



Rhode Island
Department of Environmental Management

DIVISION OF FISH AND WILDLIFE

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TO: W. Michael Sullivan, Director DEM

FROM: Bob Ballou, Acting Chief, DFW *Robert J. Ballou*

DATE: March 30, 2010

SUBJECT: Request for Decision on February 23, 2010 Marine Fisheries Public Hearing Items –
Menhaden

Several proposed regulatory changes pertaining to the 2010 marine fisheries season have moved through the regulatory review process and have been presented for final decision. One issue is the proposed changes to the Narragansett Bay Menhaden Management Plan. I hereby present those changes for final decision.

The menhaden proposals were the subject of a public hearing held on February 23, 2010, and subsequent consideration by the RI Marine Fisheries Council at their March 1, 2010 meeting. Supporting documentation, hereby provided by way of attachment, include the minutes of the RIMFC menhaden advisory panel meetings, the public hearing summary document, a summary of public hearing comments, and the applicable portion of the minutes from the RIMFC March 1, 2010 meeting.

Proposed changes to the Narragansett Bay Menhaden Management Plan: Three proposals for 2010 Narragansett Bay menhaden management were brought forward for public comment. The first proposal, developed by the Menhaden Advisory Panel based on recommendations and input from DEM, included the following provisions:

- establishment of a minimum biomass threshold, or “floor,” in the Narragansett Bay menhaden management area that would need to be reached before commercial fishing operations could commence;
- maintenance of the 50% cap, but modified so as to apply to the harvestable portion of the biomass that’s above the biomass threshold/floor;
- maximum vessel size of 85 feet;
- maximum on-board storage capacity of 120,000 pounds;
- requirement that the float buoys along the top of all purse seine nets used in the fishery be painted a fluorescent color every 50 feet (to aid field enforcement of the existing maximum net size provision); and
- requirement that all nets used in the purse seine fishery be certified by DEM’s Division of Law Enforcement annually prior to the commencement of fishing.

The second proposal, offered by D. Pesante, was to lower the possession limit to keep the fishery open all summer long. The third proposal, offered by the Federated Rhode Island Sportsmen's Club, was to close the Northern area from May 15 through July 15 and remove restrictions from the Southern area. The Menhaden Advisory Panel did not support the last two proposals.

There were several public comments made in support of option 1 (as set forth above). There was one comment made in support of option 2 (lower possession limit to keep fishery open longer), and there were two comments made in support of option 3 (closure of northern area). There were two written comments received. One, from D. Pesante, clarified his proposal for keeping the fishery open throughout the summer. He proposed a *weekly* possession limit and a 35% trigger; as such, when 35% of the harvestable biomass had been harvested, the weekly possession limit would be reduced. The second written comment was from E. Mills who is the Ark Bait spotter pilot. He suggested that once the floor was set, the aerial survey should continue for a 30-day period, which would allow for a fair assessment of the biomass and also allow for the ebb and flow of the menhaden into the bay during their spring migration.

At the public hearing DEM presented information estimating that the floor or threshold should be set between 1 and 1.5 million pounds. This estimate was also supported by the local companies, which normally target menhaden each year.

The Council unanimously supported adoption of the advisory panel recommended option; however, they recommended that the floor be set at 2 million pounds. As reflected in the meeting minutes, the Council offered little in the way of rationale for their recommendation, so it is difficult to assess their position.

Having interacted extensively with you subsequent to your review of the record, I believe we have reached consensus on a regulatory framework that embraces the Council's recommendation, with some added modifications. Those modifications include: a 0.5 million pound buffer, added to the 1.5 million biomass threshold, to help guard against rapid depletion of the harvestable biomass once the threshold is observed; a ramp-up in the daily possession limit, from 80,000 to 120,000 pounds, based on a 3.0 million pound trigger (again, to help guard against rapid depletion of the resource once the threshold is observed); and elimination of the 85-foot limit for maximum vessel size. With regard to the latter, it is recognized that a vessel size limit could preclude participation in the commercial fishery by RI-based vessels seeking to supply bait to RI fishermen. The intent of the vessel-size limit was to help prevent exceedances of the daily possession limit. Upon review, it is apparent that limiting on-board storage capacity is a more effective and appropriate way to control harvest than limiting vessel size.

Accordingly, based on your input and recommendations, I urge adoption of the following provisions. ***If you concur, please indicate by signing this memo at the end and returning it to me. Upon receipt of this signed memo, I will initiate the filing process. If you wish to make any additional changes that differ from those set forth below, please delineate those changes via a separate memo.***

- The establishment of a minimum biomass threshold, or "floor," of 1.5 million pounds in the Narragansett Bay menhaden management area, with the added provision that commercial harvest

operations shall not commence until 2.0 million pounds of biomass is determined to be present in the management area;

- An initial daily possession limit of 80,000 pounds, which shall be increased to 120,000 pounds when 3.0 million pounds is determined to be present in the management area;
- Maintenance of the 50% cap, but modified so as to apply to the harvestable portion of the biomass that's above the biomass threshold/floor;
- For all vessels participating in the commercial menhaden fishery, a maximum on-board storage capacity of 120,000 pounds, with the caveat that if a vessel with a capacity greater than 120,000 pounds wishes to fish commercially for menhaden in the management area, that vessel may seek and obtain approval from DEM's Division of Law Enforcement, prior to the commencement of fishing, by demonstrating that the excess capacity has been precluded from use;
- A requirement that the float buoys along the top of all purse seine nets used in the fishery be painted a fluorescent color every 50 feet; and
- A requirement that all nets used in the purse seine fishery be certified by DEM's Division of Law Enforcement annually prior to the commencement of fishing.



Approval for filing as presented - Date: April 6, 2010

A handwritten signature in cursive script that reads "W. Michael Sullivan".

W. Michael Sullivan, Director
Department of Environmental Management