility it needs; and a lower possession limit for commercial black sea bass during the second and third sub-period in anticipation of a shift of effort from the lobster fishery into fish potting. In addition, as I indicated during yesterday's council meeting, the Department cannot at this time support the proposed changes in sub-periods and quota allocation for commercial summer flounder. The effect of these changes would be a significant reallocation, which warrants a more explicit and transparent discussion than has taken place to date. Consequently, the Division proposes, and I concur, that the status quo should be maintained for the time being. This and several other issues need to be addressed carefully by the Department and the Council in the next round of Fishery Management Plan discussions.

I further note that action on commercial weakfish has been deferred, pending an ASMFC decision whether the preferred option, to increase the minimum size, is acceptable. If it is, this measure would require a new public notice. If it is not, the recommended fall-back option is to set the possession limit at 300 lbs, except during open seasons (6/1-6/30 and 8/7-11/8). I hereby concur with that recommendation, as well.

Please proceed with filing of the regulations in accordance with the above.