



Rhode Island
Department of Environmental Management

DIVISION OF FISH AND WILDLIFE

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MEMORANDUM

To: Atlantic Menhaden Management Board

From: Robert Ballou, Assistant to the Director, RIDEM

Re: Rhode Island's Participation in 2013 Episodic Event Set Aside Program

Date: October 22, 2013

Pursuant to the Episodic Event Set Aside Program for Atlantic Menhaden, set forth through Amendment 2 to the FMP for Atlantic Menhaden, the State of Rhode Island declared participation in the Program on August 5, 2013. This memo summarizes the factors governing Rhode Island's participation, and the State's experience with the Program to date.

Menhaden Management in RI Pursuant to Amendment 2 Provisions and Requirements

- In December 2012, the Atlantic Menhaden Board approved Amendment 2 to the FMP for Atlantic Menhaden. The Amendment established individual state quotas. RI's quota was set at 78,000 pounds.
- In May 2013, the Atlantic Menhaden Board approved the Episodic Event Pilot Program through Board action, a provision in Amendment 2 to the FMP for Atlantic Menhaden. The Episodic Set Aside Program for the 2013 fishing year contained provisions governing eligibility, qualification, and participation. The program called upon states seeking to qualify for participation in the Program to resubmit Implementation Plans by July 1, 2013. The program also called upon participating states to report back to the Board at the Board's fall 2013 meeting.
- On June 20, RI filed regulations implementing the new state quota, as well as regulations qualifying the State to participate in the Episodic Event Set Aside Program, namely:
 - Daily trip limits of 120,000 pounds/vessel;
 - Mandatory daily trip-level harvest reporting; and

- State-waters-only harvest restrictions for landings that occur under the Episodic Event Program
- On June 25, RI resubmitted its Implementation Plan to the ASMFC.
- On July 28, RI reached its state quota of 78,000 pounds and consequently enacted a landing limit of zero for vessels associated with directed menhaden fisheries, coupled with a continuing 6,000 pound/vessel bycatch allowance for vessels not associated with directed menhaden fisheries.
- On August 5, RI declared participation in the Episodic Event Set Aside Program via a memo submitted to the ASMFC. As detailed in the memo:
 - Information provided by spotter pilot flights, specifically aimed at verifying and tracking menhaden biomass levels in Narragansett Bay, showed large biomass levels beginning in May 2013 and continuing through July 2013, peaking at approximately 5 million pounds.
 - As of August 5, RIDEM estimated a biomass level of 1.13 million pounds in Narragansett Bay.
 - Landings of menhaden by fish traps positioned south of the Bay, along the State's southern coastline, showed fluctuating levels of menhaden during the same time period, with a spike towards the end of July.
 - Based on the above information, RIDEM determined that large amounts of menhaden were present in RI waters as of August 5. On that basis, RI opted into the Episodic Event Set Aside Program.
- RI's decision to opt into the Set Aside Program was also influenced by past experience – i.e., when large volumes of menhaden move into and through RI waters in the spring and early summer, they typically move back into and through RI waters in late summer and fall.
- On August 12, ASMFC staff notified the Atlantic Menhaden Board that RI had declared into the Set Aside Program. On August 13, ASMFC staff notified RI that the State could begin allowing for state-waters harvest and landings relative to the 1,708 metric ton set aside, pursuant to the submittal of weekly landings reports enabling ASMFC staff to track landings under the Program.
- On August 14, RI revised its menhaden landing limit from zero to 120,000 pounds/vessel/day for vessels harvesting menhaden in RI waters, provided that such harvesting took place in accordance with RI's Narragansett Bay Menhaden Management Program (see below).
- During August and the first part of September, menhaden biomass levels in Narragansett Bay were variable, ranging up to about 500,000 pounds. Since mid September, biomass levels in the Bay have increased and remained relatively steady, ranging from about 800,000 to 1 million pounds. However, pursuant to RI's

Narragansett Bay Menhaden Management Program, the Bay has remained closed to commercial menhaden harvests since August. As such, and because of apparently low biomass levels in RI waters south of the Bay, there have been no RI landings under the Episodic Event Set Aside Program, to date, by directed fisheries. Yet landings by directed fisheries, possibly on a large scale, could take place at any point subsequent to the date of this memo, given the possibility of a fall surge of menhaden into RI waters and/or a large-scale movement of menhaden out of the Bay, as has happened in prior years.

- Since August, non-directed fisheries have continued to harvest and land menhaden in RI. The non-directed landings have all fallen well below the daily bycatch allowance, but they have been reported to ASMFC pursuant to the weekly Episodic Event Set Aside Program reporting requirements. The non-directed landings have come from a single fish-trap operator, and are therefore are not publicly reportable.

RI's Narragansett Bay Menhaden Management Program

- RI's long-standing Narragansett Bay Menhaden Management Program overlaps and impacts RI's participation in the Episodic Event Set Aside Program.
- Since 2007, RI has used biomass thresholds in Narragansett Bay as the basis for its state-waters menhaden management program. The biomass thresholds are ecologically based and serve to guard against localized depletion. RIDEM relies on weekly spotter pilot flights to verify and track biomass levels. The Bay is kept closed to commercial harvest unless there is information showing that the estimated weekly standing stock has reached 2 million pounds. Harvesting is then allowed on the amount of biomass exceeding 2 million pounds. The Bay remains open as long as the estimated weekly standing stock does not fall below 1.5 million pounds. If it does fall below that threshold, the Bay is closed. The RI program also includes an upper harvest limit, which is 50 percent of the estimated weekly standing stock above the 1.5 million pound threshold.
- In 2013, RIDEM opened Narragansett Bay to commercial menhaden harvesting on May 20, based on information showing the presence of at least 2 million pounds of menhaden in the Bay. On June 10, RIDEM closed the Bay, due to 50 percent of the estimated weekly standing stock above the 1.5 million pound threshold being harvested, as well as the biomass dropping below the 1.5 million pound threshold. On June 17, biomass levels increased again, above the threshold and increasing the upper harvest limit, and the Bay was re-opened. On July 3, RIDEM again closed the Bay, due to the upper harvest limit being reached. The Bay has remained closed since then.
- During the two periods in 2013 that Narragansett Bay was open to commercial menhaden harvesting, large volumes of menhaden were harvested from RI waters by a commercial purse seine operation and landed in Massachusetts.

- Although Narragansett Bay has been closed to commercial menhaden harvesting since July 3, large amounts of menhaden have remained present in the Bay since then, with biomass levels averaging 800,000 to 1 million pounds.
- The fact that there have not yet been any harvests and landings in RI under the Episodic Event Set Aside Program by directed fisheries is not because there are not large amounts of menhaden in RI waters; it is because the menhaden have been positioned in the Narragansett Bay Management Area, at levels that are below the conservative biomass threshold established by RI's Narragansett Bay Management Program. If biomass levels in the Bay rise above the threshold, or if the biomass that is currently positioned in the Bay moves into state waters outside of the Narragansett Bay Management Area, there will be an opportunity for that biomass to be commercially harvested under the Episodic Event Set Aside Program.

Summary of Rhode Island Menhaden Biomass Estimates
 [Spotter Plane + Model Predicted]
 Narragansett Bay Menhaden Management Area
 May – August 2013

Date	Spotter Pilot2 Estimate Millions lbs	Spotter Pilot1 Estimate Millions lbs	Model Predicted Biomass Millions lbs
5/7			2.15
5/8			2.36
5/9			2.56
5/10			2.77
5/11			2.98
5/12			3.19
5/13			3.40
5/14	3.19		3.61
5/15			3.82
5/16		1.76	4.03
5/17			4.25
5/18			4.07
5/19			3.89
5/20			3.64
5/21	2.51	1.73	3.22
5/22			2.93
5/23			2.72
5/24			2.54
5/25			2.75
5/26			2.95
5/27			3.16
5/28	4.59	1.26	3.37
5/29			3.58
5/30		0.96	3.80
5/31			3.91
6/1			3.73
6/2			3.55
6/3			3.37
6/4		0.6	3.05
6/5	2.52		2.63
6/6	1.97	0.99	2.20
6/7			2.02
6/8			1.83
6/9		0.56	2.03
6/10	6.02		2.24
6/11			2.45
6/12			2.65
6/13	6.52	1.47	2.86
6/14			3.07
6/15			3.28
6/16		1.06	3.49
6/17			3.46

6/18			3.43
6/19			3.46
6/20	6.492		3.43
6/21		1.085	3.48
6/22			3.69
6/23			3.90
6/24			3.92
6/25			3.91
6/26	5.16	3.62	4.12
6/27			3.94
6/28			3.77
6/29			3.59
6/30			3.41
7/1			3.23
7/2			3.05
7/3		1.06	2.87
7/4			2.68
7/5			2.50
7/6			2.31
7/7			2.13
7/8		1.06	1.94
7/9			2.15
7/10			2.35
7/11			2.56
7/12			2.77
7/13			2.98
7/14			3.18
7/15			3.39
7/16			3.61
7/17			3.82
7/18			4.03
7/19		5	4.24
7/20			4.07
7/21			3.89
7/22			3.71
7/23			3.53
7/24		0	3.35
7/25			3.17
7/26			2.99
7/27			2.81
7/28			2.63
7/29			2.44
7/30		0.38	2.26
7/31			2.07
8/1			1.89
8/2			1.70
8/3			1.51
8/4			1.32
8/5		0	1.13

Summary of Rhode Island Menhaden Biomass Estimates
 [Spotter Plane Only]
 Narragansett Bay Menhaden Management Area
 May – October 2013

Date	Spotter Pilot2 Estimate Millions lbs	Spotter Pilot1 Estimate Millions lbs
5/14	3.19	
5/16		1.76
5/21	2.51	1.73
5/28	4.59	1.26
5/30		0.96
6/4		0.60
6/5	2.52	
6/6	1.97	0.99
6/9		0.56
6/10	6.02	
6/13	6.52	1.47
6/16		1.06
6/20	6.49	
6/21		1.09
6/26	5.16	3.62
7/3		1.06
7/8		1.06
7/19		5.00
7/24		0.00
7/30		0.38
8/5		0.00
8/14		0.60
8/21		0.58
8/30		0.56
9/5		0.03
9/13		0.04
9/19		1.10
9/24		0.80
9/27		1.00
10/2		0.80
10/5		0.80
10/10		0.80
10/21		1.29



October 4, 2013

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MyFWC.com

Mr. Robert Beal, Executive Director
Atlantic States Marine Fisheries Commission
1444 Eye Street, NW
Sixth Floor
Washington, DC 20005

RE: State of Florida's proposed compliance option for ASMFC's Interstate
Fishery Management Plan for Atlantic Menhaden

Dear Mr. Beal:

Enclosed is the Florida Fish and Wildlife Conservation Commission's (FWC) proposed compliance option for the Atlantic States Marine Fisheries Commission (ASMFC) Interstate Fishery Management Plan for Atlantic Menhaden.

Florida's current management strategy for menhaden has been in place for the last 18 years, and includes gear prohibitions and limitations that have significantly decreased harvest in the menhaden fishery by 94% compared to harvest levels prior to implementation of these gear regulations. The State of Florida would like to maintain our current management strategy, while still adhering to the management goals of both the FWC and the ASMFC.

The FWC looks forward to continuing working with the ASMFC regarding interstate management of the Atlantic Menhaden fishery. If you have any further questions, please do not hesitate to contact me at (850) 487-0554.

Sincerely,

A handwritten signature in blue ink that reads "James R. Estes".

James R. Estes
Deputy Director
Division of Marine Fisheries Management

cc: Jessica McCawley
Michael Waine

Florida Conservation Equivalency Request:

Pursuant to Section 4.5.2 of the Atlantic State Marine Fisheries Commission (ASMFC), Interstate Fishery Management Plan (IFMP) for Atlantic Menhaden, the Atlantic Menhaden Technical Committee (and/or Plan Review Team) will review any alternative state management proposals under this section and provide to the Atlantic Menhaden Management Board its evaluation of the adequacy of such proposals. Florida is proposing an equivalent alternative state management approach to address the requirement to manage its menhaden fishery with a Total Allowable Catch (TAC) specified in section 4.2 of the ASMFC Amendment 2 to the IFMP for Atlantic Menhaden. Florida maintains that mortality of menhaden along Florida's Atlantic coast has been significantly decreased through long-standing net gear prohibitions and limitations imposed by a state constitutional amendment and supporting Florida Fish and Wildlife Conservation Commission (FWC) rules. This constitutional amendment and supporting FWC rules were implemented in July 1995 and subsequently thereafter, which have resulted in Florida not only meeting, but also far exceeding the necessary requirements for a reduction in bait landings identified by the ASMFC IFMP for Atlantic Menhaden over the last 18 years. For this reason, Florida is requesting a conservation equivalency to be excluded from this requirement.

Background and Florida's Net Limitation Regulations:

In November 1994, Florida voters approved an amendment to the Florida constitution that prohibited the use of gill and other entangling nets in Florida state waters, and limited all other nets to no greater than 500 square feet of mesh area in nearshore and inshore Florida waters. This net limitation amendment significantly reduced the take of menhaden from both Florida coasts and effectively limited the menhaden bait fishery to cast nets. Amendments to Chapter 68B-4, F.A.C. (Florida Administrative Code), promulgated in 1999 specifies that a legal cast net can have a stretched length (the distance from the horn at the center of the net, with the net gathered and pulled taut, to the lead line) no greater than 14 feet. This is the largest gear that is used in Florida waters to take menhaden.

The FWC recently engaged menhaden fishers in order to appropriately address the issues associated with ASMFC Amendment 2 to the IFMP for Atlantic Menhaden. Discussions revealed that a portion of the commercial menhaden fishery has gone unreported. An estimated three-fourth of the commercial menhaden landings have not been reported, even though FWC rules require any commercial sale be reported through wholesale or retail dealers. Many commercial menhaden fishers were not aware that they should be reporting bait landings, and these landings have not been reported since prior to the implementation of the net limitation amendment. Although reporting is incomplete for the commercial menhaden bait fishery, it is assumed that the occurrence of the unreported catch has been consistent prior to and after implementation of the net limitation amendment. In order to assist the FWC to appropriately manage the menhaden fishery, commercial fishers have committed to begin reporting of bait landings.



Need for Conservation Equivalency

- Florida's menhaden fishers have already been forced to sacrifice more than fishers in other areas.
- Florida's menhaden fishery supplies bait for the commercial blue crab industry and the recreational king mackerel fishery. In addition, menhaden also are used for chum for other recreational fisheries. Florida's commercial menhaden fishery is not robust enough to provide menhaden as bait for the Florida blue crab industry. Therefore, menhaden are also purchased from other states for this fishery.
- Florida has consistently reduced its menhaden harvest through gear restrictions for the last 18 years, and continues to provide a significant contribution to Atlantic-wide sustainable management efforts.
- Florida's regulations will insure that the menhaden fishery will remain at a sustainable level because of gear limitations.
- Management of a TAC created from an inaccurate reporting history will result in a premature closure of the menhaden fishery in Florida as reporting is improved.

Conservation Equivalency

Florida's current gear limitation regulations are a more conservative and effective approach to management than the current strategy of decreasing mortality through the use of a TAC specification. Therefore, Florida is requesting to be exempt from the TAC specification.

Supporting Data

From 1986 through 1994, prior to the adoption of the net limitation amendment, commercial landings of menhaden along Florida's Atlantic coast averaged 2.7 million pounds. Since the time after adoption of the net limitation amendment average landings of menhaden along Florida's Atlantic coast from 1996-2012 were 152,000 pounds, a 94% decrease. The year 1995 was omitted because implementation of the net limitation amendment occurred mid-year in July 1995. It is assumed that the rate of non-reporting prior to net limitation regulations is similar to the current rate.

