



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; Michael Rice, Ph.D.; Christopher Rein; Andy Dangelo; Mike Roderick; Travis Barao; Jason Jarvis

MEETING NOTICE RI MARINE FISHERIES COUNCIL

December 3, 2018 – 6:00 PM
URI Narragansett Bay Campus, Coastal Institute Building
Corless Auditorium
South Ferry Road, Narragansett, RI

AGENDA

Agenda item	Recommended action(s)	ePacket Attachment(s)
1. Tonight's agenda	Approval of agenda.	<ul style="list-style-type: none"> • Tonight's meeting agenda
2. Meeting minutes October 1, 2018	Approval of meeting minutes.	<ul style="list-style-type: none"> • Meeting minutes 10/1/18
3. Public comment	Discussion and/or recommendations for future action.	N/A
4. <u>November 19 public hearing items:</u> <i>J. McNamee</i>	Provide recommendations to the Director regarding proposed regulations.	<ul style="list-style-type: none"> • Public Notice • Presentation • Annotated regulations: <ul style="list-style-type: none"> ○ Comm. Black sea bass ○ Comm. Scup ○ Comm. Summer flounder ○ Comm. Tautog ○ Rec. Tautog • Summary of hearing comments • Written comments received
5. <u>Striped bass conservation equivalency proposal:</u> <i>J. McNamee</i>	Discussion and/or recommendations for future action.	N/A

<p>6. FYI:</p> <ul style="list-style-type: none"> • Proposal to open BI Transit Zone to recreational striped bass fishing: <i>B. Ballou</i> • Proposal to allow transiting from BI with summer flounder, scup, and black sea bass: <i>B. Ballou</i> • Proposed changes to commercial summer flounder management: <i>B. Ballou</i> • Proposed changes to recreational management programs for summer flounder and black sea bass: <i>B. Ballou</i> • Offshore wind development: <i>J. Livermore</i> • Other 	N/A	<ul style="list-style-type: none"> • Director Decision memo re: September 2018 hearing items. • Council letter to CRMC re: Wescott aquaculture lease application. • Council letter to CRMC re: offshore wind development.
<p>7. Any other business</p>	N/A	N/A
<p>8. Adjourn</p>		

All RIMFC Meetings are open to the public

Posted to Sec. of State Open Meetings on November 28, 2018



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3 Fort Wetherill Road Jamestown, Rhode Island 02835

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

MEETING SUMMARY

October 1, 2018

Chairperson: *B. Ballou (DEM)*

RIMFC members present: *J. Grant, M. Rice, A. Dangelo, T. Barao, C. Rein, J. Jarvis*

Division: *J. McNamee, C. McManus, J. Lake, J. Livermore, N. Costa, P. Duhamel, M. McGrath*

DEM Legal: *C. Hoefsmit*

Public: Approximately 10 persons in attendance

1. **Approval of the Agenda:** *B. Ballou* inquired as to any modifications to the agenda, or to any objections to adopting the agenda. Hearing none, the agenda was approved by consent.
2. **Approval of minutes from meeting on June 26, 2018:** *B. Ballou* inquired as to any proposed modifications or objections to adopting the minutes. Hearing none, the minutes were approved by consent.
3. **Approval of minutes from meeting on August 30, 2018:** *B. Ballou* inquired as to any proposed modifications or objections to adopting the minutes. Hearing none, the minutes were approved by consent.
4. **Public comments regarding other matters not on agenda:** *S. Bode*, IAC member, offered a proposal to increase the possession limit for commercial Scup during the summer sub-period from 10,000 lbs/week to 10,000 or 20,000 lbs/day to support a new program to market Scup filets. *J. McNamee* offered that the matter should be discussed as part of process for the next public hearing taking place in November.
5. **2019 Sector Management Plan:** *J. McNamee* provided a brief overview of the purpose of the plan, the plan content and structure, and key points of the updated plan. **Motion made by *M. Rice* to recommend adoption of the updated plan; 2nd by *A. Dangelo*. *B. Ballou* inquired as to any objections to approving the plan. Hearing none, the plan was approved by consent.**
6. **September 10 hearing items:**
 - **Proposed amendment to “Part 1 - Definitions and General Provisions”, regarding deletion, addition and amendment of terms:** *P. Duhamel* provided a brief overview of the proposal. **Motion made by *C. Rein* to recommend adoption of the amendments as proposed; 2nd by *J. Grant*. The motion passed 6-0.**

- **Proposed amendment to “Part 2 - Commercial and Recreational Saltwater Fishing Licensing Regulations”:**

1. **Exit:entry ratio for the Restricted Finfish Endorsement:** *J. Lake* provided a brief overview of the 2 options noticed: A 1:1 status quo option, and a 1:2 IAC option. *J. McNamee* offered that the Division did not support the proposed IAC option to change to a 1:2 exit:entry ratio, due to uncertainty that the increase in the number of licenses would have on catch rates. **Motion made by *A. Dangelo* to recommend maintaining the current 1:1 ratio; 2nd by *J. Grant*. The motion passed 6-0.**
2. **Division proposal to add a due date regarding the public availability of the updated Sector Mgmt. Plan:** *P. Duhamel* provided a brief overview of the proposal, which is to add a due date of “30 days prior to any public hearing on commercial licensing”. **Motion made by *C. Rein* to recommend adoption of the amendments as proposed; 2nd by *A. Dangelo*. The motion passed 6-0.**
3. **Division proposal to remove language regarding the content and due date for the issuance of an annual report to the General Assembly on the conservation and management of marine fisheries resources (i.e., Sector Management Plans):** *P. Duhamel* provided a brief overview of the proposal. **Motion made by *C. Rein* to recommend adoption of the amendments as proposed; 2nd by *A. Dangelo*. The motion passed 6-0.**
4. **Division proposal to remove language regarding the requirement that the Department provide a list of reporting requirements at the time of license issuance or renewal to applicants for commercial fishing or dealer licenses or landing permits** *P. Duhamel* provided a brief overview of the proposal. Discussion ensued regarding the Division’s current active notification processes and the specific details of this proposal. **Motion made by *C. Rein* to recommend adoption as proposed; 2nd by *J. Jarvis*. The motion passed 6-0.**
5. **Division proposal to remove language regarding the requirement that the Department notify license holders of a reporting deficiency via certified mail:** *P. Duhamel* provided a brief overview of the proposal; that the proposal is not to remove the rule in its entirety but only the requirement that the mailing be certified. **Motion made by *M. Rice* to recommend adoption as proposed; 2nd by *C. Rein*. The motion passed 6-0.**
6. **Division proposal to broaden the applicability regarding the timeframe for when fishing trips must be documented. Proposal is to re-locate language from the “Paper Catch and Effort Harvester Logbook” section to “Data Reporting” section:** *P. Duhamel* provided a brief overview of the proposal. **Motion made by *T. Barao* to recommend adoption as proposed; 2nd by *C. Rein*. The motion passed 6-0.**

7. **Division proposal to change the timeframe that fishing trips must be documented:** *J. Lake* provided a brief overview of the proposal and the 2 options that were noticed to amend this rule. **Motion made by *M. Rice* to recommend adoption of option 2 as proposed, however with the caveat that clarification be added to the meaning of “documentation” as used in the rule; 2nd by *A. Dangelo*. The motion failed 3-3. A second motion was made by *C. Rein* to postpone a recommendation on this matter until “documentation” is defined as used in the rule; 2nd by *M. Rice*. The motion passed 6-0.**
8. **Division proposal to add reporting due dates to the regulations:** *P. Duhamel* provided a brief overview of the proposal. **Motion made by *M. Rice* to recommend adoption as proposed; 2nd by *J. Jarvis*. The motion passed 6-0.**
9. **Division proposal to remove the requirement that license holders will be notified in writing as to the form of reports, their content, and the manner in which and frequency with which they are required to be transmitted by December 1 for the following year:** *P. Duhamel* provided a brief overview of the proposal. **Motion made by *M. Rice* to recommend adoption as proposed; 2nd by *T. Barao*. The motion passed 6-0.**
10. **Division proposal to amend the timeframe pertaining to the issuance of licenses following the application deadline:** *P. Duhamel* provided a brief overview of the proposal, which is to change this timeframe from 15 days to 90 business days. **Motion made by *T. Barao* to recommend that the timeframe be amended to forty-five (45) business days following the deadline date of the last day of February; 2nd by *M. Rice*. The motion passed 5-1 (*J. Grant* opposed).**
11. **Division proposal to change/clarify the procedure regarding the appeal of a license denial due to medical hardship:** *P. Duhamel* provided a brief overview of the proposal. **Motion made by *T. Barao* to recommend adoption as proposed; 2nd by *J. Grant*. The motion passed 6-0**
12. **Proposed addition of reporting requirements for Party/Charter vessels:** *J. Lake* provided a brief overview of the proposal. **Motion made by *A. Dangelo* to recommend adoption with the following caveats: That the language be amended to read “All trips shall be documented on board the vessel *prior to the end of the fishing trip upon landing*, and also to add clarification to the meaning of “documentation” as used in the rule; 2nd by *J. Jarvis*. Once the rule is clarified and/or the term defined, this matter will be brought back to the Council. The motion passed 6-0.**
7. **Industry Advisory Committee (IAC) meeting summary (8/21/2018):** *C. Rein* and *J. Grant* provided an overview of the meeting, and referred Council members to the draft minutes. *J. Lake* offered that 2 proposals were offered at the meeting that will be put in the

Division's regulatory queue and presented at the next IAC meeting or workshop: One proposal was to change the eligibility requirements for the license upgrade from a Student Shellfish License to Commercial Fishing License (CFL); and a second proposal to remove Scup from the Restricted Finfish Endorsement category in the summer sub-period. **Motion made by C. Rein to recommend adoption as proposed; 2nd by A. Dangelo. The motion passed 6-0.**

8. **Shellfish Advisory Panel (SAP) meeting summary (9/5/2018):** *J. Grant* provided an overview of the meeting, and referred Council members to the draft minutes. **Motion made by J. Grant to recommend adoption as proposed; 2nd by J. Jarvis. The motion passed 6-0.**
9. **Aquaculture lease application review - John Wescott, East Passage, Portsmouth:** *D. Beutel* provided an overview of the proposal. *K. Eagan* offered that she was opposed to the lease due to conflicts with commercial whelk harvest. **Motion made by C. Rein to recommend no objection to the proposal due as the proposed use is consistent with competing uses engaged in the exploitation of marine fisheries; 2nd by M. Rice. The motion passed 4-0 (*J. Grant* and *A. Dangelo* abstained).**
10. **Bristol Harbor Shellfish Mgmt. Area winter harvest schedule:** *C. McManus* provided an overview and Divisions's perspective of the schedule as proposed by industry. He explained that the default schedule is currently in place after the annual schedule expired in 2016. He offered that the data shows that landings and survey abundance in this area are closely linked to the timing and intensity of shellfish transplants. He offered that the Division does not oppose the schedule being proposed, but that landings and abundance estimates will be monitored with management needs and strategies assessed moving forward. **Motion made by J. Grant to recommend adoption as proposed; 2nd by M. Rice. The motion passed 6-0.**
11. **Deepwater/Vineyard Wind offshore wind development:** **Motion made by J. Grant to recommend to the DEM Director and CRMC that all wind power leases off southern New England be required to have turbines aligned in an east-west pattern, with a spacing between turbines of one nautical mile to minimize negative impacts on historical fishing actions, and further require that structures be removed upon termination of the lease to restore fishing access to the entire lease area; 2nd by A. Dangelo. The motion passed 6-0. A second motion was made by A. Dangelo to recommend that the meeting minutes from the August 30, 2018 special Council meeting (when the windfarm presentations were heard) be submitted to Deepwater and Vineyard Wind; 2nd by M. Rice. The motion passed 6 – 0.**
12. **FYI Items:** *B. Ballou* provided an update regarding the pending ASMFC/MAFMC action addressing transiting federal waters in Block Island Sound with summer flounder, scup, black sea bass; and also an update regarding federal review of opening the Striped Bass Transit Area in Block Island Sound to fishing for striped bass.

13. **Other business:** *B. Ballou* inquired if there was interest in a special Council meeting that would cover parliamentary procedures, and to let him know if there was any such interest.
14. **Meeting adjournment:** Upon conclusion of deliberating all agenda items, *B. Ballou* inquired as to any objection to adjourning the meeting; hearing none, the meeting was adjourned by consent at approximately 9:00pm.

For the full video of the meeting please go to:

<https://www.youtube.com/watch?v=E1SzmWd4GOo>. Please expand the “SHOW MORE” tab to show individual agenda items and their time of recording.

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Title of Rule: PART 3 – Finfish (250-RICR-90-00-3)

Rule Identifier: 250-RICR-90-00-3

Rulemaking Action: Proposed Amendment

Important Dates:

Date of Public Notice: 11/02/2018

Hearing Date: 11/19/2018

End of Public Comment: 12/03/2018

Authority for this Rulemaking:

R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws Chapter 42-35-18(b)(5), Administrative Procedures Act, as amended

Summary of Rulemaking Action:

1. HEARING ITEM 1a. – 2019 COMMERCIAL BLACK SEA BASS MANAGEMENT:

Option 1: Status quo.

Option 2: Amend starting possession limit from 50 lbs/day to 25 lbs/day during July sub-period.

2. HEARING ITEM 1b. – 2019 COMMERCIAL SCUP MANAGEMENT:

Proposal 1: Management program.

Option 1: Status quo.

Proposal 2: Amend maximum pot limit

Option 1: Remove maximum pot limit.

Option 2: Increase maximum pot limit from 50 to 300 pots

3. HEARING ITEM 1c. – 2019 COMMERCIAL SUMMER FLOUNDER MANAGEMENT:

Option 1: Status quo.

Option 2: Re-open one additional day during the week in the Summer sub-period.

4. HEARING ITEM 1d. – 2019 RECREATIONAL TAUTOG MANAGEMENT:

Option 1: Status quo.

5. HEARING ITEM 1e. – 2019 COMMERCIAL TAUTOG MANAGEMENT:

Proposal 1: Management program.

Option 1: Status quo.

Option 2: Remove summer sub-period, split allocation 50/50 spring and fall sub-periods

Proposal 2: Proposed adoption of a fish tagging program.

Additional Information and Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until December 3, 2018 by contacting the appropriate party at the address listed below:

Peter Duhamel
Department of Environmental Management
3 Fort Wetherill Road
Jamestown, RI 02835
peter.duhamel@dem.ri.gov

Public Hearing:

A public hearing, in accordance with R.I. Gen. Laws § 42-35-2.8, to consider the proposed amendment shall be held on November 19, 2018 at 6:00 pm at URI Bay Campus, Corless Auditorium, 215 South Ferry Rd, Narragansett, RI 02882 at which time and place all persons interested therein will be heard. The seating capacity of the room will be enforced and therefore the number of persons participating in the hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-421-7005 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

Regulatory Analysis Summary and Supporting Documentation:

N/A

For full regulatory analysis or supporting documentation see agency contact person above.

RI Marine Fisheries Council

December 3, 2018



Commercial Black Sea Bass – hearing options presented:

Option 1: Status quo.

Min. size	Season	Allocation	Starting Poss. limit
11"	Jan 1 – Apr 30	25%	500 (vsl/week)
	May 1 – June 30	25%	50 (vsl/day)
	July 1 – July 31	19.5%	50 (vsl/day)
	Aug. 1 – Sept. 14	Closed	
	Sept 15 – Oct 31	19.5%	50 (vsl/day)
	Nov 1 – Dec 31	11%	50 (vsl/day)

Option 2: Amend starting possession limit from 50 lbs/day to 25 lbs/day during July sub-period.

Min. size	Season	Allocation	Starting Poss. limit
11"	Jan 1 – Apr 30	25%	500 (vsl/week)
	May 1 – June 30	25%	50 (vsl/day)
	July 1 – July 31	19.5%	50 25 (vsl/day)
	Aug. 1 – Sept. 14	Closed	
	Sept 15 – Oct 31	19.5%	50 (vsl/day)
	Nov 1 – Dec 31	11%	50 (vsl/day)



Commercial Scup – hearing options presented:

Proposal 1: Management Program.

- Option 1: Status quo.

Min. size	Seasons	Sub-periods	Quota	Starting Poss. limit
9"	<u>Winter I:</u> (1/1 – 4/30)		Coastwide	50,000 lbs/vsl/day
	<u>Summer – Fall:</u> (5/1 – 9/30)	Gen. Cat. Summer	40% of sub-period quota	10,000 lbs/vsl/wk
		Floating Fish Traps	60% of sub-period quota	Unlimited
	<u>Winter II:</u> (10/1 – 12/31)		Coastwide	2,000/28,500 lbs/vsl/day*

* Winter II possession limit begins at 2,000 lbs/vsl/day; change to 28,500/day after Winter I roll over calculated.



Commercial Scup – hearing options presented cont'd:

Proposal 2: Amend the maximum Scup pot limit.

- **Option 1:** Remove the maximum pot limit (50 pots).
- **Option 2:** Increase maximum pot limit from 50 to 300 pots.



Commercial Summer Flounder – hearing options presented:

Option 1: Status quo.

Min. size	Season	Allocation	Days closed	Starting Poss. limit
9"	Winter (1/1 – 4/30)	54%	N/A	100 lbs/day
	Summer (5/1 – 9/15)	35%	Fri/Sat/Sun	50 lbs/day
	Fall (9/16 – 12/31)	11%	N/A	100 lbs/day
	2/5 – 4/30	Agg. Program	N/A	1,500 lbs/2 wks



Commercial Summer Flounder – hearing options presented cont'd:

Option 2: Re-open on Sundays during the Summer sub-period.

Min. size	Season	Alloc.	Days closed	Poss. limit
9"	Winter (1/1 – 4/30)	54%	Open 7 days/wk	100 lbs/day
	Summer (5/1 – 9/15)	35%	Fri/Sat/ Sun	50 lbs/day
	Fall (9/16 – 12/31)	11%	Open 7 days/wk	100 lbs/day
	2/5 – 4/30	Agg. Program	Open 7 days/wk	1,500 lbs/2 wks

Option 2 considerations:

- Average daily harvest rate Summer 2018 \approx 4,000lbs/day. Remained open all 79 days of the sub-period (no early closures) in 2018.
- If 2019 quota increases by 15%, would equal to 99.88 days of fishing at 2018 avg. harvest rates.
- Opening one additional day in 2019 would add 20 days to the sub-period, for a total of 99 days. Therefore, any increase in 2019 harvest rates would likely result in an early closure.



Recreational Tautog – hearing options presented:

Option 1: Status quo.

Min. Size	Rec. & P/C Season	Rec. & P/C Poss. Limit
16"	April 1 – May 31:	3 fish/person/day*
	June 1 – July 31:	Closed
	Aug. 1 – 3 rd Sat. in Oct:	3 fish/person/day*
	3 rd Sat. in Oct. – Dec. 15:	5 fish/person/day*

* max. 10 fish/vessel (n/a for P/C)



Commercial Tautog – hearing options presented:

Proposal 1: Management program.

- Option 1: Status quo.

Min. Size	Season	Allocation	Possession Limit
16"	April 1 – May 31	40%	10 fish/vsl/day
	June 1 – July 31		Closed
	Aug. 1 – Sept. 15	20%	10 fish/vsl/day
	Oct. 15 – Dec. 31	40%	10 fish/vsl/day

- Option 2: Remove summer sub-period, split allocation 50/50 between spring and fall sub-periods.

Min. Size	Season	Allocation	Possession Limit
16"	April 1 – May 31	40 <u>50</u> %	10 fish/vsl/day
	June 1 – July 31 <u>Oct. 14</u>		Closed
	Aug. 1 – Sept. 15	20%	10 fish/vsl/day
	Oct. 15 – Dec. 31	40 <u>50</u> %	10 fish/vsl/day



Commercial Tautog

Proposal 2: Proposed adoption of a fish tagging program.

- Necessary for compliance with Amendment 1 of the Tautog FMP.
- Main points: (see annotated regulations for full details).
 - All tautog commercially harvested in RI must be tagged at the time of harvest by the harvester.
 - Tags to be affixed to the left opercula bone with the tag number displayed.
 - Tags will be issued to RI commercially licensed fishermen eligible to participate in the tautog fishery.
 - Tags are valid for 1 calendar year; new tags req'd each year.
 - Unused tags must be returned. Failure to return tags and reports may result in the harvester's inability to participate in the commercial tautog fishery in the future.
 - Rules would take effect 1/1/20.
 - Ordering form and process to be developed.



**Additional information
(Sector Management Plan)**



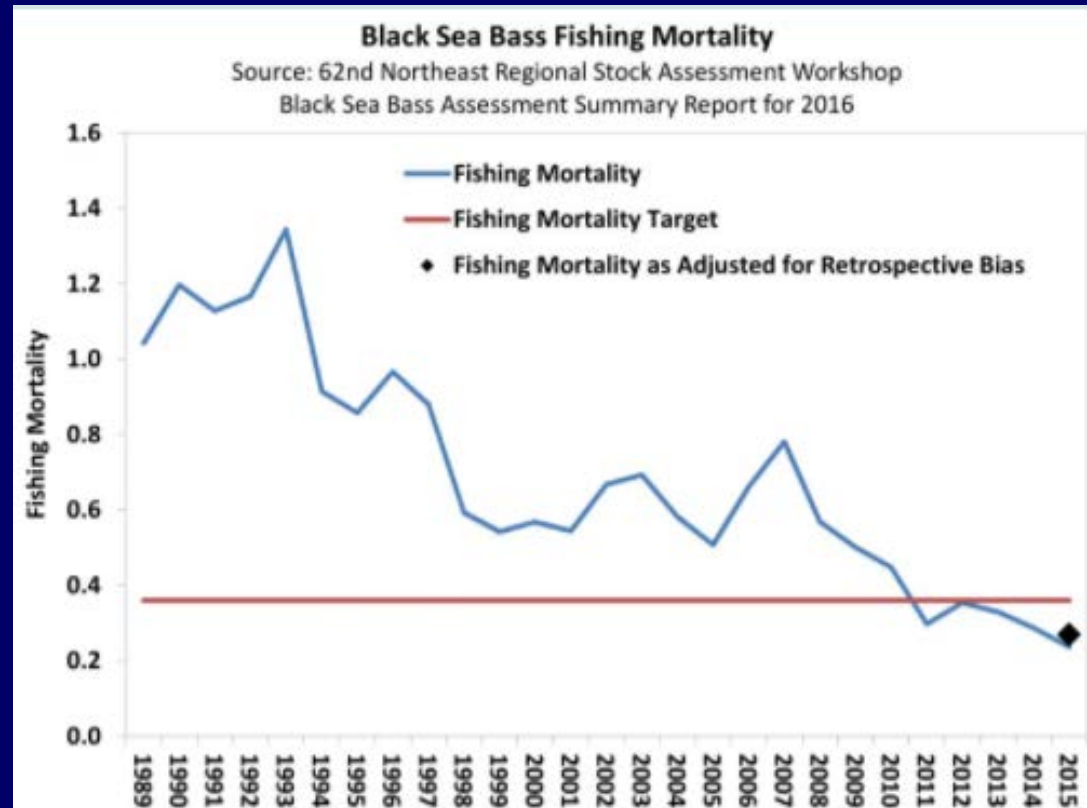
Commercial Black Sea Bass:

- Stock Status:

- Benchmark Stock Assessment in 2016 .
- Black sea bass is not overfished nor experiencing overfishing relative to biological reference points.

- Fishing mortality (F) was estimated to be 0.27 in 2015, well below the threshold F reference point = 0.36.

- There is no new info since this assessment, everything based on projections.



Commercial Black Sea Bass:

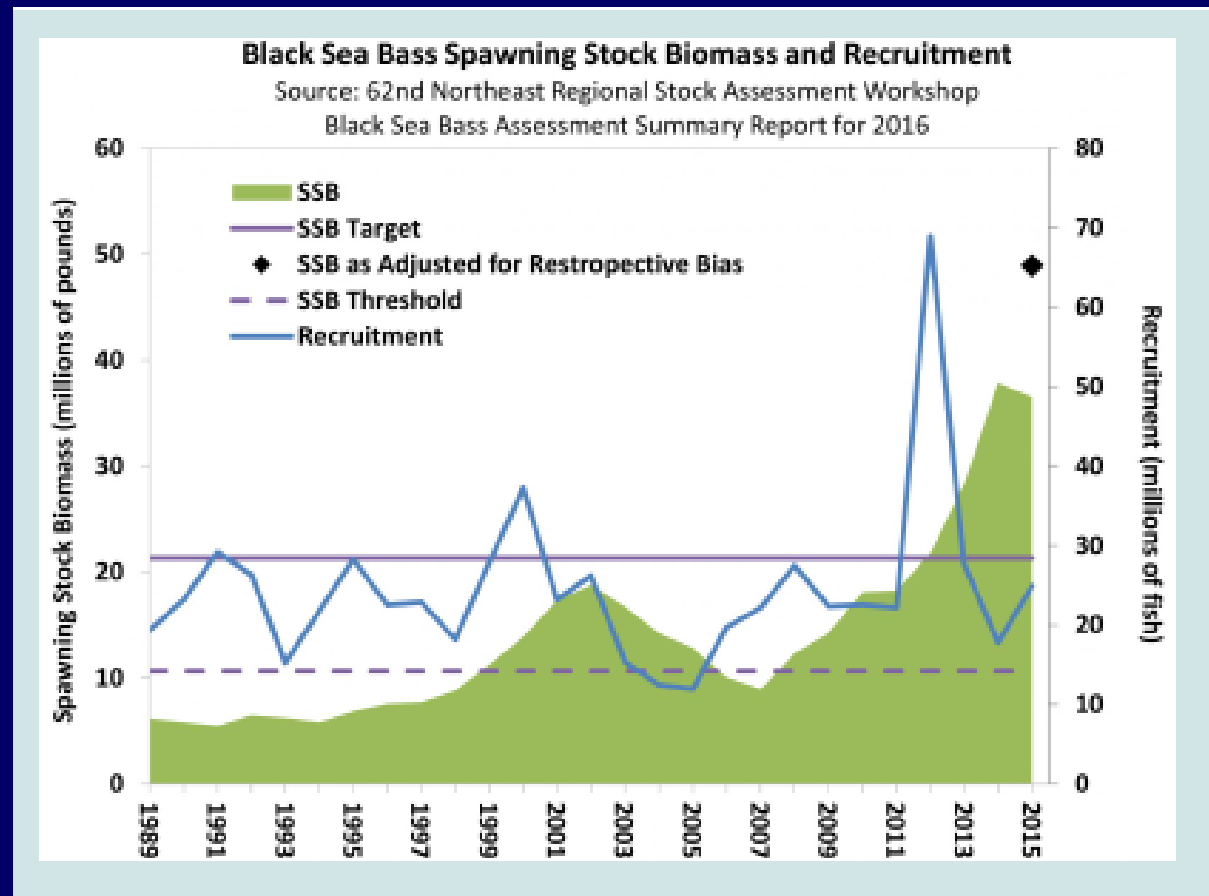
- Stock Status cont'd:

- Spawning stock biomass (SSB) estimated to be 48.9 m lbs in 2015, 2.3X above the SSB reference point = 21.3 m lbs.

- 2014 year class currently estimated to be \approx 24.9 million fish, around average, new info suggests strong 2015 year class.

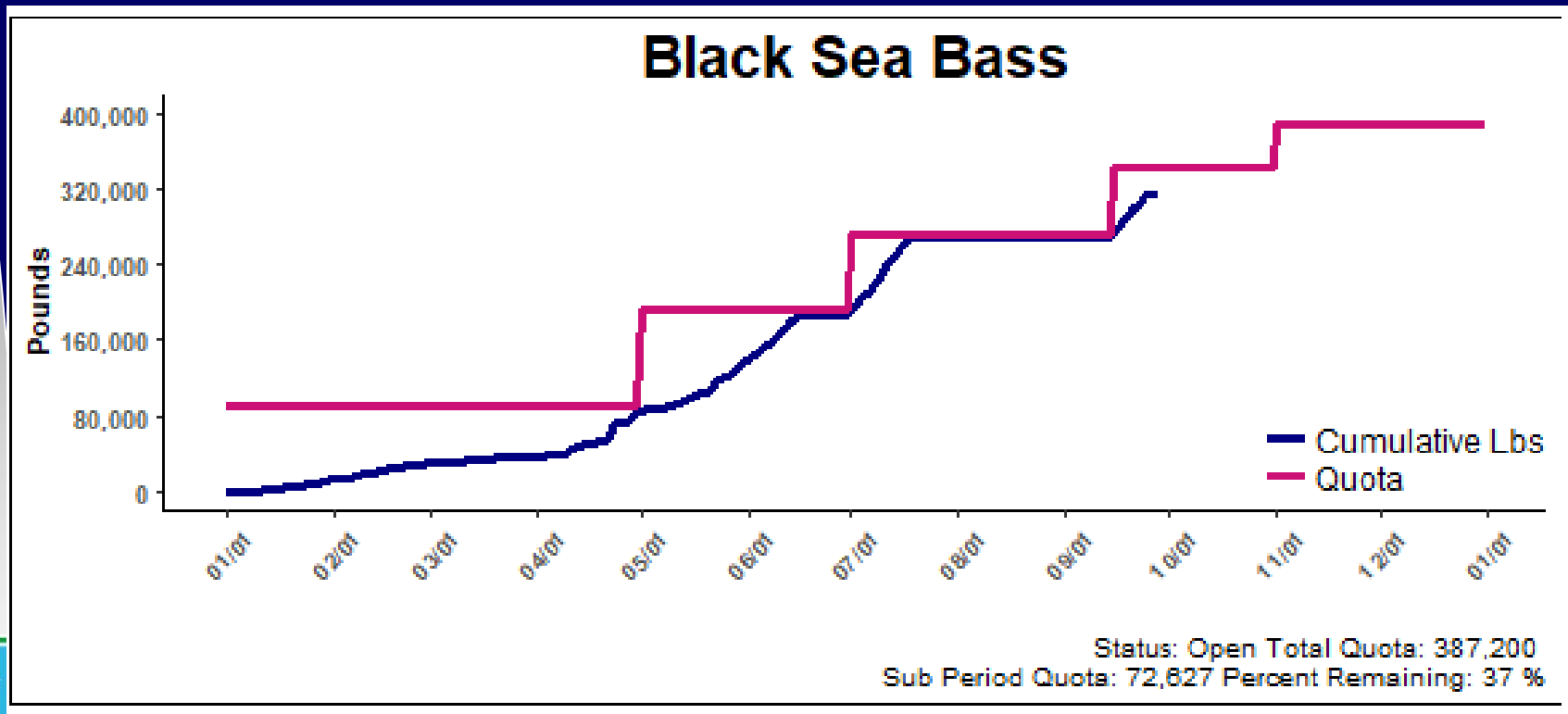
- Status quo quota expected in 2019.

- Update schedule in 2019.



Commercial Black Sea Bass:

- 2018 Fishery Performance: Despite doubling the quota, still have numerous fishery closures in 2018.

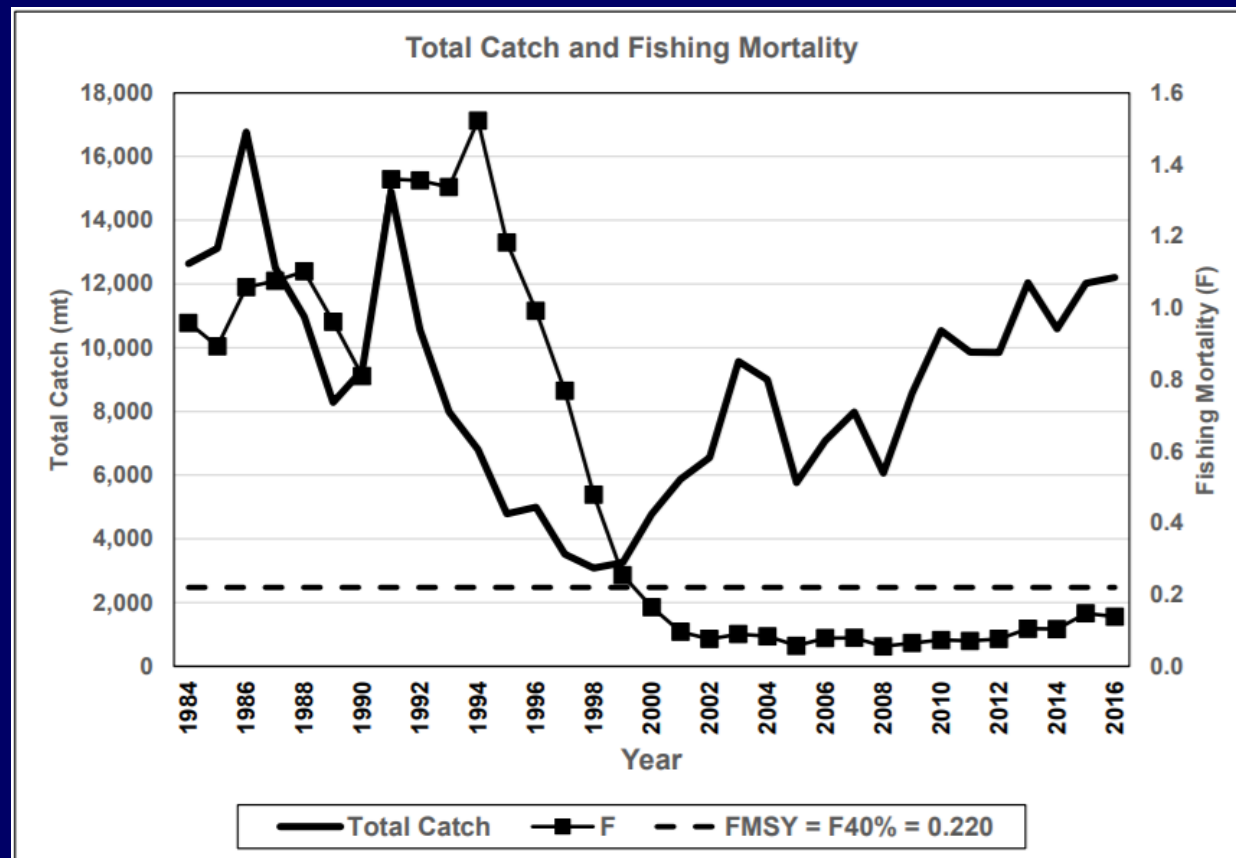


Commercial Scup:

- Stock Status:

- Benchmark Assessment in 2015, assessment update in 2017.
- Scup is not overfished, nor experiencing overfishing relative to biological reference points.

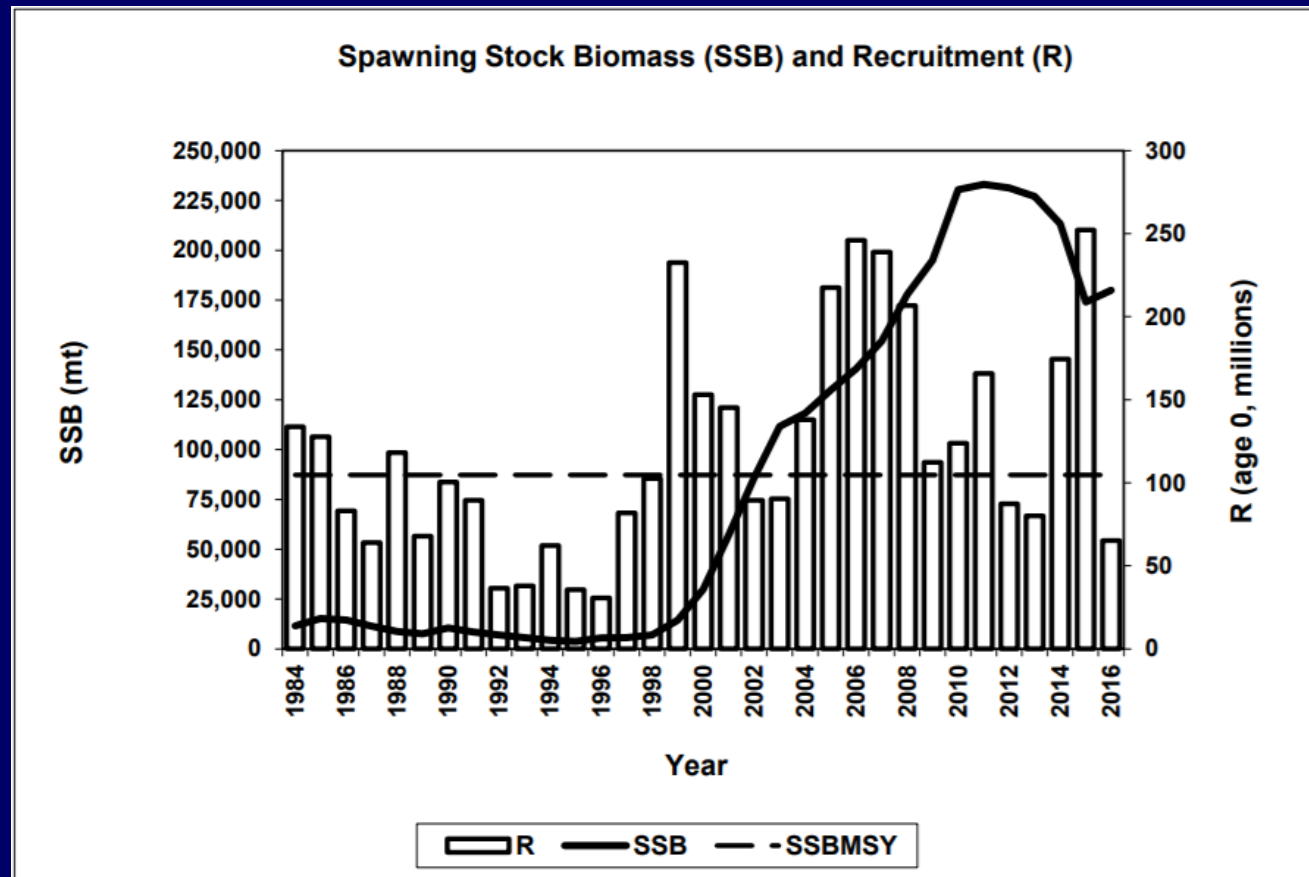
- Fishing mortality (F) was estimated to be 0.139 in 2016, below the threshold F reference point = 0.22.



Commercial Scup:

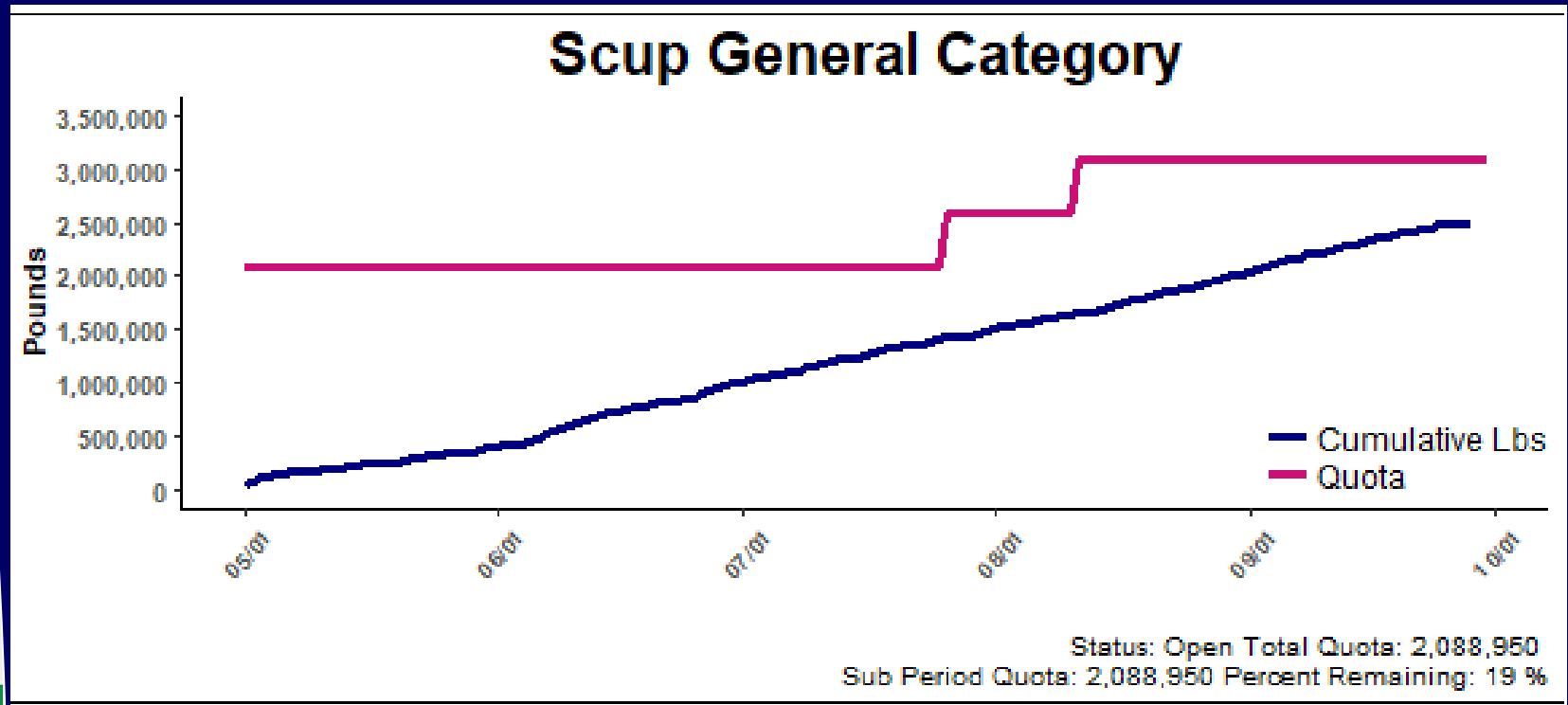
- Stock Status cont'd:

- SSB estimated to be 397 m lbs in 2016, above the SSB reference point = 192.47 m lbs and above the SSB threshold = 96.23 m lbs.
- The 2016 year class is currently estimated to be \approx 60 million fish, around average.
- Increase in quota expected in 2019.



Commercial Scup:

- Fishery performance 2018: To date in 2018, no commercial fishery closures.



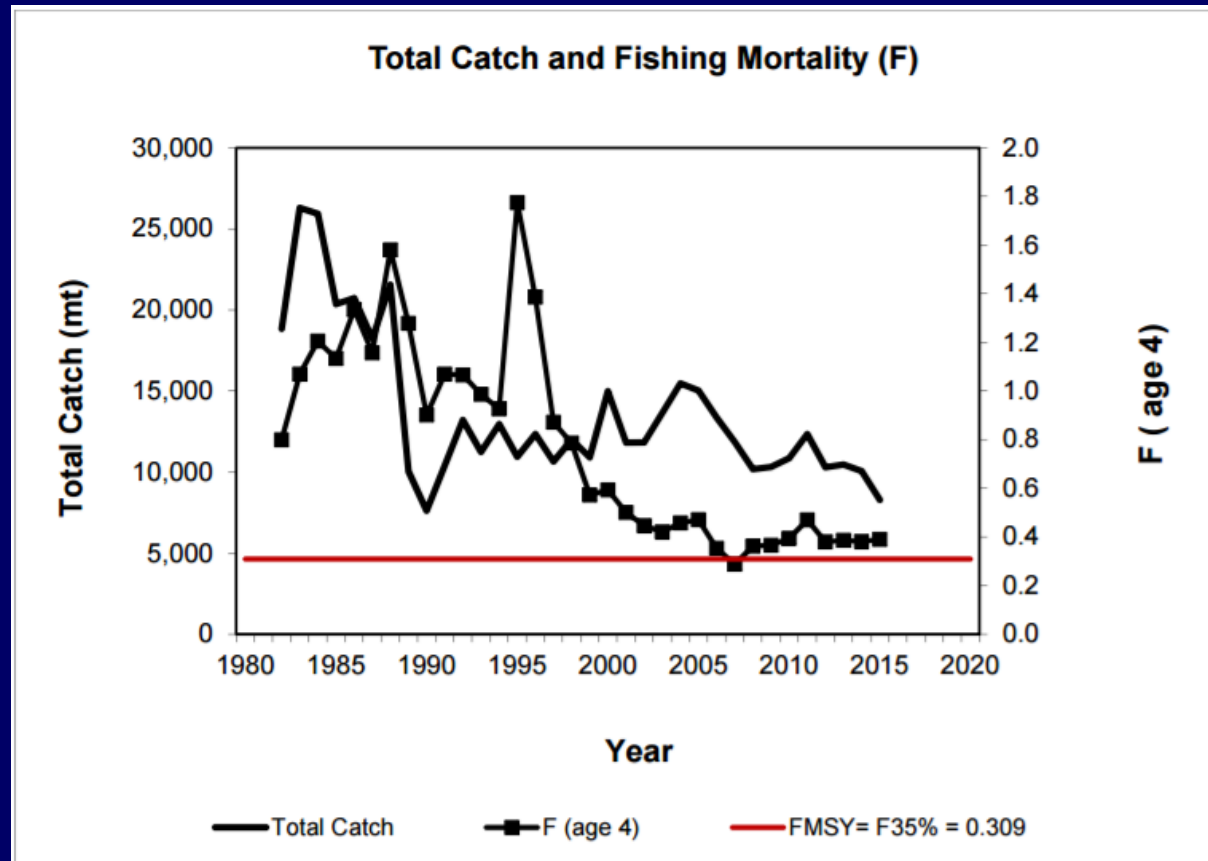
Commercial Summer Flounder:

- Stock Status:

- Assessment update in 2016 based on SAW/SARC 57 assessment.
- The summer flounder stock is not overfished, but overfishing was occurring relative to biological reference points.

- Fishing mortality was estimated to be 0.390 in 2015, above the threshold F reference point = 0.309 (also above F target = 0.255).

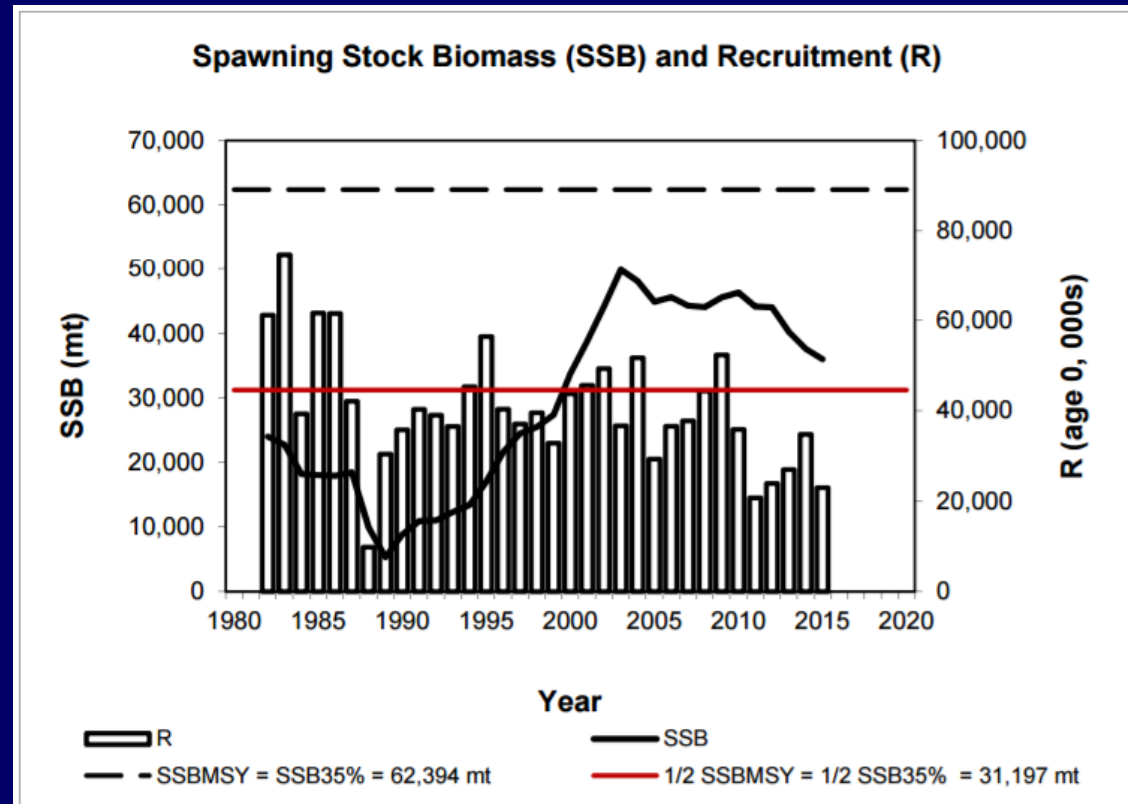
- Benchmark underway.



Commercial Summer Flounder:

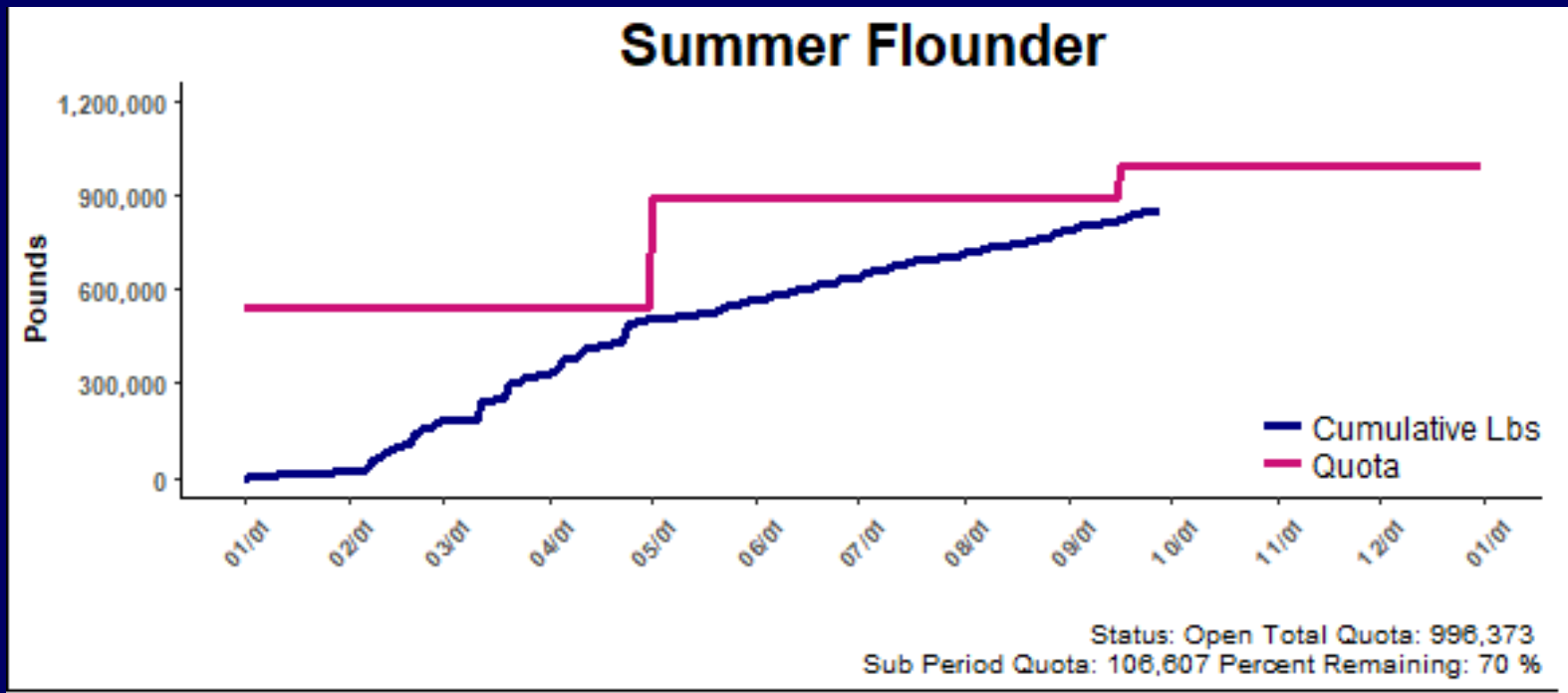
- Stock Status cont'd:

- SSB estimated to be 79.9 m lbs in 2015, below SSB reference point = 137.6 m lbs but above the SSB threshold = 66.2 m lbs.
- The 2015 year class is currently estimated to be about 23 million fish, well below the average of 41 million fish.
- Retrospective pattern in recruitment evident, the 2008 and 2009 large year classes have dropped significantly in recent updates.
- Given previous specification setting, an increase in quota is predicted for 2019, could be modified, pending assessment.



Commercial Summer Flounder:

- Fishery performance 2018: No commercial fishery closures to date in 2018 (possession limit increase from 50/day to 100/day on 8/27).



Tautog:

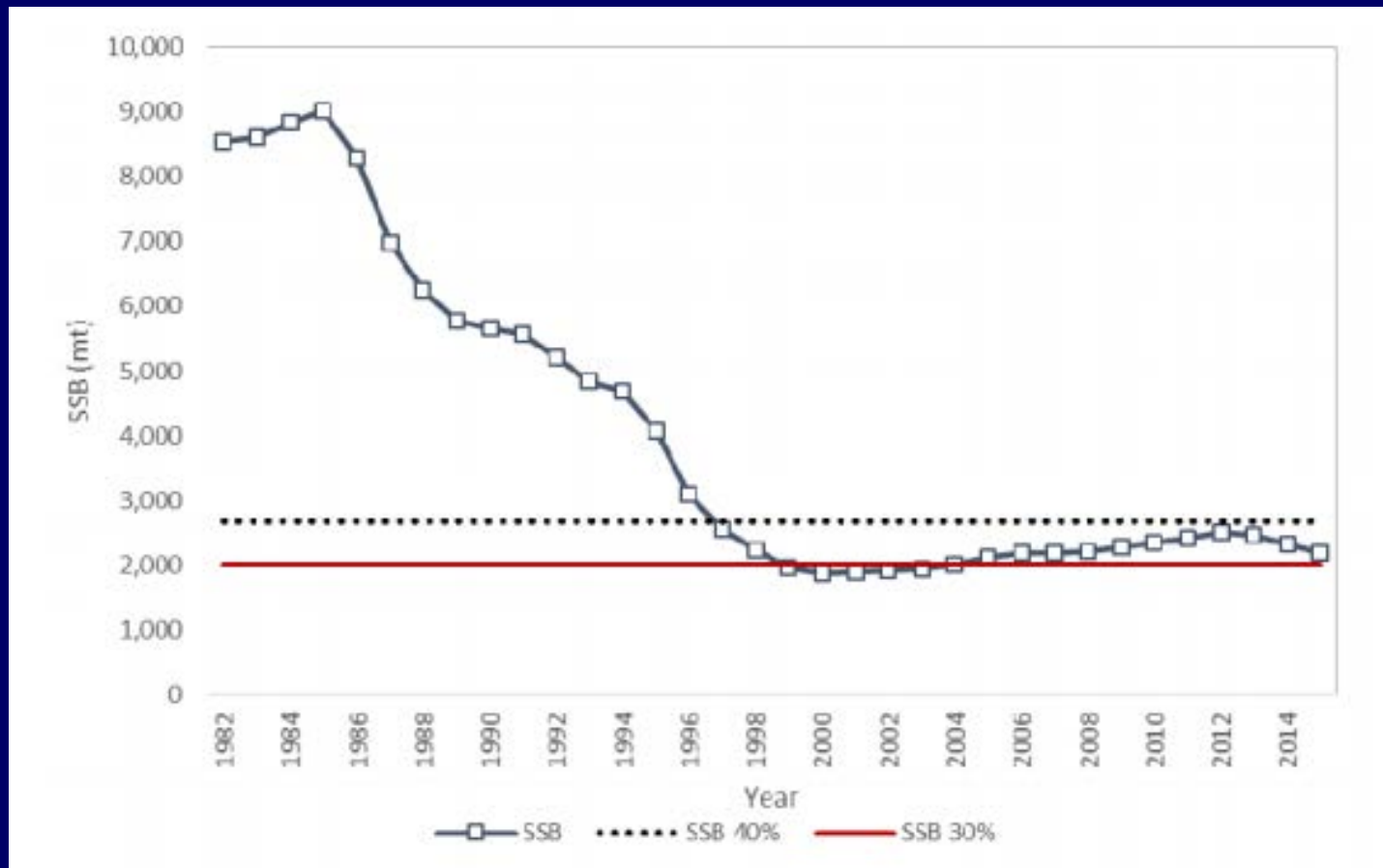
- Summary of Stock Status.
- 2018 Rhode Island Commercial Fishery Performance.
- Current Management
- Division recommendations for 2019 management.



Tautog:

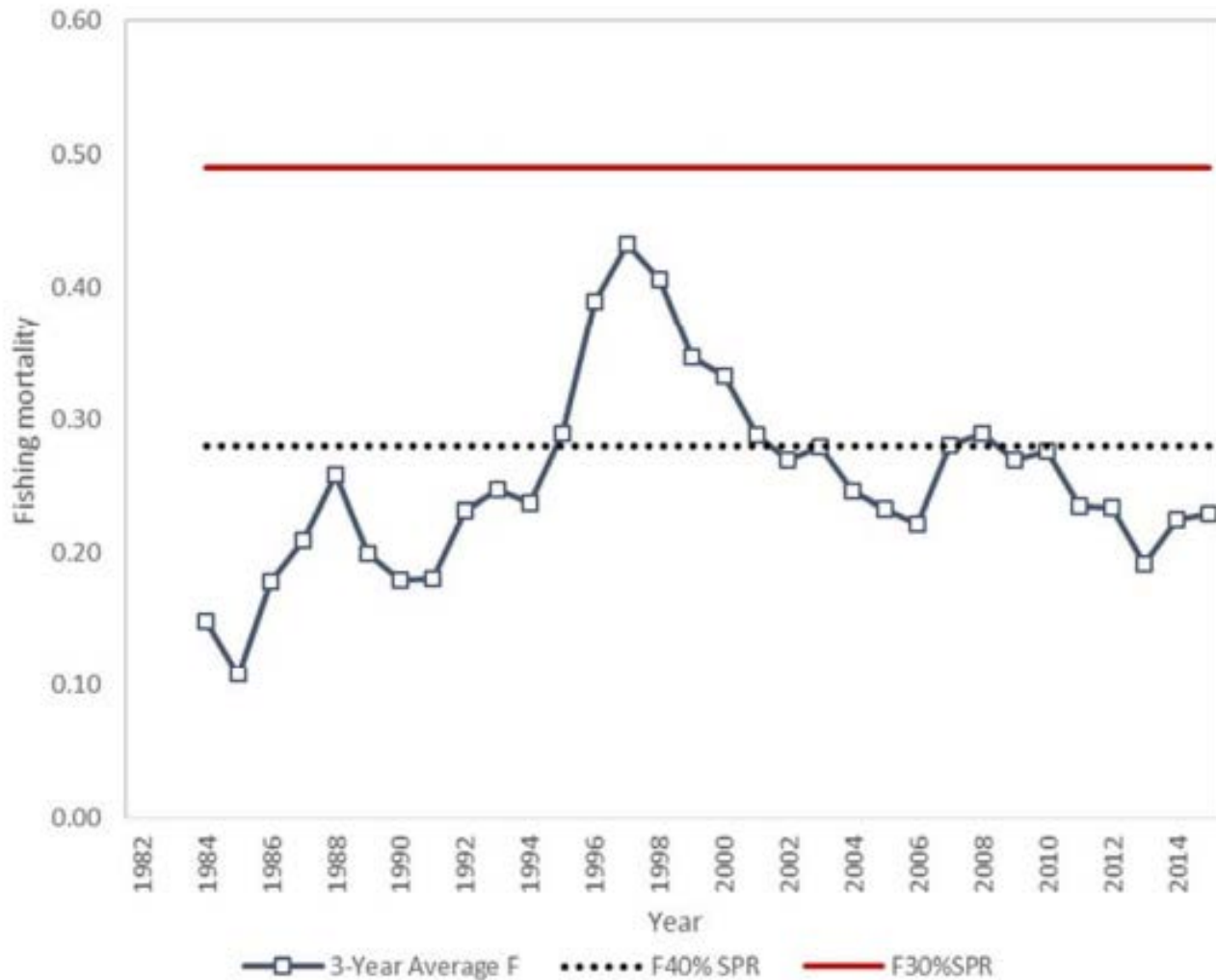
- Stock Status:

- SSB estimated at 2,196mt (target 2,684 threshold 2,004).
- SPR Reference Points approved.



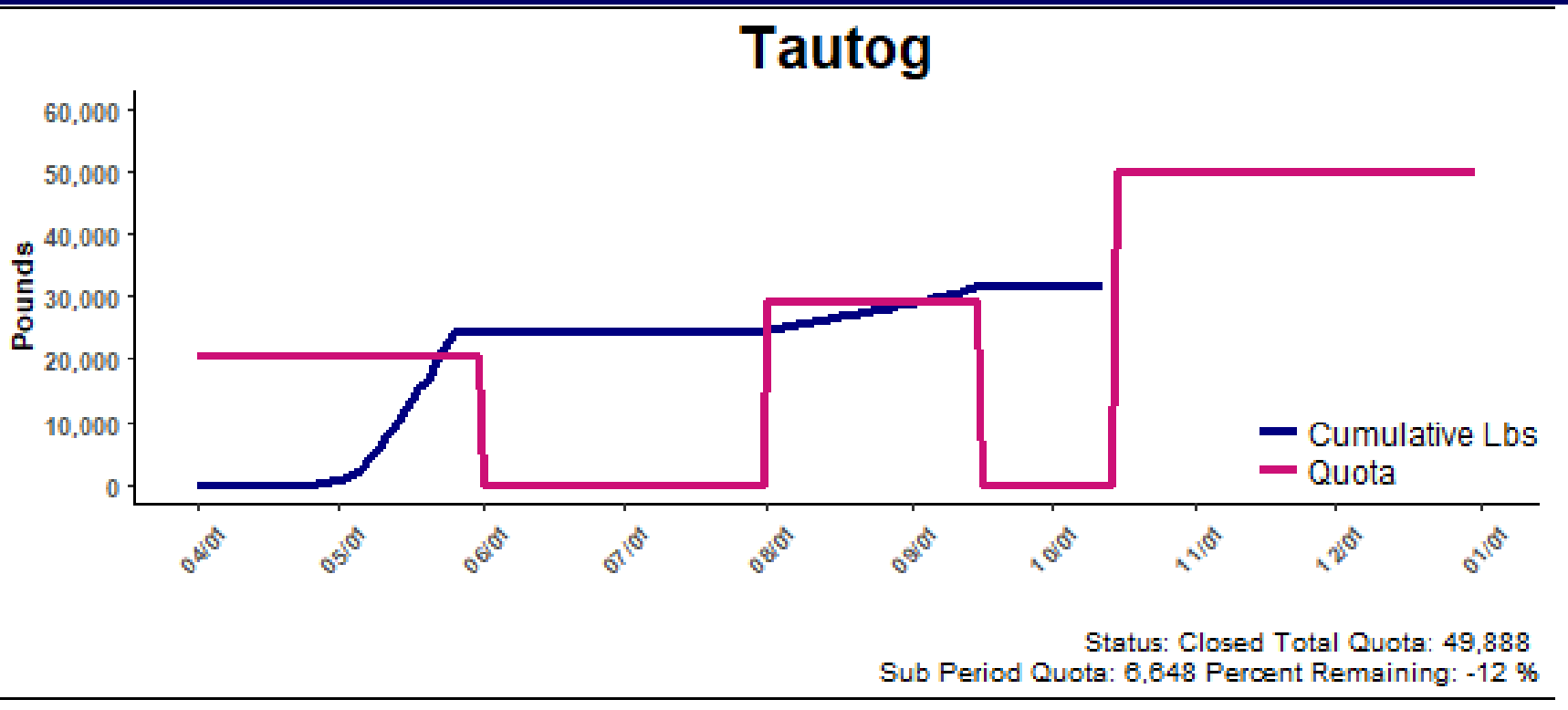
Tautog:

- Stock Status cont'd:
 - F estimated at 0.23 (target 0.28 threshold 0.49)



Tautog:

- Commercial Fishery Performance 2018: Early closures in each sub period to date



End of Slides!



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Public Hearing
November 19, 2018

Proposed/annotated amendments

Note: Proposed new language is identified as **red, bold, underline**; proposed language to be deleted is identified as ~~red-stricken~~.

250-RICR-90-00-3

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 3 – Finfish

3.7 Black Sea Bass

**HEARING ITEM 1a. – 2019 COMMERCIAL BLACK SEA BASS
MANAGEMENT**

Option 1: Status quo.

3.7.2 Commercial

- A. Minimum size: Eleven (11) inches.
- B. Seasons, allocations, and possession limits: A state quota for Black sea bass will be established annually and shall be the most recent amount allocated to the State of Rhode Island by the ASMFC and/or the Secretary of the NOAA Fisheries. The quota shall be available during the following sub-periods:
 - 1. January 1 through April 30:
 - a. Allocation: Twenty-five percent (25%) of the quota.
 - b. Possession limit: Five hundred (500) pounds per vessel per week.
 - 2. May 1 through June 30:
 - a. Allocation: Twenty-five percent (25%) of the quota.
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day.

3. July 1 through July 31:
 - a. Allocation: Nineteen and a half percent (19.5%) of the quota.
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day.
4. August 1 through September 14: Closed.
5. September 15 through October 31:
 - a. Allocation: Nineteen and a half percent (19.5%).
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day.
6. November 1 through December 31:
 - a. Allocation: Eleven percent (11%).
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day.

C. Black sea bass pot construction

1. All black sea bass pots must be constructed with two escape openings in the parlor portion of the pot. Openings may be circular, rectangular, or square, and must be a minimum of 2.5" diameter if circular, 1- 3/8" X 5-3/4" if rectangular, 2" X 2" if square. Escape vents must be attached with biodegradable fasteners which allow vents or panels to fall away from the trap after loss.
2. The hinges or fasteners of one panel or door must be made of one of the following degradable materials:
 - a. Un-treated hemp, jute, or cotton string 3/16" (4.8mm) or smaller;
 - b. Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners;
 - c. Un-galvanized or uncoated iron wire of .094" (2.4mm) or smaller; or

- d. If "bungee" cord or other elasticized material is used to fasten the top, it must be secured to the trap with a degradable hog ring.

Hearing Item 1a. cont'd – 2019 Commercial Black Sea Bass

Management:

Option 2: Amend starting possession limit during July sub-period (only sub-section of proposed rule provided here; see option 1 for full current rule).

3.7.2 Commercial

3. July 1 through July 31:
 - a. Allocation: Nineteen and a half percent (19.5%) of the quota.
 - b. Possession limit: ~~Fifty (50)~~ **Twenty-five (25)** pounds per vessel

3.8 Scup

HEARING ITEM 1b. – 2019 COMMERCIAL SCUP MANAGEMENT

Proposal 1: Management program.

Option 1: Status quo.

3.8.2 Commercial

- A. Minimum size: Nine (9) inches.
- B. Seasons, quotas and possession limit: A total allowable harvest of Scup will be established annually, and shall be that amount allocated to the State of Rhode Island by the Regional Fishery Management Councils and/or the ASMFC.
 1. January 1 through April 30 (federal Winter I): 50,000 pounds per vessel per calendar day, decreasing to 1,000 pounds per vessel per calendar day once 80% of the federal Winter I coastwide Scup quota has been harvested as determined by NOAA Fisheries.
 2. May 1 through September 30 (Summer): The State quota for this sub-period will be divided as follows:
 - a. General Category (gear types other than floating fish traps): Forty percent (40%) of the Summer sub-period quota will be allocated to all gear types except floating fish traps.

(1) Possession limit: 10,000 pounds per vessel per calendar week. The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When the Summer sub-period quota has been harvested as determined by the DEM, the fishery will close.

b. Floating fish trap: Sixty percent (60%) of the Summer sub-period quota will be allocated to the floating fish trap sector.

(1) During those years in which the federal Winter I coastwide Scup quota is completely exhausted prior to April 15, the floating fish trap quota will be available on April 15. During those years in which the federal Winter I coastwide Scup quota is not completely exhausted prior to April 15, the floating fish trap quota will be available on May 1.

(2) If the DEM estimates that the Floating Fish Trap sector will not fully utilize its scup allocation prior to the end of the Summer-Fall sub-period, beginning on June 15, the DEM has the authority to move the designated Floating Fish Trap sector allocation in to the general category fishery as set forth in this part. DEM will consult with the Floating Fish Trap operators or their designee prior to enacting any allocation roll over, and will maintain written correspondence in the form of a letter on file as proof of said consultation.

(3) If the DEM estimates that the Floating Fish Trap sector may have a reasonable likelihood of utilizing prior to the end of the Summer-Fall sub-period, a portion of its scup allocation that has been transferred to the general category scup fishery, and has not as yet been used by the general category scup fishery, the DEM has the authority to move the designated general category Scup fishery quota to the Floating Fish Trap sector. Any quota that was rolled over from the General Category to the Floating Fish Trap sector shall not exceed the amount that may have been transferred from the Floating Fish Trap sector to the General Category.

(4) Floating Fish Trap Reporting Requirement: Floating fish trap operators permitted pursuant to R.I. Gen. Law § 20-5-1 will be required to report landings of scup to SAFIS every Monday, Wednesday, and Friday, of every week that the trap is in operation. If there is non-compliance with this reporting requirement, the Floating Fish Trap operators will be notified and will default to the following program:

- (AA) April 15 through October 31: During those years in which the Winter I Federal Coastwide Scup Quota Allocation is completely exhausted prior to April 15, the floating fish trap quota will be available on April 15. The possession limit will be 25,000 pounds per floating fish trap per calendar day. Once ninety percent (90%) of the sub-period allocation is projected to be harvested, the possession limit will be 5,000 pounds per fish trap licensee per calendar day until one hundred percent (100%) of the quota has been harvested.
 - (BB) May 1 through October 31: During those years in which the Winter I federal coastwide scup quota allocation is not completely exhausted prior to April 15, the floating fish trap quota will be available on May 1. The possession limit will be 25,000 pounds per floating fish operator per calendar day. Once ninety percent (90%) of the sub-period allocation is projected to be harvested, the possession limit will be 5,000 pounds per fish trap licensee per calendar day until one hundred percent (100%) of the quota has been harvested
 - (CC) Floating Fish trap operator: For purposes of this section, fish trap operator shall refer to a resident person or resident corporation currently issued a permit pursuant to R.I. Gen. Laws § 20-5-2. The maximum possession limit per floating fish trap licensee shall be the amount set forth above regardless of the number of authorized trap locations, the number of vessels or the number of licensed fishermen who may be working for or may enter into contract with the floating fish trap operator. While engaged in the operation of a fish trap, any licensed fisherman that may be working for or may enter into contract with the floating fish trap operator waives any individual right to possess scup pursuant to a possession limit set out in these regulations.
3. October 1 – December 31 (Winter II): 2,000 pounds per vessel per calendar day, decreasing to 500 pounds per vessel per calendar day once 70% of the federal Winter II coastwide Scup quota has been harvested as determined by NOAA Fisheries.

- C. Trawl vessel gear restrictions - minimum mesh size: Owners or operators of otter trawl vessels possessing five hundred (500) pounds or more of scup from November 1 through April 30; or two hundred (200) pounds or more of scup from May 1 through October 31, may only fish with nets that have a minimum mesh size of five (5) inches diamond (inside measure) or square mesh with a minimum length of seventy-five (75) meshes from the terminus of the net. For nets with less than seventy-five (75) mesh cod ends, the entire net will be five (5) inch minimum size diamond or square mesh.
- D. Scup pots:
1. Pot limits: Each person utilizing pots in the scup fishery shall be permitted to fish up to fifty (50) pots regardless of the number of licenses on board the vessel.
 2. Pot construction - escape vents: All scup pots must be constructed with escape openings. Openings may be circular, rectangular, or square, and must be a minimum of 3.1" diameter, 2-1/4" X 5-3/4" if rectangular or may be constructed of 2-1/4" X 2-1/4" wire mesh. Escape vents must be attached with biodegradable fasteners which allow vents or panels to fall away from the trap after loss.
 3. The hinges or fasteners of one panel or door must be made of one of the following degradable materials:
 - a. Un-treated hemp, jute, or cotton string 3/16" (4.8mm) or smaller;
 - b. Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners;
 - c. Un-galvanized or uncoated iron wire of .094" (2.4mm) or smaller; or
 - d. If "bungee" cord or other elasticized material is used to fasten the top, it must be secured to the trap with a degradable hog ring.

Hearing Item 1b. cont'd – 2019 Commercial Scup Management:

Proposal 2: Amend maximum pot limit:

Option 1: Remove maximum pot limit.:

D. Scup pots:

- ~~1. Pot limits: Each person utilizing pots in the scup fishery shall be permitted to fish up to fifty (50) pots regardless of the number of licenses on board the vessel.~~

Proposal 2 cont'd:

Option 2: Increase pot limit from 50 to 300 pots.

D. Scup pots:

1. Pot limits: Each person utilizing pots in the scup fishery shall be permitted to fish up to ~~fifty (50)~~ **three hundred (300)** pots regardless of the number of licenses on board the vessel.

3.10 Summer Flounder

HEARING ITEM 1c. – 2019 COMMERCIAL SUMMER FLOUNDER MANAGEMENT

Option 1: Status quo.

3.10.2 Commercial

- A. Minimum size: Fourteen (14) inches.
- B. Seasons, allocations, and possession limits: A total annual statewide quota for Summer flounder will be established for the State by the ASMFC and/or NOAA Fisheries.
 1. January 1 through April 30 (Winter):
 - a. Target allocation: 54% of the annual quota.
 - b. Possession limit between January 1 and the start of the Winter sub-period of the Aggregate Landing Program, annually:
 - (1) Vessels that possess a valid RI Summer Flounder Exemption Certificate (Exemption Certificate): One hundred (100) pounds per vessel per calendar day.
 - (2) Vessels that do not possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day.
 - c. Possession limit during the Winter sub-period of the Aggregate Landing Program, annually:
 - (1) Vessels not permitted in the Aggregate Landing Program but which possess a valid Exemption Certificate: One hundred

(100) pounds per vessel per calendar day. When 90% of the Winter sub-period quota has been harvested as determined by the DEM, the possession limit per vessel shall be one hundred (100) pounds per calendar day.

- (2) Vessels that do not possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day. When 90% of the Winter sub-period quota has been harvested as determined by the DEM, the possession limit per vessel shall be one hundred (100) pounds per calendar day.
- (3) Aggregate Landing Program: One thousand five hundred (1,500) pounds per vessel per bi-weekly period. The bi-weekly periods shall be specified in the Aggregate Landing Permit. When 90% of the Winter sub-period quota has been harvested as determined by the DEM, the Aggregate Landing Program will terminate, and the possession limit shall be one hundred (100) pounds per vessel per calendar day.

2. May 1 - September 15 (Summer):

- a. Target allocation: 35% of the annual quota.
- b. Possession limit:
 - (1) Vessels that possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed Friday, Saturday, and Sunday each week.
 - (2) Vessels that do not possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed Friday, Saturday, and Sunday each week.

3. September 16 – December 31 (Fall):

- a. Target allocation: 11% of the annual quota.
- b. Possession limit:
 - (1) Vessels that possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day.
 - (2) Vessels that do not possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day.

C. Aggregate Landing Program:

1. Sub-periods:
 - a. Winter: Beginning on the Sunday of the first full week in February through April 30 annually, or until 90% of the Winter sub-period quota has been harvested as determined by the DEM.
2. Eligibility: An applicant vessel shall be considered eligible for a permit to participate in the Aggregate Landing Program by demonstrating to the satisfaction of the DEM and the Division of Law Enforcement each of the following:
 - a. The vessel, if harvesting Summer flounder from federal waters, possesses a valid federal Summer Flounder Moratorium Permit and RI Summer Flounder Exemption Certificate (Exemption Certificate);
 - b. The vessel's operator, if harvesting exclusively in State waters, holds a valid RI commercial fishing license to harvest or land summer flounder, and possesses a valid Exemption Certificate;
 - c. The vessel's operator has not been assessed a criminal or administrative penalty in the past three (3) years for a violation of this section, or has more than one (1) marine fisheries violation.
3. Application: Application for an Aggregate Landing Program Permit shall be made on forms as prescribed by the Director.
4. Non-compliance with the provisions of these regulations or the permit agreement shall subject both the owner and the operator to revocation of enrollment and participation in the commercial fisheries for remainder of the sub-period or the subsequent sub-period. If for any reason a sub-period does not exist by regulation, the privilege of the owner(s) and operator(s) to commercially harvest fish shall be suspended for the same calendar time period as described in the current sub-period upon adjudication.

D. Rhode Island Summer Flounder Exemption Certificate:

1. Application: Applicant's shall provide each of the following:
 - a. A copy of the operator's valid current Rhode Island commercial fishing license or non-resident landing license, and Federal Fluke Permit if the summer flounder is to be taken in the EEZ;
 - b. A completed notarized application;

- c. Proof that the vessel meets the requirements set out in this section;
 - d. Provide a completed notarized waiver authorizing the Department to access records verifying that this vessel and operator meet the criteria set forth in this section; and
 - e. A copy of the vessel's U.S. Coast Guard documentation papers or state issued boat registration certificate proving ownership of the vessel.
2. Eligibility: DEM will issue an Exemption Certificate for a vessel if the owner of the vessel or his/her representative applies to DEM prior to January 1, 1997, for the issuance of such a certificate and demonstrates to the satisfaction of the Director that:
- a. The operator of the vessel possesses a valid Rhode Island commercial fishing license to land Summer flounder up to the amount permitted by these regulations; and
 - b. The subject vessel meets any of the following criteria:
 - (1) The vessel was operated by a person who possessed a valid Rhode Island commercial fishing license and landed and sold in excess of one pound of summer flounder to a Rhode Island licensed dealer during the period from January 1, 1987, through December 31, 1992;
 - (2) The vessel fished exclusively in the Exclusive Economic Zone (EEZ) and landed and sold in excess of one pound of summer flounder to a licensed Rhode Island licensed dealer sometime during the period January 1, 1987, through December 31, 1992. The Department may require additional supporting documents including but not limited to the ship's logs, ice and fuel slips;
 - (3) The vessel replaces a vessel which was operated by a person who possessed a valid Rhode Island commercial fishing license, and the vessel being replaced landed and sold in excess of one pound of summer flounder to a Rhode Island licensed dealer during the period from January 1, 1987, through December 31, 1992, and if the vessel being replaced was lost by sinking or was otherwise destroyed, the replaced vessel is required to have been owned by the applicant at the time of the loss;
 - (4) The vessel replaces a vessel which fished exclusively in the EEZ and landed and sold in excess of one pound of summer

flounder to a Rhode Island licensed dealer, during the period January 1, 1987, through December 31, 1992, and if the vessel being replaced was lost by sinking or was otherwise destroyed, the replaced vessel is required to have been owned by the applicant at the time of the loss.

- (5) If the vessel is replacing a vessel that was lost by sinking or was otherwise destroyed, documentation must be presented from a licensed insurance company, U.S. Coast Guard report, or some other valid evidence of ownership to the satisfaction of the Director.
3. Transfer of an Exemption Certificate: An Exemption Certificate issued by the DEM is only valid for the vessel to which it is issued. A vessel may be sold with all certificates, permits (state and federal) and history transferred together or without the certificates, permits (state and federal) and history for purposes of replacing the vessel. In instances when a vessel owner retains all certificates, permits, and history they must be applied to a replacement vessel owned by said individual within ninety (90) days.
 - a. Change in ownership: An Exemption Certificate is presumed to transfer with the vessel whenever it is bought, sold, or otherwise transferred, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel's fishing and permit history for purposes of replacing the vessel. Individuals who purchase a vessel issued an Exemption Certificate must supply credible written evidence verifying that they are the full owner of said vessel. Vessel ownership will be determined solely by an issued and valid (unexpired) US Coast Guard documentation or state registration.
 - b. Replacement Vessels: A vessel owner wishing to transfer an Exemption Certificate must provide proof to the satisfaction of the DEM that the applicant vessel is replacing a vessel and that said certificate is only applicable to the vessel for which the Exemption Certificate has been transferred.
 - (1) The vessel owner must supply credible written evidence verifying that the transferor/seller is retaining the vessel's Exemption Certificate for purposes of replacing the vessel. If a vessel owner elects to sever the Exemption Certificate from a vessel, the Exemption Certificate may be transferred only to another vessel fully owned by said vessel owner. Proof of full ownership of both vessels is required. Vessel ownership will be determined solely by an issued and valid

(unexpired) US Coast Guard documentation or state registration.

- (2) Vessel permits (state and federal), Exemption Certificates, and fishing history cannot be split.
 - (3) An Exemption Certificate may not be combined to create larger replacement vessels.
 - (4) The replacement vessel may not exceed a 10 percent increase in length overall (LOA), a 10 percent increase in gross registered tonnage (GRT) or net tonnage (NT), or a 20 percent increase in horsepower of the vessel's baseline specifications, as applicable.
 - (5) Vessel baseline specifications: The vessel baseline specifications in this section are the respective specifications (length, gross registered tonnage, net tonnage, horsepower) of the vessel that was initially issued an Exemption Certificate.
 - (6) A vessel may be upgraded, whether through refitting or replacement, and be eligible to retain an Exemption Certificate, only if the upgrade complies with the following:
 - (AA) The vessel's horsepower may be increased only once, whether through refitting or replacement. Such an increase may not exceed 20 percent of the horsepower of the vessel's baseline specifications, as applicable.
 - (BB) The vessel's length, GRT, and NT may be increased only once, whether through refitting or replacement. Any increase in any of these three specifications of vessel size may not exceed 10 percent of the vessel's baseline specifications, as applicable. If any of these three specifications is increased, any increase in the other two must be performed at the same time. This type of upgrade may be done separately from an engine horsepower upgrade.
4. Exemption Certificates may not be:
- a. Pledged, mortgaged, leased, or encumbered in any way;
 - b. Transferred with any retained right of repossession or foreclosure, or any condition requiring a subsequent transfer; or

- c. Attached, distrained, or sold on execution of judgment.
- 5. Otter trawl Mesh size: Otter trawlers that land or possess 100 pounds (45.4 kg) or more of Summer flounder per day from May 1 through October 31; or 200 pounds (90.8 kg) or more of summer flounder per trip from November 1 through April 30, must fish with nets or combinations of nets that have a minimum mesh size of 5.5 inch (14.0 cm) diamond, or 6 inch (15.2 cm) square mesh applied throughout the body, extension(s) and cod end portion of the net.
- 6. Summer flounder may be landed between the hours of 6:00 AM to 8:00 PM only;
- 7. Control Date: A control date of December 31, 2010, is established for the commercial Summer flounder fishery in Rhode Island.

Hearing Item 1c. cont'd – 2019 Commercial Summer Flounder Management:

Option 2: Remove closed day during Summer sub-period (only subsection of proposed rule provided here; see option 1 for full current rule).

3.10.2 Commercial

- 2. May 1 - September 15 (Summer):
 - a. Target allocation: 35% of the annual quota.
 - b. Possession limit:
 - (1) Vessels that possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed Friday, **and** Saturday, ~~and Sunday~~ each week.
 - (2) Vessels that do not possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed Friday, **and** Saturday, ~~and Sunday~~ each week.

HEARING ITEM 1d. – 2019 RECREATIONAL TAUTOG MANAGEMENT

Option 1: Status quo.

3.11 Tautog

3.11.1 Recreational

- A. Minimum size: Sixteen (16) inches.
- B. Seasons and possession limits:
 - 1. January 1 through March 30: Closed.
 - 2. April 1 through May 31: Three (3) fish per person per calendar day.
 - 3. June 1 through July 31: Closed.
 - 4. August 1 through October 14: Three (3) fish per person per calendar day.
 - 5. October 15 through December 31: Five (5) fish per person per calendar day.
 - 6. Maximum per vessel possession limit: The possession limit shall be per person per calendar day, as stated above, with a maximum of ten (10) fish per vessel per calendar day.
 - 7. Licensed Party and Charter vessels seasons and possession limits:
 - a. January 1 through April 14: Closed
 - b. April 15 through May 31: Three (3) fish per person per calendar day.
 - c. August 1 through October 14: Three (3) fish per person per calendar day.
 - d. October 15 through December 15: Six (6) fish per person per calendar day.
 - e. December 16 through December 31: Closed
 - 8. Licensed Party/charter vessels are not subject to the ten (10) fish per vessel per calendar day restriction.
 - 9. Reporting: Any Party and Charter vessel participating in the tautog fishery must report each trip targeting tautog into the elogbook (the electronic logbook hosted by ACCSP).

HEARING ITEM 1e. – 2019 COMMERCIAL TAUTOG MANAGEMENT

Proposal 1: Management program.

Option 1: Status quo.

3.11.2 Commercial

- A. Minimum size: Sixteen (16) inches.
- B. Seasons, allocations, and possession limit: The total allowable harvest of tautog will be established annually, and will be that amount allocated to the State of Rhode Island by the Regional Fishery Management Council and/or the ASMFC. The quota shall only be available during the following seasons:
 - 1. January 1 through March 30: Closed.
 - 2. April 1 through May 31:
 - a. Allocation: 40% of the annual quota.
 - b. Possession limit: Ten (10) fish per vessel per day.
 - 3. June 1 through July 31: Closed.
 - 4. August 1 through September 15:
 - a. Allocation: 20% of the annual quota.
 - b. Possession limit: Ten (10) fish per vessel per day.
 - 5. September 16 through October 14: Closed.
 - 6. October 15 through December 31:

Hearing item 1e. cont'd – 2019 Commercial Tautog Management Proposal 1: Management program.

Option 2: Remove summer sub-period, split allocation 50/50 spring and fall sub-periods (only sub-section of proposed rule provided here; see option 1 for full current rule).

3.10.2 Commercial

- A. Minimum size: Sixteen (16) inches.
- B. Seasons, allocations, and possession limit: The total allowable harvest of tautog will be established annually, and will be that amount allocated to the State of Rhode Island by the Regional Fishery Management Council and/or the ASMFC. The quota shall only be available during the following seasons:
 - 1. January 1 through March 30: Closed.
 - 2. April 1 through May 31:
 - a. Allocation: ~~40~~ **50**% of the annual quota.
 - b. Possession limit: Ten (10) fish per vessel per day.
 - 3. June 1 through ~~July 31~~ **October 14**: Closed.
 - ~~4. August 1 through September 15:~~
 - ~~a. Allocation: 20% of the annual quota.~~
 - ~~b. Possession limit: Ten (10) fish per vessel per day.~~
 - ~~5. September 16 through October 14: Closed.~~
 - ~~6~~**4**. October 15 through December 31:
 - a. Allocation: ~~40~~ **50**% of the annual quota

HEARING ITEM 1e. cont'd – 2019 COMMERCIAL TAUTOG MANAGMENT

Proposal 2: Proposed adoption of a fish tagging program.

C. Commercial tautog tagging.

1. No tautog shall be sold, purchased, bartered, or traded in RI unless a tautog tag issued by the Director has been affixed to the left opercula bone with the tag number displayed.
2. All tautog harvested and landed in RI must be tagged at the time of harvest, prior to offloading.
3. Eligibility: Tags shall be available only to RI commercially licensed fishermen authorized to harvest and/or land tautog.
4. No person shall transfer tautog tags between individuals or fish.
5. Tags are valid for one (1) calendar year.
6. All unused tags shall be returned to DMF by February 15 of the following year accompanied by the tag reporting form with the disposition of all tags (used, returned, broken, or lost) recorded. Failure to return tags and reports may result in the harvester's inability to participate in the commercial tautog fishery in the future.
7. No person shall reuse, counterfeit, alter, or modify any tautog tag, or possess, use, or attempt to use any counterfeit, altered or modified tags. Any person found in violation may be prohibited from participating in the commercial tautog fishery in the future.
8. Tautog must remain tagged until they reach the final consumer. Processed or fileted tautog shall be packed with the tag and available for inspection, with tags retained until all process or fileted tautog are sold.
9. This section shall become effective on January 1, 2020.



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF MARINE FISHERIES
3 Fort Wetherill Road
Jamestown, Rhode Island 02835

SUMMARY OF HEARING COMMENTS

A public hearing was held on **November 19, 2018** at 6:00 PM, URI Narragansett Bay Campus, Corless Auditorium, Narragansett, RI. Seven (7) persons were in attendance. The public comment period began May 18 and ended June 18.

1. Hearing item 1a. – 2019 commercial Black sea bass management:

- **Option 1:** Status quo.
- **Option 2:** Amend starting possession limit from 50 lbs/day to 25 lbs/day during the July sub-period
 - *S. Parente:* In support of option 1. Not in support lowering possession limit to 25 lbs/day as is not an economically viable possession limit. In support of closing while Massachusetts is open if lowered to 25 lbs/day as will impact price.
 - *J. Perkins:* In support of comments made by S. Parente. Not in support of option 2.
 - *J. Macari:* 25 lb/day possession limit would allow a bycatch when targeting summer flounder.
 - *D. Blackburn:* In support of option 2 as positive for rod and reel fishermen.
 - *E. Wright/Town dock:* When season is open rate of discards increases. Gillnet discard mortality rate is over 20%; rod and reel is @ 8%.
 - *K. Murgo:* In support of option 1. A possession limit of 25 lbs/day is not an economically viable possession limit. Not in support of any closed days.
 - *Public comment:* In support of option 1. A possession limit of 25 lbs/day is not an economically viable possession limit.

2. Hearing item 1b. – 2019 commercial Scup management:

- **Proposal 1:** Management program.
 - **Option 1:** Status quo.
 - *S. Parente:* Biomass estimates may be too high; possession limits could result in over-harvest.

- **Proposal 2:** Amend maximum pot limit.
 - **Option 1:** Remove maximum pot limit.
 - **Option 2:** Increase maximum pot limit from 50 to 300 pots.
 - *K. Murgo:* In support of option 1.
 - *E. Wright:* The maximum # of pots currently used is 32 pots; changing the rule would therefore have no effect on fishing practices or harvest. Primary method of harvest is trawling.

3. **Hearing item 1c. – 2019 commercial Summer flounder management:**

- **Option 1:** Status quo.
- **Option 2:** Re-open on Sundays during the Summer sub-period.
 - *J. Perkins:* In support of option 2. The risk of an early closure from adding Sunday is worth the risk. In support of opening on Friday rather than Sunday.
 - *B. Allen:* In support of opening an additional day if quota increases by 15% as anticipated. Does not want to see an early closure. Closed day should be based on market, consultation with dealers.
 - *J. Macari:* In support of opening an additional day.
 - *E. Wright:* Opening on Sunday would be best from a dealer standpoint.
 - *S. Parente:* In support of opening an additional day; the day to based on market.
 - *B. Allen:* Quotas don't appear accurate.
 - *D. Blackburn:* Opening the additional day should only be implemented if increase in quota realized.

4. **Hearing item 1d. – 2019 recreational Tautog management:**

- No comments were made.

5. **Hearing item 1e. – 2019 commercial Tautog management:**

- **Proposal 1:** Management program.
 - **Option 1:** Status quo.
 - **Option 2:** Remove summer sub-period, split allocation 50/50 spring and fall sub-periods.
 - *S. Parente:* In support of option 2, though concerned about impacts to spear fishermen.
 - *K. Murgo:* In support of option 1; strongly opposed to option 2. Tautog fishing is an important component of his fishing activity during this sub-period. Removal of this sub-period will not have any appreciable benefit to the other 2 sub-periods.

- J. Perkins: In support of option 1.
- **Proposal 2**: Proposed adoption of a fish tagging program.
 - S. Parente: Not in support of an additional tagging program.
 - E. Wright: Is difficult to tag a live tautog. Does not understand goals of program or logistics of tagging and responsibilities; would appear to have very limited value.
 - K. Murgo: Not in support of the program; very difficult to tag a live tautog.

For the full video of the hearing please go to:

<https://www.youtube.com/watch?v=KiTMKiBRe3w>. Please expand the “SHOW MORE” tab to show individual agenda items and their time of recording.

BLACK SEA BASS COMMENTS:

The quota shall be available during the following subperiods:

1. January 1 through April 30: a. Allocation: Twenty-five percent (25%) of the quota.
b. Possession limit: Five hundred (500) pounds per vessel per week.
2. May 1 through June 30: a. Allocation: Twenty-five percent (25%) of the quota.
b. Possession limit: Fifty (50) pounds per vessel per calendar day.
3. July 1 through July 31: a. Allocation: Nineteen and a half percent (19.5%) of the quota.
b. Possession limit: Fifty (50) pounds per vessel per calendar day.

The two subperiods: May 1 through June 30 and July 1 through July 31 should be combined and should remain at 50 pounds per vessel per day. This will possibly alleviate the July 1st opening when Massachusetts opens and the price drops in half because the market gets flooded with BSB. All openings should not coincide with Massachusetts openings because this floods the markets with BSB and the price drops in half.

The 4th subperiod, September 15th Fall BSB fishery, should be combined with the quota for the November BSB fishery. This would allow smaller fishing operations to have a better chance of catching BSB without the added safety issue associated with fishing further offshore as the BSB migrate to deeper waters. The beginning of November brings constant high velocity winds with many days where small craft or gale warnings are posted. It would be a benefit to all fishermen if the Council would take the safety factor into consideration when deciding the Fall subperiods. This would be a more equitable amendment to all fishers involved.

SUMMER FLOUNDER COMMENTS:

The summer flounder subperiod should re-open one additional day, **Sunday**, during the week.

TAUTOG COMMENTS:

Remove summer subperiod, split allocation 50/50 spring and fall subperiod.

Gary Mataronas & Gary Mataronas Jr
F/V X-Terminator
F/V Edna May
F/V Night Prowler



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

OFFICE OF THE DIRECTOR
235 Promenade Street, Room 425
Providence, Rhode Island 02908

November 19, 2018

Kelly Denit
Division Chief
Office of Sustainable Fisheries
1315 East-West Highway
Silver Spring, MD 20910

RE: Advance Notice of Proposed Rulemaking; Striped Bass Fishing in the Block Island Transit Zone (NOAA-NMFS-2018-0106)

Dear Ms. Denit:

I write in response to the advance notice of proposed rulemaking regarding the proposed opening of the Block Island Transit Zone to recreational fishing for striped bass. This matter is of major importance to Rhode Island interests, as reflected by the many compelling comments, both pro and con, submitted for the record by the Rhode Island community. I urge you to carefully consider all of those comments, along with these additional perspectives.

On the one hand, the small portion of federal waters sandwiched between the state waters of RI, NY, and CT west and north of Block Island creates a unique jurisdictional challenge, which warrants special attention; on the other hand, a proposal to open any portion of federal waters to striped bass fishing involves a range of potential impacts that need to be taken into account.

Overall, the proposal must be considered in the context of past and ongoing actions by the Atlantic States Marine Fisheries Commission (ASMFC), the National Marine Fisheries Service (NMFS), the US Fish and Wildlife Service (USFWS), and the U.S. Congress to conserve and manage this iconic resource.

Since the 1980s, striped bass have been managed by the ASMFC in accordance with the Striped Bass Act of 1984 and the Atlantic Coastal Fisheries Cooperative Management Act of 1993. Since 1990, the fishery has been a state-waters-only fishery as a result of the federal ban on the harvest of striped bass in federal waters. The ASMFC has long imposed strict conservation measures in state waters – the most recent being a 25 percent coastwide harvest reduction and a one fish/person/day recreational possession limit, adopted in 2014.

Under this tightly controlled management framework, stock status has fluctuated – from collapsed in the 1980s, to fully recovered in the mid-1990s, to the most recent 10-year period of decline. The last stock assessment update, completed in 2016, revealed that spawning stock biomass had been declining since 2004 and was approaching the overfished threshold. A new benchmark stock assessment has just been completed and will be subject to review and response by the ASMFC in 2019.

A shift of fishing effort for striped bass into federal waters would be a significant modification to the longstanding state-federal management framework. While the Block Island Transit Zone constitutes a relatively small portion of federal waters, it includes a particularly productive striped bass habitat area, known as the Southwest Ledge. Opening this area, without first evaluating the biological consequences of doing so, would be counter to normal practices of sound management, particularly in view of the decline in stock status since 2004, and the as-yet unknown outcome of the new benchmark assessment.

As such, the proposal to initiate rulemaking to lift the ban on recreational striped bass fishing in the portion of federal waters surrounding Block Island should be postponed until the new benchmark stock assessment is fully reviewed, and appropriate management responses are fully considered. This recommendation is consistent with the position of all Atlantic coast states, as set forth in the November 13, 2018 letter from the ASMFC, submitted for the record on this issue.

After the ASMFC has completed its review of the new stock assessment, and considered a management response, the range of potential impacts associated with the Block Island Transit Zone proposal will need to be fully analyzed. Potential biological impacts have already been noted. Other factors that warrant consideration include the following:

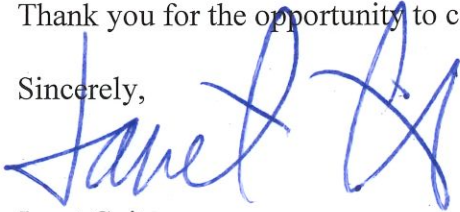
- The impetus for the proposed rulemaking is the 2018 Omnibus Appropriations Act, which directs NMFS to first consider lifting the ban on striped bass fishing in the Block Island Transit Zone, then consider lifting the ban in all federal waters. Given the standards set forth by the Magnuson-Stevens Act, the decision on the first issue may have legal bearing on the second. As such, there may be a need to assess the full implications of opening all federal waters to striped bass fishing as a contingent component of proposed rulemaking pertaining to the opening the Block Island Transit Zone.
- Notwithstanding the generic nature of the Congressional directive pertaining to the Block Island Transit Zone – namely, its reference to lifting the ban on “striped bass fishing” in the area – NMFS is only proposing to lift the ban on recreational fishing, while maintaining the ban on commercial fishing, pursuant to prior Executive Order. Given the standards set forth by the Magnuson-Stevens Act, there may be impediments to treating one sector of the fishery differently than the other.
- If the above-referenced issues can be addressed, the primary basis for the proposed rulemaking – compliance and enforcement – will be at the fore. Clearly, the status quo is untenable. Operators of vessels who comply with current law, by harvesting within state waters surrounding Block Island, are increasingly at odds with noncompliant operators

fishing illegally, and in close proximity, in federal waters. The uneven playing field is particularly damaging to the for-hire and commercial industries, who compete economically. The problems need to be addressed, but changing federal law is not the only option, and may not be the best course of action. Fishermen are responsible for complying with the law that bans striped bass fishing in the EEZ, and federal and state agencies are responsible for enforcing the law. Instead of capitulating to the problems by opening the Block Island Transit Zone to fishing, it may be more appropriate to undertake a stepped-up compliance and enforcement initiative.

- Finally, it's important to note that a proposed change to the use of the Block Island Transit Zone, as currently configured, might exacerbate, rather than resolve, the current compliance and enforcement problems. That's because the southerly line of demarcation for the Zone runs from Southeast Light on Block Island to Montauk Light on Montauk Point, NY and thereby cuts through the Southwest Ledge. Given the productivity of the area, those who currently flout the law will likely continue doing so, just farther offshore. Shifting the southerly line of demarcation farther south, so it brackets the southerly extent of state waters surrounding Block Island and Montauk, may need to be considered, if the proposed rule moves forward.

Thank you for the opportunity to comment on this important matter.

Sincerely,



Janet Coit
Director

From: [McNamee, Jason \(DEM\)](#)
To: [Duhamel, Peter \(DEM\)](#)
Cc: couplesell@verizon.net
Subject: FW: [EXTERNAL] : commercial f/f options
Date: Friday, November 23, 2018 11:18:33 AM

Pete, official public comment for the record (below).

Thanks

-J

From: Mike McElroy <couplesell@verizon.net>
Sent: Friday, November 23, 2018 11:13 AM
To: McNamee, Jason (DEM) <jason.mcnamee@dem.ri.gov>
Subject: [EXTERNAL] : commercial f/f options

Hi Jason ,

I just want to comment on the options that were given on 3 f/f .

{1} I am in favor of going to 5 days for summer flounder

[2] I am against a 50% split on tautog for the spring season .actually I,d like to see no spring season . even thru they are in the bay in the spring & I do know how to catch spring tautog In the long run I believe this hurts the fishery . I feel its open just before they spwarn [sp] & is mostly a pot & net fishery .

[3] I, m opposed to the 25# daily limit of summer flounder in the sub-period I know this option is from the south shore R&R fisherman , their reason being that in July they are still on Stripers & flounder is in full gear so 25#s is a by-catch number to them . for me , who is real close to being to old & beat up to dig any longer , It's a close to a given fact that after the stripers leave we in the bay have little to target except scup which is foolish with the quota which results in a price that is unrealistic to the R&R fisherman .We have to hard to just about the mouth of the bay or further south to get any amount of sea bass . I believer this is another greed option of theu part & hurts the fishery . with a lot more dead sea bass being thrown back , especially by draggers & cullers . When I sell at the point now [50#] I see those fisherman constantly over their limits & they leave the dealer with them or just give them away .

Not going to rant on , but please don,t change the option it will hurt the rest of us .

Thank you Mike McElroy M/P Lic #0082

Kenneth T Murgo
Trident Fisheries LLC.
RI MP License #001365
Kenneth.Murgo@gmail.com
(401) 368-4397

February 19, 2018

Subject: Written Comments on Proposed Rulemaking Presented at February 19th 2018
Public Hearing

To Whom It May Concern:

My name is Ken Murgo and I am a holder of a RI Multipurpose fishing license. I commercially fish full time in state waters and therefore these proposed rulemaking amendments would impact my livelihood.

On Hearing Item 1a Commercial Black Sea Bass I support option 1 status quo. I am strongly against decreasing the sea bass daily limit to below 50lb as it is not economical to go out fishing for anything less than 50lbs. I am also strongly against the proposal to add closed days to the sea bass fishery. As a full time fisherman who derives my entire income from commercial fishing in RI state waters I need to be able to work more than a few days a week. Making more species limited to certain days hurts my ability to have a profitable business. This proposal comes from dragger and gill net fisherman and dis-proportionately benefits them. These proposed changes to the black sea bass fishery are completely unnecessary as the state has been developing an aggregate program that will solve all the issues brought up in the proposal and allow those fisherman to land their weekly limit in a day and take the rest of the week off if they so choose. There is no need to remove the ability of other fisherman to work every day if they want to.

On hearing item 1b Commercial Scup proposal 2 I support option 1 remove maximum pot limit. The daily/weekly limits are sufficient to manage the scup catch. If further management is needed these daily/weekly quotas can be lowered. Pot fishing is very sustainable as any undersized fish and by catch are returned to the water alive so catching scup by this method should be encouraged.

On hearing item 1c Commercial Summer flounder I support status quo. The 3 day closure was successful at keeping the fishery open all summer and I feel it should stay that way.

On hearing item 1e Commercial Tautog I support option 1 status quo. I am strongly against option 2. Removal of the summer sub period would have a significant negative effect on my business. I have built my business to be sustainable by being diverse and fishing for as many different species as I can. This summer sub period comes at a time where not many other species are available to harvest for a pot and trap fisherman without federal permits who only fish in state waters like me. By August 1st lobsters and crabs have headed offshore for cooler waters, whelks have stopped feeding and are in their breeding season, and black sea bass is closed for the entire time period covered by this sub period. The only other fisheries I have available to me at this

time is pot fishing for scup and tautog. With the recent high quotas for scup the price has been very low, making the 10 much higher value tautog I have been allowed to land at this time very important to my profitability. Giving up this sub period would only add single digit percentages of the quota to the spring and fall as the previous years overage comes out of the summer sub periods 20% of the quota. Even with less than 20% of the quota this summer sub period stayed open for the full 45 days. Giving that quota to the spring and fall sub-periods will only add a handful of days to each season as the catch rates are very high in those sub periods, especially at the end. This will result in a net loss of many days where tautog was previously available for harvest and be detrimental to my business profitability in the summer. Once I am pigeonholed into a single fishery, scup potting, I am at the mercy of the market, and a price drop can leave me with no fishery to turn a profit in during the middle of summer, an important time of year for a commercial fishing business.

Thank you for your consideration,
Kenneth T Murgo

Petition for change in the upcoming marine regulations

The follow individuals and vessels submit this petition in regards the upcoming regulatory hearing and summer period.

We request the follow actions:

- The Department / RIMFC reject any options that call for a reduction in the daily possession limit on black sea bass from 50 lbs. to 25 lbs.
- Align the summer flounder and black sea bass regulations so that both fisheries are open and closed on the same days. This will require an increase in the daily possession limit of sea bass since there would be fewer fishing days. Example: ^{APPROX} If summer flounder is open four days then the daily possession limit for BSB would be raised to 85 lbs. a day. This approximates the same weekly catch as 50 lbs. a day for seven days or 350 lbs. per week. This will encourage fishing to take place on a limited number of days, and therefore lessen regulatory discards on the non-open days.
- Avoid any overlap of the RI BSB and the Mass BSB season. During the last two years both seasons have been open for a short period in July causing the RI price per pound of BSB to plummet, in some cases 50% or more. It should be a simple matter to change the opening date to late June or combine the July allocation with the June allocation. Any approach that avoids an overlap is acceptable.

Why are we requesting this action and what problems are created by the current low daily possession limits for black sea bass:

General point is the current system is causing needless economic inefficiency and ever increasing regulatory discards. Specific examples follow:

1. Discards: It is virtually impossible to tow or set a net or trap without having a significant catch and bycatch of these species, regardless of which species is being targeted. Trawlers and gill net fishermen catch all three species (BSB, S, and SF) on the same tow and have no legal mechanism to avoid exceeding the daily possession limits other than to discard the excess. These regulatory discards are lost to the fishery and economy of RI since they get counted against the quota if documented. If not documented they interject a level of uncertainty in the stock assessment that results in more conservative quotas decisions by regulatory agencies. In either case they are lost to the industry and economy of RI.
2. Fishing economics: It make no sense economically to require fishermen to fish seven days a week when they can fish a small portion of that time and land the same volume of fish. A low daily possession limit requires fishermen to fish seven days a week which simply increases operating costs, results in needless discards, reduces efficiency, more wear and tear on equipment, needless habitat impacts, and more discards of non-targeted species. The State of Massachusetts uses a days out system, with much higher daily trip limits, that avoid most of these problems.

3. Waste of fuel and needless wear and tear on the equipment. Most fishermen in RI have to travel a number of miles to get to specific fishing grounds. It makes no sense environmentally to impose a requirement to operate a vessel seven days a week, when most fishermen can catch the same amount of fish in a fraction of the time with reduced fuel costs.
4. Impact of dealers. Outside of the major port of Pt. Judith, the dealer infrastructure in RI is in sharp decline because of the poor economics of the current system. In the east Bay area there is only one full service dealer (Tiverton) who picks up and transports fish. It makes no sense economically to send an employee and a truck to Sakonnet Pt. to pick up a few boats which land 25-50 lbs., when a slightly different system would allow them to purchase hundreds of pounds of fish for the same transportation costs. The same is true of Newport, where there are no finfish dealers, with fixed facilities, who buy fish directly off the boat. These costs could be reduced substantially with a properly structured days out system.
5. Disconnect in current regulations. With the exception of the rod and reel industry, the current regulations do not work together either for the industry, resource, or dealers. For example: sea bass can be landed seven days a week while summer flounder are regulated with a days out system. This makes little sense because most net fisheries catch both species. Gill net or trawl fishermen can only land summer flounder and sea bass on four days and then they have to discard summer flounder for three days while they target black sea bass. All of this is a complete waste of marine resources, which can be substantially reduced by aligning the regulation for summer flounder and sea bass. We also point out that the rod and reel fishermen will have no problem catching 85 lbs. a day given the super abundance of BSB so there is no downside for any of the gear types.

Signed by:

<u>Name</u>	<u>Vessel</u>	<u>Port</u>
Peter E. Bradout	Wendy Gail	Galilee R.I.
William McElroy	Elbow Juice	Galilee RI
Mark Jones	Kristen J	Galilee RI
John	KAREN ANN	GALILEE RI
Chris Krum	DIVERSION	GALILEE R.I.
Chad Long	SEA JEM	Galilee RI
Mark M. Sweet	ERICA KIMBLE	Galilee RI
William J. Mulvey	RACHEL ANN	GALILEE R.I.
RICHARD LODGE	F/V SELECT	GALILEE RI
Patrick Burdworth	PKRanger	Port Judith RI
David Clark	TWISTER	Galilee
John Clark	Twister	Galilee RI
Dominic Campanale	F/V Risky Business	Galilee RI.
XXXXXXXXXXXX		
DEVON CAMPANALE	F/V RISKY BUSINESS	GALILEE RI.
Robert Mitchell	F/V BOTTOM LINE	Galilee RI
THOMAS MITCHELL	CHAMPLIN SED.	GALILEE RI.
Adam Morse	Narragansett Bay Lobster	Galilee RI

John

NAME	VESSEL	PORT
DIANA B. PULESTON	F/V SCRATCH	PT. JUDITH
John (Jack) Moore	SKIFF 7143A	PT JUDITH
Dean Desant	F/V OCCOING	PT JUDITH
Thomas Howse	F/V NORTH STAR	PT JUDITH RI
Robert Stewart	F/V Maltby	PT JUDITH RI
Michael L. Winclev	F/V MISTY	PT JUDITH RI
John E. Gynther	F/V EMILIA ROSE	PT. JUDITH RI
David Burtson	F/V CHARLES PRIDE	PT. JUDITH RI
ESTHER	F/V ACES High	PT JUDITH RI
James & My	F/V Nancy DED.	PT J. Jud. Th RI
Dwayne Smith	F/V Nancy DED.	PT JUDITH RI
Jim White	F/V HILDA + HELEN	PT. JUDITH RI
Shelia White	F/V HILDA + HELEN	PT. JUDITH RI
Derek Pascale	F/V Ragged Edge	PT JUDITH RI
ERIC MARCUS	F/V PERSISTENCE	PT. JUDITH RI
Joshua Miller	F/V PERSISTENCE	PT. JUDITH RI
GREG LISI	F/V AMELIA BROWN	PT. JUDITH RI
Wanda Fredette	F/V Three Sons	PT JUDITH RI
Scott Rudy	F/V Atlantic Pearl	PT. JUDITH RI
"	F/V Soli Magistrate	PT. JUDITH RI
John & Clark	F/V RILEY	PT. JUDITH RI

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Signed by:

<u>Name</u>	<u>Vessel</u>	<u>Port</u>
JAMES PERKINS		Sakonnet
LAWRENCE DUREEE		TIVERTON
KEVIN SULLIVAN	JEANUS O LIAM	Sakonnet
PATRICK KING	KINGFISHER	TIVERTON
Gordon Sinclair	Nick-O-Ryan	TIVERTON
Nick Pacheco		Portsmouth
Bill Tolon	PATTY ANN	Sakonnet Point
Patrick Fennian		Sakonnet Point
Michael Littlefield	ARCTIC ANGEL	Portsmouth RI
Bruce Perry	Ephyr 01280	Portsmouth
Gary Willey Jr	X-TERMINATOR	SAKONNET POINT RI
ROBERT BUFFINON	NIGHT PROWLER	SAKONNET RI
Christopher Bowley	EDNA MAY	TIVERTON RI
Eric Todd	DANNY BOY	Portsmouth
Richard Robert Web	Lauren H	Sakonnet RI
Bruce McLaughle	Ani Elizabeth / FIRST KIND	TIVERTON RI
Gary Matarnas Jr	Switchback	Newport, RI
	Night Prowler	Little Compton RI

Name

Vessel

Port

Name	Vessel	Port
Charles Borden	DRAKE-	Newport - MA
Robert M Tolan	KASSIDI JANE	Tiverton RI 02878
SEAMUS SULLIVAN	Lily & Ellie	Sakonnet Pt RI
Erick Hartnett	MP 1377	Tiverton, RI
James Mataronis	Finest Kind	" "
Ian Parente	ARGO	Sakonnet Pt RI
Harry Gould	OLYMPIA	Newport
Jared Gould	Lila B	Newport
Tom Doyle	Wolf's Den	Newport, R.I.
Brian Coimbra	Last Flight	Newport, RI
Bill Burr	OLD COOT	SK. PT
Marie Norlin	MULT. PURPOSE	NP RI
Douglas Matthews	MULT. PURPOSE	Tiverton RI
Richard Blader	MULT PURPOSE	Little Compton RI
Andrew Cavanagh	Cavanagh marine 1	Little Compton RI
MARK LAMBERT	Jenny Kate	Little Compton RI
Robert Brosnahan	RI	Parknouth RI
Nicholaslotz Del 1749	JOINT VENTURE	Sakonnet PT RI

no problem catching 85 lbs. a day given the super abundance of BSB so there is no downside for any of the gear types.

Signed by:

Name

Vessel

Port

DAN FAGAN Dan Fagan	FRANCIS E.	BRISTOL
JOE GOODNESS	19 LEMMA	TRAILERED
Jerry D.	HELENA MARIE	TIVERTON
PETER SILVA	JANET MARIE	BRISTOL
LOW FRATTINELLI	TEA'E	BRISTOL #10
MICHAELA FRATTINELLI	TEA'E	BRISTOL #1367
Kathleen Fagan	unnamed	BRISTOL, K1
Matthew Kearns	Edward James	BRISTOL
Michael Kearns	MP 746	TIVERTON
BEN KEARNS	1078	WARWICK

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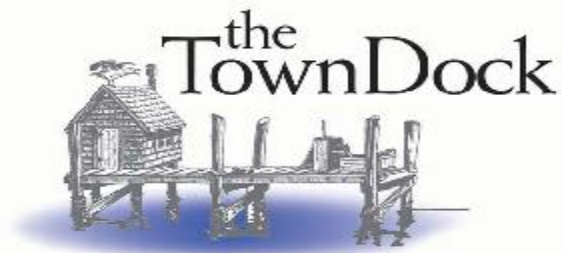
Signed by:

Name

Vessel

Port

Joe MARKS <i>J Marks</i>	RI 3586L	BRISTOL
<i>Frank H Aubrey</i>	RI 9360M	BRISTOL
<i>Jonathan C. Green</i>	<i>Miss Kristin</i>	BRISTOL
John McDonald	Norma M	Bristol MPURP 000170



November 14, 2018

Director Janet Coit
Rhode Island DEM
235 Promenade Street
Providence, RI 02908

Dear Director Coit,

For the upcoming 2019 management plans for Summer Flounder and Black Sea Bass we recommend Status Quo.

During the 2018 management year we were successful in avoiding any closures for Summer Flounder. Until we receive the results of the pending assessment we recommend keeping the daily limit and the specific open/closed days the same.

We also have a pilot aggregate program starting in 2019. We are hesitant to recommend any changes in management until we see how our quotas are affected by this new program.

Thank you for the opportunity to comment.

Sincerely,

Katie Almeida
Fishery Policy Analyst

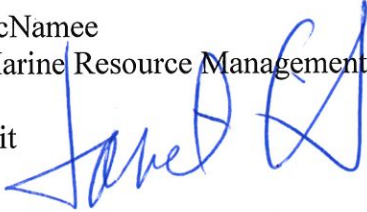


RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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: October 31, 2018

Re: Final Decisions Pertaining to (1) September 10, 2018 Marine Fisheries Public Hearing Items; and (2) Winter Harvest Schedule for Bristol Harbor Shellfish Management Area

I have received and reviewed your memo to me, dated October 18, 2018 and attached herewith, regarding the public hearing items from the September 10, 2018 public hearing. I have also received and reviewed all relevant supporting documentation, including the September 10, 2018 public hearing documents and summary of public comments, as well as the summary report (draft meeting minutes) from the October 1, 2018 meeting of the RI Marine Fisheries Council (RIMFC).

I hereby approve all the recommendations, as set forth in your memo, which, with the exception of items 4, 7, and 10, are fully consistent with those provided by the RIMFC at the Council's October 1, 2018 meeting. The specific regulatory items, and the final decisions for each, are as follows:

Definitions (Part 1)

- Decision: Adoption of the amended provisions, which delete eleven nonapplicable terms, add one new term, and make minor/nonsubstantive modifications/clarifications to twelve terms, in Part 1.

Commercial Licensing (Part 2)

1. Exit/Entry Ratio for Restricted Finfish Endorsement

- Decision: Maintain status quo, i.e., 1:1 ratio.

2. Due Date for Public Availability of Draft Annual Update of Sector Management Plan

- Decision: Adoption of the amended provision, which requires draft of annual update of sector management plan to be made available for public review at least thirty days prior to annual public hearing addressing commercial licensing.

3. Annual Report to General Assembly

- Decision: Repeal of provisions pertaining to the annual report to the General Assembly, given that such annual reporting is adequately addressed in statute and via annual conveyance of the updated Sector Management Plan.

4. Reporting Requirements – Notification to Licensees (1)

- Decision: Adoption of the amended provision, which clarifies the provision pertaining to annual notification of reporting methods.
- Comment: As proposed, the requirement that all licensees are to be provided with a list of applicable reporting requirements would have been repealed, since it has never been implemented, per se. Ample notification is routinely provided to licensees regarding all reporting protocols and requirements, albeit not via a “list.” Upon further review and analysis, I support the revised proposal, as set forth in your memo, to retain the essence of the rule, while clarifying the language – i.e., substituting “methods” for “requirements” -- to better align with current practices and procedures.

5. Use of Certified Mail for Notifying License Holders of Reporting Deficiencies

- Decision: Repeal of provision pertaining to use of certified mail, since a total of four letters/notifications regarding reporting requirements and deficiencies are sent annually, via regular mail, to all licensees; and the use of certified mail is costly while providing no added assurance of receipt, and therefore provides no added service to licensees.

6. Documentation of Fishing Trips (1)

- Decision: Adoption of the amended provisions, which relocate the provisions pertaining to documentation of fishing trips from the “*Paper Catch and Effort Harvester Logbook*” section to the “*Data Reporting*” section.

7. Documentation of Fishing Trips (2)

- Decision. Adoption of the amended provision, which requires documentation of trips “*upon landing*” in lieu of “*before the start of the next trip.*”
- Comment: I recognize that neither of the two initially proposed options for modifying this provision were supported at hearing, and that the Council recommended use of “*upon landing*” as a preferred alternative, with the caveat that the matter be postponed pending further clarification of the term “*documented.*” My decision is to move forward now with the filing and implementation of the amended provision, and then follow-up, via the next public hearing, with a proposal to clarify the meaning of

“documented.” In the meantime, I call upon the Department’s Office of Law Enforcement to exercise discretion in determining proper documentation.

8. Reporting Due Dates

- Decision: Adoption of these provisions, which establish quarterly due dates for the submittal of trip reports, consistent with the instructions provided for these reports.

9. Reporting Requirements – Notification to Licensees (2)

- Decision: Repeal of the provision requiring written notification to licensees of reporting requirements by December 1 annually.
- Comment: As noted under item 4, ample notification regarding all reporting protocols and requirements is routinely provided to licensees and remains a regulatory obligation.

10. Deadline for Issuance of New Licenses

- Decision: Adoption of amended provision, which establishes new deadline of May 15.
- Comment: I recognize and appreciate that the Council’s thoughtful deliberation on this issue, and their recommendation that the deadline be set at 45 business days following the [February 28] application deadline. That recommendation would result in a new, floating deadline occurring in early May of each year. Upon further review and consultation with the Department’s Office of Boat Registration and Licensing, I find that the large amount of work associated with the review of new license applications, which would increase if the already high volume of applications were to grow, warrants a more realistic and appropriate date-specific deadline of May 15. I note that this is akin to approximately 50 business days following the application deadline, making it quite close, in effect, to the Council’s recommendation.

11. Appeal of License Denial Due to Medical Hardship

- Decision: Adoption of amended and appealed provisions, which clarify, streamline, and align them with associated statutory provisions.

12. Reporting Requirements for Party/Charter Vessels

- Decision: Adoption of the new provisions, which establish new reporting requirements for vessels operating in party/charter mode. In keeping with the final decision on item 7, and the Council’s recommendation, trip documentation shall be required *“upon landing”* versus *“prior to the end of the fishing trip.”* As well, the meaning of *“documented”* shall be clarified and codified via the next public hearing. In the meantime, I call upon the Department’s Office of Law Enforcement to exercise discretion in determining proper documentation.

Bristol Harbor Shellfish Management Area (Part 4)

- Decision: Adoption of new default winter harvest schedule for the Bristol Harbor Management Area: Open 8 am to 12 noon, M/W/F, in January; open daily from February through April; and closed from May through December.



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: October 18, 2018

SUBJECT: Decisions regarding proposed amendments to the RI Marine Fisheries regulations that were the subject of a public hearing conducted on September 10th and RI Marine Fisheries Council (RIMFC) meeting on October 1st. A summary of written and oral comments received has been also provided as an addendum to this memo.

- **Proposed amendment to “Part 1 - Definitions and General Provisions” regarding deletion, amendment and/or addition of 24 terms:**
 - Background: Part of a continued effort to review the content of all Marine Fisheries regulations.
 - Proposal: Division proposal to delete 11 terms not used in RIMFR, add 1 term, and clarify 12 terms. For this hearing focus was on terms relative to commercial licensing and gear to coincide with proposed amendments to the Licensing regulations. None of the proposed changes is considered by the Division to be substantive.
 - Public comments: No comments received.
 - RIMFC: 6-0 in support as proposed.
 - Marine Fisheries: Support as proposed.
 - Timing to file: Immediately.

- 2. **Proposed amendments to “Part 2 – Commercial and Recreational Saltwater Fishing Licensing Regulations”:**
 - **Exit:entry ratio for the Restricted Finfish Endorsement:**
 - Background: Annual review by Industry Advisory Committee (IAC).
 - Proposal: 2 options noticed:
 3. Option 1: Division proposal to maintain the current 1:1 ratio (would result in the availability of **15** new license opportunities in 2019);
 4. Option 2: IAC proposal to amend the ratio to 1:2 (would result in the availability of **30** new license opportunities in 2019).
 - Public comments: 3 hearing comments in support of option 1.

- RIMFC: 6-0 in support of option 1.
 - Marine Fisheries: Support of option 1. The Division does not support option 2 at this time due to uncertainty with 2019 quotas.
 - Timing to file: Immediately; effective date of January 1, 2019 needed.
3. **Division proposal to add a due date regarding the public availability of the updated Sector Mgmt. Plan:**
- Background: Combined with hearing item #3 of the Licensing regulations, it is necessary that a timeframe be established for the public availability (namely, to the IAC) of this plan.
 - Proposal: Division proposal to add a due date of “30 days prior to the hearing on commercial licensing matters.”
 - Public comments: No comments received.
 - RIMFC: 6-0 in support as proposed.
 - Marine Fisheries: Support as proposed.
 - Timing to file: Immediately.
4. **Division proposal to remove language regarding the content and due date for the issuance of an annual report to the General Assembly on the conservation and management of marine fisheries resources (i.e., Sector Management Plans):**
- Background: The due date for the submittal and content of this annual report to the General Assembly is adequately covered in statute; is not appropriate or needed for rules as is non-regulatory in nature.
 - Proposal: Division proposal to delete this section from regulation.
 - Public comments: No comments received.
 - RIMFC: 6-0 in support as proposed.
 - Marine Fisheries: Support as proposed.
 - Timing to file: Immediately.
5. **Division proposal to remove language regarding the requirement that the Department provide a list of reporting requirements at the time of license issuance or renewal to applicants for commercial fishing or dealer licenses or landing permits:**
- Background: At the time of noticing it was believed that this procedure was not currently being implemented and was felt to be unnecessary due to other notifications/mailings currently taking place (see background for hearing item #5). However, further discussions with the Licensing Office since then have indicated that this procedure is in fact currently being implemented, in that reporting methods are provided on the application form, with licensees required to identify their reporting method at the time of application.
 - Proposal: Division proposal to delete this section from regulation.
 - Public comments: No comments received.
 - RIMFC: 6-0 in support as proposed.
 - Marine Fisheries: The Licensing Office has recommended that this provision can remain as currently implemented and provides value to the prospective applicant, however if remaining, to be revised as follows: “**The Department will provide**

[a]pplicants ~~for commercial fishing or dealer licenses or landing permits will be provided a list of~~ **with** applicable reporting **methods requirements** at the time of license issuance or renewal.” This revision will remove reference to a “list” which is somewhat inaccurate, while still maintaining the intent of the rule. The Division supports removal of this rule or the revision as recommended by the Licensing office.

- Timing to file: Immediately.
6. **Division proposal to remove language regarding the requirement that the Department notify license holders of a reporting deficiency via certified mail:**
- Background: This procedure is not currently implemented and is felt to be unnecessary due to the following mailings that licensees receive from the Department:
 - November 1: By November 1 annually, per statute [RIGL 20-2.1-4\(g\)](#), regular mailing from Office of Licensing regarding expiration of license on 12/31 and need for renewal, which specifies the 2/28 renewal deadline, the grace period and fee if 2/28 deadline missed, and that data reporting must be up to date as a condition of license renewal. Provides contact to Marine Fisheries office and describes reporting options.
 - End of November: Mailing from Division of Marine Fisheries to all license holders (1,000 +) deficient in reporting, per regulation 2.7.6(A)(4).
 - Mid-December: Renewal applications mailed from Office of Licensing to all license holders. Not required per regulation or statute.
 - Mid-March: Mailing from Office of Licensing to all current license holders who have not renewed (100 +) notifying of grace period. Not required per regulation or statute. Phone calls attempted to each license holder in addition to mailing.
 - Proposal: Division proposal to delete this section from regulation.
 - Public comments: One comment received expressing concern about removing this requirement as it provides proof of delivery.
 - RIMFC: 6-0 in support as proposed.
 - Marine Fisheries: Support as proposed.
 - Timing to file: Immediately.
7. **Division proposal to broaden the applicability regarding the timeframe for when fishing trips must be documented. Proposal is to re-locate language from the “Paper Catch and Effort Harvester Logbook” section to “Data Reporting” section:**
- Background: This language is incorrectly located in regulation.
 - Proposal: Division proposal to relocate the language from the “Paper Catch and Effort Harvester Logbook” section to the “Data Reporting” section so as to apply more broadly to all license holders, consistent with statute and current practice.
 - Public comments: No comments received.
 - RIMFC: 6-0 in support as proposed.
 - Marine Fisheries: Support as proposed.
 - Timing to file: Immediately.

8. **Division proposal to change the timeframe that fishing trips must be documented:**

- Background: Division proposal to amend the language for consistency with federal rules.
- Proposal: 2 options were noticed:
 - Option #1: Modify language from “Trips must be documented *before the start of the next trip*” to “***prior to landing***”;
 - Option #2: Modify language from “Trips must be documented *before the start of the next trip*” to “***within three (3) hours of landing.***”
- Public comments: 3 comments in support of maintaining the current language as is.
- RIMFC: 6-0 in support of postponing adoption of amended rule until the meaning of “*documentation*” is clarified.
- Marine Fisheries: Support for either option as proposed, or to change to “Trips must be documented ***upon landing.***” as recommended by the Council for hearing item #12 of the Licensing regulations; defer to DLE for their recommendation.
- Timing to file: Immediately.

9. **Division proposal to add reporting due dates to the regulations:**

- Background: The reporting due dates are currently only provided on the Paper Logbook instructions and not in regulation. Such due dates need to be included in regulation to be clearly known to licensees and to be enforceable.
- Proposal: Division proposal to add due dates to the regulation.
- Public comments: No comments received.
- RIMFC: 6-0 in support as proposed.
- Marine Fisheries: Support as proposed.
- Timing to file: Immediately.

10. **Division proposal to remove the requirement that license holders will be notified in writing as to the form of reports, their content, and the manner in which and frequency with which they are required to be transmitted by December 1 for the following year:**

- Background: This procedure is not currently implemented and is felt to be unnecessary due to the mailings that licensees currently receive from the Department (see item #5 above).
- Proposal: Division proposal to delete this section from regulation.
- Public comments: No comments received.
- RIMFC: 6-0 in support as proposed.
- Marine Fisheries: Support as proposed.
- Timing to file: Immediately.

11. **Division proposal to amend the date pertaining to the issuance of licenses following the application deadline:**

- Background: The current timeframe of 15 days following the application deadline is not currently being met and is not realistic due to volume of applications received.
- Proposal: Division proposal to change this timeframe from 15 business days to 90 business days.
- Public comments: No comments received.
- RIMFC: 5-1 in support to amend this timeframe to 45 business days.
- Marine Fisheries: Support as proposed, or of a hard deadline date of May 1, which equates approximately to the 45 business days recommended by the Council.
- Timing to file: Immediately.

12. Division proposal to change/clarify the procedure regarding the appeal of a license denial due to medical hardship:

- Background: The rule as currently written still references the Commercial Licensing Review Board, which was statutorily repealed in 2016, and does not accurately describe this appeal process.
- Proposal: Proposal from the Office of Legal Services to amend the language consistent with current practice and statute.
- Public comments: A statement was made that proposal appears to remove a person's ability to appeal in cases other than medical hardship.
- RIMFC: 6-0 in support as proposed.
- Marine Fisheries: Support as proposed.
- Timing to file: Immediately.

13. Division proposal to add reporting requirements for Party/Charter vessels:

- Background: Consistency with new NOAA Fisheries rules for reporting by federally permitted party/charter vessels.
- Proposal: Proposed addition of reporting requirements for all Party/Charter vessels, including non-federally permitted.
- Public comments: Letter of support from RIPCBA/Rick Bellavance.
- RIMFC: 6-0 in support as proposed, with caveat that proposed language "*prior to the end of the fishing trip*" be amended to "*upon landing*" and to clarify meaning of "*documentation*" as used in the rule.
- Marine Fisheries: Support for either option; defer to DLE for their recommendation.
- Timing to file: Immediately.

• **Bristol Harbor Shellfish Mgmt. Area winter harvest schedule:**

- Background: Proposal from industry to amend the default schedule for this Shellfish Management Area.
- Proposal: Liberalize the default schedule to resemble the annual schedule that expired in 2016 as follows:
 - January 2 through January 31: Open 8:00 A.M. to 12:00 noon on Mondays, Wednesdays, and Fridays.

- February 1 through April 30: Open daily.
- May 1 through January 1: Closed.

- RIMFC: 6-0 in support to amend as proposed.
- Marine Fisheries: Support as proposed. The Division recommends that management goals and strategies for this management area be assessed upon closure of the area in April 2019.
- Timing to file: Immediately.



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF MARINE FISHERIES
3 Fort Wetherill Road
Jamestown, Rhode Island 02835

SUMMARY OF HEARING COMMENTS

A public hearing was held on **September 10, 2018** at 6:00 PM, URI Narragansett Bay Campus, Corless Auditorium, Narragansett, RI. Seven (7) persons were in attendance. The public comment period began May 18 and ended June 18.

- Proposed amendment to “Part 1 - Definitions and General Provisions”, to delete, add, or amend 24 terms (section 1.7):
 - No comments were made or received.
- Proposed amendment to “Part 2 - Commercial and Recreational Saltwater Fishing Licensing Regulations”:
 1. Restricted Finfish Endorsement (section 2.7.1(D)(1):
 - Option 1/Status quo: Maintain the current 1:1 exit:entry ratio.
 - Option 2/IAC proposal: Modify the exit:entry ratio from 1:1 to 1:2.
 - K. Booth: In support of option 1 as potential impacts are unknown.
 - Dave...: In support of option 1.
 - M. Conti/Snug Harbor Marina: In support of option 1 due to difficulty with managing current quotas. In support of Scup being placed in the non-restricted category to provide additional opportunity. Believes the current 1:1 ratio is working well.
 - D. Swanson: In support of option 1.
 2. Division proposal to add a due date of “30 days prior to any public hearing on commercial licensing” regarding the public availability of the updated Sector Mgmt. Plan (combined with item 3)(section 2.7.2(A)):
 1. No comments were made or received.
 3. Division proposal to remove language regarding the content and due date for the issuance of an annual report to the General Assembly on the conservation and management of marine fisheries resources (i.e., Sector Management Plans)(combined with item 2)(former section 2.7.4(B)):
 2. No comments were made or received.

4. Division proposal to remove language regarding the requirement that the Department provide a list of reporting requirements at the time of license issuance or renewal to applicants for commercial fishing or dealer licenses or landing permits (former section 2.7.6(A)(2)):
 3. No comments were made or received.
5. Division proposal to remove language regarding the requirement that the Department notify license holders of a reporting deficiency via certified mail (former section 2.7.6(A)(4)):
 - K. Booth: Objects to removing this requirement, as certified mail provides proof of delivery.
6. Division proposal to broaden the applicability regarding the timeframe for when fishing trips must be documented. Proposal is to re-locate language from the "Paper Catch and Effort Harvester Logbook" section to "Data Reporting" section (section 2.7.4(C)):
 4. No comments were made or received.
7. Division proposal to change the timeframe that fishing trips must be documented (section 2.7.4(C)):
 - Option #1: Modify language from "~~before the start of the next trip~~" to "prior to landing";
 - Option #2: Modify language from "~~before the start of the next trip~~" to "within three (3) hours of landing".
 - K. Booth: In support of maintain the current language as is, as proposal is overly burdensome for smaller vessels. Stated the enforcing would be difficult as time of landing is unknown, and that the current language *before the start of the next trip* is clearly measurable.
 - M. Conti: In support of maintain the current language as is. Believes that implementing option 2 would result in increased use of paper as the reporting timeframe is less burdensome.
 - Dave...: In support of maintain the current language as is, as proposal is overly burdensome for smaller vessels. Could support a timeframe greater than 3 hours from the time of landing.
8. Division proposal to add reporting due dates (section 2.7.4(E)):
 5. No comments were made or received.
9. Division proposal to remove the requirement that license holders will be notified in writing as to the form of reports, their content, and the manner in which and frequency with which they are required to be transmitted by December 1 for the following year (former section 2.7.6(B)(2)):
 6. No comments were made or received.

10. Division proposal to amend the date pertaining to the issuance of licenses following the application deadline. Proposal is to change from fifteen days to ninety days (section 2.7.5(E)(3)):

7. No comments were made or received.

11. Division proposal to change/clarification of procedure regarding the appeal of a license denial due to medical hardship (section 2.7.5(H)):

- K. Booth: Statement made that proposal appears to remove a person's ability to appeal in cases other than medical hardship. Requested that a review of overall repeal processes be reviewed.

12. Division proposal to add reporting requirements for Party/Charter vessels (proposed new section 2.9.2; p. 47):

2. RIPCBA/Rick Bellavance: Provided letter of support.



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835

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

Robert Ballou
Chairman

David Monti
Vice Chair

Travis Barao

Andrew Dangelo

Jeff Grant

Jason Jarvis

Christopher Rein

Michael Rice, Ph.D.

Michael Roderick

October 17, 2018

Dave Beutel, Aquaculture Coordinator
Coastal Resources Management Council
4808 Tower Hill Road
Wakefield, RI 02879

Re: CRMC Aquaculture Lease Application # 2018-04-087 – Wescott – East Passage

Dear Mr. Beutel:

Pursuant to RIGL §20-10-5, the above-referenced application was brought before the RI Marine Fisheries Council (hereafter “Council” or “RIMFC”) on October 1, 2018 for review and consideration. At the meeting, the Council deliberated over the extent of potential impacts to the whelk fishery posed by the project proposal. Ultimately, the Council found that while there may be such impacts, the proposal is not inconsistent with competing uses engaged in the utilization of marine fisheries in the area.

Sincerely,

Robert Ballou, Chair

cc: RIMFC Members



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835
(401) 423-1920 Fax: (401) 423-1925

October 12, 2018

Robert Ballou
Chairman

David Monti
Vice Chair

Travis Barao

Andrew Dangelo

Jeff Grant

Jason Jarvis

Christopher Rein

Michael Rice, Ph.D.

Michael Roderick

Grover Fugate, Executive Director
RI Coastal Resources Management Council
Stedman Government Center
Wakefield, RI 02879

Janet Coit, Director
RI Department of Environmental Management
235 Promenade Street
Providence, RI 02908

Dear Executive Director Fugate and Director Coit:

At the August 30, 2018 meeting of the Rhode Island Marine Fisheries Council, the Council received presentations on the nature and status of the offshore wind energy projects proposed for federal waters off southern New England by two developers, Deepwater Wind and Vineyard Wind. Following the presentations, members of the Council, as well as members of the public, posed questions and offered perspectives. Attached is a summary of that meeting.

At the next meeting of the Council, held on October 1, 2018, the Council discussed key issues raised at the August 30 meeting, with particular focus on potential impacts to marine fisheries. On the heels of that discussion, the Council unanimously adopted a recommendation which, in accordance with the Council's statutory authority, is offered in the form of advice to the CRMC and DEM. The Council requests that this advice be used for the purpose of developing comments on various aspects of offshore wind energy project proposals, undertaking federal consistency determinations, and exercising any other roles and responsibilities applicable to such projects and their impacts on Rhode Island's marine fisheries interests.

The recommendation adopted by the Council is as follows:

Recommend to the Director of DEM and CRMC that all wind power leases off southern New England be required to have turbines set in an east-west pattern with 1 nm of spacing to minimize the negative impacts on historical fishing activities, and further require that all structures are removed after the lease termination to restore fishing access to the entire area.

Thank you for your willingness to consider and to the extent possible act on this advice from the Council.

Sincerely,

Robert Ballou
Chair

cc: Members, RI Marine Fisheries Council



Rhode Island Marine Fisheries Council

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

MEETING SUMMARY

August 30, 2018

Chairperson: *B. Ballou (DEM)*

RIMFC members present: *D. Monti, J. Grant, A. Dangelo, T. Barao, C. Rein, J. Jarvis*

Division: *J. McNamee, S. Olszewski, J. Livermore, J. Lake, P. Duhamel*

Public: Approximately 7-8 persons in attendance

MEETING SUMMARY

August 30, 2018

Chairperson: *B. Ballou (DEM)*

RIMFC members present: *D. Monti, J. Grant, A. Dangelo, T. Barao, C. Rein, J. Jarvis*

Division: *J. McNamee, S. Olszewski, C. McManus, J. Livermore, J. Lake, P. Duhamel*

Public: Approximately 7-8 persons in attendance

1. **Approval of the Agenda:** The Chair, B. Ballou, noted that the meeting is meant to be informational only, with no formal recommendations votes or recommendations being sought at this time. He then inquired as to any modifications to the agenda or objections to adopting the agenda as modified; hearing none, the agenda was approved by consent.
2. **Presentation from Deepwater Wind regarding federal offshore wind development:** Eileen Kenny, Senior VP of Development, and John O'Keefe, Manager of Operations and Maintenance and Marine Affairs, were present from Deepwater Wind, with Mr. O'Keefe providing a powerpoint presentation. Following the presentation, the floor was opened to questions and comments from the Council and the public.
 - B. Ballou inquired as to the number of turbines proposed for the Southfork project; Mr. O'Keefe replied that although the exact number has yet to be finalized, it is anticipated that the South Fork project will include 15 turbines, and the Revolution project will include about 50 turbines.
 - A. Dangelo stated that he has been involved in the rod and reel research survey for the Southfork project, and that the area is very good for cod fishing. He expressed concern that his involvement was during the winter, when the fish weren't there. He asked if the survey would be continued throughout the year, given that the fishing is known to be better in the fall and spring. Mr. O'Keefe stated that the survey he participated in is a cod spawning survey; it is a constant-level survey, and not meant

to be part of the more comprehensive surveys that will be conducted for the 2-year pre-construction phase. Mr. O'Keefe stated that Mr. D'Angelo's recommendation -- for year-round rod and reel surveys -- is the kind of input needed to help determine the collaborative research needed beginning in 2019.

- D. Monti stated that the RI Party and Charter Boat Assoc. and the RI Saltwater Anglers Assoc. also have concerns about the rod and reel surveys, in that more surveys should be conducted. He asked how these groups could participate in developing the research plan and the types of surveys needed. Mr. O'Keefe stated that he could set up meetings to determine what type of information is needed, and that the process of determining the details of the research plan is beginning now, so there is time to provide such input.
- J. Jarvis stated that he is aware of concern from fishermen due to the newness of offshore wind in this area, and that there hasn't been a lot of time for environmental impacts studies. He is concerned about what happens to invertebrates, squid and other forage species from the turbine vibrations, as many fishermen's livelihood rely on this area. Mr. O'Keefe stated that he is very sensitive to such matters. He offered that the Block Island windfarm has provided a great deal of information about impacts. He said it is difficult to use data from European windfarms due to variability of sites and age of technology used with older windfarms common in Europe. He stated that newer turbines will have more megawatts, use longer blades, and have greater distances between turbines, and that shorter distances between turbines is known to be a problem.
- J. Grant asked about the life expectancy of the turbines, and their fate operations were to cease in the future. Mr. O'Keefe stated that the foundations are expected to last 50 years, the turbines 20-25 years. He also stated that a bond would be in place to cover the costs of decommissioning.
- M. Rice asked about the lessons learned from the BI windfarm, namely, if there is any evidence of impacts. Mr. O'Keefe replied that there have been no negative impacts to date, based on 6 years of study.
- D. Monti asked about cumulative impacts from several windfarms together; and if studies would be developed to look at cumulative impacts as each new project begins operations. He emphasized that lessons should be learned along the way. Mr. O'Keefe stated that several studies are occurring, and that they are being conducted by many other entities besides DWW. Ms. Kenny offered that the RODEO program provided real time observations during construction, looking a variety of things including visual and acoustic impacts, scour testing, and sediment modelling. She stated that there is a great deal of information and data publicly available.
- D. Fox, Town Dock asked about the release date for the COP for the project. Mr. O'Keefe said that it is expected to be released for 30-day public comment in late September/early October 2018.
- J. McNamee referenced the regional science collaboration initiative that is aimed at coordinating scientific work on multiple projects throughout the region, and asked whether DWW plans to use the same monitoring designs as used for the BI project; or is DWW open to new ideas? He also asked whether state agencies would have an opportunity to review the scientific designs of any new studies that would be occurring in the wind energy areas, as was provided for the BI project. Mr. O'Keefe

responded that the designs of the scientific studies will build upon those utilized for the BI project, but will be tailored to meet new needs and priorities; the study designs will be vetted both publicly and through existing connections with state agencies as this approach proved successful during the Block Island project.

- A. MacKown, Northwest Atlantic Marine Alliance, asked whether the technology will affect the size of the transmission cables. Mr. O'Keefe responded that the size of the cable will not be affected by the turbine technology.
- B. Ballou sought confirmation that the proposed layout for the South Fork project is a N-S/E-W square grid, with 1-mile spacing. Mr. O'Keefe replied in the affirmative, and that the layout is based on input from fishermen based on ability to navigate and fish between turbines.
- J. Grant asked about fishing prohibitions in the lease area, to which Mr. O'Keefe replied that there are none, and that DWW has no authority to place restrictions.

3. **Presentation from Vineyard Wind regarding federal offshore wind development:**

Christa Banks, Fisheries Liaison, was present from Vineyard Wind, joined by Erich Stephens. Ms. Banks provided a powerpoint presentation. Following the presentation, the floor was opened to questions and comments from the Council and the public.

- B. Ballou asked staff from CRMC to brief the Council on the status of the federal consistency determinations for both projects. J. Boyd from CRMC offered the following with respect to Vineyard Wind: application filed in April 2018, triggering 180-day window for review and determination; additional 2 months granted; thus, deadline is now December 6, 2018; hearing scheduled for November 27. The application was not required, because the project proposal is outside the OSAMP Area; VW submitted voluntarily. With regard to DWW: the COP was just filed; because the project is within the OSAMP Area, a federal consistency determination is required; the application for that is expected to be filed this fall, triggering a 180-day review period, during which a public hearing will be held.
- D. Monti expressed concern that the proposed spacing between the turbines is not even. Ms. Banks acknowledged the desirability of even spacing and a squared grid pattern, at least for some ocean users such as fishermen; but also noted that the area is subject to heavy vessel traffic, e.g., by scallopers, to/from port and their offshore fishing grounds, so accommodating their interest's conflicts with the interests of others.
- D. Monti also asked about the status of the research plan. Ms. Banks responded that the plan is currently being formulated via SMAST-hosted workshops. The goal is to establish and adopt regionally consistent research protocols. She also noted that BOEM has a number of ongoing research projects, including some that are assessing EMF effects. D. Monti expressed concern that he saw no input from recreational fishermen in developing the research plan or a specific protocol regarding what studies are needed; and that an industry standard regarding types of studies needed is necessary for all windfarm development proposals. E. Stephens from VW noted that the workshops are aimed at starting the planning process and that input from recreational fishermen will be part of the process. he also noted that a video trawl survey is being currently underway.

- J. Grant expressed concern that the E-W pattern, which is essential to enable traditional fishing activities (namely, trawling) to continue in the area, is not yet firmly decided. E. Stephens offered assurance that the matter is being addressed, i.e., that Vineyard Wind is actively pursuing this configuration.
- M. Rice emphasized the importance of assessing cumulative effects through a robust protocol. In response, it was noted that regional studies will facilitate cumulative impact analyses.
- D. Fox expressed concern that the proposed layout will eliminate commercial fishing in the area; that a grid pattern is essential. He stated that federal regulations require full removal of all wind farm components upon decommissioning, but this commitment is not adequately set forth in the Vineyard Wind COP. In response, it was noted that sufficient funds will be provided via bond to cover full removal costs, however, it won't be clear, until decommissioning, whether it would be more environmentally sound to leave some components (e.g., cables) in place; the goal is, and will be, to minimize environmental impacts upon decommissioning. Mr. Fox expressed concern that components left behind at decommissioning will make the area unusable for fishing.
- A. MacKown noted that while there is no industry standard regarding turbine spacing, now is the time to establish such a standard. A grid pattern is essential to safe navigation. She suggested use of AIS transiting data to inform the process. Response was that a grid pattern has been proposed, which is based on transiting data, but that the resulting configuration does not align with other fishing-related needs.
- D. Fox stated that fishing in an E-W direction has been a fishing industry for years, but that the wind farms don't seem to understand this.
- D. Monti offered that the BI wind farm development has been very favorable for recreational fishing interests. Moreover, further renewable energy development will assist in reducing impacts of climate change.

Next Steps: B. Ballou asked if the Council wished to further consider the issues raised during the presentations, and potentially formulate recommendations to the CRMC and/or DEM, at a subsequent meeting. The Council unanimously supported moving forward in that way.

Meeting adjournment: Upon conclusion of deliberating all agenda items, *B. Ballou* inquired as to any objection to adjourning the meeting; hearing none, the meeting was adjourned by consent at approximately 8:15pm.