



Atlantic States Marine Fisheries Commission

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MEMORANDUM

May 15, 2013

To: Atlantic Menhaden Management Board
From: Episodic Event Board Subcommittee
RE: Episodic Events Program Proposal for Atlantic Menhaden

Pursuant to Sub-section 4.2.1.8 of Amendment 2, the Atlantic Menhaden Management Board set aside 1% of the overall total allowable catch (TAC) for episodic events (1% of 170,800 mt). At its February 2013 meeting, the Board noted that episodic events of Atlantic menhaden historically occur in the New England region and directed a subcommittee of those states to further develop the parameters for an episodic event set aside program. Specifically, the subcommittee was tasked with developing a program that included a qualifying definition of episodic events, required effort controls to scale a state's fishery to the set aside amount, and required a timely reporting system to adequately monitor the set aside.

The Subcommittee, with representation from Maine, New Hampshire, Massachusetts, Rhode Island and Connecticut, proposes the Board consider a two-fold approach to address the program: (1) enactment of a pilot program for 2013, and (2) initiation of an addendum to more fully develop the program for 2014 and thereafter.

The Subcommittee recommends adoption of the following for a 2013 pilot program:

Eligibility

1. To be eligible to participate in the episodic event set aside program, a state's bait landings must be less than 2% of the total coastwide bait landings from 2009-2011. The following state's would be eligible under this criteria: Maine, New Hampshire, Rhode Island, Connecticut, New York, Delaware, South Carolina, Georgia, and Florida.
2. Additionally, to be eligible for the episodic events program, a state must implement the following mandatory provisions and follow the procedures outlined below:

Mandatory Provisions

1. Participating states must implement daily trip level harvest reporting. Each state must track landings and submit weekly reports to ASMFC staff.
2. Episodic event harvest must be restricted to state waters only. This means an out of state harvester would obtain a commercial fishing license in the state for which the harvester is participating in the episodic event set aside program.
3. Participating states must implement a maximum daily trip limit no greater than 120,000 pounds/vessel.

M13-36

Qualification Process

1. To qualify for participation in the episodic events set aside program, a state must demonstrate it has implemented the mandatory provisions through resubmission of its implementation plan by July 1, 2013. The Plan Review Team will verify compliance with the mandatory provisions of the episodic events set aside program. The ASMFC's Executive Director (or designee) will issue a letter to the Atlantic Menhaden Management Board identifying state(s) that qualify to participate in the episodic event set aside program.
2. States that qualify for the episodic events program do not forfeit their allocated state quotas as they will use their quota to determine if an episodic event has occurred as described below.

Declaring Participation

1. A state must declare participation in the episodic event program to the ASMFC prior to September 1. Notification must be sent to ASMFC that an episodic event has been triggered as defined below:
 - a. Episodic events shall be defined as any instances when a qualified state has reached its individual state quota, prior to September 1, and has information indicating the presence of unusually large amounts of menhaden in its state waters. For example, Maine has a quota of 66.58 mt. Should Maine landings reach 66.58 mt before September 1, and should Maine become aware of the presence of large amounts of menhaden in its waters, an episodic event will have been triggered specifically for that State, enabling it to begin harvesting from the set aside in accordance with the mandatory provisions herein.
2. States declaring participation in the episodic event program will not be eligible for *de minimis* status. If a qualifying state was previously granted *de minimis* status it will lose that status and will need to collect biological data and catch and effort data for an adult index as required by Amendment 2 (*Section 3.6.2.1 and 3.6.2.2*).

Procedure for Unused Set Aside

1. If an episodic event is not triggered by September 1 in any state, the unused set aside quota will immediately be rolled into the overall quota and redistributed to the states based on the historical allocation from 2009-2011.
2. If an episodic event is triggered, any unused set aside at the end of the calendar year will remain unused and will not be rolled over into the coastwide quota. The justification for this

measure is that Amendment 2 does not currently allow for quota rollovers because Atlantic menhaden is experiencing overfishing.

Pilot Program Review

1. Participating states, acting through the Subcommittee, will review performance of the episodic events set aside pilot program and report back to the Board at the fall ASMFC meeting. As part of this review, the Subcommittee will evaluate the effectiveness of timely reporting, and the appropriateness of effort controls, as implemented by states that participated in the program during 2013.
2. Upon review of the episodic events set aside pilot program, the Board may develop additional criteria, or alter the existing program provisions through Board action or the adaptive management process.



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MEMORANDUM

TO: Atlantic Menhaden Management Board

FROM: Atlantic Menhaden Plan Review Team

SUBJECT: State Implementation Plans for Amendment 2 Compliance

DATE: May 15, 2013

This memorandum details the Plan Review Team's Report on implementation plans submitted by states to comply with Amendment 2 to the Interstate Fishery Management Plan for Atlantic Menhaden. Amendment 2 will be effective on July 1, 2013; however, beginning on January 1, 2013 all Atlantic menhaden landings will count towards a state's quota. The Plan Review Team (PRT) has the following recommendations to ensure all states meet the requirements of Amendment 2.

General Recommendations

- Approval of implementation plans from Massachusetts, the Potomac River Fisheries Commission and Florida as is because their plans fully met the requirements of Amendment 2.
- The states of Maine, New Hampshire, New York, New Jersey, and Delaware clarify when their proposed regulations will be implemented.
- The states of Maine, New Hampshire, Delaware, and South Carolina submit rule language to support submitted implementation plans because it is difficult for the PRT to determine if the requirements have been met without evaluating a state's regulatory code.
- The states of Delaware, South Carolina, and Georgia implement the Bycatch Allowance provision in Amendment 2 (*Section 4.2.1.7*) to prevent directed fisheries from developing or non-resident landings from occurring in their respective states.
- The Board consider the following state specific bycatch allowance revisions,
 - Maryland is proposing that a single vessel may land/possess 12,000 pounds per day when there are two individuals physically on board, and each of them hold a 6,000 pound menhaden bycatch permit. Likewise, the individuals who hold multiple striped bass pound net permits be allowed 12,000 pounds as a daily limit because they are harvesting larger volumes of striped bass – often from multiple nets (approximately 33 known individuals). This proposal only applies to Maryland's pound net fishery.
 - Virginia requests the bycatch allowance provision apply to any non-purse seine licensed individual, meaning it does not prohibit two or more individuals from operating from a single vessel with each landing up to 6,000 pounds of Atlantic menhaden as bycatch per day.
 - The Potomac River Fisheries Commission (PRFC) currently limits the bycatch allowance to 6,000 pounds per vessel per day, but expressed interest in allowing multiple individuals to operate from a single vessel with each landing up to 6,000 pounds of Atlantic menhaden as bycatch if granted by the Board for other states. This would only apply to PRFC's pound net fishery.

M13-037

- Overall the PRT recommends the Board more clearly defines non-directed fisheries for Atlantic menhaden to ensure the bycatch allowance is not misused and effectively prevents fisheries landing under the bycatch allowance from directing on Atlantic menhaden.

State-specific Recommendations to Meet Amendment 2 Requirements

Rhode Island

- Prohibit the use of multiple carrier vessels per trip to offload bycatch exceeding 6,000 pounds (*Bycatch Allowance 4.2.1.7*).

Connecticut

- Prohibit a vessel from making multiple trips in one day to land more than 6,000 pounds. (*Bycatch Allowance 4.2.1.7*).
- Prohibit the use of multiple carrier vessels per trip to offload bycatch exceeding 6,000 pounds. (*Bycatch Allowance 4.2.1.7*).

New York

- Require purse seine vessels to submit trip level reports to ensure purse seiners are reporting timely enough to prevent overages (*Quota Monitoring 3.6.1.2*).
- Exclude the menhaden purse seine permit from the landing under the bycatch allowance if they are directing on menhaden because the bycatch allowance is intended for non-directed fisheries (*Bycatch Allowance 4.2.1.7*).

New Jersey

- Prohibit the use of multiple carrier vessels per trip to offload bycatch exceeding 6,000 pounds. (*Bycatch Allowance 4.2.1.7*).
- Exclude purse seines and bait nets from landing under the bycatch allowance if they are directing on menhaden because the bycatch allowance is intended for non-directed fisheries (*Bycatch Allowance 4.2.1.7*).

North Carolina

- Collect quantity of gear on trip tickets for pound nets to quantify effort (*Adult CPUE Index 3.6.2.2*).
- Consider closing directed fishery sooner than the 90% as proposed because of the one month lag in reporting that may not be timely enough to limit the chance for quota overages (*Quota Monitoring 3.6.1.2*).

Board Approval of Timely Monitoring

Amendment 2 requires that each states' timely quota monitoring program be approved by the Board as it relates to the state's specific fisheries using the following guidelines:

The approved methodology for timely monitoring,

- must be approved by the Board as a valid method for monitoring (high probability of success)
- must require menhaden purse seine and bait seine vessels (or snapper rigs) to submit Captain's Daily Fishing Reports (CDFRs) or similar trip level reports as implemented in Amendment 1.

- is recommended to have trip level harvester monitoring within seven days of actual landing date, unless a different timeframe is approved by the Board; and
- is recommended to collect the ACCSP data elements

The following table summarizes each state’s plan for timely quota monitoring.

State	Dealer Reporting	Harvester Reporting	Notes
ME	monthly	monthly/daily	Harvesters landing greater than 6,000 lbs will report daily
NH	weekly	monthly	Exempt from timely reporting. Implementing weekly reporting for state dealers.
MA	weekly	monthly/daily	Harvesters landing greater than 6,000 lbs will report daily
RI	twice weekly	quarterly/daily	Harvesters using purse seines will report daily
CT	monthly	monthly	No directed fisheries for Atlantic menhaden
NY	weekly	monthly/weekly	Capability to require weekly harvester reporting if needed
NJ	weekly	monthly	All menhaden sold or bartered must be done through a licensed dealer
DE	—	monthly/daily	Harvesters landing menhaden will report daily using IVR
MD	monthly	weekly	Currently monthly harvester reporting, but implementing weekly in 2013
PRFC	—	weekly	Trip level harvester reports submitted weekly
VA	—	weekly/daily	Purse seines submit weekly reports until 97% of quota, then daily reports. Monthly for all other gears until 90% of quota, then reporting every 10 days.
NC	monthly (combined reports)		Single trip ticket with dealer and harvester information submitted monthly
SC	monthly (combined reports)		Exempt from timely reporting. Single trip ticket with dealer and harvester information
GA	monthly (combined reports)		Exempt from timely reporting. Single trip ticket with dealer and harvester information
FL	weekly (combined reports)		Monthly until implementation of weekly expected in September 2013. For 2013 at 50% of quota FL will call dealers weekly and close the fishery when at 70% of quota.

- The PRT recommends the state of NC adopt a more timely reporting system (*Quota Monitoring 3.6.1.2*).
- The PRT recommends that states submit total annual landings from harvester reports in state compliance reports to account for fish retained for personal use.

De minimis Requests

New Hampshire, South Carolina, Georgia, and Florida requests *de minimis* status for 2013 and are eligible based on the criteria in Amendment 2. The PRT recommends approval of *de minimis* status for New Hampshire, South Carolina, Georgia, and Florida for 2013.



Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

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Declaration of Regulation Change (13-02)

Under authority of Section 26-159a of the Connecticut General Statutes and Section 26-159a-22 of the Regulations of Connecticut State Agencies, the Commissioner of Energy and Environmental Protection is authorized to establish or adjust, by declaration, closed seasons, length limits, creel limits, trip limits and trip limit adjustment values in order to comply with interstate fishery management plans (FMP) adopted by the Atlantic States Marine Fisheries Commission (ASMFC) or the U.S. Department of Commerce (DOC).

In accordance with the aforementioned authority, the following sections of Departmental regulations are amended as specified on pages 2 through 6 of this Declaration.

26-142a-8a. Species restrictions

26-142a-8a(b) Minimum Legal Length.

Sec. 26-157c. Regulations governing the taking and possession of lobsters.

26-157c-1. Taking lobsters – general

Sec. 26-159a. Regulations concerning certain sport and commercial fishing in the marine district and possession of certain species.

26-159a-8. Winter flounder

26-159a-10. Summer flounder (*Paralichthys dentatus*)

26-159a-13. Tautog (Blackfish) (*Tautoga onitis*)

26-159a-15. Scup (porgy) (*Stenotomus chrysops*)

26-159a-16. Black sea bass (*Centropristis striata*)

26-159a-19. Spiny dogfish (*Squalus acanthius*)

(New Section) Weakfish (*Cynoscion regalis*)

(New Section) Atlantic menhaden (*Brevoortia tyrannus*)



Daniel C. Esty
Commissioner

4/8/13

Date

Declaration 13-02

26-142a-8a. Species restrictions

(b) **Minimum Legal Length.** No person shall possess any fish taken by any commercial fishing gear or for commercial purposes less than the lengths specified below measured from the tip of the snout to the end of the tail and, notwithstanding section 26-159a-4 of the Regulations of Connecticut State Agencies, no person shall buy, sell, offer for sale or possess in a place where fish are offered for sale, any of said species less than the minimum legal length stated herein.

(2) Tautog (blackfish) (*Tautoga onitis*) - ~~14~~ 16 inches

26-157c-1. Taking lobsters – general

(a) Definitions

- (3) “Carapace length” means the length of a lobster as measured along the length of the carapace (body shell) parallel to the centerline from the rear end of the eye socket to the rear end of the carapace.
- (6) “LMA 6 minimum length” means a carapace length of ~~[3-5/16]~~ 3 3/8 inches.

26-159a-8. Winter flounder

The ~~taking possession or landing~~ of winter flounder taken from the waters of this state during the period March 1 through April 14, by ~~[holders of a license or registration issued under authority of section 26-142a of the Connecticut General Statutes concerning the taking of finfish]~~ commercial fishing gear or for commercial purposes is prohibited ~~[except as provided in section 26-142a-6(g)].~~ No bottom trawl gear other than fly net gear defined in 26-142a-6(g) shall be used during this period in the waters of this state.

(New subsection) Commercial Fishery Possession Limits

No person engaged in commercial fishing shall possess or land winter flounder in excess of 50 pounds or 38 fish, unless such fish were taken in federal waters under a federal commercial fisheries groundfish permit.

26-159a-10. Summer flounder (*Paralichthys dentatus*)

(c) Commercial Fishery Possession Limit.

- (1) No ~~[holder of any commercial fishing or landing license or registration permitted to take summer flounder from the waters of this state or to land summer flounder in Connecticut, regardless of where such fish are taken,]~~ person engaged in commercial fishing shall possess or land summer flounder in excess of the following possession limits that are based on Connecticut’s summer flounder quota specified in the Summer Flounder Fishery Management Plan of the Atlantic States Marine Fisheries Commission, herein referred to as “the plan”:

- (C) between May 1 and October 31, inclusive, ~~[75]~~ 100 pounds until a total of 97% of the Connecticut quota specified in the plan has been landed in Connecticut, at which time the limit shall be zero pounds until October 31;

(NEW) No person engaged in commercial fishing shall possess or land summer flounder between 0001 hours and 2359 hours on Sunday during the period between May 25 and September 2.

Declaration 13-02

(NEW) Notwithstanding the provisions of subparagraph (C) of this subdivision, if from August 1 through October 31, inclusive, less than 97% of the Connecticut quota specified in the plan is projected to be landed in Connecticut by November 1, the commercial fishery possession limit shall be calculated as $(Q / T / W)$, rounded to the nearest 50 pounds, where Q is the amount of Connecticut quota remaining and T is the projected number of fishing trips per week landing summer flounder and W is the number of weeks remaining until November 1 provided that when 97% of said Connecticut quota is projected to be landed in Connecticut, the possession limit shall be 50 pounds.

26-159a-13. Tautog (Blackfish) (*Tautoga onitis*)

(a) **Closed Season.** No person engaged in commercial fishing shall take, bring ashore, or possess any tautog, wherever taken, except from ~~May 1 to June 14, September 1 to October 14 and December 7 to December 31~~ April 1 to April 30, July 1 to August 31, October 8 to December 24, all dates inclusive.

(b) **Commercial Fishery Possession Limit.** No person [~~holder of any~~] engaged in commercial fishing [~~or landing license or registration permitted to take tautog from the waters of this state or to land tautog in Connecticut, regardless of where such fish are taken,~~] shall possess or land tautog in excess of 10 fish, ~~the limits specified as follows:~~

~~(1) In the commercial trawl fishery, fifty (50) fish;~~

~~(2) In the commercial hook, fish pot, trap net, fyke net, or gill net fisheries, twentyfive (25) fish;~~

~~(3) In the pound net fishery, twelve (12) fish for each holder of a Connecticut Marine Pound net registration.~~

~~(4) In the lobster pot or lobster trap fishery, when in possession of lobsters, ten (10) fish.~~

(5) The possession limits specified in this subsection shall apply to the aggregate of all persons on board the vessel per trip or per day whichever is the longer period of time. Transfer of tautog between vessels at sea is prohibited.

~~(6) No person fishing under the provisions of subdivisions (1) to (3), inclusive, of this subsection shall, during a fishing trip when using more than one gear type, possess any tautog in excess of the largest gear specific limits they are authorized to possess and no such gear specific trip limits shall be additive.~~

(7) Any tautog taken contrary to this section shall, without avoidable injury, be returned immediately to the water from which taken and no person fishing under the provisions of this section shall also, during the same trip, possess any tautog taken under section 26-159a-7 of the Regulations of Connecticut State Agencies.

26-159a-15. Scup (porgy) (*Stenotomus chrysops*)

(c) **Commercial Fishery Possession and Landing Limits.**

- (1) No [~~holder of any commercial fishing or landing license or registration permitted to take scup from the waters of this state or to land scup in Connecticut, regardless of where such fish are taken,~~] person engaged in commercial fishing shall

Declaration 13-02

possess or land scup in excess of the following possession or landing limits, respectively, that are based on the coastwide scup quota and Connecticut's scup quota as specified in the Scup Fishery Management Plan of the Atlantic States Marine Fisheries Commission, herein referred to as "the plan":

- (C) Between May 1 and May 31:
- (i) in the ~~[commercial hook,]~~ pound net and gillnet fisheries, the possession limit shall be ~~[25]~~ 600 pounds until 70% of said Connecticut quota has been landed, at which time the limit shall be zero pounds;
 - (ii) in the commercial hook, bottom trawl and fish pot fisheries, the possession limit shall be ~~[50]~~ 1,200 pounds until 70% of said Connecticut quota has been landed, at which time the limit shall be zero pounds;
 - (iii) in the lobster pot fishery when in possession of lobsters, the possession limit shall be 10 fish.
- (D) Between June 1 and August 31:
- (i) in the ~~[commercial hook,]~~ pound net and gillnet fisheries, the possession limit shall be ~~[100]~~ 600 pounds ~~[until 40% of the Connecticut quota specified in the plan has been landed in Connecticut, at which time the possession limit shall be 25 pounds]~~ until 70% of said Connecticut quota has been landed, at which time the limit shall be zero pounds;
 - (ii) in the commercial hook, bottom trawl and fish pot fisheries, the possession limit shall be ~~[200]~~ 1,200 pounds ~~[until 40% of the Connecticut quota specified in the plan has been landed in Connecticut, at which time the possession limit shall be 50 pounds]~~ until 70% of said Connecticut quota has been landed, at which time the limit shall be zero pounds;
 - (iii) in the lobster pot fishery when in possession of lobsters, the possession limit shall be 10 fish.
- (E) Between September 1 and October 31:
- (i) in the ~~[commercial hook,]~~ pound net and gillnet fisheries, the possession limit shall be ~~[100]~~ 600 pounds until 90% of the Connecticut quota specified in the plan has been landed in Connecticut, at which time the possession limit shall be ~~[25]~~ 150 pounds;
 - (ii) in the commercial hook, bottom trawl and fish pot fisheries, the possession limit shall be ~~[200]~~ 1,200 pounds until 90% of the Connecticut quota specified in the plan has been landed in Connecticut, at which time the possession limit shall be ~~[50]~~ 300 pounds;
 - (iii) in the lobster pot fishery when in possession of lobsters, the possession limit shall be 10 fish.

Declaration 13-02

- (F) Notwithstanding the provisions of subparagraphs (D) and (E) of this subdivision, if on or after August 1 [~~October 1~~], the Connecticut quota specified in the plan is projected not to be landed in Connecticut by the end of the quota period, the commercial fishery possession limit shall, for all gear types with the exception of lobster pots, be calculated as $[(0.07/W) * Q] (Q / T / W)$, rounded ~~[up]~~ to the nearest 100 pounds, where Q is the amount of Connecticut quota remaining, T is the projected number of fishing trips per week landing scup and W is the number of weeks remaining in the quota period, ~~[and Q is the amount of Connecticut quota remaining;]~~ provided that when 98% of said Connecticut quota has been landed in Connecticut the possession limit shall be 100 pounds for all gear types with the exception of lobster pots. This formula shall be used for the scup fishery as of the effective date of this regulation, in lieu of the formula contained in section 26-159a-24 of the Regulations of Connecticut State Agencies.

(NEW) No person engaged in commercial fishing shall possess or land scup between 0001 hours and 2359 hours on Sunday during the period between May 25 and September 2.

26-159a-16. Black sea bass (*Centropristis striata*)

(c) Commercial Fishery Possession Limits.

- (1) No ~~[holder of a commercial fishing, finfish or landing license or registration permitted to take black sea bass from the waters of this state or to land black sea bass in Connecticut, regardless of where such fish are taken;]~~ person engaged in commercial fishing shall possess or land black sea bass in excess of the following possession limits that are based on Connecticut's black sea bass quota as specified in the Black Sea Bass Fishery Management Plan of the Atlantic States Marine Fisheries Commission, herein referred to as "the plan":

- (A) From January 1 to May 31, inclusive:
- (i) in the commercial trawl fishery, ~~[1,000]~~ 100 pounds until 45% of the Connecticut quota specified in the plan has been landed, at which time the limit shall be zero pounds;
 - (ii) in the fish pot fishery, ~~[200]~~ 100 pounds until 45% of the Connecticut quota specified in the plan has been landed, at which time the limit shall be zero pounds;
 - (iii) in the commercial hook, pound net, scallop dredge and gill net fisheries, 50 pounds until 45% of the Connecticut quota specified in the plan has been landed, at which time the limit shall be zero pounds;
 - (iv) in the lobster pot fishery when in possession of lobsters, 10 fish until 45% of the Connecticut quota specified in the plan has been landed, at which time the limit shall be zero pounds.
- (B) From June 1 to October 31, inclusive:

Declaration 13-02

- (i) in the bottom trawl and fish pot fisheries, ~~[200]~~ 100 pounds until 90% of the Connecticut quota specified in the plan has been landed, at which time the limit shall be zero pounds;
- (ii) in the commercial hook, pound net, scallop dredge and gill net fisheries, ~~[50]~~ 25 pounds until 90% of the Connecticut quota specified in the plan has been landed, at which time the limit shall be zero pounds;
- (iii) in the lobster pot fishery when in possession of lobsters, 10 fish until 90% of the Connecticut quota specified in the plan has been landed, at which time the limit shall be zero pounds.

(NEW)

No person shall possess or land black sea bass between 0001 hours and 2359 hours on Sunday during the period between May 25 and September 2.

26-159a-19. Spiny dogfish (*Squalus acanthius*)

- (a) No ~~[holder of a commercial fishing or landing license or registration permitted to take]~~ person engaged in commercial fishing shall possess or land spiny dogfish ~~[from the waters of this state or to land spiny dogfish in this state, regardless of where such fish are taken, shall take, possess or land spiny dogfish in this state]~~ in excess of the following possession limits that are based on the ~~[eastwide]~~ northern region spiny dogfish quota as specified in the Spiny Dogfish Fishery Management Plan of the Atlantic States Marine Fisheries Commission, herein referred to as the "Plan":
 - (1) between May 1 and October 31, ~~[600]~~ 4,000 pounds;
 - (2) between November 1 and April 30, ~~[600]~~ 4,000 pounds.

(New Section) Weakfish (*Cynoscion regalis*)

- (a) Commercial Fishery Possession Limits.
 - (1) No person engaged in commercial fishing shall possess or land weakfish in excess of 100 pounds. This possession limit shall apply to the aggregate of all persons on board the vessel. Transfer of weakfish between vessels at sea is prohibited.

(New Section) Atlantic Menhaden (*Brevoortia tyrannus*)

- (b) Commercial Fishery Possession Limits.
 - (2) Except as provided in subdivision (3) of this subsection, no person engaged in commercial fishing shall possess or land Atlantic menhaden in excess of 6,000 pounds. This possession limit shall apply to the aggregate of all persons on board the vessel.
 - (3) Landing in excess of 6,000 pounds shall be permitted provided:
 - (A) the Commissioner receives and accepts an offer of quota transfer from another state in an amount equal to or greater than the amount of fish to be landed, and;
 - (B) such quota transfer conforms with the requirements of the Atlantic Menhaden Fishery Management Plan of the Atlantic States Marine Fisheries Commission for quota transfers between states, and;
 - (C) such quota transfer is completed before fish are offloaded in this state.

Declaration 13-02

Justification for Marine Fisheries Declaration

Need: 1) To meet the requirements of the ASMFC and NOAA fishery management plans for lobster, winter flounder, summer flounder, tautog, scup, black sea bass, spiny dogfish, weakfish and Atlantic menhaden. 2) To effectively manage Connecticut's commercial fishery allocations of summer flounder, scup, black sea bass and Atlantic menhaden and the New England region allocation of spiny dogfish.

Under 16 U.S.C. Chapter 17 - Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA) Section 5106, states are required to implement and enforce ASMFC fishery management plans. If a state fails to implement mandatory measures of a Commission plan, the Secretary of Commerce is required to impose a moratorium on fishing for that species within the waters of the noncomplying state.

Special Comment: Formal regulation hearings have been held on measures pertaining to lobster, winter flounder, smooth dogfish and weakfish where annual quota adjustments are not required. We hope to present the regulations package to Regulations Review Committee for approval early this summer. State quota managed species and spiny dogfish (a regional quota managed species) measures will continue to be adjusted periodically by declaration to meet annual quota management objectives.

Management Background:

Lobster: The 3 3/8 inch minimum lobster carapace length was mandated by ASMFC for Long Island Sound on January 1, 2009 after the conservation equivalent v-notch program failed to reach the target number of notched lobsters. This stock is in a "poor state and in immediate need of rebuilding" according to the most recent Center for Independent Experts peer review.

Winter flounder: stocks in southern New England are in an overfished state. The low possession limits in this Declaration are consistent with the ASMFC Winter Flounder FMP and are intended to eliminate targeted fishing, but prevent waste by allowing unavoidable bycatch to be landed.

State Quota Managed Species: The **Summer Flounder, Scup and Black Sea Bass** Management Board of the Atlantic States Marine Fisheries Commission, the Mid-Atlantic Fishery Management Council and NOAA Fisheries establish annual state specific commercial quotas for summer flounder and black sea bass. Scup quotas are managed differently by season with January through April (Winter 1) and November-December (Winter 2) being managed as a coastwide basis whereas in May through October (Summer) scup quota is allocated by ASMFC on a state specific basis.

To allow equitable fishing opportunity for all participants in these commercial fisheries, to maximize the economic return of the fish landed, and to ensure that Connecticut does not exceed its quota allocation, the department is compelled to implement adjustments to the possession limits for summer flounder, scup and black sea bass.

Spiny dogfish: This species is managed under multiple jurisdictions with ASMFC having its own FMP and management measures while NOAA Fisheries establishes management measures

Declaration 13-02

through FMP's of both the New England and Mid-Atlantic Fishery Management Councils. Under ASMFC the coastwide quota is divided into northern (ME-CT), southern (NY-VA) and North Carolina regions. The ASMFC Shark Management Board set the 4,000 pound possession limit adopted in this Declaration.

Weakfish: This stock is depleted likely from a combination of natural causes and overfishing. Low possession limits are intended to eliminate targeted fishing, but prevent waste by allowing unavoidable bycatch to be landed.

Atlantic Menhaden: In December, 2012 ASMFC adopted state by state quota management for this species effective April 15, 2013. A 50 fish or 5 gallon recreational fishery creel limit was established in Declaration 13-01 primarily serving to define harvest levels requiring a commercial license and therefore landings which must be accounted for in our state's commercial quota (there is no recreational harvest limit in the ASMFC FMP). The 6,000 pound commercial possession limit established in this Declaration equals the "bycatch limit" established in the ASMFC FMP. Connecticut prohibits the use of purse seines, the gear most commonly used in targeted menhaden fishing, meaning all of our fishery falls within the bycatch limit. Consequently, we do not expect the adoption of state quotas to impact current fishing practices in our state waters. On occasion out-of-state vessels land large quantities of menhaden in Connecticut, which this Declaration allows provided the vessel arranges a transfer of quota from another state to cover their landings here.

Public Input/Notice: On December 10, 2012, the Department held a public meeting of summer flounder, scup and black sea bass endorsement letter holders and seafood dealers to get input on how best to achieve the goals outlined above for these fisheries in 2013 (see State Quota Managed Species). The attendees at the meeting developed, and were in consensus with, the proposed measures.

Actions on lobster, winter flounder, spiny dogfish, smooth dogfish, weakfish and Atlantic menhaden were the subject of Department and/or ASMFC hearings at the time those fishery management plans were adopted.

Declaration Authority

Regulation 26-159a-22. Compliance with Interstate Fishery Management Plans.

(a) The Commissioner may, by declaration, establish and adjust closed seasons, length limits, creel limits, trip limits, and trip limit adjustment values in order to comply with interstate fishery management plans and emergency actions adopted by the Atlantic States Marine Fisheries Commission or the U.S. Department of Commerce.

(b) The Commissioner shall inform the public of all such changes at least 10 days prior to the effective date by placing posters at state boat launch areas, by issuing news releases, by mailing notices to bait and tackle shops and by mailing notices to all affected license holders.

(c) Any declaration made under this section shall be for a period not more than 120 days provided, if notice of intent to amend regulations has been published under Chapter 54, such declaration shall remain in effect until said regulations have been adopted, but not longer than 240 days.



State of Delaware Atlantic Menhaden Amendment II Compliance Plan

April 15, 2013

1. Commercial Fishery Management Measures

- a) Delaware's Total Allowable Catch (TAC) of Atlantic menhaden for 2013 is 0.01% of the total TAC or 22.33 metric tons. Delaware is promulgating regulations that will give the Division of Fish and Wildlife (the Division) authority to close Atlantic menhaden fisheries once the TAC has been reached. The Division will submit a dated closure notice to the Atlantic States Marine Fisheries Commission (ASMFC) when Delaware's TAC is reached. The Division will inform ASMFC of its bycatch landings in Delaware's annual Atlantic menhaden compliance report.
- b) Delaware will propose menhaden regulations that allow its TAC to be changed whenever required under Amendment 2.
- c) Delaware does not anticipate having unused TAC. The 2013 TAC is approximately 35% of 2012 landings. All landings will be counted against the TAC until total landings reach the TAC.
- d) Delaware does not anticipate having any TAC overages. Delaware's gill net fishery does not target Atlantic menhaden, thus all Atlantic menhaden catches above the TAC will be reported as bycatch.
- e) The only fisheries in Delaware that regularly catch Atlantic menhaden are the gill net fisheries. The gill net fisheries in Delaware do not target Atlantic menhaden. None of Delaware's gill net permit holders have the holding capacity on their boats to exceed the 6,000 lbs. daily bycatch limit.
 - i. Delaware will limit menhaden bycatch landings to 6,000 lbs. daily.
 - ii. Delaware will require that menhaden only be landed by the vessel that caught the menhaden.
 - iii. Bycatch will be reported as per 2a.
- f) Delaware will not opt in to the episodic event fishery.

2. Monitoring Requirements

- a) Delaware has an Interactive Voice Response (IVR) system for landings reports.
 - i. Harvesters will be required to call in their Atlantic menhaden landings of menhaden within 24 hours of weigh out of their landings. Harvesters are required to submit monthly landings of all fish on a trip level basis
 - ii. Daily reports will include the following:
 - 1. Date
 - 2. Vessel Registration Number
 - 3. Fisherman ID
 - 4. Trip ID
 - 5. Species
 - 6. Pounds landed
 - 7. Disposition
 - 8. Landing Port
 - 9. Gear
 - 10. Amount of gear
 - 11. Number of sets
 - 12. Area fished
 - iii. Not applicable
 - iv. Daily reporting for Atlantic menhaden, monthly reporting at the trip level for all other species.
 - b) The IVR system for landings reports will be used for bycatch reporting.
 - c) Delaware will collect the required biological samples. Delaware will be required to collect one 10-fish sample based on 2012 landings.
 - d) Delaware does not have a pound net fishery.
3. *De minimis*
- a) Delaware will implement all compliance criteria required by Amendment 2.

New York State Department of Environmental Conservation

Division of Fish, Wildlife & Marine Resources

Bureau of Marine Resources

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Joe Martens
Commissioner

May 10, 2013

Dr. Louis Daniel
Chair, ASMFC Atlantic Menhaden Management Board
North Carolina Division of Marine Fisheries
3441 Arendell Street
PO Box 769
Morehead City, NC 28557-0769

Dear Dr. Daniel:

As my agency began implementation of the requirements of Amendment 2 to the Fishery Management Plan for Atlantic Menhaden, we discovered a significant problem that I would like brought to the attention of the Board. Essentially, we have learned that our actual bait landings of Atlantic menhaden may far exceed the recorded landings, which were used to develop the TAC and upon which New York's reduction will be based. While it is New York's intent to fully comply with the requirements of the Amendment, implementation by the July 1st, 2013 deadline using incomplete/inaccurate landings data is problematic to say the least.

There are two circumstances which have lead us to the conclusion that our landings are underestimated: (1) compilation of state landings has been compromised by staffing shortages; and (2) compliance with reporting requirements by our harvesters has been poor.

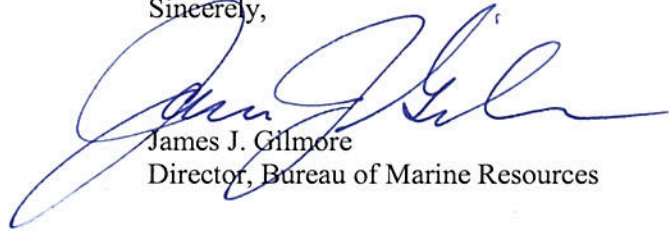
This latter problem was discovered during the scoping process for development of Amendment 2-compliant regulations, when several harvesters and dealers revealed that they were unaware that they had to report menhaden landings for bait. One harvester voluntarily supplied receipts for over 100,000 pounds of landings in each of two of three reference years, and dealer records bear this out. Many other harvesters claim that they can do the same. We estimate based on these communications (and an examination of un-entered trip reports) that we can document, to the satisfaction of the Board, an average of 1.5 – 2.1 million pounds of landings in each of the reference years. This figure is two orders of magnitude higher than the 225,930 pounds assigned as New York's TAC under Amendment 2. Landings on this order would warrant a re-examination of the overall TAC and New York's share of that TAC. Also, this amount of landings may take New York out of range of *de minimus* status.

Managing to the quota assigned in the Amendment could amount to a 90% reduction in harvest for New York, clearly not what the Board intended and an unbearable burden on the backs of New York's bait fishermen. New York is working feverishly with the few resources we have to get the state landings for 2009-2011 finalized. Obviously, however, we are going to need time to document the unreported landings for the base years and improve compliance moving forward. We are asking, therefore, that the Board grant New York a "grace period" of two (2) years to rebuild our landings history and therefore fully implement Amendment 2.

We intend to have regulations in place by the deadline that will allow us to manage menhaden in accordance with the Amendment, and will implement a 6,000-pound trip limit as soon as those regulations are set. We have begun biological sampling as a non-*de minimus* state.

I request that the issue be raised for discussion at the May 22 Board meeting and we explore options for resolution of this issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "James J. Gilmore", written over a printed name and title.

James J. Gilmore
Director, Bureau of Marine Resources

swh/JJG

cc. Paul Diodati
Robert Beal