

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Division of Fish and Wildlife
Marine Fisheries



2008 Management Plan for the Finfish Fishery Sector

Developed in association with the
Commercial fishing licensing provisions set forth in the
“Rules and Regulations Governing the Management of Marine Fisheries”

December 7, 2007

These rules and regulations are promulgated pursuant to Chapter 42-17.1, Section 20-1-4, Section 20-2.1 and Public Laws Chapter 02-047, in accordance with Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

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DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES

FISH AND WILDLIFE &
LAW ENFORCEMENT

PURPOSE

The purpose of these rules and regulations is to manage the marine resources of Rhode Island.

AUTHORITY

These rules and regulations are promulgated pursuant to Chapter 42-17.1, Section 20-1-4, Section 20-2.1 and Public Laws Chapter 02-047, in accordance with Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

ADMINISTRATIVE FINDINGS

Rules and regulations are based upon the need to modify existing regulations (RIGL 20-3-2 through 20-3-6).

APPLICATION

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

DEFINITIONS

See Rhode Island Marine Statutes and Regulations, Part I, '1.3.

SEVERABILITY

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

SUPERSEDED RULES AND REGULATIONS

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of this regulation shall be superseded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken, or application filed.

INTRODUCTION

During the 2002 legislative session the General Assembly adopted the Commercial Fisheries Management Act, implementing a new commercial fishing license system and ending the moratorium on the issuance of new commercial fishing licenses that has been in place since 1995. One purpose of the act was to enable new entrants into commercial fisheries; however, provisions providing the authority to limit access were included. Fisheries identified for consideration of limited access are those “for which there is adequate or greater than adequate harvesting capacity currently in the fishery” and those that are managed under a state quota system. In accordance with Section 20–2.1-9(5) of the Commercial Fisheries Management Act, this management plan has been developed to identify fisheries that the Department of Environmental Management proposes to limit entry at current levels of effort and fisheries for which new licenses may be issued.

Regulations implemented by the Department of Environmental Management in 2002 created two endorsement categories for finfish, restricted and non-restricted. The restricted category is reserved for species that the Department chooses to limit effort to multipurpose license holders and principal effort license holders with a restricted finfish endorsement while species in the non-restricted category are available to new participants issued a basic commercial fishing license with a non-restricted endorsement.

Since promulgation, six species were listed in the restricted category; striped bass, scup, summer flounder, black sea bass, winter flounder, and tautog. There were a total of 1,267 license holders eligible to harvest the restricted species in 2007. New restricted finfish endorsements for basic commercial fishing licenses were not issued in 2007 and 394 non-restricted finfish endorsements were issued in 2007 (Table 1). The Division of Fish and Wildlife (Division) proposes issuing new licenses to harvest species in the non-restricted category, which contains all other species not included in the restricted category.

This management plan will be updated on an annual basis and the list of restricted and non-restricted species will be evaluated with respect to stock status, quotas, current performance of the fishery, etc. A review of the number of restricted finfish licenses renewed will be conducted in consideration of exit-entry ratios needed to attain desired effort levels. Based on this information, the Department will propose for public hearing a new management plan each year.

RESTRICTED FINFISH

Summarized below are the stock status reports, management programs, and performance reports of species relegated to the restricted finfish category. All of these species are currently managed through a state quota system, with the exception of winter flounder. The Department’s interest in limiting participation in the quota-managed fisheries is not based purely on concern for stock dynamics since quotas limit total landings within the State and since these species are migratory, Rhode Island landings account for only a portion of the total. The main concern is with allowing too many people access to the resource, which would impact current license holders through shorter seasons, lower possession limits, and ultimately fewer pounds of fish. The primary goal for quota-managed fisheries has been to keep seasons open as long as possible. At times this results

in low possession limits that are not economically viable for the whole industry. Furthermore, shorter seasons resulting from increased effort would also lead to an increase in regulatory discards since fishing activity continues during closures due to the multi species nature of the fishing industry. Many quota-managed species when closed are captured as by catch by industry targeting species that are open for harvest.

Projections of season length for various increases in effort, in the form of new participants, are also provided for some species. These projections are based on the reported landings and possession limits from 2003, unless otherwise noted. A proportional relationship is assumed between landings and effort (i.e., a 10% increase in effort would lead to a 10% increase in landings given a constant biomass). This linear relationship is a simplistic assumption but does provide some insight as to the potential impact from increased effort. Based on this information, recommendations have been developed regarding management of these fisheries under the new licensing system adopted by the General Assembly.

Several questions are addressed regarding expansion of effort in these fisheries. First, have management goals been satisfied with the current conditions? The management goals, as previously mentioned, are full seasons with reasonable possession limits. Ideally, fisheries would remain open throughout the season with possession limits that are profitable for the industry and that diminish regulatory discards. With current levels of effort there is a minimum quota amount needed to attain these goals, which raises a second question. Have any of the quotas in recent years been adequate to meet these goals and what will future quotas most likely be? Finally, what would be the impact of increased effort?

SCUP

Stock Status: The scup stock is considered overfished and overfishing is occurring (NMFS 2006a). The scup resource is defined as overfished when the three-year average of the spawning stock biomass (SSB) index—as based on the Northeast Fisheries Science Center’s (NEFSC) spring survey—is below the threshold biomass index (2.77 SSB kg/tow). The most recent index available is the 2005 three-year average SSB, which indicates the stock is overfished (1.32 SSB kg/tow). The overfishing definition for the scup resource is defined as the fishing mortality (F) threshold, $F_{MAX} = 0.26$. The most recent formally reviewed stock assessment for scup concluded that stock status with respect to overfishing could not be determined based on available data (NEFSC 2002). However, the 2006 Status of U.S. Fisheries Report to Congress listed the stock as overfishing occurring (NMFS 2006a).

Management Program: The Department of Environmental Management (DEM) manages scup within state waters based on advice from the Rhode Island Marine Fisheries Council (RIMFC) and the RI Division of Fish and Wildlife (RIDFW). Regional management of the scup resource is the shared responsibility of the Mid-Atlantic Fishery Management Council (MAFMC) and Atlantic States Marine Fisheries Commission (ASMFC). The scup Fishery Management Plan (FMP) sets annual quota specifications into three sub-periods. During the two winter sub-periods, the quota is available coast wide and is restricted through the implementation of trip limits. A state-by-state quota system is in place for the summer sub-period (May–October), whereby quotas are

distributed to the states based upon their percentage share of commercial landings for the period May through October 1983–1992. RI further divides the state quota into a general category allocation (40%) and a fish trap allocation (60%).

The MAFMC is currently developing Amendment 14 to the Summer Flounder, Scup, and Black Sea Bass FMP, which includes a plan to rebuild the scup stock by 2014.

Performance of Fishery and Quotas: Efforts to keep the scup fishery open throughout the summer period in the past had proven to be difficult due to the number of licensees who have open access to the fishery (Tables 2a–c). Beginning in 2004 the fishery remained open for the entire season. In 2007 the quota for the general category was 1,067,956 pounds, an increase of 23,368 pounds from 2006. The 2007 quota was sufficient to keep the fishery open throughout all of the sub-periods under the current management plan as of the date of the writing of this document. The 100-pound limit is a minimum amount agreed to by industry,

The floating fish trap category was allocated 1,601,933 pounds in 2007. This sector harvested the majority of its quota in 2007—any remaining quota will be rolled in to the general category scup fishery on August 1st to provide the opportunity for the entire commercial sector to harvest its scup allocation for 2007.

The quota for 2008 approved by the ASMFC and MAFMC will be lower than in 2007 (Table 3). The Division’s recommendation is to maintain effort at or below the current level in the commercial scup fishery and to leave scup in the restricted species category.

SUMMER FLOUNDER

Stock Status: In 2006, the stock assessment and biological reference points for the summer flounder stock were updated and reviewed (NMFS 2006b). The assessment results indicated that the summer flounder resource is experiencing overfishing, but is not overfished (Terceiro 2006). The summer flounder stock is defined as overfished if the stock’s SSB falls below the biomass (B) threshold, currently defined as $\frac{1}{2}B_{MSY} = 98.6$ million pounds. The SSB estimate for 2005 was 104.7 million pounds. The overfishing definition for the summer flounder stock is defined as $F_{MAX} = 0.28$. The 2005 fishing mortality rate estimate ($F_{2005} = 0.41$) is 45% larger than the fishing mortality reference point. Fishing mortality in 2005 may have been even higher, as a retrospective analysis indicated that the current assessment method tends to underestimate F in recent years. The review panel agreed that harvest mortality on the stock should be reduced over the next few years to provide at least a 50% chance of being restored by 2010.

Management Program: The DEM manages summer flounder within state waters based on advice from the RIMFC and RIDFW. Regional management of the summer flounder resource is the shared responsibility of MAFMC and ASMFC. Existing DEM regulations provide a framework to manage the annual summer flounder quota allocated to RI through possession limits and seasons. The total commercial quota was allocated into four sub-periods based on the proportion of catches during the years 1980 through 1989. These percentages and sub-periods were altered in 2007 by combining the two summer sub-periods and combining the historical summer allocation, giving this period (May–October) a 35% allocation. Along with the combining of the summer sub periods, the management plan also included two closure days (Friday and Saturday) in an effort to

curtail the weekly landings and extend the season. Another management change in 2007 was the inclusion of an aggregate landings program in the summer sub-period. Few fishermen availed themselves of this opportunity in 2007.

In RI, management of the fishery for summer flounder has been difficult and the subject of frequent allocation disputes. Larger trawl vessels prosecute the winter commercial fishery offshore. During the summer, smaller trawl vessels, floating trap, gill net, and rod and reel fishermen direct their efforts on this species inshore, along with a substantial recreational fishery. Frequent possession limit reductions and closures are enacted by the RIDFW during each sub-period to keep RI landings within the quota allocated by MAFMC and ASMFC (Table 2a–c).

DEM implemented a Summer Flounder Exemption Program (SFEP) in 1995 to limit the number of vessels that could participate in the directed fishery, based upon their historical participation. At that time, a 200-pound limit was established for anyone who did not qualify for a SFEP. Due to the increase in stock biomass in the near shore waters and the number of license holders eligible to direct on the summer flounder fishery, the spring and summer sub-periods have been quickly exhausted, even with low trip limits of 100 pounds. The fishing year of 2004 was the first year in which the fishery remained open all year with no closures. This trend lasted through 2005, but there will most likely be a closure in 2007 as there was in 2006.

Performance of Fishery and Quotas: Under current levels of effort, the summer flounder fishery has been frequently closed. The season most affected has been the summer because of the allocation available coupled with many participants. The proportion of summer flounder taken by different gear types during the summer months has changed over the past few years. The percentage harvested by otter trawl has declined each year during the period 1996 to 2000 while the proportion taken by all other gear types has increased with the greatest increase occurring for the rod and reel sector. As a result, the performance of the fishery has also changed over the years. In 2004, the RIMFC shifted the allocation by adding the additional quota of 469,653 pounds to summer I sub-period in order to maintain the fishery year around. This allocation succeeded in keeping the fishery open for the entire year. In 2005, rather than adding extra pounds to the first summer sub-period, an equal split of the summer allocation was implemented. It was thought that with the increase in quota in 2005, the fishery could remain open under this regime. The summer flounder quota remained open for the entire 2005 season (Tables 2a–c). Due to several factors in 2006, including the complete utilization of the winter I quota and a decreased state quota allocation, the summer flounder summer I fishery saw both a possession limit decrease and a fishery closure. The summer flounder fishery will almost certainly have a closure in 2007 due to a large decrease in quota for the year, yet effort remains high on this species.

The quota for 2008 has been recommended to decrease substantially (Table 3). The proposed reduction at this point is not certain and the currently proposed value may be reduced before being finalized. A substantial increase in effort or significant decrease in quota could lead to more frequent closures. The Division's recommendation is to maintain effort at or below the current level in the commercial summer flounder fishery and to leave summer flounder in the restricted species category.

TAUTOG

Stock Status: The ASMFC Tautog Technical Committee completed the most recent assessment of tautog in 2006 (ASMFC 2006). Results indicated that coastwide fishing mortality rates have declined since 1993. The stock was found not to be experiencing overfishing in 2004; however, the estimated fishing mortality rate in 2004 ($F_{2004} = 0.28$) was very near the target F rate ($F_{\text{Target}} = 0.30$). Abundance indices through 2005 show a slight increase in biomass and recruitment for recent years, however the biomass increases are not adequate to rebuild the stock in a reasonable time frame. The current index of stock size is slightly above the time series average, while the spawning stock biomass is below the time series average, indicating that a considerable proportion of the recent growth in the stock is from fish younger than spawning age. The main contributor to the fishing mortality rates appears to be recreational landings, which comprised approximately 75–90% of total landings over the past six years. Two addenda were initiated in 2007 that added a spawning stock biomass target to the FMP as well as a decrease in the fishing mortality target. The reductions necessary to comply with the updated FMP will be undertaken in 2008 for all states coastwide. Commercial landings have not risen appreciably since plan implementation. Indices of abundance based on the RIDFW trawl survey indicate a recent increase in abundance locally (Lynch 2007). Abundance indices for young-of-year tautog also point to an increase in abundance over the past several years, consistent with the results of the coastwide assessment (Powell 2007).

Management Program: The tautog resource is managed within state waters by the DEM with advice from the RIMFC and RIDFW. Regional management of the tautog resource is conducted by ASMFC through Addendum V to the Tautog FMP, which was adopted in August of 2007. The FMP in part requires a reduction in fishing mortality in order to achieve an appreciable increase in spawning stock biomass. States will be required to implement regulations that meet the required reductions by the start of their respective fisheries in 2008. The state quota did not increase over the past few years. The commercial fishery in Rhode Island is managed through a combination of seasons, quotas, and possession limits. Although it is not required, Rhode Island established a commercial quota, which in part achieves the fishing mortality targets required by the FMP. In 2007, the quota was divided equally into three seasons with a daily possession limit of 10 fish.

Performance of Fishery and Quotas: Since the beginning of the tautog management plan in RI, the commercial tautog fishery has closed early with excessive overages in the spring season. A substantial increase in the quota would be needed to keep the commercial tautog fishery open throughout the defined seasons. While an assessment conducted by Rhode Island's and Massachusetts's resource agencies show that local stocks are not overfished, ASMFC required that Rhode Island remain status quo for 2007. The ASMFC developed an addendum to address the fact that, on a coastwide basis, biomass levels are not rebounding fast enough to recover the stock in a reasonable amount of time and therefore RI will take some level of reduction in 2008—mainly in the recreational fishery. Current fishing effort levels are clearly above the fishing power needed to harvest the quota with current possession limits and seasons. The spring quota remains difficult to manage due the imbalance of effort and allowable landings resulting in overages and high discard mortality. The Division recommends maintaining effort at

the current level in the commercial tautog fishery and to leave tautog in the restricted species category.

STRIPED BASS

Stock Status: The most recent stock assessment of the striped bass stock showed that total catch (recreational and commercial) has increased since the mid- to late 1980s, though total abundance remains high (ASMFC 2005). The assessment results led the ASMFC Striped Bass Technical Committee to also conclude that abundance of striped bass age-13 and older has increased since 2003, when Amendment 6 was adopted.

The 2005 assessment applied both a catch-at-age method (Virtual Population Analysis, or VPA) and tag-based methods to estimate fishing mortality rates for striped bass. Amendment 6 to the striped bass FMP adopted the overfishing definition as the fishing mortality rate that results in the maximum sustainable yield (MSY), $F_{MSY} = 0.41$ (ASMFC 2003). The VPA and tagging approaches produced estimates of 2004 fishing mortality rates that were below F_{MSY} , suggesting the stock is not experiencing overfishing. The overfished definition adopted in Amendment 6 is based on female spawning stock biomass, $SSB_{\text{♀}} = 30.9$ million pounds. The VPA estimate of female SSB in 2004 was 55 million pounds, which exceeds the overfished definition. As such, the striped bass stock is currently not overfished.

Management Program: Striped bass are managed by ASMFC through Amendment 6 to the interstate FMP, which requires minimum sizes for the commercial and recreational fisheries, possession limits for the recreational fishery, and state quotas for the commercial fishery (ASMFC 2003).

Regulations for the commercial striped bass fishery in Rhode Island include minimum sizes, possession limits, gear restrictions, seasons and quotas. The RI commercial quota is divided between two sectors, floating traps (40%) and a general category (60%). The quota for the general category, primarily rod and reel, and the floating trap fishery were made available during two seasons since 2001.

The management plan for striped bass was modified in 2007. The commercial possession limits changed to a per vessel limit of 5 fish (as opposed to the per person possession limits of the past). A two-day per week (Friday/Saturday) closure was also implemented in 2007. Both of these industry supported changes were an effort to keep the season open longer than what has been the case for the recent past.

Performance of Fishery and Quotas: The catch rates of striped bass for the general category were similar in 2006 as they have been for the past several years. The 2006 general category quota was 145,918 pounds and was fully harvested during two seasons. The floating fish trap quota of 97,450 pounds was not fully utilized and the remainder of this quota was made available to the general category fishery in October, at which point the remaining quota was fully utilized.

The 2007 general category quota was 145,918 pounds and the first sub-period quota was fully harvested within 23 days. The floating fish trap quota of 97,450 pounds was not fully utilized and, as of this writing, the remainder of this quota will be made available to the general category fishery in the fall.

The commercial quota for 2008 will not increase substantially. Commercial quotas of the magnitude needed to keep the fishery open throughout most of the season are unlikely in the next few years because the most recent stock assessments indicate that the population of striped bass has not increased in biomass since 1997 and the recreational catch has increased dramatically over recent years. The Division's recommendation is to maintain effort at or below the current level in the commercial striped bass fishery and to leave striped bass in the restricted species category.

BLACK SEA BASS

Stock Status: In the NOAA Fisheries 2006 report on the status of U.S. fisheries, the status of the black sea bass stock was listed as not overfished and not experiencing overfishing (NMFS 2006a). However, the 2006 peer-review of the black sea bass stock assessment concluded that estimates of fishing mortality were not adequate for management (NEFSC 2006). Without a reliable estimate of the current F , stock status with respect to overfishing could not be determined. The review panel also felt the existing biomass reference point was not sound and should not be used as a basis for evaluating stock status. Methods for estimating alternative reference points are being investigated.

Management Program: The black sea bass stock is managed jointly by ASMFC and MAFMC. Amendment 13, which became effective in 2003, established a state quota system. Rhode Island's share of the commercial quota is 11%. Through advice from the Rhode Island Marine Fisheries Council and the industry, the Department adopted regulations to allocate a percentage of the commercial quota into four seasonal sub-periods. The regulations also specified possession limits within each season.

Performance of Fishery and Quotas: The RI commercial fishery has not closed to date; however, a 100-pound possession limit was implemented during the months of June and July to prevent a closure (Table 2a–c). The 2007 quota decreased leaving RI's quota at 342,265 pounds. As of this writing, the catch rates have been low and possession limit increases have been implemented to aid in the full utilization of the quota.

A further quota reduction is proposed for 2008 (Table 3), therefore a large expansion of effort at this time would hinder the Department from meeting its objective of keeping the fishery open throughout the year under reasonable possession limits. This leads the Division to recommend maintaining effort at current levels in the commercial black sea bass fishery and to leave black sea bass in the restricted species category.

WINTER FLOUNDER

Stock Status: The stock assessment of the Southern New England/Mid-Atlantic (SNE/MA) winter flounder stock was peer-reviewed in August 2005 (NEFSC 2005a). The stock was determined to be overfished and experiencing overfishing in 2004. The 2004 estimate of fishing mortality ($F_{2004} = 0.40$) exceeded the current overfishing definition ($F_{MSY} = 0.32$). The SNE/MA winter flounder stock is considered overfished when spawning stock biomass falls below $\frac{1}{2}B_{MSY} = 33.2$ million pounds. Spawning stock biomass in 2004 was estimated to be approximately 8.7 million pounds, about 26% of the overfished definition.

The Rhode Island Division of Fish and Wildlife assessed the winter flounder stock within state waters in 2002 (M.R. Gibson, RIDFW Marine Fisheries, unpublished data). The fishing mortality rate after dropping below in 1996 has remained above $F_{MSY} = 0.30$ indicating that rates of fishing are above levels that would achieve maximum sustainable yield. Estimates of biomass have remained well below $B_{MSY} = 9.1$ million pounds since 1984. Estimates of biomass have fluctuated over the time period 1959–2002 with two peaks occurring in the mid- to late-1960s and early 1980s. Estimates declined steadily over a ten-year period from 1983 to 1993, the estimate for 1993 being the lowest in the time series. A slight increase occurred between 1994 and 1995 to levels that have remained steady.

Management Program: The New England Fisheries Management Council manages the winter flounder resource through the Northeast Multispecies (Groundfish) Fishery Management Plan. Fishing mortality on the SNE/MA stock is regulated through minimum sizes, gear restrictions, and restrictions on the number of days allowed to fish. At the state level, a management area was established for the purpose of managing winter flounder. The area includes all state waters north of a line from Sakonnet Point Light to Point Judith Light and north of the seaward entrance to all coastal salt ponds. In Narragansett Bay, the harvest and possession of winter flounder is prohibited with the exception of the southern-most part. This management area was altered in 2006 to prohibit the harvesting of winter flounder in Narragansett Bay. For all other state waters outside of the management area there are minimum fish size limits and mesh size restrictions.

Performance of Fishery and Quotas: Since 1996, the commercial quota of winter flounder available for the Winter Flounder Management Area has never been fully harvested by the fishing industry. The state quota has not existed since the implementation of the modified management area in 2006. The rationale for placing this species in the restricted category is based on the low levels of abundance locally and overfishing on a regional basis. The Division's recommendation is to maintain effort at current levels in the commercial winter flounder fishery and to leave winter flounder in the restricted species category.

NON-RESTRICTED FINFISH

The species relegated to the non-restricted categories include all species of finfish with the exception of those listed in the restricted category. All species for which the state is allocated a quota are listed as restricted with the exception of bluefish since the quota allocated to the state has been more than the industry is able to harvest since it was implemented. Stock status and management are summarized for bluefish.

BLUEFISH

Stock Status: The overfishing definitions for the bluefish resource in Amendment 1 to the bluefish FMP were based on a population model that was considered unreliable for assessing the stock (MAFMC and ASMFC 1998; NEFSC 2005b). Biological reference points for the bluefish stock were updated based on the 2005 stock assessment: $F_{MSY} = 0.19$ and $\frac{1}{2}B_{MSY} = 162$ million pounds. Results of the 2005 assessment demonstrated a declining trend in fishing mortality rates since the late 1980s. Population abundance and

biomass have shown increasing trends in recent years. The 2004 estimate of fishing mortality was estimated at $F_{2004} = 0.15$. Biomass of the bluefish stock in 2004 was estimated at $B_{2004} = 230$ million pounds. Based on the updated reference point values, the bluefish resource is not overfished and overfishing is not occurring. The review panel for the 2005 assessment noted that the results should be considered cautiously given concerns about the quality and use of the input data and other weaknesses.

Management Program: Bluefish are managed cooperatively by ASMFC and MAFMC through Amendment 1 to the Bluefish Fishery Management Plan (MAFMC and ASMFC 1998). The Bluefish Monitoring Committee meets annually to review the most recent data and to make recommendations regarding the commercial quota, the recreational harvest limit, and other management measures. Commercial quotas have been implemented since 1994 and have never been fully harvested until 2006. A closure was implemented in 2006 due to a large influx of landings during the fall season. Coastwide quotas have ranged from 9.6 to 11.4 million pounds.

Performance of Fishery and Quotas: Since 1994 when states were first allocated a commercial quota for bluefish, Rhode Island has not fully harvested its allocation and the fishery has never been closed while the quota system has been in place, until 2006. In 2006 high catch rates in the fall period used up the quota and a commercial closure was implemented for the first time in RI. The quota for 2007 (583,790 pounds) was decreased from that in 2006 and as of this writing no closures have been implemented. The bluefish harvest will be monitored carefully in 2007 in order to avoid a repeat of the closure in 2006. The quota for 2008 has not been finalized of this writing (Table 3). The Division's recommendation is to allow effort to increase above current levels in the commercial bluefish fishery and to leave bluefish in the non-restricted species category. In the future, if effort increases beyond what the quota can sustain and remain open for the entire year, or if the quota decreases to lower levels due to the stock status, the Division will re-assess whether bluefish needs to be moved in to the restricted species category, or if possession limits and seasons need to be implemented in order to control harvest.

MENHADEN

Stock Status: Menhaden are a highly migratory species that undergo a large amount of mixing off the coast of North Carolina in the winter months. The ASMFC Atlantic Menhaden Stock Assessment Subcommittee last assessed the menhaden stock in 2003. The 2003 assessment concluded that the species was not overfished and overfishing was not occurring. The ASMFC Atlantic Menhaden Technical Committee went on to state that because the stock is assessed as a single coastwide unit, the assessment might not account for factors affecting the stock at the local level such as fishing, predation, or climatological events. The Technical Committee made a number of important research recommendations that need to be addressed before these more localized questions can be answered.

Management Program: Atlantic Menhaden are managed in RI through the use of seasons and management areas. In general, Narragansett Bay in its entirety is considered a Menhaden Management Area. The management area allows purse seine fishing for menhaden through the main stems of the Bay while excluding most of the major embayments such as Greenwich Bay, Allen's Harbor, Nannaquacket Pond, Kickemuit

River, etc. There are also a number of seasonal, weekend, holiday, and Sunday closures for specific areas in the Bay. While the general season is open year round, many of the major embayments have stricter seasonal closures such as in the Providence River and the Hope Island Management area, which are closed to purse seining from August through December 31st. Beginning January 9, 2003, purse seining for menhaden for use in the reduction fishery was prohibited in RI state waters. This regulation is still in effect. Similar provisions exist in state waters along the entire Atlantic coast with the exception of North Carolina and Virginia, where the bulk of the reduction fishery takes place. Purse seining for use in the bait industry is still allowed in RI as set forth above. Emergency regulations were implemented in 2007 that placed a cap on the daily landings that could occur in Narragansett Bay (75,000 pounds). The regulation also placed an overall cap on the amount of fish that could be removed from the Bay stating that removals could not exceed 50% of the standing stock in the Bay. Once the 50% trigger is hit the purse seine fishery will close in Narragansett Bay.

Performance of Fishery and Quotas: The years of 2005, 2006, and 2007 saw large schools of adult menhaden in Narragansett Bay. While there is no quota on menhaden mandated by ASMFC, RI implemented a management plan in 2007 through emergency regulations that was prompted by the increasing interest in the bait fishery, specifically a second large menhaden purse seine vessel that entered RI waters. The new management plan will be brought to public hearing at some point in late 2007 or early 2008, at which point the plan could be carried forward for implementation in 2008 and beyond.

At this point the Division's recommendation is to allow effort to remain at or below current levels in the menhaden bait fishery and to leave menhaden in the non-restricted species category. New approaches to restricting effort such as through gear endorsements, moving menhaden to a different endorsement category, and other regulations regarding vessel attachment to a license are being considered. Nothing has been decided as of this writing.

LICENSING OPTIONS AND RECOMMENDATIONS

In 2005, the Department issued 13 new restricted finfish endorsements for the basic commercial fishing license (CFL). This decision was based on the Division's assessment of the restricted finfish species, deliberations with the RI Marine Fisheries Council, and requirements set forth in statute. An exit/entree ratio was established at 5:1 (for every 5 restricted finfish licenses that are not renewed, 1 new restricted finfish endorsement will be issued) in order to allow some new entrance into the restricted finfish category. The ratio was set up to be reflective of both current fishing effort on the restricted finfish species and latent effort. The 13 new endorsements were made available at a lower harvest level (1/2 the current full harvest level) than existing full harvest licenses. No new restricted finfish endorsements were issued in 2006 or 2007. A total of 71 licenses—58 Multi-Purpose Licenses (MPURP) + 13 Principle Effort Licenses (PEL)—that were eligible to catch restricted finfish in 2005 were not renewed in 2006. This measure also protects against increasing effort.

RI Marine Fishery Council Advice- the Industry Advisory Committee (IAC) of the RIMFC, required under RIGL 20-2.1-11, has met twice to formulate advice for the Council on licensing. The group recommended staying at status quo and not opening any

new restricted finfish endorsements at this time. They did make some recommendations on creating some possible gear endorsement such as purse seine and mid water/pair trawl endorsements. The RIMFC recommendation to the Director regarding the restricted finfish species is to stay at status quo and issue no new restricted finfish endorsements. Further the RIMFC recommended to the Director that he adopt the purse seining and mid water/pair trawling endorsement proposal without the control date option.

If the exit/entree ratio of 5:1 were applied to the 2007 license counts, this would make 12 new CFL with restricted finfish endorsements available in 2008. During 2006, only 7 of the non-renewed Multi-Purpose Licenses and 8 of the Principal Effort Licenses had landings of restricted finfish (based on landings data from SAFIS). The resulting number of “actively fished licenses” not renewed in 2007 would be 15. This decreases the amount of new CFL with restricted finfish endorsements to 3. The catch rates of the 2006 restricted finfish species were similar to the rates in 2005; therefore the increase in licenses made available in 2005 did not translate into a noticeable increase in effort on these species. The quota allocated to RI in 2007 for a few of the restricted finfish species (i.e., scup, black sea bass, and summer flounder) will be less than in 2006. Therefore, to protect against increasing effort on decreasing quotas, the Division recommends not introducing any new restricted finfish endorsements in 2008.

Recommendations

The following recommendation is believed to be protective of the restricted finfish species in RI, therefore the Division of Fish and Wildlife recommends:

1. No new restricted finfish endorsements in 2008
2. Maintain open entry in to the non-restricted finfish endorsements
3. Explore the development of a new limited access Menhaden purse seine license
4. Explore vessel declaration options within the license structure
5. Move the sector management plan updates to a biennial time frame

The Director of DEM decided to establish a 5:1 exit/entry ratio for the restricted finfish endorsement category, applied to the total number of licenses eligible to harvest restricted finfish that were active in the fishery in 2006 as measured by SAFIS reporting data and retired in 2007. Further the Director decided to establish two new gear endorsement categories as a means of strengthening our management capabilities. I further endorse the specific application/endorsement requirements set forth in your memo, namely:

- 1) Applicants/holders of both endorsements must consent to carry an observer on the vessel and/or on any spotter plane used as part of the operation, at the request of the Division of Fish & Wildlife;
- 2) Applicants/holders of both endorsements must report any/all landings of Atlantic menhaden on a daily basis (if active) to the Division of Fish & Wildlife;
- 3) Applicants/holders of both endorsements must report beginning, location, and cessation of fishing activities on a daily basis (if active) to the Division of Law Enforcement; and

4) Applicants/holders of both endorsements must obtain and have on board charts showing the known locations of fixed-gear clusters, as provided by the Division of Fish & Wildlife.

Finally the Director decided to enact a December 31, 2007 control date for the mid water/pair trawl and purse seine fisheries.

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Table 1. Historical commercial license counts.

LICENSES					
	2003	2004	2005	2006	2007
MULTI-PURPOSE LICENSE	1,191	1,135	1,075	1,017	973
PRINCIPAL EFFORT LICENSE	1,325	1,148	997	929	861
<i>LOBSTER ENDORSEMENT</i>	61	56	52	46	44
<i>NON-LOBSTER CRUSTACEAN ENDORSEMENT</i>	19	20	16	16	15
<i>QUAHOG ENDORSEMENT</i>	924	776	633	586	538
<i>NON-QUAHOG ENDORSEMENT</i>	672	556	455	434	402
<i>RESTRICTED FINFISH ENDORSEMENT</i>	338	326	311	298	283
<i>NON-RESTRICTED FINFISH ENDORSEMENT</i>	138	147	137	131	134
COMMERICAL FISHING LICENSE	271	283	317	397	464
<i>LOBSTER ENDORSEMENT</i>	50	48	41	38	32
<i>NON-LOBSTER CRUSTACEAN ENDORSEMENT</i>	68	69	83	105	118
<i>QUAHOG ENDORSEMENT</i>	N/A	N/A	51	94	104
<i>NON-QUAHOG ENDORSEMENT</i>	156	172	181	247	323
<i>RESTRICTED FINFISH ENDORSEMENT</i>	N/A	N/A	13	13	11
<i>NON-RESTRICTED FINFISH ENDORSEMENT</i>	192	198	220	242	261
OVER 65 SHELLFISH LICENSE	50	86	93	130	136
STUDENT SHELLFISH LICENSE	107	97	72	71	60
LANDING PERMITS					
	2003	2004	2005	2006	2007
RESIDENT					
<i>MULTI-PURPOSE</i>	17	20	40	25	45
<i>FINFISH</i>	9	8	9	10	11
<i>CRUSTACEAN</i>	2	1	0	0	2
<i>SHELLFISH</i>	0	0	0	0	0
<i>MISCELLANEOUS</i>	0	0	0	0	0
NON-RESIDENT					
<i>MULTI-PURPOSE</i>	54	46	60	82	59
<i>RESTRICTED FINFISH</i>	5	5	5	6	5
<i>NON-RESTRICTED FINFISH</i>	26	23	21	18	12
<i>CRUSTACEAN</i>	2	2	1	0	2
<i>SHELLFISH</i>	1	4	35	32	16
<i>MISCELLANEOUS</i>	0	0	0	0	0

Table 1. (continued) Historical commercial license counts.

GEAR ENDORSEMENTS					
	2003	2004	2005	2006	2007
FISH TRAP				2	2
GILL NET	323	307	287	273	263
OTHER LICENSES & DECLARATIONS					
	2003	2004	2005	2006	2007
AQUACULTURE LICENSE	10	9	11	18	21
VESSEL DECLARATION	1,905	1,829	1,788	1,790	1,703
BOAT PLATE	96	65	60	52	56
DEALER LICENSES					
	2003	2004	2005	2006	2007
MULTI-PURPOSE	172	176	93	90	82
FINFISH	14	30	15	18	15
LOBSTER	10	6	2	1	3
SHELL	11	22	12	11	9

Table 2a. Possession limits (pounds), seasons, and quotas established for Rhode Island commercial fisheries in 2007.

2007 POSSESSION LIMITS					
Date	Summer Flounder	Scup (General Category)	Tautog	Striped Bass (General Category)	Black Sea Bass
1-Jan	100	30,000/2 weeks	Closed	Closed	1,500
24-Jan	200	2,000/day			
4-Feb	1,000/week				
	200/day				
25-Feb	2,000/week				
	400/day				
25-Mar	3,000/week				
	500/day				
8-Apr	500				
14-Apr	Closed				
15-Apr			10 fish		
1-May	100	1,000			100
24-May			Closed		
1-Jun	350/week			5 fish	
	100/day				
17-Jun	250/week				200
	50/day				
22-Jun		100			
24-Jun				Closed	
1-Jul		100			
8-Jul					
13-Jul					
15-Jul			10 fish		
Days in Season	365	365	171	214	365
Total Days Open	N/A	N/A	N/A	N/A	N/A
Total Days Closed	N/A	N/A	N/A	N/A	N/A
2006 COMMERCIAL SEASONS					
	Summer Flounder	Scup (General Category)	Tautog	Striped Bass (General Category)	Black Sea Bass
	Jan 1–Apr 30	Jan 1–Apr 30 ^F	Apr 15–May 31	Jun 10–Aug 31	Jan 1–Apr 30
	May 1–Oct 31 [*]	May 1–Jun 30	Aug 1–Sep 15	Sep 1–Dec 31	May 1–July 31
	Nov 1–Dec 31	July 1–Sep 15	Oct 15–Dec 31		Aug 1–Oct 31
		Sep 16–Oct 31			Nov 1–Dec 31
		Nov 1–Dec 31 ^F			
2006 QUOTAS					
	Summer Flounder	Scup (General Category)	Tautog	Striped Bass (General Category)	Black Sea Bass
State	2,039,464	1,044,588	51,348	145,918	421,554
Federal	-----	4,647,569	-----	-----	-----

^F Federal coastwide quota

^{*} Closed Fridays and Saturdays

Table 2b. Possession limits (pounds), seasons, and quotas established for Rhode Island commercial fisheries in 2006.

2006 POSSESSION LIMITS					
Date	Summer Flounder	Scup (General Category)	Tautog	Striped Bass (General Category)	Black Sea Bass
1-Jan	700	30,000/2 weeks 2,000/day	Closed	Closed	1,500
5-Feb	5,000/2 weeks 700/day				
26-Feb					
19-Mar	500				
22-Apr	100				
15-Apr			10 fish		
1-May	100	1,000			100
10-May			Closed		
10-Jun				4 fish	
14-Jun	50				
25-Jun				Closed	
1-Jul		100			
8-Jul		500			
13-Jul	Closed				500
15-Jul			10 fish		
1-Aug	150				
2-Aug		1,000			
16-Aug	100				
29-Aug			Closed		
30-Aug	50				
1-Sep				3 fish	
6-Sep				Closed	
16-Sept		2,000			
23-Sept					1,000
27-Sept				3 fish	
8-Oct		4,000			2,000
10-Oct	100				
15-Oct			10 fish		
1-Nov	450	6,500			
4-Nov				Closed	
15-Dec			Closed		
Days in Season	365	365	171	214	365
Total Days Open	347	N/A	128	57	365
Total Days Closed	18	N/A	43	157	0

Table 2b. (continued) Possession limits (pounds), seasons, and quotas established for Rhode Island commercial fisheries in 2006.

2006 COMMERCIAL SEASONS					
	Summer Flounder	Scup (General Category)	Tautog	Striped Bass (General Category)	Black Sea Bass
	Jan 1–Apr 30	Jan 1–Apr 30 ^F	Apr 15–May 31	Jun 10–Aug 31	Jan 1–Apr 30
	May 1–Jul 31	May 1–Jun 30	Aug 1–Sep 15	Sep 1–Dec 31	May 1–July 31
	Aug 1–Oct 31	July 1–Sep 15	Oct 15–Dec 31		Aug 1–Oct 31
	Nov 1–Dec 31	Sep 16–Oct 31			Nov 1–Dec 31
		Nov 1–Dec 31 ^F			
2006 QUOTAS					
	Summer Flounder	Scup (General Category)	Tautog	Striped Bass (General Category)	Black Sea Bass
State	2,039,464	1,044,588	51,348	145,918	421,554
Federal	-----	4,647,569	-----	-----	-----

^F Federal coastwide quota

Table 2c. Possession limits (pounds), seasons, and quotas established for Rhode Island commercial fisheries in 2005.

2005 POSSESSION LIMITS					
Date	Summer Flounder	Scup (General Category)	Tautog	Striped Bass (General Category)	Black Sea Bass
1-Jan	700	30,000/2 weeks 2,000/day	Closed	Closed	1,500
6-Feb	2,500/week 700/day				
26-Feb	700				
6-Mar	300				
10-Apr	500				
15-Apr			10 fish		
1-May	100	1,000			100
17-May			Closed		
1-Jun				4 fish	
23-Jun				Closed	
1-Jul		100			
9-Jul	150	500			250
1-Aug	150		10 fish		100
12-Aug					300
1-Sep				3 fish	
15-Sep				Closed	500
16-Sep		100	Closed		
28-Sep		500			750
5-Oct	250				
15-Oct			10 fish		
1-Nov	450	3,000			500
10-Nov	1,000				1,500
3-Dec	2,000				
16-Dec	5,000		Closed		
25-Dec	Closed				
Days in Season	365	365	171	214	365
Total Days Open	358	365	139	36	365
Total Days Closed	7	0	32	178	365

Table 2c. (continued) Possession limits (pounds), seasons, and quotas established for Rhode Island commercial fisheries in 2005.

2005 COMMERCIAL SEASONS					
	Summer Flounder	Scup (General Category)	Tautog	Striped Bass (General Category)	Black Sea Bass
	Jan 1–Apr 30	Jan 1–Apr 30 ^F	Apr 15–May 31	Jun 1–Aug 31	Jan 1–Apr 30
	May 1–Jul 31	May 1–Jun 30	Aug 1–Sep 15	Sep 1–Dec 31	May 1–July 31
	Aug 1–Oct 31	July 1–Sep 15	Oct 15–Dec 31		Aug 1–Oct 31
	Nov 1–Dec 31	Sep 16–Oct 31			Nov 1–Dec 31
		Nov 1–Dec 31 ^F			
2005 QUOTAS					
	Summer Flounder	Scup (General Category)	Tautog	Striped Bass (General Category)	Black Sea Bass
State	2,754,994	1,071,003	46,322	144,596	436,078
Federal	-----	5,602,495	-----	-----	-----

^F Federal coastwide quota

Table 3. The proposed 2008 Total Allowable Landings (TAL) limits set by the ASMFC and MAFMC in comparison the 2007 TALs. The limits proposed for 2008 will be sent to NOAA for final approval. The values in the table represent millions of pounds.

COASTWIDE TAL		
Species	2007	2008 (Proposed)
Scup	13.5	7.34
Summer Flounder	17.1	15.77
Black Sea Bass	6.5	4.22
Bluefish	27.8	28.2

Rule 8. EFFECTIVE DATE

The foregoing rules and regulations Rhode Island Marine Statutes and Regulations, after due notice, are hereby adopted and filed with the Secretary of State this 7th day of December 2007 to become effective 20 days from filing, unless otherwise indicated below, in accordance with the provisions of Chapter 42-17.1, Section 20-1-4, Section 20-2.1 and Public Laws Chapter 02- 047, in accordance with Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

W. Michael Sullivan
Director, Department of Environmental Management

Notice Given: 09/24/2007
Public Hearing: 10/24/2007

Filing date: 12/07/2007
Effective date: 12/27/2007