



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

Date: February 12, 2019

Re: Final Decisions Pertaining to November 19, 2018 Marine Fisheries Public Hearing Items

I have received and reviewed your memo to me, dated December 10, 2018, as well as the Addendum to that memo, dated January 30, 2019 and attached herewith, regarding the public hearing items from the November 19, 2018 public hearing. I have also received and reviewed all relevant supporting documentation, including the November 19, 2018 public hearing documents and summary of public comments, as well as the summary report (draft meeting minutes) from the December 3, 2018 meeting of the RI Marine Fisheries Council (RIMFC).

I hereby approve all the recommendations, as set forth in your memo, which are all consistent with those provided by the RIMFC at the Council's December 3, 2018 meeting. The specific regulatory items, and the final decisions for each, are as follows:

1. Commercial Black Sea Bass (hearing item 1a)

- Decision: Status quo, with the understanding that the issues set forth in the petition submitted during the public comment period will be noticed and subject to subsequent consideration.

2. Commercial Scup (hearing item 1b)

Management Program

- Decision: Status quo

Scup Pot Limit

- Decision: Adoption of the amended provision, which increases the limit from 50 pots to 150 pots.

3. **Commercial Summer Flounder** (hearing item 1c)

- Decision: Status quo, with the understanding that the matter will be reconsidered at the March 11, 2019 hearing.

4. **Recreational Tautog** (hearing item 1d)

- Decision: Status quo

5. **Commercial Tautog** (hearing item 1e)

Management Program

- Decision: Adoption of the amended provision, which removes the Summer sub-period and evenly splits the 20 percent allocation that had been assigned to that period into the Spring and Fall sub-periods.

Tagging Program

- Decision: Adoption of the new provisions, which establish a new tagging program, to take effect on January 1, 2010. I concur with your proposal to run a voluntary trial of this program in 2019, and to use the results to determine whether any programmatic changes should be considered in advance of the January 2020 effective date.



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

DIVISION OF MARINE FISHERIES
Three Fort Wetherill Road
Jamestown, Rhode Island 02835

INTER-OFFICE MEMO

TO: Janet Coit, Director

FROM: Jason McNamee, Chief

DATE: December 10, 2018

SUBJECT: Decisions regarding proposed amendments to the RI Marine Fisheries regulations that were the subject of a public hearing conducted on November 19th and RI Marine Fisheries Council (RIMFC) meeting on December 3rd. The public hearing folder contains all the necessary documentation related to this hearing, including a summary of the oral comments made at the hearing, written comments received, the noticed annotated regulations, and public notice.

1. **Hearing item 1a. – 2019 Commercial Black Sea Bass Management:**

- **Background:** Annual review of management program and solicitation of proposals from industry. As things stand now with the federal and ASMFC process, status quo is expected for 2019 (rather than an originally proposed reduction). An operational assessment is scheduled for mid-summer 2019; whether this information may impact 2019 management is unknown.
- **Proposal:** Two options were noticed:
 - **Option 1:** Status quo.
 - **Option 2:** Industry proposal to amend the starting possession limit from 50 to 25 lbs/day in the month of July.
- **Public comments:** Several comments received in support of both options, with predominant support for option 1.
- **RIMFC:** 8 - 0 in support of option 1 as proposed. Also, the Council let stand its prior recommendation to not drop the possession limit below 50 lbs/day at any point during the season. Additionally, the Council recommended that the issues set forth in the petition submitted during the public comment period – to better align the black sea bass and summer flounder fisheries relative to open/closed days, and to avoid overlap between the Massachusetts and RI seasons -- be noticed and subject to subsequent consideration. This motion passed 6 – 2.
- **Marine Fisheries:** The Division supports the Council's recommendation, while noting that both options are manageable by the Division. Reducing possession limits from 50 to 25 lbs/day (for both black sea bass and summer flounder), rather than closing the fishery to harvest, has been the subject of ongoing discussion and

disagreement for several years, with some in the community preferring the longer season and others contending that 25 lbs/day is not economically viable. The Division defers to the Council and its recommendation on this matter – i.e., to not drop below 50 lbs/day. With regard to the new issues set forth in the petition submitted during the public comment period, the Division supports the Council’s recommendation to consider those issues via subsequent notice and hearing, which will be scheduled for early in 2019.

- Timing to file: N/A (no changes proposed).

2. Hearing item 1b. – 2019 Commercial Scup Management:

- Proposal #1 – Management Program:

- Background: Annual review of management program and solicitation of proposals from industry. Scup will also undergo an operational assessment in 2019, however, little attention has been given to scup as stock status is good, possession limits are high, and the market value for this species remains relatively low.
- Proposal: No amendments proposed.
- Public comments: No comments received.
- RIMFC: 8 - 0 in support of status quo.
- Marine Fisheries: Support for status quo.
- Timing to file: N/A (no changes proposed).

- Proposal #2 - Amend Scup Pot Limit:

- Background: Industry proposal to remove the 50-pot limit as overly restrictive and unnecessary.
- Proposal: Two options were noticed:
 - Option 1: Industry proposal to remove the pot limit.
 - Option 2: Division proposal to increase the pot limit from 50 to 300.
- Public comments: Two comments were received, one in support of removing the pot limit; and one opposed to removing it.
- RIMFC: The Council deliberated over the potential impact of an increased pot limit, i.e., the increase in pots set that could result if the limit were removed versus the likelihood of that happening given the constrained nature of the commercial pot fishery. Based on that deliberation, the Council voted 8 - 0 to recommend increasing the pot limit to 150.
- Marine Fisheries: The Division supports the Council’s recommendation, while noting that all three options are considered viable and manageable by the Division. Due to good stock status and fishery performance, and as a fishery that primarily occurs inshore, the Division does not anticipate that any increase in the number of pots would significantly increase harvest rates or jeopardize the health of the fishery. There should be some consideration given to a potential increase in fixed gear and the potential for interactions with whales, but since the fishery is mainly an inshore fishery, the capacity to deploy more gear is likely limited by factors such as vessel size and cost of bait versus return for that investment. As such, the Division does not believe the risk is high. The Division will monitor the situation and adjust as needed.

- Timing to file: Immediately.

3. **Hearing item 1c. – 2019 Commercial Summer Flounder Management:**

- Background: Annual review of management program and solicitation of proposals from industry. An increase in quota is expected in 2019 per the outcome of the recent benchmark assessment, however the magnitude of the increase is uncertain due to several factors. At the time of the hearing, the information available indicated a potential increase of $\approx 15\%$ in 2019.
- Proposal: Two options were noticed:
 - Option 1: Status quo.
 - Option 2: Re-open on Sundays during the Summer sub-period.
- Public comments: Majority of comments received in support of opening the additional day, as proposed via option 2; however, concern was expressed regarding the potential for an early closure.
- RIMFC: 6 – 2 in support of option 2 **only** if a 15% or greater increase in quota is realized; otherwise support of option 1 (status quo). Also, the Council let stand its prior recommendation to not drop the possession limit below 50 lbs/day at any point during the season.
- Marine Fisheries*: The Division supports the Council's recommendation, while noting that both options are manageable by the Division.
- Timing to file: Immediately.

* See attached addendum to this memo

4. **Hearing item 1d. – 2019 Recreational Tautog Management:**

- Background: Annual review of management program and solicitation of proposals from industry. Amendment 1 to the ASMFC's Fisheries Management Plan (FMP) for tautog was finalized in 2018, and RI's current recreational plan meets the requirements of the Amendment.
- Proposal: No amendments proposed.
- Public comments: No comments received.
- RIMFC: 8 - 0 in support of maintaining status quo.
- Marine Fisheries: Support for status quo. Additional note: Subsequent to the hearing and Council meeting, the Division discovered an error in the regulations pertaining to the fall possession limits for the party and charter sector. This error will be addressed via an upcoming notice and hearing.
- Timing to file: N/A (no changes proposed).

5. **Hearing item 1e. – 2019 Commercial Tautog Management:**

- **Proposal #1 – Management Program:**
 - Background: Annual review of management program and solicitation of proposals from industry. Amendment 1 to the ASMFC's FMP for tautog was finalized in 2018, and other than the new tagging program addressed below, RI's current commercial plan meets the requirements of the Amendment.
 - Proposal: Two options were noticed.

- Option 1: Status quo.
- Option 2: Industry proposal to remove the summer sub-period and divide its 20% allocation into the spring and fall sub-periods.
- Public comments: Support for both options.
- RIMFC: 5 - 3 in support of option 2.
- Marine Fisheries*: The Division supports the Council's recommendation, while noting that both options are manageable by the Division. As a caveat, the Council's recommendation needs to be reviewed with the ASMFC to be sure that the proposed change (new closed period) maintains compliance with the FMP. In response to concerns raised at the Council meeting about the potential biological impacts of raising catch rates prior to the spawning season, the Division believes that such a modest increase in mortality during the spring sub-period will not affect stock status. The RI commercial fishery, a relatively small component of overall harvest, is managed by quota, with good accountability for removals.
- Timing to file: Immediately.

* See attached addendum to this memo

- **Proposal #2 - Fish Tagging Program:**

- Background: Amendment 1 to the ASMFC's FMP for tautog includes a new fish tagging program. The program is aimed at preventing illegal sales of live tautog. RI must adopt this program to maintain compliance with the FMP.
- Proposal: New regulations to implement this new commercial tagging program.
- Public comments: Three comments were received, all opposed to the proposal.
- RIMFC: 8 – 0 in support of the new program, as proposed.
- Marine Fisheries: The Division supports the Council's recommendation, noting that the program must be enacted to remain compliant with the ASMFC's FMP. The Division recognizes that implementation of this program may be difficult since the tagging is required by fishermen rather than dealers, resulting in the need to track a large number of participants. Pursuant to the FMP, implementation of the program is not required until 2020. Given concerns raised at hearing and the Council meeting regarding the difficulty of tagging live tautog, the Division plans to implement a voluntary, trial program in 2019 to gather information on tagging methods. With that information in hand, the program may be subject to additional regulatory review in November 2019, prior to its implementation in January 2020.
- Timing to file: Immediately.



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DIVISION OF MARINE FISHERIES
Three Fort Wetherill Road
Jamestown, Rhode Island 02835

INTER-OFFICE MEMO

TO: Janet Coit, Director

FROM: Jason McNamee, Chief

DATE: January 30, 2019

SUBJECT: Addendum to December 10, 2018 memo regarding November 19, 2018 public hearing items

Commercial Summer Flounder

As noted in the December 10 memo, the Council's recommendation to re-open the commercial summer flounder fishery on Sundays during the Summer sub-period hinged on the expectation that RI's 2019 quota will increase by approximately 15 percent. Since then, due to the federal shutdown, the release of the new benchmark stock assessment for summer flounder, and any associated change in federal specifications for 2019, have been delayed. Thus, at this time, the Division recommends no changes to the commercial summer flounder management program. The Division expects the assessment and specifications to be considered by the ASMFC and Mid-Atlantic Council in early March. Accordingly, the Division plans to bring this matter back to hearing on March 11, 2019, which should provide sufficient time to effectuate any amendments before the Summer sub-period begins on May 1.

Commercial Tautog

As noted in the December 10 memo, the Division needed to consult with the ASMFC regarding the proposed change in sub-periods. Since then, the Division has received confirmation from ASMFC that the proposed change to remove the summer sub-period and divide its 20% allocation into the spring and fall sub-periods (option 2) maintains compliance with the ASMFC's FMP for tautog and can therefore be enacted.

