

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Division of Fish and Wildlife
Marine Fisheries



2009 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”

January 16, 2009

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SUPERSEDED RULES AND REGULATIONS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rules and regulations, and any policies regarding the administration and enforcement of this regulation shall be superseded.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. Recently, two other species (menhaden and monkfish) have been considered for inclusion in this category, however restrictions were achieved through other methods including gear endorsements (menhaden) and management plan changes (monkfish). There were a total of 1,220 license holders eligible to harvest the restricted species in 2008. Three (3) new restricted finfish endorsements for basic commercial fishing licenses were issued in 2008 and 366 non-restricted finfish endorsements were issued in 2008 (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. The Division also recommends allowing a small number of restricted endorsements to be issued in 2009, as the new endorsements issued in 2008 did not seem to impact the restricted species quotas negatively.

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 2008, 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 2006-2008 three-year average SSB, which indicates the stock is overfished (1.16 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 2008 the quota for the general category was 389,207 pounds, a decrease of 678,749 pounds from 2007. The 2008 quota was insufficient 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. In 2008, an aggregate program was implemented in state waters. The program did not work well in the May through June sub period as the allocation was exhausted in two weeks. This may have been due to a possession limit that was set too high, coupled with a very small quota in 2008. The program worked better during the July through September 15th sub period, but still closed earlier than the end of the sub period.

The floating fish trap category was allocated 583,811 pounds in 2008. This sector harvested the majority of its quota in 2008 - the small remaining quota was 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 2008.

The quota for 2009 approved by the ASMFC and MAFMC may be slightly higher than in 2008 (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 2008, the stock assessment and biological reference points for the summer flounder stock were updated and reviewed (NEFSC 2008a). The proposed assessment results indicated that the summer flounder resource is not experiencing overfishing and is not overfished (NEFSC 2008a). The summer flounder stock is defined as overfished if the stock's SSB falls below the biomass (B) threshold, currently defined as $\frac{1}{2}B_{MSY} = 66.2$ million pounds. The SSB estimate for 2007 was 95.6 million pounds. The overfishing definition for the summer flounder stock is defined as $F_{Target} = 0.255$. The 2007 fishing mortality rate estimate ($F_{2007} = 0.288$) is below the fishing mortality reference point. Fishing mortality in 2007 may have been higher, as a retrospective analysis indicated that the current assessment method tends to underestimate F in recent years. This retrospective pattern, however, is less than when the previous assessment method was used.

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. The 2007 management plan as described above was maintained during 2008

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 years of 2004 and 2005 were the first years in which the fishery remained open all year with no closures. These years corresponded with increased summer flounder quotas. Since 2005, the fishery has had premature closures, corresponding to decreases in the states allocation of summer flounder.

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 fishery saw both a possession limit decrease and a fishery closure. This was also the case in 2007 and 2008 due to a large decrease in quota for these years, while effort remains high on this species.

The quota for 2009 has been recommended to increase (Table 3). The proposed increase is not certain at this point and the currently proposed value may be reduced before being

finalized. In any case the amount of the increase will most likely not be substantial enough to keep the fishery from closing early in 2009. 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, both addenda were approved by the start of the 2008 fishing year. A regional approach to tautog management was also approved by the ASMFC in 2008, allowing MA and RI to assess the tautog stock in their own state waters. Even though this regional assessment allowed for a status quo management scenario, MA and RI decided on a proactive approach and did implement reduction measures in 2008. Commercial landings have not risen appreciably since plan implementation in RI. 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 (Powell 2007), consistent with the results of the coastwide and regional assessments.

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 2008, 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 increasing in biomass, RI and MA, based on their regional assessment, agreed

to implement reductions in 2008 to aid in the recovery of the stock. 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 2007). 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 2007 assessment applied a statistical catch-at-age method (SCA) 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). This reference point was changed to correspond with the new assessment model and is now $F_{threshold} = 0.34$ and $F_{target} = 0.3$. The SCA produced estimates of 2006 fishing mortality rates that were below $F_{threshold}$, suggesting the stock is not experiencing overfishing. The overfished definition adopted in Amendment 6 is based on female spawning stock biomass, $SSB_{\phi} = 30.9$ million pounds. This reference point was also changed to correspond with the new assessment model and is now $SSB_{\phi_{threshold}} = 30,000$ and $SSB_{\phi_{target}} = 37,500$ metric tons. The SCA estimate of female SSB in 2006 was 40,639 metric tons, 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). Addendum 1 to Amendment 6 was approved in November of 2007.

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 2008.

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. These changes were maintained in 2008.

Performance of Fishery and Quotas: The 2008 general category quota was 145,918 pounds and the first sub-period quota was fully harvested within 20 days. The floating fish trap quota of 97,450 pounds was close to being fully utilized as of this writing. If there is any remaining quota by the end of the floating fish trap season, the remainder will be made available to the general category fishery in the fall.

The commercial quota for 2009 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. Until these are decided on, the current program assesses the stock relative to a three year moving average biomass threshold that is derived from the NEFSC spring survey catch per tow of black sea bass. In 2007 this index was 0.29 kg/tow, well below the threshold value of 0.98 kg/tow.

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 closed prematurely in 2007;(Table 2a–c). Several adjustments to the possession limits were made in 2008 to keep the fishery open. The 2008 quota decreased dramatically leaving RI's quota at 222,834 pounds. A further quota reduction is proposed for 2009 (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 2007 (M.R. Gibson, RIDFW Marine Fisheries, unpublished data). The fishing mortality rate has remained above $F_{MSY} = 0.26$ since 1978 indicating that rates of fishing are above levels that would achieve maximum sustainable yield. Estimates of biomass have remained well below $B_{MSY} = 5726$ since 1988. Estimates of biomass have fluctuated over the time period 1959–2007 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 but well below B_{MSY} .

The 2008 Groundfish Assessment Review Meeting (GARM3) conducted by NOAA/NMFS concluded that the Southern New England/Mid-Atlantic (SNE/MA) winter flounder stock complex is overfished and overfishing is occurring. Fishing mortality (F) in 2007 was estimated to be 0.649, over twice the F_{MSY} proxy = $F_{40\%} = 0.248$. There is an 80% chance that the F in 2007 was between 0.522 and 0.861. SSB in 2007 was estimated to be 3,368 mt, about 9% of $SSB_{MSY} = 38,761$ mt. There is an 80% probability that SSB in 2007 was between 2,936 mt and 3,825 mt. The 2006 year class of 3.6 million (age 1 in 2007) is estimated to be the smallest on record; the 2007 year class (age 1 in 2008) is estimated to be 8.8 million fish. The 2008 GARM3 estimate $F = 0.438$ in 2007 and $SSB = 4,565$ mt in 2007. The results also indicate that the SNE/MA winter flounder stock complex is overfished and overfishing is occurring. Projections at F in 2009-2014 = $F_{40\%} = 0.248$ indicate a <1% chance that the stock will rebuild to $SSB_{MSY} = 38,761$ mt by 2014). Projections further indicate that fishing at $F = 0.000$ during 2009-2014 will provide only a 1% chance to rebuild the stock to $SSB_{MSY} = 38,761$ by 2014 (NEFSC 2008b).

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 the Colregs Line of Demarcation and north of the seaward entrance to all coastal salt ponds. In Narragansett Bay, the harvest and possession of winter flounder is prohibited. There is a 100 pound possession limit in the Coastal ponds. 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: A 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. No closures occurred in either 2007 or 2008 (as of this writing). 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 2008 (523,694 pounds) was decreased from that in 2007, and as of this writing no closures have been implemented. The bluefish harvest was monitored carefully in 2008 in order to avoid a repeat of the closure in 2006. The quota for 2009 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 a more likely scenario would be to implement more restrictive possession limits and seasons 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 2006. The 2006 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. Some of these research recommendation have been funded and are currently being worked on.

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. The trigger is monitored through the use of a depletion model for open systems. This same management regime was conducted in 2008.

Performance of Fishery and Quotas: Since 2005, large schools of adult menhaden entered 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 was brought to public hearing in 2007 The original plan was modified slightly to increase the daily possession limit and to implement a gear restriction.

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. The new approach of adding a gear endorsement is hoped to provide some protection against a large influx of effort in to this fishery

LICENSING OPTIONS AND RECOMMENDATIONS

In 2008, the Department issued 3 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/entry ratio was established at 5:1 (for every 5 active licenses eligible to harvest restricted species that were not renewed, 1 new restricted finfish endorsement was 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 3 new endorsements were made available at a lower harvest level (1/2 the current full harvest level) than existing full harvest licenses. A total of 48 licenses—34 Multi-Purpose Licenses (MPURP) + 14

Principle Effort Licenses (PEL)—that were eligible to catch restricted finfish in 2007 were not renewed in 2008. 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, met twice to formulate advice for the Council on licensing. The group recommended staying at status quo for the restricted finfish fishery, to continue to apply a 5:1 exit/entry ratio to active licenses that retired in 2008. The RIMFC recommendation to the Director regarding the restricted finfish species was to support the IAC recommendation, to stay at status quo for the restricted finfish fishery and continue to apply a 5:1 exit/entry ratio to active licenses that retired in 2008.

During 2007, 8 of the non-renewed Multi-Purpose Licenses and 3 of the Principal Effort Licenses had landings of restricted finfish (based on 2007 landings data from SAFIS). Thus the total number of licenses with some restricted finfish activity not renewed in 2008 was 11. As previously noted, 3 new CFL w/restricted finfish endorsements were issued in 2008. The catch rates of the 2008 restricted finfish species were similar to the rates in 2007; therefore the increase in licenses made available in 2008 did not translate into a noticeable increase in effort on these species. The quota allocated to RI in 2009 for a few of the restricted finfish and quota species (i.e., scup, black sea bass, and bluefish) will be equal to or less than in 2008. Therefore, to protect against increasing effort on decreasing or stagnant quotas, the Division recommends not increasing effort on any of the restricted species. If active licenses have left the fishery in 2008 the Division feels that replacing these licenses with a exit entrance ratio of 5:1 would be warranted as data indicates introducing a small number of restricted endorsements in a cautious manner does not dramatically impact effort in a given year.

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. New restricted finfish endorsements in 2009 based on a 5:1 exit entrance ratio of active licenses that have left the fishery
2. Maintain open entry in to the non-restricted finfish endorsements
3. Maintain the limited access purse seine and pair trawl endorsements
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 concurred with RIMFC recommendations and decided to retain the 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 2007 and retired in 2008. Yet that would result in 2 new licenses being issued. Due to the fact that there are three priority categories that exist in regulation, the Director decided to issue one additional license, a total of three new endorsements, so that each priority category gets equal access to one new endorsement.

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Table 1. Historical commercial license counts.

LICENSES					
	2004	2005	2006	2007	2008
MULTI-PURPOSE LICENSE	1,135	1,075	1,017	973	939
<i>GILLNET ENDORSEMENT</i>	307	287	275	263	257
<i>DOCKSIDE SALE ENDORSEMENT</i>	N/A	14	82	205	261
<i>MIDWATER/PAIR TRAWL ENDORSEMENT</i>	N/A	N/A	N/A	N/A	116
<i>PURSE SEINE ENDORSEMENT</i>	N/A	N/A	N/A	N/A	114
PRINCIPAL EFFORT LICENSE	1,148	997	929	861	810
<i>LOBSTER ENDORSEMENT</i>	56	52	46	44	43
<i>NON-LOBSTER CRUSTACEAN ENDORSEMENT</i>	20	16	16	15	21
<i>QUAHOG ENDORSEMENT</i>	776	633	586	538	499
<i>NON-QUAHOG ENDORSEMENT</i>	556	455	434	402	0
<i>RESTRICTED FINFISH ENDORSEMENT</i>	326	311	298	283	270
<i>NON-RESTRICTED FINFISH ENDORSEMENT</i>	147	137	131	134	126
<i>SOFTSHELLED CLAM ENDORSEMENT</i>	N/A	N/A	N/A	N/A	358
<i>DOCKSIDE SALE ENDORSEMENT</i>	N/A	0	4	11	15
<i>MIDWATER/PAIR TRAWL ENDORSEMENT</i>	N/A	N/A	N/A	N/A	4
<i>PURSE SEINE ENDORSEMENT</i>	N/A	N/A	N/A	N/A	5
<i>OTHER SHELLFISH ENDORSEMENT (replaces non-quahog endorsement)</i>	N/A	N/A	N/A	N/A	306
COMMERICAL FISHING LICENSE	283	317	397	464	421
<i>LOBSTER ENDORSEMENT</i>	48	41	38	32	27
<i>NON-LOBSTER CRUSTACEAN ENDORSEMENT</i>	69	83	105	118	100
<i>QUAHOG ENDORSEMENT</i>	N/A	51	94	104	116
<i>NON-QUAHOG ENDORSEMENT</i>	172	181	247	323	0
<i>RESTRICTED FINFISH ENDORSEMENT</i>	N/A	13	13	11	11
<i>NON-RESTRICTED FINFISH ENDORSEMENT</i>	198	220	242	261	240
<i>SOFTSHELLED CLAM ENDORSEMENT</i>	N/A	N/A	N/A	N/A	235
<i>DOCKSIDE SALE ENDORSEMENT</i>	N/A	0	2	17	24
<i>MIDWATER/PAIR TRAWL ENDORSEMENT</i>	N/A	N/A	N/A	N/A	21
<i>PURSE SEINE ENDORSEMENT</i>	N/A	N/A	N/A	N/A	24
<i>OTHER SHELLFISH ENDORSEMENT (replaces non-quahog endorsement)</i>	N/A	N/A	N/A	N/A	179
OVER 65 SHELLFISH LICENSE	86	93	130	136	160
STUDENT SHELLFISH LICENSE	97	72	71	60	54

Table 2a. Possession limits (pounds), seasons, and quotas established for Rhode Island commercial fisheries in 2008.

2008 POSSESSION LIMITS					
Date	Summer Flounder	Scup (General Category)	Tautog	Striped Bass (General Category)	Black Sea Bass
1-Jan	100/day	30,000/2 weeks 2,000/day	Closed	Closed	1,500
3-Feb	1,000/week 100/day				
2-Mar	2,000/week 200/day				
9-Mar					200
16-Mar		1,000/day			
23-Mar	1,000/week 100/day				
6-Apr	100/day				
19-Apr	200/day				
15-Apr			10 fish		
1-May	100/day	2,500/week			100
9-May		Closed			
7-May			Closed		
1-Jun	350/week 100/day			5 fish	
8-Jun	250/week 50/day				
20-Jun				Closed	
22-Jun		100			
24-Jun					
1-Jul		250/week			
8-Jul					
13-Jul					
15-Jul			10 fish		
18-Jul					50
1-Aug					100
8-Aug					50
19-Aug		Closed			
27-Aug					
29-Aug			Closed		
1-Sept	Closed			5 fish	
16-Sept		250/week			
15-Oct			10 fish		
1-Nov	225/day	3,500			500
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

Table 2a. (continued) Possession limits (pounds), seasons, and quotas established for Rhode Island commercial fisheries in 2008.

2008 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	July 15–Aug 29	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			
2008 QUOTAS					
	Summer Flounder	Scup (General Category)	Tautog	Striped Bass (General Category)	Black Sea Bass
State	1,461,981	389,207	39,290	145,972	210,259
Federal	-----	4,670,204	-----	-----	-----

^F Federal coastwide quota

* Closed Fridays and Saturdays

Table 2b. 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/day	30,000/2 weeks	Closed	Closed	1,500
24-Jan	200/day	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/day	1,000/day			100
24-May			Closed		
1-Jun	350/week			5 fish	
	100/day				
17-Jun	250/week				200
	50/day				
22-Jun		100/day			
24-Jun				Closed	
1-Jul		100/day			
8-Jul					
13-Jul					
15-Jul			10 fish		
1-Aug					200
26-Aug	Closed	300/day			300
27-Aug					
29-Aug			Closed		
1-Sept				5 fish	
7-Sept				Closed	
16-Sept		500/day			500
23-Sept		1,000/day			
1-Oct				3 fish	
11-Oct				Closed	
13-Oct					
15-Oct			10 fish		
19-Oct		2,000/day			
23-Oct					
1-Nov	225/day	3,500/day			
20-Nov			Closed		
30-Nov					Closed
25-Dec	Closed				
Days in Season	365	365	171	214	365
Total Days Open	277	365	123	34	334
Total Days Closed	88	0	48	180	31

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

2007 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	July 15–Aug 29	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			
2007 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 2c. 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 2c. (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	-----	-----	-----

Table 3. The proposed 2009 Total Allowable Landings (TAL) and Total Allowable Catch (TAC) limits being considered by the ASMFC and MAFMC in comparison the 2008 TALs. The limits proposed for 2009 will be sent to NOAA for final approval. The values in the table represent millions of pounds.

COASTWIDE TAL		
Species	2008	2009 (Proposed)
Scup (TAC)	9.9	11.7
Summer Flounder	15.77	17.87 – 19.02
Black Sea Bass	4.22	2.3
Bluefish	28.2	29

^F Federal coastwide quota

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 16th day of January 2009 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, PhD
Director, Department of Environmental Management

Notice Given: 09/22/2008
Public Hearing: 10/23/2008

Filing date: 01/16/2009
Effective date: 01/16/2009