



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF THE DIRECTOR
235 Promenade Street, Room 425
Providence, Rhode Island 02908

To: Jason McNamee
Chief, Marine Resource Management

From: Janet Coit
Director *Janet Coit ADP/RCM for*

Date: April 5, 2017

Re: Final Decisions Pertaining to February 13, 2017 Marine Fisheries Public Hearing Items

I have received and reviewed your memo to me, dated April 4, 2017 and attached herewith, regarding the public hearing items from the February 13, 2017 public hearing. With that memo, I have also received and reviewed all relevant supporting documentation, including the February 13, 2017 public hearing documents and public comments received, as well as the summary report from the February 28, 2017 meeting of the RI Marine Fisheries Council (RIMFC).

The specific regulatory items, and my final decisions for each, are as follows:

1. **Recreational Summer Flounder:**

- **Decision:** Amend the regulations consistent with the recommendation of Marine Fisheries. At this time I support the recommendation and rationale to maintain compliance with the ASMFC Fisheries Management Plan for summer flounder; however, I also concur with your assessment regarding the need to address the ASMFC in regard to their rationale for rejecting the conservation equivalency proposal submitted, and authorize that a letter be drafted for my signature in the next two weeks. It is imperative that we know the reasoning behind the rejection as this could have bearing on future conservation equivalency proposals that the state may wish to submit. This has been a long and difficult management process this year, it is time to get our rules filed for the 2017 recreational fishery, but we will continue to pursue an appeal as the outcome of the ASMFC process was not ideal nor particularly fair for the state of RI. As a final comment, I am aware that GARFO has not yet approved the ASMFC's Addendum on behalf of the federal government, the Department will continue to track this aspect of the management program as it develops.

2. **Recreational Tautog:**

- **Decision:** Amend the regulations consistent with the recommendation of Marine Fisheries and the RI Marine Fisheries Council.

3. **Commercial Tautog:**

- **Decision:** Amend the regulations consistent with the recommendation of Marine Fisheries and the RI Marine Fisheries Council.

4. **Commercial Bluefish:**

- **Decision:** Amend the regulations consistent with the recommendation of Marine Fisheries and the RI Marine Fisheries Council.

5. **Recreational Scup:**

- **Decision:** Maintain status quo consistent with the recommendation of Marine Fisheries and the RI Marine Fisheries Council.

6. **Recreational Black Sea Bass:**

- **Decision:** Amend the regulations consistent with the recommendation of Marine Fisheries and the RI Marine Fisheries Council. Given the current guidance from the ASMFC and the approval of status quo harvest for 2017, and given that the calculations done by Marine Fisheries indicate that harvest under the proposed changes will be equal to the harvest under status quo management measures, the Council recommended management is the preferred management strategy for 2017. Further, the possibility that this will decrease discarding in the recreational black sea bass fishery is another important attribute of this management strategy. While I know that the Marine Fisheries program investigated the timing of migratory patterns of black sea bass in RI waters to determine if the entire fall federal closure was warranted, there was no evidence provided to indicate that a change should be made to the Council's recommendation, and therefore I do not have data by which to change the recommendation of the Council. Therefore the Council recommendation will go forward as my decision. As was the case for summer flounder, I am aware that GARFO has not yet approved the ASMFC's approved management for 2017, therefore the Department will continue to track this aspect of the management program in 2017 as it develops.

7. **Recreational Striped Bass:**

- **Decision:** Maintain status quo consistent with the recommendation of Marine Fisheries and the RI Marine Fisheries Council.

8. **Commercial Striped Bass – General Category:**

- **Decision:** Amend the regulations consistent with the recommendation of Marine Fisheries and the RI Marine Fisheries Council. Given the amount of feedback we received on this topic, I wanted to note that this again was a difficult decision given the differences in opinion of the appropriate management program by different user groups. As was the case last year, I believe the Council did a good job of vetting the information and comments received and did the best they could to strike a compromise between the different fisheries for striped bass. It is for this reason that I

support the Council's decision on general category striped bass management for 2017.

9. **Commercial Striped Bass – Floating Fish Traps:**

- **Decision:** Amend the regulations consistent with the recommendation of Marine Fisheries and the RI Marine Fisheries Council.

10. **Commercial Menhaden:**

- **Decision - Proposal 1:** Amend the regulations consistent with the recommendation of Marine Fisheries and the RI Marine Fisheries Council.
- **Decision – Proposal 2:** Maintain status quo consistent with the recommendation of Marine Fisheries and RI the Marine Fisheries Council.

12. **Proposed Providence and Seekonk Rivers Shellfish Management Area:**

- **Decision:** Adoption of the Shellfish Management Area consistent with the recommendation of Marine Fisheries and the RI Marine Fisheries Council.

13. **Proposed Warren River Shellfish Management Area:**

- **Decision:** Adoption of the Shellfish Management Area consistent with the recommendation of Marine Fisheries and the RI Marine Fisheries Council.

14. **Proposed Town Pond Shellfish Management Area:**

- **Decision:** Adoption of the Shellfish Management Area consistent with the recommendation of Marine Fisheries and the RI Marine Fisheries Council.

15. **Proposed Narrow River Shellfish Management Area:**

- **Decision:** Adoption of the Shellfish Management Area consistent with the recommendation of Marine Fisheries and the RI Marine Fisheries Council.

16. **Proposed Little Narragansett Bay/Pawcatuck River Shellfish Management Area:**

- **Decision:** Adoption of the Shellfish Management Area consistent with the recommendation of Marine Fisheries and the RI Marine Fisheries Council.

17. **Proposed amendment to modify the boundary of the Bristol Harbor Shellfish Management Area:**

- **Decision:** Amend the regulations consistent with the recommendation of Marine Fisheries and the RI Marine Fisheries Council.



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

INTER-OFFICE MEMO

TO: Janet Coit, Director

FROM: Jason McNamee, Chief

DATE: April 4, 2017

SUBJECT: Decisions regarding proposed amendments to the RI Marine Fisheries regulations that were the subject of a public hearing conducted on February 13th and RI Marine Fisheries Council (RIMFC) meeting on February 28th.

1. **Hearing item 1a. - Recreational Summer flounder:**

- Options presented:

Option	Min. size	Season	Possession limit (person/day)
Status quo	18"	5/1 – 12/31	8 fish
<u>ASMFC (1)</u>	<u>19"</u>	5/1 – 12/31	<u>4</u> fish
<u>ASMFC (2)</u>	18"	<u>6/1 – 9/15</u>	<u>3</u> fish
<u>Workshop (3)</u>	18"	5/1 – <u>8/4</u>	<u>4</u> fish
<u>Workshop (4)</u>	18"	<u>7/2 – 8/31</u>	<u>4</u> fish
<u>Industry (5)</u>	<u>19"</u>	5/ <u>19</u> – 12/31	<u>6</u> fish
<u>Industry (6)</u>	<u>19"</u>	5/ <u>19</u> – 12/31	8 fish

- Public comments: Written and oral comments provided; comments varied; support for increasing min. size in order to maximize length of season.
- RIMFC: 7 – 0 in support of **Industry option 5.**
- Marine Fisheries: A harvest reduction is required for the 2017 season to maintain compliance with the ASMFC Fisheries Management Plan (FMP) for summer flounder. Given the prescriptive nature of Addendum XXVIII of the FMP, only option **ASMFC (1)** is compliant. Marine Fisheries has made every effort to find a way to allow for flexibility in recreational summer flounder management in 2017 by supporting our delegations vote for a more flexible option during the addendum approval process
<http://www.asmfc.org/files/Meetings/2017WinterMeeting/2017WinterMeetingSummary>

[.pdf](#)) as well as submitting a conservational equivalency subsequent to the Addendum approval (<http://www.asmf.org/files/Meetings/SFlounderScupBSBboardMarch2017/SFlounderScupBSB Board MtgSummary March30 2017.pdf>). The conservation equivalency was not approved by the ASMFC, so Marine Fisheries is recommending moving forward with the Addendum XXVIII compliant option at this time, **ASMFC (1)** as noted above, not option 5 as recommended by the RIMFC. While we support this option due to the need to have regulations in place at the onset of this recreational season, Marine Fisheries also recommends filing an appeal with the ASMFC regarding the determination of our conservation equivalency proposal. Filing this appeal is important as it is unclear why the proposal was rejected, as it met technical merits and did not appear to be rejected on those grounds. It will be important to understand why the ASMFC Summer Flounder Board did not approve RI's proposal in order to construct future conservation equivalency submissions that will have a better chance of being approved. Please note that much of this information was not available at the time of the RIMFC meeting, and therefore not available to the Council members for consideration in making their recommendation.

- Timing to file: File immediately and submit appeal as soon as possible.

2. **Hearing item 1b. - Recreational Tautog:**

- Options presented:

Option	Min. size	Seasons	Possession limit (person/day)
<u>Option 1:</u> Status quo	16"	4/15 – 5/31	3 fish
		8/1 - Friday before 3rd Sat. in Oct:	3 fish
		3rd Sat. in Oct. – 12/15	6 fish
<u>Industry (option 2)</u>	16"	5/1 – 5/31	3 fish
		8/1 – <u>10/14</u>	3 fish
		<u>10/15</u> – 12/15	6 fish

- Public comments: Support for both options.
- RIMFC: 7 – 0 in support of **option 2**.
- Marine Fisheries: Both options would be FMP compliant, therefore Marine Fisheries supports **option 2** as recommended by the RIMFC.
- Timing to file: Immediately

3. **Hearing item 1c. - Commercial Tautog:**

- Options presented:

Option	Min. size	Season	Allocation	Possession limit
<u>Status quo (1):</u>	16"	4/15 – 5/31	1/3	10 fish/vsl/day
		8/1 – 9/15	1/3	
		10/15 – 12/31	1/3	
<u>Option (2):</u> Industry	16"	4/15 – 5/31	<u>25%</u>	
		8/1 – 9/15	<u>25%</u>	
		10/15 – 12/31	<u>50%</u>	
<u>Option (3):</u> Industry	16"	4/15 – 5/31	<u>40%</u>	
		8/1 – 9/15	<u>20%</u>	
		10/15 – 12/31	<u>40%</u>	
<u>Option (4):</u> Industry	<u>Commercial management same as recreational</u>			

- Public comments: Support for options 1, 2 and 3.
- RIMFC: 7 – 0 in support of **option 3**.
- Marine Fisheries: All options would be FMP compliant, therefore Marine Fisheries supports **option 3** as recommended by the RIMFC.
- Timing to file: Immediately

4. Hearing item 1d. - Commercial Bluefish:

- Options presented:

Option	Min. size	Season	Possession limit (lbs/vsl/wk)
<u>Status quo (1):</u>	18"	1/1 – 4/30	500
		5/1 – 11/15	4,000
		11/16 – 12/31	500
<u>Option (2):</u>	18"	1/1 – 4/30	500
		5/1 – 11/ <u>11</u>	<u>6,000</u>
		11/ <u>12</u> – 12/31	500
<u>Option (3):</u> Industry	<u>12"</u>	1/1 – 4/30	500
		5/1 – 11/ <u>11</u>	<u>6,000</u>
		11/ <u>12</u> – 12/31	500
<u>Option (4):</u> Industry	<u>15"</u>	1/1 – 4/30	500
		5/1 – 11/ <u>11</u>	<u>6,000</u>
		11/ <u>12</u> – 12/31	500

- Public comments: Varied; support for all options.
- RIMFC: 7 – 0 in support of **option 3**.
- Marine Fisheries: All options would be FMP compliant, therefore Marine Fisheries supports **option 3** as recommended by the RIMFC.
- Timing to file: Immediately

5. **Hearing item 1e. - Recreational Scup:**

- Option presented:

Option	Mode	Min. size	Seasons	Possession limit (person/day)
<u>Option 1:</u> Status quo	General Fishery	10"	5/1 – 12/31	30 fish
	P/C	10"	5/1 -8/31	30 fish
			9/1 – 10/31	45 fish
			11/1 – 12/31	30 fish
	Special Shore	9"	5/1 – 12/31	30 fish

- Public comments: Support for status quo.
- RIMFC: 7 – 0 in support of **status quo**.
- Marine Fisheries: Support for **status quo**.
- Timing to file: Immediately.

6. **Hearing item 1f. - Recreational Black Sea Bass:**

- Options presented:

Option	Min. Size	Sub-periods	Possession Limit
<u>Status Quo (1):</u>	15"	6/24 – 8/31	3 fish
		9/1 – 12/31	7 fish
<u>Workshop (2):</u>	15"	6/24 – 8/31	3 fish
		9/1 – <u>10/21</u>	7 fish
<u>Workshop (3):</u>	15"	<u>7/6</u> – 8/31	3 fish
		9/1 – 12/31	7 fish
<u>Workshop (4):</u>	15"	<u>5/25</u> – 8/31	3 fish
		9/1 – <u>9/21</u>	7 fish
		<u>10/22</u> – 12/31	7 fish
<u>Workshop (5):</u>	15"	6/ <u>10</u> – 8/31	3 fish
		9/1 – <u>9/21</u>	7 fish
		<u>10/12</u> – 12/31	7 fish
<u>Industry (6):</u>	15"	6/ <u>14</u> – <u>9/30</u>	3 fish
		<u>10/15</u> – 12/31	7 fish

- Public comments: Varied. Support for options 1, 4, and 5; support for earlier opening; support for closing consistent with the federal closure.
- RIMFC: 7 – 0 in support of **option 4**.

- Marine Fisheries: All options would be FMP compliant as the ASMFC black sea bass management board has approved status quo harvest levels for 2017. Marine Fisheries identified the potential for decreased discards as an attribute of the proposed management option which included a closed period in the fall while increasing the open period in the spring. Marine Fisheries investigated tradeoffs between the spring and the fall by way of a closure and impacts to discards, but that analysis did not show any meaningful differences between the two periods that would end up being closed. Therefore, there is not data available to change the Councils recommended management strategy for 2017. Marine Fisheries therefore supports **option 4** as recommended by the RIMFC.
- Timing to file: Immediately.

7. **Hearing item 2a. - Recreational Striped Bass:**

- Option presented:

Option	Min. size		Season	Possession limit (person/day)
<u>Option 1:</u> Status quo	28"		1/1/ - 12/31	30 fish

- Public comments: Support for status quo.
- RIMFC: 7 – 0 in support of **status quo**.
- Marine Fisheries: No action is required for 2017; support for **status quo**.
- Timing to file: Immediately.

8. **Hearing item 2b. – Commercial Striped Bass General Category:**

- Option presented:

Option	Min. size	Season	Allocation	Possession limit (person/day)
<u>Option 1:</u> Status Quo	34"	5/29 – 8/31	70%	5 fish
		9/8 – 12/31	30%	5 fish
Industry (2)	34"	5/ <u>28</u> – 8/ <u>14</u>	<u>60%</u>	5 fish
		8/ <u>15</u> – 12/31	<u>40%</u>	5 fish
Industry (3)	34"	5/ <u>15</u> – <u>9/2</u>	<u>80%</u>	5 fish
		<u>9/3</u> – 12/31	<u>20%</u>	5 fish
Industry (4)	34"	5/ <u>28</u> – 8/ <u>14</u>	<u>60%</u>	5 fish
		<u>8/25</u> – 12/31	<u>40%</u>	5 fish
Industry (5)	34"	<u>Did not specify</u>	<u>50%</u>	5 fish

		<u>Did not specify</u>	<u>50%</u>	5 fish
Industry (6)	34"	<u>6/4</u> – 8/31	<u>70%</u>	5 fish
		<u>9/5</u> – 12/31	<u>30%</u>	5 fish

- Public comments: Varied. Great deal of support for status quo and option 3.
- RIMFC: 5 - 1 in support of status quo, however with an additional recommendation to amend the 1st period opening date to 5/28 so as to fall on a Sunday (as fishery is closed Friday's and Saturday's).
- Marine Fisheries: All options are FMP compliant, however Marine Fisheries did not support the allocation recommendation in option 3 due to the difficulty in managing such a small allocation, or option 5 due to the lack of specificity. All other options available, including the parts of option 3 that were not allocation related, would be manageable for Marine Fisheries, therefore the recommendation is to remain at status quo as recommended (and amended) by the RIMFC. We also recommend an additional minor modification that the fall sub-period opening date so that the opening date occurs on a Sunday (September 10th) rather than a weekly closure date.
- Timing to file: Immediately.

9. Hearing item 2c. – Commercial Striped Bass Floating Fish Traps:

- Option presented:

Option	Min. size	Possession limit	Season
<u>Option 1:</u> Status quo	26"	Unlimited	4/1 - 12/31
<u>Option 2 industry proposal:</u> Adjust poss. limit trigger	<u>Proposed language:</u> <u>Possession limit: Unlimited. Once seventy percent (70%) of the seasonal allocation is projected to be harvested the possession limit shall be 200 pounds per floating fish trap licensee per calendar day.</u>		

- Public comments: Support for both options.
- RIMFC: 6 – 0 in support of option 2.
- Marine Fisheries: Either option would be manageable for Marine Fisheries, therefore we support option 2 as recommended by the RIMFC.
- Timing to file: Immediately.

10. Hearing item 3. – Commercial Menhaden:

- Proposal 1: Change bycatch limit as defined in ASMFC Addendum I to Amendment 2
 - Proposed language:

16.1.2 (B) Once the quota has been reached, the fishery will close for directed fisheries, including but not limited to purse seine operations, and a -the landing bycatch limit for non-directed fisheries will be 6,000 pounds per vessel per day will be in effect. The bycatch limit will be:

(1) 6,000 pounds per vessel per day for non-directed fisheries.

(2) If two commercially licensed individuals are harvesting from the same vessel, 2 daily possession limits (12,000 pounds per vessel per day) may be harvested from one of the following gear types: pound nets, fish traps, anchored/staked gill nets, and fyke nets.

- Public comments: Support for proposal.
 - RIMFC: 7 – 0 in support of the proposal.
 - Marine Fisheries: Marine Fisheries supports the proposal as compliant with the latest addendum to the ASMFC menhaden FMP, and we therefore support the recommendation of the RIMFC.
 - Timing to file: Immediately.
- **Proposal 2:** Modify location of Fall opening for purse seining.

- Proposed language:

(E) Fall opening within the Menhaden Management Area:

(1) Beginning September 1 annually, the ~~area south of a line from the Jamestown and Newport Bridges, and the area south of a line from Fogland Point to Sandy Point in the Sakonnet River, to the southern extent of the~~ Management Area will be open to the harvest of menhaden by purse seine as long as the states quota has not been exhausted or if the Episodic Event Set Aside Program, as described in this section, has been enacted in RI.

- Public comments: Both strong support and opposition to proposal. Written comment signed by 3 commercial lobstermen in support of proposal.
- RIMFC: 6 – 1 in support of maintaining the current language and to recommend ***not*** to adopt the language as proposed.
- Marine Fisheries: Marine Fisheries would have been able to manage the proposal, however, we support of the recommendation of the RIMFC.
- Timing to file: Immediately.

11. **Hearing item 4a. proposed new Shellfish Management Areas:**

- **Providence/Seekonk Rivers:**
 - Public comments: Support as proposed.
 - RIMFC: 7 – 0 in support of the proposal.

- Marine Fisheries: Marine Fisheries supports the area as proposed in concurrence with the RIMFC.
- Timing to file: Immediately.
- **Warren River:**
 - Options presented:
 - **Option 1:** Include only closed waters of the Barrington, Palmer, and Warren Rivers.
 - **Option 2:** Include portion of Conditional Area A in addition to closed areas.
 - Public comments: Strong opposition to option 2.
 - RIMFC: 7 – 0 in support of **option 1.**
 - Marine Fisheries: In support of either option; however concur with the public comments and Council recommendation in supporting **option 1.**
 - Timing to file: Immediately.
- **Town Pond:**
 - Public comments: No comments.
 - RIMFC: 7 – 0 in support of the proposal.
 - Marine Fisheries: Marine Fisheries supports the area as proposed in concurrence with the RIMFC.
 - Timing to file: Immediately.
- **Narrow River:**
 - Public comments: No comments.
 - Council: 7 – 0 in support of the proposal.
 - Marine Fisheries: Marine Fisheries supports the area as proposed in concurrence with the RIMFC.
 - Timing to file: Immediately.
- **Greenhill Pond:**
 - Public comments: No comments.
 - Council: 7 – 0 in support of the proposal.
 - Marine Fisheries: Marine Fisheries supports the area as proposed in concurrence with the RIMFC.
 - Timing to file: Immediately.
- **Little Narragansett Bay/Pawcatuck River:**
 - Public comments: 1 comment in support of including only those areas closed to shellfishing.
 - Council: 7 – 0 in support of including only closed waters.
 - Marine Fisheries: In support of either option (i.e., all waters as proposed or only the existing closed waters), however we concur with the public comments and Council recommendation in supporting inclusion of closed waters only.
 - Timing to file: Immediately.

12. **Hearing item 4b. Proposed modification to the Bristol Harbor SMA boundary:**

- Public comments: No comments.
- Council: 4-2-1 in support as proposed.
- Marine Fisheries: The Division of Law Enforcement offered at the Council meeting that the language as currently written or as proposed is enforceable, and therefore offered no preference. Marine Fisheries therefore supports the Council recommendation.
- Timing to file: Immediately.