



Rhode Island
Department of Environmental Management

DIVISION OF FISH AND WILDLIFE

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TO: Janet L. Coit, Director DEM
FROM: Mark Gibson, Deputy Chief for Marine Fisheries, DFW

DATE: March 12, 2012

SUBJECT: Request for Decision on February 22, 2012 Marine Fisheries Hearing Items

Proposed regulatory changes pertaining to (1) recreational summer flounder (2) recreational scup, (3) commercial and recreational tautog (4) recreational black sea bass, (5) skate regulations, and (6) recreational & commercial striped bass, have moved through the regulatory process and are hereby presented for final decision. A request for decision on whelk regulations is deferred to a later date pending further Division review.

These matters were the subject of a public hearing held on February 22, 2012 and subsequent consideration by the RI Marine Fisheries Council at their March 6, 2012 meeting. Supporting documentation submitted along with this memorandum include the, public hearing summary documents, summary of public hearing comments, and the applicable portion of the minutes from the RIMFC March 6, 2012 meeting. The proposed changes are summarized below.

Having reviewed the entire record, and conferred with staff, I hereby urge adoption of the proposed changes as noted below. If you concur, please indicate by signing this memo at the end and returning it to me. Upon receipt of the signed memo, I will initiate the filing process. If you wish to make any changes that differ from those proposed, please delineate those changes via a separate memo.

Recreational Summer flounder management proposals for 2012: There were three options for the 2012 recreational summer flounder management plan that were brought forward for public comment. The first option was to remain at status quo (18.5 inch fish /7 fish bag limit / season of May 1–December 31); the second option was 18.5 inches/8 fish bag limit/May 1–December 31 (a one fish bag limit increase); the third option was 18.5 inches/9 fish bag limit/May 1–December 31 (a two fish bag limit increase). All three options comply with ASMFC guidelines. No recommendations were made by the summer flounder advisory panel (AP) because the Chairman of the AP indicated there was not a quorum present.

At the public hearing the RI Saltwater Angles' Association (RISAA) were in support of option #2 - (18.5 inch fish/8 fish bag limit/May 1 through December 31 - a one fish bag limit increase). RISA also submitted a written comment during the public comment period which was also

presented at the public hearing by RISAA members who indicated their association was in support of option 2.

The Division recommended remaining at status quo for 2012 (18.5 inch fish /7 fish bag limit /season of May 1–December 31). While summer flounder abundance remains high in Rhode Island waters, the stock assessment has shown instability in terms of estimating incoming recruitment. Although the stock was declared restored in 2011, the 2012 commercial quota was reduced by 25% when incoming recruitment was revised to a lower level. Recreational catch estimation since 2004 has been changed by the MRIP program. Further revision to estimates back to 1992 is expected. It is unclear what impact these will have on assessed stock status. For these reasons, the Division recommends a precautionary stance with regard to liberalization and therefore proposes remaining at status quo.

At the March 6, RIMFC meeting the Council recommended adoption of option #2 - consisting of an (18.5 inch fish/8 fish bag limit/May 1 through December 31 season - a one fish bag limit increase), for the 2012 recreational summer flounder management plan.

Although staff has recommended status quo, I can support the Council recommendation to increase the bag limit to 8 fish (a one fish bag limit increase). After review of the Council comments I am sensitive to the concerns of the party & charter sector over business planning, as well as the conservative approach taken by the general recreational sector with regard to liberalization to this point. Therefore, I urge adoption of the Council recommendation of an 18.5 inch fish/8 fish bag limit/May 1 through December 31 season, for the 2012 recreational summer flounder management plan.

Recreational Scup management proposals for 2012: Four (4) options for 2012 recreational scup management were brought forward for public comment. The first option was to remain at status quo:(General fishery: 10.5” fish / 10 fish bag limit - May 24 through Sept 26; Party and Charter: 11” fish / 10 fish bag limit - June 8 through Sept 6, 40 fish bag limit - Sept 7 through October 11). Option 2 - General fishery: 10.5” fish / 10 fish bag limit - May 1 through December 31; Party and Charter: 10.5” fish / 10 fish bag limit - May 1 through September 6, 40 fish bag limit - Sept 7 through October 11/ 10 fish bag limit - October 12 through December 31. Option 3 - General fishery: 10.5” fish / 10 fish bag limit - May 1 through December 31; Party and Charter: 11” fish / 10 fish bag limit - May 1 through Sept 6, 45 fish bag limit - Sept 7 through October 21/ 10 fish bag limit - October 22 through December 31. Option 4 – All modes, 10” fish / 10 fish bag limit - May 1 through December 31. No recommendations were made by the advisory panel (AP) because the Chairman of the AP indicated there was not a quorum present.

At the public hearing a representative from the RISAA spoke in support of option #2. They indicated they would support any option that would maintain a longer season the next priority was an increased bag limit, and lastly a lower size limit. The party and charter group supported option #3, favoring the higher bag limit.

The Division recognizes that scup abundance in RI waters is at an all-time high, and after meeting with regional ASMFC partners, the Division recommended adoption of the refined ASMFC regional measure at this time. Although a large liberalization for 2012 was possible,

consensus was attained at the MA to NY region meeting to proceed more modestly. The preferred option was:

Private and Shore mode = May 1 – December 31; 10.5” fish; 20 fish bag limit

Party and Charter mode = May 1 – August 31; 11” fish; 20 fish bag limit

September 1 – October 31; 11” fish; 40 fish bag limit

November 1 – December 31; 11” fish; 20 fish bag limit

At the Council meeting, the Council unanimously recommended adoption of the ASMFC regional measure as revised and proposed by the Division.

As supported by the Council, and the Division, I urge adoption of the ASMFC regional option for the 2012 recreational scup management plan:

Private and Shore mode = May 1 – December 31; 10.5” fish; 20 fish bag limit

Party and Charter mode = May 1 – August 31; 11” fish; 20 fish bag limit

September 1 – October 31; 11” fish; 40 fish bag limit

November 1 – December 31; 11” fish; 20 fish bag limit

Recreational and Commercial Tautog Proposals for 2012:

Proposal #1 – Recreational size, possession limit, and season: Two (2) options for 2012 recreational tautog management were brought forward for public comment. The first option was to remain with status quo in 2012: 16 inch fish/ 3 fish bag limit April 15 – May 31/ closed June 1 – July 31/ 3 fish bag limit for both general rec. and party & charter August 1- October 19/ 6 fish bag limit for both general rec. and party & charter October 20 – December 15/ includes the current 10 fish/vessel limit during all open general Rec. seasons – and does not apply to Party/Charter. Option 2 – same as status quo but includes a 12 fish/vessel limit during all open general Rec. seasons – and does not apply to Party/Charter.

Proposal #2 – Commercial size, possession limit, and season for Tautog: Two (2) options for 2012 commercial tautog quota management were brought forward for public comment. The first option was to remain with status quo in 2012: 16 inch fish/ 10 fish per vessel per day, April 15 – May 31/ closed June 1 – July 31/ 10 fish per vessel per day, August 1- Sept 15/closed Sept 16 - October 14/ 10 fish per vessel per day, October 15 – December 31. Option 2 - 16 inch fish/ 3 fish per license holder or 10 fish per vessel per day, April 15 – May 31/ closed June 1 – July 31/ 3 fish per license holder or 10 fish per vessel per day, August 1- October 14/ October 15- December 31/ 6 fish per license holder or 10 fish per vessel per day, October 15 – December 31.

At the Tautog AP meeting the panel was split in their decision on whether to remain at status quo or increase the vessel limit to 12 fish for the recreational fishery. At the public hearing, RISAA supported option 2, with the 12 fish/vessel limit increase for the recreational fishery, and a number of recreational anglers also supported option 2. A comment was also made that if the recreational fishery had a different boat limit (of 12 fish per vessel) than the commercial fishery (10 fish per vessel) this would present an enforcement issue. The majority of commercial fishermen were in support of status quo (option 1) with the caveat that if the recreational boat limit increased to 12 fish per boat then the commercial daily vessel limit should also increase to 12 fish per vessel.

Recreational Tautog - The Division recommended option 1 (status quo) at this time. Current regulations impose a 10-fish private boat limit and there is no basis for an increase. The recovery

of tautog in Rhode Island waters appears to have stalled. The cessation of biomass recovery is associated with an increase in recreational catch and fishing mortality since 2001. The 2010 MRIP estimate of recreational harvest (419 MT) is the highest since 1992. Depending on the results of trawl surveys in 2012 and final MRIP estimates for 2010-2011, the Division may need to make more restrictive management plan changes in subsequent years.

Commercial Tautog - The Division recommended status quo management for 2012. The commercial quota is small and constitutes only about 10% of fishery removals in recent years.

The Council agreed with the Division recommendations and recommended to remain with status quo for both fisheries.

As supported by the Council and the Division, I urge status quo for both recreational and commercial tautog fisheries for 2012.

Recreational Black sea Bass Proposals for 2012: Three options for 2012 recreational black sea bass management were brought forward for public comment. The first option was to remain with status quo in 2012: 13 inch fish/ 12 fish bag limit/ July 11 through December 31. Option 2 - 13 inch fish/ 12 fish bag limit/ July 1 through December 31, this was the ASMFC regional option. Option 3 - 13 inch fish/ 15 fish bag limit/ July 1 through October 15, and 15 fish bag limit/ November 1 through December 31, this was the approximate federal option. No recommendations were made by the AP because the Chairman of the AP indicated there was not a quorum present.

At the public hearing RISAA supported option 2, 13 inch fish/ 12 fish bag limit/ July 1 through December 31, the ASMFC regional option. The party and charter industry supported an increased bag limit, and some people supported starting the season earlier in June rather than in July.

The Division recommended the ASMFC regional option. As refined at the recent meeting with regional partners, it will provide for a 25-day extension of the season. Although abundance has increased to high levels in Rhode Island, a precautionary stance in the face of a rejected benchmark assessment and MRIP catch re-estimation is warranted. Therefore the Division proposed the following: June 15 – December 31; 13”fish; and a 15 fish bag limit (an increased bag limit of three fish).

The Council agreed with the Division’s recommendations and unanimously recommended adoption of the refined ASMFC regional measure as proposed by the Division.

As supported by the Council and the Division, I urge adoption of a refined ASMFC regional option for the recreational black sea bass fishery with a 13 inch minimum size fish, 15 fish bag limit with a season from June 15 through December 31, for the 2012 recreational black sea bass management plan.

Recreational Striped Bass Proposals for 2012: Only one proposal for 2012 recreational striped bass management was brought forward for public comment. The proposal was to remain with status quo in 2012: 28 inch fish/ 2 fish bag limit/ January 1- December 31. The Striped Bass

Advisory Panel made no formal recommendations for this fishery. RISAA supported status quo at the public hearing, and a number of recreational anglers also spoke in support of status quo.

The Division recommended status quo limits for all striped bass sectors. Although stock status is generally optimistic (not overfished, overfishing not occurring), a recent period of lower recruitment has concerned managers and stakeholders. This trend may have been reversed by the 2011 year class which was very large in MD (7th highest since survey started in 1957) and VA (highest since survey began in 1967). Still, it will take some time for this year class to recruit to the fishery and spawning population. A status quo stance is warranted until such time as the stock trajectory clarifies. The Council unanimously recommended status quo for the 2012 recreational striped bass management plan.

As supported by the Council and the Division, I urge status quo for the 2012 recreational striped bass management plan: 28 inch minimum size fish, 2 fish bag limit and open all year.

Commercial Striped Bass Proposals for 2012 {General Category}: Only one proposal for 2012 general category commercial striped bass quota management was brought forward for public comment. The proposal was to remain with status quo in 2012: 34 inch fish/ 5 fish bag limit/ June 6 – August 31 and September 4 – December 31 and closed Fridays and Saturdays throughout. This was the Striped Bass AP approved proposal. A written proposal was submitted during the public comment period recommending a change from the June 6th opening date of the commercial spring season to the last Sunday in May annually. At the public hearing there were a number of Bay fishermen who supported this proposal and a number of written letters were submitted in support. There were also a number of comments made in support of the AP approved proposal (proposal #1 – status quo). Other comments at the public hearing included; removing the Friday and Saturday closures, moving the fall start date from Sept. 4th to a week later Sept. 11th due to the Labor Day holiday interference, and changing the allocation split to a 75%-25% split instead of the current 80%-20% split.

As mentioned earlier the Division recommended status quo limits for all striped bass sectors. The Division also addressed the matter of moving the opening date for the commercial general category from status quo to an earlier date as one of economic benefit and deferred to industry and the RIMFC. Based on public comment the Council recommended a modified option for the 2012 commercial general category striped bass management plan: a start date of June 6 through August 31 at a 5 fish limit, move the Sept 4 fall start date to Sept 11 through December 31 at a 5 fish limit, closed Fridays and Saturdays throughout both sub-periods, and change the quota allocation split from the current 80% - 20% split to a 75% - 25% split.

As proposed by the Council, I urge adoption of the Council recommendations for the 2012 commercial general category striped bass management plan: a start date of June 6 through August 31 at a 5 fish limit, move the Sept 4 fall start date to Sept 11 through December 31 at a 5 fish limit, closed Fridays and Saturdays throughout both sub-periods, and change the quota allocation split from the current 80% - 20% split to a 75% - 25% split. The matter of adjusting dates and allocations for the commercial

general category from status quo is one of economic benefit and the Division defers to industry and the RIMFC.

Commercial Striped Bass Proposals for 2012 {Floating Fish Trap Sector}: Only one proposal for 2012 commercial floating fish trap striped bass quota management was brought forward for public comment. The proposal was to remain at status quo in 2012. This was recommended by the Striped Bass AP. The Division included a technical revision which was to insert the word “thirty-nine” which had inadvertently been left out of regulation. There were no comments made at the public hearing on this item. The Division recommended status quo limits for the 2012 commercial floating fish trap striped bass management plan. The Council supported the Striped Bass AP and voted unanimously to recommend status quo.

As supported by the Council and the Division, I urge status quo for the 2012 commercial floating fish trap striped bass management plan.

Adoption of regulations governing the taking of skate: Six proposals were brought forward for public comment. The first proposal was to remain at status quo: no possession limits or prohibitions by species. Proposal 2 was a recommendation to mirror federal regulations regarding prohibited skate species and possession limit for skate wings and skate bait by vessels in state waters. Proposal 3 was an industry proposal made during the AP meeting to establish state-water quota equal to the previous 3-years average state-water landings. Fishery opens with no possession limit. When 90% of state-water quota is reached, federal possession limits are enacted.

Proposal 4 was also an industry proposal made during the AP meeting to establish state-water quota equal to the previous 3-years average state-water landings. Fishery opens with no possession limit. When 90% of state-water quota is reached, reduced federal possession limits (i.e. incidental) are enacted.

Proposal 5 was another industry proposal made during the AP meeting to establish state-water possession limit for wings at 6,300 lbs and adopt federal bait skate possession limits.

Proposal 6 was an additional industry proposal that came forward to have the fishery open with no possession limit. If/when a federal skate quota trigger is hit and federal possession limits are reduced, the state will enact the current, reduced federal possession limit until either the end of the fishing year or the federal possession limit is increased (whichever comes first).

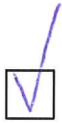
There were three written comments received during the public comment period: One in support of proposal 6, one was in support of status quo but then changed their mind at the public hearing to support proposal 6, and proposed regulations received from the RI Fishermen’s Alliance. All comments made at the public hearing were in support of proposal 6 most felt this option was the best compromise.

The Division supports industry proposal 6. This alternative would activate a state possession limit only when a federal plan trigger was met and federal fishing opportunities were restricted. The state would at that time adopt a comparable measure. The federal skate complex quota was recently increased based on improved trawl survey indices so strong state measures are not needed at this time. The industry option strikes a reasonable balance between statutory

provisions to provide for fishing opportunities (RIGL 20-2.1-2) while supporting federal programs (RIGL 20-21.-9, 16 U.S.C. section 306). The Council unanimously recommended adoption of proposal 6.

As supported by the Council and the Division, I urge adoption of industry proposal #6: activate a state possession limit only when a federal plan trigger was met and federal fishing opportunities were restricted. The state would at that time adopt a comparable measure to the federal possession limit.

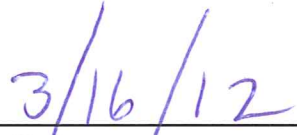
Time Sensitivity - Quota management plans require promulgation by April 14th. Given the 20 days between filing with the secretary of state and effectiveness, staff needs to file no later than Friday March 23rd. We would appreciate a decision by COB on Monday, March 19th.



Approved for filing as presented



Janet L. Coit, Director



Date