



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835

(401) 423-1920 Fax: (401) 423-1925

RIMFC: Robert Ballou, *Chairman*; Travis Barao; Andy Dangelo; Katie Eagan; Jason Jarvis; David Monti, *Vice Chair*; Christopher Rein; Michael Rice, Ph.D.; Mike Roderick

MEETING NOTICE RI MARINE FISHERIES COUNCIL

June 1, 2020 – 6:00 PM

Virtual public meeting only

Zoom webinar:

<https://zoom.us/j/91310911159>

Meeting ID: 913 1091 1159

Dial in: 1-929-205-6099

AGENDA

Agenda item	Recommended action(s)	ePacket Attachment(s)
1. Tonight's agenda	Approval of agenda.	• Tonight's meeting agenda.
2. Meeting minutes from last meeting	Approval of meeting minutes.	• Draft minutes from meeting on 3/2/2020.
3. Public comment on any matters not on the agenda	Discussion and/or recommendations for future action.	N/A
4. Responses to public comments made last meeting: • <u>Horseshoe crab management:</u> <i>J. Lake</i>	FYI, discussion and/or recommendations for future action.	N/A

<p>5. <u>Proposed regulation amendments:</u> <i>J. Lake</i></p>	<p>Provide recommendations to the Director regarding proposed regulations.</p>	<ul style="list-style-type: none"> • <u>Part 3 – Finfish:</u> <ul style="list-style-type: none"> ○ Public notice ○ Control date for commercial Summer flounder (section 3.10.2(G)) ○ Recreational American plaice possession limit (section 3.13.1(C)) ○ Sub-period dates for commercial Bluefish possession limit (section 3.18.2(B)) ○ Remove circle hook definition from coastal shark section (section 3.19.1) ○ Recreational Cod minimum size language (section 3.20.1(A)) ○ Recreational Cod possession limit language (section 3.20.1(B)) ○ Recreational Haddock possession limit (section 3.21.1(C)) ○ Recreational Pollock possession limit (section 3.21.1(C)) ○ Recreational Yellowtail flounder possession limit (section 3.28.1(C)) ○ Change “bycatch” to “incidental catch” for Weakfish (section 3.29.2(B)(3)) ○ Recreational Witch flounder possession limit (section 3.31.1(C)) • <u>Part 4 – Shellfish:</u> <ul style="list-style-type: none"> ○ Public notice ○ Whelk minimum size (section 4.9(G)) ○ Clarification of boundary descriptions of Shellfish Management Areas (sections 4.12.2(A) through (V)) ○ Change “bycatch” to “incidental catch” for Sakonnet River bay quahaug possession limit (section 4.12.2)(J)(2)) ○ Written comment rec’d re: Whelk • <u>Part 5 – Lobster, Crabs and Other Crustaceans:</u> <ul style="list-style-type: none"> ○ Public notice ○ Change “bycatch” to “incidental catch” for American lobster (section 5.8.1(L)) ○ Clarify control date for Horseshoe Crab (section 5.10(I)) ○ Clarify control date for Atlantic Rock Crab (section 5.12(A)) ○ Correct rules for Jonah Crab consistent with the FMP (section 5.11(B)) • <u>Part 14 – Summer Flounder Exemption Certificate:</u> <ul style="list-style-type: none"> ○ Public notice ○ Proposed rule
<p>6. <u>SAP membership application:</u> <i>K. Eagan</i></p>	<p>Vote on application</p>	<ul style="list-style-type: none"> • Application submitted by B. Bica

7. <u>Shellfish Advisory Panel meeting minutes (April 29 & May 27): K. Eagan</u>	Approval of minutes	<ul style="list-style-type: none"> • 4/29 meeting agenda • 4/29 meeting powerpoint • 4/29 draft meeting minutes • 5/27 meeting agenda • 5/27 meeting powerpoint • Note: 5/27 draft meeting minutes will be provided in advance of the meeting
8. <u>Aquaculture lease application review: K. Eagan</u>		<ul style="list-style-type: none"> • Public notice 2019-05-061 • DEM review letter • 4/29 SAP meeting minutes
9. <u>Area closures in Ninigret Pond Shellfish Mgmt. Area (for oyster restoration) and oyster harvest moratorium in Bissel Cove/Fox Island Shellfish Mgmt. Areas: J. Lake</u>	Recommendation to the Director regarding proposal (note: no public notice requirements)	<ul style="list-style-type: none"> • Regulation • 5/27 SAP powerpoint • Note: 5/27 draft meeting minutes will be provided in advance of the meeting
10. <u>Covid-19 Fisheries Response: B. Ballou/J. McNamee</u>	Discussion and/or recommendations for future action	
10. <u>FYI: J. McNamee</u> <ul style="list-style-type: none"> • Licensing Legislation • Tautog CE proposal 	Discussion and/or recommendations for future action	<ul style="list-style-type: none"> • Proposed budget article
11. Adjourn		

All RIMFC Meetings are open to the public

Posted to Sec. of State Open Meetings pursuant to R.I. Gen. Laws § 42-46-6 on May 22, 2020



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(401) 423-1920 Fax: (401) 423-1925

MEETING SUMMARY

March 2, 2020

Chairperson: *B. Ballou*

RIMFC members present: *All members present*

Director's office: *J. McNamee*

Division: *C. McManus, J. Lake, J. Livermore, N. Costa, N. Ares, C. Parkins, K. Rodrigue, P. Duhamel*

DEM Legal: *C. Hoefsmit*

Law Enforcement: *Officer A. Hill*

Public: Approximately 30 persons a dozen persons in attendance.

1. **Approval of the Agenda:** The Chair added an update of Quahog Week 2020 as an FYI item to the agenda. Hearing no objections or requests for additional modifications, the agenda was approved by consent.
2. **Approval of minutes from meeting on December 2, 2019:** The Chair offered a recommendation to modify the draft minutes regarding the motion and vote on the hearing item "Continuation of "Part 12 - Research Pilot Aggregate Program regulations". The chair offered that minutes were corrected, a copy which was provided to members prior to the start of the meeting. The Chair inquired as to any additional modifications or objections to adopting the minutes as amended. Hearing none, the amended minutes were approved by consent.
3. **Public comments regarding any other matters not on agenda:**
 - *J. King* voiced concern regarding the need for aquaculture planning in Narragansett Bay and requested that the matter be added as an agenda item for the next Council meeting. He offered that planning efforts were made for the coastal ponds but never followed through with regards to Narragansett Bay. With the several retirements occurring at CRMC, including D. Beutel, he offered that discussions with CRMC should occur now with respect to planning in the bay. *B. Ballou* offered that the matter would be placed on the next agenda and that CRMC would be invited to attend.
 - *R. Kenyon* offered the need to revisit the horseshoe crab bait possession limit, in that harvest has not reached quota in last few years. *J. McNamee* offered that *N. Ameral*, the Division lead biologist responsible for horseshoe crab management, would contact Mr. Kenyon and get the matter placed in the Division's regulatory queue. He offered that it would be ideal if a specific proposal could be submitted, but that Ms. Ameral would contact Mr. Kenyon to discuss.

4. **Introduction of new Deputy Director Jason McNamee:** *J. McNamee* introduced himself to the Council in his new position as DEM Deputy Director of Natural Resources and offered that he had transitioned to his new role and was no longer the Chief of the Division of Marine Fisheries. He offered that he would remain active with marine fisheries matters and the Marine Fisheries Council as the head of the Bureau of Natural Resources, and would be retaining his role with the ASMFC.
5. **February 10 public hearing items:**
- **Black Sea Bass - 2020 Recreational Management:** Motion made by *A. Dangelo* to recommend adoption of status quo as noticed; 2nd by *D. Monti*. The motion passed 8-0.
 - **Scup - 2020 Recreational Management:** Motion made by *D. Monti* to recommend adoption of status quo as noticed; 2nd by *M. Rice*. The motion passed 8-0.
 - **Summer Flounder - 2020 Recreational Management:** Motion made by *C. Rein* to recommend adoption of status quo as noticed; 2nd by *A. Dangelo*. The motion passed 8-0.
 - **Summer Flounder - 2020 Commercial Management – Aggregate Landing Program possession limit:** Motion made by *M. Rice* to recommend adoption of the rule as noticed; 2nd by *D. Monti*. The motion passed 8-0.
 - **Striped Bass – 2020 Recreational Management:** Motion made by *J. Jarvis* to recommend adoption of noticed Option 2 (ASMFC Rhode Island CE Option C proposal; min./max size of 32” - < 40” for private/shore modes and a min./max size of 30” - < 40” for the for-hire mode); 2nd by *M. Rice*. The motion passed 5-1 (*A. Dangelo* and *D. Monti* recused).
 - **Striped Bass – 2020 Commercial General Category Management:** Motion made by *A. Dangelo* to recommend adoption of a 60/40 allocation split between the two sub-periods and that the fishery be closed on Friday, Saturday, and Sunday of each week; 2nd by *D. Monti*. The motion passed 7-1 (*M. Roderick* opposed).
 - **Striped Bass – 2020 Commercial Floating Fish Trap Management:** Motion made by *C. Rein* to recommend status quo as noticed; 2nd by *D. Monti*. The motion passed 8-0.
 - **Tautog - 2020 Recreational Management:** Motion made by *D. Monti* to recommend status quo as noticed; 2nd by *T. Barao*. The motion passed 8-0.
 - **Tautog - 2020 Commercial Management:** Motion made by *M. Rice* to recommend adoption of an August 1 – September 15 sub-period with an allocation of 15% to be taken from the April 1 – May 30 sub-period; 2nd by *A. Dangelo*. The motion failed 1 - 7. Motion then made by *D. Monti* to recommend adoption of an August 1 – September 15 sub-period with an allocation of 15% to be taken equally from the April 1 – May 30 and October 15 – December 31 sub-periods. 2nd by *K. Eagan*. The motion

passed 8-0.

- **Bluefish - 2020 Recreational Management:** Motion made by *C. Rein* to recommend adoption of noticed Option 1 (MAFMC/ASMFC management proposal; three fish bag limit for private/shore modes and a five fish bag limit for the for-hire mode); 2nd by *A. Dangelo*. The motion passed 7-1 (*D. Monti* opposed).
 - **Monkfish Commercial Management:** Motion made by *C. Rein* to recommend adoption of a 4,900 lbs tail weight/14,259 lbs whole weight weekly possession limit; 2nd by *M. Rice*. The motion passed 8-0.
 - **State-waters Commercial Skate Wing Management:** Motion made by *C. Rein* to recommend adoption of a 35,000 pound/week possession limit; 2nd by *A. Dangelo*. The motion passed 8-0.
6. **RI Saltwater Recreational Fishing License Program FY 2019 Report:** *B. Ballou* offered that this presentation of the summary of the report to the Council was being done pursuant was to statute (§ 20-2.2-10) and would then be submitted to the general assembly. He offered that the Council's charge is to offer an opinion as to whether the licensing program is meeting its intended purposes and to offer any recommendations for modifying the program. *J. Lake* provided a summary of the report, which report was provided in the Council's meeting materials. Motion made by *D. Monti* to approve the report; 2nd by *A. Dangelo*. *B. Ballou* offered that he would provide a letter to the House and Senate which will include the Council recommendation. The motion passed 8-0.
7. **RIMFC Annual Report:** *B. Ballou* offered that the report should include that the Council provided a total of 41 recommendations on regulatory proposals brought forth by the Division, and that the DEM Director concurred on all but one of these proposals, and that the report also highlight the development of the new Council webpage, and that all Council meetings are now being videotaped and provided on the Division's YouTube channel. *B. Ballou* then asked for any other modifications; hearing none the report as approved by consent and would be submitted to the general assembly pursuant to statute.
8. **FYI:**
- **Commercial Licensing Legislative Re-Structuring Initiative:** *J. McNamee* offered a summary of the legislation which is included as part of the governor's proposed FY20 budget. He offered that the white paper explaining the details for the program is provided in the Council's meeting materials. *C. Rein* offered that he would like to understand the program, to which *J. McNamee* offered to provide a link to the budget article in order to see the exact language in the legislation. He also offered that the Division would hold a workshop in the Spring to go over the program revisions in detail. *K. Eagan* offered support of the goal to simplify the program, and inquired about access to the legislation and how interested persons can be involved in the process. *J. McNamee* followed that the rules would also need to be amended for consistency with the amended statute. *M. Rice* offered that interested persons should go to the general assembly webpage and look for the hearing under the committee that is reviewing the legislation. He also offered that interested persons could contact the

clerk for the House Finance Committee. *K. Eagan* expressed concern that people were unaware of the process, to which *J. McNamee* answered that he had conducted a great deal of outreach and was available to meet with groups if requested. *B. Ballou* offered that as legislation, the Division cannot establish a process to solicit comments, that such is with the governor's office and the general assembly, and that it was the Division's goal to use the Council meeting to alert people of the process currently underway.

- **Quahog Week:** *B. Ballou* provided dates of upcoming events for Quahog Week 2020, including March 24th at Whalers Brewery in South Kingstown and March 27th at Hope and Main in Warren.

9. **Adjournment:** The meeting was adjourned by consent at @ 8:23pm.

The full video recording of the meeting is available at the DEM YouTube channel [here](#). Individual agenda items and their times can be viewed by expanding the "SHOW MORE" tab.

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Title of Rule: Finfish (250-RICR-90-00-3)

Rule Identifier: 250-RICR-90-00-3

Rulemaking Action: Proposed Amendment

Important Dates:

Date of Public Notice: 05/01/2020

End of Public Comment: 05/31/2020

Authority for this Rulemaking:

R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws Chapter 42-35-18(b)(5), Administrative Procedures Act, as amended

Summary of Rulemaking Action:

1. **Delete section 3.10.2(D) "Rhode Island Summer Flounder Exemption Certificate":** In conjunction with proposed re-location of program rules to separate stand-alone rule (proposed "*Part 14 - Summer Flounder Exemption Certificate Program*"), with changes to program to be described under notice for this proposed adoption of Part 14 (see separate notice to be filed simultaneously). The separate stand-rule will allow DEM to implement the state waters fishery management plan for Summer Flounder consistently with the federal fishery management plan.
2. **Clarify control date for commercial Summer flounder (section 3.10.2(G)):** Clarify that the established control date is for the potential use in establishing eligibility criteria for future access to the fishery.
3. **Modify recreational American plaice possession limit (section 3.13.1(C)):** For consistency with NOAA rules.
4. **Re-establish sub-period dates for commercial Bluefish possession limit (section 3.18.2(B)):** Consistent with proposed changes to section 1.6(E). Propose change is non-substantive in nature, meant to clarify only.
5. **Remove circle hook definition from coastal shark section (section 3.19.1):** Proposed re-location to Part 1 section 1.6 "Definition of Terms")
6. **Modify recreational Cod minimum size language (section 3.20.1(A)):** Consistency with NOAA rules.

7. **Modify recreational Cod possession limit language (section 3.20.1(B)):**
Consistency with NOAA rules.

8. **Modify recreational Haddock possession limit (section 3.21.1(C)):**
Consistency with NOAA rules.

9. **Modify recreational Pollock possession limit (section 3.21.1(C)):**
Consistency with NOAA rules.

10. **Modify recreational Yellowtail flounder possession limit (section 3.28.1(C)):** Consistency with NOAA rules.

11. **Change "bycatch" to "incidental catch" for Weakfish (section 3.29.2(B)(3)):**
Change proposed consistent with proposed addition of term "incidental catch" in Part 1, and changes to sections 4.12.2(J)(2) and 5.8.1(L)(1). Propose change is non-substantive in nature, meant to clarify only.

12. **Modify recreational Witch flounder possession limit (section 3.31.1(C)):**
Consistency with NOAA rules.

13. Other minor non-substantive clarifications.

Additional Information and Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until May 31, 2020 by contacting the appropriate party at the address listed below:

Peter Duhamel
Department of Environmental Management
3 Fort Wetherill Road
Jamestown, RI 02835
peter.duhamel@dem.ri.gov

In accordance with R.I. Gen. Laws § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

Regulatory Analysis Summary and Supporting Documentation:

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

For full regulatory analysis or supporting documentation see agency contact person above.

Proposed/annotated amendments

Note: Proposed new language is identified as red, underline; proposed language to be deleted is identified as ~~red-stricken~~.

250-RICR-90-00-3

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 3 – Finfish

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3.1 Purpose

The purpose of these Rules and Regulations is to manage the marine resources of Rhode Island.

3.2 Authority

These rules and regulations are promulgated pursuant to R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws § 42-35-18(b)(5), Administrative Procedures Act, as amended.

3.3 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.

3.4 Definitions

See Rhode Island Marine Fisheries Regulations, Part 1 of this Subchapter.

3.5 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.

3.6 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 these regulations 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.

3.7 Black Sea Bass

3.7.1 Recreational

- A. Minimum size: Fifteen inches (15"). Minimum size measurement for black sea bass does not include the tendril located on the caudal (tail) fin.
- B. Seasons and possession limits:
 - 1. January 1 through June 23: Closed.

2. June 24 through August 31: Three (3) fish per person per calendar day.
3. September 1 through December 31: Seven (7) fish per person per calendar day.

3.7.2 Commercial

- A. Minimum size: Eleven inches (11”).
- B. Seasons, allocations, and possession limits:
 1. January 1 through April 30:
 - a. Allocation: Twenty-five percent (25%) of the quota.
 - b. Possession limit: Five hundred (500) pounds per vessel per week.
 2. May 1 through June 30:
 - a. Allocation: Twenty-five percent (25%) of the quota.
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day.
 3. July 1 through July 31:
 - a. Allocation: Nineteen and a half percent (19.5%) of the quota.
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day.
 4. August 1 through September 14: Closed.
 5. September 15 through October 31:
 - a. Allocation: Nineteen and a half percent (19.5%) of the quota.
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day.
 6. November 1 through December 31:
 - a. Allocation: Eleven percent (11%) of the quota.
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day.
- C. Trawl vessel gear restrictions - minimum mesh size: Owners or operators of otter trawl vessels possessing greater than five hundred (500) pounds of black sea bass from January 1 through March 31; or greater than one hundred (100) pounds of black sea bass from April 1 through December 31, may only fish with nets that have a minimum mesh size of four and one-half (4.5) inches diamond mesh (inside measure) applied throughout the codend for at least seventy-five

(75) continuous meshes forward of the terminus of the net; or, for trawl nets with codends (including an extension) less than seventy-five (75) meshes, the trawl net must have a minimum mesh size of four and one-half (4.5) inches diamond mesh throughout.

D. Black sea bass pot construction

1. All black sea bass pots must be constructed with two (2) escape openings in the parlor portion of the pot. Openings may be circular, rectangular, or square, and must be a minimum of two and one half inch (2.5") diameter if circular, one and three eighths inch (1- 3/8") X five and three quarters inch (5-3/4") if rectangular, two inches (2") X two inches (2") if square. Escape vents must be attached with biodegradable fasteners which allow vents or panels to fall away from the trap after loss.
2. The hinges or fasteners of one panel or door must be made of one of the following degradable materials:
 - a. Un-treated hemp, jute, or cotton string three sixteenths inches (3/16") or smaller;
 - b. Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners;
 - c. Un-galvanized or uncoated iron wire of three thirty seconds inches (3/32") or smaller; or
 - d. If "bungee" cord or other elasticized material is used to fasten the top, it must be secured to the trap with a degradable hog ring.

3.8 Scup

3.8.1 Recreational

- A. Minimum size: Nine inches (9").
- B. Season: January 1 through December 31.
- C. Possession limit: Thirty (30) fish per person per calendar day.
- D. Special shore angling sites:
 1. Locations: India Point Park, Providence; Conimicut Park, Warwick; Rocky Point, Warwick; Stone Bridge, Tiverton; East and West Walls (Harbor of Refuge), Narragansett; Fort Wetherill, Jamestown; and Fort Adams, Newport:
 2. Minimum size: Eight inches (8").

3. Season: January 1 through December 31.
 4. Possession limit: Thirty (30) fish per person per calendar day.
- E. Licensed Party and Charter vessels seasons and possession limit:
1. January 1 through August 31: Thirty (30) fish per person per calendar day.
 2. September 1 through October 31: Fifty (50) fish per person per calendar day.
 3. November 1 through December 31: Thirty (30) fish per person per calendar day.

3.8.2 Commercial

- A. Minimum size: Nine inches (9”).
- B. Seasons, quotas and possession limit:
1. January 1 through April 30 (federal Winter I) possession limit: Fifty thousand (50,000) pounds per vessel per calendar day, decreasing to one thousand (1,000) pounds per vessel per calendar day once eighty percent (80%) of the federal Winter I coastwide Scup quota has been harvested as determined by NOAA Fisheries.
 2. May 1 through September 30: The State quota for this sub-period will be divided as follows:
 - a. General Category (gear types other than floating fish traps): Forty percent (40%).
 - (1) Possession limit: Ten thousand (10,000) pounds per vessel per calendar week.
 - b. Floating fish trap: Sixty percent (60%).
 - (1) During years in which the federal Winter I coastwide Scup quota is exhausted prior to April 15, the floating fish trap quota will be available on April 15. During years in which the federal Winter I coastwide Scup quota is not exhausted prior to April 15, the floating fish trap quota will be available on May 1.
 - (2) If the DEM estimates that the floating fish trap sector will not fully utilize its scup allocation prior to the end of the Summer-Fall sub-period, beginning on June 15, the DEM may transfer the floating fish trap sector allocation to the general

category sector. DEM will consult with the floating fish trap operators or their designee prior to enacting any allocation transfer, and will maintain written correspondence in the form of a letter on file as proof of said consultation.

- (3) If the DEM estimates that the floating fish trap sector has a reasonable likelihood of utilizing its quota prior to the end of the sub-period, a portion of any unused allocation that was transferred to the general category sector may be transferred back to the floating fish trap sector. Any quota that was transferred from the general category sector to the floating fish trap sector shall not exceed the amount that may have been transferred from the floating fish trap sector to the general category sector.
- (4) Reporting: Floating fish trap operators shall report landings of scup to SAFIS every Monday, Wednesday, and Friday, of every week that the trap is in operation. If there is non-compliance with this reporting requirement, the Floating Fish Trap operators will be notified and will default to the following program:
 - (AA) April 15 through September 30: During those years in which the federal Winter I coastwide scup quota is exhausted prior to April 15, the floating fish trap quota will be available on April 15. The possession limit will be twenty-five thousand (25,000) pounds per floating fish trap per calendar day. Once ninety percent (90%) of the sub-period allocation is projected to be harvested, the possession limit will be five thousand (5,000) pounds per fish trap licensee per calendar day until one hundred percent (100%) of the quota has been harvested.
 - (BB) May 1 through September 30: During those years in which the federal Winter I coastwide scup quota is not exhausted prior to April 15, the floating fish trap quota will be available on May 1. The possession limit will be twenty-five thousand (25,000) pounds per floating fish operator per calendar day. Once ninety percent (90%) of the sub-period allocation is projected to be harvested, the possession limit will be five thousand (5,000) pounds per fish trap licensee per calendar day until one hundred percent (100%) of the quota has been harvested.

(CC) Floating Fish trap operator: For purposes of this section, a fish trap operator shall refer to a resident person or resident corporation currently issued a permit pursuant to R.I. Gen. Laws § 20-5-2. The maximum possession limit per floating fish trap licensee shall be the amount set forth above regardless of the number of authorized trap locations, the number of vessels or the number of licensed fishermen who may be working for or may enter into contract with the floating fish trap operator. While engaged in the operation of a fish trap, any licensed fisherman that may be working for or may enter into contract with the floating fish trap operator waives any individual right to possess scup pursuant to a possession limit set out in these regulations.

3. October 1 – December 31 (federal Winter II): Two thousand (2,000) pounds per vessel per calendar day, decreasing to five hundred (500) pounds per vessel per calendar day once seventy percent (70%) of the federal Winter II coastwide Scup quota has been harvested as determined by NOAA Fisheries.

C. Trawl vessel gear restrictions - minimum mesh size: Owners or operators of otter trawl vessels possessing greater than one thousand (1,000) pounds of scup from October 1 through April 14; or greater than two thousand (2,000) pounds of scup from April 15 through June 15; or greater than two hundred (200) pounds of scup from June 16 through September 30, may only fish with nets that have a minimum mesh size of five inches (5") diamond (inside measure) or square mesh with a minimum length of seventy-five (75) meshes from the terminus of the net. For nets with less than seventy-five (75) mesh cod ends, the entire net will be five inch (5") minimum size diamond or square mesh.

D. Scup pots:

1. Pot limits: Each person utilizing pots in the scup fishery shall be permitted to fish up to one hundred fifty (150) pots regardless of the number of licenses on board the vessel.
2. Pot construction - escape vents: All scup pots must be constructed with escape openings. Openings may be circular, rectangular, or square, and must be a minimum of 3.1" diameter, 2-1/4" X 5-3/4" if rectangular or may be constructed of 2-1/4" X 2-1/4" wire mesh. Escape vents must be attached with biodegradable fasteners which allow vents or panels to fall away from the trap after loss.
3. The hinges or fasteners of one (1) panel or door must be made of one (1) of the following degradable materials:

- a. Un-treated hemp, jute, or cotton string three sixteenth inches (3/16") or smaller;
- b. Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners;
- c. Un-galvanized or uncoated iron wire of three thirty seconds inches (3/32") or smaller; or
- d. If "bungee" cord or other elasticized material is used to fasten the top, it must be secured to the trap with a degradable hog ring.

3.9 Striped Bass

3.9.1 Recreational

- A. Minimum size: Twenty-eight inches (28") in total length.
- B. Maximum size: Less than thirty-five inches (<35") in total length.
- C. Season: January 1 through December 31.
- D. Possession limit: One (1) fish per person per day.
- E. Any person recreationally harvesting a striped bass thirty-four inches (34") or larger shall at the time of harvest have the right pectoral fin removed at a point as close to the body of the fish as possible.

3.9.2 Commercial

- A. General Category:
 - 1. Minimum size: Thirty-four inches (34") or greater in total length.
 - 2. Allocation: Sixty-one percent (61%) of the annual Rhode Island commercial quota.
 - 3. Seasons and possession limits:
 - a. January 1 through May 19: Closed.
 - b. May 20 through June 30:
 - (1) Allocation: Sixty percent (60%) of the general category quota.
 - (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day.

- (3) The fishery will be closed in each calendar week on Friday, Saturday and Sunday during this sub-period. There will be no commercial possession or sale of Striped bass on these days for general category commercial fishermen.
 - c. July 1 through December 31:
 - (1) Allocation: Forty percent (40%) of the general category quota.
 - (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day.
 - (3) The fishery will be closed in each calendar week on Friday, Saturday and Sunday during this sub-period. There will be no commercial possession or sale of Striped bass on these days for general category commercial fishermen.
4. If DEM estimates that the floating fish trap sector will not fully utilize its Striped bass allocation prior to the end of the season, the DEM may transfer all or a portion of the floating fish trap sector allocation into the general category fishery. DEM will consult with the floating fish trap licensees or their designee prior to enacting any such transfer, and will maintain written correspondence of this consultation.
5. Floating fish trap allocation that has been transferred to the general category fishery in accordance with § 3.9.2(A)(4) of this Part may be transferred back to the floating fish trap fishery. Any allocation transferred back to the floating fish trap fishery shall not exceed the amount of the original transfer.

B. Floating Fish Traps:

1. Floating fish trap operators must be permitted pursuant to RIMFR "General Equipment Provisions," [Part 6](#) of this Subchapter.
2. Allocation: During a single calendar year, the floating fish trap quota shall not be more than thirty-nine percent (39%) of the annual Rhode Island commercial quota.
3. Minimum size: Twenty-six inches (26") in total length.
4. Season: April 1 through December 31.
5. Possession limit: Unlimited. Once seventy percent (70%) of the seasonal allocation is projected to be harvested the possession limit shall be five hundred (500) pounds per floating fish trap licensee per calendar day.

- 6. Reporting: All floating fish trap operators shall keep daily records of striped bass landings and report landings to SAFIS every Monday, Wednesday, and Friday, of every week that the trap is in operation.
- 7. If the floating fish trap operators are found to be out of compliance with the reporting requirements, the operators will be notified, and default to following program:
 - a. April 1 through December 31: One hundred percent (100%) of the floating fish trap quota shall be available during this sub-period. Once seventy percent (70%) of the seasonal allocation is projected to be harvested the possession limit shall be five hundred (500) pounds per floating fish trap licensee per calendar day.

C. Gillnet prohibition for Striped bass: No person shall take or possess any striped bass while gillnetting, or while hauling a gillnet.

D. Hybrid or Cultured Striped Bass:

- 1. Aquaculture-reared striped bass or hybrid striped bass brought into Rhode Island for sale or resale, which is wholly or partially processed, except for cultured striped bass or hybrid Striped bass from a fish farm or processor which are a fully processed and packaged product whether fresh or frozen, shall have affixed to it a tag identifying it as an aquaculture product.
- 2. Packages, containers, and each fish or fish product containing aquaculture products shall be tagged or labeled with a uniform series of 14-digit numbers and letters as shown in the example below:

MD	= State of origin
123	= Permit number (producing state issued permit number)
0889	= Month and year of shipment
A1234	= Species ID and number of product

- 3. Each fish or fish product shall have affixed to it a tag bearing the same information listed in § 3.9.2(D)(2) of this Part.
- 4. The sale of this product shall be accompanied by a receipt showing:
 - a. The date of sale;
 - b. Name, address, and permit number of the aquaculture facility;

- c. Numbers and species of Striped bass sold;
 - d. Name of purchaser.
 - 5. Fish shipped in the round and filleted by the seller, shall have the tag removed and wrapped in with the fillets when sold.
 - 6. The consignee of each subsequent sale shall retain a copy of the bill of lading or similar accountable document for one (1) year, and make it available to the Department upon request.
- E. Commercial Striped Bass Tags: Each individual Striped bass shall be immediately marked with tags available from DEM. No Striped bass may be sold unless it has been properly identified with such tag. DEM may designate tagging agents as appropriate. All designated tagging agents shall keep and maintain the required forms and reports specified by DEM. All tag reports and unused tags must be returned to DEM by January 1st of the following year. Failure to return reports and unused tags may result in the tagging agent becoming ineligible to receive striped bass tags in the future.

3.10 Summer Flounder

3.10.1 Recreational

- A. Minimum size: Nineteen inches (19”).
- B. Season: May 3 through December 31.
- C. Possession limit: Six (6) fish.
- D. Special shore angling sites:
 - 1. Special shore angling site locations: India Point Park, Providence; Conimicut Park, Warwick; Rocky Point, Warwick; Stone Bridge, Tiverton; East and West Walls (Harbor of Refuge); Narragansett; Fort Wetherill, Jamestown; and Fort Adams, Newport.
 - 2. Minimum size: Seventeen inches (17”). This applies to only two (2) fish of the allowed total possession limit.
 - 3. Season: May 3 through December 31.
 - 4. Possession Limit: Six (6) fish. The minimum size of two (2) of the six (6) fish may be seventeen inches (17”). The remaining four (4) fish shall be nineteen inches (19”).

3.10.2 Commercial

- A. Minimum size: Fourteen inches (14”).
- B. Seasons, allocations, and possession limits:
 - 1. January 1 through April 30:
 - a. Allocation: Fifty-four percent (54%) of the annual quota.
 - b. Possession limit between January 1 and the start of the Winter sub-period of the Aggregate Landing Program:
 - (1) Vessels that possess a valid RI Summer Flounder Exemption Certificate (Exemption Certificate): One hundred (100) pounds per vessel per calendar day.
 - (2) Vessels that do not possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day.
 - c. Possession limit during the Winter sub-period of the Aggregate Landing Program:
 - (1) Vessels not permitted in the Aggregate Landing Program but which possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day.
 - (2) Vessels that do not possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day.
 - (3) Aggregate Landing Program: Two thousand (2,000) pounds per vessel per bi-week. The bi-weekly periods shall be specified in the Aggregate Landing Permit.
 - (4) The Aggregate Landing Program will terminate when ninety percent (90%) of the Winter sub-period quota has been harvested and the possession limit shall be one hundred (100) pounds per vessel per calendar day.
 - 2. May 1 through September 15:
 - a. Allocation: Thirty-five (35%) of the annual quota.
 - b. Possession limit:
 - (1) Vessels that possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day.
 - (2) Vessels that do not possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day.

3. September 16 through December 31:
 - a. Allocation: Eleven percent (11%) of the annual quota.
 - b. Possession limit:
 - (1) Vessels that possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day.
 - (2) Vessels that do not possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day.

C. Aggregate Landing Program:

1. Sub-periods:
 - a. Winter: Beginning on the Sunday of the first full week in January through April 30, or until ninety percent (90%) of the Winter sub-period quota has been harvested as determined by the DEM.
2. Eligibility: An applicant vessel shall be considered eligible for a permit to participate in the Aggregate Landing Program by demonstrating to the satisfaction of the DEM and the Division of Law Enforcement each of the following:
 - a. The vessel, if harvesting Summer flounder from federal waters, possesses a valid federal Summer Flounder Moratorium Permit and RI Summer Flounder Exemption Certificate (Exemption Certificate);
 - b. The vessel's operator, if harvesting exclusively in State waters, holds a valid RI commercial fishing license to harvest or land summer flounder and possesses a valid Exemption Certificate;
 - c. The vessel's operator has not been assessed a criminal or administrative penalty in the past three years for a violation of this section or has more than one (1) marine fisheries violation.
3. Application: Application for an Aggregate Landing Program Permit shall be made on forms as prescribed by the Director.
4. Non-compliance with the provisions of these regulations or the permit agreement shall subject both the owner and the operator to revocation of enrollment and participation in the commercial fisheries for remainder of the sub-period or the subsequent sub-period. If for any reason a sub-period does not exist by regulation, the privilege of the owner(s) and operator(s) to commercially harvest fish shall be suspended for the same calendar time period as described in the current sub-period upon adjudication.

~~D. Rhode Island Summer Flounder Exemption Certificate:~~

- ~~1. Application: Applicants shall provide each of the following:~~
 - ~~a. A copy of the operator's valid current Rhode Island commercial fishing license or non-resident landing license, and Federal Fluke Permit if the Summer flounder is to be taken in the EEZ;~~
 - ~~b. A completed notarized application;~~
 - ~~c. Proof that the vessel meets the requirements set out in this section;~~
 - ~~d. Provide a completed notarized waiver authorizing the Department to access records verifying that this vessel and operator meet the criteria set forth in this section; and~~
 - ~~e. A copy of the vessel's U.S. Coast Guard documentation papers or state issued boat registration certificate proving ownership of the vessel.~~

- ~~2. Eligibility: DEM will issue an Exemption Certificate for a vessel if the owner of the vessel or his/her representative applies to DEM prior to January 1, 1997, for the issuance of such a certificate and demonstrates to the satisfaction of the Director that:~~
 - ~~a. The operator of the vessel possesses a valid Rhode Island commercial fishing license to land Summer flounder up to the amount permitted by these regulations; and~~
 - ~~b. The subject vessel meets any of the following criteria:~~
 - ~~(1) The vessel was operated by a person who possessed a valid Rhode Island commercial fishing license and landed and sold in excess of one (1) pound of Summer flounder to a Rhode Island licensed dealer during the period from January 1, 1987, through December 31, 1992;~~
 - ~~(2) The vessel fished exclusively in the Exclusive Economic Zone (EEZ) and landed and sold in excess of one (1) pound of Summer flounder to a licensed Rhode Island licensed dealer sometime during the period January 1, 1987, through December 31, 1992. The Department may require additional supporting documents including but not limited to the ship's logs, ice and fuel slips;~~
 - ~~(3) The vessel replaces a vessel which was operated by a person who possessed a valid Rhode Island commercial fishing license, and the vessel being replaced landed and~~

~~sold in excess of one (1) pound of Summer flounder to a Rhode Island licensed dealer during the period from January 1, 1987, through December 31, 1992, and if the vessel being replaced was lost by sinking or was otherwise destroyed, the replaced vessel is required to have been owned by the applicant at the time of the loss;~~

~~(4) The vessel replaces a vessel which fished exclusively in the EEZ and landed and sold in excess of one (1) pound of Summer flounder to a Rhode Island licensed dealer, during the period January 1, 1987, through December 31, 1992, and if the vessel being replaced was lost by sinking or was otherwise destroyed, the replaced vessel is required to have been owned by the applicant at the time of the loss.~~

~~(5) If the vessel is replacing a vessel that was lost by sinking or was otherwise destroyed, documentation must be presented from a licensed insurance company, U.S. Coast Guard report, or some other valid evidence of ownership to the satisfaction of the Director.~~

~~3. Transfer of an Exemption Certificate: An Exemption Certificate issued by the DEM is only valid for the vessel to which it is issued. A vessel may be sold with all certificates, permits (state and federal) and history transferred together or without the certificates, permits (state and federal) and history for purposes of replacing the vessel. In instances when a vessel owner retains all certificates, permits, and history they must be applied to a replacement vessel owned by said individual within ninety (90) days.~~

~~a. Change in ownership: An Exemption Certificate is presumed to transfer with the vessel whenever it is bought, sold, or otherwise transferred, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel's fishing and permit history for purposes of replacing the vessel. Individuals who purchase a vessel issued an Exemption Certificate must supply credible written evidence verifying that they are the full owner of said vessel. Vessel ownership will be determined solely by an issued and valid (unexpired) US Coast Guard documentation or state registration.~~

~~b. Replacement Vessels: A vessel owner wishing to transfer an Exemption Certificate must provide proof to the satisfaction of the DEM that the applicant vessel is replacing a vessel and that said certificate is only applicable to the vessel for which the Exemption Certificate has been transferred.~~

- ~~(1) — The vessel owner must supply credible written evidence verifying that the transferor/seller is retaining the vessel's Exemption Certificate for purposes of replacing the vessel. If a vessel owner elects to sever the Exemption Certificate from a vessel, the Exemption Certificate may be transferred only to another vessel fully owned by said vessel owner. Proof of full ownership of both vessels is required. Vessel ownership will be determined solely by an issued and valid (unexpired) U.S. Coast Guard documentation or state registration.~~
- ~~(2) — Vessel permits (state and federal), Exemption Certificates, and fishing history cannot be split.~~
- ~~(3) — An Exemption Certificate may not be combined to create larger replacements vessels.~~
- ~~(4) — The replacement vessel may not exceed a ten percent (10%) increase in length overall (LOA), a ten percent (10%) increase in gross registered tonnage (GRT) or net tonnage (NT), or a twenty percent (20%) increase in horsepower of the vessel's baseline specifications, as applicable.~~
- ~~(5) — Vessel baseline specifications: The vessel baseline specifications in this section are the respective specifications (length, gross registered tonnage, net tonnage, horsepower) of the vessel that was initially issued an Exemption Certificate.~~
- ~~(6) — A vessel may be upgraded, whether through refitting or replacement, and be eligible to retain an Exemption Certificate, only if the upgrade complies with the following:
 - ~~(AA) — The vessel's horsepower may be increased only once, whether through refitting or replacement. Such an increase may not exceed twenty percent (20%) of the horsepower of the vessel's baseline specifications, as applicable.~~
 - ~~(BB) — The vessel's length, GRT, and NT may be increased only once, whether through refitting or replacement. Any increase in any of these three (3) specifications of vessel size may not exceed ten percent (10%) of the vessel's baseline specifications, as applicable. If any of these three (3) specifications is increased, any increase in the other two (2) must be performed at the~~~~

~~same time. This type of upgrade may be done separately from an engine horsepower upgrade.~~

~~4. Exemption Certificates may not be:~~

~~a. Pledged, mortgaged, leased, or encumbered in any way;~~

~~b. Transferred with any retained right of repossession or foreclosure, or any condition requiring a subsequent transfer; or~~

~~c. Attached, distrained, or sold on execution of judgment.~~

~~5. No person shall possess Summer flounder in an amount in excess of two hundred (200) pounds per vessel per day unless holding a valid Exemption Certificate.~~

ED. Otter trawl Mesh size: Otter trawlers that land or possess one hundred (100) pounds or more of Summer flounder per day from May 1 through October 31; or two hundred (200) pounds or more of summer flounder per trip from November 1 through April 30, must fish with nets or combinations of nets that have a minimum mesh size of five and one-half inches (5.5") diamond, or six inches (6") square mesh applied throughout the body, extension(s) and cod end portion of the net.

FE. Summer flounder may be landed between the hours of 6:00 AM to 8:00 PM only;

GE. Control Date: A control date of December 31, 2010, is established for the commercial Summer flounder fishery in Rhode Island. This control date has been established by the Department for potential future use in establishing eligibility criteria for future access to the fishery.

3.11 Tautog

3.11.1 Recreational

A. Minimum size: Sixteen inches (16").

B. Seasons and possession limits:

1. January 1 through March 31: Closed.

2. April 1 through May 31: Three (3) fish per person per calendar day.

3. June 1 through July 31: Closed.

4. August 1 through October 14: Three (3) fish per person per calendar day.

5. October 15 through December 31: Five (5) fish per person per calendar day.

6. Maximum per vessel possession limit: The possession limit shall be per person per calendar day, as stated above, with a maximum of ten (10) fish per vessel per calendar day.
7. Licensed Party and Charter vessels seasons and possession limits:
 - a. January 1 through March 31: Closed
 - b. April 1 through May 31: Three (3) fish per person per calendar day.
 - c. June 1 through July 31: Closed.
 - d. August 1 through October 14: Three (3) fish per person per calendar day.
 - e. October 15 through December 31: Five (5) fish per person per calendar day.
 - f. Licensed Party/charter vessels are not subject to the ten (10) fish per vessel per calendar day restriction.

3.11.2 Commercial

- A. Minimum size: Sixteen inches (16”).
- B. Seasons, allocations, and possession limit:
 1. January 1 through March 30: Closed.
 2. April 1 through May 31:
 - a. Allocation: Forty-two and one-half percent (42.5%) of the annual quota.
 - b. Possession limit: Ten (10) fish per vessel per day.
 3. June 1 through July 31: Closed.
 4. August 1 through September 15:
 - a. Allocation: Fifteen percent (15%) of the annual quota.
 - b. Possession limit: Ten (10) fish per vessel per day.
 5. September 16 through October 14: Closed
 6. October 15 through December 31:

- a. Allocation: Forty-two and one-half percent (42.5%) of the annual quota.
- b. Possession limit: Ten (10) fish per vessel per day.

C. Commercial tautog tagging.

1. No tautog shall be sold, purchased, bartered, or traded in RI unless a tautog tag issued by the Director has been affixed to the left opercula bone with the tag number displayed.
2. All tautog harvested and landed in RI must be tagged at the time of harvest, prior to offloading.
3. Eligibility: Tags shall be available only to RI commercially licensed fishermen authorized to harvest and/or land tautog.
4. No person shall transfer tautog tags between individuals or fish.
5. Tags are valid for one (1) calendar year.
6. All unused tags shall be returned to DMF by February 15 of the following year accompanied by the tag reporting form with the disposition of all tags (used, returned, broken, or lost) recorded. Failure to return tags and reports may result in the harvester's inability to participate in the commercial tautog fishery in the future.
7. No person shall reuse, counterfeit, alter, or modify any tautog tag, or possess, use, or attempt to use any counterfeit, altered or modified tags. Any person found in violation may be prohibited from participating in the commercial tautog fishery in the future.
8. Tautog must remain tagged until they reach the final consumer. Processed or fileted tautog shall be packed with the tag and available for inspection, with tags retained until all process or fileted tautog are sold.
9. This section shall become effective on January 1, 2020.

3.12 American Eel

3.12.1 Recreational

- A. Minimum size: Nine inches (9").
- B. Season: January 1 through December 31.
- C. Possession limit: Twenty-five (25) fish per angler per day.
- D. Licensed Party and Charter vessel season and possession limit:

1. Season: January 1 through December 31.
2. Possession limit: Fifty (50) fish per angler per day for the licensed captain and any employed crew member; and twenty-five (25) fish per angler per day for any paying customer.

3.12.2 Commercial

- A. Minimum size: Nine inches (9”).
- B. Season: January 1 through December 31.
 1. Closed season: September 1 through December 31 for any gear type other than baited traps/pots or spears.
- C. Possession limit: Unlimited.
- D. Commercial Eel pot restrictions: Eel pots shall have a minimum mesh size of one half inch (½”) by one half inch (½”).

3.13 American Plaice

3.13.1 Recreational

- A. Minimum size: Fourteen inches (14”).
- B. Fishing year: ~~The recreational American plaice fishery shall operate on a~~ May 1 through April 30 ~~fishing year.~~
- C. Possession limit: Unlimited.
 1. ~~There is no recreational possession limit for American plaice provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of American plaice.~~
 2. ~~Vessels in possession of a federal permit authorizing the recreational harvest of American plaice in federal waters may harvest American plaice in state waters in the amount equal to the federal regulations.~~

3.13.2 Commercial

- A. Minimum size: Twelve inches (12”).
- B. Fishing year: ~~The commercial American plaice fishery shall operate on a~~ May 1 through April 30 ~~fishing year.~~
- C. Possession limit:

1. There is no commercial possession limit for American plaice provided the vessel is fishing in state waters and does not have a federal permit authorizing the commercial harvest of American plaice.
2. Vessels in possession of a federal permit authorizing the commercial harvest of American plaice in federal waters may harvest American plaice in state waters in the amount equal to the federal regulations.

3.14 American Shad

The harvest, landing, or possession of American shad in the marine waters of Rhode Island is prohibited.

3.15 Atlantic Herring

3.15.1 Commercial

- A. Season: January 1 through December 31.
- B. Possession limit: Two thousand (2,000) pounds per vessel per day, unless the vessel holds a RI State Waters Atlantic Herring Fishing permit.
- C. Rhode Island State Waters Atlantic Herring Fishing Permit: A permit from DEM is required for vessels engaged in the fishing and/or processing of over two thousand (2,000) pounds of Atlantic herring per day in Rhode Island state waters.
 1. Issuance of this permit is contingent on fishing vessel captains attending a meeting with DEM staff where they are required to give proof that:
 - a. The vessel and its captain(s) have obtained all necessary and applicable authorizations to fish for Atlantic herring in RI waters (license, endorsements(s), and vessel declarations);
 - b. The vessel captain(s) have provided a valid email address to DEM at which the captain can access while fishing for the purpose of receiving advisories pertaining to river herring;
 - c. The vessel captain(s) have received from DEM a chart of fixed commercial fishing gear locations in Rhode Island waters and will have said chart in his/her possession while engaged in the fishing and/or processing of Atlantic Herring in RI waters;
 - d. The vessel captain(s) have received from DEM a copy of all applicable regulations governing the commercial harvest of Atlantic herring in Rhode Island waters.
 2. Permits shall be issued annually and are valid for one (1) calendar year from January 1 to December 31.

3. Issuance of the permit is contingent upon a background check to determine if the applicant captain or vessel has been assessed a criminal or administrative penalty in the past three (3) years of this section or § 3.25 of this Part (River herring) or more than one (1) marine fisheries violation.
- D. River Herring Bycatch Allowance: Vessels possessing a federal Atlantic herring permit fishing in federal waters may transit Rhode Island state waters and make a landing in possession of alewives, or blueback herring, *Alosa aestivalis* (river herring) provided that the count of the combined river herring is five percent (5%) or less than the count of Atlantic herring onboard the vessel.
1. The percentage of River herring in the catch will be assessed by sorting and counting a batch of fish taken from the catch of Atlantic herring on board the vessel or being landed by the vessel. This determination as to the percentage of River herring in the catch shall be accomplished by filling a container as defined herein, with a portion of the catch and examining the contents of said container. The percentage of river herring in said container shall be deemed to be representative of the percentage of River herring in the catch as a whole for purposes of a determination as to whether a vessel is in compliance with the requirements of this section.
 2. A batch of fish is defined as all fish in a separate container.
 3. A container is defined as any box, tote, bag, bucket or other receptacle capable of retaining at least twenty-five (25) gallons of loose fish which may be separated from the total catch of Atlantic herring being landed.
- E. Atlantic Herring Processing: No person may process Atlantic herring for purposes other than human consumption. Direct mealing of Atlantic herring is prohibited.
- F. Vessel restrictions: No vessel harvesting Atlantic herring in the Atlantic coast herring fishery shall exceed one hundred sixty-five feet (165') in length overall, and three thousand (3,000) horsepower.

3.16 Atlantic Salmon

The harvest, landing, or possession of Atlantic salmon in the marine waters of Rhode Island is prohibited.

3.17 Atlantic Sturgeon

The harvest, landing, or possession of Atlantic sturgeon in the marine waters of Rhode Island is prohibited.

3.18 Bluefish

3.18.1 Recreational

- A. Minimum size: No minimum size.
- B. Season: January 1 through December 31.
- C. Possession limit: Three (3) fish per person per calendar day.
 - 1. Licensed Party and Charter vessels possession limit: Five (5) fish per person per calendar day.

3.18.2 Commercial

- A. Minimum size: Eighteen inches (18”).
- B. Seasons and possession limits:
 - 1. January 1 through April 30: One thousand (1,000) pounds per vessel per bi-week.
 - 2. May 1 through ~~second Saturday in~~ November 15: Six thousand (6,000) pounds per vessel per week.
 - 3. ~~Second Sunday in~~ November 16 through December 31: Five hundred (500) pounds per vessel per week.

3.19 Coastal Sharks

3.19.1 Recreational

- A. Prohibited species. Taking or possessing any of the following shark species is prohibited: Sandbar, Silky, Sand tiger, Bigeye sand tiger, Whale, Basking, White, Dusky, Bignose, Galapagos, Night, Reef, Narrowtooth, Caribbean sharpnose, Smalltail, Atlantic angel, Longfin mako, Bigeye thresher, Sharpnose sevengill, Bluntnose sixgill, and Bigeye sixgill.
- B. Landings requirements: No person fishing recreationally shall possess or land sharks that do not have heads, tails, and fins attached naturally to the carcass. Sharks may be gutted and bled by making an incision at the base of the caudal peduncle provided the tail is not removed. No person fishing recreationally shall fillet a shark at sea or otherwise cut a shark into pieces at sea.
- C. Minimum size:
 - 1. Smooth Dogfish, Atlantic sharpnose, Finetooth, Blacknose, and Bonnethead shark: No minimum size.
 - 2. Tiger, Blacktip, Spinner, Bull, Lemon, Nurse, Porbeagle, Common thresher, Oceanic whitetip, and Blue shark: Minimum fork length is fifty-four inches (54”).

3. Scalloped hammerhead, Smooth hammerhead, and Great hammerhead shark: Minimum fork length is seventy-eight inches (78”).
 4. Shortfin Mako:
 - a. Females: Minimum fork length is eighty-three inches (83”).
 - b. Males: Minimum fork length is seventy-one inches (71”).
- D. Shore-based possession limits:
1. One (1) shark per person per calendar day, with one (1) additional bonnethead and one (1) additional Atlantic sharpnose shark per person per calendar day.
 2. Smoothhound sharks: Unlimited.
- E. Vessel-based possession limits:
1. One (1) shark per vessel per calendar day, or per trip per calendar day, whichever is less, regardless of the number of people on board the vessel, with one (1) additional bonnethead and one (1) additional Atlantic sharpnose shark per vessel per calendar day, or per trip per calendar day, whichever is less.
 2. Smoothhound sharks: Unlimited.
 3. Sharks that are transported by vessel are considered “boat assisted” and “vessel-based” regardless of how or where they were caught.
- F. Authorized gear: No person fishing recreationally shall take sharks by any method other than rod and reel or handline. Handlines are defined as a mainline to which no more than two (2) gangions or hooks are attached; retrieved by hand, not by mechanical means; and attached to, or in contact with, a vessel.
1. Any vessel using Rod and Reel, must adhere to the following:
 - a. Use corrodible circle hooks, ~~which are defined as non-offset hooks with the point turned perpendicularly back to the shanks~~; and
 - b. Maximize gear removal, as safely as possible, when releasing sharks.

3.19.2 Commercial

- A. Commercial species groups: Coastal sharks are grouped into commercial species groups as follows:

1. Prohibited: Sand tiger, Bigeye sandtiger, Whale, Basking, White, Dusky, Bignose, Galapagos, Night, Reef, Narrowtooth, Caribbean sharpnose, Smalltail, Atlantic angel, Longfin mako, Bigeye thresher, Sharpnose sevengill, Bluntnose sixgill, Blacknose, and Bigeye sixgill shark.
 2. Research: Sandbar shark.
 3. Smoothhound: Smooth dogfish and Florida smoothhound shark.
 4. Non-Blacknose Small Coastal: Atlantic sharpnose, Finetooth, and Bonnethead shark.
 5. Blacknose: Blacknose shark.
 6. Aggregated Large Coastal: Silky, Tiger, Blacktip, Spinner, Bull, Lemon, and Nurse shark.
 7. Hammerhead: Scalloped hammerhead, Great hammerhead, and Smooth hammerhead shark.
 8. Pelagic: Shortfin mako, Porbeagle, Common thresher, Oceanic whitetip, and Blue shark.
- B. Prohibited species: Taking or possessing any of the species of sharks in the Prohibited and Research species groups is prohibited:
- C. Fishing year: January 1 through December 31.
- D. Quota specification:
1. Smoothhound sharks: A total annual statewide quota will be established for the State by the ASMFC and/or NOAA Fisheries.
 2. Species groups other than Smoothhound sharks will be established annually by the ASMFC and/or NOAA Fisheries.
- E. Seasons: Seasonal periods for commercial shark fisheries may be established annually either through NOAA Fisheries, ASMFC, or DEM.
- F. Possession limit:
1. Smoothhound, Non-Blacknose Small Coastal, and Pelagic shark species groups: Unlimited.
 2. Aggregated Large Coastal and Hammerhead species groups: Twenty-five (25) sharks per vessel per day, adjusting to between fifty-five (55) and zero (0) sharks per vessel per day during the fishing year as determined by NOAA Fisheries.

3. It shall be unlawful for any person to possess any species of shark in state waters when NOAA Fisheries prohibits the possession of that species in federal waters.
- G. Display and research of sharks: No person shall possess, transport, sell or offer to sell any of the shark species listed in the Prohibited and Research Species groups without a valid state collector's permit obtained from the Director. Any person so authorized shall:
1. Report to the Director within thirty (30) days of possession the species identification, length, weight, date, and location where caught by latitude and longitude coordinates, and the gear used; and
 2. For each shark taken for live display, the holder of the permit shall also report to the Director annually by December 31 for the life of the shark. The report shall include all of the information specified in the original report to the Director pertaining to the sharks, as well as updated information on the length and weight of the shark.
- H. Authorized sale: No person shall sell any shark species to a person or dealer who does not possess a Rhode Island commercial dealer license, and a federal Commercial Shark Dealer Permit issued by the NOAA Fisheries.
- I. Authorized commercial gear: No person shall take or possess sharks using any method other than the following gear types:
1. Rod & reel. Any vessel using Rod and Reel, must adhere to the following:
 - a. Use corrodible circle hooks, ~~which are defined as non-offset hooks with the point turned perpendicularly back to the shanks~~; and
 - b. Maximize gear removal, as safely as possible, when releasing sharks.
 2. Handlines, which are defined as a mainline to which no more than two (2) gangions or hooks are attached. A handline is retrieved by hand, not by mechanical means, and must be attached to, or in contact with, a vessel;
 3. Small mesh gillnets which are defined as having a stretch mesh size smaller than five inches (5");
 4. Large mesh gillnets which are defined as having a stretch mesh size equal to or greater than five inches (5"). Any vessel using large-mesh gillnets, must use nets that are shorter than two and one-half (2.5) kilometers;
 5. Trawl nets;

6. Shortlines which are defined as fishing lines containing fifty (50) or fewer hooks and measuring less than five hundred (500) yards in length. A maximum of two (2) shortlines shall be allowed per vessel. Any vessel using a shortline shall adhere to the following:
 - a. Use corrodible circle hooks, ~~which are defined as non-offset hooks with the point turned perpendicularly back to the shanks~~; and
 - b. Practice the protocols, and possess the federally required release equipment, for pelagic and bottom longlines for the safe handling, release, and disentanglement of sea turtles and other non-target species; and
 - c. All captains and vessel owners must be certified in using, handling and release equipment. Captains and vessel owners can become certified by attending a Protected Species Safe Handling, Release, and Identification Workshop offered by NOAA Fisheries.
 7. Pound nets/fish traps;
 8. Weirs.
- J. Prohibition of finning: Finning is defined as the act of taking a shark and removing its fins. Finning of sharks is prohibited in all state waters. All sharks, with the exception of smoothhound, possessed by commercial fishermen within state boundaries must have the tails and fins attached naturally to the carcass until landed. Fins may be cut as long as they remain attached to the carcass, by natural means, with at least a small portion of uncut skin. Sharks may be gutted and bled provided the tail is not removed. Sharks taken and possessed by commercial fishermen may have the heads removed, but no commercial fisherman shall fillet a shark at sea or otherwise cut a shark into pieces at sea.
1. Commercial fishermen may eviscerate and remove the head and all shark fins of smooth dogfish while at sea provided smooth dogfish make up at least twenty-five percent (25%), by weight, of total catch on board at the time of landing. Trips that do not meet the twenty-five percent (25%) catch composition requirement can land smooth dogfish, but the fins must remain naturally attached to the carcass. If fins are removed, the total wet weight of the shark fins may not exceed twelve percent (12%) of the total dressed weight of smoothhound carcasses landed or found on board a vessel. Commercial fishermen may retain other sharks on board provided the fins of other shark species remain naturally attached to the carcass through offloading.

3.20 Cod

3.20.1 Recreational

- A. Minimum size: ~~The minimum size in state waters is equal to the minimum size in federal waters, Outside Gulf of Maine (GOM) Regulated Mesh Area, as codified at 50 C.F.R. § 648.89(b) Twenty-one inches (21").~~
- B. Possession limit: 10 fish per person per day ~~The possession limit in state waters is equal to the possession limit in federal waters for Georges Bank (GB) Cod, as codified in 50 C.F.R. § 648.89(c).~~

3.20.2 Commercial

- A. Minimum size: Nineteen inches (19").
- B. Fishing year: May 1 through April 30.
- C. Possession limit:
 - 1. One thousand (1,000) pounds per vessel per calendar day for any vessel fishing in state waters. The possession limit may be modified on the basis of a RI state water cod quota as set by DEM, which shall be equal to one percent (1%) of the federal Georges Bank cod annual catch limit (ACL) for the given fishing year. When ninety percent (90%) of the state water quota has been harvested as determined by the DEM, the possession limit will decrease to seventy-five (75) pounds of cod per vessel per calendar day for the remainder of the fishing year.
 - 2. Vessels in possession of a federal permit authorizing the commercial harvest of cod in federal waters may harvest, possess, or land cod in state waters in the amount equal to the federal regulations.

3.21 Haddock

3.21.1 Recreational

- A. Minimum size: Eighteen inches (18").
- B. Fishing year: ~~The recreational haddock fishery shall operate on a~~ May 1 through April 30 ~~fishing year.~~
- C. Possession limit: Unlimited.
 - 1. ~~There is no recreational possession limit for Haddock provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of haddock.~~
 - 2. ~~Vessels in possession of a federal permit authorizing the recreational harvest of haddock in federal waters may harvest, possess, or land haddock in state waters in the amount equal to the federal regulations.~~

3.21.2 Commercial

- A. Minimum size: Sixteen inches (16").
- B. Fishing year: May 1 through April 30.
- C. Possession limit:
 - 1. There is no commercial possession limit for Haddock provided the vessel is fishing in state waters and does not have a federal permit authorizing the commercial harvest of Haddock.
 - 2. Vessels in possession of a federal permit authorizing the commercial harvest of haddock in federal waters may harvest, possess, or land haddock in state waters in the amount equal to the federal regulations.

3.22 Menhaden

3.22.1 Recreational

- A. Minimum size: No minimum size.
- B. Season: January 1 through December 31.
- C. Possession limit:
 - 1. Less than or equal to four inches (4") in total length: Unlimited.
 - 2. Greater than four inches (4") in total length: Two hundred (200) fish/person/day.

3.22.2 Commercial

- A. Menhaden Management Area: Narragansett Bay in its entirety is designated a Menhaden Management Area pursuant to R.I. Gen. Laws § 20-4.1-1. This area shall include the east and west passages of Narragansett Bay, Mt. Hope Bay, and the Sakonnet River, and be bordered on the south by a line from Bonnet Point to Beavertail Point to Castle Hill Light. The southern boundary further extends from Land's End to Sachuest Point and then to Sakonnet Light. The following regulations govern all commercial menhaden operations conducted in the Menhaden Management Area (Management Area).
 - 1. Opening and closure of fishery:
 - a. Fishery opening - possession limits:
 - (1) Biomass Floor: On an annual basis in the spring, the DEM shall conduct regular estimates of the standing stock of menhaden utilizing approved scientific monitoring methods.

On the basis of those estimates, DEM shall open the commercial fishery at an initial possession limit of one hundred twenty thousand (120,000) pounds per vessel per calendar day when the estimated weekly standing stock reaches two million (2,000,000) pounds.

b. Fishery closure:

- (1) Biomass Ceiling: When fifty percent (50%) of the estimated standing stock of menhaden, above the minimum threshold amount of one million five hundred thousand (1,500,000) pounds, is harvested, the DEM shall close the menhaden fishery until further notice.
- (2) If at any time the stock estimate drops below one million five hundred thousand (1,500,000) pounds, the DEM shall close the commercial fishery and the incidental catch fishery will be in effect until further notice.

c. Fall opening in the Menhaden Management Area:

- (1) Beginning September 1, the area south of a line extending from the Jamestown and Newport Bridges, and the area south of a line extending from Fogland Point to Sandy Point in the Sakonnet River, to the southern extent of the Management Area, will be open to the harvest of menhaden by purse seine provided that the state's quota has not been exhausted or if the Episodic Event Set Aside Program has been enacted in RI.
- (2) Possession limit: Twenty-five thousand (25,000) pounds per vessel per day.

2. Commercial Vessel restrictions:

- a. This section does not apply to small scale fisheries as defined in § 3.22.2(D)(1)(b) of this Part, or floating fish traps.
- b. The use of purse seines shall be permitted only in accordance with the following terms and conditions:
 - (1) All nets shall be less than one hundred (100) fathoms (600 feet) in length and less than fifteen (15) fathoms (90 feet) in depth.
 - (2) All nets shall be marked with fluorescent-colored float buoys, distinguishable from the other float buoys on the net, at intervals of fifty feet (50').

(3) Annually, prior to use, all nets shall be inspected and certified as being in conformance with the provisions of this section by the DEM Division of Law Enforcement (DLE). Once inspected and certified, a net may be used throughout the duration of the calendar year in which it was inspected, provided that it is not altered with regard to any of the provisions of this section. Any net that is altered with regard to any of the provisions of this section must be re-inspected and recertified prior to use.

c. The possession or taking of menhaden by a fishing vessel engaged in the commercial menhaden fishery is prohibited in the following areas:

(1) Providence River: Described as the waters north of a line extending from Rocky Point to Conimicut Light in the city of Warwick, and further extending to Nayatt Point in the town of Barrington.

(2) Greenwich Bay: Described as the waters of Greenwich Bay west and north of a line extending from the flagpole on Warwick Point to Sandy Point in the city of Warwick.

d. The possession or taking of menhaden by a fishing vessel engaged in the commercial menhaden fishery is prohibited on any Saturday, Sunday, official state holiday, or prior to sunrise or following sunset.

e. Fish storage capacity: A fishing vessel engaged in the commercial menhaden fishery may not have a useable fish storage capacity greater than one hundred twenty thousand (120,000) pounds. Prior to the commencement of fishing, for any vessel not previously certified through this process, each vessel must be inspected by a certified marine surveyor and assessed with regard to its fish storage capacity. Such certification must be kept aboard the vessel at all times. Vessels must either be certified as having a useable storage capacity of one hundred twenty thousand (120,000) pounds or less, or for vessels with a fish storage capacity greater than one hundred twenty thousand (120,000) pounds the excess capacity is rendered unusable in accordance with the specifications set forth in the assessment.

B. Possession of menhaden in RI under State Quota Program:

1. Possession limit: One hundred twenty thousand (120,000) pounds per vessel per day.

2. Once the quota has been reached, the fishery will close for directed fisheries, including but not limited to purse seine operations, and the incidental catch fishery will be in effect.
3. All commercial menhaden operations conducted in the Management Area, prior to and after the State's quota has been reached, are subject to the provisions of § 3.22.2(A) of this Part.
4. The transiting provision in § 1.6(C)(1)(b) of this Subchapter does not apply to the commercial menhaden fishery. Any vessel transiting state waters must abide by the current state possession limit

C. Episodic Event Set Aside Program:

1. After the State's quota has been reached, if RI is approved to participate in the Episodic Event Set Aside Program for Menhaden, as established by the ASMFC, the possession limit for menhaden will be one hundred twenty thousand (120,000) pounds per vessel per day, until the Set Aside quota has been exhausted, as determined by the ASMFC and/or the DEM, at which time the program will end and the directed fishery will close. Vessels that target and land menhaden in RI under this program must harvest only from RI waters and, if operating in the Management Area, must adhere to all the provisions as specified in § 3.22.2(A) of this Part.
2. The Episodic Event Set Aside Program will end on October 31, or when the Set Aside quota has been harvested, whichever first occurs.

D. Incidental catch Fishery:

1. Upon closure of the commercial menhaden fishery, an incidental catch fishery will be in effect as follows:
 - a. Possession limit:
 - (1) Six thousand (6,000) pounds/vessel/day for non-directed and small-scale gears.
 - (2) Twelve thousand (12,000) pounds/vessel/day for two (2) commercially licensed individuals harvesting from the same vessel, fishing stationary multi-species gear.
 - b. Gear Types:
 - (1) Non-directed: Anchored/stake gillnets, trawls, fyke nets, and floating fish traps.

- (2) Small-scale: Cast nets, pots, hook and line, hand lines, trammel nets, and bait nets.
- (3) Stationary multi-species: Anchored/stake gillnets, floating fish traps, and fyke nets.

E. Commercial vessel reporting requirements:

1. This section does not apply to small scale fisheries as defined in § 3.22.2(D)(1)(b) of this Part, or floating fish traps.
2. Any fisher intending to engage in the commercial menhaden fishery in the Management Area shall notify the DLE at (401) 222-3070 prior to taking or possessing menhaden. At the time that a fisher advises the DLE of his/her intent to harvest menhaden, the DLE shall notify said fisher of any modification which may have been established in the possession limit for menhaden.
3. Each person engaging in the commercial menhaden fishery shall contact the DEM at (401) 423-1940 at the end of each day to report the area fished and the amount of menhaden in possession by the fisher in pounds.

F. Prohibition on the harvesting of menhaden for reduction processing: The taking of menhaden for reduction (fish meal) purposes is prohibited in Rhode Island waters. A vessel will be considered in the reduction (fish meal) business if any portion of the vessel's catch is sold for reduction.

G. No person may transfer or attempt to transfer at sea, from one vessel to another, any finfish identified in these regulations.

H. Possession limit compliance: It shall be unlawful for any commercial menhaden operation to land more than one (1) possession limit per day.

3.23 Monkfish

3.23.1 Recreational

- A. Minimum size: Seventeen inches (17") total length or eleven inches (11") tail length.
- B. Possession limit: Fifty (50) pounds tail weight, or one hundred sixty-six (166) pounds whole weight per vessel per calendar day. Whole weight is defined as the weight of monkfish that are gutted (i.e. stomach, liver, and other entrails removed) and have the head and tail attached.

3.23.2 Commercial

- A. Minimum size: Seventeen inches (17") total length or eleven inches (11") tail length.
- B. Fishing year: May 1 through April 30.
- C. Possession limit:
 - 1. Non-federally permitted RI licensed vessel: Four thousand nine hundred (4,900) pounds tail weight or fourteen thousand two hundred fifty nine (14,259) pounds whole weight per vessel per week. Whole weight is defined as the weight of monkfish that are gutted (i.e. stomach, liver, and other entrails removed) and have the head and tail attached. In SAFIS landing monkfish in the "whole" is reported using the grade "gutted, head on, tail on."
 - a. The possession of monkfish livers may not exceed the number of gutted-fish and tails combined.
 - b. The possession of monkfish heads may not exceed the number of gutted-head-off-fish and tails combined.
 - 2. The possession limit may be modified on the basis of a RI state water monkfish quota as set by DEM, which shall be equal to three percent (3%) of the federal Southern Management Area (SMA) Total Allowable Landings (TAL) as specified by NOAA Fisheries. When two percent (2%) of the SMA TAL has been harvested as determined by the DEM, the possession limit will decrease to fifty (50) pounds tail weight or one hundred sixty-six (166) pounds whole weight per vessel per calendar day for the remainder of the fishing year.
- D. Vessels in possession of a federal permit authorizing the harvest of monkfish may harvest monkfish in state waters if and only if they are operating during a previously and properly declared Day At Sea; in such instances, such vessels may harvest monkfish in the amount authorized to be possessed pursuant to federal regulations.

3.24 Pollock

3.24.1 Recreational

- A. Minimum size: Nineteen inches (19").
- B. Fishing year: May 1 through April 30.
- C. Possession limit: Unlimited.

- ~~1. There is no recreational possession limit for Pollock provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of Pollock.~~
- ~~2. Vessels in possession of a federal permit authorizing the recreational harvest of Pollock in federal waters may harvest, possess, or land Pollock in state waters in the amount equal to the federal regulations.~~

3.24.2 Commercial

- A. Minimum size: Nineteen inches (19”).
- B. Fishing year: May 1 through April 30.
- C. Possession limit:
 1. There is no commercial possession limit for pollock provided the vessel is fishing in state waters and does not have a federal permit authorizing the commercial harvest of pollock.
 2. Vessels in possession of a federal permit authorizing the commercial harvest of pollock in federal waters may harvest, possess, or land pollock in state waters in the amount equal to the federal regulations.

3.25 River Herring

The harvest, landing, or possession of River herring in the marine waters of Rhode Island is prohibited.

3.26 Skate

3.26.1 Recreational

- A. Possession limit: Ten (10) fish per person per day.

3.26.2 Commercial

- A. Fishing year: May 1 through April 30.
- B. State-waters skate wing fishery: Shall be defined as skate harvested, possessed, or landed by a vessel:
 1. Fishing in state waters, not on a previously declared Day At Sea (DAS), and without an active federal open-access skate permit; and
 2. For food for human consumption with a designated ACCSP Disposition Code 001 = Food.

3. Minimum size: No minimum size.
 4. Possession limit: Thirty-five thousand (35,000) pounds per vessel per week for wings only; or seventy-nine thousand four hundred fifty (79,450) pounds per vessel per week for whole skate.
 - a. Barndoor skate shall not comprise more than twenty-five percent (25%) of total skate wing by weight per vessel per day at the time of landing.
 - b. Barndoor skate shall be kept separate from other species harvested.
 - c. When in possession of barndoor skate, vessels are prohibited from discarding any skate species that has been winged.
- C. Skate bait fishery: Shall be defined as skate harvested, possessed, or landed by a vessel:
1. Fishing in state waters, not on a previously declared DAS, without an active federal open-access skate permit, and without a federal skate bait Letter of Authorization (LOA); and
 2. For use as bait with a designated ACCSP Disposition Code 008 = Bait.
 3. Maximum length: Whole skates must measure less than twenty-three inches (23") total length.
 4. Seasons and possession limits:
 - a. May 1 through July 31: Twenty-five thousand (25,000) pounds whole skate per vessel per day. When NOAA Fisheries determines that ninety percent (90%) of a bait skate TAL for sub-period I is landed, the possession limit will be reduced to an incidental catch limit of eight thousand (8,000) pounds whole skate.
 - b. August 1 through October 31: Twenty-five thousand (25,000) pounds whole skate per vessel per day. When NOAA Fisheries determines that ninety percent (90%) of a bait skate TAL for sub-period II is landed, the possession limit will be reduced to an incidental catch limit of eight thousand (8,000) pounds whole skate.
 - c. November 1 through April 30: Twelve thousand (12,000) pounds whole skate per vessel per day. When NOAA Fisheries determines that eighty percent (80%) of a bait skate TAL for sub-period III is landed, the possession limit will be reduced to an incidental catch limit of eight thousand (8,000) pounds whole skate.

- d. Possession limit adjustments: Following the implementation of the incidental catch limit, additional adjustments may be enacted, in accordance with actions by NOAA Fisheries.
 - (1) To ensure the skate bait fishery does not exceed its seasonal or annual TAL, the fishery will close when NOAA determines that one hundred percent (100%) of the skate bait TAL for a season is to be harvested.
 - (2) To achieve the seasonal or annual TAL, incidental possession limits may be lifted, reinstating the standard seasonal possession limit.

3.26.3 Prohibited species

The harvest, landing, or possession of thorny skate in the marine waters of Rhode Island is prohibited.

3.27 Spiny Dogfish

3.27.1 Commercial

- A. Seasons, allocations, and possession limit: RI is currently designated as a state that is part of the Northern region. A Northern region possession limit and quota for spiny dogfish will be established annually by the ASMFC. The Northern region quota for spiny dogfish shall be the most recent allocation by the ASMFC, which is currently set at fifty-eight percent (58%) of the coastwide quota.
 - 1. Season: May 1 through April 30.
 - 2. Possession limit: Six thousand (6,000) pounds per vessel per calendar day. When notified that the quota in the Northern region has been harvested, or projected to be harvested, as determined by the NOAA Fisheries or the ASMFC, the DEM shall close the fishery for the remainder of the designated period.
 - 3. DEM is hereby authorized to enter into agreements with the other Northern Region States for the purpose of establishing seasons and possession limits governing the taking of spiny dogfish, and may make adjustments as deemed necessary to comply with said agreements. DEM will consult with the Rhode Island state-water spiny dogfish fishers prior to negotiating the subject agreements.
- B. Prohibition of Finning: Finning is defined as the act of taking a spiny dogfish, removing the fins, and returning the remainder of the spiny dogfish to the sea. Finning spiny dogfish is prohibited in state waters. In addition, removing any fin of spiny dogfish at-sea is prohibited (including the tail). All spiny dogfish must be

landed with fins-naturally-attached to the corresponding carcass. Gutting fish at-sea is permitted, so long as the fins remain attached by a portion of uncut skin.

3.28 Yellowtail Flounder

3.28.1 Recreational

- A. Minimum size: Thirteen inches (13”).
- B. Fishing year: May 1 through April 30.
- C. Possession Limit: Unlimited.

~~1. There is no recreational possession limit for Yellowtail flounder provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of Yellowtail flounder.~~

~~2. Vessels in possession of a federal permit authorizing the recreational harvest of Yellowtail flounder in federal waters may harvest, possess, or land Yellowtail flounder in state waters in the amount equal to the federal regulations.~~

3.28.2 Commercial

- A. Minimum size: Twelve inches (12”).
- B. Fishing year: May 1 through April 30.
- C. Possession Limit:
 - 1. There is no commercial possession limit for Yellowtail flounder provided the vessel is fishing in state waters and does not have a federal permit authorizing the commercial harvest of Yellowtail flounder.
 - 2. Vessels in possession of a federal permit authorizing the commercial harvest of Yellowtail flounder in federal waters may harvest, possess, or land Yellowtail flounder in state waters in the amount equal to the federal regulations.

3.29 Weakfish

3.29.1 Recreational

- A. Minimum size: Sixteen inches (16”).
- B. Season: January 1 through December 31.
- C. Possession limit: One (1) fish per person per calendar day.

3.29.2 Commercial

- A. Minimum size: Sixteen inches (16”).
- B. Seasons and possession limits:
 - 1. June 1 through June 30: One hundred (100) pounds per vessel per calendar day.
 - 2. August 7 through November 8: One hundred (100) pounds per vessel per calendar day.
 - 3. At all other times, the possession limit is one hundred (100) pounds per vessel per calendar day as ~~bycatch~~ incidental catch only with an equivalent poundage of other species required to be on board the vessel. Provided, however, that the commercial hook and line fishery is not permitted ~~a bycatch~~ an incidental catch allowance.
- C. For directed trawl operations, cod end mesh size must be \geq four and one-half inches (4.5”) diamond or four inch (4.0”) square.

3.30 Winter Flounder

3.30.1 Recreational

- A. Minimum size: Twelve inches (12”).
- B. Season: March 1 through December 31.
- C. Possession limit: Two (2) fish per person per calendar day in Rhode Island waters.
- D. Closed Areas: The harvest or possession of Winter flounder is prohibited in Narragansett Bay north of the Colregs line; Potter Pond; Point Judith Pond; and the Harbor of Refuge.

3.30.2 Commercial

- A. Minimum Size: Twelve inches (12”).
- B. Season: January 1 through December 31.
- C. Possession limit: Fifty (50) pounds per vessel per day.
- D. Closed Areas: The harvest or possession of Winter flounder is prohibited in Narragansett Bay north of the Colregs line; Potter Pond; Point Judith Pond and the Harbor of Refuge.
- E. Minimum mesh size:

1. Bottom trawl nets: Six inch (6") diamond mesh or six and one half inch (6.5") square mesh applied throughout the body and extension of the net, or any combination thereof, and six and one half inch (6.5") diamond mesh or six and one half inch (6.5") square mesh applied to the cod end of the bottom trawl nets.
 2. Gill nets: Six and one half inch (6.5") diamond mesh or six and one half inch (6.5") square mesh applied throughout the net. Vessels may utilize commercial fishing gear with mesh smaller than the sizes referenced in this section provided they do not possess any Winter flounder.
 - a. For vessels greater than forty-five feet (45') in length overall, a diamond mesh cod end is defined as the first fifty (50) meshes counting from the terminus of the net, and a square mesh cod end is defined as the first one hundred (100) bars counting from the terminus of the net.
 - b. For vessels forty-five feet (45') or less in length overall, a diamond mesh cod end is defined as the first twenty-five (25) meshes counting from the terminus of the net, and a square mesh cod end is defined as the first fifty (50) bars counting from the terminus of the net.
- F. With the exception of gillnets and fyke nets, fishing for Winter flounder in waters north of the seaward entrance to all coastal salt ponds, (with the exception of Point Judith Pond and the Harbor of Refuge where the harvest or possession of winter flounder is prohibited), including the waters of Narrow River, and the waters of Little Narragansett Bay north of a line from Napatree Point to the western end of Sandy Point, including the waters of the Pawcatuck River, will be prohibited from one hour after sunset until one hour before sunrise. Gillnets and fyke nets may not be hauled from one hour after sunset to one hour before sunrise.

3.31 Witch Flounder

3.31.1 Recreational

- A. Minimum size: Fourteen inches (14").
- B. Fishing year: May 1 through April 30.
- C. Possession Limit: Unlimited.

~~1. There is no recreational possession limit for Witch flounder provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of Witch flounder.~~

~~2. Vessels in possession of a federal permit authorizing the recreational harvest of Witch flounder in federal waters may harvest, possess, or land Witch flounder in state waters in the amount equal to the federal regulations.~~

3.31.2 Commercial

- A. Minimum size: Thirteen inches (13”).
- B. Fishing year: May 1 through April 30.
- C. Possession limit:
 - 1. There is no commercial possession limit for Witch flounder provided the vessel is fishing in state waters and does not have a federal permit authorizing the commercial harvest of Witch flounder.
 - 2. Vessels in possession of a federal permit authorizing the commercial harvest of Witch flounder in federal waters may harvest, possess, or land Witch flounder in state waters in the amount equal to the federal regulations.

3.32 Ocean Pout

The harvest, landing, or possession of Ocean pout in the marine waters of Rhode Island is prohibited.

3.33 Atlantic Wolffish

The harvest, landing, or possession of Atlantic wolffish in the marine waters of Rhode Island is prohibited.

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Title of Rule: Shellfish (250-RICR-90-00-4)

Rule Identifier: 250-RICR-90-00-4

Rulemaking Action: Proposed Amendment

Important Dates:

Date of Public Notice: 05/01/2020

End of Public Comment: 05/31/2020

Authority for this Rulemaking:

R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42.17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws Chapter 42-35, Administrative Procedures Act.

Summary of Rulemaking Action:

1. **Whelk minimum size (section 4.9(G)):**

- Option 1: Remove length as a minimum size measurement metric and add language and diagram to clarify how to measure width.
- Option 2: Remove both length and width as minimum size measurement metrics and replace with shell height; add language and diagram to clarify how to measure height.

2. **Clarification of boundary descriptions of Shellfish Management Areas (sections 4.12.2(A) through (V)):** Proposed addition of coordinates (latitude and longitude decimal degrees) to Shellfish Management Areas boundary descriptions and minor changes in instances when landmarks used in the descriptions have changed (e.g., landmark is no longer present).

3. **Change "bycatch" to "incidental catch" for Sakonnet River bay quahaug possession limit (section 4.12.2J)(2):** Change proposed consistent with proposed addition of term "incidental catch" in Part 1, and changes to sections 3.29.2(B)(3) and 5.8.1(L)(1). Propose change is non-substantive in nature, meant to clarify only.

4. Other non-substantive clarifications.

Additional Information and Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until May 31, 2020 by contacting the appropriate party at the address listed below:

Peter Duhamel
Department of Environmental Management
3 Fort Wetherill Road
Jamestown, RI 02835
peter.duhamel@dem.ri.gov

In accordance with R.I. Gen. Laws § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

Regulatory Analysis Summary and Supporting Documentation:

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

For full regulatory analysis or supporting documentation see agency contact person above.

Proposed/annotated amendments

Note: Proposed new language is identified as red, underline; proposed language to be deleted is identified as ~~red-stricken~~.

250-RICR-90-00-4

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 4 – Shellfish

4.1 Purpose

The purpose of these Rules and Regulations is to manage the marine resources of Rhode Island.

4.2 Authority

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws Chapter 42-35, Administrative Procedures Act.

4.3 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.

4.4 Definitions

See Marine Fisheries Definitions, [Part 1 of this Subchapter](#).

4.5 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.

4.6 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

these regulations 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.

4.7 General Provisions

- A. Recreational harvest: Shellfish harvested recreationally shall not be sold or offered for sale.
- B. No person shall take shellfish from waters declared polluted by the Director pursuant to R.I. Gen. Laws § 20-8.1-3 unless authorized by the Director (ref. R.I. Gen. Laws § 20-8.1-5). This sub-section shall not apply to the harvest of Whelk or Bay scallop. For the water quality status of shellfish grounds subject to conditional closures or emergencies call 401-222-2900. (R.I. Gen. Laws Chapter 20-8.1)
- C. Night shellfishing prohibited: The harvesting of shellfish is prohibited during the hours between sundown and sunrise (R.I. Gen. Laws § 20-6-23).
- D. Opening shellfish on water: No person shall possess the meats of six (6) or more shellfish while shellfishing on the waters of the State, or throw the shells of open bay scallops onto bay scallop beds (R.I. Gen. Laws § 20-6-21).
- E. Whelk – general provisions:
 - 1. Mutilation and/or possession of whelk meat; cooked or uncooked: Prior to landing of any whelk, no person shall mutilate any cooked or uncooked whelk by breaking and removing the meat from the shell or have in his or her possession any part or parts of any uncooked whelk so mutilated. In any and all prosecutions under this sub-section, the possession of any part or parts of any cooked or uncooked whelk so mutilated shall be prima facie evidence sufficient to convict. All whelks are to be landed whole in the shell.
 - 2. Hauling or setting whelk pots at night: No person shall haul or unduly disturb any whelk pot within the territorial waters of this state between the hours of one (1) hour after sundown and one (1) hour before sunrise.
- F. License Required:
 - 1. Recreational harvest – R.I. resident: R.I. residents are not required to obtain a license for the recreational harvest of shellfish (R.I. Gen. Laws § 20-6-1).
 - 2. Recreational harvest – non-resident: A non-resident over the age of twelve (12) years wishing to take or possess shellfish recreationally in

Rhode Island waters must obtain shellfish license (R.I. Gen. Laws § 20-2-22):

- a. Annual: The fee for an annual shellfish license is two hundred dollars (\$200). This license will expire on the last day in February annually.
 - b. 14-day: The fee for a fourteen (14) day tourist license is eleven dollars (\$11). This license is valid for fourteen (14) consecutive days only, including the date of issue, and is limited to one (1) license per person per calendar year.
 - c. Non-resident landowner: A non-resident landowner may, with proof of residential property ownership in the form of a current tax bill from a town or city hall showing that the non-resident landowner is current in his or her property tax obligation, obtain an annual, non-commercial, non-resident shellfish license for a fee of twenty-five dollars (\$25) (R.I. Gen. Laws § 20-2-22(d)).
3. Commercial harvest: See specific requirements and conditions in DEM's [Part 2 of this Subchapter](#), Commercial and Recreational Saltwater Fishing Licensing Regulations.
- a. A commercially licensed fisherman shall only sell, barter, or trade shellfish taken from Rhode Island waters to a licensed shellfish dealer or multipurpose dealer.
 - b. A commercially licensed fisherman shall not sell, deliver, or otherwise transfer shellfish taken from Rhode Island waters to a licensed shellfish or multipurpose dealer without first presenting said dealer, a valid shellfish license issued by the DEM.

4.8 Equipment Provisions and Harvest Methods

- A. SCUBA prohibition: The taking of shellfish by the use of a self-contained underwater breathing apparatus (SCUBA) from Green Hill Pond, Quonochontaug Pond, Ninigret Pond, and Potter Pond is prohibited (R.I. Gen. Laws § 20-6-30).
- B. The use of a diving apparatus is prohibited while recreational shoredigging.
- C. Use of devices capable of harvesting shellfish while in polluted areas: No person shall work, cast, haul, or have overboard a dredge, pair of tongs, rake or rakes, air-assisted equipment, water-assisted equipment, or any other implement capable of harvesting shellfish, except for the taking of whelk in pots and the use of an implement commonly employed for the taking of bay scallops (within established bay scallop harvest seasons), in waters declared polluted by the Director (R.I. Gen. Laws § 20-8.1-6).

- D. Power hauling of tongs and bullrakes: Power hauling of tongs and bullrakes for any purpose other than the removal and retrieval of bullrakes and tongs from the benthic sediments is prohibited.
- E. Method of harvest of oysters, bay quahaugs, soft-shell clams: No person shall dig and/or take any oysters, bay quahaugs, or soft-shell clams from the waters of this State by dredge(s), rakes, or other apparatus operated by mechanical power or hauled by power boats, unless as provided for in these regulations.
- F. Dimensions for bullrakes and tongs when using power hauling equipment: No person shall use any power hauling equipment in the operation of bullrakes and tongs with dimensions exceeding the following:
1. Maximum width measured along a line parallel to the tooth bar: Thirty-one and one-half inches (31 ½") ~~inches~~;
 2. Maximum tooth length: Four and one-half inches (4 ½") ~~inches~~;
 3. Maximum basket depth: Twelve inches (12") ~~inches~~, measured along a line perpendicular to the tooth bar and extending from the tooth bar to any point on the basket.
 4. Possession of bullrakes and tongs in excess of these size restrictions shall be prohibited aboard vessels equipped with any power hauling equipment.
 5. Except as required for safety or to avoid property loss, no vessel involved in the harvest of bay quahaugs or oysters by use of bullrakes or tongs may be moved or propelled by any source of mechanical power at any time when any bullrakes or tongs operated from such vessel are submerged in the waters of the state.
- G. Tong construction: No person shall take shellfish, or attempt to take shellfish, or have in his possession while on the waters of this State, with tongs not meeting the following dimensions:
1. Minimum tooth gap: Not less than one inch (1") ~~inch~~ apart.
 2. Heads: Heads on the bar or heads constructed with wires, rods, cross-bars, or reinforcement that will form a rectangle shall not be less than one inch (1") ~~inch~~ by two and one half inches (2 ½") ~~inches~~.
 3. A tolerance of one sixteenth of an inch (1/16") ~~of an inch~~ is allowed.
- H. Bullrake construction: No person shall take shellfish, or attempt to take shellfish, or have in his possession while on the waters of this State, with a bullrake not meeting the following dimensions:
1. Minimum tooth or tine gap: Not less than one inch (1") ~~inch~~ apart.

2. Crossbars or reinforcement that will form a rectangle shall not be less than one inch (1") ~~inch~~ by two and one half inches (2 ½") ~~inches~~.
 3. A tolerance of one sixteenth of an inch (1/16") ~~of an inch~~ is allowed.
- I. Bay Quahaug diving basket construction: No commercially licensed diver shall take or attempt to take bay quahaugs from the waters of the State of Rhode Island with a diver's bay quahaug harvesting basket, bag, or combination of basket and bag, or similar device not meeting the following dimensions:
1. Bar spacing: Not less than one inch (1") ~~inch~~ by two and one half inches (2 ½") ~~inches~~. A tolerance of one sixteenth inch (1/16") ~~inch~~ is allowed.
 2. Bag mesh on the bay quahaug harvesting basket: Not less than two inches (2") ~~inches~~ when measured on the stretch (from inside of knot to inside of the knot). A tolerance of one eighth inch (1/8") ~~inch~~ for variance in the twine is allowed. The bag shall be hung on the square so that when held by the mouth, the twine forms fully opened squares.
- J. Dredging of bay scallops:
1. Maximum number of single dredges used: Six (6) single dredges.
 2. Maximum width of dredge blades: Twenty-eight inches (28") ~~inches~~.
 3. Maximum length of bag: Thirty-six inches (36") ~~inches~~.
 4. Each single dredge shall be towed and hauled aboard the registered vessel individually. All oysters, soft-shell clams, or bay quahaugs shall be immediately returned to the waters from which they were taken (R.I. Gen. Laws §§ 20-6-7 and 20-6-19).
 5. Areas where bay scallop dredging is prohibited: The use of bay scallop dredges is prohibited in closed areas of Shellfish Management Areas.
- K. Dredging of blue mussels:
1. When dredging for blue mussels, all bay scallops, oysters, or bay quahaugs shall be immediately returned to the waters from which they were taken (R.I. Gen. Laws § 20-6-7).
 2. Blue Mussel Dredging Permit: A permit issued from the Director is required for the commercial dredging for blue mussels. Applications shall be made annually on forms prescribed by the Director (R.I. Gen. Laws § 20-6-7).
- L. Dredging of surf clams and ocean quahaugs:

1. Surf clam gear restrictions:
 - a. Hydraulic dredging: The maximum width of a dredge blade, knife or manifold is forty-eight inches (48") ~~inches~~.
 - b. Multiple dredge restriction: It is unlawful for any vessel to operate more than one (1) dredge while harvesting for surf clams.
2. Areas prohibited for the dredging of surf clams or ocean quahaugs: All waters north of a line extending from Church Point in the town of Little Compton, to Flint Point in the town of Middletown; and north of a line extending from Castle Hill Point in the city of Newport, to Southwest Point in the town of Jamestown and to Bonnet Point in the town of Narragansett.
3. Tagging of cages: Shellfish cages must be tagged in accordance with the United States Food and Drug Administration/RIDOH regulations before being off-loaded in Rhode Island.

M. Dredging for sea scallops:

1. Maximum dredge size for a vessel in possession of sea scallops: Ten and one half feet (10 ½') ~~feet~~.
2. Minimum dredge ring size: Four inches (4") ~~inches~~.
3. The minimum mesh size of a net, net material or any other material on the top of a sea scallop dredge (twine top) possessed or used by vessels fishing with sea scallop dredge gear/net size of twine top is ten inch (10") ~~inch~~ square or diamond mesh.

4.9 Minimum Sizes

- A. Bay quahaug: One inch (1") shell thickness (hinge width) (R.I. Gen. Laws § 20-6-11).
- B. Soft-shell clam: Two inches (2") measured as the shell diameter or parallel to the long axis of the clam (R.I. Gen. Laws § 20-6-11).
- C. Oyster: Three inches (3") measured parallel to the long axis of the oyster (R.I. Gen. Laws § 20-6-11).
- D. Bay scallop: The taking or possession of a seed Bay scallop is prohibited. Seed bay scallops shall be immediately returned to their natural beds in the water from which taken (R.I. Gen. Laws § 20-6-17).
- E. Surf clam: Five inches (5") measured parallel to the long axis of the clam.

- F. Sea scallop: Three and one-half inches (3½"), measuring in a straight line from the hinge to the part of the shell furthest from the hinge, whether caught within the jurisdiction of this State or otherwise.

Whelk Minimum Size

Option 1: Remove length as a minimum size measurement metric and add language and diagram to clarify how to measure width:

- G. Whelk: Three inches (3") shell width ~~or five and three eighths inches (5 3/8") shell length.~~ Shell width shall be the distance between opposing shell margins with the shell resting flat on a horizontal surface with the operculum opening facing down and the whelk retracted inside the shell. The shell shall be oriented with one (1) shell edge abutted against a vertical surface that is perpendicular to the horizontal surface, and the columella axis parallel to the vertical surface. The measurement shall be a line extending perpendicular from the vertical surface to the farthest point on the opposing shell edge.

Option 2: Remove both length and width as minimum size measurement metrics and replace with shell height; add language and diagram to clarify how to measure height:

- G. Whelk: ~~Three inches (3") shell width or five and three eighths inches (5 3/8") shell length.~~ Two and nine-thirty-seconds inches (2 9/32") shell height. Shell height shall be the distance along a straight perpendicular line from the opercular side of the shell to the farthest point of the top of the shell. This distance is measured with the whelk retracted, and shell placed with the operculum stably positioned against a flat surface. To properly measure shell height using a gauge: Minimum legal shell height shall be the two and nine-thirty-seconds inches (2 9/32") distance between opposing parallel surfaces, measured with the whelk retracted and shell placed with the operculum stably positioned against one (1) of the parallel surfaces. The whelk is legal-sized if it does not fit between the opposing parallel surfaces.

4.10 Seasons

- A. Bay quahaug, soft-shell clam, blue mussel, sea scallop, whelk, surf clam, and ocean quahaug:
1. Open daily in waters other than Shellfish Management Areas, unless otherwise closed due to pollution or other management purposes.
- B. Oyster: September 15 through May 15 annually.
- C. Bay scallop:
1. Dip-netting from a boat: Open only from the first Saturday in November through December 31 annually.

2. Dredging: Open only from December 1 through December 31 annually.

4.11 Daily Possession Limits in Waters Other Than Shellfish Management Areas

A. Recreational – R.I. resident:

1. Bay quahaug, soft-shell clam, surf clam, blue mussel, and oyster: One half (½) bushel per person per day (R.I. Gen. Laws § 20-6-1).
2. Bay scallop: One **(1)** bushel per person per day (R.I. Gen. Laws § 20-6-1).
3. Whelk: One half (½) bushel per resident per day; and maximum of one **(1)** bushel per vessel per day.
 - a. Whelk pot limit: Maximum of five (5) whelk pots in the water at any one time.
4. Sea scallop: Forty (40) pounds shucked; or five **(5)** bushels of in-shell scallops per vessel per day.

B. Recreational – Licensed non-resident:

1. Bay quahaug, soft-shell clam, surf clam, blue mussel, and oyster: One **(1)** peck per person per day (R.I. Gen. Laws § 20-6-10).
2. Bay scallop: The harvest or possession of Bay scallops by non-residents is prohibited.

C. Whelk: The harvest or possession of whelk by non-residents is prohibited.

D. Sea scallop: Forty (40) pounds shucked; or five (5) bushels of in-shell scallops per vessel per day.

E. Commercial:

1. Bay quahaug:
 - a. Multi-purpose (MPURP) and Principal Effort License (PEL) holders: Twelve (12) bushels per person per day (R.I. Gen. Laws § 20-6-10).
 - b. Commercial Fishing License (CFL), Student shellfish license, and Over-65 shellfish license holders: Three (3) bushels per person per day (R.I. Gen. Laws § 20-2.1-5).
2. Soft-shell clam: Twelve (12) bushels per person per day (R.I. Gen. Laws § 20-6-10).

3. Oyster: Three (3) bushels per person per day (R.I. Gen. Laws § 20-6-10).
4. Bay scallop: Three (3) bushels per person per day; and maximum of three (3) bushels per vessel per day (R.I. Gen. Laws § 20-6-16).
5. Surf clam: Two hundred (200) bushels per person per day.
6. Ocean quahaug: Twenty six (26) cages or eight hundred thirty two (832) bushels per person per day.
7. Sea scallops: For non-federally permitted vessels, four hundred (400) pounds of shucked; or fifty (50) bushels of in-shell scallops per vessel per day.
8. Whelk: Thirty five (35) bushels per vessel per day.
 - a. Commercial whelk pot limit: Maximum of three hundred (300) whelk pots per licensee in the water at any one time.

4.12 Shellfish Management Areas – Descriptions, Seasons, and Possession Limits

4.12.1 General

- A. Greenwich Bay, Conimicut Point, Potowomut, High Banks, Bissel Cove/Fox Island, Mill Gut, Bristol Harbor, Kickemuit River, Jenny Creek, Sakonnet River, Pt. Judith Pond, Potter Pond, Ninigret (Charlestown) Pond, Quonochontaug Pond, Winnapaug Pond, Green Hill Pond, Narrow River, Little Narragansett Bay/Pawcatuck River, Providence/Seekonk Rivers, Warren River, Town Pond and Jacobs Point Shellfish Management Areas ~~are established~~ pursuant to R.I. Gen. Laws § 20-3-4.
- B. Shellfish Management Areas may have additional regulations specific to the Management Area. Refer to each Management Area listed below.
- ~~1C.~~ In Shellfish Management Areas, sShoredigging is open daily at reduced ~~Shellfish Management Areas~~ possession limits specified herein, unless closed due to pollution or other management purposes.
- ~~2D.~~ Commercial boat harvest schedule in Shellfish Management Areas: Recommendation for a change to the a commercial boat harvest default schedules ~~specified herein shall~~ must be submitted to the Director at least sixty (60) days prior to the first proposed opening date.
- ~~3.~~ Greenwich Bay area's 1 & 2:

- ~~a. The schedule for the month of December may include up to 48 hours of permitted shellfishing, spread over any number of days during the month, excluding December 25.~~
- ~~b. If weather or water quality conditions during the month of December prevent opening on two or more scheduled days, the DEM may modify the December schedule to allow for additional hours or days of permitted shellfishing.~~

~~CE~~. Daily possession limits:

1. Recreational – R.I. resident:
 - a. Bay quahaug, soft-shell clam, surf clam, blue mussel, and oyster: One (1) peck per person per day.
 - b. Bay scallop: One (1) bushel per person per day.
 - c. Whelk: One half ($\frac{1}{2}$) bushel per resident per day; or if a vessel with more than one (1) resident onboard is used, a maximum of one (1) bushel per vessel per day.
 - d. Whelk pot limit: Five (5) whelk pots in the water at any one time.
2. Recreational – licensed non-resident:
 - a. Bay quahaug, soft-shell clam, surf clam, blue mussel, and oyster: One half ($\frac{1}{2}$) peck per person per day.
 - b. Bay scallop: The harvest or possession of Bay scallops by non-residents is prohibited.
 - c. Whelk: The harvest or possession of whelk by non-residents is prohibited.
3. Commercial:
 - a. Bay quahaug, soft-shell clam, blue mussel, surf clam and oyster: Three (3) bushels per person per calendar day; maximum of six (6) bushels per vessel per calendar day;
 - (1) A maximum of two (2) licensed persons per vessel is allowed.
 - (2) Possession limit for shore-digging in Greenwich Bay Management Area sub-areas 1 and 2: The possession limit is three (3) bushels per person per day whenever GB sub-area 1 is open to boat harvest, but one (1) peck per person

per day whenever GB sub-area 1 is not open to boat harvest.

- b. Bay scallop: Three (3) bushels per person per day; maximum of three (3) bushels per vessel per day.
- c. Whelk:
 - (1) Thirty-five (35) bushels per vessel per day.
 - (2) Commercial whelk pot limit: Maximum of three hundred (300) whelk pots per licensee in the water at any one time.

4.12.2 Shellfish Management Areas

- A. Greenwich Bay (GB): ~~Described as the waters west of a line between the flagpole at the Warwick Country Club and the end of Sandy Point on the Potowomut Shore, in the town of East Greenwich and city of Warwick. Includes the marine waters of Greenwich Bay in its entirety located west of a line extending from the flagpole at the Warwick Country Club (Latitude: 41.672412 Decimal Degrees North, Longitude: -71.389382 Decimal Degrees West) to the end of Sandy Point on the Potowomut Shore (Latitude: 41.662997 Decimal Degrees North, Longitude: -71.408568 Decimal Degrees West), in the town of East Greenwich and city of Warwick.~~
 - 1. GB sub-area 1 (western GB): ~~Described as the waters east of a line between the DEM range marker located at the end of Neptune Street in Chepiwanoxet to the DEM range maker located on Cedar Tree Point, and north of a line between the far northeastern section of Chepiwanoxet Point and the westernmost flagpole on Promenade Street, Old Buttonwoods. The marine waters located north of a line extending from the far northeastern section of Chepiwanoxet Point (Latitude: 41.674585 Decimal Degrees North, Longitude: -71.441152 Decimal Degrees West) to the western fixed pier on Promenade Street, Old Buttonwoods (Latitude: 41.684468 Decimal Degrees North, Longitude: -71.417575 Decimal Degrees West).~~
 - 2. GB sub-area 2 (mid-GB): ~~Described as the waters west of a line between Sally Rock Point and the westernmost flagpole on Promenade Street, Old Buttonwoods; and south of a line between the far northeastern section of Chepiwanoxet Point and the westernmost flagpole on Promenade Street, Old Buttonwoods. The marine waters located west of a line extending from Sally Rock Point (Latitude: 41.671413 Decimal Degrees North, Longitude: -71.425511 Decimal Degrees West) to the western fixed pier on Promenade Street, Old Buttonwoods (Latitude: 41.684468 Decimal Degrees North, Longitude: -71.417575 Decimal Degrees West); and south of a line extending from the far northeastern section of Chepiwanoxet Point (Latitude: 41.674585 Decimal Degrees North, Longitude: -71.441152~~

Decimal Degrees West) to the western fixed pier on Promenade Street, Old Buttonwoods (Latitude: 41.684468 Decimal Degrees North, Longitude: -71.417575 Decimal Degrees West).

3a. Commercial boat harvest schedule for GB sub-areas 1 and 2:

d(1) Default ~~commercial boat harvest~~ schedules ~~for GB sub-areas 1 & 2: If when~~ a ~~previously established~~ boat harvest schedule expires, ~~the following default schedule shall be in effect:~~ ~~(1)~~ Open 8:00AM to 12:00PM on Mondays, Wednesdays, and Fridays, beginning on the second Wednesday of December through the last Friday in April, excluding December 25 and January 1.

(2) The schedule for the month of December may include up to forty-eight (48) hours of permitted shellfishing, spread over any number of days, excluding December 25.

(3) If weather or water quality conditions during the month of December prevent opening on two (2) or more scheduled days, the Director may modify the December schedule to allow for additional hours or days of permitted shellfishing.

a.(4) December 2019: Open from 8:00 AM to 12:00 PM on December 11, 13, 16, 18, 20, 23, 24, 26, 27, 30, and 31.

b.(5) January through April 2020: Open 8:00 AM to 12:00 PM on Mondays, Wednesdays, and Fridays from January 3 through April 29.

c.(6) May 1 through November 30, 2020: Closed.

43. GB sub-area 3 (eastern GB): ~~Described as the waters east of a line between Sally Rock Point and the westernmost flagpole on Promenade Street, Old Buttonwoods, and west of a line between the flagpole at the Warwick Country Club and the end of Sandy Point on the Potowomut Shore.~~ The marine waters located east of a line extending from Sally Rock Point (Latitude: 41.671413 Decimal Degrees North, Longitude: -71.425511 Decimal Degrees West) northward to the fixed pier on Promenade Street, Old Buttonwoods (Latitude: 41.684468 Decimal Degrees North, Longitude: -71.417575 Decimal Degrees West); and west of a line extending from the flagpole at the Warwick Country Club (Latitude: 41.672412 Decimal Degrees North, Longitude: -71.389382 Decimal Degrees West) to the end of Sandy Point on the Potowomut Shore (Latitude: 41.662997 Decimal Degrees North, Longitude: -71.408568 Decimal Degrees West).

a. Commercial boat harvest schedule: Open daily.

B. Conimicut Point: ~~Described as the waters south of a line running from the pole (Latitude: 41° 43' 2.93" North, Longitude: 71° 21' 27.68" West) on Conimicut Point to the center of the Old Tower at Nayatt Point; and north of a line from the western-most extension of Samuel Gorton Avenue in the city of Warwick, and the southernmost extension of Bay Road in the town of Barrington. The marine waters located south of a line extending from a pole (Latitude: 41.717493 Decimal Degrees North, Longitude: -71.357820 Decimal Degrees West) on Conimicut Point to the center of the Old Tower at Nayatt Point (Latitude: 41.725121 Decimal Degrees North, Longitude: -71.338957 Decimal Degrees West); and north of a line extending from the western most extension of Samuel Gorton Avenue in the city of Warwick (Latitude: 41.703781 Decimal Degrees North, Longitude: -71.365120 Decimal Degrees West) to the southern-most extension of Bay Road in the town of Barrington (Latitude: 41.722546 Decimal Degrees North, Longitude: -71.309105 Decimal Degrees West).~~

1. Harvest schedule: Open daily.
2. The reduced Shellfish Management Area possession limit applies only to soft-shell clams.

C. Potowomut: ~~Described as the waters at the mouth of Greenwich Bay south of a line between the flagpole at the Warwick Country Club to the seaward end of Sandy Point and north of a line between and the seaward end of Pojac Point to buoy "G1" (Round Rock) to the Warwick Lighthouse, including all the waters of the Potowomut River seaward of the Forge Road Spillway, in the towns of East Greenwich and city of Warwick. The marine waters located south of a line extending from the flagpole at the Warwick Country Club (Latitude: 41.672412 Decimal Degrees North, Longitude: -71.389382 Decimal Degrees West) to the end of Sandy Point on the Potowomut Shore (Latitude: 41.662997 Decimal Degrees North, Longitude: -71.408568 Decimal Degrees West); and north of a line extending from the end of Pojac Point (Latitude: 41.650506 Decimal Degrees North, Longitude: -71.408400 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West) to the Warwick Lighthouse (Latitude: 41.667124 Decimal Degrees North, Longitude: -71.378385 Decimal Degrees West), including all the marine waters of the Potowomut River seaward of the Forge Road Spillway, in the town of East Greenwich and city of Warwick.~~

1. Area A Potowomut sub-area 1 (western Potowomut): Described as the waters west of a line between the seaward end of Sandy Point and buoy "G1" (Round Rock) and north of a line between the seaward end of Pojac Point to buoy "G1" (Round Rock). The marine waters located west of a line extending from the end of Sandy Point on the Potowomut Shore (Latitude: 41.662997 Decimal Degrees North, Longitude: -71.408568 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West) to

the end of Pojac Point (Latitude: 41.650506 Decimal Degrees North, Longitude: -71.408400 Decimal Degrees West).

a. Harvest schedule: Open daily.

2. ~~Area B Potowomut sub-area 2 (mid-Potowomut/closed area): Described as the triangular area east of a line between the seaward end of Sandy Point and buoy "G1" (Round Rock) and west of a line between the flagpole at the Warwick Country Club and buoy "G1" (Round Rock) and south of a line between the flagpole at the Warwick Country Club to the seaward end of Sandy Point. Area "B" is closed to shellfishing until further notice. The marine waters within a triangular area located north of a line extending from the end of Sandy Point on the Potowomut Shore (Latitude: 41.662997 Decimal Degrees North, Longitude: -71.408568 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West); and west of a line extending from the flagpole at the Warwick Country Club (Latitude: 41.672412 Decimal Degrees North, Longitude: -71.389382 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West); and east of a line extending from the flagpole at the Warwick Country Club (Latitude: 41.672412 Decimal Degrees North, Longitude: -71.389382 Decimal Degrees West) to the seaward end of Sandy Point on the Potowomut Shore (Latitude: 41.662997 Decimal Degrees North, Longitude: -71.408568 Decimal Degrees West).~~

a. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.

3. ~~Area C Potowomut sub-area 3 (eastern Potowomut): Described as the waters east of a line between the flagpole at the Warwick Country Club and buoy "G1" (Round Rock) and north of a line from buoy "G1" (Round Rock) to the Warwick Lighthouse. The marine waters east of a line extending from the flagpole at the Warwick Country Club (Latitude: 41.672412 Decimal Degrees North, Longitude: -71.389382 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West); and west of a line extending from buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West) to the Warwick Lighthouse (Latitude: 41.667124 Decimal Degrees North, Longitude: -71.378385 Decimal Degrees West).~~

a. Harvest schedule: Open daily.

- D. High Banks: ~~Described as the waters of the upper west passage south of a line between the seaward end of Pojac Point to the Round Rock buoy "G1" and north~~

~~of a line from the seaward end of the fence between the former Davisville Navy property and Pettee Street in the Mount View section of North Kingstown to "N6" buoy located mid-bay west of Prudence Island. The area is bounded on the east by a line projecting from the easternmost end of Pier 2 at Davisville to the Round Rock buoy "G1" and is bounded to the west by the shore, in the town of North Kingstown. The marine waters located south of a line extending from the seaward end of Pojac Point (Latitude: 41.650506 Decimal Degrees North, Longitude: -71.408400 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West); and west of a line extending from buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West) to the southeast corner coordinate (Latitude: 41.635211 Decimal Degrees North, Longitude: -71.396539 Decimal Degrees West); and north of a line extending from the seaward end of the fence located between the former Davisville Navy property and Pettee Street in the Mount View section (Latitude: 41.634401 Decimal Degrees North, Longitude: -71.407115 Decimal Degrees West) to High Banks southeast corner coordinate (Latitude: 41.635211 Decimal Degrees North, Longitude: -71.396539 Decimal Degrees West), in the town of North Kingstown. The southeast corner coordinate is established at the intersection of two lines described as follows: One line extends from the easternmost end of Pier 2 at Davisville (Latitude: 41.615012 Decimal Degrees North, Longitude: -71.402139 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West); The second line extends from the seaward end of the fence between the former Davisville Navy property and Pettee Street in the Mount View section (Latitude: 41.634401 Decimal Degrees North, Longitude: -71.407115 Decimal Degrees West) to buoy N6 (Latitude: 41.637323 Decimal Degrees North, Longitude: -71.369265 Decimal Degrees West), located mid-bay west of Prudence Island.~~

1. Harvest schedule: Open daily

- E. ~~Bissel Cove/Fox Island: Described as the waters of Bissel Cove in its entirety and adjacent waters of Narragansett Bay south of a line between Pole #275 at the corner of Waldron and Seaview Avenues and the southwestern most point of Fox Island (south of the cable area), west of a line from the southwestern most point of Fox Island to the northern most point of Rome point, in the town of North Kingstown. The marine waters of Bissel Cove in its entirety and adjacent waters of Narragansett Bay located south of a line extending from utility pole #275 at the corner of Waldron and Seaview Avenues (Latitude: 41.553567 Decimal Degrees North, Longitude: -71.429705 Decimal Degrees West) to the southwestern-most point of Fox Island (Latitude: 41.553236 Decimal Degrees North, Longitude: -71.419937 Decimal Degrees West); and west of a line extending from the southwestern-most point of Fox Island (Latitude: 41.553236 Decimal Degrees North, Longitude: -71.419937 Decimal Degrees West) to the northern-most point of Rome point (Latitude: 41.548853 Decimal Degrees North, Longitude: -71.423836 Decimal Degrees West), in the town of North Kingstown.~~

1. Commercial boat harvest schedule:
 - ~~da.~~ Default ~~commercial boat harvest~~ schedule: ~~If when a previously established~~ boat harvest schedule expires, ~~the following default schedule shall be in effect:~~ (1) Open 8:00 AM to 12:00PM on Mondays, Wednesdays, and Fridays, beginning on the second Wednesday of December through the end of April, excluding December 25 and January 1.
 - ~~ab.~~ December 2019: Open from 8:00 AM to 12:00 PM on December 11, 13, 16, 18, 20, 23, 24, 26, 27, 30, and 31.
 - ~~bc.~~ January through April 2020: Open 8:00 AM to 12:00 PM on Mondays, Wednesdays, and Fridays from January 3 through April 29.
 - ~~ed.~~ May 1 through November 30, 2020: Closed.
2. Oyster harvest moratorium: The harvest and possession of oysters in the Bissel Cove/Fox Island Shellfish Management Area is prohibited until November 15, 2020.

F. Mill Gut: ~~Described as the waters of Mill Gut, lying south of the northern-most bridge on Colt Drive, in the town of Bristol. The marine waters of Mill Gut in its entirety located south of the northern-most bridge on Colt Drive (Latitude: 41.681840 Decimal Degrees North, Longitude: -71.299113 Decimal Degrees West), in the town of Bristol.~~

1. Harvest schedule: Open for the harvesting of bay quahaugs, soft-shell clams, blue mussels, and oysters only between the second Wednesday in December and April 30 annually.

G. Bristol Harbor: ~~Described as the marine waters of Bristol Harbor and its tributaries located south of a line extending between CRMC permitted dock #419 located at 163 Poppasquash Road in the town of Bristol to and the northwest corner of the Rockwell Pier municipal parking lot in the town of Bristol; and north of a line beginning extending from the north side of CRMC Permitted Dock #1601 where it meets the shoreline, located at 363 Poppasquash Road in the town of Bristol and the northwest corner of the U.S. Coast Guard station pier in the town of Bristol. The marine waters of Bristol Harbor and its tributaries located south of a line extending from the CRMC permitted dock #419 located at 163 Poppasquash Road (Latitude: 41.669558 Decimal Degrees North, Longitude: -71.288764 Decimal Degrees West) to the northwest corner of the Rockwell Pier municipal parking lot (Latitude: 41.669742 Decimal Degrees North, Longitude: -71.279250 Decimal Degrees West); and north of a line extending from the north side of CRMC Permitted Dock #1601 where it meets the shoreline (Latitude: 41.664246 Decimal Degrees North, Longitude: -71.290396 Decimal Degrees West), located at 363 Poppasquash Road to the northwest corner of the U.S.~~

Coast Guard station pier (Latitude: 41.666268 Decimal Degrees North, Longitude: -71.278351 Decimal Degrees West); and west of a line extending from utility pole # 20 on Poppasquash Road (Latitude: 41.682529 Decimal Degrees North, Longitude: -71.285175 Decimal Degrees West) to the northern extremity of Hog Island (Latitude: 41.647959 Decimal Degrees North, Longitude: -71.279880 Decimal Degrees West) in the town of Bristol. The northeast corner coordinate is established at (Latitude: 41.669666 Decimal Degrees North, Longitude: -71.283207 Decimal Degrees West). The Southeast Corner Coordinate is established at (Latitude: 41.665503 Decimal Degrees North, Longitude: -71.282569 Decimal Degrees West).

1. Commercial boat harvest schedule:

~~ea.~~ Default ~~commercial boat harvest~~ schedule: ~~If when a previously established~~ boat harvest schedule expires, ~~the following default schedule shall be in effect:~~

(1) January 2 through January 31: Open 8:00 AM to 12:00 PM on Mondays, Wednesdays, and Fridays.

(2) February 1 through April 30: Open daily.

(3) May 1 through January 1: Closed.

~~ab.~~ December 2015: Closed.

~~bc.~~ Beginning January 11, 2016: Open 8:00 AM to 12:00 PM on Mondays, Wednesdays, and Fridays.

~~ed.~~ February 1 through April 30, 2016: Open daily.

~~de.~~ May 1 through November 30 annually: Closed.

H. Kickemuit River: ~~Described as the waters of the Kickemuit River north of a line connecting nun buoy 6 and can buoy 1 at Bristol Narrows.~~ The marine waters of the Kickemuit River in its entirety located north of a line extending from the seaward end of Narrows Road (Latitude: 41.696927 Decimal Degrees North, Longitude: -71.246322 Decimal Degrees West) in the town of Bristol to Nun Buoy 6 (Latitude: 41.698489 Decimal Degrees North, Longitude: -71.244195 Decimal Degrees West) to a point (Latitude: 41.699115 Decimal Degrees North, Longitude: -71.243342 Decimal Degrees West) in the southwestern section of the Little Neck/Touisset section of the Town of Warren.

1. Harvest schedule: Open daily.

I. Jenny's Creek: ~~Described as the waters of Prudence Island including Jenny's Creek north of the inlet at Pine Hill Cove.~~ The marine waters of Jenny Pond on Prudence Island in its entirety located north of its mouth at its inlet at Pine Hill

Cove (Latitude: 41.629838 Decimal Degrees North, Longitude: -71.333696 Decimal Degrees West) in the town of Portsmouth.

1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.
- J. Sakonnet River: ~~Described as the waters north of a line from Sachuest Point to Sakonnet Light. The northern boundary is an east/west line across the Sakonnet River lying one quarter (1/4) mile south of the pipeline found just south of Black Point, so-called; the western boundary is a north/south line running from Flint Point to Taggert's Ferry, so-called, in the town of Middletown. The marine waters located north of a line extending from Sachuest Point (Latitude: 41.472362 Decimal Degrees North, Longitude: -71.247257 Decimal Degrees West) in the town of Middletown to Sakonnet Light (Latitude: 41.453130 Decimal Degrees North, Longitude: -71.202434 Decimal Degrees West) in the town of Little Compton to Sakonnet Point (Latitude: 41.454587 Decimal Degrees North, Longitude: -71.195124 Decimal Degrees West) in the town of Little Compton; and south of a line extending from a point on the shoreline (Latitude: 41.519498 Decimal Degrees North, Longitude: -71.230893 Decimal Degrees West) in the town of Portsmouth to Brown Point (Latitude: 41.519896 Decimal Degrees North, Longitude: -71.204959 Decimal Degrees West) in the town of Little Compton; and east of a line extending from a point on the shoreline (Latitude: 41.504347 Decimal Degrees North, Longitude: -71.239782 Decimal Degrees West) in the town of Middletown to Flint Point (Latitude: 41.486523 Decimal Degrees North, Longitude: -71.237974 Decimal Degrees West) in the town of Middletown.~~
1. The possession limit for surf clams is two hundred (200) bushels/vessel/day.
 2. ~~A bycatch~~ An incidental catch limit of one (1) bushel of bay quahaugs for each ten (10) bushels of surf clams, not to exceed twelve (12) bushels of bay quahaugs, is allowed per vessel.
- K. Point Judith Pond: ~~Described as the waters of Point Judith Pond, including East Pond, in their entirety, in the towns of South Kingstown and Narragansett. The marine waters of Point Judith Pond in its entirety located east of the bridge at Succotash Road (Latitude: 41.386004 Decimal Degrees North, Longitude: -71.526019 Decimal Degrees West) in the town of South Kingstown; and north of the mouth of the breachway where it meets the Harbor of Refuge (Latitude: 41.375149 Decimal Degrees North, Longitude: -71.513755 Decimal Degrees West) in the town of Narragansett.~~
1. Harvest schedule: Open daily.
- L. Potter Pond: ~~Described as the waters of Potter Pond in its entirety, west of the bridge at Succotash Road, in the town of South Kingstown. The marine waters of Potter Pond in its entirety located west of the bridge at Succotash Road~~

(Latitude: 41.386004 Decimal Degrees North, Longitude: -71.526019 Decimal Degrees West) in the town of South Kingstown.

1. Harvest schedule: Open daily, except for the following:
2. Potter Pond Closed sub-area 1 (closed area): The harvest and possession of shellfish is prohibited, except for the harvest of bay scallops by dip-net from a boat during the open season for bay scallops, in the following area: The area within Sycamore Cove defined as north of a line running easterly from a special DEM marker located at N 41 degrees 23 minutes 2.0 seconds, W 71 degrees 32 minutes 13.0 seconds; to a second special DEM marker located at N 41 degrees 23 minutes 1.0 second, W 71 degrees 31 minutes 59.5 seconds; and bound by the northern pond shoreline between the special DEM markers. The marine waters of Sycamore Cove located north of a line extending easterly from point "A" (Latitude: 41.383435 Decimal Degrees North, Longitude: -71.537009 Decimal Degrees West) to point "B" (Latitude: 41.383661 Decimal Degrees North, Longitude: -71.533286 Decimal Degrees West); from point "B" following the Sycamore Cove shoreline approximately 638 meters back to point "A".
 - a. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.

M. Ninigret (Charlestown) Pond: Described as the waters of Ninigret Pond in its entirety, in the town of Charlestown. The marine waters of Ninigret Pond in its entirety located west of the bridge at Charlestown Beach Road (Latitude: 41.364173 Decimal Degrees North, Longitude: -71.625958 Decimal Degrees West) in the town of Charlestown; and north of the mouth of Charlestown Breachway (Latitude: 41.354865 Decimal Degrees North, Longitude: -71.638536 Decimal Degrees West) in the town of Charlestown.

1. Harvest schedule: Open daily, except for the following:
2. Ninigret Pond sub-area 1 (western closed area): The harvest and possession of shellfish is prohibited, except for the harvest of bay scallops by dip-net from a boat during the open season for bay scallops, in the following area: The waters within an area formed by the following points: from ("A" N 41 degrees 20 minutes 41.7 seconds W 71 degrees 41 minutes 24.3 seconds, the northeast corner of the Ninigret Conservation Area parking lot) following the shoreline to ("B" N 41 degrees 20 minutes 49.6 seconds W 71 degrees 41 minutes 4.6 seconds, a DEM sign approximately 500 meters eastward of "A"); from "B" northward to ("C" N 41 degrees 21 minutes 31.0 seconds W 71 degrees 41 minutes 22.2 seconds, the Lavin's Ninigret Landing Marina launching ramp); from "C" following the shoreline to ("D" N 41 degrees 21 minutes 10.1 seconds W

~~71 degrees 41 minutes 40.9 seconds, a DEM sign on the westernmost end of Reeds Point); from "D" southward to "A". The marine waters within an area enclosed by the following points and boundaries: from point "A" at the north end of the Ninigret Conservation Area parking lot (Latitude: 41.344726 Decimal Degrees North, Longitude: -71.690149 Decimal Degrees West); following the Ninigret Conservation Area shoreline approximately 580 meters eastward to point "B" (Latitude: 41.346815 Decimal Degrees North, Longitude: -71.683958 Decimal Degrees West); from point "B" approximately 1,382 meters northward to point "C" at the Ninigret Landing Marina (Latitude: 41.358561 Decimal Degrees North, Longitude: -71.689409 Decimal Degrees West); from point "C" following the shoreline approximately 962 meters westward to "D" at the westernmost end of Reeds Point (Latitude: 41.352794 Decimal Degrees North, Longitude: -71.694621 Decimal Degrees West); from point "D" approximately 971 meters southward to point "A", completing the final boundary.~~

a. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.

3. ~~Ninigret Pond-Foster Cove sub-area 1 (northern closed area): The harvest and possession of shellfish is prohibited in the following area: The waters within an area formed by the following points: from ("A" N 41 degrees 21 minutes 58.7 seconds, W 71 degrees 40 minutes 33.8 seconds [41°21'58.7"N, 71°40'33.8"W]) to a point 125 feet south-southeast ("B" N 41 degrees 21 minutes 57.5 seconds, W 71 degrees 40 minutes 34.4 seconds [41°21'57.5"N, 71°40'34.4"W]), to a point 275 feet east-southeast ("C" N 41 degrees 21 minutes 56.5 seconds, W 71 degrees 40 minutes 31.1 seconds [41°21'56.5"N, 71°40'31.1"W]), to a point 125 feet north-northeast ("D" N 41 degrees 21 minutes 57.8 seconds, W 71 degrees 40 minutes 30.5 seconds [41°21'57.8"N, 71°40'30.5"W]), from "D" westward continuing along the shoreline to "A". The marine waters within an area enclosed by the following points and boundaries: from point "A" on the Foster Cove shoreline (Latitude: 41.366362 Decimal Degrees North, Longitude: -71.676036 Decimal Degrees West); from point "A" approximately 46 meters southward to point "B" (Latitude: 41.365970 Decimal Degrees North, Longitude: -71.676220 Decimal Degrees West); from point "B" approximately 82 meters eastward to point "C" (Latitude: 41.365690 Decimal Degrees North, Longitude: -71.675310 Decimal Degrees West); from point "C" approximately 46 meters northward to point "D" (Latitude: 41.366086 Decimal Degrees North, Longitude: -71.675128 Decimal Degrees West); from point "D" following the shoreline approximately 109 meters eastward to point "A" completing the final boundary.~~

- a. ~~These areas shall remain closed until January 1, 2020, unless extended by the Director after RIMFC review. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops until January 1, 2020, unless extended by the Director after RIMFC review.~~
 - 4. Ninigret Pond-Foster Cove sub-area 2 (eastern closed area): ~~The harvest and possession of shellfish is prohibited in the following area: The waters within 75 feet of shore beginning at a point ("A" N 41 degrees 21 minutes 49.3 seconds, W 71 degrees 40 minutes 24.8 seconds [41°21'49.3"N 71°40'24.8"W]) continuing along the shore to a point northwest ("B" N 41 degrees 21 minutes 52.4 seconds, W 71 degrees 40 minutes 31.0 seconds [41°21'52.4"N 71°40'31.0"W]), continuing along the shore to a point east-southeast ("C" N 41 degrees 21 minutes 51.6 seconds, W 71 degrees 40 minutes 23.6 seconds [41°21'51.6"N 71°40'23.6"W]). The marine waters within 25 meters of the shoreline surrounding the Ninigret National Wildlife Refuge western point enclosed by the following points and boundaries: from point "A" on the Foster Cove shoreline (Latitude: 41.363705 Decimal Degrees North, Longitude: -71.673512 Decimal Degrees West); following the shoreline approximately 209 meters westward to point "B" at the end of the point (Latitude: 41.364515 Decimal Degrees North, Longitude: -71.675236 Decimal Degrees West); from point "B" following the shoreline approximately 183 meters eastward to point "C" (Latitude: 41.364330 Decimal Degrees North, Longitude: -71.673220 Decimal Degrees West).~~
 - a. ~~These areas shall remain closed until January 1, 2020, unless extended by the Director after RIMFC review. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops until January 1, 2020, unless extended by the Director after RIMFC review.~~
- N. Quonochontaug Pond: ~~Described as the waters of Quonochontaug Pond in its entirety, in the towns of Charlestown and Westerly. The marine waters of Quonochontaug Pond in its entirety located north of the mouth of Quonochontaug Breachway (Latitude: 41.330878 Decimal Degrees North, Longitude: -71.718764 Decimal Degrees West) in the towns of Charlestown and Westerly~~
 - 1. Harvest schedule: Open daily, except for the following:
 - 2. Closed areas:
 - a. Quonochontaug Pond sub-area 1 (western closed area): ~~The harvest and possession of shellfish is prohibited in the following area: Described as the waters south of a line running easterly from the special DEM marker at the end of Quahaug Point (N 41~~

~~degrees 20 minutes 0.0 seconds, W 71 degrees 44 minutes 39.5 seconds), to a second special DEM marker at the northern end of Nope's Island (N 41 degrees 20 minutes 5.0 seconds, W 71 degrees 44 minutes 1.0 second). The area will be bordered on the west by a line running south from Quahaug Point to a special DEM marker located on the barrier beach shoreline (N 41 degrees 19 minutes 50.0 seconds, W 71 degrees 44 minutes 40.0 seconds). The southern boundary will be the shoreline between the barrier beach special DEM marker and Nope's Island special DEM marker. The marine waters within an area enclosed by the following points and boundaries: the waters south of a line extending approximately 911 meters easterly from "A" on the southern end of Quahaug Point (Latitude: 41.333330 Decimal Degrees North, Longitude: -71.744365 degrees West) in the town of Westerly; to "B" at the northern end of Nope's Island (Latitude: 41.334528 Decimal Degrees North, Longitude: -71.733593 Decimal Degrees West) in the town of Westerly; from "B" following the Quonochontaug Barrier shoreline generally westward, approximately 1,545 meters to "C" in the town of Westerly (Latitude: 41.330564 Decimal Degrees North, Longitude: -71.744459 degrees West); from "C" approximately 307 meters northward to "A" completing the final boundary, in the town of Westerly.~~

- b. Quonochontaug Pond sub-area 2 (eastern closed area): The harvest and possession of shellfish is prohibited, except for the harvest of bay scallops by dip-net from a boat during the open season for bay scallops, in the following area: Described as the waters east of a line running southerly from the special DEM marker located at N 41 degrees 21 minutes 1.1 seconds W 71 degrees 42 minutes 33.4 seconds, to a second special DEM marker located at N 41 degrees 20 minutes 41.0 seconds W 71 degrees 42 minutes 44.1 seconds; and bound by the eastern pond shoreline between the special DEM markers. The marine waters within an area enclosed by the following points and boundaries: the waters east of a line extending approximately 673 meters southerly from point "A" on the eastern end of the QYC stone pier (Latitude: 41.350312 Decimal Degrees North, Longitude: -71.709292 degrees West) in the town of Charlestown; to point "B" at the eastern end of the unnamed island (Latitude: 41.344710 Decimal Degrees North, Longitude: -71.712336 Decimal Degrees West) in the town of Charlestown; ; from point "B" following the Quonochontaug Pond shoreline generally northward, approximately 1120 meters back to point "A" completing the final boundary.

3. The harvest and possession of oysters in Quonochontaug Pond is prohibited until September 15, 2021.

- O. ~~Winnapaug Pond: Described as the waters of Winnapaug Pond in its entirety, in the town of Westerly. The marine waters of Winnapaug Pond in its entirety located north of the mouth of Weekapaug Breachway (Latitude: 41.327627 Decimal Degrees North, Longitude: -71.762913 Decimal Degrees West) in the town of Westerly.~~
1. Harvest schedule: Open daily, except for the following:
 2. Winnapaug Pond sub-area 1 (closed area): The harvest and possession of shellfish is prohibited, except for the harvest of bay scallops by dip-net from a boat during the open season for bay scallops, in the following area: Described as the waters north of a line running easterly from a special DEM marker at Big Rock Point (N 41 degrees 19 minutes 49.0 seconds, W 71 degrees 47 minutes 57.0 seconds), to the special DEM marker at the southern end of Larkin's Island (N 41 degrees 19 minutes 55.0 seconds, W 71 degrees 47 minutes 5.0 seconds). The area will be bordered on the east by a line running northwesterly the Larkin's Island special marker to a special DEM marker adjacent to the end of Bayside Avenue (N 41 degrees 19 minutes 58.0 seconds, W 71 degrees 47 minutes 9.0 seconds). The northern boundary is the shoreline between the Bayside Ave special DEM marker and the Big Rock Point special DEM marker. The marine waters within an area enclosed by the following points and boundaries: the waters north of a line extending approximately 1,239 meters easterly from point "A" on the southeastern portion of Big Rock Point (Latitude: 41.330229 Decimal Degrees North, Longitude: -71.799555 Decimal Degrees West) in the town of Westerly; to point "B" at the southern end of Larkin's Island (Latitude: 41.331958 Decimal Degrees North, Longitude: -71.784941 Decimal Degrees West) in the town of Westerly; from point "B" approximately 119 meters northwesterly to point "C" adjacent to the end of Bayside Avenue (Latitude: 41.332611 Decimal Degrees North, Longitude: -71.786066 Decimal Degrees West) in the town of Westerly; from point "C" following the shoreline generally westward, approximately 1,590 meters to point "A", completing the final boundary.
- P. ~~Green Hill Pond: Described as the marine waters of Green Hill Pond and its tributaries in its entirety, in the towns of South Kingstown and Charlestown. The marine waters of Green Hill Pond in its entirety located east of the bridge at Charlestown Beach Road (Latitude: 41.364173 Decimal Degrees North, Longitude: -71.625958 Decimal Degrees West), in the towns of Charlestown and South Kingstown.~~
1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.
- Q. ~~Narrow River: Described as the marine waters of the Narrow River in its entirety, in the towns of Narragansett, South Kingstown, and North Kingstown. The~~

marine waters of the Narrow River in its entirety located west and north of its mouth at the Narrows (Latitude: 41.442019 Decimal Degrees North, Longitude: -71.440679 Decimal Degrees West) in the towns of Narragansett; south of Gilbert Stuart Rd. (Latitude: 41.519845 Decimal Degrees North, Longitude: -71.444608 Decimal Degrees West) in the town of and North Kingstown; and north of Mumford Rd. (Latitude: 41.439006 Decimal Degrees North, Longitude: -71.473478 Decimal Degrees West) in the town of Narragansett.

1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.

R. Little Narragansett Bay and Pawcatuck River: ~~Described as the marine waters of Little Narragansett Bay and Pawcatuck River within the State of Rhode Island which are northeast of a line from the DEM range marker on a pole (Latitude 41.3217^o N, Longitude 71.8787^o W) near the southeastern extremity of Sandy Point to a DEM range marker on a pole (Latitude 41.3103^o, Longitude 71.8775^o W) on the northern shoreline of Napatree Point, including all waters of the "Kitchen" so called, and those waters northeast of the southwest shoreline of Sandy Point to the state line. Harvesters should refer to the above latitudes and longitudes for the closure line if the range markers and or poles are no longer present.~~ The marine waters of Little Narragansett Bay and Pawcatuck River within the State of Rhode Island located northeast of a line extending from (Latitude: 41.321703 Decimal Degrees North, Longitude: -71.878691 Decimal Degrees West) the DEM range marker on a pole near the southeastern extremity of Sandy Point to a DEM range marker on a pole (Latitude 41.310300 Decimal Degrees North, Longitude -71.877500 Decimal Degrees West) on the northern shoreline of Napatree Point, including all waters of the "Kitchen" so called, and those waters northeast of the southwest shoreline of Sandy Point to the state line (and south of the Route 1 Bridge (Latitude: 41.377688 Decimal Degrees North, Longitude: -71.831481 Decimal Degrees West) in the town of Westerly.

1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.

S. Providence and Seekonk Rivers: ~~Described as the marine waters of the Providence River and Seekonk River and their tributaries located north of a line extending from the flagpole (Latitude: 41° 43' 2.93" North, Longitude: 71° 21' 27.68" West) located at Conimicut Point in the city of Warwick and the center of the Old Tower at Nayatt Point; and southerly and seaward of the Hurricane barrier in the city of Providence; and southerly and seaward of the Main Street Dam in the city of Pawtucket.~~ The marine waters of the Providence and Seekonk Rivers and their tributaries located north of a line extending from the flagpole on Conimicut Point in the City of Warwick (Latitude: 41.717493 Decimal Degrees North, Longitude: -71.35820 Decimal Degrees West) to the center of the Old Tower at Nayatt Point in the Town of Barrington (Latitude: 41.725121 Decimal Degrees North, Longitude: -71.338957 Decimal Degrees West); and southerly and seaward of the Hurricane barrier (Latitude: 41.815785 Decimal Degrees

North, Longitude: -71.401958 Decimal Degrees West) in the City of Providence; and southerly and seaward of the Main Street Dam (Latitude: 41.876594 Decimal Degrees North, Longitude: -71.383100 Decimal Degrees West) in the in the city of Pawtucket.

1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.

T. Warren River Shellfish Management Area: ~~Described as the marine waters of the Warren River and its tributaries located north and east of a line extending from the flagpole at 178 Adams Point Road on Adams Point in Barrington to the DEM range marker at Jacobs Point; and southerly and downstream of the Main street/Route 114 bridge at its intersection with the Barrington River in the town of Barrington; and southerly and downstream of the Main street/Route 114 bridge at its intersection with the Palmer River in towns of Bristol and Warren.~~ The marine waters of the Warren River and its tributaries located north and east of a line extending from the flagpole at 178 Adams Point Road in Town of Barrington (Latitude: 41.716089 Decimal Degrees North, Longitude: -71.293291 Decimal Degrees West) to the DEM range marker at Jacobs Point in the Town of Warren (Latitude: 41.714306 Decimal Degrees North, Longitude: -71.286673 Decimal Degrees West); and southerly and downstream of the Main street/Route 114 bridge at its intersection with the Barrington River in the Town of Barrington (Latitude: 41.736701 Decimal Degrees North, Longitude: -71.295451 Decimal Degrees West); and southerly and downstream of the Main street/Route 114 bridge at its intersection with the Palmer River in Towns of Bristol and Warren (Latitude: 41.737396 Decimal Degrees North, Longitude: -71.289081 Decimal Degrees West).

1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.

U. Town Pond: ~~Described as the marine waters of Founders Brook and Town Pond in their entirety, in the town Portsmouth.~~ The marine waters of Founders Brook and Town Pond in their entirety located south of the tidal connection to Mount Hope Bay in the town of Portsmouth (Latitude: 41.638944 Decimal Degrees North, Longitude: -71.245269 Decimal Degrees West).

1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.

V. Jacobs Point Shellfish Management Area: ~~Described as the marine waters of the Warren River south of a line extending from the DEM range marker on the shore north of Jacobs Point, located at 71°17'12.104"W, 41°42'51.541"N, to nun buoy 12; and east of a line extending from nun buoy 12 to the DEM range marker on the shore south of Jacobs Point, located at 71°17'28.61"W, 41°42'36.91"N.~~ The marine waters of the Warren River located south of a line extending from the DEM range marker on the shore north of Jacobs Point (Latitude: 41.714306

Decimal Degrees North, Longitude: -71.286673 Decimal Degrees West) to nun buoy 12 in the Town of Warren (Latitude: 41.713780 Decimal Degrees North, Longitude: -71.291593 Decimal Degrees West); and east of a line extending from nun buoy 12 to the DEM range marker on the shore south of Jacobs Point in the Town of Bristol (Latitude: 41.710253 Decimal Degrees North, Longitude: -71.291327 Decimal Degrees West).

1. Harvest schedule: Open daily.
2. The reduced Shellfish Management Area possession limit applies only to oysters. The commercial possession limit for oysters is one (1) peck per person per day.

4.13 Wet Storage of Shellfish

No person shall engage in wet storage of molluscan shellfish without first obtaining a dealer's license from DOH and DEM.

4.14 Commercial Handling of Shellfish

- A. Commercial shellfishermen shall conduct all activities and operations involving or relating to the possession and handling of shell stock so as to prevent contamination, deterioration and decomposition of such shell stock.
- B. Containers used for storing shell stock must be clean.
- C. Boat decks and storage bins used in the harvest or transport of shell stock shall be kept clean with potable water or water from the growing area in approved classification or the open status of conditional areas.
- D. Commercial shellfishermen using a vessel to harvest and transport shell stock shall assure that said vessel is properly constructed, operated and maintained to prevent contamination, deterioration and decomposition of shell stock.
- E. Commercial shellfishermen using a vessel to harvest and transport shell stock shall prevent bilge water from coming into contact with shell stock.
- F. Commercial shellfishermen using a boat to harvest and transport shell stock shall provide such vessel with effective drainage to avoid contact between bilge water and shell stock.
- G. Commercial shellfishermen using a vessel to harvest and transport shell stock shall locate bilge pumps so that discharge shall not contaminate shell stock.
- H. Shell stock shall be washed reasonably free of bottom sediments as soon after harvesting as possible. The harvester shall be primarily responsible for washing shell stock. If shell stock washing is not feasible at the time of harvest, the dealer shall assume this responsibility. Water used for washing shall be from a potable

water source, or growing area in the approved classification or open status of the conditionally approved classification.

- I. The discharge of human sewage from a vessel used in the harvesting of shell stock, or from vessels that buy shell stock, within waters of the state is prohibited.

4.15 Commercial Tagging of Shellfish

- A. Commercial shellfishermen must place any and all shellfish taken by them (except those shellfish returned to the waters of the harvest area) into containers, and must tag each and every container with a "harvester tag" conforming to the requirements of this sub-section, prior to shellfish being placed in the container.
- B. The harvester tag shall be durable, waterproof, and sanctioned by the R.I. Department of Health. The tag shall contain the following indelible, legible information in the order specified as follows: The harvester's identification number as assigned by DEM; the date of harvest; the harvest commencement time; the harvest location as identified on the R.I. Shellfish Harvest Area Tagging Map; the shellfish management area; the type (species) of shellfish; and the approximate quantity of shellfish. The harvest commencement time will indicate the time that the first shellfish that the harvester is currently in possession of was removed from the water and should be the same for all shellfish that the harvester is in possession of regardless of tagging area.
- C. Each tag shall also carry the following statement in bold capitalized type: "This tag is required to be attached until container is empty or it retagged and thereafter kept on file for 90 days". Commercial shellfishermen shall not place shell stock harvested from more than one growing area into the same container. When the harvester is also a dealer, the harvester has the option to tag the shell stock with a harvester tag or a dealer's tag meeting the requirements of the RIDOH regulations.
- D. Bulk tagging of shell stock will be permitted only with prior approval of the Director under the following criteria:
 1. When shell stock are harvested from one harvest area on a single day, multiple containers may be utilized on a wrapped pallet, in a tote, in a net brailer, or other container and the unit tagged with a single tag; and,
 2. A statement that all shell stock containers in this lot have the same harvest data and area of harvest; and number of containers in the unit.

4.16 Commercial Temperature Control of Shellfish

- A. Commercial shellfishermen shall not allow shell stock to deteriorate or decompose from exposure to excessive temperature and shall deliver shell stock to a licensed dealer before such deterioration or decomposition occurs.

- B. Harvest of shellfish from sunrise November 1 through sunset March 31 annually: The maximum allowable time between the commencement of harvest of shell stock and delivery to a dealer shall be twenty hours. Possession of shell stock in excess of twenty (20) hours is prohibited.
- C. Harvest of shellfish from sunrise April 1 through sunset October 31 annually: The maximum allowable time between the commencement of harvest of shell stock and delivery to a dealer shall be ten (10) hours. Possession of shell stock in excess of ten (10) hours is prohibited.
 - 1. The harvester shall provide shading to all shellfish intended for harvest aboard vessels and during land-based deliveries.
 - 2. Harvest of ~~quahogs~~ bay quahaugs or oysters from within Designated Temperature Control Areas that exceed five hours to complete shall be placed in mechanical refrigeration or adequately iced in a storage container within five (5) hours of the commencement of harvest until the shellfish are transferred to a licensed dealer within ten (10) hours.
- D. Ocean quahaugs, surf clams, and whelks are exempt from temperature control requirements.

4.17 Shellfish Transplant Regulations

- A. The Director is authorized and directed, after requiring all necessary safeguards, to transfer shellfish from uncertified waters of the State to approved areas. The Director may make Rules and Regulations governing the re-harvest of those shellfish to the best economic benefit of the state after all necessary safeguards to insure their cleanliness (R.I. Gen. Laws § 20-6-26).
- B. Any person participating in the transplant program shall surrender his commercial license to the conservation officer or DEM employee afloat on the transplant bed or otherwise stationed to collect licenses. The license must be surrendered before the participant commences digging shellfish.
- C. The boundaries of the transplanting area shall be marked with designated corner markers. All shellfishermen participating in the transplant program shall harvest shellfish only within the boundaries of the transplant area so marked.
- D. No shellfisherman shall commence harvesting shellfish in the transplant area before the hour at which the transplant program is scheduled to commence. Hours of transplanting shall be publicized in advance.
- E. Shellfishermen participating in the transplant program shall bring no shellfish into the transplant area before beginning the transplant. Any shellfish on board a participant's boat shall be considered transplant shellfish, dug from the transplanting area.

- F. Any participant in the transplant program shall be considered to have completed his participation in the program when he presents his shellfish to the "buy boat/buy station" for counting/weighing. If the method of transplanting involves diggers planting their own catch in the transplant bed, the shellfisherman shall first present his catch to the authorized DEM officer for counting/weighing, and shall then proceed directly to the planting area. Once the shellfisherman commences to remove the shellfish from his boat to the "buy boat/buy station" or into the transplant bed, he shall remove all shellfish from his boat before changing location. Any change of location shall indicate that the shellfisherman has cleared his boat of shellfish and is ready for inspection and return of license by DEM officers. No shellfish shall be aboard any participant's boat at the time of inspection.
- G. Temporary creation of a transplanting area shall in no way affect the polluted status of the waters therein, or of any waters surrounding the transplanting area and declared polluted.
- H. Violation of any of these provisions shall be punishable by a fine of up to five hundred dollars (\$500) and/or up to thirty (30) days in jail.
- I. Agents of the DEM may limit the maximum allowable harvest by each participant in a transplant. Agents of the DEM may limit the number of participants in a shellfish transplant program provided that the limit is determined in a fair and equitable manner (R.I. Gen. Laws § 20-6-29).
- J. Dredging, Raking, and Tonging in Transplant Beds: Those areas to which the shellfish are transferred shall be marked out, and dredging, raking, or tonging on them shall be prohibited except under the special direction of the Director (R.I. Gen. Laws § 20-6-27).

4.18 Commercial Whelk Pot Tagging:

- A. Applicability: No person shall set, haul, or maintain a whelk pot unless the pot has attached a valid whelk pot tag issued by the Director.
- B. Application for whelk pot tags shall be made on forms as prescribed by the Director.
- C. Cost of tags shall be borne by the license holder and shall not exceed the cost of producing such tags by the vendor(s) selected by the Department.
- D. Tags shall be permanently attached to the pot in a location clearly visible for inspection.
- E. Tags shall be valid on an annual basis from April 1 through March 31.
- F. No person shall transfer whelk pot tags between whelk pots, or between individuals or vessels.

- G. No person shall possess at any one time more whelk pot tags than are authorized.
- H. Only tags for the current fishing year and the immediate previous or following fishing year shall be allowed to remain attached to each whelk pot.
- I. Pot tag types and issuance:
 - 1. Original tags: Eligible license holders may order up to the maximum pot limit plus a fifteen percent (15%) over-allotment to allow for replacement of tags due to routine losses. When a routine loss of an original tag occurs, the ten percent (10%) over-allotment shall be used to replace the lost tag.
 - 2. Gear rotation tags: Eligible license holders may order additional tags to be used for gear rotation and maintenance. The number of gear rotation tags issued shall not exceed the maximum pot limit or exceed the number of original tags ordered. Gear rotation tags shall be held by the Director. The Director shall issue gear rotation trap tags on a one-for-one basis upon receipt of the original tags.
 - 3. Catastrophic loss tags: Eligible license holders may order up to two (2) complete sets of catastrophic loss trap tags, in an amount equal to the number of original tags ordered, to be used in the event of catastrophic loss or to replace original trap tags not received.
 - a. Catastrophic loss trap tags ordered shall be held by the Director.
 - b. Issuance of catastrophic loss tags shall null and void original and gear rotation tags issued. No original tag issued may be used upon issuance of catastrophic trap tags.
 - c. Catastrophic loss trap tags shall be distinguishable from original trap tags (i.e. color).

From: [Kenneth Murgio](#)
To: [GerberWilliams, Anna \(DEM\)](#); [bob@ecsga.org](#); [dleavitt@rwu.edu](#); [dlghig@aol.com](#); [etroiano1@cox.net](#); [gerryschey22@gmail.com](#); [quahogs5403@gmail.com](#); [Katie Eagan](#); [manuel.b.sousa.86@gmail.com](#); [mclamdigger@aol.com](#); [riclaminc@aol.com](#); [rogtel@cox.net](#); [Mcmanus, Conor \(DEM\)](#); [watchhilloysters@gmail.com](#); [rpengri@gmail.com](#); [McNamee, Jason \(DEM\)](#); [Livermore, Julia \(DEM\)](#); [Duhamel, Peter \(DEM\)](#); [Olszewski, Scott \(DEM\)](#); [Lake, John \(DEM\)](#); [buddhajay108@yahoo.com](#); [ronaldkenyonjr@gmail.com](#)
Subject: [EXTERNAL] : Whelk Minimum Size
Date: Tuesday, May 19, 2020 3:09:35 PM

To Whom It May Concern:

Would it be possible to add the proposed changes to the whelk minimum size to the agenda for the upcoming May 27th Shellfish Advisory Panel meeting? This change has the potential to have a significant effect on the whelk industry and needs to be discussed by the industry representatives on the SAP before it goes in front of the RIMFC.

While I support the proposed change to measuring whelk by height, as it is a more repeatable measurement less susceptible to error compared to measuring width, I do NOT agree that a height gauge of 2-9/32 inches results in a 2% gain in available harvest compared to the current size limit. In the days after the workshop on this matter I experimented with multiple height gauges and measured whelk from all over the east and west passages of Narragansett Bay. I found that all whelks I measured to be at or just greater than 3-inches wide will easily pass through a 2-9/32 inch height gauge. I even made a 2-1/4 inch height gauge to test if that would be closer to equivalent to the current size limit and even this smaller size height gauge resulted in nearly all 3-3-1/16 inch wide currently keeper sized whelk measuring as undersized.

There must be a discrepancy between how height was measured in RI DEM's sea sampling data and using a 2-9/32 inch height gauge as proposed in option 2. It is absolutely false to say that a height gauge of 2-9/32 inches results in a gain in harvest, in reality, a height gauge of 2-9/32 inches results in a significant loss in available harvest in the range of 5 to 10% or more. It would be an effective increase in the size limit for whelk.

I made a video to illustrate this. All gauges used in this video have been verified with digital calipers and width was measured with the operculum opening facing down. The width measuring device (white) has 2 vertical walls that are 3.01 or 3.02 inches apart and is what I use daily to check the size of my whelk. The first height gauge is 2-9/32 inches tall and is marked with 9/32. The second height gauge I use is 2-1/4 inches tall and is marked 1/4. Below is an icloud link that should lead to the video. Please let me know if the video does not work I will look into alternatives.

<https://share.icloud.com/photos/0pfyW0zYnXJ3C0NIWyJFCUa2g> [[share.icloud.com](#)]

In the video I first measure the width of each whelk. When the opposing shell edges touch both vertical walls of the device (with the operculum opening facing down) with the columella axis parallel to center, this is a 3-inch wide whelk. All whelks shown in the video measure at 3-inch or slightly greater than 3-inch width. All of these currently

legal size whelks easily pass through the 2-9/32 inch height gauge. They even pass through the smaller 2-1/4 inch height gauge. This indicates that in order for a height gauge to be equivalent to the current size limit it must be smaller than 2-1/4 inches. By my estimation something in the range of 2-3/16 to 2-7/32 inch height would be roughly equivalent to 3-inch width.

I am opposed to any effective increase in the whelk minimum size as the current 3-inch width is more than sufficient to protect the whelk population from overfishing. Any gauge size increase above this will result in the fishery moving away from maximum sustainable yield. Additionally, taking ecosystem effects into account, whelk's role as a predator of bay quahogs should be considered. The quahog beds of Narragansett Bay are inundated with massive population densities of channeled whelk, and at the current size limit whelk fishermen are unable to decrease the population of these predators in quahog beds. Any minimum size increase will be a detriment to the bay quahog industry as well as the whelk industry.

In conclusion I propose that the whelk size limit stay **status quo** for 2020 with continued discussion and collaboration between whelk fishermen and RIDEM to develop a height gauge this is NOT an effective minimum size increase over the current 3-inch width. I do not support option 1. Removing the length measurement without going to a equivalent height measurement does not help the industry.

Thank you for your consideration,
Ken Murgo
RIMP001365
SAP Whelk Industry Representative

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Title of Rule: Lobsters, Crabs and Other Crustaceans (250-RICR-90-00-5)

Rule Identifier: 250-RICR-90-00-5

Rulemaking Action: Direct Final Amendment

Important Dates:

Date of Public Notice: 05/01/2020

End of Public Comment: 05/31/2020

Authority for this Rulemaking:

R.I. Gen Laws Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with § 42-35-18(b)(5).

Summary of Rulemaking Action:

1. **Change "bycatch" to "incidental catch" for American lobster (section 5.8.1(L)):** Change proposed consistent with proposed addition of term "incidental catch" in Part 1, and changes to sections 3.29.2(B)(3) and 4.12.2(J)(2). Propose change is non-substantive in nature, meant to clarify only.
2. **Clarify control date for Horseshoe Crab (section 5.10(I)):** Clarify that the established control date is for the potential use in establishing eligibility criteria for future access to the fishery.
3. **Correct rules for Jonah Crab consistent with the FMP (section 5.11(B)):** Proposed changes for consistency with the FMP.
4. **Clarify control date for Atlantic Rock Crab (section 5.12(A)):** Clarify that the established control date is for the potential use in establishing eligibility criteria for future access to the fishery.
5. Other minor non-substantive clarifications

Additional Information and Comments:

If no formal objection is received on or before May 31, 2020, Department of Environmental Management will file the Amendment without opportunity for public comment..

Objections should be addressed to:

Peter Duhamel,

Department of Environmental Management

3 Fort Wetherill Road
Jamestown, RI 02835
peter.duhamel@dem.ri.gov

Regulatory Analysis Summary and Supporting Documentation:

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

For full regulatory analysis or supporting documentation see agency contact person above.

Proposed/annotated amendments

Note: Proposed new language is identified as red, underline; proposed language to be deleted is identified as ~~red-stricken~~.

250-RICR-90-00-5

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 5 – Lobsters, Crabs and Other Crustaceans

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5.1 Purpose

The purpose of these Rules and Regulations is to supplement and simplify and/or clarify existing regulations in order to more efficiently manage the marine resources of Rhode Island.

5.2 Authority

These regulations are adopted pursuant to R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws § 42-35-18(b)(5), Administrative Procedures Act.

5.3 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.

5.4 Definitions

See Rhode Island Marine Fisheries Regulations, Part I of this Subchapter.

5.5 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.

5.6 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 these regulations 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.

5.7 General Pot Provisions

- A. No person except the Director shall place, set, keep, maintain, sell, transfer, or have in his or her possession any pot, trap, car, or any other device used in taking or holding lobster or crabs, nor take, remove, or carry away from the

beach or shore any pot, trap, car, or other device or line (warp) or buoy without the written permission of the owner (R.I. Gen. Laws § 20-7-12.1).

- B. Raising lobster pots at night: No person shall raise or unduly disturb any lobster pot or trap within the territorial waters of this State between the hours of one (1) hour after sundown and one (1) hour before sunrise. (R.I. Gen. Laws § 20-7-13).
- C. Removal of branded numbers from lobster pots: No person shall set, maintain, or have in his or her possession any lobster pots from which the branded numbers have been altered, obliterated, or removed, with the intent to defraud or deprive the owner (R.I. Gen. Laws § 20-7-12).
- D. Buoys: Each pot used for the taking of lobsters or crabs shall bear a color scheme on the attached buoy consistent with the color stated on the license. In cases where natural conditions render it impractical to separately buoy each pot, the Director may grant permission to buoy such pots in an alternative manner (R.I. Gen. Laws § 20-7-11).
 - 1. Color scheme: The buoy color scheme shall be displayed on any lobster boat used by the licensee such that those colors shall be painted on port and starboard sides of the hull in a section not less than one foot (1') square. Or a clearly painted buoy shall be set at the highest point on the boat excluding the mast and be visible for 360°. The buoy or colors must be prominently displayed on the vessel at all times that lobster gear fished under that license is in the water (R.I. Gen. Laws § 20-7-11.1(a)).
 - 2. No person shall place, set, lift, raise, unduly disturb, draw in, or transfer any pot used for the taking of lobsters unless the color scheme of the attached buoy is the same as the color scheme that is on file with the license application and displayed on the boat used by that person, or unless that person is duly licensed and possesses written permission from the rightful owner of the pot, trap, or other device (R.I. Gen. Laws § 20-7-11.1(b)).

5.8 Lobster

5.8.1 RI State Waters and LCMA 2 (Inshore Southern New England):

- A. Minimum size: Three and three-eighths (3-3/8) inches (85.73 mm) carapace length.
- B. Maximum size: Five and one-quarter (5-1/4) inches (133.35 mm) carapace length.
- C. Egg-bearing female lobsters: No person shall have in his or her possession at any time any female lobster bearing eggs or from which the eggs have been brushed or removed (R.I. Gen. Laws § 20-7-10).

- D. Mandatory v-notching: Any person or vessel permitted or declared to fish in LCMA 2 shall v-notch all legal-sized egg bearing female lobsters.
- E. Prohibition on possession of v-notched female American lobsters: Any v-notched lobster shall be immediately returned to the water from which taken. No person shall retain on board, land, or possess any v-notched female American lobster.
- F. Penetrating devices: No person shall use a spear, gig, gaff, or other such penetrating device to harvest lobsters.
- G. Possession of lobster meat: No fishing vessel operating in Rhode Island territorial waters shall have on board at any time more than one (1) pound of cooked or uncooked lobster meat for each person on board that vessel (R.I. Gen. Laws § 20-7-14).
- H. Mutilation of uncooked lobster meat: No person shall mutilate any uncooked lobster by severing its tail from its body or have in his or her possession any part or parts of any uncooked lobster so mutilated (R.I. Gen. Laws § 20-7-14).
- I. Lobster pots:
 - 1. Maximum size: 22,950 cubic inches.
 - 2. Escape vents: Each and every lobster pot, set, kept, or maintained or caused to be set, kept, or maintained in any of the waters in the jurisdiction of this State by any person properly licensed, shall contain an escape vent in accordance with the following specifications: (R.I. Gen. Laws § 20-7-11(a)).
 - a. At least one (1) rectangular escape vent with an un-obstructed opening measuring not less than two inches by five and three-quarters ($2 \times 5\frac{3}{4}$) inches (50.8mm X 146mm); or two (2) circular escape vents, each with an un-obstructed opening measuring not less than two and five eighths ($2\text{-}5/8$) inches (66.68mm) in diameter; or,
 - b. An unobstructed gap caused by raising both ends of a bottom lath in the parlor section 2 inches (50.8mm) from the bottom; or,
 - c. An unobstructed gap caused by separating both ends of 2 vertical laths on the end of the parlor section by 2 inches (50.8mm); or,
 - d. An unobstructed gap created by cutting wires in a wire trap in such a manner as to meet the minimum size and number of vents required in accordance with this section.
 - e. The vent or gap shall be installed or made in each parlor section on the sides or end panel. Traps equipped with multiple parlor

sections and having a central entrance funnel(s) separating the parlor sections must adhere to the escape vent requirements specified above in each parlor section. Traps equipped with multiple parlor sections that are linked in series (“in-line”) must adhere to the escape vent requirements specified in the terminal, or end parlor section.

- f. Lobster traps not constructed entirely of wood must contain a ghost panel with the following specifications:
 - (1) The opening to be covered by the ghost panel must be rectangular and shall not be less than 3-3/4 inches (9.53 cm) by 3-3/4 inches (9.53 cm).
 - (2) The panel must be constructed of, or fastened to the trap with one of the following untreated materials: wood lath, cotton, hemp, sisal, or jute twine not greater than 3/16 inch (0.48 cm) in diameter, or non-stainless, uncoated ferrous metal not greater than 3/32 inch (0.24 cm) in diameter.
 - (3) The door of the trap may serve as the ghost panel if fastened with a material specified in previous paragraph.
 - (4) The ghost panel must be located in the outer parlor(s) of the trap and not the bottom of the trap.

J. Non-commercial (i.e. recreational) regulations:

- 1. A non-commercial lobster pot or diver license is available to RI residents only. A non-commercial lobster licensee shall not offer for sale or sell lobsters (R.I. Gen. Laws §§ 20-2-24 and 20-7-3).
 - a. Non-commercial lobster pots:
 - (1) A holder of a non-commercial lobster pot license may set, place, or maintain in the water not more than five (5) lobster pots at any one (1) time (R.I. Gen. Laws § 20-7-3).
 - (2) Trap tags: A lobster trap tag issued by the Director is required to be attached to each pot deployed. Tags shall be permanently attached to the trap bridge or central cross member of the trap and be clearly visible for inspection. A one (1) tag over-allotment will be issued for a routine loss. Tags shall be valid for the calendar year in which the license is issued.
 - b. Diver lobster license: A holder of a non-commercial lobster diver license shall take no more than eight (8) lobsters in any one (1)

day. No diver shall use a spear, gig, gaff, or other penetrating device to harvest lobsters or while diving to set, open or tend lobster pots (R.I. Gen. Laws § 20-7-4).

- K. Taking of lobsters by commercial fishing vessels: No operator of a Rhode Island registered vessel engaged in trawling for finfish in Rhode Island territorial waters may retain and sell any lobsters taken unless properly licensed by the Department (R.I. Gen. Laws § 20-7-2).
1. Licensing of owner-operated vessels: No vessel may be used in the commercial taking of lobsters unless the operator is the registered or documented owner of said vessel. If a corporation is the documented owner of a vessel, the operator shall be the majority owner of that corporation. This regulation shall in no way abridge a licensee's right pursuant to R.I. Gen. Laws § 20-7-6.
 2. Use of commercial license by agent or employee: If a commercial lobster licensee becomes incapacitated for any reason from using that license, that person may permit his or her agent or employee to perform those duties under the license. Prior authorization from the Director is required for the use of a commercial license by an agent or employee due to incapacitation, (R.I. Gen. Laws § 20-7-6). Criteria for use of license:
 - a. The applicant must provide application on forms prescribed by the Director;
 - b. The agent or employee must be a citizen of the United States;
 - c. The application must include a written statement signed by a duly-licensed physician stating that the applicant/licensee is incapacitated and unable to participate in the lobster fishery, the reason for that incapacity, and the anticipated duration of such incapacity. For the purpose of this section, the term incapacity shall be defined as the inability, due to medical reasons, to place, set, keep, maintain, supervise, lift, raise, or draw in any pot or other contrivance designed or adapted for the catching of lobsters. The Director may grant permission to the incapacitated applicant/licensee, for a period not to exceed ninety (90) days, to transfer his/her duties under such license to a designated agent or employee. This permission may be continued for an additional ninety (90) days upon submission to the Director of a duly-licensed physician's statement documenting such need. Further extensions may be granted at the discretion of the Director, but in no case may the period of transfer of duties exceed a total of one year.
 - d. Upon Director authorization for use of a license by an agent or employee, the authority of the licensee to sell or commercially

harvest lobsters under such license shall be transferred in its entirety to the designated agent or employee. The agent or employee must carry the license of the incapacitated licensee and the written authorization by the Director on his/her person at all times while engaged in any portion of the lobster fishery.

- e. By making application for the transfer of duties to an agent or employee, the applicant/licensee accepts responsibility for the actions of the transferee under the authority of said license.
3. Commercial possession limit of lobsters taken by gillnet or otter trawl: Maximum of one hundred (100) lobsters per day (based on a 24-hour period), or five hundred (500) lobsters per trip for trips five (5) days or longer.
- L. Lobster trap allocation (LTA):
1. No person may take or possess lobster commercially in LCMA 2 unless taken by a lobster trap authorized pursuant to a lobster trap allocation (LTA) issued by the Department, or as ~~bycatch~~ incidental catch by an otter trawl or gillnet.
 2. No person may deploy more lobster traps than the number allocated per their LTA.
 3. The Director is the LTA authority in LCMA 2 for all Rhode Island residents, both state-licensed and federally permitted.
 4. No holder of any LTA may lease his/her allocation, or any portion thereof.
 5. Issuance of initial LCMA 2 LTA:
 - a. The Department shall determine LCMA 2 LTAs for all eligible applicants.
 - b. For resident applicants who are dual state-license/federal-permit holders, the Department shall forward all proposed LCMA 2 LTAs, and the basis for each such determination, to NOAA Fisheries for that agency's consideration, prior to final issuance.
 - c. The Department and NOAA Fisheries shall seek to ensure that dual state-license/federal permit holders do not receive duplicate LCMA 2 LTAs from different jurisdictions for the same fishery performance.
 - d. If there is a discrepancy between Department and NOAA Fisheries proposed LCMA 2 LTAs for a dual state-license/federal permit holder, then the license/permit holder is bound by the lesser of the

LCMA 2 LTAs until a final, joint determination is rendered by the agencies.

- e. Initial LCMA 2 LTAs will only be issued to qualified applicants in accordance with these regulations.
 - f. Adjustments to initial LCMA 2 LTAs, and issuances of new LCMA 2 LTAs, may occur, by rule, if associated with Department-sanctioned transfers, or if warranted or required by changes in LCMA 2 lobster stock assessments or other ASMFC actions.
6. Qualifications for initial LCMA 2 LTAs:
- a. To be eligible for an initial LCMA 2 LTA, an applicant must meet the following:
 - (1) Applied to the Department by February 1, 2007.
 - (2) Held a Department-issued commercial fishing license, authorizing the individual to fish commercially for lobster, or a federal lobster permit endorsed for LCMA 2, at some point during the period 2001-2003; and,
 - (3) Documented fishing performance during the period 2001-2003 (i.e., must have landed lobsters with traps from LCMA 2 at some point during that period); or if unable to do so due to material incapacitation, must have documented fishing performance during the period 1999-2000 and during the year 2004 (i.e., must have landed lobsters with traps from LCMA 2, with a valid license/permit, at some point during those periods); and,
 - (4) Renewed his/her license/permit annually since 2003.
 - b. Alternatively, an applicant is eligible for an initial LCMA 2 LTA if he/she has:
 - (1) Lawfully acquired a federal lobster permit that comports with the above-specified qualifications; or,
 - (2) Acquired the vessel and gear of a RI license holder who meets the above-specified qualifications and has been issued a new license with a lobster endorsement.
 - c. Documented fishing performance shall be based upon a license/permit holder's logbook reports and/or federal VTRs pertaining to the applicable qualifying period. In accordance with these regulations, the Department will consider other information,

offered by the applicant, but only if it pertains to documentation already furnished to a state or federal government agency.

- d. LTAs assigned to a dual federal permit/state license holder cannot be treated as separate fishing histories and stacked for the purposes of initial trap qualification and allocation. A single fishing entity is considered to have established a single lobster fishing history even if that person is a dual federal permit/state license holder.
- e. **Material Incapacitation:** An individual who meets the qualifying criteria, but had no documented, or had reduced, fishing performance during the three-year period 2001-2003, inclusive, due to material incapacitation, may request that his/her initial LCMA 2 LTA be based on his/her fishing performance in LCMA 2 during the period 1999-2000. The Department will review all documentation submitted by applicants seeking consideration under this section, and shall render a decision, in writing, regarding each applicant's eligibility pursuant to this section. On the basis of that decision, the Department shall notify each applicant, in writing, regarding the applicant's initial LCMA 2 LTA, noting the values used in making the determination, or the reason(s) why the application was denied. In order to establish material incapacitation on the basis of a medical condition, an applicant must present the following notarized documentation, which may pertain to the applicant or to the applicant's family member:
 - (1) Evidence that the applicant or family member had a physical or mental impairment during the period 2001-2003, inclusive, involving inpatient care in a hospital, a nursing home, or a hospice, or outpatient care requiring continuing treatment or supervision by a health care provider; and/or,
 - (2) Evidence that the applicant or family member received, during the period 2001-2003, inclusive, social security disability benefits (SSDI), and/or supplemental security income benefits (SSI), and/or 100 percent disabled benefits from the U.S. Department of Veteran Affairs; and,
 - (3) If the material incapacitation involves a family member, evidence that the applicant had a direct role in the care of the family member.
 - (4) In order to establish material incapacitation on the basis of military service, an applicant must present appropriate documentation (namely, Form DD214) establishing that he/she served for one hundred eighty (180) or more days

during the years 2001-2003, either on active duty in the U.S. Army, Navy, Air Force, Marines, or Coast Guard, or as a member of a national guard or reserve component of the same, activated by order of an appropriate state or federal authority.

- (5) Applicants seeking consideration under this section may be required to submit additional information, as deemed necessary by the Department, in order to establish eligibility pursuant to this section.

7. Application for initial LCMA 2 LTA:
 - a. Application shall be made on forms prescribed by the Director.
 - b. Separate applications must be submitted for each LCMA 2 LTA being sought.
 - c. If an applicant seeks consideration material incapacitation, the applicant must submit the appropriate documentation along with his/her application.
 - d. The Department shall notify each LCMA 2 LTA applicant, in writing, regarding the applicant's initial LCMA 2 LTA, noting the values used in making the determination, or the reason(s) why the application was denied.
8. Determination of initial LCMA 2 LTAs: For each qualified applicant, the Department shall determine initial LCMA 2 LTAs as follows:
 - a. "Predicted Traps Fished" values shall be calculated for 2001, 2002, and 2003 from the applicant's total lobster landings in each of those years using the established regression relationship for LCMA 2.
 - b. "Reported Traps Fished" values, constituting the maximum number of lobster traps reported fished in LCMA 2 for 2001, 2002, and 2003, shall be obtained from the applicant's logbook reports and/or federal Vessel Trip Reports (VTRs).
 - c. "Effective Traps Fished" values shall be determined by comparing the "Predicted Traps Fished" and "Reported Traps Fished" values for each of the three years, and identifying the lower value for each year.
 - d. The initial LCMA 2 LTA is determined by selecting the highest value of the three annual "Effective Traps Fished" values.

- e. The maximum initial LTA assigned to LCMA 2 shall be eight hundred (800) traps.
 - f. For applicants who qualify for material incapacitation, the Department shall determine initial LCMA 2 LTAs pursuant to this section, except that the years 1999 and/or 2000 will be used in lieu of the years 2001, 2002, and 2003.
9. Corrections to or revocations of LCMA 2 LTAs:
- a. A recipient of an LCMA 2 LTA may request, and the Department may make, corrections to qualifying data if errors are found attributable to data entry or mathematical errors in logbook or landing reports or any other mistakes by the Department.
 - b. A recipient of an LCMA 2 LTA may request, and the Department may make, corrections to qualifying data based on additional documentation, provided by the applicant, that reflects catch (landings) or effort (traps fished) data/information differing from the applicant's logbook or VTR reports. To be considered eligible for review, such documentation must have been previously furnished to a state or federal government agency. Such additional information may include: trap tag orders; state report cards; state vessel interview forms; state license application forms; state sea sampling observer reports, and catch reports; federal fishing trip reports (NOAA form 88-30); federal port agent vessel interview forms (NOAA Form 88-30); federal sea sampling observer reports; federal fishing vessel and gear, or damage compensation fund reports (NOAA Form 88-176); personal vessel logbooks; sales receipts or landing slips; and/or tax returns.
 - c. Requests made pursuant to this section must be made in writing to the Department and must be accompanied by all supporting information/ documentation. The Department shall respond to all such requests, in writing, within thirty (30) days of receipt.
 - d. The Department may make corrections to any initial LCMA 2 LTA if it is determined that the applicant or recipient did not purchase and use valid lobster trap tags for any period used in determining the initial LCMA 2 LTA; or if it is determined that the applicant or recipient submitted inaccurate data/information/documentation relating to the determination of his/her LCMA 2 LTA.
 - e. The Department may temporarily or permanently revoke any LCMA 2 LTA if the applicant or recipient is found to have submitted fraudulent data/information/ documentation relating to the determination of his/her LCMA 2 LTA.

- f. Any actions or decisions made by the Department pursuant to this section shall be issued in writing.

10. Disputes and appeals:

- a. Upon the issuance of a written decision by the Department regarding an initial, corrected, or revoked LCMA 2 LTA, an applicant may appeal the decision by submitting a written request for an adjudicatory hearing with the clerk of the RIDEM Administrative Adjudication Division, One Capitol Hill, Fourth Floor, Providence, RI 02908. Such a request must be submitted within thirty (30) calendar days of receipt of the Department's written decision.
- b. During the time period from which an appeal has been filed, and until a final determination has been rendered by the AAD, the appellant shall be restricted to fishing his/her initial or corrected LCMA 2 LTA, as set forth by the Department.

M. LTA transfers:

1. Eligibility:

- a. LTA transferors: Any state-licensed, federally-permitted, or dually federally-permitted/state-licensed holder of a Department or NOAA Fisheries-issued LTA is eligible to transfer some or all of his/her LTA, subject to the terms and conditions set forth below.
- b. LTA transferees: Any RI resident is eligible to obtain one or more transfers of Department issued LTAs, subject to the terms and conditions set forth below. Any RI resident or non-resident is eligible to obtain one or more transfers of NOAA Fisheries-issued LTAs, subject to the terms and conditions set forth below.
- c. All holders of LTAs assigned to a RI state commercial fishing license only (i.e. no federal permit) must annually renew their RI state commercial fishing license, or that portion of their RI state commercial fishing license that authorizes them to commercially harvest lobsters from RI state waters with lobster traps, in order to remain eligible to transfer any portion of their LTA.

2. LTA transfer application:

- a. All transfers of LTAs must be authorized by the Director.
- b. Applications for LTA transfers shall be made on forms prescribed by the Director. All applications must be signed by both the transferor and transferee, and notarized.

- c. Applications for transfers may be submitted from June 1 through November 30 for the following fishing year.
 - d. Transfers shall become effective the year following the approval of the application.
 - e. The LTA transferor and transferee are not bound by any rules or regulations of the Department relating to any payment or compensation between LTA transferor and transferee associated with any LTA transfer. Holders of LCMA 2 LTAs assigned to RI State waters may sell, give, or otherwise convey some or all of their allocation without limitation, provided that they comply with all terms and conditions set forth herein.
3. Types of allowable transfers:
- a. Partial or full LTA transfers without sale of business: An LTA transferor may transfer a portion or all of his/her Department- or NOAA Fisheries-issued LTA. In any such case, the LTA transferor may retain his/her license/permit and fishing business.
 - b. Full LTA transfer with sale of business: Pursuant to RIMFR “Commercial and Recreational Saltwater Fishing Licensing Regulations”, a licensed fishermen who has been actively fishing his license/permit and wishes to sell his vessel and gear and retire his license may do so, and in so doing, enable the buyer (transferee) to acquire a new, corresponding license and endorsement. In any such situation, the transaction must include the transfer of all of the seller’s (transferor’s) Department- or NOAA Fisheries-issued LTA, along with any and all history associated with the license/permit.
 - c. Partial and full business transfers of multi-LCMA LTA: Recipients of either a partial LTA transfer or full LTA transfer with sale of business from a federal permit that has a multi-LCMA LTA shall retain the multi-LCMA history and may fish in any of the LCMAs that the LTA allows and would be bound by the most restrictive rule when declaring to be fishing in multiple LCMAs.
4. LTAs assigned to a dual federal permit/state license holder cannot be divided and apportioned between the permit/license. A dual federal permit/state license holder’s LTA will be considered indivisible. If a dual federal permit/state license holder “splits” his/her permits/license by transferring either the federal permit or state license to another entity, then the entire fishing history, including any LTA is to remain with the federal permit.

5. A dual federal permit/state license holder who permanently relinquishes or surrenders his/her federal limited access lobster permit can allow his/her LTA to be transferred to his/her state license.
 6. Transfers of any LTA must remain within the LCMA from which they originate. An LTA from one LCMA is only valid in the LCMA from which it originally qualified and cannot be transferred to another LCMA.
 7. The LTA of the seller (LTA transferor) shall be reduced in all LCMA's in which the seller has been assigned a LTA by the amount of LTA that is transferred, prior to application of the 10% conservation tax.
 8. Partial transfers of LTA assigned to LCMA 2, whether state-licensed, federally-permitted, or dually federally-permitted/state-licensed, shall involve a minimum of ten (10) LTA units (i.e. lobster traps), and occur in minimum units of ten (10) LTA units thereafter, until the remaining LTA is less than ten (10) lobster traps.
 9. If a LTA assigned to LCMA 2 falls below ten (10) lobster traps, and the holder wishes to transfer his/her allocation, the entire allocation must be transferred in a single transaction, and the lobster trap allocation transferor shall be prohibited from participation in the LCMA 2 commercial lobster trap fishery until such time as said license holder re-acquires LTA assigned to LCMA 2.
 10. All transfers of LCMA 2 LTAs, including all partial and full trap allocation transfers and all transfers associated with the sale of business, shall be subject to a ten percent (10%) conservation tax. The tax shall be applied to each and every transfer, including all initial transfers and any/all subsequent transfers. Transfers of less than ten (10) lobster traps shall not be subject to the 10% conservation tax.
 11. An LCMA 2 LTA transferee may engage in any number of transfers, provided that the total number of traps held at any one time does not exceed eight hundred (800).
 12. Any LTA transferee who obtains a LCMA 2 LTA assigned to a RI state commercial fishing license only (i.e. no federal permit) must currently have a Principle Effort License with a lobster endorsement or a state multipurpose endorsement, which shall be necessary in order to commercially harvest lobsters from RI state waters with lobster traps.
- N. Single Ownership Trap Cap or Individual Permit Cap for LCMA 2:
1. Single ownership cap allows the purchase and accumulation of traps over and above the active trap cap (currently 800 traps for LCMA 2). The single ownership cap is 1600 traps for an individual or corporation at a given time. Traps in excess of the active trap cap may not be fished until

activated by the permitting state or agency. A transfer tax will not be assessed on traps activated from the permit holder's individual permit cap (Trap Bank) to an active trap. Newly purchased traps, along with traps already owned by a permit holder may combine to equal the number of traps necessary to go through active reductions, in order to end up at the final trap level of 800 traps.

2. **Sunset Provision for the Single Ownership Cap:** The single ownership cap allows the purchase and accumulation of traps over and above the active trap cap (currently 800 traps for LCMA 2). This is to allow for businesses that are cut in the upcoming annual trap reductions to efficiently rebuild their business. The single ownership cap will expire two (2) years after the last trap reduction as specified in Addendum XVIII. At that time, LCMA 2 will revert back to the historical 800 active trap cap allocation only.
- O. **Aggregate Ownership Cap or Owner Accumulation Limits for LCMA 2:** Under this addendum, an entity may not own more than 1600 traps (800 active and 800 banked traps). However, those individuals who had more than two (2) permits in December 2003 may retain the number they had at that time, but may not own or share ownership of any additional permits.
- P. **License and LTA Tracking:** The Department shall maintain records to track all Department or NOAA Fisheries issued LTAs and LTA transfers for resident state license holders and resident federal permit holders.
- Q. **LTA reduction for LCMA 2:**
1. **Initial LTA reduction:** Effective Year 1 of LTA reduction schedule, each and every LCMA 2 LTA shall be reduced by twenty-five percent (25%) from the original LCMA 2 LTA determination and be permanently retired from the LCMA 2 lobster trap fishery for conservation purposes. For state-only license holders, LTA reductions are from the original LCMA 2 LTA determinations and any LCMA 2 LTA obtained subsequent to the initial LCMA 2 LTA determination. For federal permit or dual state license/federal permit holders, LTA reductions are from the LTA accepted by the federal permit or dual state license/federal permit holders after NOAA Fisheries completes their LTA process. Additionally, any other LTA from any other LCMA that was obtained by the federal permit or dual state license/federal permit holder subsequent to the initial LTA determination is also subject to this twenty-five percent (25%) LTA reduction.
 2. **Annual LTA reduction schedule:** Effective beginning Year 2 of LTA reduction schedule and on June 1st in each of the next four (4) consecutive years, each and every LCMA 2 LTA shall be reduced by five percent (5%) from the preceding year's LCMA 2 LTA. The annual LTA reductions shall be assessed to both active and banked LCMA 2 LTA's,

with the annual LTA reductions being permanently retired from the LCMA 2 lobster trap fishery for conservation purposes.

LCMA 2 – LTA Reduction Schedule:

Year	% Reduction
Year 1	25%
Year 2	5%
Year 3	5%
Year 4	5%
Year 5	5%
Year 6	5%

R. Commercial lobster trap tags:

1. No person shall set, haul or maintain from, in, or upon the waters under the jurisdiction of the State of Rhode Island any lobster pot for taking of American lobster without the pot having a valid State of Rhode Island lobster trap tag.
2. Application for trap tags shall be made on forms as prescribed by the Director.
3. Tags shall be permanently attached to the trap bridge or central cross member of each trap and be clearly visible for inspection.
4. Tags shall be valid from June 1 through May 31 annually.
5. All lobster trap tags shall be a permanent, single-use design.
6. No person shall transfer lobster trap tags between lobster traps or between individuals or vessels.
7. No person shall file a false claim of trap or trap tag loss.
8. No person shall possess at any one time more lobster trap tags than are authorized.

9. Only lobster trap tags for the current fishing year and the immediate previous or following fishing year shall be allowed to remain attached to each lobster trap.
10. The 10% over-allotment of original trap tags for routine losses shall not be deployed (if issued) such that the total number of traps deployed is greater than the authorized allocation.
11. Issuing authority: The Director is the authority for the issuance of lobster trap tags for the state of RI, and shall have complete oversight over the program.
 - a. For state-licensed residents and non-residents who possess a Federal Limited Access Lobster Permit, the Director may request authority to issue trap tags to Federal Limited Access Lobster Permit holders under a signed Memorandum of Agreement (MOA) with NOAA Fisheries. If such an agreement is not established, NOAA Fisheries shall be the issuing authority.
 - b. The State of Rhode Island, under a signed Memorandum of Agreement (MOA) with the NOAA Fisheries, shall recognize lobster trap tags issued by NOAA Fisheries as being valid within waters under the jurisdiction of the state, provided that the Federal Limited Access Lobster Permit holder also possesses a valid RI commercial fishing license to harvest lobster.
12. Trap tag types and issuance:
 - a. Original trap tags: Commercial licensees may order up to their original trap tag allocation, plus a 10% over-allotment to allow for replacement due to routine trap losses. When a routine loss of an original trap tag or trap occurs, the 10% over-allotment of original trap tags issued shall be used to replace the lost tag or trap.
 - b. Gear rotation trap tags: Commercial licensees may order trap tags to be used for gear rotation and maintenance. The number of gear rotation trap tags issued shall not exceed the licensee's original trap tag allocation. Gear rotation trap tags shall be held by the Director. The Director shall issue gear rotation trap tags on a one-for-one basis upon receipt of the original tags.
 - c. Catastrophic loss trap tags: Commercial licensees may order up to two (2) complete sets of catastrophic loss trap tags, in an amount equal to the number of original tags ordered, to be used in the event of catastrophic loss or to replace original trap tags not received.
 - (1) Catastrophic loss trap tags shall be held by the Director.

- (2) When a catastrophic loss occurs, a complete duplicate set of ordered catastrophic trap tags shall be issued. Original trap tags will become null and void upon issuance of catastrophic loss trap tags.
 - (3) Catastrophic loss trap tags shall be distinguishable from original trap tags (i.e. color).
 - (4) Application for catastrophic loss trap tags shall be made on forms prescribed by the Director and signed by the commercial licensee under penalty of perjury. The Department shall review the application for catastrophic loss tags form within 1 week after receipt.
 - (5) In state waters, catastrophic loss trap tags must be placed in traps within ten (10) days after issuance.
 - (6) The Department shall report the issuance of catastrophic loss trap tags and the voiding of original trap tags to the DLE.
 - (7) The DLE must be notified, in writing by certified mail, in cases of extenuating circumstances that do not permit catastrophic loss trap tags to be attached to traps.
 - (8) Catastrophic trap tag loss shall be reported immediately to the DLE. Recovery of original lobster trap tags that have been reported as catastrophic loss shall be reported immediately to the DLE.
 - (9) In the event that catastrophic loss trap tags are not immediately available, the Director may authorize the use of new traps until catastrophic loss trap tags are received by said licensee.
 - (10) Following the issuance of catastrophic trap tags, no person shall deploy a lobster trap for which a catastrophic loss trap tag has been issued and which does not display a valid catastrophic loss trap tag.
13. For persons possessing a valid RI commercial fishing license (licensee) for the catching, taking, or landing of American lobster, and who also own or are incorporated/partnered in a vessel(s) holding a Federal Limited Access Lobster Permit (Federal Lobster Permit), the following shall apply:
- a. No harvesting of lobster may occur in any LCMA by means of any lobster trap for which a trap tag has not been issued. All vessels owned/incorporated/partnered by said licensee which hold a

Federal Lobster Permit shall annually declare all LCMA(s) in which the licensee intends to fish during the fishery year. Said declaration shall be made at the time of application for the issuance of lobster trap tags on forms prescribed by the Director.

- b. Once declared, an LCMA may not be changed until the next fishery year. An LCMA declared to the Director shall be identical to the LCMA declared to the NOAA Fisheries or vessels holding a Federal Lobster Permit on forms provided by NOAA Fisheries concerning the fishing activities during the subject period by the vessel owned/incorporated/partnered by said licensee.
- c. If any discrepancies between the LCMA declared to the Director and NOAA Fisheries are revealed, the NOAA Fisheries LCMA declarations shall govern. Any lobster trap tags issued based on conflicting information provided to NMFS shall become null and void and must be returned to the issuing authority.
- d. Federal (EEZ) waters lobster trap tags shall be distinguishable from RI State waters lobster trap tags by color.
- e. No licensees owning/partnered/incorporated in vessel(s) holding a LCMA 2 Federal Lobster Permit shall be permitted to deploy, place, set, tend, haul, lift, raise, supervise, or maintain lobster traps from said LCMA 2 federally-permitted vessel(s), or to catch/take American lobster within the jurisdiction of the State of RI from said LCMA 2 federally-permitted vessel(s), unless the lobster traps are tagged with federally-designated lobster trap tags that includes a LCMA 2 declaration, issued to said federally-permitted vessel(s).
- f. If multiple LCMA's are declared, pursuant to part (1) above, and management measures for the declared LCMA's differ, any vessel owner permitted to fish in the federal exclusive economic zone (EEZ) must comply with the most restrictive management measures of the LCMA's declared, except in regard to trap caps and trap allocations. For trap caps and trap allocations, the most restrictive rule will be applied on an LCMA trap cap/trap allocation basis without regard to the individual's or vessel's trap cap or trap allocation.

S. Land-based lobster processing permit:

- 1. A land-based lobster processing permit is required for the land-based processing of whole uncooked lobsters.
- 2. The possession of lobster tails, claws, or other lobster body parts at sea or in any unlicensed facility is prohibited.

3. Lobster body parts which are possessed by the land-based processor shall come from legal-sized lobsters only. For the purposes of this section, a legal-sized lobster meets the minimum size and has a dorsal midline length of the sixth abdominal (tail) segment of at least 1-1/16 inches;
4. Application: Application for a Land-Based Lobster Processing Permit shall be made on forms prescribed by the Director.
5. The applicant must possess a State of Rhode Island Department of Health Food Processor's License and a Rhode Island Lobster Dealer's License.
6. Containers in which processed lobster body parts are packed and which are to be sold, shipped, or transported shall be clearly labeled with the license number of the processor.
7. The applicant shall maintain records at the processing facility of lobster purchases, including the license numbers of the sellers for a period of two years.

5.8.2 LCMA 1 (Inshore Gulf of Maine):

- A. Minimum size: Three and one-quarter (3-1/4) inches (82.55 mm) carapace length.
- B. Maximum size: Five (5) inches (127.0 mm) carapace length.
- C. Minimum escape vent size: In each parlor section of the lobster trap, at least one (1) rectangular escape vent with an un-obstructed opening measuring not less than two inches by five and three-quarters (2 X 5³/₄) inches (50.8mm X 146mm), or two (2) circular escape vents, each measuring not less than two and one half (2¹/₂) inches (63.5mm) diameter.
- D. Maximum trap size: 22,950 cubic inches.
- E. Prohibition on possession of v-notched female American lobsters - zero tolerance v-notching definition: No person, including, but not limited to fishermen, dealers, shippers, and restaurants, shall retain on board, land, or possess any v-notched female American lobster. In LCMA 1, a v-notched female lobster means any female lobster bearing a v-shaped notch of any size in the flipper next to and to the right of the center flipper, as viewed from the rear of the female lobster. V-notched female lobster also means any female lobster which is mutilated in such a manner as to hide, obscure, or obliterate such a mark. The flipper to the right of the center flipper will be examined when the underside of the lobster is down and its tail is toward the person making the determination.

- F. Mandatory v-notching: Any person or vessel permitted or declared to fish in LCMA 1 shall v-notch all legal-size egg-bearing female lobsters and return them to the water immediately.
- G. Limits on landings by fishermen using gear or methods other than traps: Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than one hundred (100) lobsters per day (based on a 24-hour period) up to a maximum of five hundred (500) lobsters per trip, for trips five (5) days or longer.

5.8.3 LCMA 3 (Offshore Waters):

- A. Minimum size: Three and 17/32 (3-17/32) inch (89.69 mm) carapace length.
- B. Maximum size: Six and 3/4 inch (6 3/4) inch (171.45 mm) carapace length.
- C. Minimum escape vent size: In each parlor section of the lobster trap, at least one (1) rectangular escape vent with an un-obstructed opening measuring not less than two and one sixteenth inches by five and three quarter (2-1/16 X 5 3/4) inches (53.39mm X 146.05mm) or two (2) circular vents, each with an un-obstructed opening measuring not less than two and eleven sixteenths (2-11/16) inches (68.26mm) diameter.
- D. Maximum trap size: 30,100 cubic inches.
- E. Prohibition on possession of v-notched female American lobsters: No person, including, but not limited to fishermen, dealers, shippers, and restaurants, shall retain on board, land, or possess any v-notched female American lobster.
- F. Mandatory v-notching: There is no v-notching requirement in LCMA 3.
- G. Limits on Landings by fishermen using gear or methods other than traps: Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than one hundred (100) lobsters per day (based on a 24-hour period) up to a maximum of five hundred (500) lobsters per trip, for trips five (5) days or longer.
- H. Limits on the Number of Traps:
 - 1. Qualification Criteria: The trap limit in LCMA 3 shall be based on the historical level of traps fished by a vessel in LCMA 3. To qualify for LCMA 3 participation, vessels must meet all of the following criteria:
 - a. A vessel must be able to demonstrate a history of two (2) consecutive calendar-months of active lobster trap fishing in LCMA 3 in any year between March 25, 1991 and November 1, 1997.

- b. A vessel must hold a current federal lobster permit endorsed for traps.
 - c. Applicants for an LCMA 3 trap allocation are required to produce sales receipts or records showing the landing of at least 25,000 pounds of lobster from throughout the range of the resource during the year used as the qualifying year and between March 25, 1991 and November 1, 1997.
 2. Basis for Initial Trap Limit Number: Initial trap allocations to qualifying vessels (Federal Limited Access Lobster Permit holders that meet the performance criteria listed above) shall be based on the applicant's choice of year and trap level, in the water in LCMA 3, during the period from January 1, 1994 through November 1, 1997. Vessels that did not lobster trap fish in LCMA 3 during the period from January 1, 1994 through November 1, 1997, but did qualify as a Federal Limited Access Lobster Permit holder, must pick the most recent year in which they actively fished lobster traps in LCMA 3, such year not to pre-date the March 25, 1991 control date.
 3. Maximum Initial Trap Allocation is 3,250 Traps: No vessel shall be given an Initial trap allocation of more than 3,250 traps, regardless of previous historical participation.
 4. Vessels Applying for both LCMA 3 and Additional LCMA Trap Allocations: Vessels applying for multiple LCMA trap allocations must use the same period to determine their total trap numbers to avoid allocating more total traps to an individual/vessel than that individual/vessel had in the water at any one time. Applicants for LCMA 3 trap allocations, who are also applicants for trap allocations in other LCMA's, must meet the same qualifying criteria as defined above.
 5. Certification of Initial trap Allocation Applications: Within 60 days of the close of the trap application period, the Regional Administrator should publish a notice that specifies preliminary initial lobster trap allocations for each Federal Limited Access Lobster Permit holder. The amounts will be based on lobster trap information submitted by the applicant in accordance with the evaluation process, and other information considered appropriate by the Regional Administrator. The notice will provide for a 30-day public comment period. Simultaneous with the publication, the same information contained in the notice (including the 30-day comment period) will appear in a Notice to Permit Holders.
- I. Trap Reduction Schedule for LCMA 3: Each LCMA 3 trap allocation of greater than 1,200 lobster traps will be reduced on a sliding scale basis over a 4 year period. Trap reduction will not go below a baseline level of 1,200 lobster traps. LCMA 3 trap allocations of less than 1,200 lobster traps will remain at their initial

qualifying level and will not be permitted to increase up from that number. The LCMA 3 trap reduction schedule is as follows:

Initial Allocation	3250	3000	2800	2600	2400	2200	2000	1800	1600	1400
Year 1	2656	2493	2357	2218	2076	1930	1762	1628	1467	1290
Year 2	2493	2351	2230	2107	1981	1849	1715	1573	1423	1251
Year 3	2351	2225	2117	2008	1896	1776	1654	1523	1380	1213
Year 4	2267	2150	2050	1949	1845	1732	1616	1492	1352	1200

- J. There shall be no area closure between LCMA 1 and LCMA 3.
- K. Reporting requirements for LCMA 3: For any person or vessel permitted and declared to fish in LCMA 3, it shall be required to fill out multi-species logbooks until a lobster-specific logbook is approved.
- L. LCMA 3 “Choose and Use” provision: Once qualified for historic participation in LCMA 3, a federal lobster permit holder requesting an LCMA 3 designation (LCMA declaration) is required to permanently designate LCMA 3 on his/her/vessel federal permit. Federal permit holders have a one-time opportunity to drop the LCMA 3 designation. In addition, when an LCMA 3 federal permit is sold or transferred, permanent designation can be reconsidered, which allows the new owner the decision of whether or not they wish to designate/declare LCMA 3 on his/her/vessel federal permit.
- M. LCMA 3 LTA transfers:
 1. Transfers of LTA assigned to LCMA 3 may only be made to individuals/entities with a federal lobster permit.
 2. Partial transfers of LTA assigned to LCMA 3, whether federally permitted or dually federally-permitted/state-licensed, shall involve a minimum of ten (10) LTA units (i.e. lobster traps), and occur in minimum units of ten (10) LTA units thereafter, until the remaining LTA is less than ten (10) lobster traps.
 3. If LTA assigned to LCMA 3 falls below ten (10) lobster traps, and the holder wishes to transfer the LTA, the entire allocation must be transferred in a single transaction, and the lobster trap allocation transferor shall be prohibited from participation in the LCMA 3 commercial lobster trap fishery until such time as said individual/entity re-acquires LTA assigned to LCMA 3.
 4. All transfers of LCMA 3 LTAs, including all partial and full trap allocation transfers and all transfers associated with the sale of a business, shall be

subject to a 10% conservation tax. The tax shall be applied to each and every LTA transfer, including all initial transfers and any/all subsequent transfers. Transfers of less than ten lobster traps shall be prohibited.

5. The maximum allowable LTA assigned to LCMA 3 shall be two thousand (2,000) traps. An LCMA 3 LTA transferee may engage in any number of transfers, provided that the total number of traps held at any one time does not exceed two thousand (2,000).

6. Active Trap Cap for LCMA 3:

Year	Trap Cap
Year 0	2,000
Year 1	1,900
Year 2	1,805
Year 3	1,715
Year 4	1,629
Year 5	1,548

This schedule assumes that NOAA Fisheries will implement a 2,000 trap cap with the next set of federal rules and phase in a 25% trap cut during the next five years.

7. Single Ownership Cap or Individual Permit Cap for LCMA 3: The Single Ownership Cap allows for the purchase and accumulation of traps over and above the Active Trap Cap limit. This will allow a permit holder to obtain trap allocation from other permit holder in excess of the individual trap cap limit. This additional allocation may not be fished until activated by the permit holder's governing agency.

8. Individual Permit Cap Table for LCMA 3:

Year	Number of Traps
Year 0	2,333
Year 1	2,216
Year 2	2,105
Year 3	2,000

Year 4	1,900
Year 5	1,800

This schedule assumes that NOAA Fisheries will implement a 2,000 trap cap with the next set of federal rules and phase in a 25% trap cut during the next five years.

9. Aggregate Ownership Cap or Ownership Accumulation Limits (Full Exemption): No single company or individual may own traps greater than five times the Single Ownership Cap if they have not already accumulated them prior to the NMFS publishing a present-day control date. However, should an individual owner qualify to be in excess of the Aggregate Ownership Cap before the control date is published, that owner will retain their existing trap ownership and that owner may only increase trap ownership up to the Single Ownership / Individual Permit Cap. Any ownership with an accumulation of fewer traps than the Aggregate Cap at the time the control date is published may not exceed the Aggregate Ownership Cap, as detailed in the table below:

Ye	Activ Cap	Individual Per mit Cap	Aggregate Permit Cap (5x Individual Permit Cap)
Ye	2,00	2,333	11,665
Ye	1,90	2,216	11,080
Ye	1,80	2,105	10,525
Ye	1,71	2,000	10,000

Ye	1,62	1,900	9,500
Ye	1,54	1,800	9,000

10. License and LTA Tracking: The Department shall maintain records to track all Department or NOAA Fisheries issued LTAs and LTA transfers for resident state license holders and resident federal permit holders.
11. Annual LTA reduction schedule for LCMA 3: Effective Year 1 of LTA reduction schedule, and on June 1st in each of the next four (4) consecutive years, each and every LCMA 3 LTA shall be reduced by five percent (5%) from the preceding year's LCMA 3 LTA. The annual LTA reductions shall be assessed to both active and banked LCMA 3 LTA's, with the annual LTA reductions being permanently retired from the LCMA 3 lobster trap fishery for conservation purposes.

LCMA 3 – LTA Reduction Schedule:

Year	% Reduction
Year 1	5%
Year 2	5%
Year 3	5%
Year 4	5%
Year 5	5%

5.8.4 LCMA 4 (Inshore Northern Mid-Atlantic):

- A. Minimum size: Three and three eighths (3-3/8) inch (85.72 mm) carapace length.
- B. Maximum size: Five and ¼ (5 ¼) inch (133.35 mm) carapace length.
- C. Minimum escape vent size: In each parlor section of the lobster trap, at least one (1) rectangular escape vent with an un-obstructed opening measuring not less than two inches by five and three-quarters (2 X 5¾) inches (50.8mm X

146.05mm), or two (2) circular escape vents, each with an un-obstructed opening measuring not less than two and five eighths (2 5/8) inches (66.68 mm) diameter.

- D. Maximum trap size: 22,950 cubic inches.
- E. Prohibition on possession of v-notched female American lobsters: No person, including, but not limited to fishermen, dealers, shippers, and restaurants, shall retain on board, land, or possess any v-notched female American lobster.
- F. Mandatory v-notching: Any person or vessel permitted or declared to fish in LCMA 4 shall v-notch all legal-sized egg bearing female lobsters and return them to the water immediately.
- G. Limits on landings by fishermen using gear or methods other than traps: Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than one hundred (100) lobsters per day (based on a 24-hour period) up to a maximum of five hundred (500) lobsters per trip, for trips five (5) days or longer.
- H. Limits on the Number of Traps:
 - 1. Qualification Criteria: The trap limit in LCMA 4 shall be based on the historical level of traps fished by an individual. To qualify for LCMA 4 participation, individuals must prove participation in the LCMA 4 lobster fishery between March 25, 1991 and September 15, 1998.
 - 2. Basis for Initial Trap Limit Number: Initial trap allocations to qualifying individuals shall be based on the number of traps fished in any one calendar year during the period from January 1, 1994 through September 15, 1998. Individuals that did not lobster trap fish in LCMA 4 during the period from January 1, 1994 through September 15, 1998, but did fish between 1991 and 1993, inclusive, must pick the most recent year in which they actively fished lobster traps in LCMA 4, such year not to pre-date the March 25, 1991 control date. Individuals shall be allocated the total number of traps fished.
- I. Area closures: It shall be unlawful to harvest lobsters using trap gear in four closed areas: (1) Fire Island; (2) Moriches; (3) Shinnecock and; (4) Montauk. Fishermen may fish traps for finfish in these areas, but may not possess lobsters while fishing in these designated areas. These areas were designated using Loran coordinates. The following GPS coordinates are rough conversions of the Loran line coordinates. The closed area boundaries are:

a. Fire Island:

Point	Latitude (°N)	Longitude (°W)	Loran
A (NW)	40° 31.344	73° 25.823	26730 / 43710

B (NE)	40° 33.233	73° 09.249	26600 / 43710
C (SE)	40° 23.377	73° 11.708	26600 / 43620
D (SW)	40° 23.464	73° 10.976	26730 / 43620

b. Moriches:

Point	Latitude(°N)	Longitude(°W)	Loran
A (NW)	40° 24.276	72° 46.617	26400 / 43605
B (NE)	40° 25.688	72° 34.048	26300 / 43605
C (SE)	40° 18.380	72° 35.063	LCMA 3 boundary; 26300 line
D (SW)	40° 12.831	72° 48.559	26400 / 43500

c. Shinnecock:

Point	Latitude(°N)	Longitude(°W)	Loran
A (NW)	40° 34.389	72° 27.420	14960 / 43670
B (NE)	40° 35.904	72° 16.223	14890 / 43670
C (SE)	40° 27.997	72° 13.117	LCMA 3 boundary; 14890 line
D (SW)	40° 23.105	72° 23.782	LCMA 3 boundary; 14960 line

d. Montauk:

Point	Latitude (°N)	Longitude (°W)	Loran
A (NW)	40° 34.389	72° 12.521	14850 / 43730
B (NE)	40° 46.053	71° 56.974	17850 / 43730
C (SE)	40° 37.120	71° 53.188	LCMA 3 boundary; 126300 line
D (SW)	40° 30.741	72° 07.616	LCMA 3 boundary; 26300 line

Season closure: A season closure to the landing of lobsters from April 30 through May 31 annually is required for any person or vessel permitted and declared to fish in LCMA 4. During this closure, lobster potters will have a two week period to remove lobster pots from the water and may set lobster pots one week prior to the end of the closed season.

5.8.5 LCMA 5 (Inshore Southern Mid-Atlantic):

- A. Minimum size: Three and three eighths (3-3/8) (85.72mm) inch carapace length.
- B. Maximum size: Five and one quarter (5¼) inch (133.35 mm) carapace length.
- C. Minimum escape vent size: In each parlor section of the lobster trap, at least one (1) rectangular escape vent with an un-obstructed opening measuring not less than two (2) inches by five and three-quarters (5¾) inches (50.8mm X 146.05mm), or two (2) circular escape vents, each with an un-obstructed opening measuring not less than two and one half (2½) inches (63.5mm) diameter.
- D. Maximum trap size: 22,950 cubic inches.
- E. Prohibition on possession of v-notched female American lobsters: No person, including, but not limited to fishermen, dealers, shippers, and restaurants, shall retain on board, land, or possess any v-notched female American lobster.
- F. Mandatory v-notching: Any person or vessel permitted or declared to fish in LCMA 5 shall v-notch all legal-sized egg bearing female lobsters and return them to the water immediately.
- G. Limits on Landings by fishermen using gear or methods other than traps: Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than one hundred (100) lobsters per day (based on a 24-hour period) up to a maximum of five hundred (500) lobsters per trip, for trips five (5) days or longer.
- H. Limits on the Number of Traps:
 - 1. Qualification Criteria: The trap limit in LCMA 5 shall be based on the historical level of traps fished by an individual. To qualify for LCMA 5 participation, individuals must prove participation in the LCMA 5 lobster fishery between March 25, 1991 and September 15, 1998.
 - 2. Basis for Initial Trap Limit Number: Initial trap allocations to qualifying individuals shall be based on the number of traps fished in any one calendar year during the period from January 1, 1994 through September 15, 1998. Individuals that did not lobster trap fish in LCMA 5 during the period from January 1, 1994 through September 15, 1998, but did fish between 1991 and 1993, inclusive, must pick the most recent year in which they actively fished lobster traps in LCMA 5, such year not to pre-date the March 25, 1991 control date. Individuals shall be allocated the total number of traps fished.
- I. Season closure: A season closure to the landing of lobsters from February 1 through March 31 annually is required for any person or vessel permitted and declared to fish in LCMA 5. During this closure, lobster potters will have a two

week period to remove lobster pots from the water, and may set lobster pots one week prior to the end of the closed season.

5.8.6 LCMA 6 (New York and Connecticut State Waters):

- A. Minimum size: Three and five sixteenths (3-5/16) inch carapace length.
- B. Maximum size: Five and one quarter (5-1/4) inch (133.35mm) carapace length.
- C. Minimum escape vent size: In each parlor section of the lobster trap, at least one (1) rectangular escape vent with an un-obstructed opening measuring not less than or two (2) inches by five and three-quarters (2 X 5¾) inches (50.8mm X 146.05mm), or two (2) circular escape vents each with an un-obstructed opening measuring not less than two and one half (2½) inches (63.5mm) diameter.
- D. Maximum trap size: 22,950 cubic inches.
- E. Prohibition on possession of V-Notched female American lobsters: No person or vessel permitted or declared to fish in LCMA 6 shall possess a V-notched female lobster. The prohibition on possession of V-notched female lobster applies to all persons, including, but not limited to fishermen, dealers, shippers, and restaurants.
- F. Mandatory v-notching: There is no v-notching requirement in LCMA 6.
- G. Limits on Landings by Fishermen Using Gear or Methods other than Traps: Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than one hundred (100) lobsters per day (based on a 24-hour period) up to a maximum of five hundred (500) lobsters per trip, for trips five (5) days or longer.
- H. Limits on the Number of Traps:
 - 1. Qualification Criteria: The trap limit in LCMA 6 shall be based on the historical level of traps fished by an individual. To qualify for LCMA 6 participation, individuals must prove participation in the LCMA 6 lobster fishery between January 1, 1995 and June 8, 1998.
 - 2. Basis for Initial Trap Limit Number: Initial trap allocations to qualifying individuals shall be based on the number of traps fished in any one calendar year during the period from January 1, 1995 through June 8, 1998.
- I. Season Closure: A season closure to the landing of lobsters from September 8 through November 28 annually is required for any person or vessel permitted and declared to fish in LCMA 6. The season closure applies to both recreational and commercial fisheries and all gears. Between those dates possession of lobsters taken from LCMA 6 or from traps with LCMA 6 trap tags is prohibited. During this

closure, lobster potters will have a two week period to remove lobster pots from the water and may set lobster pots one week prior to the end of the closed season. Traps cannot be baited until one week prior to reopening (November 22).

5.8.7 Outer Cape Cod LCMA:

- A. Minimum size: Three and one half (3 ½) inch (88.90mm) carapace length.
- B. Maximum size: There is no maximum size for American lobster in the Outer Cape Cod LCMA.
- C. Minimum escape vent size: In each parlor section of the lobster trap, at least one (1) rectangular escape vent with an un-obstructed opening measuring not less than two and one sixteenths inches by five and three-quarters (2-1/16 X 5¾) inches or two (2) circular escape vents measuring two and eleven sixteenths (2-11/16) inches.
- D. Maximum trap size: 22,950 cubic inches.
- E. Prohibition on possession of v-notched female American lobsters: It shall be unlawful for any person or vessel permitted or declared to fish in the Outer Cape Cod LCMA to possess a V-notched female lobster. The prohibition on possession of V-notched female lobster applies to all persons, including, but not limited to fishermen, dealers, shippers, and restaurants.
- F. Mandatory v-notching requirements: There is no v-notching requirement in the Outer Cape Cod LCMA.
- G. Limits on landings by fishermen using gear or methods other than traps: Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than one hundred (100) lobsters per day (based on a 24-hour period) up to a maximum of five hundred (500) lobsters per trip, for trips five (5) days or longer.
- H. Trap Reduction Schedule for Outer Cape Cod LCMA: Beginning in 2002 and extending through 2008, a 20% reduction in the total number of lobster traps allowed to be fished will occur in the Outer Cape Cod LCMA. An additional 5% reduction in the total number of lobster traps allowed to be fished per year may be employed in 2006 and 2007, if necessary, to meet lobster egg production goals and objectives.
 - 1. In order to control the expansion of fishing effort, an overall total number of traps allowed to be fished in the Outer Cape Cod LCMA has been established from the sum of individual maximum traps reported by each Outer Cape Cod LCMA lobster fisher on Massachusetts (MA) catch reports in the year 1998. A reduction of this total number of traps by 20% will be implemented and resulting individual trap allotments will be defined

accordingly during the stock rebuilding period. The starting trap allotments for each lobster fisher in the year 2002 will be based on MA 2000 catch report statistics. Allotments will be debited thereafter as needed by MA Division of Marine Fisheries (DMF). Participants in the 2001 Outer Cape Cod lobster trap fishery, who received a license through the MA DMF or waiting list provisions during 2001, and as a result, have no prior lobster fishing history (i.e. filed catch reports) in the Outer Cape Cod LCMA, will receive a trap allotment based on proof of documentation of the number of traps they fished during 2001. These allotments will be apportioned from a percentage of the overall trap cap, not to exceed 2% of the total. Those who received a transferred license with an Outer Cape Cod LCMA fishing history will receive a starting trap allotment based on that history.

2. The annual trap transfer period will be January 1 – March 31. Trap tags may be transferred among Outer Cape Cod LCMA lobster fishers to allow an individual business to build up or down within the maximum allowable 800 trap limit, however, a passive reduction in traps will occur with each trap transfer event at the rate of 10%. For example, if 100 trap tags are transferred to a lobster fisher, the net transaction received by that lobster fisher will be 90 and the overall Outer Cape Cod LCMA trap cap will be reduced accordingly. The trap cap may be adjusted downward over time through active and/or passive reduction measures until such time that the Fishing mortality rate is reduced to a level below F10%.
3. Each time a lobster license is transferred to another lobster fisher within the Outer Cape Cod LCMA, the trap tag allowance associated with that license will be reduced by 10%. No new participants will be permitted to partake in the Outer Cape Cod LCMA lobster fishery without receiving trap tags through a transfer from those fishing within the established total trap cap.
4. A trap haul-out period will occur from January 1 – March 31 each year to assist in the enforcement of the trap cap. There will be no lobster trap in the waters of the Outer Cape Cod LCMA during this time period.

5.9 Blue Crab:

- A. Harvest by RI residents only: The harvest of blue crabs by non-residents is prohibited (R.I. Gen. Laws § 20-7-15).
- B. Minimum size: Five (5) inches as measured across the shell from tip to tip of spike.
- C. Season: Open all year.
- D. Possession limit: Twenty-five (25) crabs.

1. The possession limit is unlimited if harvested by a scoop or crab net, trot, or hand line.
- E. No person shall take blue crabs from the waters of the State between the hours of sunset and sunrise (R.I. Gen. Laws § 20-7-15).
- F. No person shall take, offer for sale, or possess at any time any female blue crab bearing eggs visible thereon or from which the egg pouch or bunion shall have been removed (R.I. Gen. Laws § 20-7-16).

5.10 Horseshoe Crab:

- A. Permit required: No person shall harvest horseshoe crabs without a valid Horseshoe Crab Harvest Permit obtained from the Director.
1. Application for a Horseshoe Crab Harvest Permit shall be made on forms prescribed by the Director.
 2. A Horseshoe Crab Harvest Permit is valid for the calendar year of issuance.
- B. Harvest by RI residents only: The harvest of horseshoe crabs by non-residents is prohibited.
- C. Minimum size: Seven (7) inches prosomal width.
- D. Seasons and possession limits:
1. Recreational:
 - a. Season: Open January 1 through December 31.
 - b. Possession limit: Five (5) horseshoe crabs per person per day.
 2. Commercial: A total allowable harvest (quota) of horseshoe crabs will be established annually as allocated to the State of Rhode Island by the ASMFC or as determined by DFW based on the current stock status.
 - a. Bait fishery season and possession limit:
 - (1) January 1 through April 30 annually: 60 crabs per person per day.
 - (2) May 1 through May 31 annually: Closed to harvest.
 - (3) June 1 through December 31 annually: 60 crabs per person per day.
 - b. Bio-medical fishery season and possession limit:

- (1) Season: Open January 1 through December 31 annually.
- (2) Harvest restriction: No person shall harvest horseshoe crabs for bio-medical purposes during the period 48-hours preceding and 48-hours following the new and full moons during the month of May annually.
- (3) Possession limit: Unlimited.

E. Reporting:

1. Reporting of landings is required as described in this section on forms as prescribed by the Director.
2. Weekly reporting: All permit holders shall provide a report of landings for each calendar week either by telephone or in writing, including reports of no landings. Reports shall be submitted no later than Monday 4:00PM for the previous calendar week's landings.
3. Monthly reporting: All permit holders shall provide a monthly report in writing including the number of crabs taken, locations of harvest, and use (bait, biomedical purposes, or other reasons). These reports shall not be made public and shall be kept only for statistical purposes.
4. Reporting compliance: Instances of reporting non-compliance shall result in the following penalties:
 - a. First instance: A first offense shall result in a warning being issued to the permit holder.
 - b. Second instance: A second offense shall result in revocation of the permit for the remainder of the calendar year for which the permit is issued.
 - c. Third instance: A third offense shall result in revocation of the permit for the remainder of the calendar year for which the permit is issued, and also result in the prohibition to apply for the permit in the subsequent year.

F. No person shall harvest horseshoe crabs for commercial or recreational purposes on or within 100 feet seaward of Patience and Prudence Islands in Narragansett Bay.

G. Prohibition on possession of non-indigenous horseshoe crab species: No person shall possess or attempt to possess in the cooked or un-cooked (frozen) state any non-indigenous (non-native) Horseshoe Crab species without prior, written authorization by the Department. The only species of Horseshoe Crab which

may be possessed within the jurisdictional limits of the State of Rhode Island is the Atlantic Horseshoe Crab.

- H. Horseshoe crabs harvested and transported to a biomedical facility for purposes of extracting bodily fluids shall be returned to the waters from which they were taken within 72 hours following the completion of the biomedical procedure, or intended procedure if no procedure was performed. The harvester is responsible and liable for returning the crabs and shall make every attempt to assure their survival. Prior to returning the crabs to the water, the harvester shall report to DEM's Division of Law Enforcement by calling 401-222-3070, and include the name of harvester, the number of crabs being returned, and location where the crabs will be returned.
- I. A control date of January 6, 2017 is established for the horseshoe crab fishery. This control date has been established by the Department for potential future use in establishing eligibility criteria for future access to the fishery.

5.11 Jonah Crab:

A. Recreational:

- 1. Season: Open all year.
- 2. Possession limit: Fifty (50) whole Jonah crabs per person per day.

B. Commercial:

- 1. Eligibility for participation in Directed Fishery: Any licensed person who holds a lobster trap allocation (LTA), or any person who does not hold an LTA but can prove participation in the Jonah crab fishery prior to the control date, shall be eligible for continued participation in the fishery. Proof of participation shall be documented by RI Harvester Logbooks and/or SAFIS dealer reports.
 - a. Control date: The control date for the Jonah Crab fishery is June 2, 2015.
- 2. Minimum size: Four and three quarters (4.75) inches as measured across the widest point of the carapace.
- 3. Minimum escape vent and maximum trap size: Minimum escape vent and maximum trap size for a trap utilized in the taking of Jonah crab shall meet the requirements as specified in § 5.8.1(I) of this Part pertaining to lobster pots.
- 4. Season: Open all year.
- 5. Possession limit:

- a. ~~For persons holding a Lobster Trap Allocation (LTA) Directed Fishery: Unlimited.~~
- b. ~~By gillnet or otter trawl (i.e., non-trap gear) Incidental Catch Provision: One thousand (1,000) crabs per vessel per calendar day provided the poundage of crabs does not exceed the poundage of other species on board the vessel at all times during a fishing trip.~~
- c. ~~By gear types other than gillnets or otter trawls (i.e., non-lobster trap gear): One thousand (1,000) crabs per vessel per calendar day.~~

C. Harvest restrictions:

- 1. Egg-bearing Jonah crabs: No person shall take, offer for sale, or possess at any time any female Jonah crab bearing eggs visible thereon or from which the egg pouch or bunion shall have been removed.
- 2. Only whole Jonah crab may be retained and sold.

~~D. Control date: The control date for the Jonah Crab fishery is June 2, 2015.~~

5.12 Atlantic Rock Crab:

- A. Control date: The control date for the Atlantic Rock Crab fishery is June 1, 2016. This control date has been established by the Department for potential future use in establishing eligibility criteria for future access to the fishery.

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Title of Rule: Summer Flounder Exemption Certificate Program (250-RICR-90-00-14)

Rule Identifier: 250-RICR-90-00-14

Rulemaking Action: Proposed Adoption

Important Dates:

Date of Public Notice: 05/01/2020

End of Public Comment: 05/31/2020

Authority for this Rulemaking:

R.I. Gen. Laws § R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws § 42-35-18(b)(5), Administrative Procedures Act.

Summary of Rulemaking Action:

Background:

1. Exemption Certificate program was created in 1996 to safeguard the RI Summer Flounder quota for RI residents.
2. There has been no programmatic updates to align the program with management and fishery changes.
3. Closed program does not foster new entrants into fishery that has significantly evolved since the program's inception.
4. Current program does not allow for the flexibility needed by industry.
5. Number of valid certificates is unclear. Many current certificates may be invalid according to rule and need to be reviewed and substantiated.

Proposed programmatic changes (phase 1):

1. Establish a new Certificate renewal process to renew existing valid certificates and identify invalid certificates
2. Certificates could be deemed invalid due to improper vessel transfer, dropping of federal summer flounder fishing permit, etc.

3. Establish a renewal application form and required information.
4. Establish a date of July 1, 2020 for the Department to notify current Certificate holders of renewal application deadline.
5. Establish a renewal application deadline of September 1, 2020.
6. Renewed certificates would be re-issued to vessels only, not individuals.
7. Existing appeal process for applications deemed invalid.
8. Require annual renewal in short-term (longer timeframe in Phase 3).
9. Create stand-alone rule (proposal in conjunction with proposed deletion of section 3.10(2)(D) (Part 3 – Finfish)

Phase 2 (November 2020): Address additional industry proposals regarding the Summer Flounder Exemption Certificate regulations.

Phase 3 (timeframe tbd): Determine if the issuance of new Exemption Certificates is warranted. Establish criteria and application process for the issuance of new certificates. Establish prioritization process, lottery or exit/entry type ratio could be considered.

Additional Information and Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed adoption until May 31, 2020 by contacting the appropriate party at the address listed below:

Peter Duhamel
Department of Environmental Management
3 Fort Wetherill Road
Jamestown, RI 02835
peter.duhamel@dem.ri.gov

In accordance with R.I. Gen. Laws § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

Regulatory Analysis Summary and Supporting Documentation:

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

For full regulatory analysis or supporting documentation see agency contact person above.

250-RICR-90-00-14

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 14 –Summer Flounder Exemption Certificate Program

14.1 Purpose

The purpose of these regulations is to authorize a program which will assist with the management of the commercial summer flounder fishery.

14.2 Authority

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws Chapter 42-35, Administrative Procedures Act.

14.3 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.

14.4 Definitions

See Part 1 of this Subchapter.

14.5 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.

14.6 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 these regulations 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.

14.7 Applicability

- A. A Summer Flounder exemption certificate will be issued only to a vessel.
- B. A Summer Flounder exemption certificate authorizes a vessel to possess and land greater than 200 (two-hundred) pounds of summer flounder provided that:
 - 1. The current RI possession limit for summer flounder is greater than 200 (two-hundred) pounds per vessel per day;
 - 2. The vessel's operator holds a valid RI commercial fishing license or landing permit to harvest or land summer flounder;

14.8. Original Application Requirements

- A. A copy of the operator's valid current Rhode Island commercial fishing license or non-resident landing license, and Federal summer flounder Permit if the summer flounder is to be taken in the EEZ;
- B. A completed notarized application;
- C. Proof that the vessel meets the requirements set out in this section;
- D. Provide a completed notarized waiver authorizing the Department to access records verifying that this vessel and operator meet the criteria set forth in this section; and
- E. A copy of the vessel's U.S. Coast Guard documentation papers or state issued boat registration certificate proving ownership of the vessel.

14.9. Eligibility

- A. DEM will issue an Exemption Certificate for a vessel if the owner of the vessel or his/her representative applies to DEM prior to January 1, 1997, for the issuance of such a certificate and demonstrates to the satisfaction of the Director that:
 - 1. The operator of the vessel possesses a valid Rhode Island commercial fishing license to land Summer flounder up to the amount permitted by these regulations; and
 - 2. The subject vessel meets any of the following criteria:
 - a. The vessel was operated by a person who possessed a valid Rhode Island commercial fishing license and landed and sold in excess of one pound of summer flounder to a Rhode Island licensed dealer during the period from January 1, 1987, through December 31, 1992;

- b. The vessel fished exclusively in the Exclusive Economic Zone (EEZ) and landed and sold in excess of one pound of summer flounder to a licensed Rhode Island licensed dealer sometime during the period January 1, 1987, through December 31, 1992. The Department may require additional supporting documents including but not limited to the ship's logs, ice and fuel slips;
- c. The vessel replaces a vessel which was operated by a person who possessed a valid Rhode Island commercial fishing license, and the vessel being replaced landed and sold in excess of one pound of summer flounder to a Rhode Island licensed dealer during the period from January 1, 1987, through December 31, 1992, and if the vessel being replaced was lost by sinking or was otherwise destroyed, the replaced vessel is required to have been owned by the applicant at the time of the loss;
- d. The vessel replaces a vessel which fished exclusively in the EEZ and landed and sold in excess of one pound of summer flounder to a Rhode Island licensed dealer, during the period January 1, 1987, through December 31, 1992, and if the vessel being replaced was lost by sinking or was otherwise destroyed, the replaced vessel is required to have been owned by the applicant at the time of the loss.
- e. If the vessel is replacing a vessel that was lost by sinking or was otherwise destroyed, documentation must be presented from a licensed insurance company, U.S. Coast Guard report, or some other valid evidence of ownership to the satisfaction of the Director.

14.10 Other Conditions

- A. Exemption Certificates may not be:
 - 1. Pledged, mortgaged, leased, or encumbered in any way;
 - 2. Transferred with any retained right of repossession or foreclosure, or any condition requiring a subsequent transfer; or
 - 3. Attached, distrained, or sold on execution of judgment.
- B. Expiration: All Summer Flounder exemption certificates issued under this chapter shall expire on December 31 annually.

14.11 Exemption Certificate Renewal

- A. Completed notarized applications will only be accepted for Summer Flounder exemption certificate renewals.

- B. Application required: Renewal applications for Summer Flounder exemption certificates issued under these regulations shall contain the following information:
1. Vessel name;
 2. Vessel owner;
 3. USCG documentation/state registration number;
 4. Federal permit number or Rhode Island commercial fishing license number, that authorizes the harvest or landing of Summer Flounder;
 5. Vessel Length Overall (LOA);
 6. Vessel gross registered tonnage (GRT);
 7. Vessel Horsepower.
- C. Renewal application deadline:
1. The Department will publicly notice by July 1, 2020, that all Summer Flounder exemption certificates will expire on December 31 of that year.
 2. All applications for renewal must be received by the Department or postmarked by September 1, 2020.
 3. For any vessel sale/transfer that takes place during the renewal application period, 90 days from the date of sale/transfer will be allowed to renew the summer flounder exemption certificate.
- D. Application Renewal Denial: The applicant may appeal the denial of a Summer Flounder Exemption Certificate to the Administrative Adjudication Division for Environmental Matters pursuant to R.I. Gen. Laws § 42-17.7-1 et seq. and the procedures set forth in Part 10-00-1 of this Title, Rules and Regulations for the Administrative Adjudication Division.

14.12 Transfer of an Exemption Certificate

- A. An Exemption Certificate issued by the DEM is only valid for the vessel to which it is issued. A vessel may be sold with all certificates, permits (state and federal) and history transferred together or without the certificates, permits (state and federal) and history for purposes of replacing the vessel. In instances when a vessel owner retains all certificates, permits, and history they must be applied to a replacement vessel owned by said individual within ninety (90) days.
1. Change in ownership: An Exemption Certificate is presumed to transfer with the vessel whenever it is bought, sold, or otherwise transferred, unless there is a written agreement, signed by the transferor/seller and

transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel's fishing and permit history for purposes of replacing the vessel. Individuals who purchase a vessel issued an Exemption Certificate must supply credible written evidence verifying that they are the full owner of said vessel. Vessel ownership will be determined solely by an issued and valid (unexpired) US Coast Guard documentation or state registration.

2. Replacement Vessels: A vessel owner wishing to transfer an Exemption Certificate must provide proof to the satisfaction of the DEM that the applicant vessel is replacing a vessel and that said certificate is only applicable to the vessel for which the Exemption Certificate has been transferred.
 - a. The vessel owner must supply credible written evidence verifying that the transferor/seller is retaining the vessel's Exemption Certificate for purposes of replacing the vessel. If a vessel owner elects to sever the Exemption Certificate from a vessel, the Exemption Certificate may be transferred only to another vessel fully owned by said vessel owner. Proof of full ownership of both vessels is required. Vessel ownership will be determined solely by an issued and valid (unexpired) US Coast Guard documentation or state registration.
 - b. Vessel permits (state and federal), Exemption Certificates, and fishing history cannot be split.
 - c. An Exemption Certificate may not be combined to create larger replacement vessels.
 - d. The replacement vessel may not exceed a 10 percent increase in LOA, a 10 percent increase in GRT or NT, or a 20 percent increase in horsepower of the vessel's baseline specifications, as applicable.
 - e. Vessel baseline specifications: The vessel baseline specifications in this section are the respective specifications (length, gross registered tonnage, net tonnage, horsepower) of the vessel that was initially issued an Exemption Certificate.
 - f. A vessel may be upgraded, whether through refitting or replacement, and be eligible to retain an Exemption Certificate, only if the upgrade complies with the following:
 - (1) The vessel's horsepower may be increased only once, whether through refitting or replacement. Such an increase may not exceed 20 percent of the horsepower of the vessel's baseline specifications, as applicable.

- (2) The vessel's length, GRT, and NT may be increased only once, whether through refitting or replacement. Any increase in any of these three specifications of vessel size may not exceed 10 percent of the vessel's baseline specifications, as applicable. If any of these three specifications is increased, any increase in the other two must be performed at the same time. This type of upgrade may be done separately from an engine horsepower upgrade.



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835
(401) 423-1920 Fax: (401) 423-1925

Advisory Panel Application

Name: Brennan Bica Date of Birth: 9/22/97

Mailing Address: 217 Armstrong Ave.

City: Warwick State: RI Zip: 02889

Phone (Home/Work/Cell): 401-595-0241

Email: brennan.u.bica@gmail.com

Check Species Advisory Panel applying to: Shellfish Industry Advisory Committee

Please check the type of position you are applying for: Primary Alternate

If alternate, provide primary panel member name: _____

.....
1. FOR COMMERCIAL FISHERMEN:

Provide type and license number(s): Student License STVDSF000432R

Number of years as a commercial fisherman? 1 1/2

Please describe fisheries fished and gear types used:

Upper Bay, Lower Bay, Greenwich. Mostly rakes and poles in about 15-25 ft water.

2. Where is your **primary** area fished? Narragansett Bay Coastal Ponds East Passage
 West passage Upper Bay Lower Bay Federal waters

3. FOR PARTY/CHARTER BOAT CAPTAINS:

How many years have you been in the Party/Charter boat business? _____ Years

4. FOR RECREATIONAL FISHERMEN:

How many years have you been engaged in recreational fishing in RI waters? _____

Please describe your fishing activity (e.g., from boat or shore, types of equipment and methods):

5. **FOR SEAFOOD DEALERS:**

How many years have you been a seafood dealer in RI? 1 year

Where is your dealer premises located? Warwick, RI (Oakland Beach)


How many years have you lived in the home port community? 22+ years

Please provide DEM Dealer License Number: 000036R

6. **FOR ALL APPLICANTS:**

If not described above, please describe your occupation(s), any organizations you belong to, or any other relevant information you would like to provide:

Hello my name is Brennan Bica, and I am the manager of
Bela Vista Marina. I also have a student Shellfish license.
Both of these allow me to have an insight to the shellfish
business. I think I could bring a lot of relevant information
to the advisory panel. My main reason for applying is
so that this panel and the DEM will more easily be able
to plan area openings, transcripts and much more. I will be able
to give them and you more of an idea when the
dealer will be able to take in more products at
certain times of the year and when it would be harder
to move more product. I also am surrounded by
fisherman who don't go to meetings, but would like to have
a say in what is going on. I will be able to display
their opinions much easier if all 50 of them would were to
come to a meeting. I have a lot to offer this panel and would
like to help plan the future of this business.

Signature: 

Date: 2/17/20

Please provide completed application to: DEM Division of Marine Fisheries, 3 Fort Wetherill Road, Jamestown, RI. 02835; Attn: Peter Duhamel, or email to peter.duhamel@dem.ri.gov



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835
(401) 423-1920 Fax: (401) 423-1925

Panel Chair:

Katie Eagan

Scientific Advisor:

Dale Leavitt

Membership:

Jeff Gardner
Aquaculture

Bob Rheault
Alternate for J. Gardner

David Ghigliotty
Comm. Bullrake

Mike McGiveney
Comm. Bullrake

Gerald Schey
Comm. Bullrake

Bob Bercaw
Comm. Bullrake

Manuel Sousa
Comm. Bullrake

Bob Smith
Dealer

Roger Tellier
Recreational Rod & Reel

Richard Pastore
Recreational Rod & Reel

Edward Troiano
Recreational Shellfish

Kenneth Murgo
Comm. Shellfishing

John McDonald
Comm. Shellfishing

Marine Fisheries staff:

Anna Gerber-Williams

Meeting Notice

Shellfish Advisory Panel

Wednesday April 29, 2020, 4:00PM

Virtual public meeting

Zoom webinar

MEETING AGENDA

1. Review of aquaculture applications sent to Public Notice.
 - a. [2019-05-061, MacAndrew, Napatree Point](#)
 - b. [2019-10-057, Thomas Blank, West Passage](#)
 - c. [2019-11-010, Watson, West Passage](#)
 - d. [2019-11-082, East Beach Farms, LLC \(Arnoux\), Ninigret Pond](#)

2. Providence River shellfish transplant and shellfish management area update by the RIDEM Division of Marine Fisheries

To join the webinar:

[Click here to join online webinar](#)

Or enter the following into your web browser: <https://zoom.us/j/92613238039>

To join the phone call:

1-929-205-6099

Meeting ID: 926 1323 8039

Participant ID: Provided once you log onto webinar. If not logging onto webinar, simply wait on the line to be connected on the phone.

All RIMFC Species Advisory Panel meetings are open to the public.

For more information please contact Anna Gerber-Williams at (401) 423-1930.

* Aquaculture applications can be found at <http://www.crmc.ri.gov/applicationnotices.html>

Posted to Sec. of State April 22, 2020

Shellfish Advisory Panel
April 29, 2020, 4:00PM
Virtual public meeting
Zoom webinar

AGENDA

1. Review of aquaculture applications sent to Public Notice
 - a. 2019-05-061, MacAndrew, Napatree Point
 - b. 2019-10-057, Thomas Blank, West Passage
 - c. 2019-11-010, Watson, West Passage
 - d. 2019-11-082, East Beach Farms, LLC, (Arnoux) Ninigret Pond

2. Providence River shellfish transplant and shellfish management area update by the RIDEM Division of Marine Fisheries

1. Aquaculture applications

2019-05-061 MacAndrew – Napatree Point, Block Island Sound

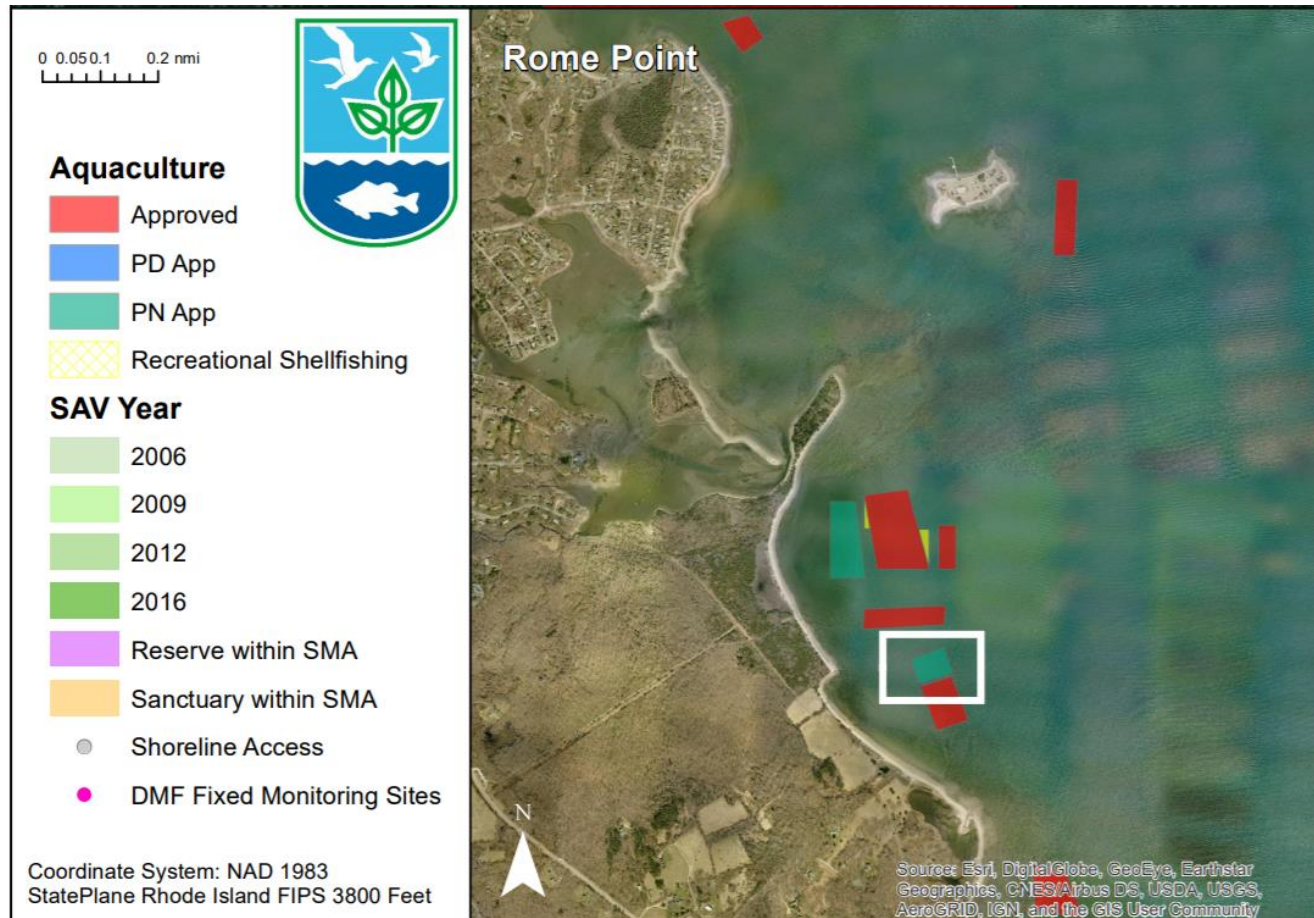
- 10-acre lease
- Cultivating sugar kelp
- November - April



1. Aquaculture applications

2019-10-057 Thomas Blank – West Passage

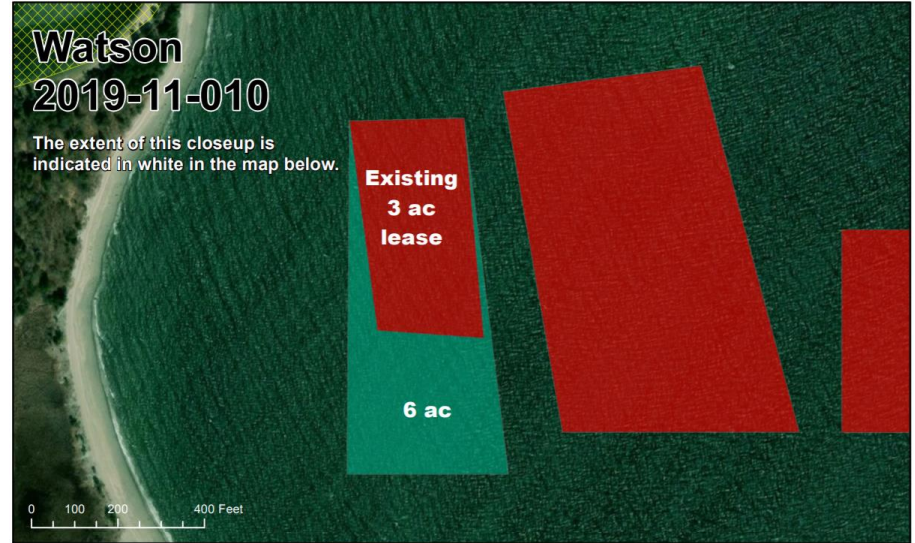
- 2.4 – acre lease
- Oysters in floating cages



1. Aquaculture applications

2019-11-010 Graham Watson – West Passage

- 3 – acre expansion
- 6 – acres total
- Oysters and sugar kelp using floating cages, bottom cages and suspended longlines



1. Aquaculture applications

2019-11-082 East Beach Farms, LLC – Arnoux – Ninigret Pond

- 2.68 – acre expansion
- 6.44 – acres total
- Bottom culture and rack and bag.



2. Providence River



- Transplant Update
 - August/September
 - Quahog testing
- Shellfish Management Area updated schedule

Shellfish Advisory Panel

April 29, 2020; 4:00PM

Virtual public meeting

Zoom webinar

MEETING SUMMARY

RIMFC members: K. Eagan (Chair)

DEM: A. Gerber-Williams, C. McManus, D. Erkan, C. Hannus, D. Borkman;

CRMC: D. Beutel

Scientific Advisor: D Leavitt;

SAP members: J. Gardner, M. McGiveney, R. Pastore, E. Troiano, K. Murgo, J. McDonald;

Public: J. MacAndrew, J. Dodge, G. Watson, J. Arnoux, T. Blank, P. August;

1. Review of aquaculture applications sent to Public Notice:

- 2019-05-061, MacAndrew, Napatree Point: *D. Beutel* provided a brief overview of the proposal, which consists of a 10-acre lease for cultivating sugar kelp between November and April located near Napatree Point in Westerly, Rhode Island. *D. Beutel* noted that he received comments of no objection from the Coast Guard, Rhode Island Historical Preservation and Heritage Commission, and Richard Pastore. *Josiah Dodge*, a commercial fisherman, opposed the application and expressed multiple concerns, which included; impacts to the scenic view, bird, and fish habitat. *J. Dodge* also stated that there would be conflicting use of the area since he, along with other commercial fisherman (reference fellow fisherman Jason Jarvis), set lobster gear there and fished the area year-round. *J. Gardner* stated that the area of the proposed site is a commercially utilized area and opposes the application. The applicant, *J. MacAndrew*, stated that he fishes in the area of his proposed site and that he has not seen lobster pots set in that area. *M. McGiveney* asked whether DEM DFW objected to the application and *A. Gerber-Williams* explained that a joint letter was submitted between the DFW and DMF to CRMC objecting to the application due to potential impacts on wildlife, particularly migrating birds and sea ducks. *R. Pastore* verbally withdrew his no objection to the application due to the ensuing discussions. **Motion made by *M. McGiveney* to recommend to object to the application; 2nd by *R. Pastore*. The motion passed with a unanimous vote of 6-0.**
 - The applicant, *J. MacAndrew*, requested that the application be reviewed by the RIMFC.
- 2019-10-057, Thomas Blank, West Passage: *D. Beutel* provided a brief overview of the proposal, which consists of a new 2.4 acre lease near Rome Point in North

Kingstown, Rhode Island. The site would be for oysters kept in floating cages. *J. Gardner* stated his concern over the use of floating cages and the high use of the area for fishing. *R. Pastore* expressed the same concern over the use of floating cages in the area. *E. Troiano* asked the applicant whether they would consider using other gear due to the concerns regarding the currently proposed floating gear. *M. McGiveney* asked CRMC to confirm that this proposed lease, along with the one other application out for Public Comment in the same area, are documented on record by the Town of North Kingstown as the two final applications to be approved in the area. CRMC confirmed that this was correct. **Motion made by *R. Pastore* to recommend no objection to the application; 2nd by *E. Troiano*. The motion passed with a unanimous vote of 6-0.**

- The SAP requested that *K. Eagan* present to the RIMFC their concern regarding the use of floating gear at the proposed high density in the application. SAP members would prefer lower profile gear to be used.
- 2019-11-010, Watson, West Passage: *D. Beutel* provided a brief overview of the proposal, which consists of expanding a current lease by 3 acres for a total of 6 acres. The expanded site would be for cultivating oysters and sugar kelp using floating cages, bottom cages, and suspended longlines. *D. Beutel* performed a site assessment, which found quahogs present at a density of 0.75 m². CRMC received one objection from *R. Pastore* and no objection from the town of North Kingstown. *K. Murgo* stated that there are whelks in the area of Rome Point and that it was good for the whelk fishing industry that the aquaculture sites are close together. **Motion made by *J. Gardner* to recommend no objection to the application; 2nd by *K. Murgo*. The motion passed with a unanimous vote of 6-0.**
- 2019-11-082, East Beach Farms, LLC (Arnoux), Ninigret Pond: *D. Beutel* provided a brief overview of the proposal, which consists of expanding a current lease by 2.68 acres for a total of 6.44 acres. The expanded site would be for bottom culture and rack and bag. CRMC received a no objection from *R. Pastore* and two objections, one from *Phil Capaldi* and one from *Mike Folly*, whom rescinded his objection. *D. Beutel* stated that CRMC has no concerns with navigation around the site and that if the expansion along with all pending applications within Ninigret Pond were to be approved the pond would be at 4.3% aquaculture use. **Motion made by *J. Gardner* to recommend no objection to the application; 2nd by *E. Troiano*. The motion passed with a unanimous vote of 6-0.**

2. Providence River shellfish transplant and shellfish management area update by the RIDEM Division of Marine Fisheries

A. Gerber-Williams presented an update on the Providence River quahog transplant. Due to the current COVID-19 safety precautions it was decided between DEM DMF, RISA and NBC that it would not be feasible to perform a transplant with proper social distancing on May 5th. Additionally, DEM OWR is still awaiting PCB sampling results

and DEM DLE would not be able participate on May 5th due to not having enough staff available with the extra patrolling required by the current COVID-19 restrictions.

The transplant planning group is scheduled to meet on June 2nd to further discuss a potential transplant date in August or September of 2020. The delayed transplant will impact the timeline for moving forward with the management plan for the lower Providence River opening. *J. McDonald* requested an evaluation to open the lower Providence River earlier if possible due to the impacts of COVID-19 on the shellfish market when presented with the options of proceeding with a management plan decision in the fall or the Spring of 2021. It was agreed that timeline would be reevaluated as a new transplant date was determined.

Prepared by: A. Gerber-Williams



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835
 (401) 423-1920 Fax: (401) 423-1925

Meeting Notice

Shellfish Advisory Panel

Wednesday May 27, 2020, 4:00PM

Virtual public meeting
 Zoom webinar

MEETING AGENDA (revised)

Panel Chair:

Katie Eagan

Scientific Advisor:

Dale Leavitt

Membership:

Jeff Gardner

Aquaculture

Bob Rheault

Alternate for J. Gardner

David Ghigliotty

Comm. Bullrake

Mike McGiveney

Comm. Bullrake

Gerald Schey

Comm. Bullrake

Manuel Sousa

Comm. Bullrake

Bob Smith

Dealer

Roger Tellier

Recreational Rod & Reel

Richard Pastore

Recreational Rod & Reel

Edward Troiano

Recreational Shellfish

Kenneth Murgo

Comm. Shellfishing

John McDonald

Comm. Shellfishing

Marine Fisheries staff:

Anna Gerber-Williams

Agenda item	Recommended action(s)	ePacket Attachment(s)
1. Aquaculture application 2019-12-079 (Seakist Aquaculture)	Provide recommendation to the CRMC/Council pursuant to RI Gen. Laws §20-10-5(d)	<ul style="list-style-type: none"> • Application out to public notice • DMF Review letter
2. Aquaculture application 2019-12-055 (Walrus and Carpenter Oysters LLC)	Provide recommendation to the CRMC/Council pursuant to RI Gen. Laws §20-10-5(d)	<ul style="list-style-type: none"> • Application out to public notice • DMF Review letter
3. Division proposal to re-establish areas closed to shellfish harvest in Ninigret Pond Shellfish Mgmt. Area (Foster Cove).	Provide recommendation to the Council	<ul style="list-style-type: none"> • Part 4 section 4.12.2(M) (Ninigret Pond Shellfish Mgmt. Area)
4. Division proposal to extend oyster harvest moratorium in Bissel Cove/Fox Is. Shellfish Mgmt. Area.	Provide recommendation to the Council	<ul style="list-style-type: none"> • Part 4 section 4.12.2(E) (Bissel Cove/Fox Is. Shellfish Mgmt. Area)
5. Proposed change to whelk minimum size currently out to public notice	Provide recommendation to the Council on the proposed amendment	<ul style="list-style-type: none"> • Public Notice • Draft rule (Part 4 – Shellfish, section 4.9(G))
6. Proposed changes to area descriptions of Shellfish Mgmt. Areas currently out to public notice	Provide recommendation to the Council on the proposed amendment	<ul style="list-style-type: none"> • Public Notice • Draft rule (Part 4 – Shellfish, section 4.12.2))
7. Proposed change of word "bycatch" to "incidental catch" for Sakonnet River bay quahaug possession limit currently out to public notice	Provide recommendation to the Council on the proposed amendment	<ul style="list-style-type: none"> • Public Notice • Draft rule (Part 4 – Shellfish, section 4.12.2(J)(2))
8. Any Other Matters	Discussion and/or recommendations for future action	
9. Adjourn		

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Meeting ID: 926 3461 6979

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For more information please contact Anna Gerber-Williams at (401) 423-1930.

* Aquaculture applications can be found at <http://www.crmc.ri.gov/applicationnotices.html>

Re-posted to Sec. of State May 22, 2020

SHELLFISH ADVISORY PANEL

**Virtual public meeting
Zoom webinar**

May 27, 2020



AGENDA



1. Aquaculture application 2019-12-079 (Seakist Aquaculture).
2. Aquaculture application 2019-12-055 (Walrus and Carpenter Oysters LLC).
3. Division proposal to re-establish areas closed to shellfish harvest in Ninigret Pond Shellfish Mgmt. Area (Foster Cove).
4. Division proposal to extend oyster harvest moratorium in Bissel Cove/Fox Is. Shellfish Mgmt. Area.
5. Proposed change to whelk minimum size currently out to public notice.
6. Proposed changes to area descriptions of Shellfish Mgmt. Areas currently out to public notice.
7. Proposed change of word "bycatch" to "incidental catch" for Sakonnet River bay quahaug possession limit currently out to public notice.
8. Any Other Matters.

Virtual Meeting Participation



1. All participants will be muted throughout the meeting.
2. To make a comment or ask a question you must use the **Raise Hand** feature in the zoom webinar.
3. The meeting facilitator will un-mute one participant at a time to make their comment or ask their question, the participant will then be re-muted.

Please minimize background noise while unmuted! – Thank you

Council/SAP Aquaculture Application Review (R.I. Gen Laws § 20-10-5(d))



§ 20-10-5. Procedures for approval.

(a) Upon submission of a completed application to the CRMC, the CRMC shall notify the director, the MFC and any other parties that the CRMC may by regulation designate.

(b) No application shall be approved by the CRMC or a permit granted prior to the consideration of recommendations by both the director and the MFC.

(c) The director shall review the application to determine whether the aquaculture activities proposed in the application are:

(1) Not likely to cause an adverse effect on the marine life adjacent to the area to be subject to the permit and the waters of the state;

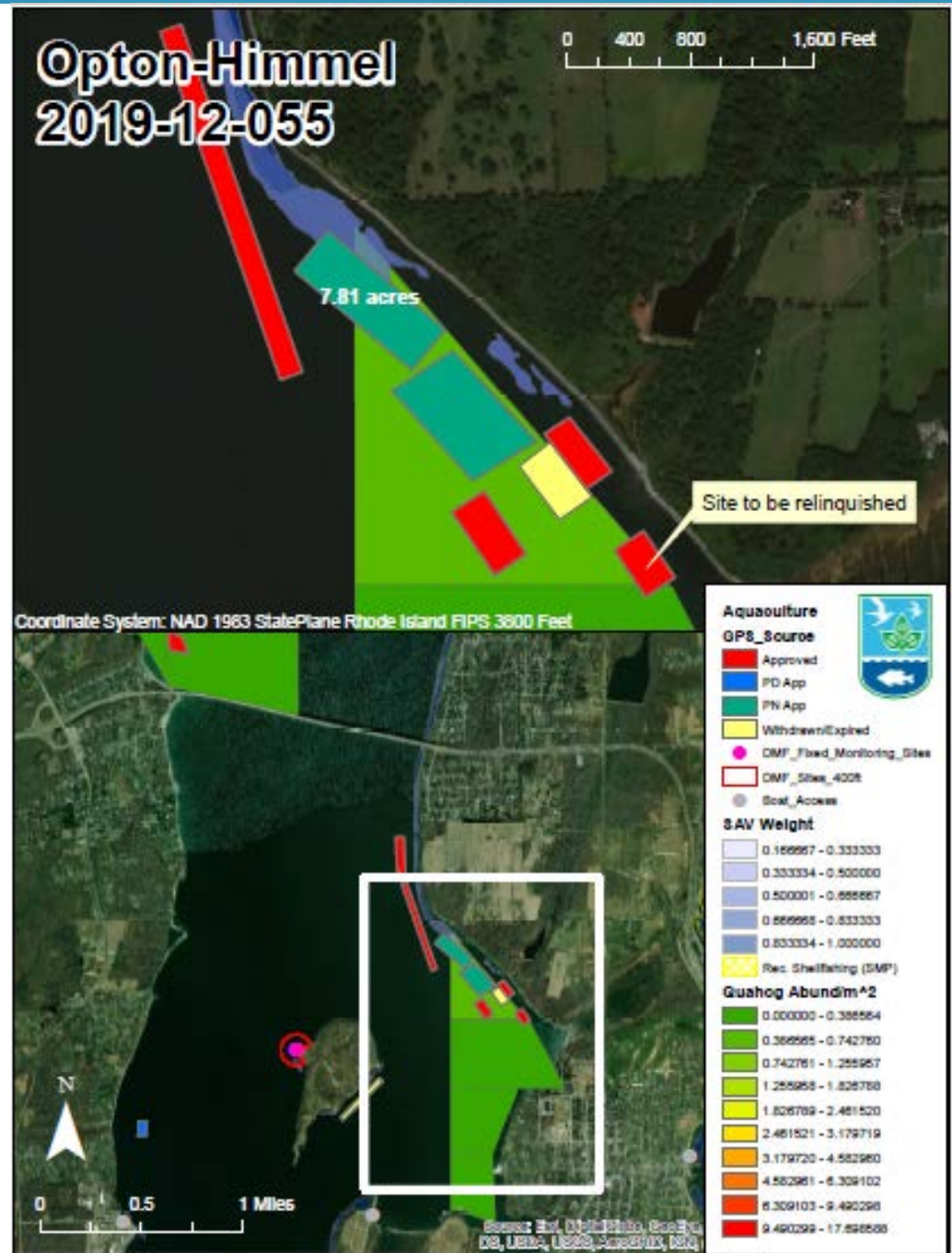
(2) Not likely to have an adverse effect on the continued vitality of indigenous fisheries of the state.

(d) The MFC shall review the application to determine whether the aquaculture activities proposed in the application are consistent with competing uses engaged in the exploitation of the marine fisheries.

(e) The approval by the CRMC shall be subject to any public hearings, consistent with chapter 35 of title 42, that it may require.

2. 2019-12-055 Walrus & Carpenter Oysters LLC (Opton-Himmel), West Passage – Dutch Harbor

- 7.8 acre proposed lease
- 2 acre current lease relinquished (if application is approved)
- Cultivating oysters using floating racks and sugar kelp on submerged long lines
- CRMC site assessment 0.4 quahogs/m²





Oyster harvest moratoriums in Oyster Restoration Reserves in the Ninigret Pond and the Bissel Cove/Fox Island Shellfish Management Areas

**Shellfish Advisory Panel
May 27, 2020**

Prepared by: Eric Schneider and Pat Barrett, RI DMF

Current Rules



Bissel Cove/Fox Island Shellfish Mgmt. Area:

Oyster harvest moratorium: The harvest and possession of oysters in the Bissel Cove/Fox Island Shellfish Management Area is prohibited until November 15, 2020.

Ninigret Pond Shellfish Mgmt. Area:

Foster Cove Northern Closed Area: This area shall remain closed until January 1, 2020, unless extended by the Director after RIMFC review.

Foster Cove Eastern Closed Area: This area shall remain closed until January 1, 2020, unless extended by the Director after RIMFC review.

Presentation Overview



1. Update of Oyster and Restoration status in:

- Foster Cove Oyster Reserves
- Bissel Cove/Fox Island Shellfish Management Area

2. Summary of DMF Recommendations



Foster Cove Oyster Reserves



Background on Oyster Reserves:

- Status: Closure expired Dec. 2019
- Restoration work:
 - Substrate Improvement (no seeding)
 - Foster Cove Eastern Closed Area: 2010, 2011.
 - Foster Cove Northern Area: 2015, 2016.
 - Additional work being scoped for 2020.
- Questions:
 - Oyster status in open and closed areas?
 - Are closed areas effective?
 - Should the oyster prohibition in Oyster Reserves be reestablished and extended?



Foster Cove Oyster Reserves

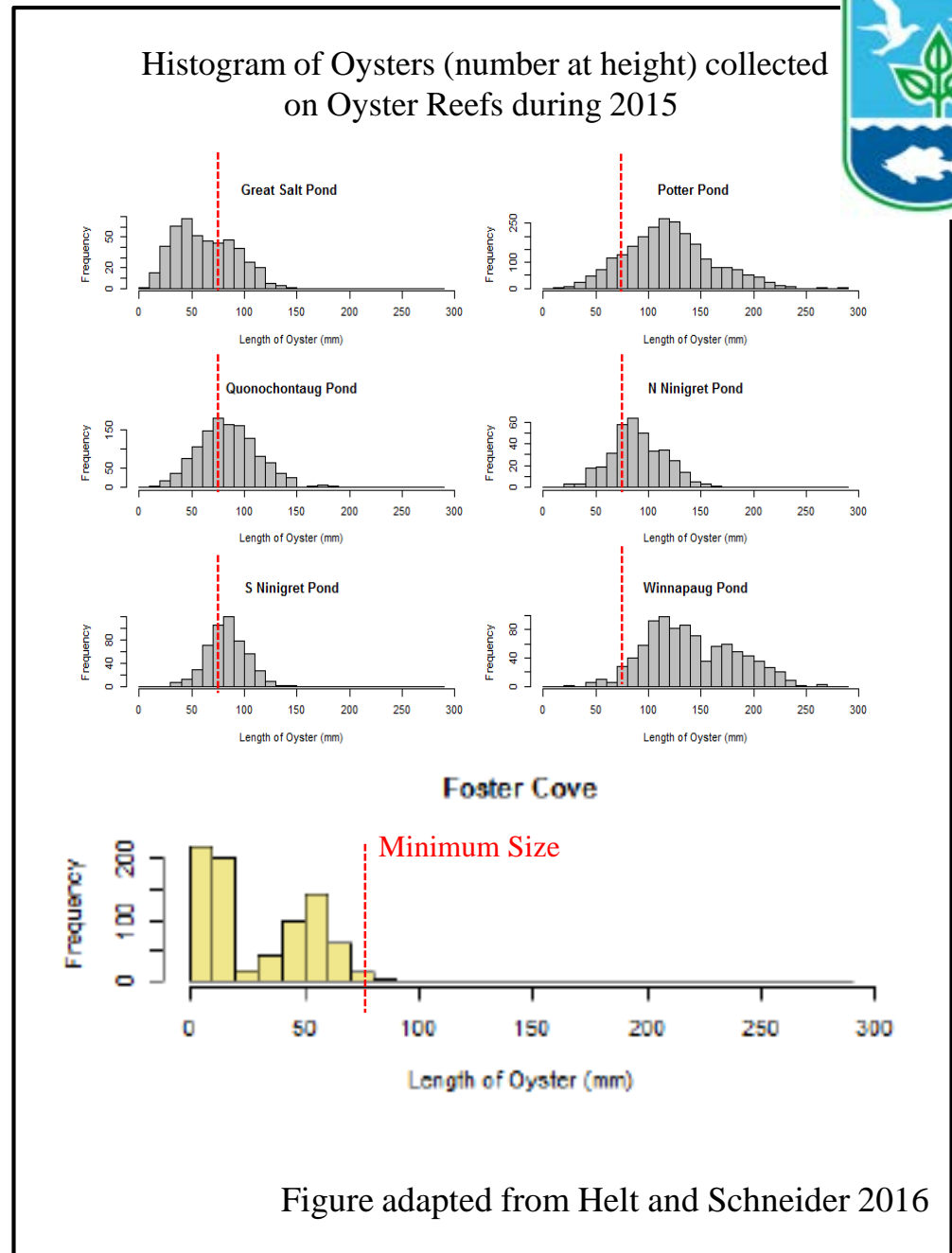


Oyster status:

- Data collected in 2015 showed:
 - Evidence of size structure truncation due to harvest
 - Low proportion of oysters reaching legal size (3in, 76 mm)

Figure shows:

- Number of oysters (y-axis) at height (x-axis) collected from areas where harvest is allowed (yellow) and harvest is prohibited (grey) in 2015.
- Areas, except for Foster Cove are restoration reefs built from 2008-2011.
- Foster Cove is wild stock, open to harvest.



Foster Cove Oyster Reserves



Oyster status:

- Data collected in 2020 show height distribution:
 - Restored within Oyster Reserves (harvest prohibited)
 - Largely truncated in areas open to harvest

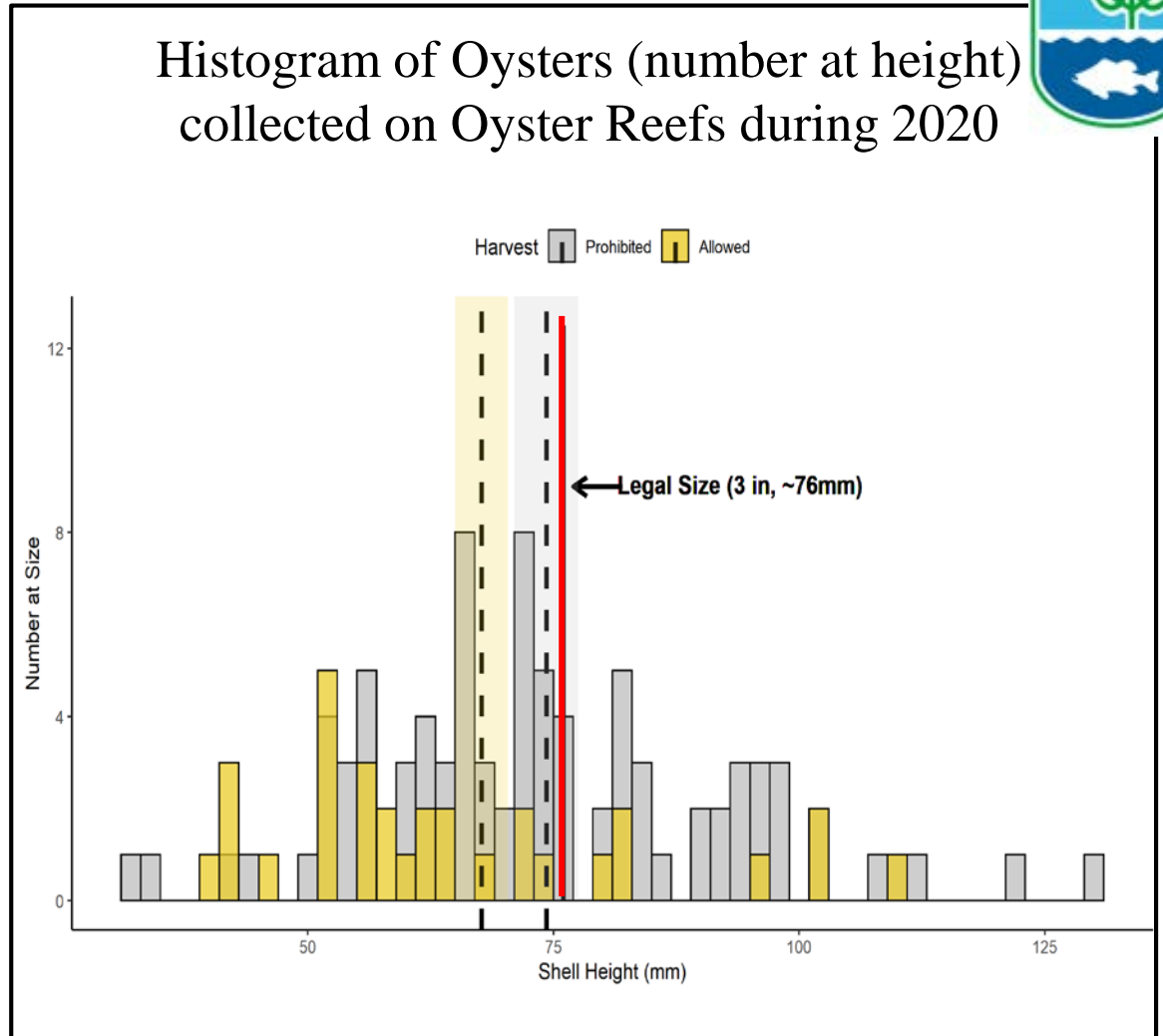


Figure shows:

- Number of oysters (y-axis) at height (x-axis) collected from areas where harvest is allowed (yellow) and harvest is prohibited (grey) in 2020.
- Dotted lines represent mean oyster height for each harvest type, standard error is shown as the shaded rectangle.

Foster Cove Oyster Reserves



Oyster status:

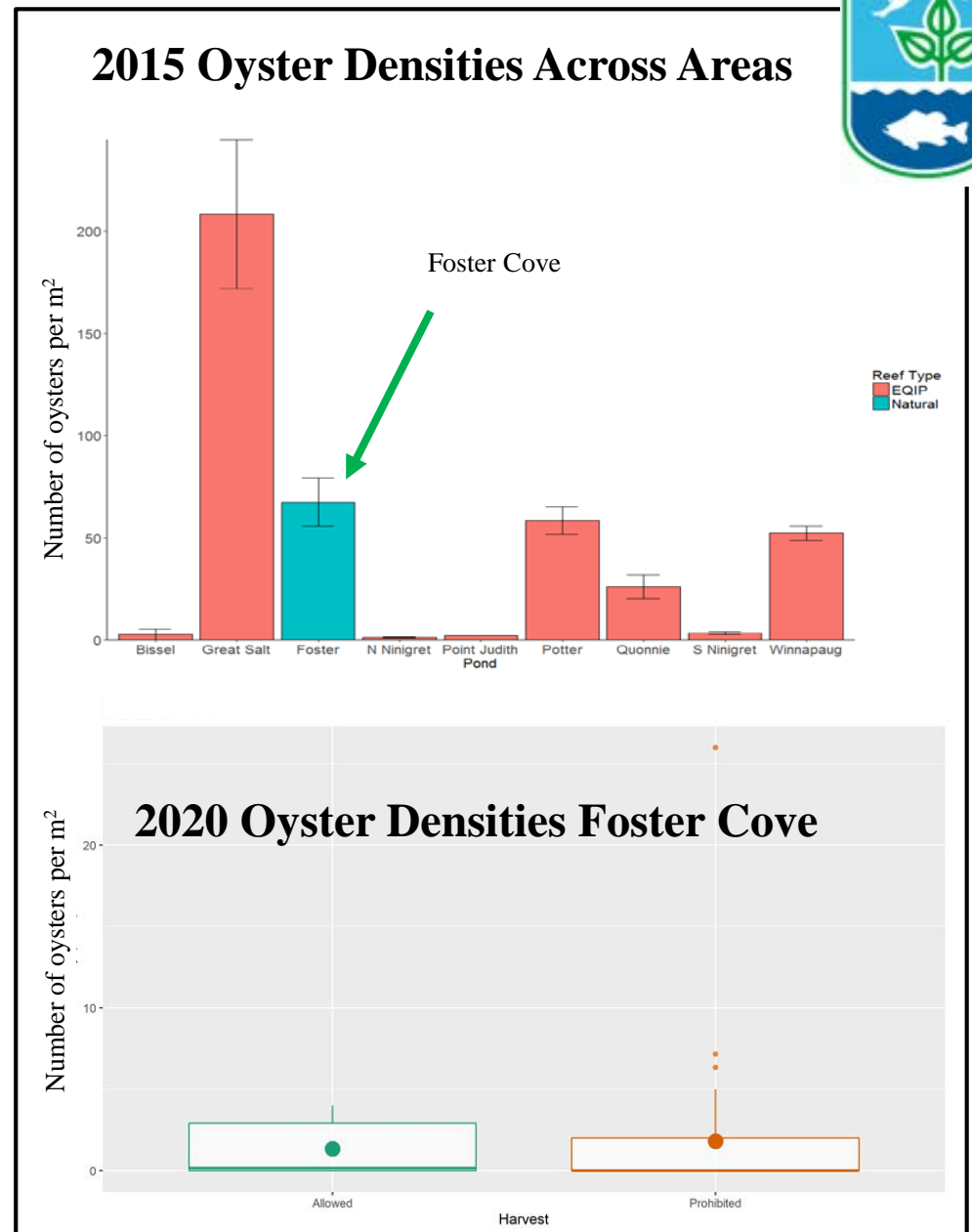
- A comparison of 2015 to 2020 oyster abundance showed:
 - Mean densities of oysters have reduced throughout Foster Cove
 - 2016 mean $>60 \text{ m}^2$
 - 2020 mean $<5 \text{ m}^2$

Top Figure shows:

- 2016 mean oyster densities (top of bar) in areas closed to harvest (red) and in Foster Cove, which was open to harvest (green).

Bottom Figure shows:

- 2020 mean oyster densities (dot) in Foster Cove open to harvest (green) and in Oyster Reserves (red/orange) that are closed to harvest.
- Median is thick horizontal lines and inter quartile range is shown by box.



Foster Cove Oyster Reserves

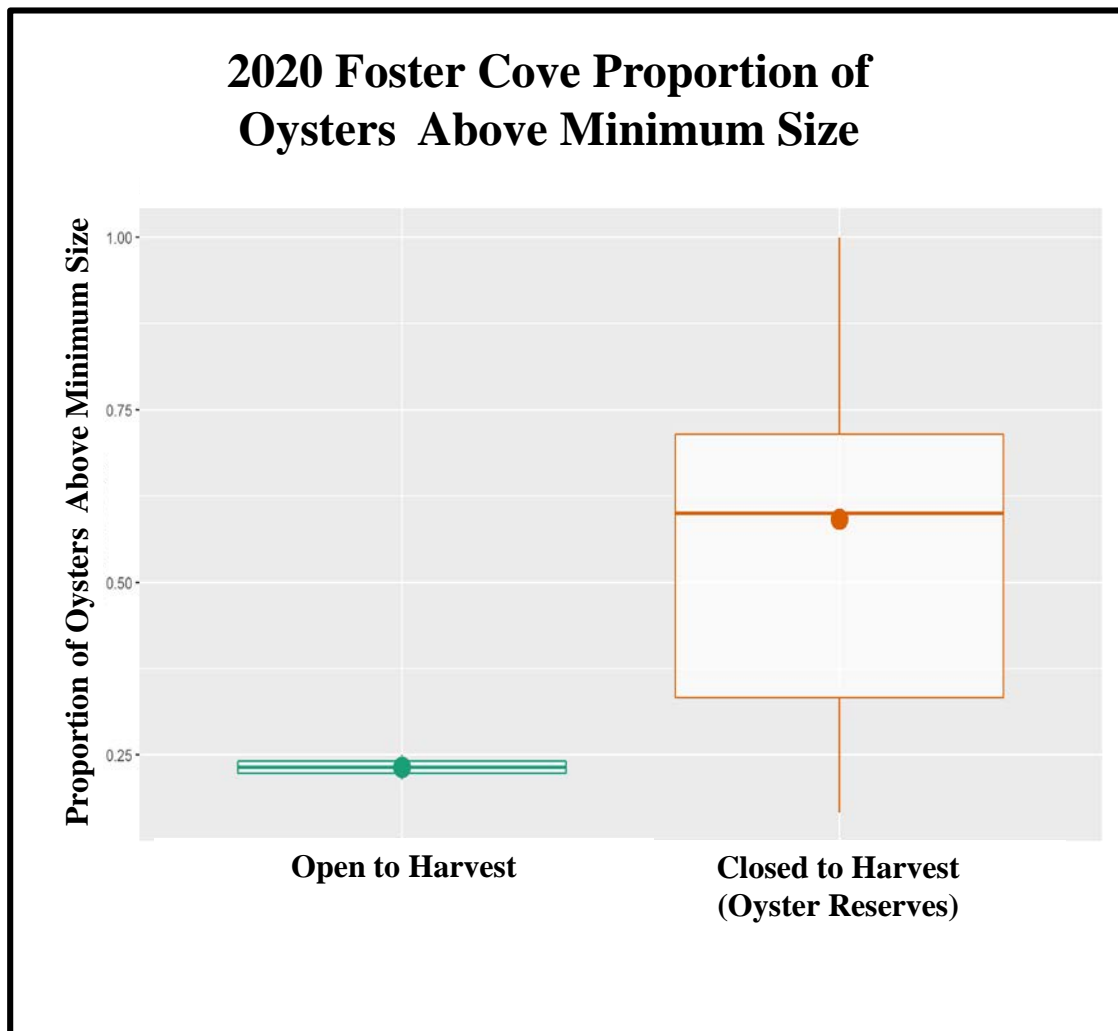


Oyster status:

- 2020 survey showed:
 - Proportion of legal sized oysters is >2 times higher in Oyster Reserves compared to areas open to harvest.

Figure shows:

- 2020 mean (dot) proportion of oyster greater than the legal minimum size in areas open to harvest (green) and in Oyster Reserves (red), which are closed to harvest, in Foster Cove.
- Median is thick horizontal lines and inter quartile range is shown by box.



Foster Cove Oyster Reserves - Summary



Status: Although further assessment is needed:

- Throughout Foster Cove, oyster densities have reduced from $>60 \text{ m}^2$ (2016) to $<5 \text{ m}^2$ (2020), on average
- Areas open to harvest show truncated size structure and a low proportion of oysters reach legal size.

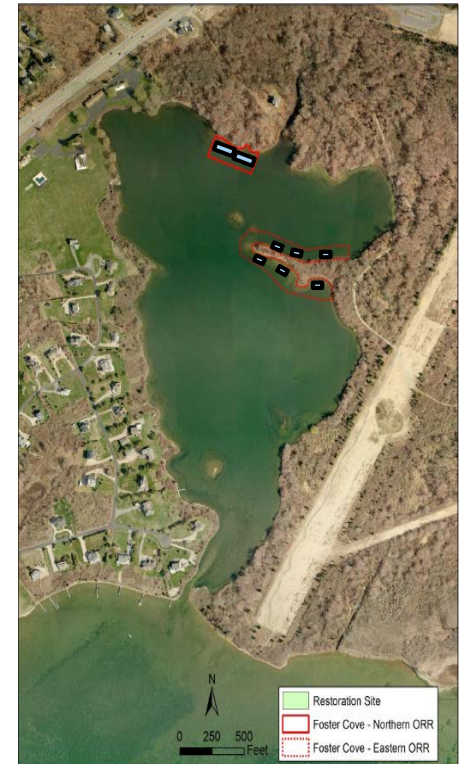


Are Oyster Reserves Functioning?

- Yes - Oyster Reserves contain a broad size distribution and the proportion of legal sized oysters is > 2 times greater than areas open to harvest.

Recommendation:

- Reestablish closure, with no sunset date.
- Further assess wild population status and continue research and restoration practices in Oyster Reserves.
- **Happy to take questions?**



Bissel Cove & Fox Island Shellfish Management Areas



Background:

- Status: Oyster Closure Expires Nov 15, 2020.
- Restoration work:
 - Cultch and Seed on Shell deployed
 - 2008 - 2011
 - 2015 - present
 - Continuing through at least 2025
 - Monitoring Conducted
 - In 2015-2016 (see Helt and Schneider 2016).
 - Work conducted after 2015 monitored annually.



Questions:

- How do oyster restoration results in Bissel compare to other areas?
- Should the oyster prohibition be extended?

Bissel Cove & Fox Island Shellfish Management Areas

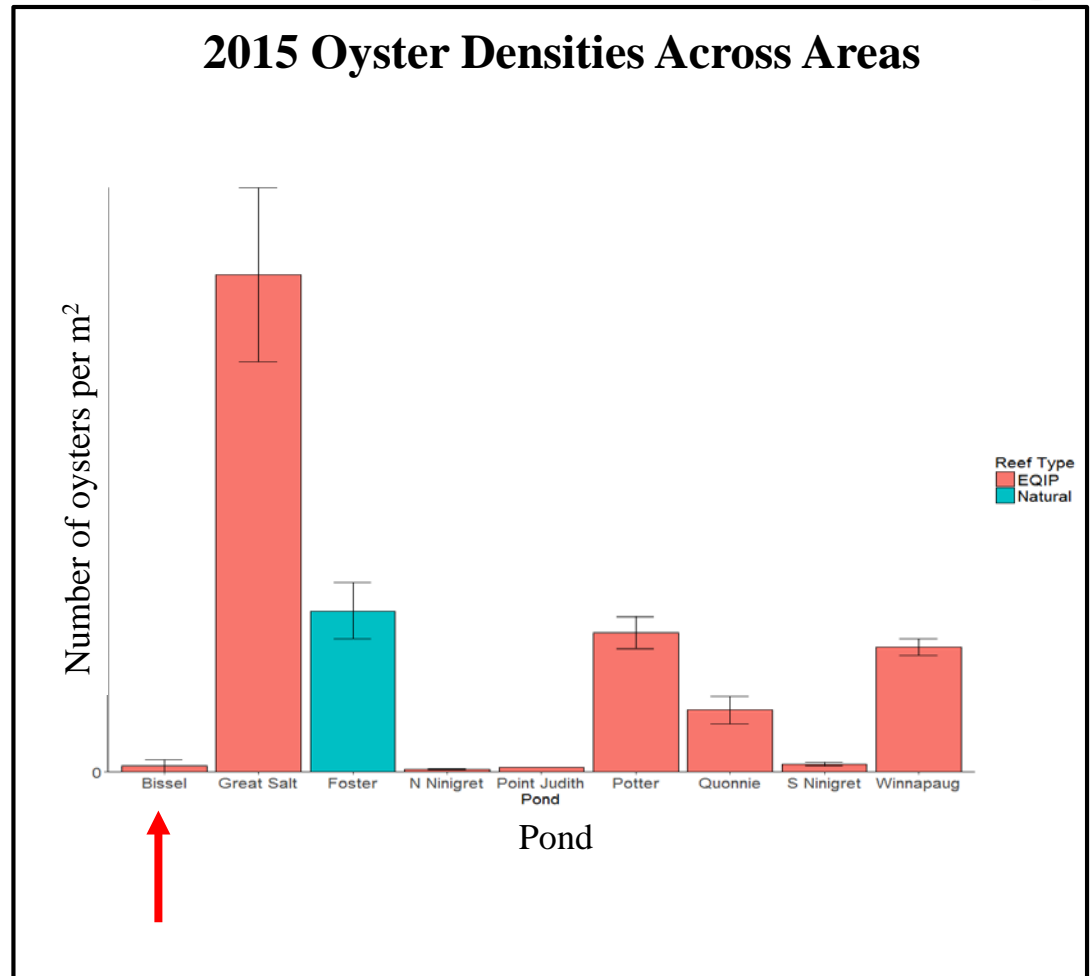


Oyster status:

- Data collected in 2015 showed:
 - 2.7 oyster m² on former restoration reefs, and
 - No wild oysters off reefs.

Top Figure shows:

- 2016 mean oyster densities (top of bar) in areas closed to harvest (red) and in Foster Cove, which was open to harvest (green).
- Bissel Cove marked with red arrow.



Bissel Cove & Fox Island Shellfish Management Areas

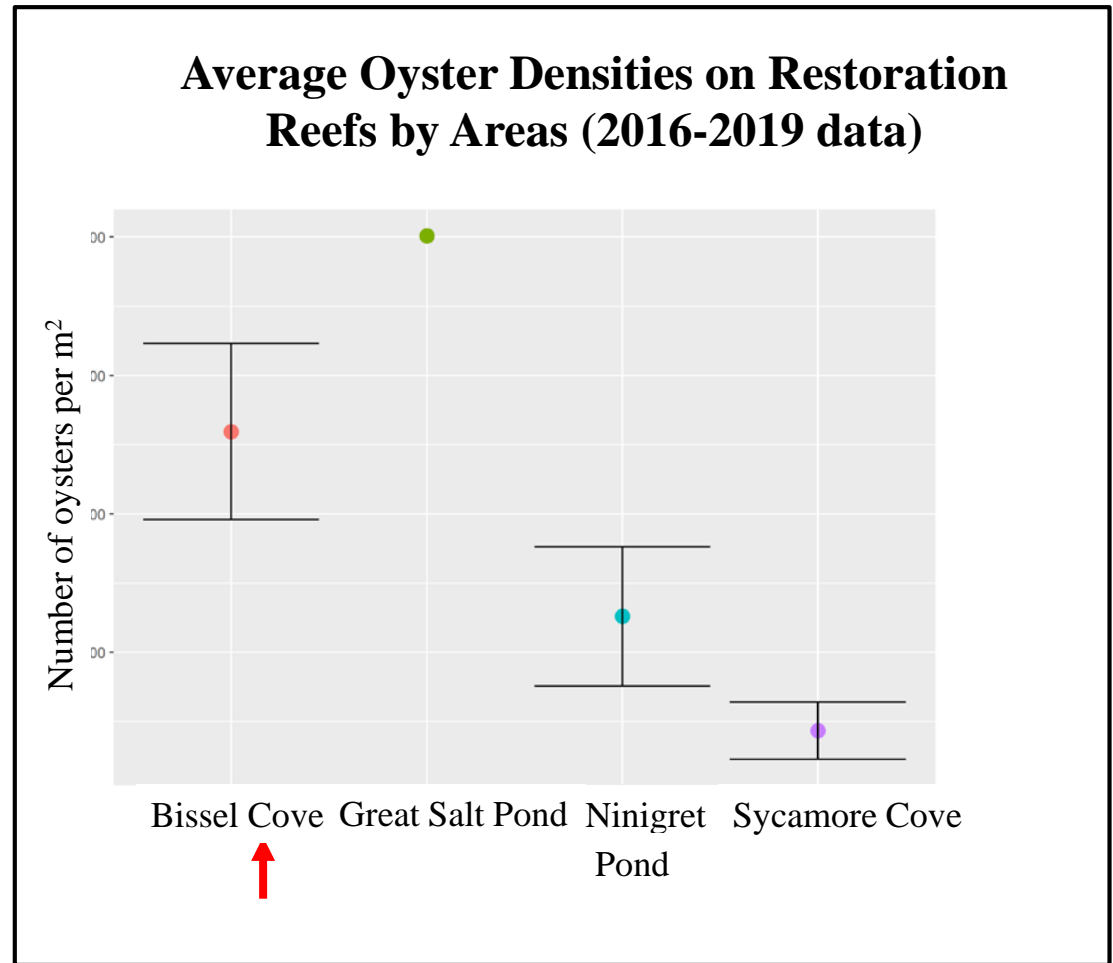


Oyster status:

- Data from 2016 - 2019 showed:
 - Adult oyster density in management area has increased to > 250 m² in 2019
 - Performing well compared to other areas

Figure shows:

- mean oyster densities (dot) and standard error (bars) averaged across restoration reefs in areas with oyster restoration from 2015-2019.
- Bissel is shown with red arrow.



Bissel Cove & Fox Island Shellfish Management Areas

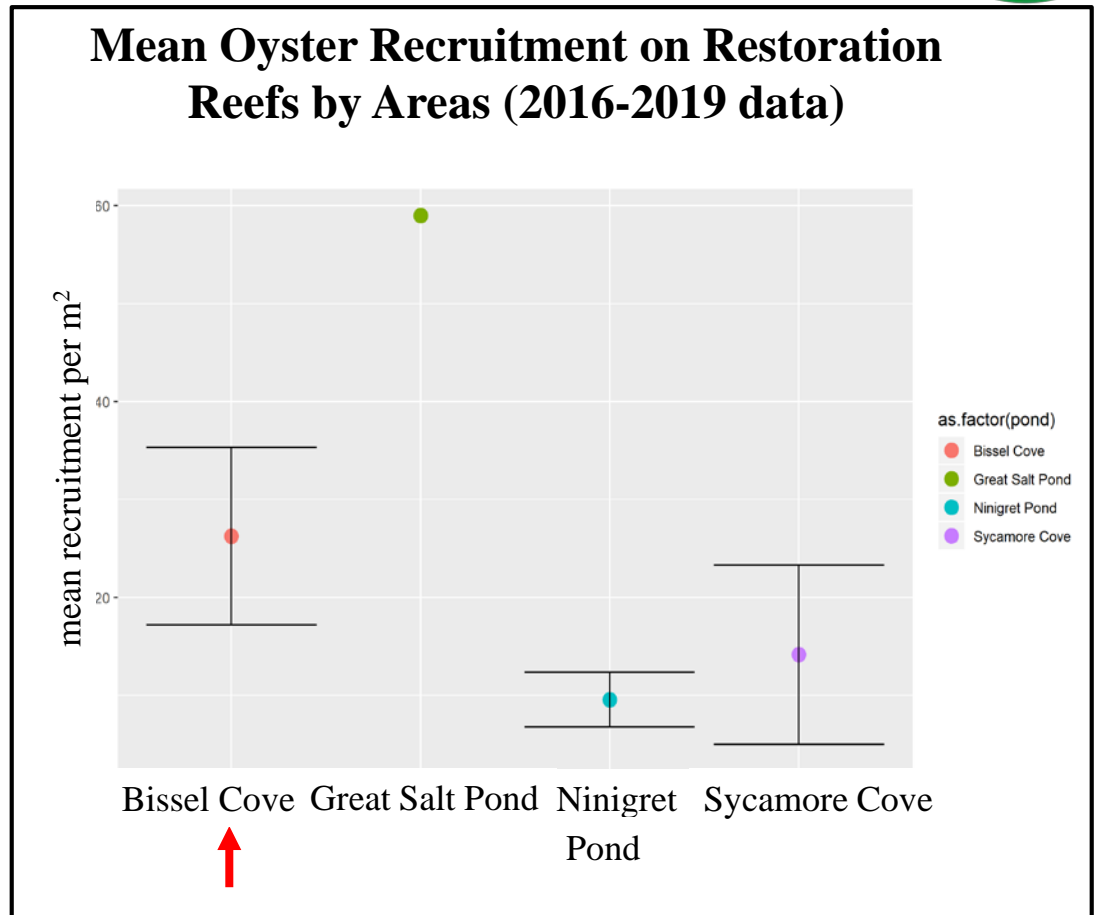


Oyster status:

- Data from 2016 - 2019 showed:
 - Restoration reefs may be sustainable providing brood stock is allowed to spawn.
 - Mean recruitment is higher than most other areas.

Figure shows:

- mean oyster recruitment (dot) and standard error (bars) averaged across restoration reefs in areas with oyster restoration from 2015-2019.
- Bissel is shown with red arrow.



Bissel Cove & Fox Island Shellfish Management Areas - Summary



Status: Although further assessment is needed,

- Adult oyster density and biomass in the management area has increased.
- Recruitment on restoration reefs is greater than other areas, providing brood stock is allowed to spawn.

Are Oyster Reserves Functioning?

- Yes – oyster density on restoration reefs has increased from $< 5 \text{ m}^2$ to $> 250 \text{ m}^2$
- Mean recruitment is high relative to other shellfish management areas

Recommendation:

- Maintain closure, with no sunset date.
- Continue and expand restoration practices.

Happy to take questions?



RI DEM DMF Recommendations



Foster Cove Northern Oyster Reserve:

Status: Expired Dec. 2019

DMF Recommendation: Reestablish closure, with no sunset date.

Foster Cove Eastern Oyster Reserve:

Status : Expired Dec 2019

DMF Recommendation : Reestablish closure, with no sunset date.

Bissel/Fox Island Shellfish Management

Areas:

Status : Expires Nov 15, 2020

DMF Recommendation : Maintain current closure with no sunset date.



5. Proposed change to whelk minimum size currently out to public notice



Option 1: Remove length as a minimum size measurement metric and add language and diagram to clarify how to measure width:

- G. Whelk: Three inches (3”) shell width ~~or five and three eighths inches (5 3/8”) shell length~~. Shell width shall be the distance between opposing shell margins with the shell resting flat on a horizontal surface with the operculum opening facing down and the whelk retracted inside the shell. The shell shall be oriented with one (1) shell edge abutted against a vertical surface that is perpendicular to the horizontal surface, and the columella axis parallel to the vertical surface. The measurement shall be a line extending perpendicular from the vertical surface to the farthest point on the opposing shell edge.

5. Proposed change to whelk minimum size currently out to public notice



Option 2: Remove both length and width as minimum size measurement metrics and replace with shell height; add language and diagram to clarify how to measure height:

- G. Whelk: ~~Three inches (3") shell width or five and three eighths inches (5 3/8") shell length.~~ Two and nine-thirty-seconds inches (2 9/32") shell height. Shell height shall be the distance along a straight perpendicular line from the opercular side of the shell to the farthest point of the top of the shell. This distance is measured with the whelk retracted, and shell placed with the operculum stably positioned against a flat surface. To properly measure shell height using a gauge: Minimum legal shell height shall be the two and nine-thirty-seconds inches (2 9/32") distance between opposing parallel surfaces, measured with the whelk retracted and shell placed with the operculum stably positioned against one (1) of the parallel surfaces. The whelk is legal-sized if it does not fit between the opposing parallel surfaces.

6. Proposed changes to area descriptions of Shellfish Mgmt. Areas currently out to public notice



- Proposed addition of coordinates (latitude and longitude decimal degrees) to area boundary descriptions;
- No actual changes to boundaries proposed, minor changes in instances when landmarks used in the descriptions have changed (e.g., landmark is no longer present).
- See proposed rule for proposed language

7. Proposed change of word "bycatch" to "incidental catch" for Sakonnet River bay quahaug possession limit currently out to public notice



• Proposed rule:

1. The possession limit for surf clams is two hundred (200) bushels/vessel/day.
2. ~~A bycatch~~ An incidental catch limit of one (1) bushel of bay quahaugs for each ten (10) bushels of surf clams, not to exceed twelve (12) bushels of bay quahaugs, is allowed per vessel.



8. Any Other Matters?



State of Rhode Island and Providence Plantations
Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakefield, RI 02879-1900

(401) 783-3370
Fax (401) 783-2069

PUBLIC NOTICE

File Number: 2019-05-061 Date: May 17, 2019

This office has under consideration the application of:

Joseph T. MacAndrew
1 Sosa Lane
Westerly, RI 02891

for a State of Rhode Island Assent to construct and maintain: a ten acre seasonal (November 1 through April 30) sugar kelp farm in Block Island Sound south of Napatree Point

Project Location:	Block Island Sound
City/Town:	Westerly
Plat/Lot:	/
Waterway:	Block Island Sound

Plans of the proposed work may be seen at the CRMC office in Wakefield.

In accordance with the Administrative Procedures Act (Chapter 42-35 of the Rhode Island General Laws) you may request a hearing on this matter.

You are advised that if you have good reason to enter protests against the proposed work it is your privilege to do so. It is expected that objectors will review the application and plans thoroughly, visit site of proposed work if necessary, to familiarize themselves with the conditions and cite what law or laws, if any, would in their opinion be violated by the work proposed.

If you desire to protest, you must attend the scheduled hearing and give sworn testimony. A notice of the time and place of such hearing will be furnished you as soon as possible after receipt of your request for hearing. If you desire to request a hearing, to receive consideration, it should be in writing (**with your correct mailing address, e-mail address and valid contact number**) and be received at this office on or before June 17, 2019.



Location of Proposed Kelp Farm

May 15, 2019

RECEIVED
MAY 15 2019
COASTAL RESOURCES



RHODE ISLAND

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

DIVISION OF MARINE FISHERIES

3 Fort Wetherill Road
Jamestown, RI 02835

DIVISION OF FISH AND WILDLIFE

277 Great Neck Road
West Kingston, RI 02892

June 14, 2019

David Beutel
Aquaculture Coordinator
Coastal Resources Management Council
4808 Tower Hill Road
Wakefield, RI 02879

Re: MacAndrew Application #2018-11-019

Dear Mr. Beutel:

The Rhode Island Department of Environmental Management, through the Division of Marine Fisheries (DMF) and the Division of Fish and Wildlife (DWF), has received and reviewed the application submitted by Joseph T. MacAndrew for a proposed 10-acre aquaculture lease in Block Island Sound south of Napatree Point for cultivating sugar kelp (*Saccharina latissima*) during the winter months (November – April). The site is situated in waters deeper than 20 feet (MLW 21 feet and MHW 29 feet).

The DMF is aware that this location is essential fish habitat (EFH) for the following species according to the National Oceanic and Atmospheric Administration's Essential Fish Habitat Mapper (<https://www.habitat.noaa.gov/protection/efh/efhmapper/>): longfin inshore squid, spiny dogfish, albacore tuna, skipjack tuna, smoothhound shark complex, sand tiger shark, winter flounder, little skate, Atlantic herring, Atlantic cod, pollock, red hake, windowpane flounder, and winter skate. Given that the location for which the applicant has applied has not been sampled by state or federal surveys, there is some uncertainty associated with the EFH at this site. Winter flounder are the exception, as spawning activity happens during the winter months and the species is frequently caught in this location by recreational anglers. Nevertheless, no areas of hardbottom habitat or submerged aquatic vegetation are present within the proposed lease area.

As Department staff stated at the preliminary determination meeting held on February 21, 2019, the proposed kelp aquaculture site is located within an area important to waterfowl, especially sea ducks. Figures 1-3 show 'core-use' areas for White-Winged Scoters, Common Eider, and Black Scoters derived from satellite transmitter tracking of individual birds throughout the winter. Areas indicated as 50% core-use areas are primary habitat during winter months. The addition of a 10-acre kelp aquaculture operation will most likely exclude or 'take' habitat for birds, especially sea ducks, leading to unknown impacts to their populations. For more information from a wildlife expert, please refer to

the letter to CRMC from Dr. Peter August (Professor Emeritus of Natural Resources Science and Chair of the Napatree Point Conservation Area Science Advisors) dated June 15, 2019.

All of the wildlife concerns were presented at the preliminary determination meeting along with an offer to the applicant to meet with Department staff to discuss other potential locations with lower impacts to wildlife. However, the applicant never reached out to DMF or DFW to discuss other siting options.

In conclusion, the DMF and DFW believe that the adverse impacts to marine fisheries and wildlife and their habitat from this prospective kelp aquaculture site would be significant. On the basis of negative impacts to waterfowl, the DMF and DFW object to this application and the current proposal specific to the location and specifications outlined in the application. The Department is willing to further discuss these comments and to work with the applicant to identify other potential sites that would minimally impact marine fisheries and wildlife and their habitat.

Sincerely,



Jason McNamee,
Chief of Marine Resource Management



Jay Osenkowski,
Deputy Chief, Wildlife

Figure 1 Figure from Meattley et al. (2019), White-Winged Scoter areas of use and population distribution within Southern New England and Long Island Sound.

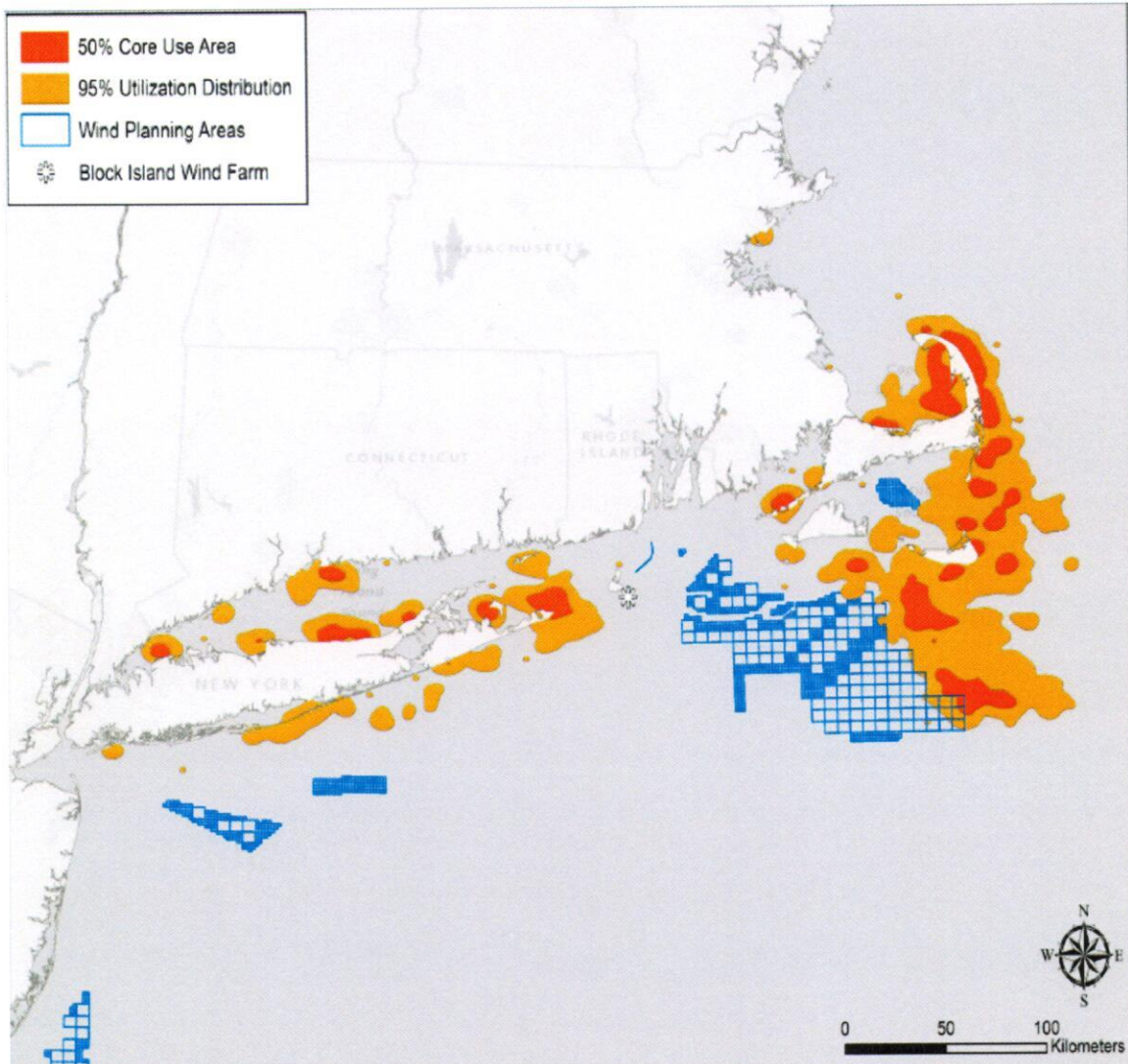


Figure 2 Figure from (Beuth et al. (2016), Common Eider distribution area within Rhode Island and Block Island Sound

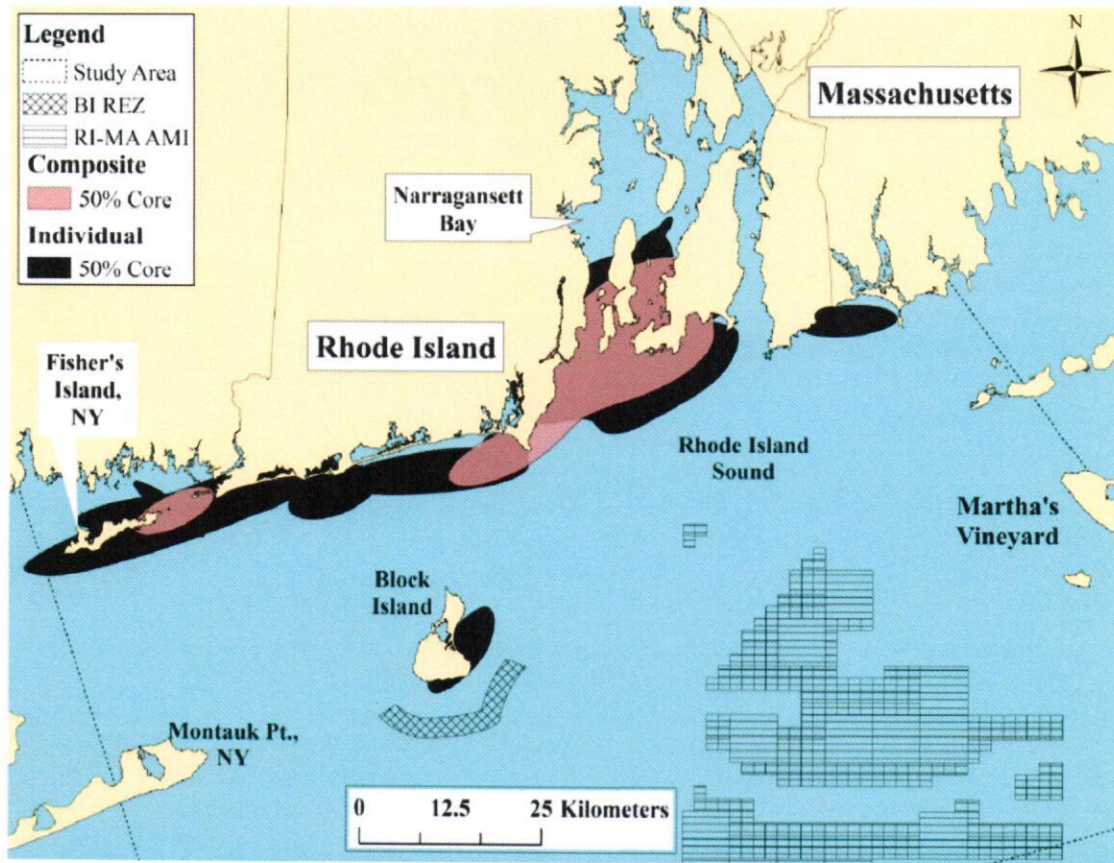


Figure 3 Figure from Loring et al. (2014), Black Scoter distribution within southern New England and Long Island Sound.

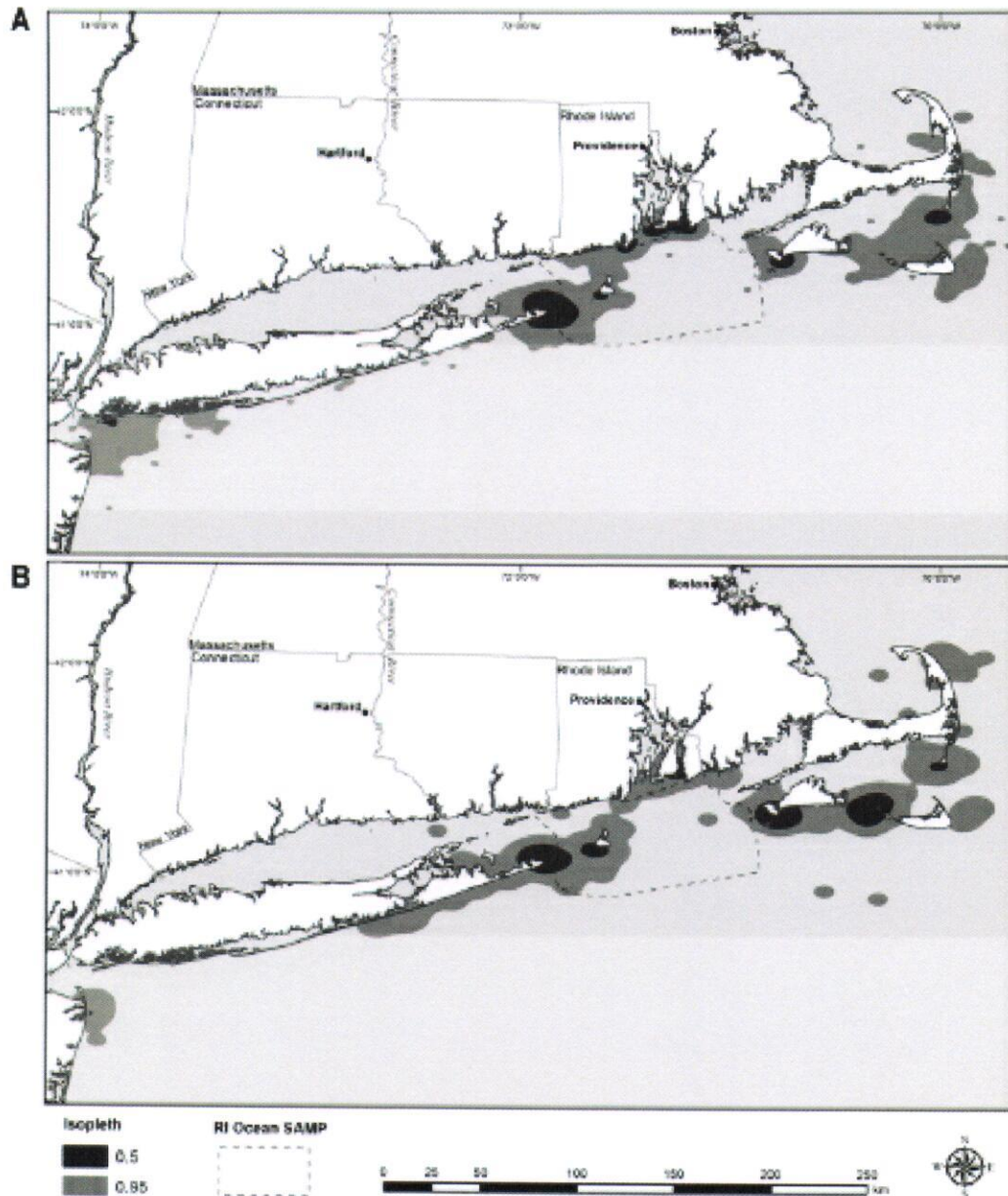


Figure 4. Composite kernel-based winter utilization distribution (light gray, 95% isopleth) and core-use areas (dark gray, 50% isopleth) of 28 satellite-tagged black scoters during 2010–2011 (A, top) and 10 black scoters during 2011–2012 (B, bottom) within the southern New England continental shelf study area, in relation to the Rhode Island Ocean Special Area Management Plan (RI Ocean SAMP) marine spatial planning area (dashed line).

References:

- Meatley, D.E., S.R. McWilliams, P.W.C. Paton, C. Lepage, S.G. Gilliland, L. Savoy, G.H. Olsen, and J.E. Osenkowski. 2019. Resource selection and wintering phenology of White-winged Scoters in southern New England: Implications for offshore wind energy development. *Condor*.
- Beuth, J. M., S.R. McWilliams, P.W.C. Paton, and J.E. Osenkowski. 2016. Habitat use and movements of common eiders wintering in southern New England. *The Journal of Wildlife Management*. 40(3):1276-1286.
- Loring, P. H., P.W.C. Paton, J.E. Osenkowski, S.G. Gilliland, J.P.L Savard, and S.R. McWilliams. 2014. Habitat use and selection of black scoters in southern New England and siting of offshore wind energy facilities. *The Journal of Wildlife Management*. 78(4):645-656.

250-RICR-90-00-4

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 4 – Shellfish

4.12 Shellfish Management Areas – Descriptions, Seasons, and Possession Limits

4.12.2 Shellfish Management Areas

E. Bissel Cove/Fox Island: The marine waters of Bissel Cove in its entirety and adjacent waters of Narragansett Bay located south of a line extending from utility pole #275 at the corner of Waldron and Seaview Avenues (Latitude: 41.553567 Decimal Degrees North, Longitude: -71.429705 Decimal Degrees West) to the southwestern-most point of Fox Island (Latitude: 41.553236 Decimal Degrees North, Longitude: -71.419937 Decimal Degrees West); and west of a line extending from the southwestern-most point of Fox Island (Latitude: 41.553236 Decimal Degrees North, Longitude: -71.419937 Decimal Degrees West) to the northern-most point of Rome point (Latitude: 41.548853 Decimal Degrees North, Longitude: -71.423836 Decimal Degrees West), in the town of North Kingstown.

2. Oyster harvest moratorium: The harvest and possession of oysters in the Bissel Cove/Fox Island Shellfish Management Area is prohibited until November 15, 2020.

M. Ninigret (Charlestown) Pond: The marine waters of Ninigret Pond in its entirety located west of the bridge at Charlestown Beach Road (Latitude: 41.364173 Decimal Degrees North, Longitude: -71.625958 Decimal Degrees West) in the town of Charlestown; and north of the mouth of Charlestown Breachway (Latitude: 41.354865 Decimal Degrees North, Longitude: -71.638536 Decimal Degrees West) in the town of Charlestown.

1. Harvest schedule: Open daily, except for the following:

2. Ninigret Pond sub-area 1 (western closed area): The marine waters within an area enclosed by the following points and boundaries: from point “A” at the north end of the Ninigret Conservation Area parking lot (Latitude: 41.344726 Decimal Degrees North, Longitude: -71.690149 Decimal Degrees West); following the Ninigret Conservation Area shoreline approximately 580 meters eastward to point “B” (Latitude: 41.346815 Decimal Degrees North, Longitude: -71.683958 Decimal Degrees West); from point “B” approximately 1,382 meters northward to point “C” at the Ninigret Landing Marina (Latitude: 41.358561 Decimal Degrees North,

Longitude: -71.689409 Decimal Degrees West); from point "C" following the shoreline approximately 962 meters westward to "D" at the westernmost end of Reeds Point (Latitude: 41.352794 Decimal Degrees North, Longitude: -71.694621 Decimal Degrees West); from point "D" approximately 971 meters southward to point "A", completing the final boundary.

- a. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.
3. Ninigret Pond-Foster Cove sub-area 1 (northern closed area): The marine waters within an area enclosed by the following points and boundaries: from point "A" on the Foster Cove shoreline (Latitude: 41.366362 Decimal Degrees North, Longitude: -71.676036 Decimal Degrees West); from point "A" approximately 46 meters southward to point "B" (Latitude: 41.365970 Decimal Degrees North, Longitude: -71.676220 Decimal Degrees West); from point "B" approximately 82 meters eastward to point "C" (Latitude: 41.365690 Decimal Degrees North, Longitude: -71.675310 Decimal Degrees West); from point "C" approximately 46 meters northward to point "D" (Latitude: 41.366086 Decimal Degrees North, Longitude: -71.675128 Decimal Degrees West); from point "D" following the shoreline approximately 109 meters eastward to point "A" completing the final boundary.
 - a. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops until January 1, 2020, unless extended by the Director after RIMFC review.
 4. Ninigret Pond-Foster Cove sub-area 2 (eastern closed area): The marine waters within 25 meters of the shoreline surrounding the Ninigret National Wildlife Refuge western point enclosed by the following points and boundaries: from point "A" on the Foster Cove shoreline (Latitude: 41.363705 Decimal Degrees North, Longitude: -71.673512 Decimal Degrees West); following the shoreline approximately 209 meters westward to point "B" at the end of the point (Latitude: 41.364515 Decimal Degrees North, Longitude: -71.675236 Decimal Degrees West); from point "B" following the shoreline approximately 183 meters eastward to point "C" (Latitude: 41.364330 Decimal Degrees North, Longitude: -71.673220 Decimal Degrees West).
 - a. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops until January 1, 2020, unless extended by the Director after RIMFC review.