



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835

(401) 423-1920 Fax: (401) 423-1925

RIMFC: Robert Ballou, *Chairman*; David Monti, *Vice Chair*; Jeff Grant; William Mackintosh, III; Michael Rice, Ph.D.; Christopher Rein; Andy Dangelo; Mike Roderick; Travis Barao

MEETING NOTICE RI MARINE FISHERIES COUNCIL

June 26, 2017 – 6:00 PM
URI Narragansett Bay Campus, Corless Auditorium
South Ferry Road, Narragansett, RI

AGENDA

Agenda item	ePacket Attachment(s)	Recommended action(s)
1. Approval of tonight’s agenda	<ul style="list-style-type: none"> • Tonight’s agenda 	Approval of agenda and/or recommendations for modifications.
2. Approval of minutes from last meeting	<ul style="list-style-type: none"> • Meeting minutes 2-28-2017 	Approval of minutes and/or recommendations for modifications.
3. Public Comments on any items not on agenda		Discussion and/or possible future action.
4. <u>June 12 public hearing items:</u> <i>J. McNamee</i> <ul style="list-style-type: none"> • <u>Part 3 Finfish:</u> <ul style="list-style-type: none"> ○ Recreational Black sea bass ○ Comm. Monkfish possession limit • <u>Part 6 Equipment:</u> <ul style="list-style-type: none"> ○ Gillnet tagging ○ Gillnet Block Island ○ Fyke net registration ○ Seine nets in coastal salt pond channels • <u>Part 7 Dealers:</u> <ul style="list-style-type: none"> ○ Clarify point of quantity determination ○ Information required for the dealer’s record of sales ○ Information required for record of shellfish sales ○ Remove requirement of “permanently bound ledger” 	<ul style="list-style-type: none"> • Powerpoint presentation • Public Notice • Annotated language: <ul style="list-style-type: none"> ○ Rec. Black sea bass ○ Comm. monkfish poss. limit ○ Gillnet tagging ○ Gillnet Block Island ○ Fyke net registration ○ Seine nets in coastal salt pond channels ○ Clarify point of quantity determination ○ Information required for the dealer’s record of any sale ○ Information required for dealer’s record of shellfish sales ○ Remove requirement of 	Provide recommendations to the Director regarding proposed regulations.

<ul style="list-style-type: none"> ○ Dealer wet storage ○ Dealer handling and tagging of shellfish 	<p>“permanently bound ledger”</p> <ul style="list-style-type: none"> ○ Dealer wet storage ○ Dealer handling and tagging of shellfish ● Summary of oral comments from public hearing ● Written comments received 	
<p>5. <u>SAP/IAC membership:</u> <i>J. Grant, C. Rein</i></p>		<p>Membership updates; advice from Division/Council.</p>
<p>6. <u>Upcoming IAC meeting:</u> <i>J. McNamee; J. Lake</i></p>		<p>FYI and discussion</p>
<p>7. <u>FYI:</u></p>	<ul style="list-style-type: none"> ● ASMFC 2017 Spring Meeting Summary 	<p>FYI</p>
<p>8. Adjourn</p>		

All RIMFC Meetings are open to the public

Posted to Sec. of State Open Meetings June 23, 2017



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835

(401) 423-1920 Fax: (401) 423-1925

MEETING SUMMARY

February 28, 2017

Chairperson: *B. Ballou*

RIMFC Members: *J. Grant, B. Mackintosh, M. Rice, C. Rein, D. Monti, T. Barao, A. Dangelo (M. Roderick absent)*

DEM: *G. Powers, J. McNamee, S. Olszewski, N. Lengyel, N. Ares, J. Livermore, W. Helt, C. Parkins P. Duhamel*

DEM Enforcement: *Lt. J. Poccia*

Public: Approximately 30 persons

1. **Approval of the Agenda:** The Chair inquired as to modifications to the agenda or objections to approving the agenda. The Chair requested that item #4, SAP/IAC membership, be re-located and be addressed after conclusion of the public hearing items. The modified agenda was then approved by consent.
2. **Approval of RIMFC meeting minutes from October 3, 2016:** The Chair inquired as to any proposed modifications or objections to approving the minutes. Hearing none, the minutes were approved by consent.
3. **Public comments regarding other matters not on agenda:** *F. Blount* requested that the regulations for groundfish species be reviewed for consistency and corrected as necessary. *J. McNamee* provided that the matter would be placed in the Division's regulatory queue for review and subsequent amendment/public hearing as needed.
4. **February 13 public hearing items:**
 - **Recreational Summer Flounder:** Motion made by *A. Dangelo* to recommend adoption of option 5 as presented (19" min. size; 5/19 – 12/31 season; 6 fish bag); 2nd by *D. Monti*. **The motion passed 7 – 0.**
 - **Recreational Tautog:** Motion made by *D. Monti* to recommend adoption of option 2 as presented – amend the 3rd sub-period closing/4th sub-period opening to October 14th/15th respectively, in place of the current flexible date; 2nd by *M. Rice*. **The motion passed 7 – 0.**
 - **Commercial Tautog:** Motion made by *B. Macintosh* to recommend adoption of option 3 as presented; to amend the three sub-period allocations from 1/3 each to 40%

(4/15-5/31), 20% (8/1-9/15) and 40% (10/15-12/31) respectively; 2nd by *J. Grant*. **The motion passed 7 – 0.**

- **Commercial Bluefish:** Motion made by *J. Grant* to recommend adoption of option 3 as presented (12” min. size; amend 2nd sub-period closing from 11/15 to 11/11; and increase possession limit from 4,000 to 6,000 lbs/vsl/day for the summer sub-period; 2nd by *C. Rein*. **The motion passed 7 – 0.**
- **Recreational Scup:** Motion made by *D. Monti* to recommend maintaining status quo; 2nd by *M. Rice*. **The motion passed 7 – 0.**
- **Recreational Black Sea Bass:** Discussion ensued regarding the federal closure period. *D. Monti* expressed support for option 4 as a way to provide for early shore access and to reduce discards. Motion made by *D. Monti* to recommend adoption of option 4 as presented (15” min. size; 5/25-8/31 @ 3 fish; 9/1-9/21 @ 7 fish; 10/22-12/31 @ 7 fish; 2nd by *T. Barao*. **The motion passed 7 – 0.**
- **Recreational Striped Bass:** Motion made by *M. Rice* to recommend maintaining status quo; 2nd by *D. Monti*. **The motion passed 7 – 0.**
- **Commercial Striped Bass general category:** *J. McNamee* offered that the Division could not support option 3 and the proposed 20% allocation for the 2nd sub-period, as such a low quota is difficult to track and would potentially result in the majority of harvest occurring in the 1st sub-period. Support for status quo was expressed by *D. Monti* and *B. Macintosh*. Motion made by *A. Dangelo* to recommend adoption of option 4; 2nd by *C. Rein*. No action was taken on the motion. A substitute motion was made by *M. Rice* in support of maintaining status quo, with a change in the opening date of the 1st sub-period from 5/29 to 5/28 so as to coincide with a Sunday opening; 2nd by *T. Barao*. **The motion passed 5- 1** (*A. Dangelo* against; *J. Grant* recusal).
- **Commercial Striped Bass floating fish trap:** *J. McNamee* offered that option 2 as presented was manageable for the Division. Discussion ensued as to the Division’s ability to manage for both over and under-harvest under the proposal. *J. McNamee* offered that the Division’s authority to shift allocation between traps and general category greatly aids in managing the fishery. Motion made by *M. Rice* to recommend adoption of option 2 as presented; 2nd by *A. Dangelo*. **The motion passed 6- 0** (*J. Grant* recusal).
- **Commercial Menhaden:**
 - **Proposal 1 - Change bycatch limit as defined in ASMFC Addendum I to Amendment 2:** Motion made by *B. Macintosh* to recommend adoption of the proposal as presented; 2nd by *D. Monti*. **The motion passed 7 – 0.**
 - **Proposal 2 - Modify location of Fall opening for purse seining in the Menhaden Management Area (MMA):** *J. McNamee* offered that the proposal does not

include opening of the areas currently closed in the MMA (i.e., Providence River and Greenwich Bay), but that by opening as proposed may minimize the effectiveness of the management within the MMA. He offered that the Division neither supports nor rejects the proposal at this time. *D. Monti* expressed lack of support for the proposal due to potential impacts on the striped bass fishery. *J. Grant* inquired if monitoring flights were still occurring at this time of year; to which *J. McNamee* replied that normally there would be flights remaining for this time of year. Motion made by *J. Grant* to recommend adoption of the proposal as presented; no 2nd was provided and the motion failed. A motion was made by *D. Monti* to recommend that the option not be adopted (maintain status quo); 2nd by *M. Rice*. *J. Grant* offered that the potential harvest would be minimal, and that striped bass are not feeding heavily at this time, so that impact to the striped bass fishery would be minimal. **The motion passed 6 – 1 (*J. Grant* against).**

5. **SAP meetings - 1/11/2017 & 2/22/2017:** *J. Grant* provided a summary of the meetings, the summaries included in the meeting materials, which included aquaculture application review and recommendations of the proposed shellfish management areas that were subject of the February public hearing. Upon conclusion of the discussion and recommendation by the Council for each of the proposed shellfish management areas, the minutes were approved by consent.
6. **Proposed Shellfish Management Areas:**
 - **Providence/Seekonk Rivers:** *J. McNamee* provided rationale for the proposal, which is also reflected in presentations made to the SAP on their meetings on 1/11/17 and 2/22/17. *J. Grant* offered that the SAP supported the proposal. *B. Macintosh* inquired as to the quahaug biomass known in the area. *J. McNamee* offered that studies have shown that this area provides much of the quahaug larval dispersal into the bay. *M. Rice* offered that management is necessary to protect this spawning biomass. Motion made by *M. Rice* to recommend adoption as proposed; 2nd by *C. Rein*. **The motion passed 7 – 0.**
 - **Warren River:** *J. Grant* offered that the SAP supported option 2 as proposed; to include only those waters currently closed to shellfishing. Motion made by *D. Monti* to recommend adoption of option 2; 2nd by *B. Macintosh*. **The motion passed 7 – 0.**
 - **Town Pond:** Motion made by *C. Rein* to recommend adoption as proposed; 2nd by *T. Barao*. **The motion passed 7 – 0.**
 - **Narrow River:** Motion made by *D. Monti* to recommend adoption as proposed; 2nd by *A. Dangelo*. **The motion passed 7 – 0.**
 - **Greenhill Pond:** Motion made by *T. Barao* to recommend adoption as proposed; 2nd by *C. Rein*. **The motion passed 7 – 0.**
 - **Little Narragansett Bay/Pawcatuck River:** Motion made by *D. Monti* to recommend adoption, however to include only those waters currently closed to shellfishing; 2nd by *M.*

Rice. J. Grant offered that the SAP recommendation was to include only the closed areas due to concern regarding reduced SMA possession limit. **The motion passed 6 – 0** (*B. Macintosh* absent).

7. **Proposed modification to the Bristol Harbor SMA boundary:** *J. McNamee* offered that the rationale for the change was to move the corner of the SMA off of the end of the dock to a fixed location on land. *J. Grant* offered that the SAP was in support of status quo due to the line of sight using the end of the dock. The Division of Law Enforcement offered no preference for either option, that both options were enforceable. Motion made by *B. Macintosh* to recommend status quo; 2nd by *A. Dangelo*. The motion failed 3-3-1 (*C. Rein, M. Rice, D. Monti* opposed; *J. Grant* abstained). *C. Rein* offered support for the proposed change, and offered motion to adopt as proposed; 2nd by *M. Rice. J. Grant* offered that the proposed change was impractical in that a shellfisherman in a boat out on the water would not be able to ascertain the new corner as a point where the high tide meets the dock (as proposed), and that the end of the dock was a much better landmark to use for the line of sight. **The motion passed 4-2-1** (*A. Dangelo, B. Macintosh* against; *J. Grant* abstained).
8. **Council Annual Report to the General Assembly:** *D. Monti* offered that the report could be used to highlight Council accomplishments and generate publicity to the Council's work and decisions. *J. Grant* offered that Council decisions were often controversial and not fully supported by each of the Council members or the public, so it would therefore be difficult to properly describe as Council accomplishments. *B. Macintosh* offered that the report could be used to show the economic benefit of Rhode Island marine fisheries. *M. Rice* offered that the report should be submitted as is for this year and continue to discuss and look to improve for subsequent year's submissions. He suggested that CRMC's annual report on Aquaculture was a good example of a report to the GA and that this report could be referenced for style. Motion made by *A Dangelo*; 2nd by *M. Rice* to recommend approval and submittal of annual report as drafted.
9. **Skate Aggregate Performance metrics:** *J. McNamee* provided an update of skate wing and bait fisheries management in RI. He offered that this agenda item was only to update the Council that the fisheries are being monitored closely, and that additional updates and data were to be presented later in the year for potential regulatory action.
10. **RI Saltwater Recreational Fishing License Program Report:** *J. Lake* provided a summary of the report; the full draft report having been provided in the meeting materials. Upon conclusion of the presentation and discussion, it was determined that the program is meeting its intended purpose per RIGL 20-2.2-10 and the report was approved by consent.

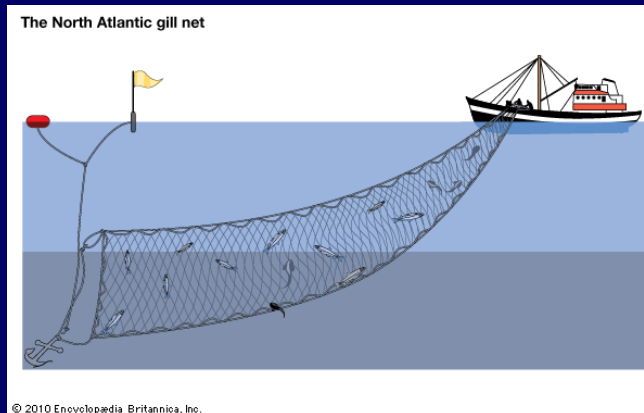
Meeting adjourned at approximately 8:30; prepared by *P. Duhamel*

RI Department of Environmental Management

Marine Fisheries

RI Marine Fisheries Council

June 26, 2017



Hearing Item 1a: Proposal to amend the seasons and possession limits for recreational Black Sea Bass

Proposed Management Options:

Option	Min. Size	Season	Possession Limit
Current management	15"	5/24 – 8/31	3 fish
		9/1 – 9/21	7 fish
		9/22 – 10/21	CLOSED
		10/22 – 12/31	7 fish
<u>Option 1:</u>	15"	5/24 – 8/31	3 fish
		9/1 – 9/21	7 fish
		9/22 – 10/21	CLOSED
		10/22 – 12/31 <u>10/31</u>	7 fish
		<u>11/1 – 12/31</u>	<u>5 fish</u>



Hearing Item 1b: Proposal to amend the commercial possession limit for Monkfish

Proposed Management Options:

Option	Possession Limit
Current management	550 lbs tail/1,826 lbs whole (vsl/day)
<u>Option 1:</u> Status quo with increased possession limit per FMP	<u>700 lbs tail/2,324 lbs whole</u> (vsl/day)
<u>Option 2:</u> Weekly possession limit	<u>4,900 lbs tail/16,268 lbs whole</u> <u>(vsl/week)</u>
<u>Option 3:</u> To develop a program to match the federal allowance for taking of a double possession limit (the aggregate of two daily limits during one trip) once during each calendar week. If a double limit is taken, one other day of fishing will be forfeited during that week.	



Hearing item 2a: Proposal to amend the gill net tagging requirements (section 6.5.3(E)(6))

Noticed language:

6.5.3(E)(6) Tags shall be attached to the ~~float~~ **vertical lines** ~~beginning at the westernmost~~ **each** end of each net **string.** ~~(as measured on a compass circle from magnetic south through west to, and including, north) exceed every 300 linear feet. The net on the easternmost end of each string as measured on a compass circle from magnetic north through east must have a tag adjacent to the buoy line.~~ **The total number of tags must equal the total number of each of the individual 300 foot nets in the string.** **Each individual string of 450 foot nets shall require two (2) tags.** **Tags shall be attached to both the bottom and top of the vertical line of the string.**



Hearing item 2a cont'd: Proposed to amend the gill net tagging requirements (section 6.5.3(E)(6))

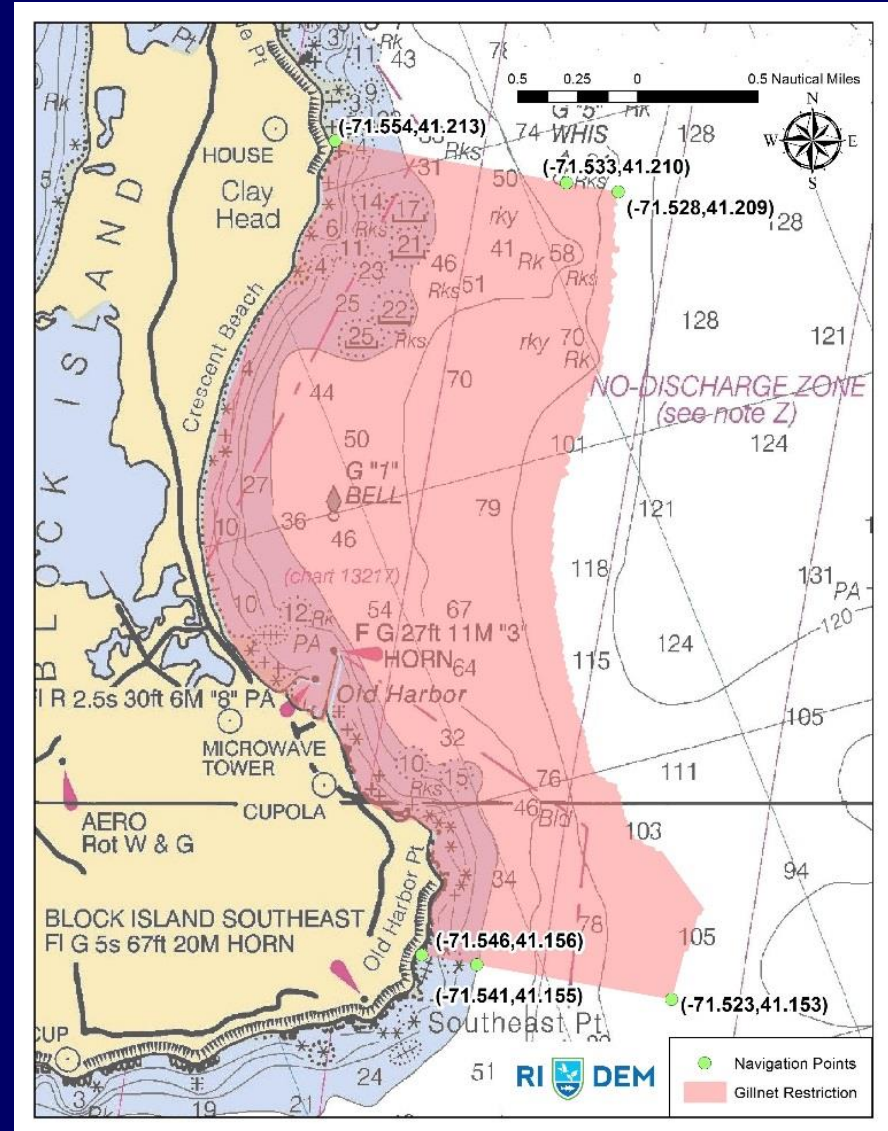
Revised language under consideration:

6.5.3(E)(6) Tags shall be attached to ~~the float line beginning at the westernmost end of each net (as measured on a compass circle from magnetic south through west to, and including, north) exceed every 300 linear feet. The net on the easternmost end of each string as measured on a compass circle from magnetic north through east must have a tag adjacent to the buoy line~~ **both vertical lines of a string of gill nets at the point proximate to where the float line is joined to the vertical line. Tags shall be equally distributed between vertical lines, the difference of the number of tags on each vertical line shall not exceed one tag. One tag must be attached for every 300 linear feet of net used in a string.**



Hearing item 2b: Proposal to delete the regulation regarding a gillnet prohibition in Block Island waters (section 6.5.3(K)(7))

- Gillnetting is prohibited off of the southeastern of Block Island between November 1 and December 31 annually
- Old regulation which cites navigation aides which no longer exist
- Likely established during late 1980's for striped bass management measures or harbor dredging



Hearing item 2b: Proposal to delete the regulation regarding a gillnet prohibition in Block Island waters (section 6.5.3(K)(7))

Proposed language:

~~Section 6.5.3(K)(7) Within the waters seaward of Old Harbor, Block Island, from the Block Island shoreline to the one hundred (100) foot depth contour, between November 1 and December 31, annually. This area is bounded by a northerly line running one hundred (100) degrees (true) from Clay Head Point to the black and white whistle out to a depth of one hundred (100) feet. The southern boundary of the closure zone runs from the shoreline on a course of one hundred (100) degrees (true) to the C-3 buoy out to the one hundred (100) foot depth contour. The eastern boundary is a line which corresponds to the one hundred (100) foot depth contour.~~



Hearing item 2c: Proposal to clarify fyke net registration requirements (section 6.5.4(A))

Proposed language:

Section 6.5.4(A) The fyke net must be ~~registered with the DFW~~ **permitted by DEM prior to being placed in the marine waters of the state. Persons applying for such permit shall provide the dates of use, location, and net measurements.**



Hearing item 2d: Proposal to clarify the regulation regarding seine net prohibition in coastal salt pond channels (section 6.5.5)

Proposed language:

Section 6.5.5(A) Prohibited areas: In addition to those waters where all netting is prohibited, seine nets are prohibited ~~along the shoreline~~ within one half (1/2) mile in both directions of the seaward entrance of a following coastal salt pond channels, ~~and extending~~ for a distance of three hundred (300) yards seaward, when the coastal salt pond is open to the sea:

~~Quicksand Pond channel; Tunipers Pond channel; Cards Pond channel; Trustom Pond channel; Quonechontaug Pond channel; Charlestown Pond channel; and Winnapaug Pond channel.~~



Hearing item 3a: Proposal to clarify point of quantity determination (section 7.1.2)

Proposed language:

Section 7.1.2 Dealers shall ~~weigh~~ **have accounted for the quantity by count, weight and/or volume of** all marine species **landed at** ~~prior to their removal from the dealer's premises or from~~ the point of transfer **from the harvester.**



Hearing item 3b: Proposal to adopt new regulations to specify information required for the dealer's record of any sales/transactions (section 7.1.4)

Proposed language:

7.1.4 Dealers shall maintain a record of transaction for all sales of marine species. The following information shall be maintained at the dealer's place of business and be available for inspection by the Director:

- (A) Sellers' name;**
- (B) Seller's commercial fishing license number;**
- (C) Date of purchase;**
- (D) Species landed;**
- (E) Quantity of purchase;**
- (F) Signature.**



Hearing item 3c: Proposal to adopt regulations to specify additional (i.e., in addition to the requirements as specified in section 7.1.4) information required for dealer's record of shellfish sales/transactions. (section 7.2.4)

Proposed language:

7.2.4 Shellfish dealers shall maintain a record of transaction for all sales of shellfish. The following information shall be maintained at the dealer's place of business and be available for inspection by the Director:

- (A) Sellers' name;**
- (B) Seller's commercial fishing license number;**
- (C) Seller's date of birth**
- (D) Harvest tagging area where shellfish were harvested;**
- (E) Quantity of shellfish purchased;**
- (F) Species landed;**
- (G) Purchase price;**
- (H) Date and time of transaction;**
- (I) Signature of seller.**



Hearing item 3d: Proposal to remove the requirement that transactions be recorded in a “permanently bound ledger”. (section 7.2.4(J))

Proposed language:

7.2.4(J) ~~Any shellfish possessed by a dealer that measures less than the State minimum size for wild stock must be properly identified as cultured product with appropriate tagging as required by the Director.~~ **For transactions of shellfish cultured on an aquaculture lease, Each the dealer shall maintain complete, accurate and legible records sufficient to: (i) document the source of shellfish, and (ii) permit the contents of the container of shellfish to be traced back to the aquaculture lease site and date of harvest. In addition, All purchases and sales transactions shall be recorded in a permanently bound ledger book or other approved recording method authorized by DEM and DOH by a method approved by DEM and DOH.**



Hearing item 3e: Proposal to provide for consistency with DOH regulations “Rules and Regulations Pertaining to the Processing and Distribution of Shellfish” and the NSSP model ordinance regarding dealer wet storage of shellfish.

Main points:

- Land-based wet storage facilities approved by DOH only
- Open-water wet storage prohibited
- Eliminate bulk of DEM regulations and defer reader to DOH regulations “Rules and Regulations Pertaining to the Processing and Distribution of Shellfish” and the NSSP model ordinance, which are proposed to be “incorporated by reference”
- Not related to aquaculture – separate regulations



Hearing item 3f: Proposal to provide for consistency with DOH regulations “Rules and Regulations Pertaining to the Processing and Distribution of Shellfish” and NSSP model ordinance regarding dealer handling and tagging of shellfish.

Main point:

- Delete DEM regulations and “incorporate by reference” the DOH regulations and the NSSP model ordinance



Hearing item 3g: Proposal is to revise the rule regarding sale of seafood to consumers, either directly or through restaurants or other retail outlets, so that the rule applies more broadly to all seafood, rather than shellfish only.

Proposed language:

7.3 Any person engaged solely in the business of selling seafood, ~~including shellfish (wild or cultured)~~, to consumers, either directly or through restaurants or other retail outlets, and/or engaged solely in the processing or preparation of seafood, including shellfish (wild or cultured), for sale directly to consumers, is not required to be licensed under these regulations, provided that such person purchases or otherwise acquires said ~~shellfish~~ seafood from ~~licensed a shellfish~~ dealers.



End of Slides!





RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF FISH & WILDLIFE / MARINE FISHERIES
Three Fort Wetherill Road
Jamestown, Rhode Island 02835



PUBLIC NOTICE CONCERNING PROPOSED REGULATORY CHANGES

Pursuant to the provisions of Chapters 42-17.1 and 20-3 of the General Laws of Rhode Island as amended, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Director of the Department of Environmental Management (DEM) proposes amendments to the **Rhode Island Marine Fisheries Regulations (RIMFR)** and gives notice of intent to hold a public hearing to afford interested parties the opportunity for public comment.

The following regulatory items will be presented for public comment:

1. Proposed amendments to **RIMFR Part 3 – Finfish**, regarding:
 - a. Recreational black sea bass season and possession limit (section 3.14.1);
 - b. Commercial monkfish possession limit (section 3.21(C)).
2. Proposed amendments to **RIMFR Part 6 – General Equipment Provisions**.
3. Proposed amendments to **RIMFR-Part 7 – Dealers**.

The **PUBLIC HEARING** will be held at **6:00PM** on **Monday, June 12th** at the University of Rhode Island, Graduate School of Oceanography, Coastal Institute Building, Corless Auditorium, South Ferry Road, Narragansett, RI 02882.

The hearing room is accessible to the handicapped. The DEM will provide interpreter services for the hearing impaired, provided such a request is made at least 48 hours prior to the hearing date. A request for this service can be made in writing or by calling (401) 222-6800 for TDD (401) 831-5508.

The Department has determined that small businesses may be adversely impacted by the proposed regulations. Small businesses which are either currently licensed, or in the future may seek a license to harvest, buy, sell, or produce seafood products, as well as the small businesses that provide services related to those engaged in such industries, are requested to comment on the proposed regulations on how such proposed action can be changed to minimize the impact on those small businesses affected.

The public comment period closes at 4:00PM on Monday, June 19, 2017. Written comments may be submitted to the Marine Fisheries office at 3 Fort Wetherill Road, Jamestown, RI 02835

(Attn: Peter Duhamel) or emailed to peter.duhamel@dem.ri.gov. The proposed regulations have been filed with the Office of the Secretary of State's website at <http://sos.ri.gov/ProposedRules/> pursuant to RIGL Chapter 42-35, and are also available at the DEM Marine Fisheries webpage at <http://www.dem.ri.gov/programs/fish-wildlife/marine-fisheries/rimfc/index.php>, or by mail. A recording of the hearing will be made.

Jason McNamee,
Chief

Filed with Sec. of State's office May 12, 2017



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES

DIVISION OF FISH AND WILDLIFE
DIVISION OF LAW ENFORCEMENT



RHODE ISLAND MARINE FISHERIES REGULATIONS

Part 3 Finfish

~~April 7, 2017~~

Proposed/annotated changes

Public Hearing
June 12, 2017

Hearing Item 1a:
Section 3.14.1

Black Sea Bass recreational season and possession limit

3.14 Black Sea Bass

3.14.1 Recreational:

(A) Minimum size: Fifteen inches (15"). Minimum size measurement for black sea bass does not include the tendril located on the caudal (tail) fin.

(B) Seasons and possession limits:

(1) May 25 through August 31: Three (3) fish per person per calendar day, whether caught within the jurisdiction of this State or otherwise.

(2) September 1 through September 21: Seven (7) fish per person per calendar day, whether caught within the jurisdiction of this State or otherwise.

(3) September 22 through October 21: Closed.

(4) October 22 through ~~December 31~~ **October 31**: Seven (7) fish per person per calendar day, whether caught within the jurisdiction of this State or otherwise.

(5) November 1 through December 31: Five (5) fish per person per calendar day, whether caught within the jurisdiction of this State or otherwise.

Hearing Item 1b:
Section 3.21(C)(1)

Commercial Monkfish possession limit

3.21 Monkfish

3.21.2 Commercial:

(A) Minimum size: Seventeen inches (17") total length or eleven inches (11") tail length whether caught within the jurisdiction of this State or otherwise.

(B) Fishing year: The commercial monkfish fishery shall operate on a May 1 through April 30 fishing year.

Option 1: Status quo with increased possession limit

(C) Possession limit:

- (1) Non-federally permitted RI licensed vessel: ~~550~~ **700** pounds tail weight or ~~1,826~~ **2,324** pounds whole weight per vessel per calendar day. Whole weight is defined as the weight of monkfish that are gutted (i.e. stomach, liver, and other entrails removed) and have the head and tail attached. In SAFIS landing monkfish in the “whole” is reported using the grade “gutted, head on, tail on”.
- (a) The possession of monkfish livers may not exceed the number of gutted-fish and tails combined.
- (b) The possession of monkfish heads may not exceed the number of gutted-head-off-fish and tails combined.
- (D) Vessels in possession of a federal permit authorizing the harvest of monkfish may harvest monkfish in state waters if and only if they are operating during a previously and properly declared day-at-sea; in such instances, such vessels may harvest monkfish in the amount authorized to be possessed pursuant to federal regulations.

Option 2: Weekly possession limit

(C) Possession limit:

- (1) Non-federally permitted RI licensed vessel: ~~550~~ **4,900** pounds tail weight or ~~1,826~~ **16,268** pounds whole weight per vessel per calendar ~~day~~ **week**. Whole weight is defined as the weight of monkfish that are gutted (i.e. stomach, liver, and other entrails removed) and have the head and tail attached. In SAFIS landing monkfish in the “whole” is reported using the grade “gutted, head on, tail on”.
- (a) The possession of monkfish livers may not exceed the number of gutted-fish and tails combined.
- (b) The possession of monkfish heads may not exceed the number of gutted-head-off-fish and tails combined.
- (D) Vessels in possession of a federal permit authorizing the harvest of monkfish may harvest monkfish in state waters if and only if they are operating during a previously and properly declared day-at-sea; in such instances, such vessels may harvest monkfish in the amount authorized to be possessed pursuant to federal regulations.

Option 3: To develop a program to match the federal allowance for taking of a

double possession limit (the aggregate of two daily limits during one trip) once during each calendar week. If a double limit is taken, one other day of fishing will be forfeited during that week. (NOTE: no proposed language provided at this time; to be developed if implemented).



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES
FISH AND WILDLIFE
&
LAW ENFORCEMENT



RHODE ISLAND MARINE FISHERIES REGULATIONS

Part 6
General Equipment Provisions

~~January 12, 2017~~

Proposed/annotated changes

Public Hearing
June 12, 2017

AUTHORITY: Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

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NOTE: Proposed new language is identified in the annotated regulations in **bold, red, underline**; language proposed to be deleted is marked as ~~red strikethrough~~. Proposed ***non-substantive clarifications*** are identified in the annotated regulations in **blue** color (**bold, blue underlined** for proposed new language; ~~blue strikethrough~~ for proposed deletions). The proposed substantive changes are as follows:

1. Hearing item 2a: Proposal to amend the regulation regarding gill net tagging (section 6.5.3(E)(6)).
2. Hearing item 2b.: Proposal to delete the regulation regarding a gill net prohibition in an area of the coast of Block Island (section 6.5.3(K)(7)).
3. Hearing item 2c: Proposal to clarify fyke net registration requirements (section 6.5.4): .
4. Hearing item 2d: Proposal to amend the regulation such that the prohibition of seine nets applies to all coastal salt pond channels (section 6.5.4).

PURPOSE

The purpose of these rules and regulations is to ~~supplement and simplify and/or clarify existing regulations in order to more efficiently~~ manage the marine resources of Rhode Island.

AUTHORITY

~~These regulations are adopted pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended. These Rules and Regulations are promulgated pursuant to Title 20, Chapters 42.17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35, Administrative Procedures Act of the R.I. Gen. Laws.~~

APPLICATION

The terms and provisions of these Rules and Regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

DEFINITIONS

See ~~Rhode Island~~ Marine Fisheries ~~Regulations, Part I – Definitions~~ Definitions, Part 1 of this Subchapter.

SEVERABILITY

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

SUPERSEDED RULES AND REGULATIONS

On the effective date of these Rules and Regulations, all previous rules and regulations, and any policies regarding the administration and enforcement these regulations shall be superseded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken, or application filed.

REGULATIONS

6.1 Recreational use of nets for bait:

6.1.1 Marine species may lawfully be taken for personal use (not for sale) with nets, provided that all existing minimum size and possession limit restrictions for the species possessed are adhered to.

6.1.2 A two-quart per person possession limit is authorized for ~~all un-regulated marine species~~ any marine species that is not regulated by size, possession, and/or season.

6.1.3 Beach seines or other nets used for the recreational harvest of marine species shall not exceed four (4) feet in depth and twenty (20) feet in length.

6.2 Unauthorized raising disturbance of traps, pots, and devices: No person except the Director shall unduly disturb, ~~lift, raise, molest,~~ **any pot or associated line (warp) and/or buoy**, or remove any ~~animal~~ **marine species** from a trap, pot, ~~or other such device of a person licensed under this Title,~~ without the written permission of ~~that person~~ **the owner**. (ref. R.I. Gen. Law § 20-4-8)

6.3 Marking Identification of traps pots and buoys: ~~Each~~ The owner of every trap, pot, or other stationary contrivance used for the taking of marine fish, shellfish, crustaceans, **species** or other invertebrates being fished in the waters of this state, and the owner of any trap or pot for catching or cars, or other contrivance for keeping lobsters, shall ~~mark each such trap, pot, or contrivance, together with the buoy which is attached thereto,~~ **shall have attached a buoy, and each pot and buoy shall be identified** with the name ~~or names of the owners thereof or the person or persons using the same,~~ and the license number ~~or numbers of such person or persons~~ **the owner**. (ref. R.I. Gen. Law § 20-4-7)

~~6.3 Use of explosives: The use of explosives as a fishing device in the internal and territorial waters of the State of Rhode Island is prohibited.~~

6.4 Obstruction of migratory fish passage: No person shall obstruct the free passage of anadromous or catadromous fish in any **marine waters**, ~~coastal~~ river, **or** stream, ~~or estuary~~ of the State of Rhode Island.

6.5 Commercial netting (including trawl nets, gill nets, fyke nets, and seines):

6.5.1 Prohibited areas (waters) for all commercial netting:

(A) All netting, except licensed fish traps are prohibited in the Harbor of Refuge and within one hundred (100) yards of the Harbor of Refuge breakwater:

(B) In all coastal **salt** pond channels;

(C) In Point Judith Pond in the following locations:

(1) In the southern portion of Point Judith Pond from the Harbor of Refuge Breakwater and bounded on the north by a line from Strawberry Hill Point to High Point, and on the east by the Great Island Bridge;

(2) In the northern portion of Point Judith Pond, in the Narrows bounded on the west by a line from Betty Hull Point to Short Point, and on the east by a line from Blue Rock Point to Old Cellar Point;

(3) In all waters north of a line from Ram Point to Squally Point.

(D) In the northern portion of Potter Pond, within one hundred (100) feet of the Captain's Brook.

(E) In the Narrow River in the following locations:

(1) Within three hundred (300) yards of the seaward entrance to the river;

(2) Between Middle Bridge and a point located eight hundred (800) feet north of Bridgetown Road Bridge;

(3) Within one hundred (100) feet north and south sides of the upper Narrows;

(4) Within one hundred (100) feet east and west of the seaward mouth of Gilbert Stuart Brook.

(F) In the Pawcatuck River and Little Narragansett Bay north of a line from Pawcatuck Rock to Thompson Point.

(1) Exceptions: Seining is allowed in this area between February 1 and April 15 annually.

(G) Fixed gear prohibition: All fixed gear is prohibited in the Foster Cove Channel and in the narrows in Charlestown Pond.

6.5.2 Trawling Devices:

(A) Net obstruction or constriction: Any fishing vessel subject to minimum mesh size restrictions using a trawl net shall not use any device or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of a trawl net, except that one splitting strap and one bull rope (if present), consisting of line and rope no more than three (3) inches in diameter, may be used if such splitting strap and/or bull rope does not constrict, in any manner, the top of the trawl net. "The top of the trawl net" means the fifty (50) percent of the net that (in a hypothetical situation) would not be in contact with the ocean bottom during a tow if the net were laid flat on the ocean floor. For the purpose of this paragraph, head ropes are not considered part of the top of the trawl net.

(B) Trawling ground gear: The use of rollers, rockhoppers or discs greater than twelve (12) inches in diameter is prohibited while fishing in Rhode Island waters.

(C) Prohibited areas: In addition to those waters where all netting is prohibited, a trawling device is prohibited in the following areas:

(1) In the Upper Narragansett Bay Trawling Area on any Saturday, Sunday, or

legal State holiday between July 1st and November 1st annually.

(a) Upper Narragansett Bay Trawling Area: The Upper Narragansett Bay Trawling Area is designated a Marine Life Management Area pursuant to R.I. Gen. Laws § 20-3-4, and is described as ~~the waters encompassed by the following lines:~~ the southern boundary ~~of the Upper Narragansett Bay otter trawling area is defined as a line extends~~ from Spink Neck in the Town of North Kingstown to Pine Hill Point on Prudence Island, thence from Homestead Dock on the easterly shore of Prudence Island, thence northeasterly to Hog Island Shoal Light, and thence to the north abutment of the Mt. Hope Bridge in the Town of Bristol; the western boundary ~~of the area is a line extends~~ from Sandy Point in the City of Warwick to the southern tip of Warwick Point in the City of Warwick; the northern boundary ~~of the area is a line extends~~ from the dock at Rocky Point in Warwick to the southern tip of Poppasquash Point in Bristol, thence to Hog Island Light, and thence to the northern abutment of the Mt. Hope Bridge in Bristol.

(2) In the Upper Sakonnet Marine Life Management Area:

(a) The Upper Sakonnet River Marine Life Management Area is designated a Marine Life Management Area pursuant to R.I. Gen. Laws § 20-3 4, and is described as the waters of the Upper Sakonnet River ~~which lies~~ north of a line extending from McCurry Pt. in Portsmouth to the southern end of Jack's Island (so-called) in Tiverton, and ~~which lies~~ south of the Sakonnet River Bridge (Rt. 24).

(3) In the following all coastal salt ponds: ~~Point Judith Pond; Potter Pond; Quicksand Pond; Tunipers Pond; Briggs Marsh; Round Pond; Narrow River; Card Pond; Green Hill Pond; Trustom Pond; Winnapaug Pond; and Great Salt Pond (New Shoreham),~~ except for otter trawling in Charlestown Pond and Quonochontaug Pond in accordance with these regulations.

(D) Otter Trawling – areas prohibited:

(1) Charlestown Pond: Otter trawling is prohibited on Saturdays, Sundays, and legal State holidays, annually, in that portion of the pond ~~described as~~ located south of a line ~~between extending from~~ Marsh Point and Horseshoe Point on the Arnolds shore; west of a line ~~between extending from~~ DEM markers located on Marsh Point and Marsh Neck Point; ~~The prohibited area is bounded on the west by and east of~~ a line ~~between extending from~~ the east shore of the Foster Cove channel and a DEM marker located on the barrier beach;

(2) Quonochontaug Pond: Otter trawling is prohibited on Saturdays, Sundays, and legal State holidays, annually, in that portion of the pond

~~described as **located** south of a line **running extending easterly** from a DEM marker **located** at the end of Quahaug Point to the northern end of Nopes (Barn) Island. **The area is and bounded on the west by east of** a line **running extending** south from Quahaug Point to a DEM marker **located** on the barrier beach;~~

(3) In Potter Pond **in its entirety**.

~~(E) Otter trawl net Winter mesh size in Narragansett Bay, Mt. Hope Bay, Sakonnet River, Charlestown and Quonochontaug Ponds:~~

~~(1) This area is defined as all Rhode Island State waters which are north of the following lines: north of a line running from easternmost extension of Carrier Pier to Conanicut Pt. to the tips of the T Pier on Prudence Island to Carr's Point; and north of a line from Sachuest Pt. to Sakonnet Point; and all waters north of Quonochontaug and Charlestown Breachways.~~

~~(2) No person shall utilize an otter trawl between November 1 through February 28 annually that has a mesh size which measures less than six (6) inches stretched mesh (measured inside knot to inside knot).~~

~~**(E) No person shall utilize an otter trawl in the following areas between November 1 through February 28 annually that has a mesh size which measures less than six (6) inches stretched mesh (measured inside knot to inside knot) in the following areas:**~~

~~**(1) In Narragansett Bay north of a line extending from the easternmost extension of Carrier Pier in North Kingstown to Conanicut Pt. in Jamestown, thence to the tips of the T Pier on Prudence Island to Carr's Point in Portsmouth;**~~

~~**(2) In the Sakonnet River north of a line from Sachuest Pt. in Newport to Sakonnet Point in Little Compton;**~~

~~**(3) In Quonochontaug and Charlestown Pond in their entirety.**~~

~~(F) Commercial possession limit of lobsters taken by gill net or otter trawl: Maximum of one hundred (100) lobsters per day (based on a 24-hour period), or five hundred (500) lobsters per trip for trips five (5) days or longer.~~

6.5.3 Gill netting:

(A) Gill netting for bait:

(1) Bait gill nets must be clearly labeled with the name of the person setting or tending the net and be constantly tended. No person shall set, haul, and/or

maintain a gill net for bait so as to obstruct the free passage of fish in Rhode Island coastal waters, streams, rivers, or bays.

(2) A bait gill net shall not exceed one hundred (100) feet nor exceed a mesh size greater than three and three quarters inches (3 3/4") (stretched).

~~(B) License required: No person shall set, haul, and/or maintain a commercial gillnet in the public waters of the State without first obtaining a commercial gill net endorsement. Refer to DEM'S "Commercial and Recreational Saltwater Fishing Licensing Regulations". (RIGL 20-4-13)~~

~~(CB)~~ Gill nets shall be connected in a continuous series not to exceed 3,000 linear feet;

~~(DC)~~ Setting pattern: Each gill net shall be set in a straight line (from one end buoy to the other).

~~(ED)~~ Marking of nets with buoys:

(1) Both ~~the near shore and offshore~~ ends of an ~~authorized~~ gill net shall be marked with an orange or fluorescent orange bullet shaped buoy with a size of nine (9) by sixteen (16) inches, and be clearly marked with the letters "GN" with a minimum letter height of three (3) inches and include the name and license number of the licensee.

(2) For gill nets set, hauled, and/or maintained south of the Colregs line, all buoy lines must be marked with three (3) individual green colored marks measuring twelve (12) inches: one (1) at the top, one (1) at the midway point, and one (1) at the bottom of each buoy line.

~~(FE)~~ Tagging of nets:

(1) Vessels permitted and participating in the gill net tagging program administered by the NOAA Fisheries Greater Atlantic Regional Office, and which are not participating in the Rhode Island tagging program, may transit Rhode Island state waters with gill nets on board the vessel only if all gill nets are stowed ~~in accordance with section 3.2.4 of RIMFR Part 3—Finfish~~, and, when applicable, have the federal gillnet tags permanently attached.

(2) No gill net shall be set, hauled and/or maintained in Rhode Island state waters without permanently attached non-transferable tags issued by DFW.

(a) Eligibility: To receive gill net tags, a multipurpose license holder with gill net endorsement must declare their license and designate a commercially declared vessel to haul that licensee's net.

(3) Only one set of tags shall be designated to a commercial license holder.

(4) License holders shall be issued 80 tags plus an additional 10 tags for routine loss. No more than 80 tags shall be in the water at any one time.

(5) Nets are required to be tagged beginning January 1, 2017. Tags shall be valid in 2-year increments beginning January 1 and ending December 31 the following year.

Hearing item 2a:

Proposal to amend the regulation regarding gill net tagging Requirements (section 6.5.3(E)(6))

Noticed language:

(6) Tags shall be attached to the ~~float~~ **vertical** lines ~~beginning at the westernmost~~ **each** end of each net **string**. ~~(as measured on a compass circle from magnetic south through west to, and including, north) exceed every 300 linear feet. The net on the easternmost end of each string as measured on a compass circle from magnetic north through east must have a tag adjacent to the buoy line.~~ **The total number of tags must equal the total number of each of the individual 300 foot nets in the string. Each individual string of 450 foot nets shall require two (2) tags. Tags shall be attached to both the bottom and top of the vertical line of the string.**

Revised language under consideration:

(6) Tags shall be attached to ~~the float line beginning at the westernmost end of each net (as measured on a compass circle from magnetic south through west to, and including, north) exceed every 300 linear feet. The net on the easternmost end of each string as measured on a compass circle from magnetic north through east must have a tag adjacent to the buoy line~~ **both vertical lines of a string of gill nets at the point proximate to where the float line is joined to the vertical line. Tags shall be equally distributed between vertical lines, the difference of the number of tags on each vertical line shall not exceed one tag. One tag must be attached for every 300 linear feet of net used in a string.**

(**GF**) No person shall set, haul, and/or maintain a gill net in RI state waters during the month of March, annually.

(**HG**) Tending of nets:

(1) A gill net with a mesh size less than or equal to ten (10) inches: Must be hauled at least once each calendar day.

(2) A gill net with a mesh size greater than ten (10) inches: Must be hauled at least once every 7 days.

(H) Weak link and anchor requirements for gillnets set, hauled, and/or maintained south of the Colregs line:

(1) All buoys, floatation devices and/or weights must be attached to the buoy line with a weak link having a breaking strength of no greater than 1,100 pounds;

(2) For nets that return to port each day with the vessel: Net panels are required to have a weak link having a breaking strength of no greater than 1,100 pounds at the center or each float line or at least every 25 fathoms along the float line of a panel longer than 50 fathoms;

(3) For nets which do not return to port with the vessel: Weak links of not greater than 1,100 pounds must be incorporated into net panels following one of the two configurations required by the NOAA Fisheries Atlantic Large Whale Take Reduction Plan;

(4) All gill nets that do not return to port with vessel, regardless of number of net panels, shall be required to be anchored with the holding power of at least a 22 pound Danforth-style anchor at each end of the net string (must be a burying anchor; no dead weights).

(J) Pinger Specifications:

(1) A pinger is an acoustic deterrent device which, when immersed in water, broadcasts a 10 kHz (± 2 kHz) sound at 132 dB (± 4 dB) re 1 micropascal at 1 m, lasting 300 milliseconds (± 15 milliseconds), and repeating every 4 seconds (± 0.2 seconds);

(2) Pingers shall be properly attached to each gill net during the following time periods, annually:

(a) December 1 through February 28 (February 29 on leap years); and

(b) April 1 through May 31.

(3) Pinger Attachment: A pinger shall be attached at the end of each string of each gill net and at the bridle of every net within a string of nets (e.g., in a gill net string consisting of 3 nets, 4 pingers would be required);

(4) Pinger Maintenance: Pingers shall be maintained in an activated state at all times.

(K) Distance from fish trap: No person shall set, haul, or maintain a gill net within 3,000 feet of a licensed floating fish trap.

(~~L~~**K**) Prohibited areas: In addition to those areas where all netting is prohibited, and with the exception of gill netting for bait, commercial gill netting is prohibited in the following areas:

- (1) In ~~the following~~ **all** coastal salt ponds: ~~Quicksand Pond; Tunipus Pond; Briggs Marsh; Round Pond; Narrow River; Point Judith Pond; Potter Pond; Card Pond; Green Hill Pond; Trustom Pond; Charlestown Pond; Quonochontaug Pond; and Winnapaug Pond.~~
- (2) In the Pawcatuck River;
- (3) In Little Narragansett Bay;
- (4) Within one and one half (1-1/2) miles south (true) and west (true) of Napatree Point;
- (5) Within one half (1/2) mile in both directions of the seaward entrance to a coastal salt pond channel, and for a distance of three hundred (300) yards seaward, when such coastal salt pond is open to the sea.
- (6) Within one half (1/2) mile of Block Island between April 15 and November 15 annually.

Hearing item 2b:

Proposal to delete the regulation regarding a gillnet prohibition in Block Island waters (section 6.5.3(K)(7)).

~~(7) Within the waters seaward of Old Harbor, Block Island, from the Block Island shoreline to the one hundred (100) foot depth contour, between November 1 and December 31, annually. This area is bounded by a northerly line running one hundred (100) degrees (true) from Clay Head Point to the black and white whistle out to a depth of one hundred (100) feet. The southern boundary of the closure zone runs from the shoreline on a course of one hundred (100) degrees (true) to the C-3 buoy out to the one hundred (100) foot depth contour. The eastern boundary is a line which corresponds to the one hundred (100) foot depth contour.~~

(~~8~~**7**) Season Closure: Within fifty (50) yards of the ~~entire~~ Rhode Island coastline (mean high water line) during the period October 15 - December 31, annually.

(~~9~~**8**) Within fifty (50) yards of the Rhode Island coastline (mean high tide line) in the following areas:

- (a) From Monahan's Dock breakwater (State Pier #5) to the southernmost tip of Matunuck Pt. (Carpenter's Bar);

- (b) In Narragansett Bay north of the Colregs line, including Mt. Hope Bay;
- (c) In the Sakonnet River;
- (d) From the southern tip of Sachuest Point to the juncture of Second Beach and Sachuest Point; and
- (e) From the southwest corner of Price's Neck to Castle Hill Light House.

(ML) Gillnet prohibition for striped bass: No person shall take or possess any striped bass while gill netting, or while hauling a gill net, including while gill netting for bait.

(NM) Drift and sink gill nets: Only a floating and bottom tending gill net may be set, hauled, or maintained in Rhode Island waters.

- (1) A floating gill net must be constantly tended.
- (2) Minimum mesh size for a bottom tending gillnet: No bottom tending gill net shall have a mesh size smaller than five (5) inches stretched mesh.

(ON) Additional area specific regulations:

(1) ~~Narragansett Bay, Mount Hope Bay, and the Sakonnet River: This area shall include all waters of Narragansett Bay, Mount Hope Bay, and Sakonnet River, north of the Colregs line.~~ No person shall set, haul, and/or maintain a gill net ~~within this area~~ in Narragansett Bay, Mount Hope Bay, or Sakonnet River, north of the Colregs line, which does not ~~adhere to~~ meet the following specifications:

- (a) Maximum length: A single gillnet, or series of connected gillnets, shall not exceed 300 feet.
- (b) Spacing: No gillnet shall be set within 150 feet of shore at mean low water, or within 2000 feet of another gillnet.

(2) Waters within one half (1/2) nautical miles of the Rhode Island coast (mean high tide line) and south of the Colregs line:

- (a) Maximum length: A series of connected gillnets shall not exceed a total length of six hundred (600) feet.
- (b) Setting pattern: Each gillnet shall be set perpendicular to the shore.
- (c) Spacing: No gillnet shall be set within two thousand (2000) feet of another gillnet.

(3) Waters between one half (1/2) nautical miles and three (3) nautical miles from the Rhode Island coast (mean high tide line):

(a) No gill net shall be set within two thousand (2000) feet of another gillnet during the period from April 1 to October 1.

(b) Marking:

(i) A series of connected gill nets greater than six hundred (600) feet and less than or equal to twelve hundred (1,200) feet: Must be marked with two (2) orange or fluorescent orange floats with a size of nine (9) x sixteen (16) inches on the westernmost end as measured on a compass circle from magnetic south through west to, and including, north and one orange or fluorescent orange floats with a size of nine (9) x sixteen (16) inches on the easternmost end side as measured on a compass circle from magnetic north through east to, and including, south. In the case of nets set in a due north south line, the two orange or fluorescent orange floats with a size of nine (9) x sixteen (16) inches should be placed on the southernmost end.

(ii) A series of connected gillnets greater than 1,200 feet: Must be marked with an orange or fluorescent orange float with a size of 9 x 16 inches and a radar reflective highflyer at each end. One of the radar reflective highflyer is to be marked with a flag on the westernmost side as measured on a compass circle from magnetic south through west to, and including, north. The easternmost side as measured on a compass circle from magnetic north through east to, and including, south is to be marked with a radar reflective highflyer that must remain flagless. In the case of nets set in a due north south line, the flag on the radar reflective highflyer should be placed on the southernmost end.

Hearing item 2c:

Proposal to clarify the registration requirements for setting fyke nets (section 6.5.4).

6.5.4 Fyke Nets:

(A) The fyke net must be ~~registered with the DFW~~ **permitted by DEM prior to being placed in the marine waters of the state. Persons applying for such permit shall provide the dates of use, location, and net measurements.**

(B) ~~No person shall use~~ **Any** fyke net ~~unless the net placed in the marine waters of the State shall~~ meets the following dimensions:

(1) Maximum length of fyke net leader: **One hundred (100) feet.**

- (2) Maximum mesh size: Stretched mesh shall not be greater than two and one half (2½) inches.
- (3) Leader: Must not extend more than 4 feet off the bottom.
- (C) Fyke nets must be tended and hauled every 48 hours.
- (D) Fyke nets shall not be placed within 250 feet of any other fishing net.
- (E) Prohibited areas: In addition to those waters where all netting is prohibited, fyke nets are prohibited in Charlestown and Quonochontaug Ponds between June 15 and September 15 annually.

Hearing item 2d:

Proposal is to amend the regulation such that the prohibition of seine nets applies to all coastal salt pond channels (section 6.5.5).

6.5.5 Seine nets:

- (A) Prohibited areas: In addition to those waters where all netting is prohibited, seine nets are prohibited ~~along the shoreline~~ within one half (½) mile in both directions of the seaward entrance of a following coastal salt pond channels, ~~and extending for a distance of~~ three hundred (300) yards seaward, when the coastal salt pond is open to the sea: ~~Quicksand Pond channel; Tunipers Pond channel; Cards Pond channel; Trustom Pond channel; Quonochontaug Pond channel; Charlestown Pond channel; and Winnapaug Pond channel.~~

6.6 Fish traps (ref. R.I. Gen Laws chapter 20-5):

6.6.1 Permit required: No person shall set a fish trap in the public waters of the state without first obtaining a permit as provided in these regulations. ~~(RIGL 20-5-1)~~

6.6.2 Eligibility: A permit may be issued to any resident of this state or to any corporations incorporated in the state licensed in accordance with RIGL Chapter 2.1 upon payment of an permit fee of twenty dollars (\$20.00) per trap location. ~~(RIGL 20-5-2)~~

6.6.3 Application: Application for a fish trap permit shall be made on forms as prescribed by the Director.

6.6.4 Expiration and renewal of permits:

- (A) Permits shall be provided for a three (3) year period, or for that portion thereof expiring on the last day of December of each third year thereafter.

(B) On termination of any permit, the Director may renew the permit by issuing a new permit in place of the permit.

(1) Eligibility: Application for permit renewal shall be made within ten (10) days before its termination. Failure to apply for a permit renewal shall allow for a permit application in location as specified in the permit by any other person. ~~(RIGL 20-5-9)~~

6.6.5 Exclusive right of permittee; assignment of permit:

(A) The holder of any permit, or the holder's heirs, executors, administrators, successors, or assigns shall have the exclusive right to fish the location by means of a fish trap, provided that the site is and has been actively fished.

(B) Any holder of a permit may, upon approval of the Director, transfer the permit to any suitable person. This approval must be endorsed on the permit in order to become effective. ~~(RIGL 20-5-10)~~

6.6.6 Report as to traps placed; failure to occupy location; removal of permit from state: On or before the tenth day of January in each year every person holding a permit pursuant to this chapter shall notify the department of environmental management in writing, under oath, what traps were placed under the permit during the preceding calendar year. Failure to furnish this information makes the permit null and void after that date. Failure to place a complete fish trap on a permitted location for a part of one calendar year may, in the discretion of the director of environmental management, make the permit for the fish trap null and void; and the location will then become available for any suitable applicant. A permit for a fish trap location becomes null and void upon the removal of the holder from the state. ~~(RIGL 20-5-13)~~

6.6.7 Removal of trap on cessation of use; closed season; damaged or dilapidated traps: Upon ceasing to use any fish trap as authorized, that structure shall at once be removed by the owner at the owner's expense and to the satisfaction of the director of environmental management. Failure to remove it shall be considered sufficient grounds for prosecution of the owner for maintaining a public nuisance or for revocation of the fish trap permit. Unless otherwise specified by regulations adopted by the marine fisheries council, all fish traps authorized in this chapter shall be completely removed by or before the last day of December of each year; and no fish trap shall be reset before the first day of the following March. All submerged or broken stakes must be promptly removed. Any fish trap damaged or allowed to get into a dilapidated condition will be regarded as abandoned unless promptly removed or rebuilt. Failure to do this will subject the owner to prosecution and forfeiture of the trap. ~~(RIGL 20-5-14)~~

6.6.8 Reporting requirements: On or before the tenth day of January of each year, each licensee/fish trap operator shall submit a written report to the DEM, indicating

those locations where the licensee shall be setting fish traps during the upcoming fishing season. These locations shall be identified by GPS, LORAN and/or latitude and longitude coordinates and shall also include the dates upon which the licensee anticipates setting and removing the traps. This notification shall not prohibit a fish trap operator from subsequently, during the calendar year, setting additional traps on licensed locations that were not anticipated and for which notice was not therefore provided to the DEM. However, any deviations from the report must be reported in writing and received by the Department of Environmental Management, Division of Fish and Wildlife, Marine Fisheries section, 3 Fort Wetherill Road, Jamestown, Rhode Island, 02835 prior to the setting of the trap. Failure to provide this information makes the fish trap operator's license null and void. Based on the reports of fish trap locations, the DEM shall develop a graphic chart displaying fish trap locations annually by June 1 for distribution to the public.

6.6.9 By January 31 annually, the DEM shall review all trap site permits and shall eliminate those sites from the list of authorized sites for which a permit has not been issued. The DEM shall provide written notice by registered mail to all those licensees who had most recently been issued permit(s) to set fish trap(s) in the locations of the sites to be eliminated. Said notice shall advise the affected licensee that the licensee may avoid the elimination of the trap location if written notice of such a desire to avoid elimination is received by the Division of Fish and Wildlife, Marine Fisheries section, 3 Fort Wetherill Road, Jamestown, Rhode Island, 02835, on or before thirty (30) days of the licensee's receipt of the notice of elimination.

6.6.10 Sub-leasing of Permitted Fish Trap Locations: It is prohibited to sub-lease or allow any other person to use a permitted fish trap location. Any violation of this section shall make the permit for the fish trap null and void. (~~RIGL 20-5-10(b), 20-5-13~~)

6.6.11 Hook-backs in Leaders: Each leader shall be set as nearly as may be in a straight line, no bend or angle, known commonly as a "hook-back," shall be permitted. (~~RIGL 20-5-7~~)

6.6.12 Minimum distance between traps: The Director may grant a license for the erection of a fish trap within a lesser distance of 3,000 feet of an adjoining trap if the parties interested agree in writing to such a lesser distance. Such decisions shall be made with the advice of the Rhode Island Marine Fisheries Council. (~~RIGL 20-5-4~~)

6.6.13 Maximum length of trap leader: No permit shall be granted for a fish trap in which the length of the trap and leader is greater than two hundred eighty (280) fathoms. (~~RIGL 20-5-4~~)

6.6.14 Willful injury to traps: No person shall willfully or maliciously cut, remove, displace, tamper with, or in any way damage any trap, leader, or pound set by virtue of the permit provided for in these regulations. (~~RIGL 20-5-18~~)

6.6.15 Navigational Aids to Fish Traps and Appurtenances: Licensees must comply with the following requirements; failure to comply shall make license null and void. All floating fish traps deployed within Rhode Island State waters shall be marked with no less than 4 radar reflective buoys (hi-flyers) each positioned no more than 100 feet from the trap or its appurtenances in the following locations: one buoy shall be located at the shoreward end of the leader, one buoy on the seaward end of the leader adjacent to the head of the trap, and two buoys shall be located on the seaward side of the head of the trap.

(A) Floating fish traps located at sites 13F, 26C, 25B, 398, 120-19, 122-19, 383-19, 75A, 68B, 69B, 400-23, and 475-30 shall be marked as specified by the United States Coast Guard in its communication to the Department dated September 13, 2005. Specifically, site 13F shall be marked with a 5th class buoy with a 4 second flashing light. Site 26C shall be marked with a 5th class buoy with a 6 second flashing light. Site 25B shall be marked with a 5th class buoy with a 4 second flashing light at the southern end of the trap and an unlit 5th class buoy at the northern end. Sites 398 and 383-19 shall be marked with an unlit 5th class buoy. Sites 75A, 69B, 475-30 and 68B shall be marked with an unlit 6th class buoy. Sites 122-19 and 400-23 shall be marked with a 5th class buoy with a 2.5 second flashing light. Each of the above-described buoys shall be positioned within 100' of the head of the floating fish trap and its appurtenances.

6.6.16 Restricted Locations: No fish traps shall be erected within the waters of the State with the exception of the following sites:

(A) The following sites are located south of Newport and Middletown within the area designated for floating fish traps by the [engineer's office of the Department of the Army Army Corp of Engineers](#):

(1) Sites 13B, 13C, 13D, 13E, and 13F, located in a line extending southeasterly at approximately 135° beginning at Seal Rock (41° 26'39"N, 71° 20'49"W) so-called, and ending at approximately 41° 25'1"N, 71° 18'0"W.

(2) Sites 26A, 26B, 26C, and 26D located in a line extending southeasterly at approximately 135° from Flat Rock (41° 27'03"N, 71° 18'24"W) so-called, and ending at approximately 41 26'15"N, 71 17'0"W.

(3) Sites 111 and 112 located in a line extending southwesterly at approximately 225° from the west side of Price's Neck (41° 26'58"N, 71° 20'15"W), so-called, for a distance not exceeding 1,500 feet.

(4) Sites 133, 136 and 324 located in a line extending southeasterly at approximately 150° from the east side of Price's Neck (41° 27'0"N, 71° 20'5"W), so-called, for a distance not exceeding 3,300 feet.

(5) Sites 113A, 113B, 113C, 113D, 113E, and 113F located in a line extending southeasterly at approximately 135° from Coggeshall's Point (41° 27'4" N, 71°18'42" W) so-called, beginning just south of the inner area designated by the engineer's office of the [Department of the Army Army Corp of Engineers](#) at approximately 41°26'6"N, 71°16'56"W and ending near the eastern limits of the outer area designated by the engineer's office of the Department of the Army at approximately 41° 24'50"N, 71°14'47"W.

(6) Sites 25A, 25B and 25C located in a line beginning approximately seven thousand four hundred feet (7,400') south-southeast (200°) of Cormorant Rock (41°27'36"N, 71°14'51"W) so-called, at approximately 41° 26' 29" N, 71° 15' 29" W extending southeasterly (120°) and ending at approximately 41° 25' 56" N, 71° 14' 21" W.

(7) Sites 54A and 54B located in line extending northwest at approximately 310° for three thousand three hundred sixty feet (3,360') beginning at the southerly limits of the outer area designated by the engineer's office of the [Department of the Army Army Corp of Engineers](#) at approximately 41°24'48"N, 71°16'56"W, 5,000 feet east-southeast of the southeastern end of the line from Seal Rock described in subdivision (a) and ending at approximately 41°25'10"N, 71°17'30"W.

(8) Sites 37A and 37B located in line extending northwest at approximately 310° for 3,360' (1,680' each) beginning at the southerly limits of the outer area designated by the engineer's office of the [Department of the Army Army Corp of Engineers](#) at approximately 41°24'36"N, 71°15'51"W, 5,000 feet east-southeast of the southeastern end of the line from Seal Rock described in subdivision (g) and ending at approximately 41°24'58"N, 71°16'26"W.

(9) Sites 116 and 117 located in a line extending southeast at approximately 125° for 3,000 feet (1,500' each) from Gull Rock (41°27'33"N, 71°18'1"W) so-called, and ending at approximately 41°27'13" N, 71°17'29" W.

(10) Sites 501A and 501B located in a line extending southeast at approximately 125° for 3,360 feet (1,680' each) beginning at approximately 41°27'8"N, 71°17'35"W and ending at approximately 41°26'44"N, 71°16'54"W.

(11) Site 287 beginning at the high tide line 600 feet south of "forty steps" at approximately 41°28'26"N, 71° 17'49"W and extending east by south at approximately 100° for 1,680 feet.

(12) Site 23, designated for a pound net, is located approximately 4,600' south of Easton's Point so-called, at approximately 41°27'56"N, 71°16'31"W and is of the dimensions 600' by 600'.

(13) Sites 383-19A and 383-19B located in line beginning northeast of

Sachuest Point at approximately 41°28'30"N, 71°14'22"W, extending at approximately 135° for 3,360 feet and ending at approximately 41°28'8"N, 71°13'49"W.

(14) Site 512-19 begins approximately 2,250 feet south of flint point (41°29'9"N, 71°14'16"W) so-called, on the east side of Sachuest Point, and extends at approximately 135° for 1,680 feet ending at approximately 41°28'35"N, 71°13'58"W.

(15) Site 364, beginning at approximately 41° 27' 27" N and 71° 21' 35" W south of Castle Hill Lighthouse near Perry's Cove, extends approximately 400' west at approximately 270°, ending at approximately 41° 27' 23" N and 71° 21' 41".

(16) Sites 191 and 192 extend in line off the southeast side of Easton's Point (41°28'45"N, 71°16'30"W) in a southwesterly direction at approximately 145° beginning at approximately 41° 28' 49" N and 71° 21' 41" W and ending at approximately 41° 28'39" N and 71° 16' 14" W.

(B) The following sites are located near Sakonnet Point within the area designated by the [Department of the Army Army Corp of Engineers](#):

(1) Site 119-19 located approximately one mile south of Church's Point (41°29'59"N, 71°12'22"W) so-called, beginning at approximately 41°29'12"N, 71°11'45"W and extending 1,680 feet west by southwest at approximately 250°.

(2) Site 581-19 located approximately one mile south of Church's Point (41°29'59"N, 71°12'22"W), beginning at approximately 41°29'4"N, 71°12'14"W in line with and 900 feet from the outer end of site 119-19 and extending 1,680 feet west by southwest at approximately 250°.

(3) Site 580-19 located approximately 7,000 feet north of the breakwater (41°27'58"N, 71°11'43"W) beginning at approximately 41°29'2"N, 71°11'52" W and extending 1,680 feet west by south at approximately 250°.

(4) Site 293-19 located approximately 6,000 feet north of the breakwater (41°27'58"N, 71°11'43"W) beginning at approximately 41°28'55"N, 71°11'26"W and extending 1,680 feet west by south at approximately 250°.

(5) Site 227-19 located approximately 3,500 feet northeast of the breakwater (41°27'58"N, 71°11'43"W) beginning at approximately 41°28'31"N, 71°11'27"W and extending 1,680 feet west at approximately 270°.

(6) Site 584-19 located approximately 2,700 feet north of the breakwater (41°27'58"N, 71°11'43"W) beginning at approximately 41°28'24"N, 71°11'47"W and extending 1,680 feet west at approximately 270°.

- (7) Site 122-19 located approximately 1,400 feet northeast of the breakwater (41°27'58"N, 71°11'43"W) beginning at approximately 41°28'14"N, 71°11'36"W and extending 1,680 feet west at approximately 255°.
- (8) Site 120-19 begins approximately 300 feet north of the shore end of the Sakonnet breakwater (41°27'53"N, 71°11'45"W) and extends 1,680 feet west at approximately 270°.
- (9) Site 261-19 begins 2,000 feet south of breakwater point (41°27'53"N, 71°11'45"W) at approximately 41°27'34"N, 71°11'41"W and extends 1,680 feet west at approximately 270°.
- (10) Sites 398 and 118, located west of Sakonnet Point, extend in a line west by south at approximately 240° for 3,360 feet (1,680 feet each) beginning at the Sakonnet Lighthouse rock (41°27'10"N, 71°12'10"W) and ending at approximately 41°26'55"N, 71°12'49"W.
- (11) Site 58 begins at the Sakonnet Lighthouse rock (41°27'10"N, 71°12'10"W) and extends 1,680 feet south at approximately 180°.
- (12) Sites 79A and 79B, located in line, extend west by south from West Island (41°27'0"N, 71°11'54"W) so-called, at approximately 250° for 3,360 feet to approximately 41°26'36"N, 71°12'30"W.
- (13) Site 114A begins approximately 3,200 feet south be west of West Island (41°27'0"N, 71°11'54"W) so-called, at approximately 41°29'48"N, 71°7'33"W and extends at approximately 170° for 1,680 feet.
- (14) Site 29 begins approximately 8,400 feet southwest of West Island so-called, at 41°25'46.1"N, 71°12'41.7"W and extends due south (180° on the compass rose) to 41°25'46.1"N, 71°12'41.7"W for a distance of approximately 1,680 feet.
- (15) Sites 614A and 614B, located in line, extend south beginning 2,000 feet east of Dolphin Rock (41°27'13"N, 71°11'7"W), so-called, at a bearing of approximately 180° for 3,360 feet.
- (16) Site FC-1, located north of Coddington Cove, begins at approximately 41°32'33"N, 71°18'52"W and extends at approximately 60° towards shore ending at approximately 41°32'40"N, 71°18'42"W.
- (17) Site FC-2, located off Coddington Point, begins at approximately 41°32'27"N, 71°19'40"W and extends at approximately 180° towards shore ending at approximately 41°32'21"W, 71°19'39"N.

(18) Site FC-3 begins approximately 1,500 feet west of the state line at approximately 41°26'31"N, 71°12'9"W and extends south from South Shore Beach, Little Compton at approximately 180° for 1,680 feet.

(19) Site FC-4 begins approximately 3,000 feet south of the southwest corner of Tunipus Pond, Little Compton at approximately 41°25'39"N, 71°12'16"W and extends 1,680 feet at approximately 110°.

(20) Site 583-19 located southwest of site 120-19 extends 1,680 feet east at approximately 90°.

(21) Site 585-19 located northwest of Sakonnet Point begins at approximately 41°28'33"N, 71°12'41"W and extends 1,680 feet east at approximately 90°.

(22) Site 586-19

(C) The following sites are located east of the shore in Narragansett north of Scarborough Beach and south of Narragansett Pier within the area designated by the Army Corp of Engineers for fish traps:

(1) Sites 68A and 68B, located in line, begin approximately 1,500 feet north of Indian Rock (41°24'54"N, 71°27'8"W), so-called, and extend southeast by east at approximately 120° for 3,360 feet.

(2) Sites 69A and 69B, located in line, begin approximately at Indian Rock (41°24'54"N, 71°27'8"W), so-called, and extend southeast by east at approximately 115° for 3,360 feet.

(3) Sites 70A and 70B, located in line, begin approximately 2,000 feet south of Indian Rock (41°24'54"N, 71°27'8"W), so-called, and extend southeast by east at approximately 115° for 3,360 feet.

(4) Sites 74A and 74B, located in line, begin approximately 5,100 feet south of Indian Rock (41°24'54"N, 71°27'8"W), so-called, and 600 feet from shore and extend southeast by east at approximately 130° for 3,360 feet.

(5) Sites 75A and 75B, located in line, begin approximately 8,300 feet south of Indian Rock (41°24'54"N, 71°27'8"W), so-called, and extend southeast by south at approximately 145° for 3,360 feet.

(D) The following sites are located within the area of the Harbor of Refuge in Point Judith:

(1) Site 22-29, located outside of the Harbor of Refuge, begins approximately 1,200 feet northwest from the outer end of the west breakwater at approximately 41°22'5"N, 71°31'5"W and extends at approximately 250° for 550 feet.

(2) Site 400-23, located outside the Harbor of Refuge, begins approximately 500 feet northwest from the outer end of the west breakwater at approximately 41°21'38"N, 71°29'34"W and extends at approximately 250°.

(3) Site 475-29, located within the Harbor of Refuge, begins approximately at approximately 41°21'47"N, 71°29'34"W in front of Breakwater Village, so-called, and extends southwest at approximately 225° for approximately 900 feet.

(4) Site 475-30, located within the Harbor of Refuge, begins approximately 500 feet north from the outer end of the east breakwater at approximately 41°22'5"N, 71°31'6"W and extends northwest at approximately 310° for approximately 650 feet.

~~6.7 Violations for non-compliance: If the DFW and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations or a permit agreement, the owner and/or operator of the permitted vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the requirements set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations or the permit agreement as well as the termination of the permit and or the imposition of a penalty pursuant to RIGL 20-1-16 as well as the ineligibility to reapply for a permit for the subject vessel for the remainder of the Summer sub-period.~~

~~6.8 Penalties:~~

~~6.8.1 Judicially imposed penalty for violations: Unless otherwise specifically provided, the violation of any law or rule or regulation relating to wild animals, wild birds, lobsters and fish, marine, freshwater and anadromous fisheries and shellfisheries shall be a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500) or imprisonment for up to ninety (90) days, or both (RIGL §20-1-16)~~

~~6.8.2 Additionally, a person may be subject to the imposition of a administrative penalty pursuant to DEM's "*Rules and Regulations Governing the Suspension/Revocation of Commercial Marine Fisheries, Shellfish Buyer, Lobster Dealer, Finfish Dealer, and Multi-purpose Dealer, licenses issued pursuant to Title 20 of RIGL "Fish and Wildlife"*.~~

~~6.9 Appeals:~~

~~6.9.1 Denial of a license or permit: Persons denied a license or permit may request~~

~~an appeal as provided by RIGL Chapter 42-17.7 and pursuant to DEM's "Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters"~~

~~6.9.2 Enforcement Action: Any person affected by a decision of the Director for an enforcement action pursuant to these regulations may file and appeal in accordance with RIGL Chapter 42-17.7 and DEM's *Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters*.~~

EFFECTIVE DATE

The foregoing rules and regulations, after due notice, are hereby adopted in accordance with the provisions of Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

Janet L. Coit, Director
Department of Environmental Management

Notice Given: ~~10/14/2016~~ 05/12/2017
Public Hearing: ~~11/14/2016~~ 06/12/2017
Filing date: ~~01/12/2017~~ 07/XX/2017
Effective date: ~~02/01/2017~~ 07/XX/2017
ERLID # ~~8412~~



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES

DIVISION OF FISH AND WILDLIFE
DIVISION OF LAW ENFORCEMENT



RHODE ISLAND MARINE FISHERIES REGULATIONS

**Part 7
Dealers**

~~March 31, 2016~~

Proposed/annotated changes

Public Hearing
June 12, 2017

AUTHORITY: Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

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NOTE: Proposed new language is identified in the annotated regulations in **bold, red, underline**; language proposed to be deleted is marked as ~~red strikethrough~~. Proposed ***non-substantive clarifications*** are identified in the annotated regulations in blue color (**bold, blue underlined** for proposed new language; ~~blue strikethrough~~ for proposed deletions). The proposed substantive changes are as follows:

1. Hearing item 3a: Proposal to clarify point of quantity determination (section 7.1.2).
2. Hearing item 3b: Proposal to adopt new regulations to specify information required for the dealer's record of sales/transactions (section 7.1.4).
3. Hearing item 3c: Proposal to adopt regulations to specify additional (i.e., in addition to the requirements as specified in section 7.1.4) information required for record of shellfish sales/transactions (section 7.2.4).
4. Hearing item 3d: Proposal to remove the requirement that transactions be recorded in a "permanently bound ledger" (section 7.2.4(J)).
5. Hearing item 3e: Proposal to provide for consistency with DOH regulations "Rules and Regulations Pertaining to the Processing and Distribution of Shellfish" and the Nssp model ordinance regarding wet storage of shellfish.
6. Hearing item 3f: Proposal to provide for consistency with DOH regulations "Rules and Regulations Pertaining to the Processing and Distribution of Shellfish" and Nssp model ordinance regarding dealer handling and tagging of shellfish
7. Hearing item 3g: Proposal is to revise the rule regarding sale of seafood to consumers, either directly or through restaurants or other retail outlets, so that the rule applies more broadly to all seafood, rather than shellfish only.

PURPOSE

The purpose of these regulations is to prescribe the proper conduct of licensed shellfish dealers for the purpose of protecting the public health, safety and welfare.

AUTHORITY

These rules and regulations are promulgated pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

APPLICATION

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

SEVERABILITY

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

SUPERSEDED RULES AND REGULATIONS

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of these regulations shall be superseded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken, or application filed.

DEFINITIONS

See Rhode Island Marine Fisheries Regulations, "*Part I – Definitions*".

REGULATIONS

7.1 License required:

~~7.1.1 No person shall sell, purchase, barter, or trade marine fisheries species in Rhode Island unless properly licensed, as specified in RI Marine Fisheries regulations (RIMFR) "*Commercial and Recreational Saltwater Fishing Licensing Regulations*", or is exempt from such licensing requirements as authorized by the Director.~~

~~7.1.2 Each licensed shellfish dealer must have a DOH shellfish license pursuant to RIGL Chapter 21-14.~~

7.21 Dealer Reporting:

7.21.1 Dealers shall accurately identify all marine species received as categorized in the Standard Atlantic Fisheries Information System (SAFIS) system;

Hearing item 3a:

Proposal is to clarify point of quantity determination (section 7.1.2)

7.21.2 Dealers shall ~~weigh~~ **have accounted for the quantity by count, weight and/or volume of** all marine species **landed at** ~~prior to their removal from the dealer's premises or from~~ the point of transfer **from the harvester**;

7.21.3 Dealer weight scales must be certified in accordance with Rhode Island law RIGL, Chapter 47-1;

Hearing item 3b:

Proposal to adopt new regulations to specify information required for the dealer's record of all sales/transactions (section 7.1.4).

7.1.4 Dealers shall maintain a record of transaction for all sales of marine species. The following information shall be maintained at the dealer's place of business and be available for inspection by the Director:

(A) Sellers' name;

(B) Seller's commercial fishing license number;

(C) Date of purchase;

(D) Species landed;

(E) Quantity of purchase;

(F) Signature.

7.2-41.5 Dealers shall submit an electronic report to the SAFIS. In cases where a seafood dealer falls under the jurisdiction of both the state of RI and the federal government (NMFS), ~~said the~~ dealer must comply with the more frequent of the minimum reporting schedules or the more detailed **trip level** data requirement.

7.2-51.6 **Reporting frequency and required trip level data elements:**

(A) **Weekly reporting:** Trip level data for all species ~~harvested~~ **landed** shall be reported each week on Mondays and Thursdays, **are due no more than five days after the date of purchase,** and **shall** consist of the following ~~elements~~:

(1) The species common name including market level and grade;

- (2) The amount landed or purchased including the units the product was measured in (i.e. pounds);
- (3) The area where product was taken (only applicable to shellfish purchases);
- (4) The date the product was landed or purchased;
- (5) The RI Commercial license or landing permit number of the fisherman selling the product to the dealer;
- (6) The vessel identification number (Coast Guard documentation number and/or state of RI registration number);
- (7) The port or location where the catch was landed or purchased; and
- (8) When a seafood dealer is purchasing research set aside from a permitted and properly licensed fisherman, the poundage purchased will be designated in the catch source field as "RSA".

(B) **Price reporting:** ~~Trip Level Price~~ data for all species harvested shall be reported within thirty (30) days of the landing or purchase date ~~and consist of the price at which the product was purchased and the disposition.~~

7.2.3(C) Negative reports:

- (A1) RI licensed seafood dealers shall submit a negative report to SAFIS for each **weekly** reporting period during which no seafood product was landed or purchased;
- (B2) Dealers may file negative reports for a maximum of three (3) months in advance.

7.2.41.7 Control Date: The date for compliance with this section is March 1, 2006.

7.32 Shellfish dealers:

7.3.12.1 Licensed Shellfish dealers may only purchase, barter, or trade in wild or cultured shellfish that have been:

- (A) Harvested from or cultured in Rhode Island waters from licensed shellfishermen, licensed aquaculturists, or other **licensed** shellfish dealers; or
- (B) ~~Taken~~ **Harvested** from ~~other than~~ **waters outside of** Rhode Island waters from a dealer whose shellfish business appears on the US ~~Public Health Service,~~ Food and Drug Administration ~~list of certified shippers~~ **Interstate Certified Shellfish Shippers List (ICSSL)**, and tagged in accordance with **the National Shellfish Sanitation Program (NSSP) Model Ordinance and** Rhode Island

DOH regulations [“Rules and Regulations Pertaining to the Processing and Distribution of Shellfish”](#), which are incorporated herein by reference.

~~7.3.22.2~~ 7.3.22.2 ~~Licensed~~ Shellfish dealers may not purchase or accept any wild or cultured shellfish from a shellfisherman or aquaculturist without first being presented with a valid ~~shellfish or multipurpose~~ commercial fishing license issued by DEM ~~to said shellfisherman or aquaculturist~~.

~~7.3.32.3~~ 7.3.32.3 ~~Each licensed~~ Shellfish dealers must also have possess a DOH shellfish business license pursuant to ~~RIGL Chapter 21-14~~ DOH “Rules and Regulations Pertaining to the Processing and Distribution of Shellfish”, which are incorporated herein by reference.

Hearing item 3c:

Proposal is to adopt regulations to specify additional (i.e., in addition to the requirements as specified in section 7.1.4) information required for record of shellfish sales/transactions (section 7.2.4).

7.2.4 Shellfish dealers shall maintain a record of transaction for all sales of shellfish. The following information shall be maintained at the dealer’s place of business and be available for inspection by the Director:

(A) Sellers’ name;

(B) Seller’s commercial fishing license number;

(C) Seller’s date of birth

(D) Harvest tagging area where shellfish were harvested;

(E) Quantity of shellfish purchased;

(F) Species landed;

(G) Purchase price;

(H) Date and time of transaction;

(I) Signature of seller.

Hearing item 3d:

Proposal is to remove the requirement that transactions be recorded in a “permanently bound ledger book” (section 7.2.4(J))

~~(J) Any shellfish possessed by a dealer that measures less than the State minimum size for wild stock must be properly identified as cultured product with appropriate tagging as required by the Director. **For transactions of shellfish cultured on an aquaculture lease,** Each **the** dealer shall maintain complete, accurate and legible records sufficient to: (i) document the source of shellfish, and (ii) permit the contents of the container of shellfish to be traced back to the aquaculture lease site and date of harvest. In addition, All **purchases and sales transactions** shall be recorded **in a permanently bound ledger book or other approved recording method authorized by DEM and DOH by a method approved by DEM and DOH.**~~

~~7.3.52.5 Shellfish harvested from or cultured in Rhode Island waters may only be sold to out-of-state **buyers dealers** by **licensed** shellfish dealers whose businesses appear on the US **Public Health Service,** Food and Drug Administration **list of certified shippers Interstate Certified Shellfish Shippers List (ICSSL) and are licensed with DOH.** Said dealers must also comply with all applicable DEM and DOH rules governing the handling, tagging and sale of shellfish, as well as all applicable state and federal rules governing the interstate shipment of shellfish.~~

~~7.3.62.6 Shellfish harvested from or cultured in other than Rhode Island waters may only be sold to **buyers dealers** in or from Rhode Island by out-of-state **sellers dealers** whose businesses appear on the US **Public Health Service,** Food and Drug Administration **list of certified shippers Interstate Certified Shellfish Shippers List (ICSSL)**; and said transactions must comply with all applicable state and federal rules governing the interstate shipment of shellfish.~~

~~7.3.7 Licensed Shellfish dealers may not purchase or accept any shellfish from shellfishermen or aquaculturists unless such shellfish are bagged and tagged in accordance with RIMFR "Part 4 Shellfish" and/or "Aquaculture of Marine Species in RI Waters".~~

~~7.3.82.7 **Undersize shellfish provisions:** (A) A dealer may possess undersize cultured shellfish crops, excluding bay quahaugs (*Mercenaria mercenaria*), provided the dealer has obtained said cultured crops from an **licensed** aquaculturist or dealer.~~

~~(B) Any shellfish possessed by a dealer that measures less than the State minimum size for wild stock must be properly identified as cultured product with appropriate tagging as required by the Director. Each dealer shall maintain complete, accurate and legible records sufficient to: (i) document the source of shellfish, and (ii) permit the contents of the container of shellfish to be traced back to the aquaculture lease site and date of harvest. In addition, all purchases and sales shall be recorded in a permanently bound ledger book or other approved recording method authorized by DEM and DOH.~~

~~(C) Cultured shellfish crops shall not be commingled with any wild stock shellfish or other cultured shellfish crops from a different harvest date or location.~~

Hearing item 3e:

Proposal to provide for consistency with DOH regulations “Rules and Regulations Pertaining to the Processing and Distribution of Shellfish” and the NSSP model ordinance regarding wet storage of shellfish (section 7.2.8)

7.3-92.8 Wet storage of shellfish:

(A) No person shall engage in **land-based** wet storage **(as defined in the NSSP 2015 Model Ordinance, which is incorporated herein by reference)** of molluscan shellfish without ~~first obtaining a dealer's license~~ **prior written authorization** from DOH. ~~The shellfish dealer shall submit an operational plan specifying how the wet storage of molluscan shellfish will be carried out conducted. Such an operational plan is subject to approval by DOH and DEM prior to approval of the wet storage facility~~ **Open-water wet storage (as defined in the NSSP Model Ordinance) is prohibited.**

~~(B) The DEM Director shall determine the compatibility of any wet storage facility with the resources in surrounding areas and shall be satisfied that every practical precaution is in place to prevent the spread of shellfish disease and pathogens. The DEM Director shall have the authority to limit or restrict the wet storage and transplant activities in areas within waterways that are considered to be at risk for the transmission of shellfish diseases, or grant an exception if justified, after careful consideration of disease monitoring studies.~~

~~(C) For purposes of open water wet storage, the licensed dealer shall apply to the CRMC for an assent for an initial wet storage site or modification to an existing aquaculture facility or lease. A CRMC assent shall be required for a wet storage facility located within the CRMC's jurisdiction, as specified in CRMC Management Procedures, Section 4-1.~~

~~(D) If the open water wet storage is conducted as part of an aquaculture operation, the licensed dealer shall apply to DEM for a DEM Aquaculture Permit; if the permit is issued, it should appropriately address the possession of shellfish held for wet storage.~~

~~(E) Molluscan shellfish to be wet stored must be harvested from or cultured in approved shellfish growing areas or conditionally approved areas when open.~~

~~(F) All facility designs, structures and methods used for wet storage of molluscan shellfish must be approved by DOH pursuant to the National Shellfish Sanitation Program (NSSP) standards. The CRMC shall determine the structural suitability of any apparatus used for in-water storage of molluscan shellfish.~~

~~(G) The CRMC shall be responsible for the approval of the location of all open water storage facilities. When a wet storage facility is operated in conjunction with an aquaculture operation, the wet stored products shall be maintained separately~~

~~from the cultured products designated by CRMC and the approved Operational Plan.~~

~~(H) Containers used in wet storage of molluscan shellfish shall be approved by DOH and shall be marked appropriately (indicating that they contain the source of the either wet stored wild or cultured stock).~~

~~(I) The shellfish dealer shall maintain accurate and complete records of all wet storage activities including, but not limited to, the source of the molluscan shellfish, the amounts stored, and the times/dates of storage/disposition of the molluscan shellfish. Such records shall be maintained for a minimum of two years and shall be available for inspection by DOH and DEM upon request.~~

~~(K) Permitted, open water wet storage facilities shall only store wild or cultured molluscan shellfish that have been harvested from or cultured in the same waterway in which the wet storage facility is located. In all other cases, shellfish must be wet stored in an approved closed tank system.~~

~~(L) A permitted wet storage facility shall only store legal-sized molluscan shellfish.~~

~~(M) Each wet storage facility shall be evaluated and approved annually by DOH. Since water quality and water quality classification of waters within the state are subject to change due to environmental conditions, shellfish dealers conducting wet storage of molluscan shellfish shall be required to respond to these changes. Wet storage of shellfish in waters other than those in the approved classification or in the open status of the conditional approved classification is prohibited. The CRMC, DEM and DOH shall not assume any liability for any environmental changes nor liability for potential damages incurred by shellfish dealers.~~

Hearing item 3f:

Proposal to provide for consistency with DOH regulations “Rules and Regulations Pertaining to the Processing and Distribution of Shellfish” and NSSP model ordinance regarding dealer handling and tagging of shellfish (sections 7.2.9, 7.2.10, 7.2.11)

7.3.102.9 Dealer handling of Shellfish:

~~(A) Rhode Island licensed shellfish dealers are prohibited from mixing or commingling shellfish taken from Rhode Island waters with shellfish taken from other state’s waters. **Dealers shall comply with the NSSP Model Ordinance and DOH regulations “Rules and Regulations Pertaining to the Processing and Distribution of Shellfish”, which are incorporated herein by reference.**~~

7.3.112.10 Dealer tagging of shellfish: Dealers shall comply with the NSSP Model Ordinance and DOH regulations “Rules and Regulations Pertaining to the Processing and Distribution of Shellfish”, which are incorporated herein by

reference Shellfish dealers shall properly tag each bag or container of shellfish as follows:

~~(A) The dealer shall keep the harvester's tag affixed to each container of shellfish until the container is (i) shipped, or (ii) emptied to wash, grade, or pack the shellfish.~~

~~(B) The dealer shall affix his/her dealer's tag to each container of shellfish prior to shipment, and immediately after shellfish emptied from a tagged container have been washed, graded, or packed.~~

~~(C) When the dealer is also a licensed aquaculturist and he/she elects not to use a harvester's tag, he/she shall affix his/her dealer's tag to each container of shellfish prior to leaving the aquaculture site, removing the shellfish from a vessel, or offering the shellfish for sale.~~

~~(D) The dealer's tag shall be (i) durable, waterproof and sanctioned by DOH prior to use, and (ii) at least 2 5/8 inches by 5 1/4 inches (6.7 x 13.3 cm) in size.~~

~~(E) The dealer's tag shall contain the following indelible, legible information in the order specified below:~~

~~(1) Dealer's name and address;~~

~~(2) Dealer's certification number as assigned by DOH and the original shellfish shipper's certification number;~~

~~(3) The date of harvest;~~

~~(4) The most precise identification of the harvest location as is practicable including the initials of the state of harvest, and the DOH/DEM designation of the growing area by indexing, administrative or geographic designation;~~

~~(5) When the shellfish has been placed in wet storage in a dealer's operation, the statement: **"THIS PRODUCT IS A PRODUCT OF (NAME OF STATE) AND WAS WET STORED AT (FACILITY CERTIFICATION NUMBER) FROM (DATE) TO (DATE)";**~~

~~(6) The type and quantity of shellfish; and~~

~~(7) The following statement in bold capitalized type on each tag: **"THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR IS RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS".**~~

~~7.6 (A) Exemption for surf clams and/or ocean quahaugs for use as bait: These rules Dealer tagging shall not apply to persons buying is not required for surf clams or ocean quahaugs for use as bait and not for human consumption however at a minimum must be labeled and/or designated as bait in a method approved by DEM and DOH. However, any other rule or law governing these species shall remain in effect and not be superseded by this exemption.~~

~~7.3.12 Shellfish purchased or acquired by a Rhode Island licensed shellfish dealer may be separately sorted by type, size, or other basis. The original containers with tags must be kept in close proximity while sorting, grading and processing is taking place.~~

~~7.3.13 Shell stock shall be washed reasonably free of bottom sediments as soon after harvesting as possible. The harvester shall be primarily responsible for washing shell stock. If shell stock washing is not feasible at the time of harvest, the dealer shall assume this responsibility. Water used for washing shall be from a potable water source, or growing area in the approved classification or open status of the conditionally approved classification.~~

~~**7.2.11 Dealers shall comply with the NSSP Model Ordinance and DOH regulations “Rules and Regulations Pertaining to the Processing and Distribution of Shellfish”, which are incorporated herein by reference.**~~

Hearing item 3g:

Proposal to revise the rule regarding sale of seafood to consumers, either directly or through restaurants or other retail outlets, so that the rule applies more broadly to all seafood, rather than shellfish only (section 7.3)

~~7.3.4 Any person engaged solely in the business of selling seafood, including shellfish (wild or cultured), to consumers, either directly or through restaurants or other retail outlets, and/or engaged solely in the processing or preparation of seafood, including shellfish (wild or cultured), for sale directly to consumers, is not required to be licensed under these regulations, provided that such person purchases or otherwise acquires said shellfish seafood from licensed a shellfish dealers.~~

7.4 Importation of non-indigenous (non-native) horseshoe crabs: No licensed fish/shellfish dealer shall import, attempt to import, or possess in the cooked or uncooked (frozen) state any non-indigenous (non-native) Horseshoe Crab species within the State of Rhode Island without prior, written authorization by the Department. The only species of Horseshoe Crab which may be possessed within the jurisdictional limits of the State of Rhode Island is the Atlantic Horseshoe Crab *Limulus polyphemus*.

7.5 Striped bass finning: No licensed fish/shellfish dealer may purchase and/or offer for sale, any striped bass where the entire right pectoral fin has been removed.

7.6 Striped bass tagging:

(A) Each individual Striped bass shall be immediately marked with tags available from DFW. No Striped bass may be sold unless it has been properly identified with such tag. DFW may designate tagging agents as appropriate. All designated tagging agents shall keep and maintain the required forms and reports specified by DFW. All tag reports and unused tags must be returned to DFW by January 1st of the following year. Failure to return reports and unused tags may result in the tagging agent becoming ineligible to receive striped bass tags in the future.

7.7 Summer flounder:

7.7.1 Dealers shall place Summer flounder in standard 60 or 100 pound cartons (containers) prior to their removal from the dealer's premises or from the point of transfer, unless specific prior written authorization is requested and received from the Division of Law Enforcement;

7.7.2 Dealers shall receive Summer flounder between the hours of 6:00 AM to 8:00 PM only.

7.8 Lobster Exemption Certificate for Dealers:

(A) Dealers wishing to purchase, barter, trade or import lobsters from outside of the state or receive lobsters from LCMA 3 which are less than the minimum size for LCMA 2 must obtain a Lobster Exemption Certificate for Dealers from the Director. Eligibility requirements are as follows:

(1) The applicant dealer must hold a valid commercial dealers license to deal in lobsters in Rhode Island;

(2) The applicant dealer shall provide a copy of a valid dealer's license to purchase, barter, trade or import lobsters in the State of the Rhode Island;

(3) The applicant dealer must maintain a landside facility in Rhode Island with the tanks required to segregate and store separately lobsters not conforming to the LCMA 2 minimum size.

(B) Application shall be made on forms prescribed by the Director.

(C) Conditions to maintain compliance:

(1) The Certificate holder must notify the DLE by phone between one hour and six hours prior to receiving a shipment. The notification must include the name of the dealer receiving the shipment, the name of the dealer sending the shipment, the transfer time and location of transfer, and amount of lobster to be received, and if a vessel is involved the name of the vessel.

(2) All shipments of lobsters less than the LCMA 2 minimum size as must be culled out immediately and stored separately on the business premises of the Certificate holder.

(3) The Certificate holder shall maintain a written record of all transactions taking place under the provisions of this section including: the date of purchase; time of purchase; location of purchase; name of selling dealer or vessel; the person in charge of the vessel; amount of lobster received, including number of animals and total weight. Records shall be maintained documenting the sale of lobsters received pursuant to this section, including the date and time of sale, and the name of the person or dealer to whom the lobsters were sold. Records must be available for inspection 8:00AM – 4:00PM at the dealer’s Rhode Island office or with an authorized business agent for a period of three (3) years from the date of the acquisition of the lobsters. Records shall be available for immediate inspection as a condition of this permit.

(4) Lobsters not conforming to the LCMA 2 minimum size may only be exported out of state or sold to another dealer who possesses a Lobster Exemption Certificate for Dealers for export out of state. No lobsters less than the LCMA 2 minimum size may be offered for sale on the retail market in Rhode Island.

~~7.8 Violations for non-compliance: If the DFW and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations or a permit agreement, the owner and/or operator of the permitted vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the requirements set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations or the permit agreement as well as the termination of the permit and or the imposition of a penalty pursuant to RIGL 20-1-16 as well as the ineligibility to reapply for a permit for the subject vessel for the remainder of the Summer sub-period.~~

~~7.9 Penalties:~~

~~7.9.1 Judicially imposed penalty for violations: Unless otherwise specifically provided, the violation of any law or rule or regulation relating to wild animals, wild birds, lobsters and fish, marine, freshwater and anadromous fisheries and shellfisheries shall be a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500) or imprisonment for up to ninety (90) days, or both (RIGL §20-1-16)~~

~~7.9.2 Additionally, a person may be subject to the imposition of a administrative penalty pursuant to DEM’s “Rules and Regulations Governing the~~

~~Suspension/Revocation of Commercial Marine Fisheries, Shellfish Buyer, Lobster Dealer, Finfish Dealer, and Multi-purpose Dealer, licenses issued pursuant to Title 20 of RIGL "Fish and Wildlife".~~

~~7.10 Appeals:~~

~~7.10.1 Denial of a license or permit: Persons denied a license or permit may request an appeal as provided by RIGL Chapter 42-17.7 and pursuant to DEM's "Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters"~~

~~7.10.2 Enforcement Action: Any person affected by a decision of the Director for an enforcement action pursuant to these regulations may file and appeal in accordance with RIGL Chapter 42-17.7 and DEM's Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters.~~

EFFECTIVE DATE

The foregoing rules and regulations, after due notice, are hereby adopted pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

Janet L. Coit, Director,
Department of Environmental Management

Notice Given: ~~01/15/2016~~ 05/12/2017
Public Hearing: ~~02/16/2016~~ 06/12/2017
Filing date: ~~03/31/2016~~ XX/XX/2017
Effective date: ~~04/20/2016~~ XX/XX/2017
ERLID # ~~8297~~



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Director
401-364-0027

Peter Duhamel
RI Division of Marine Fisheries
3 Ft. Wetherill Road
Jamestown, RI 02835

RE: Public Hearing Proposed Regulatory Changes

Dear Peter,

The Rhode Island Saltwater Anglers Association supports the following proposed Finfish proposal:

Black Sea Bass proposed OPTION 1 which would change the fall season, specifically
10/22 to 10/31 - 7 fish
11/1 to 12/31 - 5 fish

We agree that since a small reduction is necessary this would be effect the least number of recreational anglers.

Thank you.

Stephen Medeiros
President

Hello Peter,

I'm submitting these comments about the proposed regulation to affix 2 tags per net to gillnets of 450' in length in state waters. I've already had conversations with Jason and John about this, so if I'm unclear about anything, I'm sure they can "fill in the gaps" and I as well am available at 401 218 5764 for an clarifications that may be necessary.

I am opposed to this requirement as I think it (unintentionally) puts at a disadvantage the few fishermen (2 from Point Judith?) who fish nets that are configured this way. Gillnets that are 450 feet in length have the same amount of webbing as nets that are 300 feet in length (600 feet of web). The reason for extending the frames is to stretch out the twine so that smaller animals are allowed to pass through while the mature, more valuable animals are retained. This is an efficiency and conservation measure. As well, making nets this way adds significant expense to the cost of building the nets and is therefore not likely to be a strategy employed for somehow fishing more nets to catch more fish. These nets cost more to build and actually catch less fish than standard 300 foot nets. Deploying them for nefarious purposes (i.e. circumventing regulations) would literally make no sense for financial and efficacy reasons. Nets deployed in state waters are also capped at 3000 feet in length so I'm not sure I see a benefit in mandating how fishermen arrive at that length. If I fish 10 panels of 300 foot nets or 6 panels of 450 foot nets, I have arrived at approximately the same length. The only differences are that my nets will actually be shorter and will allow more juvenile animals to escape harvest. Penalizing me for this (even unintentionally) makes no sense from any standpoint. As a "federal" fisherman, I never fish more than 50 nets in state waters anymore. I'm worried that having to affix two tags to each net will render my state allocation from 80 nets to 40, which would constrain my fishing activities significantly while in state waters. I don't think this was ever the intention of this proposed regulation, however, it would almost certainly be the result.

Aaron Gewirtz

Hey everyone,

I'm just trying to be proactive in my quest on RI state gill net tag issue. In a nut shell, these tags really don't hold up. No matter what you do they break apart when setting the gear back. This creates a potential enforcement issue. I for one am not comfortable in waiting until next year to fix the design problem. I have talked to many fishermen who have experienced the same issue.

I think the way to go is to mirror the federal tear drop type gill net tags. I believe they cost \$1.20 each. I personally would not mind if each fishermen would absorb the cost themselves in a program monitored by RIDEM.

Because of the design of the current gill net tags, it is near impossible to keep the tags attached to the nets as regulations require.

Is there any way we could get moving on replacement tags for this current year?

As always Thanks everyone for your continued hard work.

Thanks,
Greg Duckworth



Rhode Island
Department of Environmental Management
DIVISION OF FISH AND WILDLIFE
3 Fort Wetherill Road
Jamestown, RI 02835

401 423-1923
FAX 401 423-1925

SUMMARY OF ORAL COMMENTS

A public hearing was held on **June 12, 2017** at 6:00 PM, URI Narragansett Bay Campus, Corless Auditorium, Narragansett, RI. Three persons from the public were present.

Hearing Officer: B. Ballou

DEM Staff: L. Mouradjian, J. McNamee, S. Olszewski, P. Duhamel.

RIMFC: T. Barao

Public comments were solicited on the following items:

- **Hearing Item 1a. - Recreational Black sea bass:**
 - No comments were provided.
- **Hearing Item 1b. – Commercial Monkfish possession limit:**
 - *P. Duckworth:* In support of option 2 as proposed for increased safety and less waste.
 - *G. Duckworth:* In support of option 2.
 - *T. Mulvey:* In support of option 2.
- **Hearing Item 2a. - Proposal to amend language regarding gill net tagging requirements (section 6.5.3(E)(6)):**
 - *G. Duckworth:* Tags should be placed on ends only so as to reduce entanglement of tags and increase safety; tag design needs improvement to increase durability (federal tags are good)
 - *P. Duckworth:* In support of comments made by G. Duckworth.
 - *T. Mulvey:* In support of comments made by G. Duckworth.
- **Hearing Item 2b - Proposal to delete regulation regarding gillnet prohibition in Block Island waters (section 6.5.3(K)(7)):**
 - *P. Duckworth:* In support as proposed; believes that regulation is obsolete, and markers referenced no longer present.
 - *G. Duckworth:* In support as proposed.
 - *T. Mulvey:* In support as proposed.
- **Hearing Item 2c. - Proposal to clarify fyke net registration requirements (section 6.5.4(A)):**

- No comments were provided.
- **Hearing Item 2d. - Proposal to clarify regulation regarding seine net prohibition in coastal salt pond channels (section 6.5.5):**
 - No comments were provided.
- **Hearing Item 3a. - Proposal to clarify point of quantity determination (section 7.1.2):**
 - No comments were provided.
- **Hearing Item 3b. - Proposal to adopt new regulations to specify information required for the dealer’s record of sales/transactions (section 7.1.3):**
 - *G. Duckworth: Expressed concern that signature requirement may place additional compliance onus on fisherman.*
 - *P. Duckworth: In support of comments made by G. Duckworth.*
- **Hearing Item 3c. - Proposal to adopt regulations to specify additional (i.e., in addition to the requirements as specified in section 7.1.4) information required for record of shellfish sales/transactions. (section 7.2.4):**
 - No comments were provided.
- **Hearing Item 3d. - Proposal to remove the requirement that transactions be recorded in a “permanently bound ledger” (section 7.2.4(J)):**
 - No comments were provided.
- **Hearing Item 3e. – Proposal to provide for consistency with DOH regulations “Rules and Regulations Pertaining to the Processing and Distribution of Shellfish” and the NSSP model ordinance regarding wet storage (section 7.2.8):**
 - No comments were provided.
- **Hearing Item 3f. - Proposal to provide for consistency with DOH regulations “Rules and Regulations Pertaining to the Processing and Distribution of Shellfish” and NSSP model ordinance regarding dealer tagging and handling of shellfish:**
 - No comments were provided.
- **Hearing Item 3g. – Proposal to clarify rule regarding persons engaged solely in the business of selling seafood to consumers, either directly or through restaurants or other retail outlets, such that rule applies to all seafood, and not shellfish only (section 7.3) :**
 - No comments were provided.



Atlantic States Marine Fisheries Commission

2017 Spring Meeting Summary

Vision: Sustainably Managing Atlantic Coastal Fisheries

2017 Spring Meeting
Alexandria, VA
May 8-11, 2017

Toni Kerns, ISFMP, or
Tina Berger, Communications
For more information, please contact
the identified individual at
703.842.0740

Meeting Summaries, Press Releases and Motions

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ATLANTIC HERRING SECTION (MAY 8, 2017)

Press Release

ASMFC Atlantic Herring Section Approves Addendum I

Alexandria, VA – The Commission’s Atlantic Herring Section approved Addendum I to Amendment 3 of the Interstate Fishery Management Plan for Atlantic Herring. The Addendum includes management measures intended to stabilize the rate of catch in the Area 1A fishery and distribute the seasonal quota throughout Trimester 2 (June through September), which has 72.8 % of the season’s allocation. The following measures were approved by the Section:

Days Out Program (effective for the 2017 fishing season)

The Section will separately address days out provisions for federal herring Category A vessels and small-mesh bottom trawl vessels with a federal herring Category C or D permit.

- In addition to landing restrictions associated with the days out program, Category A vessels are now prohibited from possessing herring caught from Area 1A during a day out of the fishery.
- Small-mesh bottom trawl vessels with a Category C or D permit will notify states of their intent to fish in Area 1A prior to June 1st.

Maine, New Hampshire and Massachusetts will make days out decisions by consensus. If a consensus cannot be reached, then the default landing day scenario will be zero landing days.

Weekly Landing Limit (effective for the 2017 fishing season)

The Addendum implements a weekly harvester landing limit for vessels with a Category A permit. The weekly limit will be adjusted throughout the fishing season based on effort. Forty-five days prior to the start of the fishing season, Category A vessels will notify states of their intent to fish in Area 1A, including a specification of gear type. This will provide states with an estimate of effort to calculate the weekly landing limit. For the 2017 fishing season, the notification date is set at May 23rd.

New Fishery Management Plan Tools

The following measures may be considered as potential management tools prior to the start of the fishing year:

- Herring caught in Area 1A can only be landed by the respective harvester vessel (i.e. no carrier vessels)
- Herring carrier vessels are limited to receiving at-sea transfers from one harvester vessel per week and landing once per 24-hour period

State Landing Report

NOAA Fisheries has granted access to vessel monitoring system-submitted daily catch report data for select staff in Maine, New Hampshire and Massachusetts. This will provide real-time data for the states to implement a weekly landing limit. Therefore, the implementation of a state landing report is not necessary at this time. The Section will include the option to implement a state landing report as part of the interstate fishery management program if it becomes necessary at a future date. The Addendum will be available on the Commission website, www.asmfc.org (on the Atlantic Herring webpage).

The Section also approved continuing the use of the GSI30-based forecast system to determine spawning closures in Area 1A. This method was developed by the Technical Committee, then tested and evaluated for effectiveness during the 2016 fishing season. The modified GSI-based spawning monitoring system tracks reproductive maturity to align the timing of spawning area closures with the onset of spawning. The modeling efforts to forecast the spawning closures will be made available via a website.

For more information, please contact Ashton Harp, Fishery Management Plan Coordinator, at aharp@asmfc.org or 703.842.0740.

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PR17-17

Motions

Main Motion

Move that the Herring Section approve Addendum I including the following measures:

3.1.1 Harvester Reporting Requirements

Option B – Implement State landings Report as an alternative in the FMP toolbox in the event NMFS rescinds VMS access to the states

3.1.2 Prohibit Landings of Herring Caught in Area 1A During a Day Out of the Fishery

Option C: Days out restrictions for vessels with a Category A permit

3.1.3 Weekly Landing Limit Per Vessel (Pounds)

Option B: Weekly Harvester Landing Limit for Vessels with a Category A Permit. In 2017 vessels must opt into Area 1A by the May 23rd Days Out meeting in Portsmouth.

3.1.4 Landing Restriction on Transfers At-Sea with a reporting and permitting exception to states that have no carrier landings

Options B and C: The Section members from Maine, New Hampshire, and Massachusetts will have a choice of both alternative options at the annual Days Out Meetings: Option B - No Herring Carrier Vessels or transfer at sea and Option C - Herring Carrier Vessels are Limited to Receiving At-Sea Transfers from One Harvester Vessel Per Week and Landing Once Per 24-Hour Period

3.1.5 Small Mesh Bottom Trawl (SMBT) Fleet Days Out

Option B: Additional Days Out Program for Small Mesh Bottom Trawl Vessels with a Category C or D Permit. The small mesh bottom trawl fishery must opt into the area 1A by June 1st annually

3.1.6 Clarification of Days Out Procedure

Options B: Type of Agreement (consensus) and Option C2: Default Landing Day Scenario (zero landing days)

Motion made by Mr. Stockwell and seconded Mr. Abbott.

Motion to Amend

Move to amend section 3.1.6, option B2 replaces B1, Maine, New Hampshire, and Massachusetts will vote on parameters of the days out program.

Motion made by Dr. Pierce and seconded by Mr. Abbott. Motion fails (3 in favor, 3 opposed, 1 abtentions).

Main Motion

Move that the Herring Section approve Addendum I including the following measures:

3.1.1 Harvester Reporting Requirements

Option B – Implement State landings Report as an alternative in the FMP toolbox in the event NMFS rescinds VMS access to the states

3.1.2 Prohibit Landings of Herring Caught in Area 1A During a Day Out of the Fishery

Option C: Days out restrictions for vessels with a Category A permit

3.1.3 Weekly Landing Limit Per Vessel (Pounds)

Option B: Weekly Harvester Landing Limit for Vessels with a Category A Permit. In 2017 vessels must opt into Area 1A by the May 23rd Days Out meeting in Portsmouth.

3.1.4 Landing Restriction on Transfers At-Sea with a reporting and permitting exception to states that have no carrier landings

Options B and C: The Section members from Maine, New Hampshire, and Massachusetts will have a choice of both alternative options at the annual Days Out Meetings: Option B - No Herring Carrier Vessels or transfer at sea and Option C - Herring Carrier Vessels are Limited to Receiving At-Sea Transfers from One Harvester Vessel Per Week and Landing Once Per 24-Hour Period

3.1.5 Small Mesh Bottom Trawl (SMBT) Fleet Days Out

Option B: Additional Days Out Program for Small Mesh Bottom Trawl Vessels with a Category C or D Permit. The small mesh bottom trawl fishery must opt into the area 1A by June 1st annually

3.1.6 Clarification of Days Out Procedure

Options B: Type of Agreement (consensus) and Option C2: Default Landing Day Scenario (zero landing days)

Motion made by Mr. Stockwell and seconded Mr. Abbott. Motion passes (Roll Call Vote: In favor – ME, NH, MA, RI, CT, NY; Opposed – NJ).

Main Motion

Move that the Section permanently implement the GSI₃₀ Based Forecast System for spawning closures in Area 1A.

Motion made by Dr. Pierce and seconded by Mr. Abbott.

Motion to Substitute

Move to substitute implement second year of the pilot program for the spawning closures in Area 1A.

Motion made by Mr. Nowalsky and seconded Mr. Train. Motion fails (2 in favor, 3 opposed, 1 null vote).

Main Motion

Move that the Section permanently implement the GSI₃₀ Based Forecast System for spawning closures in Area 1A.

Motion made by Dr. Pierce and seconded by Mr. Abbott. Motion passes (6 in favor).

Move to approve the Atlantic Herring FMP Review and state compliance reports and grant *de minimis* request from New York.

Motion made by Mr. Gilmore and seconded by Mr. Stockwell. Passes unanimously.

AMERICAN LOBSTER MANAGEMENT BOARD (MAY 8 & 9, 2017)

Press Release

**ASMFC American Lobster Board Approves 5% Increase
in Egg Production for the Southern New England Lobster Stock**

Alexandria, VA – The Commission’s American Lobster Management Board approved moving forward with the goal of increasing egg production for the Southern New England (SNE) stock of American lobster by 5%. This increase in egg production can be achieved through a suite of management tools including gauge size changes, trap reductions, and seasonal closures. The recreational fishery is only subject to changes in the gauge size should any be proposed. In making its decision, the Board took into consideration the extensive public comment, which overwhelmingly supported status quo, and the fact that stock declines are largely a result of climatic changes, including increasing water temperatures over the last 15 years.

The next step in the process will be for the Lobster Conservation Management Teams (LCMTs) in Areas 2, 3, 4, 5 and 6 to develop area-specific proposals on how to achieve the 5% increase in egg production. As established through Amendment 3 to the Interstate Fishery Management Plan for American Lobster, LCMTs are composed of lobster industry members who are charged with recommending area-specific measures for Board consideration and approval. The LCMT proposals will be submitted for Technical Committee review in June and Board consideration in August. Once area-specific measures have been approved, the Board will consider final approval of Addendum XXV.

In its deliberation on the SNE lobster stock, the Board discussed the need to consider changes to the current management goals and reference points, noting changes in the marine environment may limit the ability to rebuild the stock to levels seen in the 1990s. The Board will continue to discuss these issues, particularly as the Commission’s Climate Change Work Group develops recommendations regarding the management of stocks impacted by changing climate conditions.

For more information, please contact Megan Ware, Fishery Management Plan Coordinator, at mware@asmfc.org or 703.842.0740.

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PR17-20

Meeting Summary

In addition to selecting management alternatives in Draft Addendum XXV (see above press release), the American Lobster Management Board identified preferred management alternatives in the New England Fishery Management Council's (Council) Omnibus Deep Sea Coral Amendment, received a report from the Gulf of Maine/Georges Bank (GOM/GBK) Subcommittee, and discussed full implementation of Addenda XXI and XXII in federal waters.

Council staff provided an overview of the Draft Omnibus Deep Sea Coral Amendment, which is considering the implementation of discrete coral zones and/or broad, minimum depth coral zones in the Northwest Atlantic. Given this action may impact the lobster and Jonah crab fisheries, the Board requested the ISFMP Policy Board send a letter to the Council, recommending implementation of the Council's preferred management alternatives in the Draft Amendment. This includes the prohibition on mobile-tending bottom gear in the GOM, which would not prohibit lobster traps, and a 600 meter minimum-depth zone in the Canyons region, which would prohibit all bottom-tending gear with an exemption for the red crab fishery.

Next, staff presented the GOM/GBK Subcommittee Report, which discussed ways to promote resiliency in the stock given changing environmental conditions. The report outlined several preliminary recommendations to the Board, including continued monitoring of the ventless trap surveys, improvement of offshore enforcement, and development of an economic indicator and trigger. The Subcommittee will meet again to further develop these recommendations. Staff also provided an update on Draft Addendum XXVI, which was initiated in January 2017 to improve harvester reporting and biological data collection in state and federal waters. The Plan development Team and Technical Committee continue to work on analysis and draft language in the Addendum.

Following action on Addendum XXV, the Board discussed several inconsistencies between state and federal regulations. The Board requested the ISFMP Policy Board recommend that NOAA Fisheries fully implement the provisions of Addenda XXI and XXII, which established ownership caps and trap banking in Lobster Conservation Management Areas (LCMAs) 2 and 3. Currently, these provisions have not been implemented in federal waters. The Board also began discussions on inconsistencies regarding the current LCMA 4 season closure, including the application of the most restrictive rule and the requirement that traps be removed from the water. The Board agreed to further discuss this issue at the August Board meeting.

For more information, please contact Megan Ware, Fishery Management Plan Coordinator, at mware@asmfc.org or 703.842.0740.

Motions

Move to recommend to the Policy Board to send a letter supporting the preferred alternatives developed by the NEFMC in their Deep Sea Coral Amendment.

Motion made by Mr. Reid and seconded by Mr. Keliher. Motion passes (11 in favor, 1 abstention).

Main Motion

Move to select option B for issue 3: the recreational fishery must abide by gauge size changes and seasonal closures.

Motion made by Mr. McKiernan and seconded by Mr. Gibson. Motion amended.

Motion to Amend

Move to amend to remove the seasonal closures.

Motion made by Mr. Fote and seconded by Mr. Miller. Motion passes (6 in favor, 4 opposed, 2 abstentions).

Main Motion as Amended

Move to select option B for issue 3: the recreational fishery must abide by gauge size changes. (Amended to become Option C)

Motion passes (9 in favor, 1 opposed, 2 abstentions).

Move to approve option A to issue 5: regulations not uniform across LCMAs.

Motion made by Mr. Gibson and seconded by Mr. Clark. Motion passes (11 in favor).

Move to approve Option A for issue 6: Maintain LCMA 3 as a single area.

Motion made by Mr. McKiernan and seconded by Mr. Reid. Motion carries (Roll Call Vote: In Favor - MA, RI, CT, NY, NJ, DE, MD, VA; Opposed - ME, NH, NMFS).

Move to approve Option 1 to issue 7: all *de minimis* states must implement management measures.

Motion made by Mr. Clark and seconded by Mr. Luisi. Motion carries without objection.

Main Motion

Move to implement 10% increase in egg production for issue 1 over a two-year period.

Motion made by Mr. Reid and seconded by Mr. Luisi.

Motion to Amend

Move to amend to achieve a 10% increase in egg production, except in area 6, which would be 5%; both to be achieved over a two-year period.

Motion made by Mr. Alexander and seconded by Mr. Hasbrouck. Motion fails (4 in favor, 6 opposed, 2 abstentions).

Motion to Substitute

Move to substitute 10% with 15%.

Motion made by Mr. Burns and seconded by Mr. Grout. Motion fails (2 in favor, 9 opposed).

Main Motion

Move to implement 10% increase in egg production for issue 1 over a two-year period.

Motion by Mr. Reid, second by Mr. Luisi.

Motion made by Mr. Reid and seconded by Mr. Luisi. Motion fails (5 in favor, 6 opposed).

Main Motion

Move to approve Option A to issue 1: 0% increase in egg production.

Motion made by Rep. Peake and seconded by Mr. Hasbrouck. Motion substituted.

Motion to Substitute

Move to substitute 0% with 5%.

Motion made by Mr. Luisi and seconded by Mr. Reid. Motion carries (6 in favor, 5 opposed).

Main Motion as Substituted

Move to implement 5% increase in egg production for issue 1.

Motion carries (7 in favor, 4 opposed).

Motion to approve Option A for issue 2. Management Tools: management tools can be used independently.

Motion made by Mr. Gibson and seconded by Rep. Peake. Motion carries (10 in favor, 1 abstention).

Motion to approve Option B, Sub-Option B, for issue 4. Season Closures: No Possession of Lobsters While Fishing, Most Restrictive Rule Does Not Apply.

Motion made by Mr. Baum and seconded by Mr. Luisi. Motion carries (11 in favor).

Motion to recommend to the ISFMP Policy Board to send a letter to NOAA recommending to fully adopt Addenda XXI and XXII.

Motion made by Mr. McKiernan and seconded by Mr. Grout. Motion carries (10 in favor, 1 abstention).

LAW ENFORCEMENT COMMITTEE (MAY 9, 2017)

Meeting Summary

The Law Enforcement Committee (LEC) met during the 2017 Spring Meeting of the Atlantic States Marine Fisheries Commission (ASMFC) in Alexandria, VA. The LEC welcomed alternate representatives Jeff Ray from NOAA OLE, Tom Gadomski from NY and Greg Garner from SC.

Species Issues

Tautog — Ashton Harp briefed the LEC on proposed management boundaries for Long Island Sound. Options 5 and 6 for defining a boundary line in eastern Long Island Sound both present enforcement challenges if the differences in regulations among the 3 associated management units are significant. Recreational and commercial fishermen regularly move back and forth from the inner sound, the ocean side of Long Island and Rhode Island waters. The LEC cautioned that selecting either line will require substantial enforcement resources to ensure compliance with the various management regulations that will be in close proximity. It was pointed out that using the ColRegs line in Option 6, with more visible land-points, might be preferable, although Option 5 was also acceptable. Enforceability of widely differing regulations in close proximity will be influenced by tagging requirements of commercially harvested fish. The LEC reiterated its support for tagging as close to the point of harvest as possible. Tagging at the point of sale would be ineffective. The LEC also recommended use of “strict possession” language and that there should be no possession or take when an area is closed. Members pointed out

that defining “home port” as part of possession language in regulations would not be applicable to recreational anglers.

American Lobster — Rene Cloutier briefed the LEC on recent discussions of the American lobster Management Board. Members discussed the enforcement issues associated with allowing shipment and resale of various legal-sized lobsters. It was recognized that states with a larger minimum size could have more enforcement problems. Connecticut has specific chain-of-custody regulations which have been successful in managing “undersized” imports. Their regulations do not prohibit Interstate Commerce but do not allow retail sale, only re-shipping. Development of strict chain-of-custody standards and a marking system for lobsters identifying source of harvest would be essential. Rene Cloutier reported on the success of recent changes in Maine to allow for tracking of vessels and implementation of license-suspension penalties as an effective deterrent. The State of Maine has also re-criminalized trap molestation to address ongoing problems in state waters.

Other Issues

The LEC reviewed proposed 2017 Action Plan items and confirmed that its work will address the tasks outlined in Goal 3 of the plan.

The LEC discussed issues associated with safe harbor requests and a possible non-binding guidance document for states’ use. As with past discussions the LEC was not of one mind on how to address safe harbor requests and the associated tendency in the summer flounder fishery to use safe harbor requests to deal with multi-state catches. Three states have and use written guidelines for handling safe harbor requests. Some LEC members were not in favor of developing specific written criteria, preferring discretionary flexibility when dealing with safety-at-sea issues. All agreed that safe harbor issues require careful handling and erring on the side of the vessel and captain. The related issue of dealing with on-board catches from other states requires significant additional enforcement work, such as confirming the safe-harbor vessel has appropriate licenses, permits and gear for the catch on-board, and that the need for safe harbor is legitimate and not simply an avenue to off-load catch for business or convenience motives. Offloading should not be allowed unless it is determined that the vessel must remain in port for repairs or other legitimate safe-harbor reasons for a length of time that would render the catch unmarketable.

Jeff Ray (NOAA OLE) updated the LEC on current priority-setting exercises. NOAA OLE is developing a 5-year planning document for the period 2018-22, which will include regional priorities, and he was interested in getting input from the LEC members. Unlike the previous iteration, the new plan will identify a suite of priorities without reference to high/medium/low categories. The LEC was pleased to hear that American lobster has been included as a regional priority. They also suggested a number of other enforcement needs that could be added to the draft list. While there was not a NOAA OLE representative present from the Southeast Region, it was agreed that a similar review and discussion with LEC input was needed for states in that region. Mark Robson will follow up on that with NOAA OLE representatives. LEC members from states expressed concerns about how NOAA OLE priorities are established without adequate input from individual states. This concern is heightened by the linkage of priorities to reimbursement funding through Joint Enforcement Agreements with the NOAA and individual states.

Commissioner proxy Dennis Abbott updated the LEC on the effort to honor Chris Schoppmeyer for his years of dedication to the Town of Newmarket, NH, and for his distinguished career in conservation enforcement.

The LEC shared information on Hurricane and Disaster Response training and equipment. Five members of the LEC are now graduates or current participants in the highly-regarded National Leadership Training Program sponsored by the National Association of Conservation Law Enforcement Chiefs and the United States Fish and Wildlife Service. Training takes place at the National Conservation Training Center in Shepherdstown, WV.

Three additional members of the LEC are on the program’s steering committee. This high level of participation exemplifies the professionalism of the ASMFC’s Law Enforcement Committee. For more information, please contact Mark Robson, LEC Coordinator, at markrobson2015@outlook.com.

TAUTOG MANAGEMENT BOARD (MAY 9, 2017)

Press Release

ASMFC Tautog Board Approves Draft Amendment 1 for Public Comment

Alexandria, VA – The Commission’s Tautog Management Board approved Draft Amendment 1 to the Interstate Fishery Management Plan (FMP) for Tautog for public comment. The Draft Amendment proposes a fundamental change in tautog management, moving away from management on a coastwide basis towards regional management. In addition, Draft Amendment 1 proposes the establishment of a commercial harvest tagging program, as well as new goals and objectives, biological reference points and fishing mortality targets, and a stock rebuilding schedule.

Draft Amendment 1 proposes delineating the stock into four regions due to differences in biology and fishery characteristics, as well as limited coastwide movement.

Table 1. Four-Region Management Approach

1) Massachusetts – Rhode Island
2) Long Island Sound (CT and NY LIS)
3) New Jersey – New York Bight
4) Delaware – Maryland – Virginia

Management options by region have been developed in response to the 2016 stock assessment update. Long Island Sound and New Jersey-New York Bight would be required to take harvest reductions due to the regional overfishing stock status, while Massachusetts-Rhode Island and Delaware-Maryland-Virginia would not have to take harvest reductions, but are proposing regional measures.

A commercial harvest tagging program is being proposed to address an illegal, unreported and undocumented fishery that has persisted for more than a decade. Reports of illegally harvested fish

have been documented in cases against fishermen, fish houses, and at retail markets and restaurants. The tagging program, which would accommodate both the live and dead commercial markets, was recommended by the Commission's Law Enforcement Committee to increase accountability in the fishery and curb illegal harvest. A tautog tag trial was conducted to investigate the impact of the tags on the resource and found no mortality or degradation to fish health.

It is anticipated the majority of states from Massachusetts through Virginia will be conducting public hearings on the Draft Amendment. The details of those hearings will be released in a subsequent press release. The Draft Amendment will be available on the Commission website, www.asmfc.org (under Public Input) by May 15th. Fishermen and other interested groups are encouraged to provide input on the Draft Amendment either by attending state public hearings or providing written comment. Public comment will be accepted until **5:00 PM (EST) on July 14, 2017** and should be forwarded to Ashton Harp, FMP Coordinator, 1050 N. Highland St, Suite A-N, Arlington, VA 22201; 703.842.0741 (FAX) or at aharp@asmfc.org (Subject line: Draft Amendment 1).

Final action on the Amendment is scheduled to occur in August. For more information, please contact Ashton Harp, Fishery Management Plan Coordinator, at aharp@asmfc.org or 703.842.0740.

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PR17-18

Motions

Motion to remove 70% probability of achieving F target throughout the Draft Amendment 1 document.

Motion made by Mr. Alexander and seconded by Mr. Gilmore. Motion carries. (7 in favor, 3 opposed).

Move to approve Draft Amendment I for public comment as amended today.

Motion made by Mr. Hasbrouck and seconded by Mr. Clark. Motion carries (7 in favor, 1 null, 2 abstentions).

ATLANTIC STRIPED BASS MANAGEMENT BOARD (MAY 9, 2017)

Press Release

ASMFC Atlantic Striped Bass Board Withdraws Draft Addendum V & Maintains Current Measures until Completion of 2018 Benchmark Stock Assessment

Alexandria, VA – The Commission's Atlantic Striped Bass Management Board chose to not advance Draft Addendum V to Amendment 6 to the Fishery Management Plan (FMP) for Atlantic Striped Bass forward for public comment. Instead, it decided to wait until the release of the results of the 2018 benchmark stock assessment before it considered making changes to the management program.

The Draft Addendum was initiated to consider liberalization of commercial and recreational regulations to bring fishing mortality to the target based on the findings of the 2016 assessment update. The Draft Addendum proposed alternative measures aimed to increase total removals (commercial and recreational) by approximately 10% relative to 2015 to achieve the fishing mortality

target in 2017. However, 2016 harvest estimates increased without changing regulations. Additionally, fish from the 2011 year class, which was the largest recruitment event since 2004, will become increasingly available to ocean fisheries in the coming years, possibly resulting in further increases to harvest along the coast. The Board also expressed concern that changing the management program could result in fishing mortality exceeding the target.

In preparation for the 2018 stock assessment, the Board approved the Terms of Reference for the assessment, which will explore new biological reference points for management use.

For more information, please contact Max Appelman, Fishery Management Plan Coordinator, at mappelman@asmfc.org or 703-842-0740.

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PR17-21

Motions

Move to approve Draft Addendum V for Public Comment.

Motion made by Mr. Clark and seconded by Mr. Luisi. Motion fails. (Roll Call Vote: In Favor – NJ, DE, MD, VA, PRFC; Opposed: ME, NH, MA, RI, CT, NY, PA, NC, NMFS, USFWS)

Move to approve the 2018 Atlantic Striped Bass Benchmark Stock Assessment Terms of Reference as presented today.

Motion made by Mr. Clark and seconded by Mr. Allen. Motion approved unanimously.

ATLANTIC MENHADEN MANAGEMENT BOARD (MAY 9, 2017)

Meeting Summary

The Atlantic Menhaden Management Board reviewed progress on Draft Amendment 3, discussed the Episodic Events Set Aside Program in 2017, considered the Hilborn et al (2017) paper, and provided guidance to the Technical Committee (TC) on stock projections to run to help inform discussions on the 2018 total allowable catch (TAC).

Staff provided an update on Draft Amendment 3, which considers changes to the current allocation method as well as the implementation of ecosystem reference points. The Board provided feedback to the Plan Development Team for continued development of the Draft Amendment. It is expected the Board will consider approving the document for public comment in August. Staff also provided an update on the Biological Ecological Reference Point Workgroup (BERP WG), which met in April to review the multi-species statistical catch-at-age model. A peer-review of the menhaden-specific ecosystem reference points is scheduled for 2019.

The Board also considered the Hilborn et al. (2017) paper which provides recommendations regarding the management of forage fish species. Given its potential applicability to Draft Amendment 3, the Board tasked the BERP WG with reviewing this paper in advance of the August Board meeting. The Board also tasked the TC with conducting stock projections in order to inform future discussions on the 2018 TAC. The projections will include various increases in the TAC, ranging from 0% to 40%, as well as

several projections that consider different levels of risk in exceeding the fishing mortality target. These projections will be presented to the Board in August.

Finally, the Board passed a motion to cap New York harvest under the Episodic Events Set Aside Program to 1 million pounds, accepted the 2017 FMP Review, and approved *de minimis* status for the states of New Hampshire, Pennsylvania, South Carolina, Georgia, and Florida.

For more information, please contact Megan Ware, Fishery Management Plan Coordinator, at mware@asmfc.org or 703.842.0740.

Motions

Move to implement a 1 million pound cap on New York’s menhaden harvest under the episodic events program.

Motion made by Mr. Stockwell and seconded Ms. Patterson. Motion passes (18 in favor).

Move to accept the 2017 Fishery Management Plan Review and state compliance reports, and approve *de minimis* status for New Hampshire, Pennsylvania, South Carolina, Georgia, and Florida.

Motion made by Mr. Heins and seconded by Ms. Patterson. Motion carries unanimously.

ANNUAL AWARDS OF EXCELLENCE (MAY 9, 2017)

Press Release

ASMFC Presents Annual Awards of Excellence

Alexandria, VA - The Atlantic States Marine Fisheries Commission presented Mr. Robert Glenn, Dr. Amy Schueller and Lieutenant Conservation Officer Zane Batten with its Annual Awards of Excellence for their outstanding contributions to science and law enforcement along the Atlantic coast.

“Every year a great many people contribute to the success of fisheries management along the Atlantic coast. The Commission’s Annual Awards of Excellence recognize outstanding efforts by professionals who have made a difference in the way



AAE Recipients from left: Lt. C.O. Zane Batten, Dr. Amy Schueller and Robert Glenn

we manage and conserve our fisheries,” said ASMFC Chair Douglas Grout of the New Hampshire Fish and Game Department. “This evening, we honor several exceptional individuals for their contributions to the management and conservation of Atlantic coast fisheries.”

Scientific & Technical Contributions

Mr. Robert Glenn, Massachusetts Division of Marine Fisheries

Mr. Robert Glenn has dedicated his career to furthering our understanding of American lobster – its biology, environmental drivers and limitations, and how best to model and predict its stock condition. For more than two decades, Mr. Glenn has provided leadership on the Commission’s American Lobster Technical Committee and Stock Assessment Subcommittee. Over this 20-year span, he contributed to a total of four lobster benchmark stock assessments and served as the lead scientist on two of those assessments. His considerable investment in our stock assessment process has helped to develop new and improved ways to analyze data and model population dynamics, as well as assess the effects of climate change on the lobster population. Mr. Glenn’s analysis of spatial shifts in fishing effort in the Massachusetts fishery south of Cape Cod was among the earliest indicators of movement by female lobsters into cooler, deeper water. He found that movement of egg bearing female lobsters into more offshore waters could be expected to cause drastic changes in lobster larval recruitment patterns and collapse of the Buzzards Bay fishery. His leadership, knowledge and insight on the Southern New England lobster resources were instrumental in bringing together all of the other information pertinent to fully document the region’s lobster recruitment failure.

Underlying these accomplishments are Mr. Glenn’s calm and supportive leadership which fostered harmonious and productive working relationships between Technical Committee and Stock Assessment Subcommittee members, even as stock conditions in Southern New England deteriorated and controversies arose. He was also instrumental in enhancing relationships between the Commission, state agencies, National Marine Fisheries Service, Canadian and academic scientists and industry groups. Mr. Glenn has consistently performed in an exemplary manner, gracefully dealing with a contentious, complex and confounding species management program. Throughout it all, he has maintained a balanced view and approach to lobster management. His efforts and leadership have advanced our understanding of the American lobster resource and provided us with a solid scientific foundation to manage American lobster for years to come.

Dr. Amy Schueller, NOAA Fisheries Beaufort Laboratory

In only a short period of time, Dr. Amy Schueller with NOAA Fisheries Beaufort Laboratory has made notable contributions to Atlantic menhaden science and management. As the lead assessment scientist for the 2015 Atlantic menhaden benchmark stock assessment, Dr. Schueller took on the formidable task of assessing the high profile and controversial forage species. Through consideration of new and existing datasets and exploration of alternative model configurations, the 2015 assessment ushered in a new period of unprecedented support for menhaden science from industry, NGOs and the public. In addition to her participation on the Atlantic Menhaden Technical Committee, Stock Assessment Subcommittee and Biological Ecological Reference Points Workgroup, Dr. Schueller actively pursues research relevant to menhaden science and management. Some recent pursuits and publications include securing grant money in support of recovering old menhaden tagging data; dedicating time and effort in support of the Beaufort Lab’s menhaden data collection program; conducting research on age-structured movement and mortality of Atlantic menhaden as well as trends in relative abundance and early life survival.

In just five years Dr. Schueller has greatly improved our understanding of Atlantic menhaden. Imagine how much more she will achieve and how much more the fisheries science and management process has to gain from her accomplishments.

Law Enforcement Contributions

Lieutenant Conservation Officer Zane Batten with the New Jersey Division of Fish and Wildlife, Bureau of Law Enforcement

Lieutenant Conservation Officer Zane Batten has been with the New Jersey Division of Fish and Wildlife, Bureau of Law Enforcement for nearly 25 years. First as a volunteer Deputy Conservation Officer, next as a Lt. C.O. for the Special Investigations Unit, where he served for five years and lastly as District supervisor. Lt. Batten is being recognized for his efforts on behalf of the Special Investigation Unit, where he worked on several cases of magnitude that resulted in both domestic and international charges. Two cases in particular exemplify Lt. Batten's perseverance, self-sacrifice and dedication to resource conservation.

In the first case, Lt. Batten was instrumental in identifying fishermen involved in the illegal commercialization of elvers. As he worked to document the activities of the fishermen, Lt. Batten was also able to gain the trust of a number of large buyers who were knowingly purchasing illegally harvested eels for export overseas. Spanning three years, the investigation uncovered a multi-million dollar black market in elvers and exposed the identities of numerous fishermen and buyers, from Florida to Maine, that were involved in the black market. The charging and prosecution of those involved is still pending.

During another case, Lt. Batten coordinated a joint investigation with the Pennsylvania Game Commission involving the illegal commercialization of striped bass from Delaware Bay. The investigation, which spanned two years, identified an organized ring of 8 commercial fishermen illegally selling striped bass to a seafood store. Both criminal and civil charges were filed, with the maximum fine for all charges filed in excess of \$3.4 million.

Named New Jersey's Conservation Officer of the Year in 2014, Lt. Batten is widely respected by his fellow officers and colleagues. His commitment to ensuring our fisheries management regulations are being upheld is notable and worth recognition.

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PR17-19

EXECUTIVE COMMITTEE (MAY 10, 2017)

Meeting Summary

The Executive Committee met to discuss a number of issues. It approved the FY2018 budget; discussed AP members who become management board proxies and discussed the utility of technical committee meeting weeks. The Committee also received reports on future annual meeting locations and an update on the federal budget.

For more information, please contact Laura Leach, Director of Finance and Administration, at lleach@asmfc.org or 703.842.0740.

COASTAL SHARKS MANAGEMENT BOARD (MAY 10, 2017)

Meeting Summary

The Coastal Sharks Management Board met to review the final rule to implement Amendment 5b to the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP). Amendment 5b implements a range of federal management measures to prevent overfishing and rebuild overfished dusky sharks. These measures are based on the 2016 dusky shark stock assessment update that determined dusky sharks are overfished and experiencing overfishing.

Currently the Amendment 5b measures only apply to federally permitted fishermen. HMS requests the Board (and state agencies) consider complementary management as follows:

- Assist with shark related outreach and education; provide links to NOAA Fisheries communication materials on state websites (*Alternative A2 and B6*)
- Collaborate on development of best practices for the handling and release of sharks when shore and pier fishing because HMS outreach is specific to vessel based fishing (*Alternative A2*)
- Consider requiring circle hooks in various state hook and line fisheries (e.g., recreational, short lines, commercial handgear) (*Alternative A6d and B9*)
- Consider requiring fishermen to maximize gear removal before releasing sharks (*Alternative B3*)
- Consider cooperative research with NOAA Fisheries to improve estimates of dusky (and other) sharks caught in state water fisheries (e.g., via the shark research fishery)

After reviewing the Advisory Panel comments on the recreational measures, the Board requested the Law Enforcement Committee (LEC) and Technical Committee (TC) review the proposed measures. Staff will coordinate the LEC and TC meetings, as well as poll the states to see if there are state-specific measures in place that address best practices for shore and pier fishing and/or require circle hooks when fishing for sharks. At the August meeting the Board will review the information requested above and consider modifications to the interstate FMP.

For more information, please contact Ashton Harp, Fishery Management Plan Coordinator, at aharp@asmfc.org or 703.842.0740.

Motions

No motions made.

ATLANTIC COASTAL COOPERATIVE STATISTICS PROGRAM COORDINATING COUNCIL (MAY 10, 2017)

Meeting Summary

The ACCSP Coordinating Council met to receive Program and Committee updates and to consider approval of the FY18 Request for Proposals (RFP). The draft FY18 RFP incorporated four new

recommendations proposed by the RFP workgroup, comprised of members from both the Operations and Advisory Committee, and subsequently approved by the Operations Committee. These new recommendations included: using a new, condensed Maintenance scoring approach should funding available exceed the total Maintenance funding requested; folding the Metadata scoring into the “Improvement in data quality, quantity and timeliness” row; replacing the “Metadata” row with a “Data Delivery Plan”; and adding a “Merit” scoring row under “Other Factors” for both Maintenance and New projects under the standard ranking criteria. The Coordinating Council approved the FY18 RFP package as recommended by the Operations Committee.

The Coordinating Council was also apprised of the RFP Workgroup’s recommendation to reprioritize program modules, a recommendation the Operations Committee ultimately decided to table until FY19. The Operations Committee had a productive conversation on the proposed module reprioritization earlier in April, but concluded that they needed more time to discuss these priorities, research additional alternatives, and reassess ACCSP’s priorities and current needs. Upon hearing a summary of the Operations Committee discussion, the Coordinating Council also recommended the ASMFC’s Committee on Economics and Social Sciences and other economic and social science experts assess ACCSP’s standards on socioeconomic data to prepare the program for a greater focus on socioeconomic projects in the future.

For more information, please contact Mike Cahall, ACCSP Director, at mike.cahall@accsp.org or 703.842.0740.

Motions

Move to accept the FY18 RFP Package as recommended by the Operations Committee.

Motion made by Ms. Patterson and seconded by Mr. Baum. Motion passes unanimously.

SUMMER FLOUNDER, SCUP AND BLACK SEA BASS MANAGEMENT BOARD & MID-ATLANTIC FISHERY MANAGEMENT COUNCIL (MAY 10, 2017)

Press Releases

ASMFC Summer Flounder, Scup and Black Sea Bass Board Approves Scup Addendum XXIX & Finalizes 2017 Black Sea Bass Recreational Management Measures

Alexandria, VA – The Commission’s Summer Flounder, Scup and Black Sea Bass Management Board approved Addendum XXIX to the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan. The Addendum shortens the length of the commercial scup summer period and extends the length of the winter II period (Table 1).

Table 1. New Quota Periods approved in Addendum XXIX

Winter I	January 1-April 30 (120 days)
Summer	May 1- September 30 (153 days)
Winter II	October 1-December 31 (92 days)

This action seeks to allow for the better utilization of the commercial quota, which has been under-harvested since 2011. Specifically, the change in quota period length allows for higher possession limits for a longer period of time each year, thus increasing the likelihood the commercial fishery will fully harvest the quota. The quota allocation for each period remains unchanged. The Mid-Atlantic Fishery Management Council (Council) also took the same action through Framework 10. The Council will forward its recommendation to NOAA Fisheries for final approval. The Board and Council's action will not affect the 2017 quota period start and end dates; these changes will likely be implemented for 2018 commercial quota. The Addendum will be finalized and available on the Commission website, www.asmfc.org (on the Scup webpage), within the next few weeks.

The Board also reviewed the final 2016 black sea bass recreational harvest estimates and considered changes to current measures to meet the 2017 RHL. Based on the performance of the 2016 fishery, which indicated a reduction is needed to stay within the 2017 RHL, the Board set the possession limit for wave 6 (November/December 2017) at five fish in state waters from Rhode Island through New Jersey. All other state measures remain unchanged from 2016.

For more information, please contact Kirby Rootes-Murdy, Senior Fishery Management Plan Coordinator, at krootes-murdy@asmfc.org or 703.842.0740.

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PR17-22

ASMFC Summer Flounder Management Board to Consider New Jersey Conservation Equivalency Proposal for 2017 Summer Flounder Recreational Fishery

Alexandria, VA – The Commission's Summer Flounder, Scup and Black Sea Bass Management Board has accepted a request by the State of New Jersey to consider a proposal for conservationally-equivalent management measures for the 2017 recreational summer flounder fishery. The action responds to New Jersey's concern about the lack of availability of large fish (19" or greater) in state waters.

In February 2017, the Board approved Addendum XXVIII to the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan, maintaining regional management for the 2017 recreational summer flounder fishery and requiring all states (with the exception of North Carolina) to implement a one-inch increase in size limit and a reduced possession limit. These measures are required in order to stay within the 2017 recreational harvest limit. New Jersey has contended a one-inch increase in size will have significant economic impacts to its recreational and for-hire industries, since 19" fish have reduced availability in its waters.

The next step in the process is for the Technical Committee to review New Jersey's proposal, which is anticipated to occur next week. The Board will then meet via conference call to receive the Technical Committee's review and consider action on the proposal. If the proposal is accepted by the Board, New Jersey will have until May 21st to implement the approved measures. If conservationally-equivalent measures are not approved, New Jersey will need to implement the following measures

by May 21st or the Commission will move forward with a non-compliance finding regarding New Jersey's failure to implement Addendum XXVIII's required management measures.

- Shore mode for Island Beach State Park only: 17-inch minimum size limit; 2-fish possession limit and 128-day open season.
- Delaware Bay only (west of the colregs line): 18-inch minimum size limit; 3-fish possession limit and 128-day open season.
- All other marine waters (east of the colregs line): 19-inch minimum size limit; 3-fish possession limit and 128-day open season

For more information, please contact Kirby Rootes-Murdy, Senior Fishery Management Plan Coordinator, at krootes-murdy@asmfc.org or 703.842.0740.

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PR17-24

Meeting Summary

The Summer Flounder, Scup, and Black Sea Bass Management Board and Mid-Atlantic Fishery Management Council (Council) received an update on the Summer Flounder Comprehensive Amendment and consider the priority issues to be addressed under commercial management strategies; review updated recreational harvest estimates for black sea bass; consider management action for the recreational black sea bass fishery in 2018; and begin discussions on alternatives for recreational summer flounder management moving forward.

Regarding the Comprehensive Amendment, staff presented initial analysis and management alternatives for the following issues: 1) permits and latent effort; 2) commercial allocation 3) landings flexibility; 4) safe harbor; 5) commercial data collection and monitoring; and 6) discards. Staff worked through the Fishery Management Action Team (FMAT) and working groups to draft alternatives for each issue, drawing from comments received during the amendment scoping process. In developing draft management alternatives, staff highlighted challenges in further refining draft alternative language and continuing analysis on issues 4-6 without specific guidance from the Board and Council. After considering the information provided, the Board and Council moved to drop issue areas 4-6 from the Draft Amendment. Staff will convene the FMAT and working groups in summer 2017 to continue development of draft alternatives ahead of the Board and Council's joint meeting in August.

The Board continues to struggle with using recreational harvest estimates generated by Marine Recreational Information Program (MRIP) to set annual harvest specifications. The Board tasked the Technical Committee with exploring methods to better evaluate volatility in harvest estimates generated from MRIP.

The Board also initiated two draft addenda specific to black sea bass recreational management in 2018. The first will explore options for recreational management that include regional allocations, uniform regional regulations, and alternatives to the current north/south regional delineation. A draft addendum will be presented to the Board later this year. The second addendum, to be pursued with the Council, will consider allowing an experimental wave 1 (January/February) recreational fishery starting in 2018. This addendum was initiated in response to a tabled motion from the joint Board/Council meeting in

February 2017 regarding an experimental black sea bass fishery that would be administered under an exempted fishing permit (EFP) program through NOAA Fisheries. The Board and Council moved to change the option of an experimental fishery through an EFP to one operating under a Letter of Authorization (LOA) program that NOAA Fisheries' Greater Atlantic Regional Office (GARFO) would administer. The Draft Addendum will be presented to the Board for its consideration and approval for public comment in August.

Last, the Board began discussions on how to improve management of the summer flounder recreational fishery in future years. A recreational working group will convene this summer to consider alternatives to the current management framework and report recommendations to the Board later this year.

For more information, please contact Kirby Rootes-Murdy, Senior FMP Coordinator, at krootes-murdy@asmfc.org or 703.842.0740.

Motions

Main Motion

Move to select alternative 2 from Section 3.0 for Addendum XXIX and preferred alternative 2 from Section 5 for Framework 10.

Board: Motion made by Dr. Pierce and seconded by Mr. Baum.

Council: Motion made by Mr. Baum and seconded by Ms. Nolan.

Motion to Substitute

Motion to substitute alternative 1 for alternative 2.

Board: Motion made by Mr. Reid and seconded by Mr. Alexander. Motion fails for lack of majority (4 in favor, 5 opposed, 3 abstentions).

Council: Motion by Mr. Hughes, seconded by Mr. Mann. Motion fails.

Main Motion

Move to select alternative 2 from Section 3.0 for Addendum XXIX and preferred alternative 2 from Section 5 for Framework 10.

Board: Motion made by Dr. Pierce and seconded by Mr. Baum. Motion carries (9 in favor, 1 opposed, 2 abstentions)

Council: Motion made by Mr. Baum and seconded by Ms. Nolan. Motion carries (20 in favor).

Move to approve Addendum XXIX as modified today.

Board: Motion made by Mr. Hasbrouck and seconded by Mr. Baum. Motion carries (Roll Call Vote: In Favor – MA, RI, NY, NJ, DE, MD, VA, NC, NMFS, USFWS; Opposed – CT; Abstentions – PRFC).

Move to submit Framework 10 to NMFS for approval.

Council: Motion made by Mr. Heins and seconded by Mr. deFur. Motion carries (19 in favor, 1 abstention).

Main Motion

Motion to accept the staff recommendations to provide direction to move forward with the draft amendment.

Council: Motion made by Mr. DiLernia and seconded by Mr. King. Motion amended.

Board: Motion made by Mr. Hasbrouck and seconded by Mr. Reid. Motion amended.

Motion to Amend

Motion to amend to drop landings flexibility (Alternative 4B) from the staff recommendations.

Board: Motion made by Mr. Bush and seconded by Mr. O'Reilly. Motion carries (8 in favor, 2 opposed, 2 abstentions).

Council: Motion made by Mr. Batsavage and seconded by Mr. Hughes. Motion fails due to lack of majority (9 in favor, 9 opposed, 2 abstentions).

Motion to accept the staff recommendations to provide direction to move forward with the draft amendment.

Council: Motion by Mr. DiLernia and seconded by Mr. King. Motion carries (16 in favor, 3 opposed).

Board: Motion by Mr. Hasbrouck and seconded by Mr. Reid. Motion carries (8 in favor, 3 opposed, 1 abstention).

Task the TC to review the recreational black sea bass MRIP harvest estimates over time (5 years? 10 years?) to identify highly variable state/wave/mode (other?) combinations that contribute to harvest volatility. Generate a methodology to "smooth" problematic harvest estimates along with criteria that determine when smoothing is appropriate to avoid an ad-hoc approach. The TC should consider some or all of the following: high and low estimates, PSEs, preliminary vs. final estimates and regulatory changes.

Board: Motion made by Mr. Gilmore and seconded by Mr. Clark. Motion carries unanimously.

Main Motion

For 2017, move to close the recreational black sea bass fishery in wave 6 (November 1-December 31) in state waters for the states of Massachusetts through New Jersey and maintain all other management measures from 2016.

Board: Motion made by Dr. Pierce and seconded by Mr. Bullard. Motion substituted.

Motion to Substitute

Move to substitute: For 2017, impose a 5 fish possession limit for recreational black sea bass in wave 6 in state waters for RI through NJ and maintain all other management measures for 2017.

Board: Motion made by Mr. Ballou and seconded by Mr. Alexander. Motion carries (9 in favor, 2 opposed, 1 abstention).

Main Motion as Substituted

For 2017, impose a 5 fish possession limit for recreational black sea bass in wave 6 in state waters for RI through NJ and maintain all other management measures for 2017.

Motion made by Mr. Ballou and seconded by Mr. Alexander. Motion carries (Roll Call Vote: In Favor – MA, RI, CT, DE, MD, PRFC, VA, NC, NMFS; Opposed – NY, NJ; Abstentions – NH, USFWS).

Move to initiate an addendum for 2018 recreational black sea bass management with options as recommended by the Working Group and Plan Development Team. Options for regional allocations shall include approaches with uniform regulations (e.g., number of days) and other alternatives to the current North/South regional delineation (MA-NJ/DE-NC) such as those applied for summer flounder, i.e., one-state regions.

Board: Motion made by Dr. Pierce and seconded by Mr. Clark. Motion carries (12 in favor, 1 opposed).

Tabled Motion from February 2017

Move to allow an experimental 2018 January/February (wave one), recreational, federally permitted for-hire fishery for black sea bass with a 15 fish per person possession limit, a suspended minimum size limit, and a zero discard policy to allow for barotrauma, and a mandatory trip reporting requirement.

Board: Motion made by Mr. Heins and seconded by Mr. Reid. Motion substituted.

Council: Motion made by Mr. DiLernia and seconded by Mr. King. Motion substituted.

Motion to Substitute

Move to substitute initiate a framework/addendum to allow a 2018, and beyond, Jan/Feb black sea bass recreational fishery with the vessel participating being require to obtain a letter of authorization from GARFO. Also, a 15 per person possession limit, no min size, zero discard policy, and require a call in and call out process and mandatory trip reporting. The fishery closes when the quota is met.

Board: Motion made by Mr. Gilmore and seconded by Mr. O'Reilly. Motion carries. (10 in favor, 3 opposed).

Council: Motion made by Mr. DiLernia and seconded by Mr. Nowalsky. Motion carries (13 in favor, 2 opposed).

Main Motion as Substituted

Move to initiate a framework/addendum to allow a 2018, and beyond, Jan/Feb black sea bass recreational fishery with the vessel participating being require to obtain a letter of authorization from GARFO. Also, a 15 per person possession limit, no min size, zero discard policy, and require a call in and call out process and mandatory trip reporting. The fishery closes when the quota is met.

Board: Motion carries (11 in favor, 2 opposed).

Council: Motion carries (13 in favor, 2 opposed).

Main Motion

Move the Summer Flounder, Scup, and Black Sea Bass Board recommend to the ISFMP Policy Board that the state of New Jersey be found out of compliance for not fully and effectively implementing and enforcing Addendum XXVIII to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan if the State does not implement the following measures by May 21, 2017:

- **Shore mode for Island Beach State Park only: 17-inch minimum size limit; 2-fish possession limit and 128-day open season.**
- **Delaware Bay only (west of the colregs line): 18-inch minimum size limit; 3-fish possession limit and 128-day open season.**
- **All other marine waters (east of the colregs line): 19-inch minimum size limit; 3-fish possession limit and 128-day open season**

The implementation of these regulations is necessary to achieve the conservation goals and objectives of the FMP to end overfishing of the summer flounder stock. In order to come back into compliance, the state of New Jersey must implement all of the measures listed above as contained in Addendum XXVIII to the Summer Flounder FMP.

Board: Motion made by Dr. Pierce and seconded by Mr. Ballou. Motion carries (9 in favor, 1 opposed, 2 abstentions).

Move to approve today the following measures for 2017 NJ summer flounder recreational fishery based on conservation equivalency:

- **Shore mode for Island Beach State Park only: 16-inch minimum size limit; 2-fish possession limit and 104-day open season (May 25-Sept 5)**
- **Delaware Bay only (west of the colregs line): 17-inch minimum size limit; 3-fish possession limit and 104-day open season (May 25-Sept 5)**
- **All other marine waters: 18-inch minimum size limit; 3-fish possession limit and 104-day open season (May 25-Sept 5)**

Board: Motion made by Mr. Baum and seconded by Mr. O'Reilly. Motion fails (Roll Call Vote: In Favor – NJ, DE, PRFC, VA; Opposed – MA, RI, CT, NY, MD, NC, USFWS; Abstentions – NMFS).

Move to approve the following measures for 2017 NJ summer flounder recreational fishery based on conservation equivalency:

- **Shore mode for Island Beach State Park only: 16-inch minimum size limit; 2-fish possession limit and 104-day open season (May 25-Sept 5)**
- **Delaware Bay only (west of the colregs line): 17-inch minimum size limit; 3-fish possession limit and 104-day open season (May 25-Sept 5)**
- **All other marine waters: 18-inch minimum size limit; 3-fish possession limit and 104-day open season (May 25-Sept 5)**

This is subject to the review and approval of the Technical Committee and subsequent Board consideration and approval.

Motion made by Mr. Borden and seconded by Mr. Clark. Motion carries (11 in favor, 1 opposed).

INTERSTATE FISHERIES MANAGEMENT PROGRAM POLICY BOARD (MAY 11, 2017)

Meeting Summary

The ISFMP Policy Board met to discuss several issues including an appeal from New Jersey, the 2017 Commissioner survey results, guidance on safe harbor landings, progress on changes to the Marine Recreational Information Program (MRIP), and a non-compliance recommendation from the Summer Flounder, Scup and Black Sea Bass Board.

New Jersey appealed the 2017 summer flounder recreational measures that were approved through Addendum XXVIII to the Summer Flounder, Scup, and Black Sea Bass FMP. In the appeal, New Jersey stated the addendum resulted in unforeseen circumstances and impacts including increasing discards, removal of large breeding females, and significant social and economic impacts. Further, the state felt the MRIP data used to develop the management options was not appropriate for management use. Lastly, the state contended the Commission failed to follow its process due to an error in the draft addendum document, public comment was not properly considered, and the enhanced shore mode was not included in the draft document. Following the appeal process, Commission leadership (Commission Chair and Vice-chair, past Chair and Summer Flounder Board Chair) reviewed the appeal and determined the appeal should be considered by the ISFMP Policy Board under criterion 2, failure to follow process due to an error in the draft addendum document. The Policy Board reviewed the justification provided by leadership. New Jersey requested the appeal be tabled until the next meeting of the ISFMP Policy Board to provide the Summer Flounder, Scup and Black Sea Bass Board the opportunity to consider an alternative set of regulations proposed by New Jersey to be conservationally-equivalent to those in Addendum XXVIII (see the summer flounder press release).

The Policy Board reviewed an informational document for states considering guidance for safe harbor and safe harbor landing events. The document describes safe harbor and the measures and practices states have put in place for vessels offloading fish that do not have a license to land in their state and have sought safe harbor. This is not a Commission policy but a living reference document for states to use a resource when crafting their own policies.

Chairman Grout updated the Policy Board on the progress of the Climate Change Working Group. The Working Group met earlier in the week to continue developing recommendations for both science and policy strategies to assist the Commission with adapting its management to changes in species abundance and distribution resulting from climate change.

The Policy Board approved sending two letters to NOAA Fisheries. The first is a letter supporting the preferred alternatives developed by the New England Fishery Management Council (NEFMC) in its Draft Deep Sea Coral Amendment. The second letter will request that NOAA Fisheries to fully adopt the measures of Addenda XXI and XXII to Amendment 3 to the Interstate Fishery Management Plan for American Lobster. These addenda address trap caps and trap banking in Lobster Conservation Management Areas 2 and 3 (see the American Lobster Board meeting summary for more information on these two letters). The Policy Board also approved sending a letter to NEFMC requesting Commission participation in the oversight of the Research Set-Aside (RSA) Program for Atlantic herring to have better communication between the recipients of awards and the states in order to minimize gear and user conflicts. It would also give the Section opportunity to provide input into the development and selection of the research priorities as well as the RSA fishing protocols. Lastly, the Policy Board will send a letter to Department of the Interior (DOI) reiterating the Commission's position that changes to regulations in marine waters should be completed through a transparent process with public participation. The DOI will be taking comments on monuments that were designated since January 1, 1996. The Commission's letter will address the NE Canyons and Seamounts Marine National Monument, specifically requesting the designated area be limited to water deeper than 600 meters which is consistent with the preferred alternatives in the NEFMC Deep Sea Coral Amendment.

The Policy Board reviewed the results of the 2017 Commissioner survey. This an annual survey gathers opinions on progress and actions of the Commission in the previous year. There was a slight decline in overall Commissioner satisfaction. Some common themes emerged, including working on climate change as it impacts fisheries, concern over the scarcity of fiscal resources resulting in data deficiencies, and the need for socioeconomic data and analyses.

NOAA Fisheries staff presented information on recent MRIP milestones, including the transition to the new mail-based fishing effort survey (FES). The presentation also included expected dates for the results of the FES and other changes to MRIP to be incorporated in to the survey estimates throughout the time series. These changes will impact future stock assessments and management decisions, especially those for species using quota management.

Lastly, the Policy Board recommended the Commission find New Jersey out of compliance for not fully and effectively implementing and enforcing Summer Flounder Addendum XXVIII if the state does not implement the following measures or equivalent measures as approved by the Summer Flounder Board by May 21, 2017.

- Shore mode for Island Beach State Park only: 17-inch minimum size limit; 2-fish possession limit and 128-day open season.
- Delaware Bay only (west of the colregs line): 18-inch minimum size limit; 3-fish possession limit and 128-day open season.
- All other marine waters (east of the colregs line): 19-inch minimum size limit; 3-fish possession limit and 128-day open season

The following agenda items were deferred to the August meeting: review and consider approval of standard meeting practices, progress update on the 2017 Atlantic Sturgeon Benchmark Stock Assessment, review and consider approval of the Commission assessment schedule, and standing committee reports.

For more information, please contact Toni Kerns, ISFMP Director, at tkerns@asmfc.org 703.842.0740.

Motions

On behalf of the American Lobster Board recommend the ISFMP Policy Board send a letter to NEFMC supporting the preferred alternatives developed by the NEFMC in their Deep Sea Coral Amendment.
Motion made by Mr. Borden on behalf of the American Lobster Board. Motion carries without objection.

On behalf of the American Lobster Board recommend the ISFMP Policy Board send a letter to Department of Interior reiterating the Commissions previous letter to President Obama regarding what is now the NE Canyons and Seamounts Marine National Monument.
Motion made by Mr. Borden on behalf of the American Lobster Board. Motion carries without objection

On behalf of the American Lobster Board recommend the ISMFP Policy Board send a letter to NOAA recommending to fully adopt Addenda XXI and XXII.
Motion made by Mr. Borden on behalf of the American Lobster Board. Motion carries without objection

On behalf of the Atlantic Herring Section recommend the ISFMP Policy Board send a letter to NEFMC requesting participation in the oversight of the Research Set-Aside Program.

Motion made by Mr. Borden on behalf of the American Lobster Board. Motion carries without objection.

Move to postpone the New Jersey Appeal of the Summer Flounder, Scup and BSB Addendum XXVIII until the next ISFMP Policy Board Meeting.

Motion made by Mr. Allen and seconded by Mr. Bush. Motion carries (17 in favor).

Main Motion

Move that the ISFMP Policy Board recommends the full Commission find the state of New Jersey be out of compliance for not fully and effectively implementing and enforcing Addendum XXVIII to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan if the State does not implement the following measures by May 21, 2017:

- **Shore mode for Island Beach State Park only: 17-inch minimum size limit; 2-fish possession limit and 128-day open season.**
- **Delaware Bay only (west of the colregs line): 18-inch minimum size limit; 3-fish possession limit and 128-day open season.**
- **All other marine waters (east of the colregs line): 19-inch minimum size limit; 3-fish possession limit and 128-day open season**

The implementation of these regulations is necessary to achieve the conservation goals and objectives of the FMP to end overfishing of the summer flounder stock. In order to come back into compliance, the state of New Jersey must implement all of the measures listed above as contained in Addendum XXVIII to the Summer Flounder FMP.

Motion made by Dr. Pierce on behalf of the Summer Flounder, Scup and Black Sea Bass Board. Motion amended.

Motion to Amend

Move to amend to include “or equivalent measures as approved by the Summer Flounder Board”.

Motion made by Mr. Boyles and seconded by Mr. Shiels. Motion carries (12 in favor, 4 abstentions).

Main Motion as Amended

Move that the ISFMP Policy Board recommends the full Commission find the state of New Jersey be out of compliance for not fully and effectively implementing and enforcing Addendum XXVIII to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan if the State does not implement the following measures or equivalent measures as approved by the Summer Flounder Board by May 21, 2017:

- **Shore mode for Island Beach State Park only: 17-inch minimum size limit; 2-fish possession limit and 128-day open season.**
- **Delaware Bay only (west of the colregs line): 18-inch minimum size limit; 3-fish possession limit and 128-day open season.**
- **All other marine waters (east of the colregs line): 19-inch minimum size limit; 3-fish possession limit and 128-day open season**

The implementation of these regulations is necessary to achieve the conservation goals and objectives of the FMP to end overfishing of the summer flounder stock. In order to come back into compliance, the state of New Jersey must implement all of the measures listed above as contained in Addendum XXVIII to the Summer Flounder FMP.

Motion carries (13 in favor, 1 opposed, 2 abstentions).

BUSINESS SESSION (MAY 11, 2017)

Meeting Summary

The Commission found New Jersey out of compliance for not fully and effectively implementing and enforcing Addendum XXVIII to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) if the State does not implement the below measures or equivalent measures as approved by the Summer Flounder Board by May 21, 2017. Implementation of the following regulations is necessary to achieve the conservation goals and objectives of the FMP to end overfishing of the summer flounder stock:

- Shore mode for Island Beach State Park only: 17-inch minimum size limit; 2-fish possession limit and 128-day open season.
- Delaware Bay only (west of the colregs line): 18-inch minimum size limit; 3-fish possession limit and 128-day open season.
- All other marine waters (east of the colregs line): 19-inch minimum size limit; 3-fish possession limit and 128-day open season

New Jersey submitted a proposal to the Summer Flounder, Scup, and Black Sea Bass Board for an alternative management program, which will be reviewed by the Summer Flounder Technical Committee (TC). Following the TC's review, the Board will consider approval of the proposal. If the proposal is accepted by the Board, New Jersey will have until May 21st to implement the approved measures. If conservationally-equivalent measures are not approved, New Jersey will need to implement the above measures by May 21st or the Commission will move forward with a non-compliance finding regarding New Jersey's failure to implement Addendum XXVIII's required management measures. If necessary, the Commission's Executive Director has been directed to forward the non-compliance letter to the Secretaries of Commerce and the Interior by June 2, 2017.

For more information, please contact Robert Beal, Executive Director, at rbeal@asmfc.org or 703.842.0740.

Motions

On behalf of the ISFMP Policy Board move the full Commission find the state of New Jersey be out of compliance for not fully and effectively implementing and enforcing Addendum XXVIII to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan if the State does not implement the following measures or equivalent measures as approved by the Summer Flounder Board by May 21, 2017:

- **Shore mode for Island Beach State Park only: 17-inch minimum size limit; 2-fish possession limit and 128-day open season.**
- **Delaware Bay only (west of the colregs line): 18-inch minimum size limit; 3-fish possession limit and 128-day open season.**
- **All other marine waters (east of the colregs line): 19-inch minimum size limit; 3-fish possession limit and 128-day open season**

The implementation of these regulations is necessary to achieve the conservation goals and objectives of the FMP to end overfishing of the summer flounder stock. In order to come back into compliance, the state of New Jersey must implement all of the measures listed above as contained in Addendum XXVIII to the Summer Flounder FMP.

Motion made by Mr. Grout on behalf of the ISFMP Policy Board. Motion carries (Roll Call Vote: In Favor – RI, CT, NY, NJ, PA, DE, MD, VA, NC, SC, GA, FL; Abstentions – NH).

SOUTH ATLANTIC STATE/FEDERAL FISHERIES MANAGEMENT BOARD (MAY 11, 2017)

Meeting Summary

The South Atlantic State/Federal Fisheries Management Board met for a progress report on the development of the draft Interstate Fishery Management Plan (FMP) for Atlantic Migratory Group (AMG) Cobia, provide direction to the Plan Development Team (PDT) on several options to be included in the draft FMP, and receive reports on the Atlantic croaker and spot benchmark stock assessments and peer reviews.

Cobia Draft FMP

Following the progress report on the draft FMP development, the Board directed the PDT to develop options that maintain recreational and commercial harvest within the federal allowable catch limit of 620,000 pounds while providing states the flexibility to establish seasons and vessel limits to control harvest within a specified limit. The Board supported the inclusion of a coastwide bag limit of 1 fish per person and a 36" FL size limit consistent with the South Atlantic Fishery Management Council (SAFMC) Plan. The Board also considered potential complementary measures to be discussed with the National Marine Fisheries Service and the SAFMC related to cobia fisheries in federal waters. The draft FMP will be reviewed by the Board and considered for public comment at the August 2017 meeting. Pending Board approval, management measures from the draft FMP could be enacted as early as the 2018 fishing year.

The Board was updated on scheduling of the next benchmark stock assessment for AMG cobia through the Southeast Data, Assessment, and Review (SEDAR) process. This benchmark stock assessment will begin with a Stock Identification Workshop in 2018.

Recognizing that the majority of the cobia harvest occurs in state waters and that sole management authority would provide maximum state flexibility, the Board approved a motion to request that the SAFMC consider transferring management authority of Atlantic Migratory Group cobia to the Commission. The Board was informed that a potential transfer of management authority would not affect the upcoming SEDAR assessment.

Atlantic Croaker Benchmark Stock Assessment and Peer Review

The Board reviewed the 2017 Atlantic Croaker Benchmark Stock Assessment and Peer Review Report. The assessment indicated that the stock is not overfished and overfishing is not occurring, based on model results. However, alternative model runs revealed that these results were sensitive to some of the assumptions within the model, specifically data weighting methods and commercial fishery selectivity (the relative vulnerability of different sizes of fish to capture by the gears used in the commercial fishery). While the Review Panel generally agreed with the model results that the stock is likely growing and there is no immediate need for management action, they were not confident enough in the results to recommend specific overfished and overfishing stock statuses to be used for management.

The Review Panel recognized several advances made by the Stock Assessment Subcommittee since the previous assessment in 2010, particularly estimation of shrimp trawl bycatch removals. Due to the large percentage of removals attributed to shrimp trawl bycatch (over 90% of total removals annually) the Review Panel recommended these removals be incorporated into the annual Traffic Light Analysis used to monitor Atlantic croaker. The Atlantic Croaker Technical Committee will present an updated Traffic Light Analysis and potential methods for incorporating the shrimp trawl removals at the August 2017 Board Meeting.

Due to time constraints, Board review of the 2017 Spot Benchmark Stock Assessment and Peer Review Report was not addressed during this meeting and was postponed until the August 2017 Board Meeting.

Please contact Dr. Louis Daniel at ldaniel@asmfc.org for information on cobia management and Mike Schmidtke at mschmidtke@asmfc.org for more information on the all other South Atlantic species.

Motions

Move to request that the SAFMC and GMFMC consider transferring management authority of Atlantic migratory Cobia stock to ASMFC.

Motion made by Mr. Bush and seconded Mr. Cimino. Motion carries without objection.