



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767 TDD 711

To: Mark Gibson
Division of Fish & Wildlife – Marine Fisheries

From: W. Michael Sullivan
Director

A handwritten signature in black ink that reads "W. Michael Sullivan".

Date: March 24, 2009

Re: Marine Fisheries Regulatory Issues

I am writing with regard to the following regulatory issues, which were presented at the February 24, 2009 public hearing:

- Tautog commercial regulations for 2009
- Tautog recreational regulations for 2009
- Menhaden commercial regulations for 2009
- Monkfish commercial regulations for 2009
- Cod commercial regulations for 2009
- Sea scallop commercial regulations for 2009
- Coastal shark regulations

I have reviewed all of the relevant information pertaining to these issues – namely, the minutes from all of the relevant advisory panel meetings, the public hearing summary documents and summary of public hearing comments, including written comments, from the 2/14/09 public hearing, the minutes of the 3/2/09 meeting of the RI Marine Fisheries Council, and your 3/11/09 memo to me.

Pursuant to my review and consideration of all of the above-noted information, I have reached the following decisions on the remaining matters.

Tautog commercial regulations – I concur with the unanimous view to maintain the status quo for commercial tautog regulations for 2009.

Tautog recreational regulations – I concur with the unanimous view to maintain the status quo for recreational tautog regulations for 2009.

Menhaden commercial regulations – I concur with the unanimous view to maintain the status quo for commercial menhaden regulations for 2009.

Monkfish commercial regulations -- – I recognize and appreciate the strong interest regarding this issue on the part of both Rhode Island fishermen who hold federal monkfish permits and Rhode Island fishermen who do not. I believe that the State can and should do all that it can to manage state-waters fisheries in a way that benefits the fishermen and citizens of the State, and I further believe that such management must be undertaken in a manner consistent with regional management programs that seek to manage each stock as a unit throughout its range. In the case of monkfish, I feel that a compelling case has been made to adjust the regulations governing the state-waters portion of the fishery to essentially mirror the federal management program for the southern New England region, at least in terms of daily possession limits. I recognize that to truly parallel the federal management program, RI would need to institute control dates and days-at-sea restrictions. But with only a relatively small portion of the stock overlapping RI waters, I feel that we can allow the state-waters fishery to expand, without such effort controls, provided that a hard total allowable catch (TAC) is established and strictly enforced. Accordingly, ***I concur with your recommendation, and that of the Council, to increase the daily possession limit for monkfish in RI waters to 550 pounds (tail weight) and to establish a hard TAC for RI waters of 1% of the southern New England monkfish quota.*** This would apply to licensed state-waters fishermen only. I understand that 1% of the current southern New England quota would amount to approximately 112,000 pounds for 2009, which is almost twice the total amount landed in 2008 by state-licensed fishermen in RI. I further recognize that there is a move afoot at the New England Council to amend the federal monkfish plan, and that the Council is generally favoring moves toward hard TACs and output controls. And so the time is right to establish a RI state-waters component, as a percentage of the overall regional fishery, and then seek to lock that into the amended plan so that as the overall fishery continues to grow, and quotas expand, Rhode Island's state-water fishery can also expand in a consistent and sustainable way. To ensure that the state-waters TAC is not exceeded, ***I concur with your recommendation to set a 90% trigger at which point the daily possession limit will be reduced to the 50-pound (tail weight) incidental catch limit.*** Finally, I agree that the regulations should clearly state that ***federally permitted fishermen are allowed to transit state waters*** with catches that are within their federal limits, regardless of what state regulations allow, as long as their gear is stowed and they are not in fishing mode.

My support for the interests of our state-waters fishermen is mixed with some caution regarding one unfortunate potentiality associated with an upward adjustment in daily possession limits: an increase in illegal activity. I have every reason to believe that the vast majority of RI fishermen understand that it is in their best interest to maintain compliance with all applicable state and federal rules, since not doing so compromises sound management and creates an uneven playing field. But the flip side to that is that there tend to be a few fishermen who do take advantage of opportunities to cheat – e.g., engage in at-sea transfers or fish outside of state waters without a federal permit. To help ensure that our growing state-waters monkfish fishery remains healthy and sustainable, it needs to be well managed; and good management requires effective enforcement. I therefore call upon Chief Hall to work in close coordination with the Coast Guard to closely monitor the state-waters fishery operations around Block Island,

particularly during the height of the monkfish season, and to take strong action against anyone found to be operating in violation of state or federal rules.

Cod commercial regulations – My assessment of this issue parallels my assessment of the monkfish issue. I understand the interests of our state-waters fishermen, and I also understand the importance of maintaining appropriate harvest controls on an overfished stock that remains subject to a very difficult and contentious rebuilding program. As with monkfish, I do feel that a compelling case has been made for easing the very restrictive commercial limits for cod in RI state waters. I recognize that it has been many years since cod occurred in RI waters in numbers that would support a significant commercial fishery, and that this situation is unlikely to change in the near future, regardless of what catch limits are in place. But I also recognize that in the event of an unexpectedly good haul, it would be wasteful and illogical to require that all but 75 pounds be discarded. And I further recognize that if/when the federal management program does succeed in rebuilding the cod stock off of southern New England, a meaningful commercial fishery could return to RI waters, and so, with hard TACs and output controls on the horizon, it makes sense for RI to establish a state-waters fishery, if only as a place holder, to protect the long-term interests of our state-waters fishermen. Accordingly, ***I support the Council's recommendation to increase the daily possession limit for cod in RI waters to a level that mirrors the federal limits, and to establish a hard TAC for RI waters of 1% of the New England (Georges Bank) quota.*** This would apply to licensed state-waters fishermen only. I understand that 1% of the current New England (Georges Bank) quota would amount to approximately 80,000 pounds for 2009. I appreciate your concern regarding the uncertainty of future management for Georges Bank cod, given recent court orders, New England Council actions, NMFS interim rules, and most importantly, less than encouraging GARM III (assessment) results, all of which suggest to you that we should impose a trip limit that is less than the current federal limit. But I respectfully disagree, and believe that we should establish an identical limit – which I understand to be 1,000 pounds/day, and then adjust as necessary based on any changes to the federal program. I believe that the key is to remain in synch with the federal program, and if that means making subsequent changes, up or down, than so be it. As with monkfish, to ensure that the state-waters TAC for cod is not exceeded, ***I concur with your recommendation to set a 90% trigger at which point the daily possession limit will be reduced to the 75-pound incidental catch limit.*** Finally, I agree that the regulations should clearly state that ***federally permitted fishermen are allowed to transit state waters*** with catches that are within their federal limits, regardless of what state regulations allow, as long as their gear is stowed and they are not in fishing mode.

Given the very limited nature of the current commercial cod fishery in RI state waters, we need to be vigilant of state licensed fishermen taking cod from federal waters, and so my emphasis on strong enforcement, set forth above with regard to monkfish, applies to cod as well.

Sea scallop commercial regulations – My assessment of this issue tracks my above assessments offered with regard to monkfish and cod. For the same reasons, I concur with your recommendation, and that of the Council, to increase the possession limit for sea scallops in RI waters to 400 pounds of shucked scallops/day, and add a 50-bushel/day limit, 3 ½ inch minimum shell size, 4" ring size, and minimum 10" twine size. I understand that these regulations will align the rules governing state waters with those governing federal waters. Again, given the very limited nature of the current commercial

sea scallop fishery in RI state waters, we need to be vigilant of state licensed fishermen taking sea scallops from federal waters, and so my emphasis on strong enforcement, set forth above with regard to monkfish and cod, applies to sea scallops as well.

Coastal shark plan – I concur with your recommendation, and that of the Council, to adopt the proposed coastal shark plan for RI waters, so as to come into compliance with the ASMFC requirement.

cc: Steve Hall, Chief, Office of Law Enforcement